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Asm. Ken Cooley, CA  
President



Thomas B. Considine  
NCOIL CEO



Asm. Kevin Cahill, NY  
Vice President

## **Capital**

**O** By Will Melofchik – NCOIL General Counsel

**r** Greetings -

**n** Welcome to the latest installment of Capital Corner, a column that aims

**e** to update you on some of the issues that NCOIL is following. Below is a summary of the main issues that were discussed at NCOIL throughout 2021.

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As we began 2021, there was a feeling of uncertainty as to how NCOIL’s year would play out. We were coming off a successful (albeit unusual) 2020, but significant travel and gathering restrictions remained in place throughout the country. In fact, as the year began, we quickly realized that we had to move our originally scheduled Spring Meeting from its March dates in Washington, D.C. to April in Charleston, SC.

Luckily, by the time the middle of April came around, travel and gathering restrictions loosened, and people were eager to see each other in-person which led to a very successful Spring Meeting with significant in-person attendance. This continued at our Summer Meeting in Boston, and at our recently concluded Annual Meeting in Scottsdale which marked our return to fully in-person attendance.

While juggling all of the things that go into conference planning during a global pandemic, the organization remained extremely productive and never lost sight of its missions: writing Model Laws in insurance and financial services; working to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy years ago; and serving as an educational forum for public policymakers and interested parties.

Below is a summary of the main issues that NCOIL discussed and/or took action on throughout 2021. In the next installment of Capital Corner, updates will be provided as to how many states have adopted the NCOIL Models listed below. As always, if you have any questions, please do not hesitate to reach out.

**Financial Services & Multi-Lines Issues Committee**

- Adopted Insurer Division Model Act
- Adopted Remote Notarization Model Act
- Adopted Uniform Captive Insurer Model Act
- Began development of Insurance Regulatory Sandbox Model Act
- Re-adopted Identity Theft Protection Model Act



Rep. Tom Oliverson MD, TX  
Treasurer



Rep. Deborah Ferguson, AR  
Secretary



Rep. Matt Lehman, IN  
Immediate Past President



Sen. Jason Rapert, AR  
Immediate Past President

## Capital Corner Cont'd

### Health Insurance & Long Term Care Issues Committee

- Adopted Telemedicine Authorization and Reimbursement Model Act
- Adopted Accumulator Adjustment Program Model Act
- Adopted Model Act Regarding Air Ambulance Patient Protections
- Re-adopted Employer Sponsored Group Disability Income Protection Model Act

### Joint State-Federal Relations & International Insurance Issues Committee

- Adopted Resilient Revolving Loan Fund Model Act
- Discussed the National Flood Insurance Program's New Rating Methodology: Risk Rating 2.0
- Re-adopted Company Licensing Modernization Model Act

### Life Insurance & Financial Planning Committee

- Adopted Resolution in Support of The Living Donor Protection Act (S.377/H.R. 1255)
- Discussed State and Federal retirement security initiatives
- Re-adopted: Beneficiaries Bill of Rights; Life Insurance Consumer Disclosure Model Act; and Long Term Care Tax Credit Model Act

### Property & Casualty Insurance Committee

- Adopted Distracted Driving Model Act
- Adopted Amendments to Post Assessment Property and Liability Insurance Guaranty Association Model Act
- Adopted Amendments to Peer-to-Peer Car Sharing Program Model Act
- Discussed state efforts to lower the uninsured motorist population
- Re-adopted Property/Casualty Flex-Rating Regulatory Improvement Model Act

### Special Committee on Race in Insurance Underwriting

- Adopted definition of "proxy discrimination" by amending Property/Casualty Insurance Modernization Model Act
- Adopted series of Resolutions: Resolution Regarding the Use of Certain Rating Factors; Resolution Regarding the Use of Artificial Intelligence in Underwriting; and Resolution Regarding Insurance Score Transparency

### Workers' Compensation Insurance Committee

- Adopted Resolution Opposing Federal Monitoring of the State-Based Workers' Compensation System
- Discussed the ongoing impact of COVID-19 on state workers' compensation systems
- Re-adopted: Trucking/Messenger Courier Industries Workers' Comp Model Act; Model Agreement Between Jurisdictions to Govern Coordination of Claims and Coverage; and Model State Structured Settlement Protection Act

We look forward to a productive December, and hope to see everyone at our Spring National Meeting.

