

September 8, 2015

The Honorable John Boehner  
Speaker of the U.S. House of Representatives  
H-232, The Capitol  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Democratic Leader  
H-204, The Capitol  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Republican Leader  
H-107, The Capitol  
Washington, D.C. 20515

The Honorable Steny Hoyer  
Democratic Whip  
H-148, The Capitol  
Washington, D.C. 20515

Dear Speaker Boehner, Leader Pelosi, Leader McCarthy and Whip Hoyer:

On behalf of the membership of the National Association of Insurance Commissioners<sup>1</sup> (NAIC), we write today in strong support of the Protecting Affordable Coverage for Employees Act (H.R. 1624/S. 1099), which would allow the states to continue defining the small group health insurance market as employers with 1-50 employees.

As you know, section 1304(b) of the Patient Protection and Affordable Care Act (ACA) changes the federal definition of the small group market to include employers with 1-100 employees. The states, however, have been allowed to continue defining the small group market as employers with 1-50 employees until January 1, 2016. Beginning on or after this date plans sold or renewed for employers with 51-100 employees will be subject to the various small group health plan regulations established by the ACA, such as essential health benefits, rating pools, actuarial value requirements, adjusted community rating rules, medical loss ratio requirements, and others.

The flexibility afforded to states with immediate passage of H.R. 1624 will help ensure stable small group health insurance markets that reflect the unique characteristics and dynamics at play in each of the states. Without it, a series of market disruptions could occur. Employers with 51-100 employees would face more restrictive rating rules, which could increase health insurance premiums. These employers would also face additional benefit and cost-sharing requirements, which would reduce benefit flexibility and could increase out-of-pocket spending. Furthermore, these regulations could lead some employers with 51-100 employees to self-insure to avoid higher premiums, which could result in adverse selection in the small group pool and higher premiums for employers with 1-50 employees.

The impact will vary by state, which is why defining the small group market should be left to the states, especially since the legislation does not prevent them from changing the definition to include all employers with 1-100 employees if they see fit.

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<sup>1</sup> Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

The U.S. Department of Health and Human Services has offered a transition option by publishing guidance that they will not enforce certain small group market regulations for existing health plans provided by employers with 51-100 employees if the plan is renewed on or before October 1, 2016, effectively staving off the new regulations until October 1, 2017. The NAIC surveyed the 50 states and the District of Columbia, and most responded that they will be utilizing this transition option. Nevertheless, we believe a more comprehensive fix provided by this legislation is necessary to preserve coverage options for existing and new purchasers and ensure stability for the future.

And, we encourage Congress to act quickly. Most mid-size employers shop for coverage annually to ensure the best price for themselves and their employees, but they need final rates and product information by late September in order to make these decisions and carry on with the preparing of employee communications and open enrollment materials and the actual conducting of open enrollment in advance of the effective date. Those employers who may be new entrants into the market in 2016 also need to know what options will be available to them. Quick action would avoid unnecessary confusion and disruption as we move into 2016.

For these reasons, the NAIC strongly supports immediate passage of H.R. 1624.

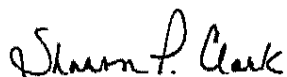
Sincerely,



Monica J. Lindeen  
NAIC President  
Commissioner  
Montana Office of the Commissioner of Securities  
and Insurance, State Auditor



John M. Huff  
NAIC President-Elect  
Director  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration



Sharon P. Clark  
NAIC Vice President  
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Ted Nickel  
NAIC Secretary-Treasurer  
Commissioner  
Wisconsin Office of the Commissioner of  
Insurance



Senator E. Benjamin Nelson  
NAIC Chief Executive Officer