

January 24, 2017

The Honorable Greg Walden, Chair
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC

The Honorable Kevin Brady, Chair
Ways and Means Committee
U.S. House of Representatives
Washington, DC

The Honorable Frank Pallone, Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC

The Honorable Richard Neal, Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, DC

Dear Chairmen Walden and Brady and Ranking Members Pallone and Neal:

We write today on behalf of the National Association of Insurance Commissioners (NAIC). As an organization with members from all 50 states, the District of Columbia, and the five U.S. Territories, we come to the debate on health insurance reform with a variety of views and experiences. In some states the individual health insurance market is struggling and, in a few, it is near collapse. In these states, premium increases, limited plan options, little or no competition, rising cost-sharing, and narrowing networks have combined to create a health insurance market that fails to meet the needs of consumers and is unsustainable. However, in some other states the individual market is robust with increased enrollment and premiums have stabilized. Insurance markets are local, and the different experiences around the country reinforce the need for increased state flexibility and deference.

While the experiences of the states have differed, all state regulators are concerned that things could be worse in 2018 if legislative and administrative actions at the federal level are not carefully considered. Over the past six years the uninsured rate has fallen in all states and there has been unprecedented access and affordability for the most vulnerable populations. Federal actions, if not carefully considered, could do irreparable harm to these populations and actually lead to a swifter collapse of the markets.

We encourage the committees to seek the input of state insurance regulators and the NAIC as you consider possible replacements to or amendments of the Affordable Care Act (ACA). As we stated in our November 23, 2016, letter to Vice President-Elect Pence, "With over 145 years of experience, the NAIC and state insurance regulators must be a critical partners in developing and executing any changes to the ACA to ensure access to coverage, protections for consumers, and stability in our markets. In the six years since passage of the ACA, we have been on the front lines responding to its impact on state markets, and we have first-hand expertise and direct authorities that must be considered as the Administration and Congress wrestle with these challenges."

Through its open, collaborative process, which allows all stakeholders the opportunity to provide input and debate important issues, the NAIC has developed model laws and regulations that have been the standard for state regulation of health insurance. Such models were used by Congress to develop the Health Insurance Portability and Accessibility Act (HIPAA). The NAIC has adopted models on key issues such as grace periods, rating rules, grievance and external review procedures, consumer protections, and network adequacy. In addition, the NAIC has published White Papers on a variety of health insurance regulation issues and on options

for modifying the Medical Loss Ratio (MLR) to promote use of agents and brokers. We encourage you to use the NAIC and its models as a resource as you consider changes to federal law.

One of the common factors in the NAIC models is state flexibility. While the models seek to establish solid standards that will improve consumer protections and promote competitive markets, it is acknowledged that there are many details that must be left up to the states. State governors, legislators and regulators know best what will work in their unique markets, and what will not work. We urge your committees to return authority to the states and give them the flexibility they need to regulate their health insurance markets.

In the same vein, we strongly oppose legislation that would preempt state authority. We continue to see proposals that would preempt state licensing requirements and, thus, consumer protections by allowing sales across state lines by federal edict, without proper discretion for the states to form compacts between themselves. We also see proposals that would preempt state solvency requirements and regulations by creating federally licensed insurance pools called “association health plans.” Such federal actions would strip states of the ability to protect consumers and create competitive markets and should be rejected.

We look forward to working with you as we all seek to make health insurance coverage more affordable and accessible.

Sincerely,



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