*Happy Holidays  
-Will*

## Future NCOIL Meetings:

Spring 2022  
March 3—6  
Las Vegas, NV  
Harrah's

Summer 2022  
July 13—16  
Jersey City, NJ  
Hyatt Regency

Annual 2022  
November 16—19  
New Orleans, LA  
Sheraton New Orleans  
Hotel

Spring 2023  
March 9 –12  
San Diego, CA  
The Westin San Diego  
Gas Lamp Quarter

Summer 2023  
July 19 –23  
Minneapolis, MN  
Marriot Minneapolis  
City Center

**Reminder that Contributing States are eligible for two legislator stipends per National Meeting to help underwrite the cost of participating.  
Click below for more information**

**Please call the NCOIL office at 732-201-4133 with any questions.**

## LEGISLATOR STIPENDS NOW AVAILABLE FOR CONTRIBUTING STATES

[CLICK HERE FOR MORE INFORMATION](#)

### NCOIL Elects New Officer Team

Scottsdale, Arizona - The nation's premier legislator-led insurance public policy organization, the National Council of Insurance Legislators (NCOIL), elected CA Assemblyman Ken Cooley President, NY Assemblyman Kevin Cahill Vice-President, TX Representative Dr. Tom Oliverson Treasurer, and Arkansas Representative Dr. Deborah Ferguson as Secretary for the upcoming year.

"I am proud of the bipartisan friendships and solutions that NCOIL promotes and I consider it a great honor to be asked to take on duties as NCOIL President during 2022," stated Cooley.

NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act seventy six years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.

"This has been a unique time to be NCOIL President" said IN House Majority Leader Matt Lehman, who concluded his term as NCOIL's President at the Annual Meeting. "I certainly never planned to be NCOIL President for two years, and could not have done so without the tremendous support and assistance of the other NCOIL officers and our staff over this period."

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## NCOIL Elects New Officer Team Cont'd

"Ken's unique background has made him nationally respected among his lawmaker peers in the 50 states for his collaborative style and thoughtful insurance public policy insights," Lehman concluded.

"NCOIL owes a debt of gratitude to President Matt Lehman for his service during the trying times of the pandemic these past two years," stated Cahill. "I have tremendous confidence in Assemblyman Cooley to carry the mantle forward over the next year, and am honored to serve as Vice President," he concluded.

"I often tell people that 'everything I know about insurance I learned at NCOIL' and now I am both honored and delighted to join its officer ranks as Treasurer," stated Oliverson, who also chairs the Texas House of Representatives Insurance Committee.

Rep. Ferguson stated "I am honored to serve as an officer and help guide NCOIL. I am grateful to have an organization like NCOIL. I have learned so much from the in-depth policy discussions on insurance issues in a non-partisan atmosphere. The model legislation and discussions inform my legislative decisions in Arkansas."

Asm. Cooley continued, "[a]s a national organization of state legislators, NCOIL focuses on helping legislators solve insurance availability and operation problems back home and this makes its meetings very practical and bipartisan. NCOIL is the only national public policy organization I've been active with as a California Assemblymember since 2013."

