NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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STATEMENT OF THE

NATIONAL ASSOCIATION OF REALTORS®

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY & COMMERCE SUBCOMMITTEE ON HEALTH

HEARING REGARDING

"AMERICA'S NEED FOR HEALTH REFORM"

SEPTEMBER 18, 2008

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

EQUAL HOUSING OPPORTUNITY

Introduction

On behalf of its 1.2 million members, the National Association of REALTORS® (NAR) thanks the Energy and Commerce Health Subcommittee for holding this hearing on "American's Need for Health Reform." As self-employed real estate professionals, our members have a keen, personal interest in the issue. They each know very well how hard it is to find and keep health insurance especially when there is no employer-provided coverage available. Our managing brokers and firm owners also know how hard it is to find affordable health coverage for employees when you're the boss.

NAR's members are involved in residential and commercial real estate as brokers, sales people, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry. Members belong to one or more of some 1,400 local associations/boards and 54 state and territory associations of REALTORS®.

While the challenges that REALTORS® and other real estate professionals face are shared by the rapidly growing number of small businesses and self-employed Americans who are part of every sector of our economy, the real estate sales professionals' experience is a perfect example of the challenges that the self-employed, small businesses and individuals whose employers cannot afford to offer health insurance coverage face today. Their experience demonstrates this nation's great need for health care reform.

The REALTOR® Experience

The individual real estate agents who helped you buy or sell your homes or find that rental unit in the past are not employees of the realty offices with which they are affiliated. They are independent contractors, a separate legal business entity from the real estate company itself. You might say that they are the smallest of small firms.

Real estate <u>firms</u>, the businesses with which these independent agents are affiliated, are likewise small firms which typically have fewer than five salaried employees – a receptionist, office assistant, or, perhaps a transaction coordinator. This is likely even the case for the "name-brand" offices (e.g. Prudential, Century 21, Coldwell Banker, etc.) in your community since most are independently-owned franchises.

Today, in most states, real estate agents and other independent contractors are forced to look for health insurance in the individual market. This is a market segment where, for the most part, you basically take or leave whatever coverage is offered. There is no negotiating. There is no leverage.

As the result of this industry structure and the current state of health insurance regulations and industry practices, today 28 percent of the nation's 1.2 million REALTORS® do not have any health insurance. In the seven year period of 1996 to 2004, for example, he percent of uninsured NAR members doubled, going from 13 percent in 1996 to 28 percent in 2004. For the last three years, the percent uninsured has remained at that same level. That's over 336,000 uninsured working REALTORS®. By itself, that's an amazing figure. However, if the number of associated, and likely uninsured, REALTOR® family members are added to that total, the total number of uninsured individuals affiliated with the REALTOR® organization is estimated to be as much, if not more than, 886,000 men, women and children.

It's important to note that the percentage of uninsured REALTORS® is almost double that of Americans as a whole. In 2004, for example, the percent of the U.S. population without health insurance coverage was estimated to be 15.7 percent compared with the REALTOR® percentage of 28 percent.[1]

In the case of real estate firms, few firms offer health insurance coverage to salaried employees. In 2004, the most recent year for which firm-level data is available, only 13 percent of firms offered coverage to salaried workers. In 1996, by way of contrast, this percentage was 34 percent, more than double the more recent figure.

When asked why they are uninsured, the overwhelming majority of uninsured REALTORS® – 84 percent – indicate that unaffordable health insurance premiums were the cause. Given the structure of the real estate sales industry, it is not unexpected that real estate professionals would be sensitive to premium costs. Like all self-employed and/or independent contractor workers, real estate licensees have no employer who subsidizes health insurance premiums, no guaranteed monthly income and significant monthly business expenses that continue even in those months when there is no sale, and therefore, no income.

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[1] Carmen DeNavas-Walt, Bernadette D.Proctor, and Cheryl Hill Lee, U.S. Census Bureau, Current Population Reports, P60-229, *Income, Poverty, and Health Insurance Coverage in the United States: 2004*, U.S. Government Printing Office, Washington, DC, 2005.

These factors make it difficult for real estate licensees to afford monthly premiums that can easily reach $1200 or $1400 per couple or family. Many of our members have reported that their monthly insurance premiums now exceed their monthly mortgage payments.[2]

When the sources of coverage for those members who are insured are examined, it is almost a given that the percent of uninsured REALTORS® will continue to increase in the coming years. Among those who have health insurance coverage, REALTORS® are most likely to obtain their coverage from their spouse's employer (25 percent). This source of coverage to decline in future surveys as more and more employers reconsider whether to continue to offer insurance coverage to employee's spouses and dependents. NAR anticipates that many may be forced to drop coverage for employees' families.

Survey results indicate that group plans provided coverage for 23 percent of the NAR membership.[3] In the past, the typical NAR member with group coverage was typically an agent for whom real estate was a second career and had health insurance as part of a retiree benefit package. Today, however, group coverage is also likely to be held by either a new agent who continues to work two jobs as they transition from a prior career or an established agent who takes a second job simply because that job provides the agent with health insurance benefits.

