



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

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June 16, 2009

The Honorable Edward Kennedy  
United States Senate  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Kennedy:

On behalf of the NATIONAL ASSOCIATION OF REALTORS® (NAR), I want to share the perspectives of NAR's 1.2 million members on the Affordable Health Choices Act (AHCA), which you introduced and which is scheduled for mark up this week. Realtors® appreciate the attention given by you, Ranking Member Mike Enzi (R-WY), and the members of the Senate Health, Education, Labor and Pension Committee to one of the most pressing problems facing Realtors® and other self-employed individuals.

NAR's members are individual real estate agents, brokers and realty firm broker/owners. The overwhelming majority of real estate agents are not employees of the realty offices with which they are affiliated. Rather, they are independent contractors, a separate legal business entity from the real estate office, and struggle to find affordable coverage in the individual market. Realty firms, like other small businesses, also face difficulties as they search for affordable coverage for their salaried administrative staff. As a result, our most recent survey work indicates that 28% of our individual members are uninsured and only 39% of realty firms are able to offer coverage to their salaried staffs. It is against this background that we provide the following comments.

**Treatment of the Self-Employed.** NAR is pleased that the Affordable Health Choices Act does not lump the self-employed with employees of firms unable to provide health coverage. Given the self-employed nature of the real estate sales professional and the unique needs facing an entrepreneur, it is of paramount concern to NAR that the needs of the self-employed be considered in the any health reform legislation. The AHCA allows the self-employed to choose whether to be "deemed" as an individual or as an employer. Given the incredibly diverse nature of the self-employed and their individual circumstances, we believe this is the right way to determine where the self-employed fit into a health reform framework.

**Exchange.** Realtors® and the other self-employed workers know how difficult it is to find an objective and comprehensive source of information on health insurance products and make an informed decision on the plan best suited to their needs. It is for this reason that we welcome the incorporation of an "Exchange" in the bill. We would hope that any eventual Exchange include not only access to information on the array of policies available in a given marketplace but that it also include assistance and/or decision software that would assist the participant in identifying the subset of available policies that best fit their individual circumstances.

- **State Exchanges.** NAR has long held that administrative overhead and inefficiencies have been a major contributor to the high cost of health insurance premiums in the individual and small group markets. NAR is concerned that too many Exchanges could not only create confusion for the consumer, but increase administrative costs. We ask that that the number of Exchanges is limited to one national Exchange or a limited number of regional Exchanges, rather than a system of 50+ mini-Exchanges.

**Rating Rules.** NAR is pleased to see that the proposed AHCA market reforms include (1) uniform federal rating rules for the individual and very small employer markets, (2) guaranteed issue and guaranteed renewal rules, and (3) a prohibition on health status and pre-existing conditions as underwriting criteria. While the use of age as a rating criterion is one that may negatively impact our membership, we are supportive of its use as one appropriate rating factor, just as we are of the use of geography.<sup>1</sup>

**Benefit Options.** NAR policy supports benefit options that provide a range of medical benefits that include both primary and preventive care options needed to maintain health and wellbeing. We have long held that no single policy or list of mandates can satisfy the competing tensions between (a) assuring all desired (or desirable) coverage and (b) creating affordable products. For this reason, we are pleased to see that the AHCA adopts an actuarial-equivalent approach to defining qualified coverage.

We do have concerns, however, with the bill's procedure for determining what constitutes qualified coverage. We believe that care must be taken to ensure that standards established by the Medical Advisory Council are crafted so that products are affordable and designed to meet the needs of a population that varies in its need for covered services.

We believe, too, that given the individual and employer mandate, that such decisions must be made with input from those who will be required to purchase the product, i.e. individuals, the self-employed, as well as small and large employers. Without an affordable option, the best reform plan will fail to meet the needs of households for accessible coverage. For this reason, we believe that representatives of each of these constituencies should have a role into the process of determining what constitutes qualified coverage and financial hardship.

**Fragmentation of Small Business Insurance Markets.** As an organization of self-employed individuals and small employers, NAR does not support bill provisions that would divide the small group insurance market into a very small employer group (firms with 10 or fewer employees) with access to a national Exchange and an array of alternative "small group" markets defined by the states for firms with more than 10 employees.