"Everyone associated with NCOIL is exceptionally appreciative to Matt Lehman for his tireless leadership over these past two years; we owe him a great debt," said NCOIL CEO Commissioner Tom Considine. "We are also fortunate to have the new officer corps the membership has elected. Ken Cooley has proven, at NCOIL, the NAIC and in the CA legislature, to be one of the most insightful and thoughtful insurance minds in the country. Kevin Cahill is a real leader as the NY Assembly Insurance Chair in addition to his fine work at NCOIL. Also, NCOIL has set a new precedent with the election of two doctors as officers, as well as a welcome return of a woman officer after too long an absence," Considine continued. "Tom Oliverson and Deborah Ferguson have been leaders in their states on insurance issues and at NCOIL for a number of years and will be excellent officers," Considine concluded.

"I look forward to maintaining NCOIL's strong tradition of collegial problem-solving," Cooley concluded.

## NCOIL Concludes Successful Annual Meeting in Scottsdale, AZ

Manasquan, NJ – The nation's premier legislator-led insurance public policy organization, the National Council of Insurance Legislators (NCOIL) concluded a successful 2021 Annual National Meeting (Meeting) in Scottsdale, AZ from November 17th – 20th at the Westin Kierland. In what was the organization's return to fully-in person attendance with no virtual option provided, NCOIL set an all-time attendance record with 357 participants consisting of 70 legislators from 25 states, 22 first-time legislators, seven Insurance Commissioners (or equivalent), and 12 insurance departments represented.

"In my final meeting as President, I'm extremely proud of all that we have accomplished as an organization, especially with how unprecedented these past two years have been," said Indiana Rep. Matt Lehman, who concluded his two terms as NCOIL President at the conclusion of the Meeting. "I couldn't be happier with the turnout at this Meeting - especially the number of first time legislators. We've now had back-to-back meetings where we have had over twenty first-time legislators. It's really great to

## NCOIL Concludes Successful Annual Meeting in Scottsdale, AZ

see our attendance numbers reach an all-time high even with COVID still being a disrupting factor in society. I look forward to seeing the organization continue to grow and succeed while developing timely and important model laws.”

NCOIL CEO, Commissioner Tom Considine said, "Scottsdale was a wonderful location for our first meeting back to fully in-person attendance, and everyone really enjoyed the city." Considine continued, "As an organization that is made up of legislators, we are always thrilled to see new legislators attend their first NCOIL Meeting. The only way for us to continue to grow is by having dedicated legislators attend our meetings and engage in important insurance public policy discussions. We're all looking forward to another year of continued growth and success."

The Meeting began with the Budget Committee meeting on Wednesday evening, followed by the Welcome Breakfast the following morning where participants were greeted by Arizona Insurance Director Evan Daniels.

After the Welcome Breakfast, the Health Insurance & Long-Term Care Issues Committee, Chaired by New York Assemblywoman Pamela Hunter, met and adopted three new model laws: the NCOIL Accumulator Adjustment Program Model Act; the NCOIL Model Act Regarding Air Ambulance Patient Protections; and the NCOIL Telemedicine Authorization and Reimbursement Model Act.

The NCOIL Innovation Series continued with a discussion on Insurance Score Transparency. The discussion included Gary Sanginario, CPCU, AVP, from LexisNexis Risk Solutions, PJ Smith, Sr. Director of Product Management from LexisNexis Risk Solutions, Amy Bach, Executive Director of United Policyholders, and Jesse McKendry, Senior VP of Insurance for Metromile. Other general sessions held during the Meeting included: "Prior Authorization in HealthCare – Are Gold Cards the Answer?"; and "Man's Best Friend but Not Insurable?"

The Institutes Griffith Foundation also hosted a legislator luncheon during which Dr. David Pooser, Associate Professor of Risk Management at St. John's University, delivered a presentation titled "Direct-to-Consumer Insurance: Discussing the Model and Exploring its Impact."

The Financial Services & Multi-Lines Issues Committee, chaired by Louisiana Representative Edmond Jordan, met and adopted the NCOIL Remote Notarization Model Act, and the NCOIL Uniform Captive Insurer Model Act. The Committee also re-adopted the NCOIL Identity Theft Protection Model Act and discussed the first draft of the NCOIL Insurance Regulatory Sandbox Model Act.

