

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
FINANCIAL SERVICES & MULTI-LINES ISSUES COMMITTEE
CHARLOTTE, NORTH CAROLINA
MARCH 8, 2020
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Financial Services & Multi-Lines Issues Committee met at the Charlotte Marriott City Center Hotel in Charlotte, North Carolina on Sunday, March 8, 2020 at 8:45 a.m.

Senator Jerry Klein of North Dakota, NCOIL Chairman At-Large, presided.

Other members of the Committees present were:

Asm. Ken Cooley (CA)	Sen. Shawn Vadaa (ND)
Sen. Travis Holdman (IN)	Sen. Bob Hackett (OH)
Rep. Matt Lehman (IN)	
Rep. Joe Fischer (KY)	

Other legislators present were:

Rep. Deborah Ferguson (AR)	Sen. Paul Utke (MN)
Rep. Martin Carbaugh (IN)	Sen. Paul Wieland (MO)

Also in attendance were:

Commissioner Tom Considine, NCOL CEO
Will Melofchik, NCOIL General Counsel
Cara Zimmermann, Assistant Director of Administration, NCOIL Support Services, LLC

QUORUM

Upon a motion made by Asm. Ken Cooley (CA), NCOIL Vice President, and seconded by Sen. Shawn Vadaa (ND), the Committee waived the quorum requirement without objection by way of a voice vote.

MINUTES

Upon a motion made by Rep. Matt Lehman (IN), NCOIL President, and seconded by Sen. Bob Hackett (OH), the Committee approved the minutes of its December 11, 2019 meeting in Austin, TX without objection by way of a voice vote.

SUPPORTING AND PROMOTING INNOVATION IN THE INSURANCE INDUSTRY

Nicole Gunderson, Managing Director of the Global Insurance Accelerator (GIA), stated that the GIA is currently operating its sixth annual accelerator program. GIA has helped to accelerate 36 companies in the first five years. By every metric, GIA is succeeding: the number of investors; the number of mentors; and impact on the market. Yet, the GIA is a startup too. While there are many opportunities, GIA is laser focused on developing companies that bring innovation to the insurance industry. GIA continues to adapt and pivot to meet the changing needs of the industry. As the leader in insurance innovation,

GIA continues to get smarter on where to put its resources to help companies thrive. GIA does this because every day, GIA's investors wake up knowing that innovation is key to survival in the insurance industry. So the GIA remains focused on how it impacts innovation specifically within the insurance industry.

Ms. Gunderson stated that Des Moines, Iowa is a hub for insurance innovation. The GIA is at the epicenter of insurtech. Iowa has 225 domiciled insurers creating a concentration of insurance professionals. Some cities have oceans, some have mountains – Des Moines has actuaries. With that set of natural resources, the GIA was founded in 2014 with the goal of bringing together insurance companies and startups focused on insurance technology. GIA has an application process where teams apply to come to Des Moines in January. The number of companies selected each year has varied between six and ten. The companies are brought to Des Moines for 100 days where intensive programming is provided to help build their business and accelerate their growth. GIA provides \$75,000 in investment which converts to 5% equity in the company.

Ms. Gunderson stated that GIA's focus is different than other accelerators. Since its founding, one of GIA's key tenets has been to help their portfolio companies build an income statement. Many accelerators spend the majority of their time helping startups perfect the pitch with the hope of gaining and moving into a venture capital investment. The GIA is different because its focus is on building the income statement with real customers paying real money for real value versus focusing on the perfect pitch to raise the next round of capital. GIA's companies clearly need funding to grow but if a company has customers and revenue, investment will more easily follow. While GIA's focus is on the income statement, GIA knows that companies need funding to keep moving on which is why GIA creates more focus on helping the portfolio companies raise capital. GIA mentors them well beyond the 100 days of the GIA program once they have begun to build that income statement.

