



Vermont . . .

Consumer Complaints/Assistance only:
Insurance: 1-800-964-1784
Health Care Administration: 1-800-631-7788
See other division numbers below.

Department of Banking, Insurance,
Securities and Health Care Administration

March 27, 2006

COPY

The Honorable James Jeffords
United States Senate
Washington, DC 20510

Re: S.1955, The Health Insurance Marketplace Modernization and Affordability Act

Dear Jim:

I am writing to express my concerns about S.1955, introduced by Senator Enzi and others and reported out of the Senate Health, Education, Labor and Pensions Committee on March 15, 2006.

The Douglas Administration shares the stated purpose of S.1955 - "to reduce costs and improve access in the health insurance marketplace." Specifically, the Douglas Administration is committed to the following health care reform goals:

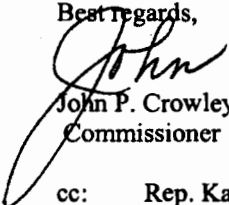
- Universal access to affordable health insurance for all Vermonters.
- Better quality and cost containment through health care system reform.
- Healthy behavior and disease prevention across the lifespan of the individual.

We appreciate the work of Senator Enzi's Committee to fashion a bill that avoids some of the problems inherent in the Association Health Plan legislation under consideration in the House, such as the risk of insolvency posed by self-funded association plans, and an assumption of regulatory functions by the federal government. Unfortunately, S.1955 as reported from the Committee still contains some features that concern us, and may be counterproductive to Vermont's effort to achieve its health care reform goals. For example, Governor Douglas, like you, is a strong supporter of mental health parity; but S.1955 would appear to preempt Vermont's mental health parity laws. The bill would also appear to preempt long standing rating methodologies in place in the small group market in Vermont, which methodologies have made it possible for small groups to have access to health insurance at predictable rates. In addition, there may be reduced access and increased premiums for Vermont small businesses that are unable to join one of the national associations authorized by the legislation.

For all of these reasons, I hope you can work to modify the bill so that it is more in keeping with Vermont's health care reform efforts.

Hope you and Liz are doing well.

Best regards,


John P. Crowley
Commissioner

cc: Rep. Kathleen Keenan, Chair, House Commerce Committee
Sen. Ann Cummings, Chair, Senate Finance Committee
Herbert W. Olson, General Counsel

89 Main Street, Drawer 20, Montpelier, VT 05620-3101
www.bishca.state.vt.us

Banking
(802) 828-3307

Insurance
(802) 828-3301

Captive Insurance
(802) 828-3304

Securities
(802) 828-3420

Health Care Admin.
(802) 828-2900



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Jorge Gomez, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
Web Address: oci.wi.gov

March 14, 2006

The Honorable Michael Enzi
Chairman
U.S. Senate Committee on Health, Education, Labor and Pensions
379A Russell Senate Office Building
Washington, DC 20510

Dear Senator Enzi:

The proposed Health Insurance Marketplace Modernization and Affordability Act of 2006 ("Act") represents a well intentioned attempt to improve the access of small businesses to health insurance. The process developed to resolve the issues on this Act will be a model for future discussions between Congress and the National Association of Insurance Commissioners (NAIC), and your work with the NAIC has substantially improved the bill.

I applaud your stated position opposing association health plans (AHPs) as detrimental to state insurance regulation. In contrast, your proposal commendably attempts to preserve the strengths of the state regulatory structure, but, as drafted, has the effect of undermining that structure to the detriment of small businesses and consumers.

I urge you to reconsider your effort to seek passage of this Act in its current form. The Act will not advance your goal of improved access. Its unintended consequences will frustrate state protections for small business and reduce affordability of coverage:

1. Small businesses with the least healthy groups will find insurance even more unaffordable under the Act's current rating provision. The Act's rating provisions will allow insurers to engage in risk selection by segmenting the small business market
2. Small businesses with employees most in need of state mandated health benefits will find insurance even more unaffordable under the Act's mandated benefit provisions.
3. Small business will find their state insurance department's hands tied by the extraordinary legal rights granted to insurers under the Act's "market harmonization" provisions. The goals included in the Act for efficient market conduct regulation are commendable. The Act's provisions requiring states to write into their laws special rights for insurers, rather than providing administrative incentives to encourage implementation, are extraordinary and counterproductive. No federal financial regulatory agency grants the industry it regulates these types of rights. There are many other means, such as NAIC reporting, state by state performance "report cards," and making existing federal funding contingent on, and new federal funding available to encourage, achievement of the goals.

