



Rep. Tom Oliverson MD, TX
President



Thomas B. Considine
NCOIL CEO



Asw. Pamela Hunter, 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 are some of the issues that NCOIL will be discussing at the upcoming NCOIL Annual Meeting in San Antonio.

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San Antonio General Sessions Will Be Agenda Highlights

At the upcoming Annual Meeting in San Antonio, three general sessions will be held which will feature some of the most talked about issues in the nation. On Friday, November 22, part two of the special series focusing on the theme of “prevention is better than a cure” will be held. Part one, held this past July at the Summer Meeting, served as somewhat of an overview on preventive medicine and on how early expenses prevent significant later costs. Part two will explore the importance of social determinants of health and the role of proper nutrition in the prevention of disease.

It's often said that “prevention is the first rule of good health” but if you look at the numbers, a staggeringly low number of Americans undergo routine health screenings, and vaccination rates have been dropping for years. And while many can access preventive services through their health care coverage, the numbers show that most don't. With that being said, there are fascinating new developments and approaches in preventive care that hopefully can be built upon and made more available to everyone.

This series is a great opportunity to discuss the latest developments in preventive medicine and consider what policymakers need to be aware of. Panelists will include:

- Sharon Lamberton, Deputy Vice President, State Policy and External Outreach at PhRMA;
- a representative from Elevance;
- Barbara Kowalczyk, Associate Professor and Director of Institute for Food Safety and Nutrition Security at the Milken Institute School of Public Health;
- Martha Roherty, Executive Director of Advancing States; and
- Brenda Gleason, President of M2 Healthcare Consulting

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Capital Corner (Cont'd)



Sen. Paul Utke, MN
Treasurer

The following morning, a session will be held focusing on the 50th anniversary of the Employee Retirement Income and Security Act of 1974 (ERISA). If you're reading this, you likely know that NCOIL supports the position that ERISA has grown far beyond its original intent of establishing uniform federal standards to protect private employee pension plans from fraud and mismanagement, and has transformed into a critical barrier for states seeking to enact meaningful healthcare reforms. When ERISA was passed, about 7% of employees had coverage through self-funded plans. That number has ballooned to 61% as of 2019, and there is reason to believe that percentage has increased in the past five years.

NCOIL believes that States are, respectfully, better suited than Congress to legislate in the area of State health market regulation since state legislators can enact laws that meet the specific needs of their States' individual markets – markets which vary in local and regional aspects. Indeed, that was the intent of the McCarran-Ferguson Act when signed into law in 1945. NCOIL believes that the better route for Congress to take when dealing with health insurance issues is to amend ERISA to add a statutory waiver provision so that the protections set forth in state health insurance laws and regulations apply to all health insurance plans – including self-insured plans where all employees are intrastate, and the plan size does not exceed a certain number.

With its 2020 decision in Rutledge v. PCMA, the Supreme Court has seemingly begun to draw a line on the heretofore seemingly boundary-less limits of ERISA preemption. While NCOIL views this as a positive step for the Court, Congress should assert itself, and amend its own Act to permit the type of State waivers that exist in virtually all healthcare laws from Medicare to the Affordable Care Act.

This session is a great opportunity to examine how ERISA has evolved over the years, and discuss what changes to the law should or should not be made. Panelists will include:

- Melissa Bartlett, Senior Vice President of Health Policy at The ERISA Industry Committee (ERIC);
- Katy Johnson, Senior Counsel – Health Policy at the American Benefits Council (ABC);
- Carmel Shachar, Asst. Clinical Professor of Law, Faculty Director, Health Law & Policy Clinic Center for Health Law & Policy Innovation at Harvard Law School; and
- Dr. Randall C. Markarian, Chair of the American Dental Association's Special Committee on ERISA



Rep. Edmond Jordan, LA
Secretary

Later that day, a session will be held to discuss the implications of the U.S. Supreme Court's recent overturning of the Chevron doctrine. That doctrine arose out of a 1984 U.S. Supreme Court decision in Chevron v. Natural Resources Defense Council, and it generally was interpreted to mean that if Congress has not directly addressed the question at the center of a dispute, a court was required to uphold an agency's interpretation of a statute as long as it was reasonable. Put another way, when federal agency regulations are challenged in federal court as an improper interpretation of a statute, courts have traditionally deferred to the agency interpretation unless they find that the interpretation is arbitrary or not consistent with the statute.