The Workers' Compensation Insurance Committee, Chaired by Texas Representative Tom Oliveron, M.D., met and heard presentations on Texas occupational injury management and the pending case of Matilde Ek v. See's Candies Inc. The Committee also adopted a Resolution Opposing Federal Monitoring of the State-Based Workers' Compensation System.

The day concluded with the meeting of the Nominating Committee which voted to recommend a slate of new officers for next year. Arkansas Representative Deborah Ferguson, DDS will serve as Secretary, the first step in the NCOIL Officer ranks, and Texas Representative Tom Oliveron, M.D., will serve as Treasurer. The Nominating Committee also continued the advancement of California Assemblyman Ken Cooley, who will now serve as President, and New York Assemblyman Kevin Cahill, who will serve as Vice President. Outgoing President Indiana Representative Matt Lehman will serve alongside Arkansas Senator Jason Rapert as Immediate Past Presidents. The full body elected the slate on Saturday.

"I look forward to my term as NCOIL President and continuing to increase state legislator participation at NCOIL. I was very pleased with the amount of first-time legislator attendees in Scottsdale and I believe it is an indicator of where we are heading as an organization," said California Assemblyman Ken Cooley, new NCOIL President.

The following day began with the meeting of the Life Insurance & Financial Planning Committee which discussed several issues including legislative and regulatory obstacles to the recruitment and retention of insurance producers, protecting vulnerable adults from financial exploitation, and paid

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## NCOIL Concludes Successful Annual Meeting in Scottsdale, AZ cont'd

A very productive NCOIL-NAIC Dialogue was then held which included an impressive lineup of NAIC representatives: Alaska Director Lori Wing-Heier, Florida Commissioner and NAIC President David Altmaier, Idaho Director and NAIC President-Elect Dean Cameron, Indiana Commissioner Amy Beard, Montana Commissioner Troy Downing, and Oklahoma Commissioner Glen Mulready. Additionally, NAIC CEO Commissioner Mike Consedine also attended. The Dialogue included updates on State adoption of the NAIC Credit for Reinsurance Models, the NAIC Special Committee on Race and Insurance, and the new NAIC Letter Committee which will focus on innovation, technology, and cybersecurity in the insurance sector.

Longtime New York Assemblyman, NCOIL participant, and current Congressman Andrew Garbarino (NY-02) delivered the Keynote Address at Friday's luncheon. Congressman Garbarino spoke about his experiences in Congress thus far and stressed to the first-time legislator attendees how valuable NCOIL can be for those looking to learn more about important insurance public policy issues.

The day concluded with a meeting of the Property & Casualty Insurance Committee, chaired by Kentucky Representative Bart Rowland. The Committee discussed state efforts to lower the uninsured motorist population, safety and insurance requirements for all terrain vehicles, and how the collapse of the Surfside condominiums in Florida might have an impact on property insurance and building standards going forward.

The Joint State-Federal Relations & International Insurance Issues Committee, chaired by Ohio Senator Bob Hackett, met on Saturday morning and adopted the NCOIL Resilient Revolving Loan Fund Model Act which is intended to implement provisions of the federal Safeguarding Tomorrow Through Ongoing Risk Mitigation (STORM) Act. The Committee also heard from Congressman Garbarino and others on the National Flood Insurance Program's new rating methodology: Risk Rating 2.0, and re-adopted the NCOIL Company Licensing Modernization Model Act.

There were also two workshops during the course of the Meeting focused on educating legislators and providing them with methods on how to conduct effective legislative oversight. The workshops were led by Ben Eikey, Manager of State Training and Communications at the Levin Center at Wayne State Law; Carmen JM Simon, Evaluation & Strategic Planning Consultant; and Sara Gelser, Oregon Senate Majority Whip and Chair of the Oregon Senate Committee on Human Services, Mental Health and Recovery.