4. The Act unduly relies on self-administration by the associations and insurers. The long history of MEWA fraud demonstrates that regulatory loopholes will be used by the mismanaged or even fraudulent operations as well as the well intentioned association. The Act even includes a provision allowing an unlicensed insurer to offer coverage in a "non-domestic" state as long as a licensed insurer "services" (but does not insure) the non-domestic business. The Act also fails to take the opportunity to provide for privileged state and federal investigative communications.
5. This well intentioned Act will have the effect of increasing rates for small businesses most in need of coverage, increasing the fiscal burden on state high risk pools and Medicaid and other safety nets, and unnecessarily hamstringing effective federal and state market conduct regulation.
6. The Act should including funding for, and opportunity to avoid its provisions which will seriously impact the ability of states to implement, innovative state efforts to make more fundamental reforms to address affordability and the raising cost of health care.

The Act as drafted reflects a well intentioned effort to make incremental improvements in access to health insurance coverage. As currently drafted the Act misses its target and also misses the opportunity to encourage further incremental efforts to help small businesses seeking affordable health coverage.

You should be thanked for undertaking a serious task and urged to redouble your efforts to prepare an effective piece of legislation. State insurance regulators stand ready to work with you with the goal of revising the Act's provisions so that they truly improve access, retain protection for small business and consumers and encourage further steps toward affordable coverage.

Sincerely,

Jorge Gomez
Commissioner of Insurance

cc: Insurance Commissioners
Senator Herb Kohl
Senator Russ Feingold



OFFICE OF THE
HEALTH INSURANCE COMMISSIONER
STATE OF RHODE ISLAND

March 13, 2006

The Honorable Michael B. Enzi
Chair
Committee on Health, Education, Labor and Pensions
United States Senate
Washington, D.C. 20510

The Honorable Edward Kennedy
United States Senate
Washington, DC 20510

Dear Chairman Enzi and Senator Kennedy:

Dear Senators,

I am writing to express my strong concerns Senate Bill 1955, and to ask that it not be passed.

Context

Rhode Island has a strong history of active health insurance regulation. In 1996, the state passed broad managed care regulations regarding utilization review, member rights and appeals and health plan oversight. These provided protections which were later duplicated in other states. In 2000, the state overhauled its small group rating laws to bring more equity between large group and small group rates. In 2004, the legislature created a first-in-the-nation cabinet-level health insurance commissioner role, to (in part) "direct health plans towards policies that promote the public good through increased access, and improved efficiency and quality".

The results speak for themselves, Rhode Island has one of the lowest rates of uninsurance in the country, lower medical costs than its neighbors, high health plan satisfaction measures, excellent scores in HEDIS and public health performance measures, and nationally recognized innovations in health care quality measurement and health care information technology innovation. Studies by my office indicate that rating reforms have closed the health insurance price gap between large and small employers.

Effect

In spite of recent amendments, the proposed bill would put all this in jeopardy by eliminating the ability of states to bring together stakeholders to develop local solutions to the problems of affordable health insurances for small businesses.

Specifically:

- Imposing national underwriting rules and coverage standards for small businesses creates local instability in pricing and hinders innovation. States should be allowed to develop

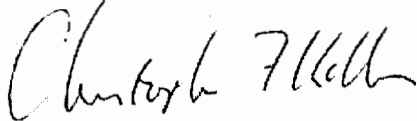
The Honorable Michael Enzi
The Honorable Edward Kennedy
March 13, 2006
Page Two

programs for affordable health insurance products and pricing, and then learn from one another. Just this year, small business health insurance reform bills have been introduced by both Democrats and Republicans in the RI legislature that call for crafting new affordable health plans, subsidizing their purchase through reinsurance mechanisms and promoting price transparency. These innovative programs would not be possible under this bill.

