



**National Association of Insurance and Financial Advisors**

2901 Telestar Court • Falls Church, VA 22042-1205 • (703) 770-8188 • [www.naifa.org](http://www.naifa.org)

---

**To:** NAIFA Government Relations Department

**From:** Steve Kline

**Date:** July 15, 2019

**Re:** NCOIL Summer 2019 Meeting Report

The National Conference of Insurance Legislators (NCOIL) Summer 2019 meeting took place July 11-13<sup>th</sup> in Newport Beach, California. Approximately 200 people attended the meeting. This memorandum provides an overview of the issues discussed that are of interest to NAIFA.

### **Anti-Rebating Laws**

Maine Bureau of Insurance Superintendent Eric Cioppa informed NCOIL members that the NAIC has begun the process of conducting a review of current anti-rebating statutes to determine how such laws could be modernized. In the Superintendent's view, the anti-rebating laws should be amended to permit carriers and agents to offer certain devices and services to clients, such as Fit Bits and COBRA service, if such goods and services assist to further the goal of the policy. Superintendent Cioppa further supports raising the current dollar amount limitations regarding raffles and gifts that carriers may offer to the consumer.

The Council of Agents and Brokers (CIAB) testified that the current rebating laws are challenging to comply with as there is little uniformity and uneven enforcement. CIAB suggested that legislators should repeal these statutes. Legislators indicated a willingness to amend the current anti-rebating laws to address industry concerns yet still maintain some parameters and limits to prevent the inducement of a sale through rebating. NCOIL members noted that the laws should be uniform especially since many financial advisors are licensed in multiple states.

North Dakota Insurance Commissioner Jon Gonfread is leading the NAIC Committee evaluating the anti-rebating laws and contacted NAIFA-North Dakota soliciting NAIFA's position on current anti-rebating laws. NAIFA's position is to support the current anti-rebating measures.

### **Best Interest/Standard of Care**

Idaho Insurance Director Dean Cameron briefed NCOIL members on the NAIC efforts to amend the Suitability in Annuity Transactions Model Regulation to incorporate a best interest standard or "consumer first approach" into the model. Director Cameron both prefaced and concluded his

remarks by emphasizing that agents already act in the best interest of their clients, and he also commended industry for their active participation before the Annuity Suitability Working Group. The Working Group's proposed amendments to the model regulation require that advisors disclose to the consumer any conflicts of interest and how the advisor is compensated as well as require the advisor to document how the advisor determined which products best meet the consumer's financial goals. The Working Group has yet to define "material conflict of interest," "non-cash compensation," and determine if the scope of the model should apply to new sales, current customers, or both. The Working Group will also have to define the term "Best Interest."

In response to a question from an NCOIL member, who is also an independent insurance agent, Director Cameron noted that the proposed amendments to the model would only require the advisor to have knowledge of the products he/she sells rather than all products from all carrier available on the market.

Director Cameron noted that the Working Group aims to have its amendments to the model finalized by the NAIC's December meeting. NAIFA has been and will continue to be an active and engaged participant on this issue at the NAIC.

## **Health Insurance**

*Affordable Care Act (ACA) Litigation:* Superintendent Cioppa also briefed NCOIL members on ongoing litigation challenging the ACA. There is currently a challenge pending before the 5<sup>th</sup> Circuit Court of Appeals brought by about 20 states who argue that with the ACA's individual mandate "zeroed" that the rest of the ACA is unenforceable and should be struck down. States that support the ACA have moved to enact state laws that mirror elements of the ACA should the courts ultimately determine that the law is unconstitutional. NCOIL has not taken a position on the legal challenge.

*Long-Term Care:* Superintendent Cioppa informed NCOIL that the NAIC has established a Long Term Care Insurance Task Force to examine many critical issues affecting the long-term care insurance market such as proper regulatory oversight of closed blocks of LTC business, consumer protection measures, LTC carrier payments to guaranty associations, reduced benefit options to consumers to mitigate premium increases, and the examination of current LTC carrier reserving requirements. NAIFA will monitor the discussions of this new NAIC Task Force and testify or comment as appropriate.

*Short Term Limited Duration Insurance (STLDI):* NCOIL intends to develop model legislation on STLDI coverage. NAIFA will testify and comment on the NCOIL proposal as appropriate. NAIFA supports the federal regulation that permits STLDI plans to have a duration of up to 1 year with renewals lasting up to maximum of 36 months. NAIFA policy is to oppose proposals that could increase the cost of STLDI coverage.

## **Insurance Business Transfers**

NCOIL is in the process of developing model legislation to govern the sale of a block of business from one insurance carrier to another. The NCOIL model is based on an Oklahoma statute

which outlines the legal requirements that both the selling and purchasing carrier must satisfy and further stipulates that the transaction must receive the approval of the state insurance department and the appropriate court of jurisdiction. As NCOIL further develops the model legislation, legislators intend to evaluate the potential effects on policyholders who maintain coverage in the block of business to be sold, consider the financial solvency of the selling and purchasing carrier, determine any impact on the state guaranty associations, and other factors.

### **SECURE Act**

ACLI and United Income briefed legislators on the provisions of the Setting Every Community Up for Retirement Enhancement Savings Act (SECURE) and the status of the legislation. ACLI highlighted the bill's elements on expanding multiple employer plan options, the annuity selection provision, lifetime income disclosure, and increasing the mandatory distribution age for IRA plans. ACLI noted that retirement security legislation is paramount since studies indicate that at least 10,000 Americans turn 65 every day.

ACLI emphasized that it is critical that the legislation pass as soon as possible, preferably in July of this year. After July, the prospects for passage may significantly diminish as other measures compete for limited time on the Congressional calendar. Many NCOIL members support the SECURE Act. NAIFA continues to strongly support the legislation.