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**NCOIL Summer Meeting
July 14th-17th Boston, MA
REGISTER NOW**

Capital

C 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 are issues that NCOIL will be discussing at the upcoming NCOIL Spring Meeting and monitoring throughout 2021.

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STORM Act Offers Needed and Sustainable Funding for Hazard Mitigation Projects

According to the National Oceanic and Atmospheric Administration (NOAA), since 1980, the United States has sustained 265 weather and climate disaster events in which the events' damages reached or exceeded \$1 billion¹. NOAA estimates that the total cost of those 265 events exceeded \$1.775 trillion. Even more concerning is that analysis suggests these events are increasing; NOAA states that 2019 was the fifth consecutive year in which 10 or more billion-dollar weather and climate disaster events have impacted the U.S. From 2015 through 2019, the U.S. experienced a total of 69 separate billion-dollar events.

Today, there are multiple federal mitigation grant programs that help states and local communities rebuild after a disaster. However, pre-disaster hazard mitigation is an opportunity to increase resilience before disaster strikes. On January 1st, 2021 then President Donald Trump signed the "Safeguarding Tomorrow through Ongoing Risk Mitigation Act" (STORM Act) into law. The STORM Act, which received bipartisan support, authorizes the Federal Emergency Management Agency (FEMA) to provide capitalization grants to states for hazard mitigation revolving loan funds to reduce risks from disasters and natural hazards. Specifically, these grants would allow states or tribal governments to offer low interest loans to local governments to pay for pre-disaster mitigation projects.

Projects can be intended to make structures more resilient, to advance green infrastructure projects and/or to mitigate future disaster impacts, including flooding. The STORM Act includes a

¹ <https://www.congress.gov/congressional-report/116th-congress/senate-report/249/1?overview=closed>



Rep. Matt Lehman, IN
President



Thomas B. Considine
NCOIL CEO



Asm. Ken Cooley, CA
Vice President

Capital Corner Cont'd

\$200 million authorization to fund these projects, beginning in 2022. In order for states to utilize the benefits of the STORM Act, states must pass legislation creating a revolving loan program. Maryland is the first state to take such action as SB 0901 is currently awaiting Governor Hogan's signature.

At NCOIL's recent Spring National Meeting, the Joint State-Federal Relations & International Insurance Issues Committee (Committee) heard from Roderick Scott, Board Chair of the Flood Mitigation Industry Association (FMIA), who briefed the Committee on the STORM Act and requested NCOIL involvement going forward by developing model enabling legislation similar to Maryland's bill. At the upcoming NCOIL Summer National Meeting in July, the Committee will further discuss this issue and determine whether such model legislation should be developed.

NCOIL will continue to monitor these issues very closely and we hope you can join us for this discussion in Boston, either in-person or via Zoom.

Legislation Addressing Accumulator Adjustment Programs Spreads Across Country

Legislators in a number of states have introduced legislation over the last several months to stop health insurers' and pharmacy benefit managers (PBMs) from using copay accumulator programs. Kentucky was the first state to have such legislation signed into law this year, quickly followed by Arkansas and Oklahoma. They join states like Arizona, Illinois, West Virginia and Virginia which have already enacted such laws. Bills are also pending in Michigan, New York, Ohio, Oregon and Tennessee.

Under copay accumulator programs, any copayment assistance that a patient receives, whether it be directly from a pharmaceutical manufacturer or from coupon cards, does not count toward the patient's deductible or annual out-of-pocket limit. The abovementioned legislation aims to put an end to that practice by requiring health insurers and PBMs to count any amount paid by the patient or on behalf of the patient by another person towards a patient's cost sharing requirements.

At NCOIL's recent Spring National Meeting in Charleston, SC, the Health Insurance & Long Term Care Issues Committee (Committee) heard from Steve Schultz, Director of Government Affairs at the Arthritis Foundation and member of the All Copays Count Coalition, and Brendan Peppard, Regional Director of State Affairs at America's Health Insurance Plans (AHIP), who discussed the arguments for and against this type of legislation.

Mr. Schultz noted that the primary example that advocates of this type of legislation share is that patients are typically not made aware of copay accumulator programs until they find out at the pharmacy counter or wherever they are getting their medication, usually in the middle of the plan, that they still owe all of the cost sharing, so then the patient has to figure out how they will afford what can often be very expensive medications such as biologic medications which are thousands of dollars. Due to issues of affordability, patients then have to make a decision of going in debt themselves to find another way to pay, trying another likely high price medication, or just not being adherent on their medications.