Assemblyman Cooley continued "Representative Lehman has done an incredible job as President, especially during such tumultuous times, and the organization is set up to succeed in large part because of his dedication."

"I'm looking forward to meeting in Las Vegas in March where the agenda will again be filled with important issues to discuss and model laws to develop," Cooley concluded.

Committee meeting minutes will be posted soon at [www.ncoil.org](http://www.ncoil.org).

The 2022 NCOIL Spring Meeting is scheduled to take place in Las Vegas, NV at Harrah's from March 3rd - 6th. Registration will open in December.

## NCOIL Adopts Three New Health Model Laws During Annual Meeting in AZ

Manasquan, NJ: - During the recently concluded 2021 National Council of Insurance Legislators (NCOIL) Annual National Meeting in Scottsdale, AZ, NCOIL, the nation's premier legislator-led insurance public policy organization, adopted three new NCOIL Model Laws. The Models were first passed via voice vote by the group's Health Insurance and Long-Term Care Issues Committee (Committee), Chaired by NY Asw. Pam Hunter, then adopted without dissent by the NCOIL Executive Committee.

The three new Model Laws are: the NCOIL Telemedicine Authorization and Reimbursement Model Act, sponsored by Asw. Hunter; the NCOIL Accumulator Adjustment Program Model Act, sponsored by AR Sen. Jason Rapert, NCOIL Immediate Past President, and co-sponsored by AR Rep. Deborah Ferguson, new NCOIL Secretary and Vice Chair of the Committee, ND Rep. George Keiser, former NCOIL President, and Asw. Hunter; and the NCOIL Model Act Regarding Air Ambulance Patient Protections, sponsored by WV Del. Steve Westfall and co-sponsored by IL Rep. Thaddeus Jones, KY Rep. Deanna Frazier, and TX Rep. Tom Oliverson, M.D., new NCOIL Treasurer.

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## NCOIL Adopts Three New Health Model Laws During Annual Meeting in AZ cont'd

Asw. Hunter stated “this Committee has worked very hard throughout the past year to make sure these Models were improved in response to the significant feedback received from the wide array of interested parties that were involved in this process. None of the Models adopted received unanimous Committee support, and that’s ok. As we all know from our work in our respective state legislatures – everyone is not going to agree on everything, but it’s important to always maintain a healthy and respective exchange of ideas when it comes to insurance public policy issues.” Hunter continued “and of course, consistent with NCOIL’s philosophy on model laws, states aren’t bound by the provisions in our models. Rather, they are intended to serve as a framework so that states can add or remove things if desired.”

“During my last meeting as NCOIL President, it was great to see the Committee take action on such important issues,” said IN Representative and outgoing NCOIL President Matt Lehman. “I was very pleased to see the Committee be so productive, and I look forward to participating in the Committee’s great work going forward.”

The NCOIL Telemedicine Authorization and Reimbursement Act (TARA) encourages health insurers and health care providers to support the use of telemedicine, and also encourages state agencies to evaluate and amend their policies and rules to remove any regulatory barriers prohibiting the use of telemedicine services. Having been introduced during the height of the COVID-19 pandemic, TARA is an acknowledgement that access to telemedicine is vital to ensuring the continuity of physical, mental, and behavioral healthcare for consumers during the pandemic and responding to any future outbreaks of the virus.

Two issues in TARA that garnered significant attention were reimbursement levels for telemedicine services, and using telemedicine to satisfy network adequacy requirements. Ultimately, the Committee approved language in TARA that permits health insurers and healthcare providers to negotiate reimbursement levels, and permits health insurers to use telemedicine to satisfy network adequacy requirements with regard to healthcare services, but not exclusively.

Asw. Hunter said, “I am proud to have sponsored TARA as it deals with such an important issue. Telemedicine certainly didn’t start with the COVID-19 pandemic, but I think it showed us all that it definitely will be more frequently utilized in the years to come. It is vital that people have the proper access to telemedicine, as it is crucial to ensuring the continuity of physical, mental, and behavioral health care of consumers, especially during health emergencies such as the COVID-19 pandemic.”

