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May 9, 2006

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

The Honorable Ben Nelson
United States Senate
Washington, DC 20510

Dear Chairman Enzi and Senator Nelson:

We write to once again thank you for your continued outreach to commissioners as you seek to improve S. 1955. As we mentioned in our letter of March 7, 2006, we share your desire to make insurance more accessible to small businesses and we appreciate your willingness to receive and consider input, both positive and negative, from state insurance regulators throughout the legislative process.

We again note and applaud that S. 1955 does not include the option of self-funded association plans, does not create an unlevel playing field where associations are allowed to play by different rules, and does not institute a federal regulator. As passed by the HELP Committee, the bill requires associations to notify state regulators and contract with licensed carriers in every state in which they operate and it maintains state oversight of solvency and consumer complaints. These are important improvements over past association health plan legislation.

During the teleconference at our Orlando meeting in March, you stated that there would be additional opportunities to amend S. 1955 after it passes the HELP Committee, but before it goes to the Senate floor. You invited commissioners to provide their comments, and many have. The primary concern of commissioners remains the preemption of state rating rules in the committee-passed version of the bill. The "one size fits all" approach of the bill, as reported by the committee, would take away the ability of states to develop a rating methodology that best balances the needs of their citizens.

Again, we would like to thank you for considering commissioners' concerns. It is our understanding that S. 1955 will be amended to provide more flexibility to states in setting rating rules. A state will not be required to use "health-status" as a rating factor, nor will a state be required to adopt rating rules identical to the federal law or else be deemed a "non-adopting state." Instead, states will be able to set rating limits, as long as they meet minimum federal variation standards.

While such a structure is an improvement over the committee-passed bill, we remain concerned that this constitutes a federal preemption of state rules that do not meet the federal standards. According to a recent report by the Lewin Group, such preemption could result in lower rates for some workers, but it would also raise premiums for older and sicker workers in the impacted states. Forcing states to change their rating policies for the small group market is not necessary to meeting the goals of this bill and could have unintended consequences.

We are also concerned with the impact the preemption of certain state rating rules will have on state innovation. Absent significant action at the federal level to address the cost of health care and affordability of insurance, states remain the key innovators in addressing these critical

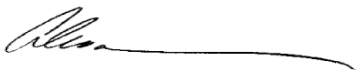
issues. Reaching the right balance in rating can be an important component of state reforms; federal preemption could limit the ability of states to implement that right balance.

Finally, we are concerned about the impact Title III – harmonization – could have on the ability of states to review rates and forms and conduct market conduct reviews. If the language remains unchanged, regulators in non-adopting states would be unable to effectively complete these important functions on behalf of consumers. The Title could also lead to costly lawsuits. Many commissioners and the NAIC have made these concerns clear and, again, you and your staff have attempted to address these concerns. We have been informed that an amendment could be offered that would grant governors, state legislators and insurance regulators an opportunity to harmonize the specific administrative functions before any board action or preemption could take place. We believe it is important to preserve state oversight and believe this amendment could improve the bill.

As we stated in our earlier letter, we appreciate the way you and your able staff have reached out to regulators for our expertise and counsel. We are hopeful that this constructive dialogue on S. 1955 will be a template for future cooperation as Congress works to address the other health care issues.

Sincerely,

Executive Vice President and
CEO



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