- The bill weakens health plan accountability. Health care is delivered locally. It is intrinsically tied to public health and important community institutions. Health insurers need to be held accountable by local entities for their actions in states – for the incentives created by their payment mechanisms, for their support of local community health activities and state-wide health policy. Bill 1955, in spite of recent clarifications regarding the role of insurance commissioners, would make it harder for national health plans to be answerable to their local stake holders. It would usurp public authority and place it with large national insurers, who would be accountable to no one.
- The bill does not address the real problem. The fundamental health policy challenge facing the U.S. is the effect of rising medical costs on the number of uninsured. As both of you have noted, we need to move beyond underwriting and cost shifting solutions to addressing the underlying utilization drivers. This is best accomplished through local experimentation and accountable insurers – both of which are weakened by this measure. Mass group purchasing – which this attempts to create – will not result in informed purchasers driving system change, but a one-size-fits-all approach which cedes power to national insurers.

As witnessed by the efforts of the sponsors with the National Association of Insurance Commissioners, much good work has gone into amending this bill. Unfortunately, major concerns remain. The bill in its current form fails to address the critical issues states and communities face in developing an affordable, sustainable health care system that works for employees in small businesses. To accomplish this, we need *accountable* health plans, not association health plans.

Sincerely,



Christopher F. Koller
Health Insurance Commissioner
State of Rhode Island

CFK/lm

cc: Senator Jack Reed
Governor Donald Carcieri, State of Rhode Island
Alessandro Iuppa, Superintendent of Insurance - State of Maine, NAIC President



JOHN GARAMENDI
Insurance Commissioner

March 7, 2006

Honorable Michael Enzi
U.S Senator
Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Senator Enzi:

I am writing this letter to convey my strong opposition to S. 1995 which will be marked up in the Health Education Labor and Pensions Committee action on March 8, 2006. While I acknowledge that improvements have been made in the draft, many of our most serious concerns have not been addressed, and accordingly, we oppose the bill as currently written. In spite of claims that may be made by proponents, the bill as written does not solve the problem of affordability, but rather adds to it. In addition there are other unintended consequences that may result from the measures in this bill. For example, we believe that the small group rating law proposed in this bill will result in a serious disruption of the small group marketplace and will trigger serious problems, such as increased rates for many consumers.

The current draft of S.1955 to be marked up by the committee contains provisions that have serious consequences on state insurance markets and health insurance consumers as follows:

- Will result in older or less healthy employees being priced out of the market as a result of expanded rate bands. Like the NAIC, California feels that the preemption of state rating laws will destroy the small group market. California currently has rate bands at +/-10% which have provided relative equity and stability in the small group market since the middle 1990's. California's experience has been that insurers rate very small employers (those with 5 or fewer employees) at the highest rates allowed by law given the lack of credible medical loss data for such small groups. Increasing the rate bands to +/- 25% will likely do nothing more than price many small employers right out the market. This is the opposite result from the stated goals of the bill. If the insurers actually started using medical loss data given their new rating flexibility, they would again hurt small businesses (particularly very small businesses) that have older or less healthy workers. This again works against the stated goals of the bill. We would also note that, after having adopted the NAIC's 1993 Model Rating Law, New Hampshire was forced to repeal it because rates skyrocketed in a two year period. S.1955, in its current form, adopts this failed model.