Throughout the years, the Chevron doctrine has been controversial, with some proponents arguing that federal agencies are tasked with administrative interpretation and implementation of laws because of their subject matter expertise, use of data to inform decision making, and understanding of the relevant policy nuances. Some opponents have argued that policies should not be made by government officials who are not elected and not accountable to the public in the same way that Members of Congress are, and that delegation of regulatory authority to federal agencies undermines legislative powers.

Regardless of one's position on the doctrine being overturned, the Court's ruling will likely have significant implications for numerous policy areas, including insurance and particularly healthcare. This session will be a great opportunity to hear from experts as to what the impact of the Court's decision will be and what policymakers should be aware of going forward as they draft laws and interact with their colleagues in the Executive branch. Panelists will include:



Rep. Deborah Ferguson DDS, AR
Immediate Past President

Future NCOIL Meetings:

Annual 2024
November 21-24
San Antonio, TX
The Westin Riverwalk

Spring 2025
April 24-27
Charleston, SC
Francis Marion Hotel

Summer 2025
July 16-19
Chicago, IL
Renaissance Chicago
Downtown Hotel

Annual 2025
November 12-15
Atlanta, GA
The Whitley Hotel

Capital Corner (Cont'd)

- Michelle Long, Senior Policy Analyst, Patient and Consumer Protections at KFF; and
- Jack Beermann, Philip S. Beck Professor of Law and Political Science at Boston University School of Law

Please submit any thoughts or comments on any or all of these session to wmelofchik@ncoil.org.

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

-Will

NCOIL Urges Congress to Pass NFIP Reauthorization Legislation: *Congressional Action Must be Taken Before Current NFIP Reauthorization Expires on Sept. 30*

The National Council of Insurance Legislators (NCOIL) is calling for a timely reauthorization of the National Flood Insurance Program (NFIP) ahead of its expiration on September 30th. The NFIP is a program that makes federally-backed flood insurance available in those states and communities that agree to adopt and enforce flood-plain management ordinances to reduce future flood damage. The program provides flood insurance to property owners, renters and businesses, and having this coverage helps them recover faster when floodwaters recede.

“While a long-term reauthorization of the NFIP is overdue, it is important that the program doesn’t lapse now and consumers aren’t faced with any coverage gaps especially in the middle of hurricane season,” said Rep. Tom Oliverson, M.D. (TX), NCOIL President. “This program is a win-win for consumers and insurers alike so it’s imperative that Congress and the President work together to ensure there is a long-term solution and the communities most impacted are protected.”

NCOIL CEO Commissioner Tom Considine stated, “It’s critical that the federal government stops kicking this proverbial can down the road and agrees on a long-term reauthorization of the NFIP so no one is left wondering if their coverage will expire. Property damage from natural disasters is unfortunately all too common these days and it’s important that communities are able to bounce back when one of these extreme weather events hits home. Nonetheless, right now, within the week, a reauthorization is critically needed to stop a freeze in home sale closings around the county.”

NCOIL Salutes Life Insurance Awareness Month *Urges the Importance of Protecting Loved Ones*

The National Council of Insurance Legislators (NCOIL) is proud to highlight September as the 21st “National Life Insurance Awareness Month.” NCOIL applauds this annual initiative that serves as an important reminder to families of the value of life insurance and encourages them to view life insurance as an investment into their families’ financial security.

“Life insurance is more than just a policy, it’s a safety net and important financial tool that brings people peace of mind during uncertain times,” said Rep. Tom Oliverson, M.D., (TX), NCOIL President. “As lawmakers, consumer protection is always our top priority and making sure people are well informed and empowered to make the best decisions for their families’ financial future is an important part of that. Far too often, people are either uninsured or underinsured, so this month is a great reminder to assess your need for coverage and take action.”

NCOIL CEO, Commissioner Tom Considine, said, “Sufficient life insurance coverage is an important aspect of a well-rounded financial plan and there are a variety of options that can work for people from all different walks of life. Two common misconceptions surrounding life insurance are that it is expensive and that it is not needed. However, many people can be insured for the price of a daily cup of coffee.”

