



August 15, 2019

NCOIL Summer 2019 Meeting Report

State legislators, insurance regulators, and industry trade associations including NAIFA discussed a series of important issues affecting the industry and consumers during the summer meeting of the National Conference of Insurance Legislators (NCOIL). NCOIL plans to draft proposals on anti-rebating statutes, short-term limited duration health insurance plans, and other matters which could affect advisors and their clients. The following issues discussed are of interest to NAIFA.

Anti-Rebating Laws

Maine Bureau of Insurance Superintendent Eric Cioppa informed legislators and industry that that the NAIC began reviewing 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 Fitbits 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.

Some industry associations testified that the current rebating laws are challenging to comply with as there is little uniformity and uneven enforcement and even suggested repeal of these statutes. Legislators indicated a willingness to amend the current anti-rebating laws to address industry concerns yet still maintain parameters 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 current anti-rebating measures. We will remain engaged in discussion with the NAIC and NCOIL on this issue.

Best Interest/Standard of Care

Idaho Insurance Director Dean Cameron briefed NCOIL members and meeting attendees 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 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 NAIC 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, how the



advisor is compensated, and document how the advisor determined which product best met the consumer's financial goals. Many issues remain unresolved, as 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.

In response to a question from a legislator who also works as 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.

The Working Group aims to have its amendments to the model finalized by the NAIC's December meeting. NAIFA has submitted numerous comment letters and oral testimony before the NAIC on this issue and we will continue to be an active participant in the NAIC discussions.

Health Insurance

Affordable Care Act (ACA) Litigation: Superintendent Cioppa updated NCOIL members and interested parties on the ongoing litigation against the ACA. There is currently a legal challenge pending before the 5th Circuit Court of Appeals brought by about 20 states. Plaintiffs argue that, due to the elimination of the ACA's individual mandate in 2018, the ACA is now unenforceable and should be struck down. States that support the ACA have moved to enact measures that mirror elements of the law's health insurance market reforms in the event the courts ultimately determine that the ACA 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 for 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 for a successful transaction and further stipulates that the sale must receive the approval of the



governing 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 evaluate other factors.

SECURE Act

Industry stakeholders briefed legislators on the provisions of H.R. 1994, the Setting Every Community Up for Retirement Enhancement Savings Act (SECURE) and the status of this legislation in Congress. The legislation to expand multiple employer plan options, incorporate the annuity selection provision, require plan sponsor lifetime income disclosure, and increase the mandatory distribution age for IRA plans. It was noted that retirement security enhancement is paramount as recent studies indicate that at least 10,000 Americans turn 65 every day.

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