300 CAPITOL MALL, SUITE 1700
SACRAMENTO, CALIFORNIA 95814
PHONE (916) 492-3500 • FACSIMILE: (916) 445-5280

- Will result in risk selection against the “enhanced” option plans. The preemption of state mandated benefits is not remedied by the latest amendments which require a mandate to offer a plan offering benefits comparable to public employee benefits in the five states with the largest population. A level playing field within our state for benefits results in less segmentation of the small group insurance market. More segmentation means higher rates for many if not most small businesses that would choose to offer an enhanced option plan.
- Places additional stress on the safety net, and Medicaid and increases cost shifting. The proliferation of health plans that do not cover maternity, basic and preventive services such as annual physicals, mammography colonoscopies, diabetic care services and supplies, newborn coverable, clinical trials and other documented positive therapies; result in consumers losing protections. These are benefits that our state Legislature has decided to include in policies, after much forethought and clinical review. As plans drop their maternity or other benefits, and as employees are priced out of coverage because they are not preferred risks, additional demands are placed on Medicaid and S-CHIP programs that are already overburdened. Additionally, cost shifting resulting from increased uncompensated care will increase private insurance premiums even more.
- Results in consumers losing protections they currently have against unfair claims handling practices by preparing the way for federal preemption of market conduct standards and policy approval. The NAIC is making admirable progress towards harmonizing multiple state versions of these laws, and these are issues that should be left to the states who have more expertise, more knowledge of market issues in their jurisdiction, and are more accountable to consumers.

The New Hampshire experience is the only example anyone can point to demonstrating the impact of undoing community rating. While we can point to many potential serious problems with this legislation, no analysis has been provided that shows any benefits from this proposal. In addition, this bill will do nothing to control health care costs. Instead it will simply shift them to older and sicker individuals. In the long run the most expensive to cover will be left for local, state, and the federal government to worry about.

I believe and hope that together we can work to devise creative solutions to solve the problems facing our health care system. If certain aspects of that system are frozen in place or preempted, states will lose the ability to try innovative ideas that have promise. Many states are trying such innovations presently. For example, under the leadership of Governor Pataki, the Healthy New York program has been successful in insuring many thousands of previously uninsured residents through a small group reinsurance program subsidized by tobacco dollars. “Insure Montana” uses a state chartered purchasing pool combined with premium assistance and tax credits, also offset by tobacco tax revenue, to cover hundreds of small businesses. Kansas is on the verge of completing a major study of the claim history in its small group market, which includes modeling different forms of reinsurance and measuring the

increase in the number of insured's that will result from the various models. As a result of that study the NAIC will likely revisit its reinsurance model for small group insurance. The Bush Administration has set aside \$500 million for states to explore options in the small group market. Public policy should continue to support state innovation.

Our nation's health care system is under great stress. Insurance, as the financing vehicle for health care services is only one component of the system. The main problem of our health care system is runaway inflation in health care costs. Businesses and families are reeling under the pressure imposed by these costs, and many are exiting the system as a result. S.1955 as amended does not address this critical issue, and as such does not address the issue of access to affordable health insurance.

Senator, again thank you for recognizing the value of state oversight of health insurance and being willing to accept our expertise as insurance regulators. We look forward to continuing our positive relationship as we tackle these serious issues together.

Sincerely,



JOHN GARAMENDI
Insurance Commissioner



OFFICE OF
INSURANCE COMMISSIONER

March 6, 2006

The Honorable Patty Murray
United States Senate
173 Russell Senate Office Bldg.
Washington, DC 20510

RE: Health Insurance Marketplace Modernization and Affordability Act of 2005
S.1955 – Senators Enzi and Nelson

Dear Senator Murray:

My office has been participating through the National Association of Insurance Commissioners (NAIC) to influence the outcome of this legislation. While we recognize that there have been improvements made to the draft, our most serious concerns, primarily over the rating mechanism, have not been addressed and I would urge you to oppose this bill in its current form.

I believe the bill as written does not solve the problem of affordability, but rather adds to it. For example, the proposed small group rating mechanism will result in a serious disruption of the small group marketplace, if not its total collapse, and will trigger serious problems, such as increased rates for many consumers.

If enacted in its present form, it is my primary concern that the bill will result in further fragmentation of Washington's already fragile small group market. Rates will likely become unaffordable for those who need it the most, due to the cumulative impact of additional case characteristic factors permitted by the legislation. Washington State currently limits the factors that may be used to develop community rates in the small group market. **Application of the factors permitted under the proposed legislation will increase rates paid by consumers, two or threefold over what they currently pay in Washington.**

I am also concerned that, if enacted, the bill will do the following:

- Result in risk selection against the high option plans that will result in unaffordable insurance for those consumers;
- Result in the proliferation of health plans that do not cover basic and preventative services such as annual physicals, mammography, colonoscopies, diabetic care services and supplies, newborn coverage and other documented positive therapies; and
- Result in consumers losing protections that they have today against unfair claims handling practices.