Future NCOIL Meetings:

Spring 2026
April 16-19
Louisville, KY
The Hyatt Regency

Summer 2026
July 15-18
Boston, MA
Westin Copley Place

Annual 2026
November 19-21
Sanibel, Florida
Marriott Sanibel
Harbour Resort & Spa

Spring 2027
TBD

Summer 2027
TBD

Annual 2027
November 17-20
New Orleans, LA
Westin New Orleans

NCOIL Salutes Life Insurance Awareness Month (Cont'd) *Urges the Importance of Protecting Loved Ones*

"We at NCOIL urge consumers to consult with their financial advisor and find a plan that fits their needs and budget. It's vital that everyone understands the benefits of life insurance and the risks of going without it," Considine concluded.

Additional information and resources about Life Insurance Awareness Month can be found at <https://lifehappenspro.org/life-insurance-awareness-month>

NCOIL Property & Casualty Insurance Committee Interim Meeting

Oklahoma Representative Forrest Bennett has called an interim Zoom meeting of the NCOIL Property & Casualty Insurance Committee on Monday, October 7th at 2:00 p.m. ET/1:00 p.m. CT/12:00 p.m. MT/11:00 a.m. PT.

The purpose of the meeting is for the Committee to:

continue discussion on the NCOIL Strengthen Homes Program Model Act, sponsored by Rep. Jim Dunnigan (UT) and co-sponsored by Rep. Matthew Gambill (GA);

continue discussion on the NCOIL Online Marketplace Guarantees Model Act, sponsored by Rep. Brian Lampton (OH) and co-sponsored by Rep. Forrest Bennett (OK);

introduce a Model Act based on the General Session held at the Summer Meeting titled "Eye in The Sky: How Insurers' Use of Aerial Images is Impacting Coverage", sponsored by Rep. David LeBoeuf (MA) and Rep. Brian Lampton (OH)

You can register for the meeting and view all of the materials for discussion [here](#). Updated versions of the Models will be posted on the website by Monday, September 30th.

Please submit any questions or comments to NCOIL General Counsel, Will Melofchik at wmelofchik@ncoil.org.

ICYMI: NCOIL Financial Services & Multi-Lines Issues Committee Interim Meeting

Wisconsin Senator Felzkowski called an interim Zoom meeting of the NCOIL Financial Services & Multi-Lines Issues Committee on Friday, September 20th. The purpose of the meeting was for the Committee to continue discussion on the NCOIL Transparency in Third Party Litigation Financing (TPLF) Model Act, sponsored by Rep. Matt Lehman (IN), past NCOIL President, and co-sponsored by Del. Steve Westfall (WV), as well as the NCOIL Earned Wage Access Model Act, sponsored by Asw. Pam Hunter (NY), NCOIL Vice President.

You can view a recording of the meeting at the link [here](#)



SUMMER MEETING MINUTES

CLICK HERE FOR MORE INFO

REGISTRATION FOR NCOIL ANNUAL MEETING IS OPEN

Registration for the 2024 NCOIL Annual Meeting at the Westin Riverwalk Hotel in San Antonio, TX from November 21-24th is open.



For registration information please click [here](#)

See the meeting schedule on page 7 or view at the NCOIL website [here](#)

DON'T FORGET TO BOOK YOUR HOTEL!!!

The hotel block closes on October 28th

Legislators book here:



General Participants book here:



Things to See in San Antonio:

The Alamo

Arneson River Theatre at La Villita

Historic Market Square

Natural Bridge Caverns

San Antonio Botanical Gardens

Registration for NCOIL Open ILF Scholarship Golf Outing is Now Open



NCOIL is pleased to announce the 3rd NCOIL Open Insurance Legislators Foundation (ILF) Scholarship Golf Outing. The event will be held on November 21st at TPC Golf Course in San Antonio, TX. The format will be a scramble shotgun. Lunch will be provided as well as transportation to and from the Westin Riverwalk (NCOIL Annual Meeting Host Hotel).

Registration is currently open for foursomes and individual golfers. There will be one legislator per foursome unless you affirmatively request that your foursome consists of private sector players. You can find more information on the outing at the link [here](#).

As an alternate activity, there will be a TopGolf event running parallel to the Outing at TopGolf San Antonio at 1:30 pm. The link to register can be found [here](#). Food and beverages will be included.

Please reach out to pgilbert@ncoil.org with any questions

NCOIL One on One

Haven't had a chance to watch the interviews with all our NCOIL One on One participants? Visit the link [here](#) to see past NCOIL One on One Interviews.