Ms. Gunderson stated that the GIA is an innovation platform designed to serve the insurance industry by discovering, supporting, and connecting early-stage companies building new solutions. The formula matters. GIA's secret sauce is a collaboration of insurance company investors, dedicated mentors who are insurance executives and professionals, and startups who are the insurtech companies. Together, it is a unique program that focuses on each company's success. None of the program would be possible without the current investors who are 100% insurance companies. When GIA started in 2014, there were seven Des Moines based insurance companies and now in 2020 there are 15 investor companies throughout the U.S. – some are regional players and some have a global reach.

Ms. Gunderson stated that the focus of the GIA is a mentor-drive program. The startups that are brought in are not going it alone. GIA aligns them with mentors that have years of experience to help guide them. The majority of mentors are industry leading professionals based not only in Des Moines but throughout the country and the world. They dedicate their time on a volunteer basis over the course of 100 days to help the companies grow within the insurance industry. It is like building an advisory bench that helps the startups, some of which don't have insurance experience.

Ms. Gunderson stated that the makeup of the 36 companies from the first five years of the GIA spans solutions that serve P&C, health, life and annuities, and more. Some join

the GIA as a pre-product, pre-revenue company. Some have already found an early product-market fit and have initial customers and they are joining the program to look to grow and expand their revenues. The 2019 cohort of ten companies solves some big problems for the industry, such as Cowbell Cyber which is building a cyber software insurance company product for small and medium-sized businesses. Friendly offers a machine-learning technology that converts handwritten notes, even those of doctors.

GIA is currently in its sixth year which is the 2019 cohort. The active program right now just crossed the 50 day benchmark of the 100 day program. GIA evaluated a strong and growing application field and GIA is especially impressed by the quality of the founders and the solutions in terms of the industry need, product-market fit, and degree of innovation. Ms. Gunderson then provided a synopsis of the seven companies in the 2020 cohort. Caregiven is an Oregon-based startup enabling providers to offer real-time, curated guidance to individuals and families managing the end-of-life care for an ailing and aging loved one. DenScore is a Michigan-based startup using existing claims data to support dental insurers pay for performance initiatives to drive value-based scores for participating dentists. Gerald is a New York based startup offering a life event engagement and cross-sell platform for insurance providers. InsureVite is a Singapore-based startup that aids insurers in reducing friction in the insurance process and revolutionizing customer experience through social messaging apps. Kiwi is a New York-based startup focused on bringing episodic, on-demand injury insurance innovatively by using social media analytics to meet customers where they are. Summary Medical is a Wisconsin-based startup employing artificial intelligence to automate the review of medical records for the life insurance industry. Udotest is a Massachusetts-based startup via South Africa providing a business to business at-home disease testing software platform which helps enterprises improve insurance outcomes.

Ms. Gunderson stated that GIA concludes its 100 day program in a final presentation/demo day which you can watch a livestream of the companies giving a pitch on what the companies aim to do. That takes place on April 22nd. Ms. Gunderson stated that she started her career in BMO Capital Markets operating in the U.S. analyzing companies' financial needs and helping them grow. Through her MBA at Wharton, Ms. Gunderson transitioned to the startup world where she spent five years with an early-stage venture-backed fintech company called Dwolla. Ms. Gunderson helped build out the sales and customer success teams for business to business software application programs and interfacing platforms. Ms. Gunderson had to navigate selling Dwolla's technology to banks. Ms. Gunderson stated that she also had a strong interest in mentoring and advising startups which led her to her next startup, Speeko.

Ms. Gunderson stated that she learned of the opportunity with the GIA in late 2018 and upon doing research, she realized there were a lot of parallels to what the financial services industry and fintech was experiencing with the advancements in technology as was occurring in the insurance and insurtech space. Both were just scratching the surface. Ms. Gunderson knew that she could have an impact on innovation in the insurance industry through her work with the GIA when she joined in early 2019. Ms. Gunderson thanked the Committee for the opportunity to explain more about GIA.