Mailing Address: P.O. Box 40258 • Olympia, WA 98504-0258
Street Address: Insurance Building • 302 14th Avenue SW • Olympia, WA 98504



The Honorable Patty Murray
March 6, 2006
Page 2

It is significant to note that the State of New Hampshire moved from a community rating system to the NAIC's 1993 Model Rating Law four years ago. It was subsequently forced to repeal the NAIC '93 model and return to the community rating system because rates skyrocketed over a two-year period. S.1955, in its current form, adopts the NAIC '93 Model. It is critical that we recognize and learn a lesson from this real-life example and not adopt this failed model.

Our nation's health care system is under great stress. Insurance, as the financing vehicle for health care services, is only one component of the system. The main problem of our health care system is runaway inflation in health care costs. Businesses and families are reeling under the pressure imposed by these costs, and many are exiting the system as a result. S.1955, as amended, does not address this critical issue, and as such, does not address the issue of access to affordable health insurance.

We all know that the current health insurance system is seriously flawed and on life support. Yes, we must act, but doing something that will make the problem worse is not the solution. As drafted, this legislation poses too many risks with no promise of improving accessibility or affordability. I urge you, in order to best serve the citizens of this state, to actively oppose this legislation.

Sincerely,



Mike Kreidler
Insurance Commissioner



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

**FINANCIAL SERVICES
COMMISSION**

JEB BUSH
GOVERNOR

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

CHARLIE CRIST
ATTORNEY GENERAL

CHARLES BRONSON
COMMISSIONER OF
AGRICULTURE

March 07, 2006

The Honorable Michael Enzi
Chairman
U.S. Senate Committee on Health, Education Labor and Pensions
379A Russell Senate Office Building
Washington, DC 20510

Dear Chairman:

I am writing in support of the letter sent today from the National Association of Insurance Commissioners' President Alessandro Iuppa and to provide you with some additional comments and an overview of some of the initiatives that we have taken here in Florida. I especially want to thank you for your hard work aimed at addressing the affordability of health insurance and for your help in opposing the House's association health plan bill.

With that said I regret that I cannot support your bill in its present form and ask that you reconsider the direction that is being taken.

The Office of Insurance Regulation believes standardizing rating laws among the states will do little or nothing to reduce health insurance costs. The concept of the proposed broad rating bands is to bring younger and/or healthier people into the market by providing lower premiums. Unfortunately, bringing healthier lives into the market will not achieve its intended purpose of lowering overall market premiums. Rather, the broad bands serve to increase the premiums required for older and/or less healthy population.

Like the federal government, Florida has been investing significant resources to address health insurance affordability. I organized a symposium and brought in stakeholders (industry, consumer groups, the Florida Legislature, insurance agents, healthcare providers and national experts) from around the country to identify possible solutions. The Governor appointed a select committee of stakeholders to meet around the state and take public and expert testimony in an effort to identify solutions. In addition, Florida's House of Representatives appointed a committee of its members to do the same.

While all three initiatives failed to identify any "silver bullets" to cure the healthcare crisis, they did identify many initiatives that the state has or is in the process of implementing. We have developed programs to encourage and, in fact, reward people for living healthier lifestyles. We are implementing pilot programs of electronic medical records. We require all of our small group carriers to offer health savings account qualified benefit plans. We are addressing the need for transparency and an informed consumer by collecting and publishing hospital and medical cost information as well as information regarding price and quality of insurance programs.

• • •

KEVIN M. MCCARTY • COMMISSIONER
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-0305 • (850) 413-5914 • FAX (850) 488-3334
WEBSITE: WWW.FLDFS.COM • EMAIL: KEVIN.MCCARTY@FLDFS.COM

Affirmative Action / Equal Opportunity Employer

The Honorable Michael Enzi
March 07, 2006
Page Two

We established, although the state has not yet funded, a new high risk pool to help stabilize the small group market.