We believe that in the future, group coverage also will be a declining source of insurance coverage for real estate professionals. Those in real estate as a second career may not continue to have health benefits from an earlier job, as retiree insurance benefits become a thing of the past for a new generation of workers. For those working two jobs – real estate sales and a second job that provides benefits - there comes a point when choices have to be made as to which job offers the worker the mix of job fulfillment and benefits that are essential to a healthy life. For those who cannot do without health insurance, real estate is likely not to be the final choice. It is clear from the calls, emails and survey comments that our staff receive that this is already a choice which many of our members face today.

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[2] One Aurora, Colorado member shared his not uncommon experience during a 2006 Capitol Hill visit – a 93 percent increase in health insurance premiums between 2003 and 2006 for his family of 5. As he put it, *"I have only been able to continue this coverage because of a nest egg and not because of the income from my fledgling business. Unfortunately, I am now in a position where I must pursue employment with a company that has group health care because I can no longer afford these healthcare expenses."*

[3] A review of detailed survey results indicates that this figure may be an overestimate of the true "group" coverage percentage.

The Need for Solutions

Finding solutions to the problem of the uninsured must become a top priority for this nation. It is a problem that affects over 46 million Americans today. More than half of these individuals are self-employed or the owners and employees of small businesses.[4] These small firms are widely recognized as the largest source of new American jobs and much of the technological innovation from which our economy has benefited. We believe that without change, problems with the availability and affordability of health coverage will increasingly threaten what has been a major source of job growth and innovation in this nation.

The share of the U.S. workforce that is self-employed has reached a remarkable level. This is a result of an extended and continuing period of corporate acquisitions, outsourcing and downsizing, as well as a series of technological and communication advances. Corporate reorganizations have "offered" many formerly employed professionals the opportunity to go into business for themselves following layoffs. For some workers, the opportunity is a welcomed one; for others, it is the only options. Technological and communication advances have loosened the geographic bounds that have tied workers together in a central location or large firm and made it possible to work independently.

The Ford Foundation, for example, estimated in 1999 that the number of freelance, independent contractors and temporary workers totaled 37 million individuals.[5] More recently, the General Accounting Office (GAO) estimated that 30% of the American workforce in 2000 was comprised of these "non-traditional" workers.[6] By way of comparison, the GAO estimated that manufacturing employment totaled 18 million workers in 2000 while an additional 20 million worked for some level of government.

Some have estimated that by 2010, 41% of the US workforce will be what David Pink has labeled "free agent" workers.[7] In this new world, will a health coverage system based on employer- provided health insurance be even less successful at providing American workers with access to affordable care than it is currently? Without changes to the existing system, we think so.

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[4] Employees Benefit Research Institute, "The Working Uninsured: Who They Are, How They Have Changed, and The Consequences of Being Uninsured," EBRI Issue Brief No. 224 (August 31, 2000).
[5] Elena Cabrel, "Building Safety Nets for the New Workforce," Ford Foundation Report (Spring/Summer 1999).
[6] General Accounting Office, "Contingent Workers: Incomes and Benefits Tend to Lag Behind Those in the Rest of the Workforce," report no. HEHS-00-76 (June 30, 2000).
[7] David H. Pink, *Free Agent Nation*, (New York: Warner Books, 2001).

Solutions: Observations and Considerations

As is always the case, a discussion of a problem must also include some discussion of solutions. While our organization and its members are not the insurance experts, we would like to share with you some observations and considerations that we believe are important.

Attention to the Individual and Small Group Markets. America's health insurance delivery system is primarily an employer-based system. In 2003, for example, only 5.3 percent of non-elderly Americans had individual coverage; by contrast, 69.5 percent had employer-provided coverage[8]. It is not unexpected, therefore, that much debate has focused the problems facing employer-provided insurance plans or those who cannot work (e.g. the elderly, children, etc.). We feel very strongly, however, that any discussion of solutions to the insurance crisis must address the current shortcomings of the nation's state-based individual and small group insurance markets. These markets are not serving the needs of the populations that are dependent upon them.

We have come to understand the challenges that must be faced in reforming of these markets. The question we have asked ourselves is whether the nation's system of state-based coverage has outlived its ability to effectively pool risk on the scale that is necessary to offer an affordable product. Are there ways of expanding the pool without creating unintended consequences; are there ways in which more competition can be encouraged in those state markets with few active companies; and how do we best incentivize individuals to participate so as to minimize adverse selection?

Given the share of the U.S. population that is currently self-employed and the growth of this segment of the workforce that is projected for the coming decades, it is imperative that the problems facing the individual and small group insurance markets be addressed. Any discussions to address the situation should also include each of the key constituencies that will be impacted by any recommended changes. We would hope, therefore, that future discussions will include representatives of the self-employed and small firms.