CONTINUED DISCUSSION ON DEVELOPMENT OF NCOIL INSURANCE
MODERNIZATION MODEL LEGISLATION

a.) Consideration of NCOIL Insurance E-Commerce Model Act

Sen. Klein noted that the sponsor of the NCOIL E-Commerce Model Act (Model), Rep. Edmond Jordan (LA), Chair of the Committee, was not able to make it to this meeting but expressed his intent to have the Model voted on by the Committee.

Erin Collins, VP of State Affairs at the National Association of Mutual Insurance Companies (NAMIC), thanked Rep. Jordan for his efforts through the different iterations of the Model as well as the rest of the Committee. NAMIC believes that the latest draft of the Model is a balanced version that creates some foundational support for modernization packages in states and also takes into account the practicality of how insurance companies actually communicate with their policyholders. NAMIC believes that the Model is a good work product and encourages the Committee to adopt it.

Upon a Motion made by Rep. Joe Fischer (KY), NCOIL Secretary, and seconded by Sen. Travis Holdman (IN), NCOIL Immediate Past President, the Committee voted without objection to adopt the Model by way of a voice vote.

b.) Consideration of NCOIL E-Titling Model Act

Sen. Klein noted that the sponsor of the NCOIL E-Titling Model Act (Model), Del. Steve Westfall (WV), was not able to make it to this meeting but expressed his intent to have the Model voted on by the Committee. Jim Taylor, Vice President of Auto Data Direct, Inc., waived his time speaking and expressed support for the Committee to adopt the Model.

Upon a Motion made by Rep. Fischer and seconded by Rep. Matt Lehman (IN), NCOIL President, the Committee voted without objection to adopt the Model by way of a voice vote.

INTRODUCTION OF NCOIL MODEL ACT CONCERNING STATUTORY THRESHOLDS FOR SETTLEMENTS INVOLVING MINORS

Rep. Fischer, sponsor of the proposed NCOIL Model Act Concerning Statutory Thresholds for Settlements Involving Minors (Model), stated that the objective of the Model is to save costs associated with settling small claims, thus preserving the minor's assets. It is much like many laws in states that allow for settling small estates through affidavits. The Model would apply mostly to situations where the minimum coverage is involved and they just want to settle the estate for the minimum coverage without incurring additional costs for going into court and getting that approved. There are certain security measures in place to ensure that the settlement would be preserved for the minor.

Andrew Kirkner, Regional VP, Ohio Valley/Mid-Atlantic at NAMIC, stated that the Model deals with situations where an insurer enters into a settlement involving an individual under the age of 18. NAMIC members came forward with an interest to make that process more efficient under the idea that you had to actually appear in court and retain counsel each time you had a settlement with a minor in some states. NAMIC looked at the laws across the country to see what might make sense to serve as the basis for the Model. Oregon has a good statute which sets a threshold for any settlement under \$25,000. To break that down, insurers and claimants would no longer need to appear in

court for settlements below \$25,000. Instead, they would file with the court an affidavit that ensures there is still court approval but removes the requirement for attorneys fees and things like that. NAMIC believes that the Model will help improve efficiencies and help protect settlement funds.

Brian Waller, VP of Government Relations at Shelter Insurance, stated that Shelter is excited about the Model creating more efficiencies in this process. Some states have very low thresholds which have not been looked at in a very long time. The Model would allow both parties to settle by affidavit which would allow the matter to settle more quickly which would allow the people who are injured to get their money quicker. The insurance companies can then resolve the claims quicker and all parties can save costs and time.

CONSIDERATION OF NCOIL REBATE REFORM MODEL ACT

Rep. Lehman thanked everyone for their input thus far in the Rebate Reform Model Act (Model) and noted that this issue has been discussed for several years. There seems to be almost universal agreement that state anti-rebate laws need to be reformed, and now we are at the finish line as to what the level of reform should look like. Rep. Lehman noted that the National Association of Insurance Commissioners (NAIC) is also working on its own rebate reform model law in the form of amendments to the NAIC Model Unfair Trade Practices Act (UTPA).