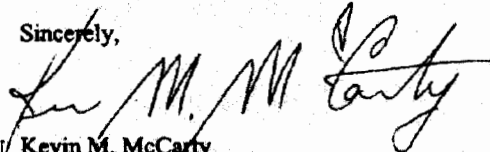
Many other states are implementing creative initiatives. For example, under the leadership of Governor Pataki, the Healthy New York program has been successful in bringing affordable health insurance to many thousands of previously uninsured citizens by providing stop-loss coverage. We are currently working with the Florida Legislature to develop a similar program. This initiative alone is estimated to reduce the premium for affected persons by 40%.

I believe a partnership between the federal and state governments is necessary to facilitate and fund initiatives similar to these.

I hope you will consider these comments as you work with your bill. I have concerns that a mark-up of the bill this week may not serve our common interests and may better be served by stepping back and considering modifications that would convert the bill from a response to the association health plan initiative into one that will be a step in the right direction to controlling health insurance costs and increasing its availability.

Thanks for your consideration.

Sincerely,


Kevin M. McCarty
Commissioner
Florida Office of Insurance Regulation

cc: The Honorable Bill Nelson
The Honorable Mel Martinez
The Honorable Edward M. Kennedy

Mar-07-06 11:55A

KENNY C. GUINN
Governor

STATE OF NEVADA

ALICE A. MOLASKY-ARMAN
Commissioner of InsuranceSYDNEY H. WICKLIFFE, C.P.A.
Director

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE**

788 Fairview Drive, Suite 300
Carson City, Nevada 89701-5491
(775) 687-4270 • Fax (775) 687-3937
Internet Address: doi.state.nv.us
E-mail: insinfo@dol.state.nv.us

January 26, 2006

The Honorable John Ensign
United States Senate
364 Russell Senate Building
Washington, DC 20510

RE: S. 1955, Health Insurance Marketplace Modernization Act and Affordability Act of 2005

Dear Senator Ensign:

I am writing to you today to urge you to oppose S. 1955, that would allow trade associations to pool their memberships across state lines to obtain group health coverage. On July 2, 2003, I sent you a letter urging you to oppose S. 545 (association health plans).

S. 1955 attempts to address some of the deficiencies of the association health plan bill by addressing state mandates, state oversight, self-funding and solvency issues. However, the bill does not adequately address these areas.

The bill will only require the coverage of mandates that have been passed in 45 states. State oversight is only imposed after a Commission decides what is best for Nevada. If the state does not enact what has been proposed as the harmonized standards, then the harmonized standards will supersede any and all state laws. The state is responsible for oversight and management whether they agree or not. This legislation would require that a state adopt the National Association of Insurance Commissioners (NAIC) rating standards for the small groups.

I do not recommend support of this bill because it would allow a carve out of the small group market in Nevada covering only those risks that were not able to join a trade association. Consequently, if only the adverse risk were available for the Nevada licensed carriers to cover, the cost of health care would rise in the local Nevada marketplace. Additionally, the NAIC standard for rating is different than that found in Nevada statutes. We have a wider margin for the carriers to address the guaranteed issue health status than the NAIC allows. This rating structure has created an environment in Nevada where the small employers have over twenty carriers to choose from when they purchase health insurance for themselves and their employees.

L 5

03/07/2006 12:33PM

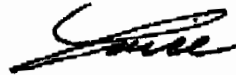
Mar-07-06 11:55A

Senator John Ensign
January 26, 2006
Page 2

I anticipate a reduced choice of carriers if this bill is passed. Finally, the bill assumes that they know what is best for the Nevada marketplace instead of our state legislature. Each state is demographically unique, and each state knows what will work best for its own residents. This bill, if passed, would presume that the Commission, established under federal law, would know what is best for Nevada.

I support initiatives that would lower the cost of health insurance for all small employers in Nevada and remain committed to ensure that Nevada small businesses have a choice for health insurance. Since S. 1955 does not allow each state to address the specific needs of the marketplace and all of its residents, and I strongly urge your opposition.

Sincerely,



ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

AAMA:da

Cc: Governor Kenny C. Guinn
Michael Hillerby, Chief of Staff
Lisa Foster, Deputy Chief of Staff
Sydney H. Wickliffe, CPA, Director

H:\Staff\Molasky\letters\Ensign S 1955 (Sen Enzi Diff) 1.23.06

03/07/2006 12:33PM