NAR's members are concerned that this segmentation will further fragment small group insurance pools, create an uneven playing field for the self-employed and smaller firms vis-à-vis the rest of the small firm universe, and create the potential for some participants to "game" the system. We would strongly urge that changes be made to provide a single, common federal definition for what constitutes the small group market and that this population is given access to the Exchange.

**Individual Mandate.** The self-employed are a significant portion of the uninsured today and policies that mandate individual coverage will fall on the self-employed in disproportionate numbers and often with unintended consequences. Among our members who are uninsured, cost is cited as the overwhelming reason for being uninsured. This is also a factor cited by other, non-Realtor® uninsured persons. Given their experiences, it's not unexpected that neither our members nor other registered voters support the proposed individual mandate.<sup>2</sup>

Should an individual mandate be a part of any reform proposal, it is imperative that (1) an array of affordable private plan options be available within the Exchange, (2) the self-employed be eligible for significant subsidies (individual tax credit or small business tax credit) to improve affordability on an ongoing basis, and (3) a means to opt out of the requirement be provided for financial hardship. We are pleased that the bill's individual tax credit would be available on a sliding scale to those with incomes up to 500% of the federal poverty level.

**Employer Mandate.** NAR's members have grave concerns with the proposed employer mandate provisions of the bill. Small employers today do not fail to offer coverage as the result of any desire to shortchange employees. Since they compete with larger firms for talent, not offering coverage is not a choice they make willingly. Rather, it

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<sup>1</sup> NAR's 2009 Member Survey, the median age of the Association's 1.2 million Realtors® is 54 years.

<sup>2</sup> March 2009 polling, conducted by the bipartisan polling team of Hart Research and Public Opinion Surveys indicated that only 27% of Realtors® and 33% of registered voters who strongly favor health reform support an individual mandate.

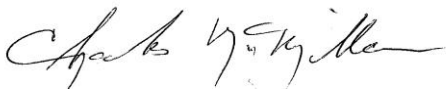
is a function of the economic realities of today. An employer mandate that fails to recognize that reality and/or imposes large penalties on small employers will have a detrimental impact on a component of the economy responsible for significant portions of job growth.<sup>3</sup> As such, we are troubled that the small business credit is available for only three years since it is unlikely that three years will be sufficient time to create the cost savings anticipated by the reform measures.

**Public Plan Option.** Realtors® are concerned with the bill's proposal that would create a new public government health coverage option. Realtors® believe (1) the market functions best when there is a level playing field between all providers of a given service and (2) it is extremely difficult, if not impossible, for private firms to compete with the federal government. Consequently, if the potential for crowding out of privately-provided insurance choices exists as some have indicated, a public option remains a major concern to Realtors.<sup>4</sup>

We are also greatly concerned that the growing debate over a public plan option has the potential to derail much needed underwriting, rating and administrative reforms. The results of a recent bipartisan national poll of registered voters conducted by Hart Research and Public Opinion Strategies, indicate that the level of public support for a public option is much lower than has been reported. In that March 2009 poll, among registered voters who strongly support health reform, only 35% of those surveyed indicated support for a public plan option. Given this low level of support and the real potential that a public option could become the "third rail" of this reform debate, it is our hope that any reforms enacted build upon the private insurance system and allow consensus rating, underwriting, and administrative reforms to move forward

In closing, the NATIONAL ASSOCIATION OF REALTORS® looks forward to timely enactment of meaningful health care reform that will address the needs of the nation's growing self-employed workforce. We thank you for your time and attention to our members' perspective.

Sincerely,



Charles McMillan, CIPS, GRI  
2009 President, National Association of REALTORS®

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<sup>3</sup> NAR's position is a reflection of the low level of support expressed by Realtors® polled on an employer mandate - only 11% of NAR's members who strongly support health reform indicate that they also support an employer mandate. We would note that only one in three registered voters strongly supportive of health reform indicated support for an individual mandate. Source: Hart Research/Public Opinion Strategies National Poll, March 2009

<sup>4</sup> Among Realtors® who strongly support major health reform, only 25% supported the creation of a public plan. Among registered voters who strongly support health reform, only 35% of those surveyed indicated support for a public plan option.