Mr. Peppard countered by stating that Medicare and Medicaid consider copay coupons to be an illegal kickback and their position is that copay coupons induce a patient to use a specific drug with the rest of the cost picked up by the taxpayer. AHIP accordingly believes that the commercial market's hands should not be tied because that would disallow it from being able to similarly be responsible with those consumer dollars which commercial insurers pay.

The conversation in Charleston generated significant interest, culminating with Sen. Jason Rapert (AR), NCOIL Immediate Past President, announcing his willingness to sponsor NCOIL model legislation on this issue. Representative Deborah Ferguson (AR) – Vice Chair of the Committee - and Representative George Keiser (ND), former NCOIL President, have also expressed their willingness to join Senator Rapert as sponsors of such model legislation. Other Committee members have also expressed preliminary interest in joining as sponsors.

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Asm. Kevin Cahill, NY
Treasurer



Rep. Joe Fischer, KY
Secretary



Sen. Jason Rapert, AR
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

Future NCOIL Meetings:

Summer 2021
July 14—17
Boston, MA

Annual 2021
November 17—20
Scottsdale, AZ

Spring 2022
March 3—6
Las Vegas, NV

Summer 2022
July 13—16
Jersey City, NJ

Annual 2022
November 16—19
New Orleans, LA

Spring 2023
March 9—12
San Diego, CA

REGISTRATION FOR NCOIL SUMMER MEETING IS OPEN

Registration for the 2021 NCOIL Summer Meeting at the Westin Boston Waterfront in Boston, MA from July 14th—17th is open.



See a tentative schedule on page 6 or view at the NCOIL website [here](#)

DON'T FORGET TO BOOK YOUR HOTEL!!!

*The hotel block closes on **June 23rd***

Legislators book here:



General Participants book here:



Register Below for NCOIL Special Committee on Race in Insurance Underwriting Interim Meeting on June 18 from 1:00pm—2:30pm

New York Senator Neil Breslin has called an interim Zoom meeting of the NCOIL Special Committee on Race in Insurance Underwriting on Friday, June 18th from 1:00 p.m. to 2:30 p.m. (EST).

The purpose of the interim meeting is for the Committee to further discuss whether unfair discrimination exists in certain insurance underwriting factors - specifically zip code, education, and occupation, both as separate factors and in combination. The Committee will also discuss its plans for its subsequent meeting during the NCOIL Summer National Meeting in July.

You can view all material and register for the meeting [here](#).

NCOIL invites suggestions for speakers for the June 18th meeting, who are prepared to present evidence regarding the value of these factors, or any of them, or their use in combination, or alternatively whether and how these factors or combination result in unfair discrimination. Please submit any suggestions along with any questions or comments to NCOIL General Counsel Will Melofchik at wmelofchik@ncoil.org.

This meeting will be conducted via Zoom. Meeting ID and Password information will be provided to you via-mail upon registering.

SPECIAL COMMITTEE ON RACE IN INSURANCE UNDERWRITING INTERIM MEETING

JUNE 18, 2021 • 1:00-2:30 P.M. (EST)

[CLICK HERE FOR MORE INFORMATION](#)

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 contact Tess Badenhausen at tbadenhausen@ncoil.org with any questions.

LEGISLATOR STIPENDS NOW AVAILABLE FOR CONTRIBUTING STATES

CLICK HERE FOR MORE INFORMATION

NCOIL One on One

Interested in learning about another NCOIL member? Click on the link [here](#) to learn more about Ohio Senator Bob Hackett.

If you haven't had a chance to watch previous interviews with NCOIL President, IN Representative Matt Lehman and NY Assemblywoman Pam Hunter, please visit our YouTube channel [here](#).

Stay tuned for next months NCOIL One on One, coming out in June!

Reminder to subscribe to the NCOIL YouTube Channel

Weren't able to attend our past meetings? Interested in our upcoming meeting, but not able to attend? Good news— you can visit our YouTube channel for recordings of past meetings. Sessions from the Spring Meeting in Charleston 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>



SPRING MEETING MINUTES

CLICK HERE FOR MORE INFO

Capital Corner Cont'd

The Committee will further discuss this issue in Boston in July, where arguments for and against this issue will be put forth. Please submit any thoughts or comments on this issue to wmelofchik@ncoil.org.