“The level of discussion around ‘payment parity’ for telemedicine was perhaps unprecedented for any single phrase in a model law in my time at NCOIL,” stated NCOIL General Counsel Will Melofchik. “However, Chair Hunter stated repeatedly and unambiguously that the reimbursement language does not mean dollar-for-dollar payment equality.”

“As legislators, we need to make sure that our constituents are being fairly treated by health insurers and are not receiving any unexpected charges,” said Arkansas Senator Jason Rapert, NCOIL Immediate Past President and Prime Sponsor of the Accumulator Model. “When patients are faced with unexpected charges, they are oftentimes less likely to adhere to their medical regimen, which can lead to various health consequences, such as unexpected visits to the emergency room. I sponsored a similar law in my home state of Arkansas and I am proud that NCOIL has now offered guidance to other states on this important issue.”

The NCOIL Model Act Regarding Air Ambulance Patient Protections (Air Ambulance Model), aims to amend state insurance laws to include certain air ambulance membership subscriptions as insurance products. The Air Ambulance Model also requires any entity operating such an air ambulance membership program to: implement a patient advocacy program that shall include, among other things, a dedicated patient hotline number and dedicated patient resource e-mail address to process patient billing and claims, and to address patient questions, complaints and concerns; and make other consumer disclosures on any advertisement, marketing material, brochure or contract terms and conditions made available to prospective members or the public, including noting that if eligible and covered by Medicaid or Medicaid managed care, the prospective member is already covered with no out of pocket cost liability for air ambulance services.

## NCOIL Adopts Three New Health Model Laws During Annual Meeting in AZ Cont'd

West Virginia Delegate Steve Westfall, Prime Sponsor of the Air Ambulance Model said, “It is important that products acting as insurance are categorized and regulated as such so that the proper consumer protections are in place. The old saying ‘If it walks like a duck and quacks like a duck...’ rings true with air ambulance membership subscriptions. I sponsored similar legislation in my home state of West Virginia and I am confident that states will look to this tightly crafted NCOIL Model and take action.” Westfall continued “The legal challenges surrounding these types of laws are well known, but I believe the NCOIL Model has been drafted in such a way that affirms the ability of states to regulate the business of insurance without threat of Federal obstruction.”

“Kudos to Chair Hunter, the sponsors, and everyone else involved, for the successful passage of three significant NCOIL Model Laws,” said Commissioner Tom Considine, NCOIL CEO. “These issues have clearly struck a chord with the Committee and interested parties given the level of rigorous debate these Models have had over the past several months. It is encouraging to see how much time and effort goes into the passage of our Model Laws – in these cases over many meetings of vigorous discussion - it shows how much people care which is one of the many reasons why NCOIL is such a great organization.”

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## NCOIL One on One

Part two of our three part NCOIL One on One with NCOIL President Asm. Ken Cooley is out now, click on the link [here](#) to learn more about your new NCOIL President.

If you haven't had a chance to watch previous interviews with IN Representative Matt Lehman, NY Assemblywoman Pam Hunter, OH Sen. Bob Hackett, AR Rep. Deborah Ferguson, ND Sen. Jerry Klein, LA Rep. Edmond Jordan, please visit our YouTube channel [here](#).

Thank you to everyone who has participated so far!

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## Don't Miss the NCOIL YouTube Channel: Subscribe Today

Weren't able to attend our past meetings? Good news– you can visit our YouTube channel for recordings of past meetings. Sessions from the Summer Meetings in Boston, along with prior national meeting sessions and interim committee meetings are posted on our YouTube channel now.

Visit the link below to subscribe and keep up to date on all things NCOIL!

<https://www.youtube.com/channel/UCe09Z77z4q6HG1kv3fDG7Bg>