Define a Set of Core Health Care Services. Lacking any guidelines or agreement as to what constitutes a set of core health care services, states have established benefit mandates that vary widely in the type and

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[8] Kaiser Family Foundation, *Health Insurance Coverage in America, 2003 Data Update*, November 2004, Table 1, p.28, at http://www.kff.org/uninsured/7153.cfm

number of required services. One estimate puts the total number of state mandates at more than 1800.[9] Many states have 40, 50 or more mandates.[10]

The lack of uniformity and complexity in state mandates has increased the administrative costs of regional or national insurance programs, contributed to the withdrawal of insurers from states where they had once operated and created a barrier to efforts by national or regional non-employer groups to develop affordable and uniform national insurance programs tailored to the specific needs of their small business and self-employed members.[11]

In late 2006, the U.S. Citizens' Health Care Working Group delivered its final report to the Congress and the President. Created as a part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the Working Group was charged with providing for a nationwide public debate about how to go about improving the health care system to provide every American with the ability to obtain quality, affordable health care coverage and developing an action plan for Congress and the President to consider as they work to make a health care system that works for all Americans.[12]

In a comment letter on the group's interim recommendations, NAR has expressed its support for the Working Group's recommendation that efforts be made to define what constitutes a set of core health care services. We believe that such an effort would be a first step to defining an essential set of coverages around which state regulators could coalesce and begin to build a more uniform set of mandates that would allow for large pools and more competition in the marketplace.

Acknowledge Resource Limitations. In addition, as much as we all would like to be able to have unlimited access to health services, we believe that it is important that any national or state solution acknowledge that resources – family, business and government resources - are not unlimited. NAR's

[9] Council for Affordable Health Insurance, "HEALTH INSURANCE MANDATES IN THE STATES, 2006", Washington, DC, 2006.

[10] *Ibid.*

[11] Since most large companies can choose to avoid state mandates by self-insuring under the Employee Retirement Income Security Act (ERISA), which exempts self-insured companies from state oversight, these mandates and their associated apply only to those health insurance policies controlled by state health insurance laws, i.e. typically policies purchased by small businesses and individuals.

[12] NAR's members participated in many of the Working Group's community meetings held across the country. NAR hosted a Working Group community meeting for its members during the NAR legislative conference on May 16, 2006, in Washington, DC. In addition, NAR submitted comments on the Working Group's interim final recommendations. NAR's letter may be accessed at http://www.realtor.org/small_business_health_coverage.nsf/docfiles/L-06Aug-chcwg.pdf/$FILE/L-06Aug-chcwg.pdf

average real estate sales agent member made $37,600 in 2005 and spent an average of $6,800 in business expenses to earn that income, leaving roughly $2566 a month to cover mortgage, taxes, insurance, food, clothing, children's expenses, etc. What can we rationally expect this individual to pay for health insurance coverage?

Tax Treatment of Health Insurance Premiums. Many proponents of health insurance reform advocate for more favorable tax treatment of health insurance premiums. While favorable tax policy has the ability to make health insurance coverage more affordable, we would comment that favorable tax treatment of health insurance premiums should not be seen as the sole solution to the problems facing the uninsured. We speak from experience.

Since 2003, independent contractors have been able to fully deduct the cost of health insurance premiums. This tax change was one for which we advocated successfully and it has helped to make health insurance more affordable for REALTORS® who had sufficient income to pay the premiums or newly available to those who had "almost" had the necessary funds.

However, as the percentage of members uninsured indicates, tax deductibility has not been a complete solution for those who still find premiums more than marginally out of their reach or have been denied coverage. As one member very succinctly put it, "If I don't have the money to pay the premiums each month, I can't take advantage the deduction or a tax credit." Despite this experience, NAR continues to evaluate proposals as they arise and is open to exploring ways in which an alternative or additional tax treatment could help a larger proportion of our uninsured members.

A Role for Non-Traditional Partners. There are any number of community and non-profit organizations that have not traditionally been involved in facilitating access to health care but which could serve a valuable role in meeting the needs of the nation's small businesses, the self-employed and individuals if existing regulatory barriers could be overcome. Among the array of organizations which have been established to serve a particular membership and could play a facilitating role are professional or trade associations, like the NAR.

Trade associations have a long tradition of serving their members personal and professional needs. Member service is why these organizations exist and they are uniquely positioned to meet their members' needs. When it comes to designing a member health insurance program on a national or regional basis, however, the complexity of our state-based system of insurance regulation presents an insurmountable

obstacle to trade organizations. The administrative burden of offering a nationwide insurance program that meets the mandate and rating requirements of the fifty states and four territories has been insurmountable, even for an organization as large as NAR.

Conclusion

Finding a solution to the health insurance access problems of the self-employed and small businesses is a priority issue for the small business community and the National Association of REALTORS®. We appreciate the Subcommittee's efforts to continue the health reform debate which has begun and will most certainly continue next year. Thank you for the opportunity to share our thoughts.