Rep. Lehman then noted some changes to the Model since the Committee's last meeting in December. First, in Section 4, the word "exclusively" was changed to "primarily" as "exclusively" was a bit too restrictive. Next, in Section 4, "mitigate" was added so it now reads "...primarily intended to educate about, assess, monitor, control, mitigate, or prevent risk of loss to persons, their lives, health or property..." Next, in Section 4, the language "or that have a nexus to or enhance the value of the insurance benefits" was added so the language now reads "...primarily intended to educate about, assess, monitor, control, mitigate, or prevent risk of loss to persons, their lives, health or property; or that have a nexus to or enhance the value of the insurance benefits." Rep. Lehman noted that such language was proposed by the American Council of Life Insurers (ACLI) which brings in certain types of value-added services within the scope of the Model such as will preparation services and grief counseling services. Such services are primarily assisting the beneficiary so anything that is not included in the contract but goes to enhance the experience of that policy is considered to be a value added benefit.

Rep. Lehman noted that the life insurance industry also pushed back on the dollar amounts set forth in Section 3 of the Model because of the concern that the dollar amounts in the Model would exceed the total annual premium for certain products. Rep. Lehman stated that he appreciates that feedback but noted that NCOIL models typically serve to build a framework which states can then change as they deem necessary. Further, there is a drafting note in that section which states that "states may wish to alter the financial limitations set forth in this section depending upon each state's economic environment." Also, Rep. Lehman noted that he could see an insurance department splitting out different dollar amounts for different industries such as P&C vs. life.

Rep. Lehman further noted that some had called for the elimination of Section 5, or for the section to be heavily edited. Rep. Lehman stated that he believes the Section is in a good place and is a good foundation that can be changed as necessary in states that

adopt the Model. Rep. Lehman noted that since December, he included some language to clarify that the services contemplated by said Section do not otherwise qualify as permissible value added services in Section 4. Next, Rep. Lehman stated that in Section 6, the language has been altered to scale back the Commissioner's authority to promulgate regulations. Instead of reading "The commissioner may adopt rules as necessary to make reasonable modifications to the standards in this Act" – it now simply reads "The commissioner may adopt rules as necessary to effectuate the provisions of this Act."

Lastly, Rep. Lehman stated that he would like to make some technical changes to the Model. In Section 3(A), instead of reading "offer to give gifts in connection with marketing for the sale or retention of contracts of insurance..." it will now read "offer or provide gifts in connection with the marketing, purchase, or retention of contracts of insurance..." Rep. Lehman stated that he is on the NAIC's rebate model law drafting group which will be meeting at the NAIC's Spring Meeting in two weeks and he would like to have this Model adopted today in order to provide said drafting group with an example of what sound rebate reform should look like. Accordingly, Rep. Lehman asked the Chair that a Motion to adopt the Model, as amended, be entertained by the Committee after hearing from the panel.

Karen Melchert, Regional VP of State Relations at the ACLI, thanked Rep. Lehman for his consideration of ACLI's proposed amendments. Ms. Melchert thanked Rep. Lehman for noting ACLI's concerns with the dollar amounts in Section 3 and stated that ACLI would push for the drafting note in that section to be part of any state statute. ACLI would also push for bifurcating out life insurance products from that section to keep the dollar amount at \$100 or less given that most products sell for less than \$250 annual premium. Ms. Melchert thanked Rep. Lehman again for dealing with this very important issue.