Thank you to all who have participated so far:

- IN Rep. Matt Lehman
- NY Asw. Pam Hunter
- OH Sen. Bob Hackett
- AR Rep. Deborah Ferguson
- ND Sen. Jerry Klein
- LA Rep. Edmond Jordan
- CA Asm. Ken Cooley
- TX Rep. Tom Oliverson
- NV Asw. Maggie Carlton
- MN Sen. Paul Utke
- MI Rep. Brenda Carter
- WV Del. Steve Westfall
- SC Rep. Carl Anderson
- NC Sen. Vickie Sawyer
- IN Sen. Travis Holdman
- OK Rep. Forrest Bennett
- CT Rep. Tammy Nuccio
- MS Sen. Walter Michel
- KY Rep. Rachel Roberts
- UT Rep. Jim Dunnigan
- NJ Sen. Nellie Pou
- ND Sen. Shawn Vedaa
- RI Sen. Roger Picard
- WI Sen. Mary Felzkowski
- NY Sen. Neil Breslin
- LA Ins. Cmsr. Jim Donelon
- KY Rep. Sarge Pollock
- OK Rep. Elynn Hefner
- Charise Richard, PhRMA
- MI Sen. Lana Theis
- OH Rep. Brian Lampton
- CA Asm. Tim Grayson
- Kevin McKechnie, ABA
- MA Rep. David LeBoeuf

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 reach out to Pat Gilbert at pgilbert@ncoil.org with any questions

LEGISLATOR STIPENDS NOW AVAILABLE FOR CONTRIBUTING STATES

[CLICK HERE FOR MORE INFORMATION](#)

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. Prior national meeting sessions and interim committee meetings are posted on our YouTube channel now.

Visit the link [here](#) to subscribe and keep up to date on all things NCOIL!

Things to See in San Antonio:

[San Antonio Missions National Historical Park](#)

[San Antonio Museum of Art](#)

[Six Flags Fiesta Texas](#)

[River Walk](#)

2024 NCOIL Annual Meeting Schedule

NCOIL Honors Hispanic Heritage Month:

NCOIL honors the historic contributions of the Hispanic community, especially during this Hispanic Heritage Month. Hispanics make up nearly 20% of the US population & ensuring they have a seat at the table is essential in crafting public policy that is representative of all.

THURSDAY, NOVEMBER 21st

NCOIL Open Insurance Legislators Foundation (ILF) Scholarship Golf Outing	12:30 PM	-	
TopGolf Alternate Outing	1:30 PM	-	
Welcome Reception at The Alamo	6:00 PM	-	7:30 PM

FRIDAY, NOVEMBER 22nd

Welcome Breakfast	8:15 AM	-	9:45 AM
First Time Attendee Legislator & Staff Meeting	9:45 AM	-	10:00 AM
First Time Attendee Interested Party Meeting	9:45 AM	-	10:00 AM
Networking Break	9:45 AM	-	10:00 AM
Health Insurance & Long Term Care Issues Committee	10:00 AM	-	11:30 AM
General Session	11:30 AM	-	1:15 PM
The Institutes Griffith Foundation Legislator Luncheon ***Open to Public Policymakers and Staff Only***	1:15 PM	-	2:15 PM
Workers' Compensation Insurance Committee	2:15 PM	-	3:30 PM
Networking Break	3:30 PM	-	3:45 PM
Life Insurance & Financial Planning Committee	3:45 PM	-	5:00 PM
Nominating Committee (Members Only)	5:15 PM	-	
Reception	6:00 PM	-	7:00 PM

SATURDAY, NOVEMBER 23rd

General Session	9:15 AM	-	10:45 AM
Networking Break	10:45 AM	-	11:00 AM
NCOIL-NAIC Dialogue	11:00 AM	-	12:15 PM
Luncheon with Keynote Address	12:15 PM	-	1:45 PM
General Session	1:45 PM	-	3:15 PM
Networking Break	3:15 PM	-	3:30 PM
Financial Services & Multi-Lines Issues Committee	3:30 PM	-	5:00 PM
Budget Committee	5:00 PM	-	5:30 PM

SUNDAY, NOVEMBER 24th

The Institutes Griffith Foundation Legislator Breakfast ***Open to Public Policymakers and Staff Only***	8:00 AM	-	9:00 AM
Joint State-Federal Relations & International Insurance Issues Committee	9:00 AM	-	10:15 AM
Networking Break	10:15 AM	-	10:30 AM
Property & Casualty Insurance Committee	10:30 AM	-	12:15 PM
Executive Committee	12:15 PM	-	12:45 PM