Fairness for Responsible Drivers Model Act Generates Lively Discussion

In 2014, NCOIL adopted a Resolution "In Support of 'No Pay, No Play' Laws to Address the Problem of Uninsured Motorists Knowingly Driving Uninsured." During the recent NCOIL Spring National Meeting in Charleston, SC, the Property & Casualty Insurance Committee discussed the first draft of the NCOIL Fairness for Responsible Drivers Model Act (Model), sponsored by Senator Shawn Vadaa (ND). Although named differently, the Model is intended as the next step in support of "no pay, no play laws."

The Model, and the laws in the approximately 10 states that have addressed this issue, prohibits uninsured drivers from collecting the full benefits of a system in which they do not participate. Specifically, the Model would prohibit a person, or personal representative of a person, who was an uninsured motorist and who sustained bodily injury or property damage as the result of a motor vehicle accident from recovering non-economic damages for the person's bodily injury or property damage or death.

It's important to note that the Model would not apply to recovery of economic damages, and the Model's prohibition against the recovery of non-economic damages would not apply if the person who is liable for the injury, damage or death: was driving while under the influence of an alcoholic beverage or controlled substance; acted intentionally, recklessly, or with gross negligence; fled from the scene of the accident; or was acting in furtherance of an offense or in immediate flight from an offense that constitutes a felony. Also, the prohibition does not apply to an uninsured motorist who at the time of the automobile accident has failed to maintain coverage for a period of 45 days or less and who had maintained continuous coverage for at least one year immediately prior to such failure to maintain coverage.

The discussion of the Model in Charleston generated a vigorous dialogue among Committee members who heard arguments for and against said Model from Kenneth S. Klein - Professor of Law at the California Western School of Law, and Andrew Kirkner, Regional VP, Ohio/Mid-Atlantic Region at the National Association of Mutual Insurance Companies (NAMIC).

Following that discussion, Sen. Vadaa sensed that the Committee was far from reaching the level of consensus needed to move the Model forward in a meaningful way. Accordingly, Sen. Vadaa has directed NCOIL staff to research the relationship between the level of penalties for driving uninsured with a state's uninsured motorist population, as well as the cost of those penalties versus the cost of compliance, with an eye towards seeing if there is a better solution to addressing the issue of uninsured motorists knowingly driving uninsured. This research, at least preliminary findings, will be presented and discussed before the Committee at the Summer Meeting in Boston in July.

We hope to see you in Boston, and hear from you in the interim.

-Will



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NCOIL 2021 SUMMER MEETING TENTATIVE SCHEDULE

WEDNESDAY, JULY 14TH

Audit Committee (Members Only)	4:15 PM	-	5:00 PM
Budget Committee	5:00 PM	-	5:30 PM
Welcome Reception	6:00 PM	-	7:00 PM

THURSDAY, JULY 15TH

Welcome Breakfast	8:15 AM	-	9:45 AM
Networking Break	9:45 AM	-	10:00 AM
Workers' Compensation Insurance Committee	10:00 AM	-	11:15 AM
General Session	11:15 AM	-	12:30 PM
The Institutes Griffith Foundation Legislator Luncheon	12:30 PM	-	1:30 PM
Special Committee on Race in Insurance Underwriting	1:30 PM	-	2:45 PM
Networking Break	2:45 PM	-	3:00 PM
Joint State-Federal Relations & International Insurance Issues Committee	3:00 PM	-	4:15 PM
Life Insurance & Financial Planning Committee	4:15 PM	-	5:15 PM
CIP Member & Sponsor Reception	5:15 PM	-	6:15 PM

FRIDAY, JULY 16TH

Financial Services & Multi-Lines Issues Committee	9:00 AM	-	10:30 AM
Networking Break	10:30 AM	-	10:45 AM
NCOIL—NAIC Dialogue	10:45 AM	-	12:00 PM
Luncheon with Keynote Address	12:00 PM	-	1:30 PM
General Session	1:30 PM	-	2:45 PM
Networking Break	2:45 PM	-	3:00 PM
Property & Casualty Insurance Committee	3:00 PM	-	4:30 PM

SATURDAY, JULY 17TH

General Session	9:00 AM	-	10:15 AM
Networking Break	10:15 AM	-	10:30 AM
Health Insurance & Long Term Care Issues Committee	10:30 AM	-	12:00 PM
Business Planning Committee & Executive Committee	12:00 PM	-	1:00 PM