Wes Bissett, Senior Counsel, Gov't Affairs at the Independent Insurance Agents & Brokers of America (IIABA), thanked Rep. Lehman for developing this Model, particularly Sections 3 and 4 as there is a growing universe of states that have adopted provisions dealing with those issues. Mr. Bissett stated that the agent community is very diverse in its thinking with regard to rebate reform. Accordingly, his comments focus on some clean-up items. One thing to note is that Sections 3, 4 and 5 apply to different universes of people and there is not consistent language that is used. For example, Section 3 states "an insurer, an employee of an insurer or a producer", Section 4 states "an insurer, by or through its employees, affiliates, insurance producers or third-party representatives" and Section 5 refers to "persons." Accordingly, IIABA recommends that consistent terminology be used in the Model. Similarly, IIABA recommends that each section make clear that the exemption in mind is the exemption from the state anti-rebate and inducement laws. Having the Model say "notwithstanding any other provision..." could be overly broad and have some unintended consequences such as exempting someone from anti-discrimination statutes.

Rep. Lehman stated that he agreed with Mr. Bissett's remarks regarding that Sections 3, 4 and 5 should have consistent applicability language. Accordingly, each Section will have "an insurer, by or through its employees, affiliates, insurance producers or third-party representatives" included. With regard to Mr. Bissett's point about having more specific exemption language, Rep. Lehman stated that he agreed but noted that is a change that states can make if they deem necessary.

John Fielding, General Counsel at The Council of Insurance Agents & Brokers (CIAB), agreed with Mr. Bissett's remarks and stated that the Model is good work product, particularly with the changes just agreed to by Rep. Lehman. Mr. Fielding stated that he has previously called for commercial lines to be exempted from anti-rebating laws. That may be too radical but nonetheless, in Section 3 when talking about permissible gifts and prizes CIAB still believes there is a difference between the relationships in commercial lines versus personal lines. Therefore, CIAB suggests that with respect to gifts, entertainment and marketing, there should be a reasonable standard for commercial lines. In other words, dollar amounts make sense when talking about individuals because they may be more susceptible to inducement but when talking about ongoing professional business to business relationships, it is easy to go over \$100 or \$200 a year when talking to Fortune 500 companies. Taking someone out to dinner could cost more than that. Lastly, Mr. Fielding noted that the term "policy" used in Sections 4 should be "insurance coverage" because at the beginning of a relationship there might not be a policy in place and there could be a number of potential policies under discussion.

Mr. Kirkner thanked Rep. Lehman for dealing with this issue and noted that NCOIL's leadership is very important given the NAIC's involvement. Mr. Kirkner noted that some of NAMIC's members expressed concern over the impact of Section 5 on the value-added services referenced in Section 4. NAMIC understands that striking Section 5 may be a bridge too far but believes that some clarifying language that exempts Section 5 from Section 4 at the end of the Section might make sense. The concern is that the language could be interpreted as requiring insurers to give away products because they cannot make receipt of the services contingent upon the purchase of insurance per Section 5.

Lauren Pachman, Counsel & Director of Regulatory Affairs at the National Association of Professional Insurance Agents (PIA), thanked Rep. Lehman and the Committee for working on this issue and noted that it is very beneficial that NCOIL is part of the NAIC's rebate reform drafting group. Ms. Pachman agreed with Mr. Bissett's remarks regarding uniform application language in Sections 3, 4 and 5. PIA thought that "person" was too broad in Section 5. PIA also supports the drafting note in Section 3 that allows states to alter the dollar amounts depending upon each state's economic environment. Ms. Pachman noted that the introductory language in Section 3 is confusing but noted that it may be a moot point since said language will be re-worked per Rep. Lehman agreeing with Mr. Bissett's remarks. In Section 3(A), Ms. Pachman recommended changing the language to "offer to or give" so that it covers the actual giving as she believes that is what the Model is really trying to get at. Lastly, Ms. Pachman recommended changing the language at the end of Section 6 to "...consistent with changing economic times" rather than ..."relevant consistent with changing economic times."

Rep. Lehman thanked the panel for their remarks and made a Motion to adopt the Model, as amended. The Motion was seconded by Rep. Fischer. The Committee then voted without objection to adopt the Model, as amended by way of a voice vote.

ADJOURNMENT

There being no further business, the Committee adjourned at 10:00 a.m.