



## EXECUTIVE SUMMARY

The Council of Insurance Agents & Brokers' Legal Counsel Working Group convened a virtual meeting to discuss federal and state actions undertaken in response to the novel coronavirus (COVID-19), among other things.

The Working Group was chaired by Working Group Chair Andy Impastato, Vice President, Insurance Counsel and Director of Industry Affairs for BXS Insurance, and was attended by over 50 of the insurance brokerage industry's top legal counsels. The virtual meeting was staffed by The Council's Associate General Counsel Gracie Gerlach, Chief Legal Officer Scott Sinder, Senior Vice President of Government Affairs Joel Wood, Vice President of Government Affairs Joel Kopperud, Director of Government Affairs Blaire Bartlett, NAIC/State Legislative and Regulatory Chief Counsel Kate Jensen, and NAIC/State Legislative and Regulatory Senior Advisor LeeAnn Goheen.

## FEDERAL UPDATES

As the general election approaches and with the passing of Justice Ruth Bader Ginsburg, the Working Group heard from Wood, Kopperud, and Bartlett on an array of political issues, including the future of government funding and the reauthorization of the National Flood Insurance Program through September 30, 2021; The Council's strategy for legislative and regulatory activity on U.S. trade credit insurance; and predictions as to whether the Senate will be able to fill the Supreme Court vacancy ahead of the general election and its implications for the future of the Court and The Council's priorities.

Amidst all of this chaos, the future of the next COVID-19 relief package remains up in the air (as does the broader congressional agenda, for that matter). With competing COVID-19 relief proposals from House Democrats and Senate Republicans, there is substantial uncertainty about contents, timing, and cost. Given the major issues facing Congress over the coming months, the House and Senate will likely not strike a deal before Election Day.

Beyond the implications of the Supreme Court vacancy, the next COVID-19 relief package, and the upcoming general election, the Working Group also received updates on other current and future federal issues, including:

- The various pandemic risk program proposals, including developments following the roundtable held by Representative Carolyn Maloney (D-NY) regarding her Pandemic Risk Insurance Act; and
- The House Ways and Means Committee hearing on the restaurant industry's pandemic response.

## STATE UPDATES

Though we have seen a significant slow-down in state regulatory activity, there continues to be incremental movement on a few state legislative issues, including:

- *Liability Protections*. Ohio enacted broad liability protections applicable to all operating businesses/entities, with more nuanced/specific protections for health care providers on the front lines.

- *Workers Compensation.* In the last week, two states—California and New Jersey—have enacted their workers' compensation frameworks. California's [SB 1159](#) extends a disputable presumption of compensability to police, firefighters, and certain health professionals who contract COVID-19 in the course of their employment through January 1, 2023, while New Jersey's [SB 2380](#) establishes a rebuttable presumption that contraction of COVID-19 by health care workers, public safety workers, and other essential employees is work-related and fully compensable under the state's workers' compensation laws.
- *State OSHA Regulations.* Following in the footsteps of Virginia and Oregon, California's Division of Occupational Safety and Health appears poised to [move forward](#) with developing emergency statewide standards that would require employers to take stricter precautions against COVID-19.

The Council will continue to monitor this activity, but for regular and recurring updates, please continue to use The Council's [COVID-19 Resource Center](#)—including the legislative trackers on business interruption coverage and workers' compensation, a legislative tracker on enacted civil liability protections, the state premium forbearance tracker, the state insurance regulatory tracker, and the broader regulatory tracker—as a source of the recent and pending developments at the state level.

## NAIC & NCOIL

Following last month's NAIC Summer National Meeting, the Working Group discussed a series of issues and areas for potential future engagement by The Council, including:

- The NAIC's proposal to reopen [Model #220](#) (Prevention of Illegal Multiple Employer Welfare Arrangements (MEWAs) and Other Illegal Health Insurers Model Regulation);
- Whether Working Group members have experienced issues with regulatory adjustments in the COVID-19 era (e.g., allowing online testing for producer licensing);
- Next steps for the Innovation and Technology (EX) Task Force's revised anti-rebating draft model law; and,
- The workstreams of the NAIC's new special committee on race and insurance.

Additionally, NCOIL is kicking off its Summer Meeting this week. The Steptoe Team will be there to monitor activity on its Telemedicine Model Act, the likely approval of the Short-Term Limited-Duration Insurance Model Act, and the special session to discuss the industry's response to COVID-19. Look out for a report from the meeting in the coming weeks!

## OTHER ISSUES

Members also spent time discussing other issues, including:

- Updates on the Council of Employee Benefits Executives Advisory Committee's upcoming meeting, at which they plan to discuss reframing The Council's messaging on private market alternatives to public option proposals, developing a strategy to address the impact of COVID-19 on the insurance industry, and considering the implications Justice Ruth Bader Ginsburg's death will likely have on the ACA.

- Next steps on the NYDFS Vendor Certification project with APCIA.
- Issues regarding Section 1557 of the ACA, associated regulations, and the recent Supreme Court decision on employee sex discrimination and whether self-funded clients are covering gender reassignment surgery.

## SEE YOU SOON!

We anticipate the next call will take place on **November 18, 2020 at 12PM**. If you have any questions in the meantime, please email Gracie Gerlach at [gracie.gerlach@ciab.com](mailto:gracie.gerlach@ciab.com).