



## Legislative Update

May 2007

### Healthcare Reform Update

Governor Schwarzenegger is continuing to work with the Legislature to determine the best way to expand healthcare coverage for the 6 million Californians who are without healthcare.

Schwarzenegger's own plan has run into opposition from all sides with some saying it goes too far and others complaining that it does not go far enough. Most Republicans in the Legislature oppose the plan, noting their opposition to the mandates on businesses and individuals, insurance regulation and new taxes or fees. Instead, they have offered a package of bills they say would create incentives for consumers to be more cost-conscious and for the medical industry to be more responsive to consumer's financial needs.

While the Governor's and Legislative Republicans' plans appear to be largely stalled, Senate Pro Tem Perata's SB 48, Speaker Nunez's AB 8 and Senator Kuehl's SB 840 are continuing to move through the legislative process. SB 48 and AB 8 have many similarities including insurance reforms, Medi-Cal expansion, employer mandates, and more. SB 840, on the other hand, would eliminate the current system of health insurance coverage entirely in favor of a government-run universal health care system.

In an effort to ensure that NAIFA-California is engaged at each point in the healthcare debate, we have partnered with the California Association of Health Underwriters (CAHU) and both organizations are committed to ensuring a measured and marketplace-driven reform plan. Please continue to watch for updates on NAIFA-California's partnerships in the healthcare debate and for more details on impending healthcare reform plans.

### AB 1271 (Carter): Life Insurance – **OPPOSE**

NAIFA-California is pleased to report that the author of AB 1271, Assemblywoman Wilmer Amina Carter (D-Rialto), has agreed to not pursue her bill at this time due to the intense opposition represented by NAIFA-California and the Association of Life and Health Insurance Companies. The author has asked NAIFA-California and ACLHIC to work with her over the next several months in an effort to address her concerns.

AB 1271 (Carter) is sponsored by the Department of Insurance and would require an agent to prepare a contract comparison summary of the coverage provided by the existing and replacing insurers of a life insurance policy. It would require that information be included in the replacement notice information concerning surrender charge penalties and interest rates.

According to the Department, AB 1271 will assist the Department achieve a more objective overview of the sales transaction and the information that was communicated to the consumer for placement of life insurance and annuity sales. However, there are numerous laws currently on the books pertaining to this specific issue. In fact, Insurance Code Section 10509.4 requires insurance agents to provide consumers with a notice regarding replacing their life insurance policy or annuity. The disclosure encourages the

consumer to make a careful comparison of existing benefits and to contact the existing insurer or agent to make sure the consumer has the appropriate information to make the decision. In addition, Insurance Code Section 10509.8 states that it is a violation of the article if an agent or insurer recommends the replacement by use of materially inaccurate presentation. The code section also deems an unnecessary replacement as the sale of an annuity that requires the insured to pay a surrender charge for an annuity that is being replaced and that does not confer a substantial financial benefit over the life of the policy to the purchaser. If an agent violates this section then he or she is liable for an administrative penalty for no less than \$1,000 for the first offense.

NAIFA-California believes that AB 1271 is yet another example of the Department of Insurance trying to simply pass legislation in an effort to remove the bad actors from the industry instead of enforcing the laws and penalties currently in effect. AB 1271 will create yet another overly costly and burdensome disclosure requirement on the law abiding insurance agents and insurers that are providing valuable services within their communities. In addition, AB 1271 does a disservice to consumers by burying them in additional disclosures which will undoubtedly result in the disclosures not being given the attention by the consumers that the disclosures deserve.

NAIFA-California will continue to argue that simply passing laws and promulgating regulations will not remove the bad actors from the business. The most effective way to remove bad actors from the marketplace is by the Department of Insurance taking the enforcement actions necessary to remove them from the business.

Depending on how the discussions proceed with the author of the bill, AB 1271 may be heard by the Assembly Insurance Committee in January of 2008.

### **Annuity Suitability Bills – AB 267 (Calderon) & SB 573 (Scott)**

Over the last several years the Legislature has considered a series of bills seeking to address the sale of annuity products to senior citizens. Last year, the industry, including NAIFA-California, was successful in defeating SB 192 (Scott), a proposal sponsored by the Department of Insurance.

This year, two bills addressing the issue have been introduced. Senator Scott is the author of SB 573, which as currently drafted is much more acceptable to the life and annuity industry representatives than last year's bill SB 192. However, the bill is a work in progress and NAIFA-California and ACLHIC are concerned about amendments that have been suggested by other interested parties. In an effort to allow all of the interested parties to continue working with Senator Scott, the Senate Insurance Committee passed the bill and the negotiations are on-going.

In addition to SB 573, in an effort to be proactive on the issue and to have a counter-measure to Senator Scott's bill, ACLHIC sponsored and NAIFA-California supported AB 267 by Assemblyman Calderon, which would have enacted the National Association of Insurance Commissioner's (NAIC) Senior Protection in Annuity Transactions Model Act. Unfortunately, the bill faced intense opposition and the author agreed to make it a two-year bill.

### **AB 720 (DeLeon) Life Agent Only Bill**

For the past few years, several life insurance companies through their association, the Association of Life and Health Insurance Companies (ACLHIC), have been meeting with NAIFA-California representatives to discuss the need to increase the number of career life agents in California and to reach out to those communities that may be underserved or underinsured.

This year, ACLHIC sponsored AB 720 by Assemblyman Kevin DeLeon (D-LA) to create a life agent only license. After numerous meetings with the proponents, NAIFA-California decided that if the bill was amended to more closely mirror the National Association of Insurance Commissioners' Producer Licensing

Model Act (PLMA) then NAIFA-California could support the legislation, which has been adopted by 46 states. In addition, NAIFA-California would like to see the bill amended to clarify that there are continuing education requirements for the licenses outlined in the PLMA.

Life insurance agents are on the front lines of helping Californians face growing challenges to financial protection and retirement security. If fewer agents are available to deliver these services, then fewer Californians will receive the guidance necessary to meet the financial security needs for themselves and their families. NAIFA-California supports efforts to improve the delivery of needed life and income protection products and services to underserved communities in California. We are hopeful that AB 720 will result in more agents being trained and licensed to sell life insurance, which should help to address the issue of the considerable unmet demand for life insurance.

The author and the sponsor are committed to working with NAIFA-California to address our concerns and we will be working with them over the next few months on amendments.

***If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh or Dawn Sanders Koepke at 916/440-0850. Thank you!***