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Attorney General of Vermont

April 25, 2006

Re: Senate Bill 1955 - Health Insurance Marketplace Modernization and Affordability
Act of 2006

Dear Members of the United States Senate:

As the principal enforcers of consumer protection laws in our respective states, we, the undersigned Attorneys General, write to convey our strong opposition to S.1955. This bill contains provisions that will erode state oversight of health insurance plans and eliminate consumer protections in the areas of mandated benefits and internal grievance procedures.

S.1955 creates "Small Business Health Plans," which are defined as fully insured group health plans sponsored by professional and business associations. If passed, this law would "supersede any and all State laws" regulating these health plans. We know from past experience that exempting plans like this from state law harms consumers. In the mid-1970's, Congress enacted legislation that exempted a similar type of plan from state law. These plans were called Multiple Employer Welfare Arrangements ("MEWAs"). The result of this experiment was that at least 398,000 consumers were left with more than \$123 million in unpaid claims. Not surprisingly, Congress repealed the exemption that preempted state regulation when it became clear that was the only way to limit fraud and abuse.

In addition, S.1955 would also preempt state laws regulating all health insurance plans, not just Small Business Health Plans, in a number of vital areas, including mandated benefits, internal appeals, form and rate filing, market conduct review and prompt payment of claims. In these areas, states are given a choice of whether they want to adopt the federal standards, but the choice is illusory. Even if a state declines to adopt the federal standards, insurers may still market and offer their products in the non-adopting state. In fact, insurers offering plans that comport with the federal standards may sue the non-adopting state alleging the state is prohibiting the insurer from marketing and selling its product or that the state is retaliating against the insurer for offering a product that complies with the federal standards. Thus, the

primary effect of choosing not to adopt the standard will be to expose states to legal actions by health insurers.

Title II of S.1955 allows insurers of individual, small group, and large group policies to sell health plans that do not contain benefits required by state law. Instead, under Title II of S.1955 insurers of individual, small group, and large group policies could ignore such requirements in favor of bare bones plans, subjecting consumers to reduced care and ever increasing out-of-pocket expenses. Many state insurance laws require a wide range of benefits including mammograms, routine gynecological care, and child wellness services and diabetes equipment. State benefit mandates were carefully considered by our state legislatures prior to adding the benefit to the list of mandates required by law. Allowing health insurers to abandon mandated benefits, many of which are preventative and/or diagnostic, will result in an increasingly ill population and higher health care costs as the health care system treats a growing number of consumers in crisis.

Title III of S.1955 allows the federal government to set procedures for the internal appeals process available to consumers when their health insurance carrier denies them a medical service. Eliminating the assistance that many states already provide to their citizens in obtaining the benefits to which they are entitled under their health plans will result in less health care coverage for consumers and higher overall costs as these consumers encounter various health crises.

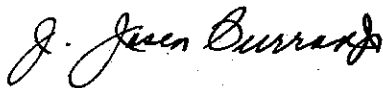
Consumers rightfully expect their state government to require a minimum of health benefit protections and to protect them from abuse by health care insurers. Elimination of strong state protections in exchange for weak federal oversight fails consumers.

If you have any questions, please feel free to contact us directly.

Sincerely,



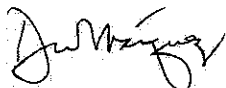
Lisa Madigan
Attorney General of Illinois



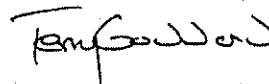
J. Joseph Curran, Jr.
Attorney General of Maryland



Wayne Stenehjem
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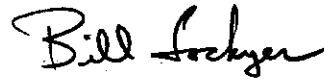
David W. Márquez
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Terry Goddard
Attorney General of Arizona



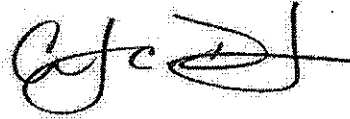
Mike Beebe
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Bill Lockyer
Attorney General of California



Richard Blumenthal
Attorney General of Connecticut



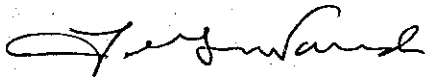
Carl Danberg
Attorney General of Delaware



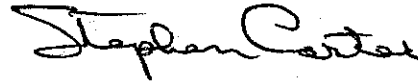
Robert Spagnoletti
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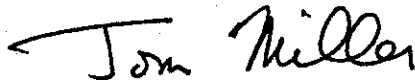
Mark Bennett
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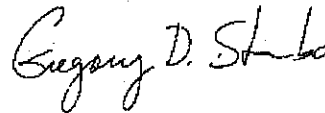
Lawrence Wasden
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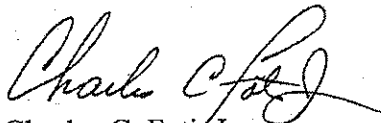
Stephen Carter
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Tom Miller
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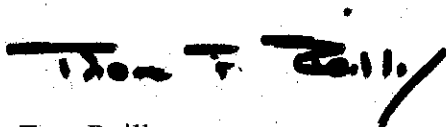
Gregory Stumbo
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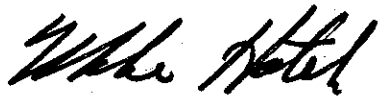
G. Steven Rowe
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Tom Reilly
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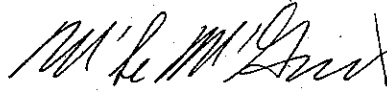
Mike Hatch
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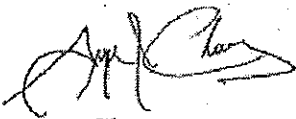
Jim Hood
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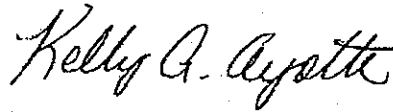
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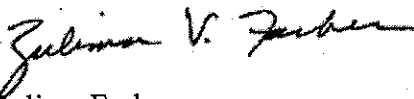
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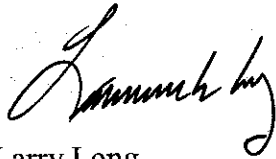
W.A. Drew Edmondson
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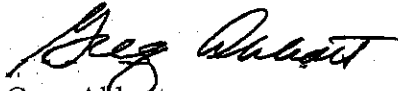
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Paul Summers
Attorney General of Tennessee



Greg Abbott
Attorney General of Texas



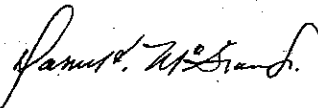
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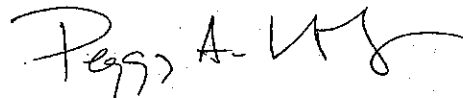
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