

May 18, 2015

The Honorable Brett Guthrie
2434 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tim Scott
520 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Tony Cardenas
1510 Longworth House Office Building
Washington, D.C. 20515

The Honorable Jean Shaheen
506 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Scott and Shaheen and Representatives Guthrie and Cárdenas :

On behalf of the membership of the National Association of Insurance Commissioners¹, we write today to offer our support and appreciation for the Protecting Affordable Coverage for Employees Act (S. 1099/H.R. 1624). The flexibility afforded to states in this legislation will help ensure stable small group health insurance markets that reflect the unique characteristics and dynamics at play in each of our states. As you know, section 1304(b) of the Patient Protection and Affordable Care Act (ACA) changes the definition of the small group market to include all employers with 1-100 employees. The states, however, are 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 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 they will be utilizing this transition option. Nevertheless, we believe a more comprehensive fix provided by this legislation is necessary.

The NAIC shares your concern that changing the definition of the small group market nationwide to include all employers with 51-100 employees could adversely affect consumers and small business owners. Some employers will lose their current coverage; some will have fewer coverage options; and some will have their health insurance costs increase. The impact will vary by state, which is why defining the small group market should be left to the states.

¹ 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.

With this flexibility in mind, we must note the NAIC is concerned with the limitations imposed on the States in Section 2(b)(7) of this legislation by only allowing them to extend the definition of the small group market to employers with 51-100 employees, as opposed to any number they deem appropriate for their market. We would ask you to consider this additional flexibility, but recognize that even as drafted this legislation represents a significant and important improvement over current law. Thank you again for your leadership on this issue, and we look forward to working with you as this bill moves through the legislative process.

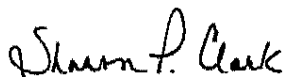
Sincerely,



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
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Kentucky Department of Insurance



Ted Nickel
NAIC Secretary-Treasurer
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Wisconsin Office of the Commissioner of
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Senator E. Benjamin Nelson
NAIC Chief Executive Officer