



Joint Response to the Governor's Health Care Proposal 2007

The National Association of Insurance and Financial Advisors-California (NAIFA-California) and the California Association of Health Underwriters (CAHU) are trade associations that represent insurance agents licensed to sell life and health products. Combined our memberships are made up of over 8000 individuals and businesses.

On January 8th, 2007 Governor Arnold Schwarzenegger introduced a bold and sweeping health care reform proposal that attempts to provide all Californians with health coverage through government programs or the private insurance market. His proposal is a welcome addition to the other proposals introduced by Senator Don Perata, President Pro Tem of the Senate and Assembly Speaker Fabian Nunez.

Both CAHU and NAIFA-California welcome the debate. Many of the broad themes and components of all three proposals are ones that both Associations have encouraged and supported in the past. The overall design of the three proposals is similar in nature and provides hope for progress in the 2007-2008 Legislative Session.

We believe, as does the Governor, that shared responsibility is one of the key components that must be included in any expansion of health care coverage. We applaud its inclusion in all three proposals. While the responsibilities of each component, individuals, providers, employers and government are open to debate, the inclusion of all four is groundbreaking and perhaps revolutionary.

We are thrilled at the inclusion of the "Healthy Actions Incentives/Rewards" program in both the public and private sectors. While insurers and HMOs have experimented with this concept, none have fully endorsed it across all their business lines. With that being said, we have doubts the program will succeed without including some form of consequence for those who do not take the incentives / rewards. In addition, it is imperative that both private and public results be measured and published for review.

The Governor will lead the nation in wellness promotion as he implements his programs on smoking and obesity. A partnership with agents, insurers, HMOs, foundations and community organizations will bear fruit many times over in helping reduce both of these terribly expensive conditions. We look forward to assisting in many ways in these endeavors.

We endorse the moves to stream line and eliminate some of the rules, reports and bureaucracy that increase the cost of doing business for insurance companies. We believe simplifying the product approval process and reducing procedural mandates is the right direction and long overdue.

Concerns:

The decision to mandate individuals making over 100% of poverty to contribute some portion of their income to help pay for their medical insurance is courageous. We commend the Governor's willingness to tackle this tough issue. However, we are concerned with a number of the details we have seen to date.

The Governor's proposal, through the use of a government established and run insurance pool for those needing subsidies, casts the government in the role of an insurance company and agent. Poll after poll shows

the voting public does not want the government running their health care. The pool will limit insurance coverage, choices and benefits for those needing subsidies. This is poor public policy and a bad use of tax-payer dollars. The pool simply duplicates what is already available in the private sector and does so at a higher cost to the tax-payer. The pool concept will in fact cause individuals to lose certain federally guaranteed rights under HIPAA and COBRA. Subsidies for insurance coverage are a financial transaction and should not be confused with an insurance transaction. In addition, the federal court decision in Maryland involving a pay or play mandate for Wal-Mart, casts a colossal legal cloud over using the pool as a way to play to avoid the limitations ERISA puts on state governments' ability to regulate employer health and welfare benefits.

The requirement for individual guaranteed issue is inseparable from the individual mandate. A person cannot be required to purchase insurance without the right to buy it. However, there are many dangers and pitfalls in guaranteed issue to individuals such as making sure the enforcement mechanism is effective, ensuring appropriate residency requirements, providing affordable premiums, creating realistic benefit designs and many other issues. How the individual mandate is implemented must be carefully tended to in order to ensure its success. The proposal has in whole avoided putting forth a workable mandate enforcement scheme, tracking system or other safeguards to address the issue of adverse selection.

Limiting the administrative overhead to 15% is at best a step towards mediocrity and a blanket on innovation. California enjoys lower premiums and arguably the best competitive health insurance market in the nation all with no limits. We have both nonprofits and profit making insurance companies who compete fiercely daily. Limits will curtail insurer's ability to deal with rising costs, changing markets and discrimination of new technology. In addition, if implemented, it is imperative that the 15% cap be calculated the same for all of the products regardless of whether they are an HMO or PPO product.

We are concerned that the 4% in-lieu fee without specific benefit design information will be insufficient to prevent anti-crowd out among employers who currently provide coverage. We have concerns that the benefit design in the pool may be structured in a manner that tilts the playing field in favor of the pool. It is also not clear to us how the 4% payroll number increases when medical inflation is increasing at twice the rate of payroll inflation. We are also apprehensive about the ability of the tax-payers, providers and hospitals, employers and enrollees to support the very rich benefit design proposed.

It is also not clear that the IRS has approved the deductibility of health insurance premium payments through Section 125 plans when the employer has no health and welfare plan in place let alone a person enrolled in a government run pool. In addition, a number of problems exist around how a business is structured and discrimination testing requirements imposed by the federal government to determine eligibility to participate in tax free premium deductibility. We are also concerned that individuals enrolling in the pool would violate the eligibility requirements for the federally guaranteed rights to continue coverage under COBRA or purchase an individual product when leaving an employer through HIPAA conversion rights.

Lastly, the Governor's proposal disappointed us in its timid plans for bringing the power of electronic information to bear on the health care delivery system. The Governor has a unique opportunity to pull an industry that has shown a reticence to move quickly to electronic records, cost transparency, claims payment and documents. If properly addressed and implemented, this component of the Governor's proposal has great potential to help control costs.

We look forward to the debate and covering more Californians with health insurance coverage. Done right, California will lead the nation in health care reform. Done wrong, California will, at great cost to the tax-payer and those we want to cover, suffer for years until it gets fixed. The financing and delivery of health care is littered with great intentions and failed efforts. It is one of the most complex policy issues the Governor and the Legislature face. The number of moving parts is a testament to its complexity and the dangers in not getting the details right the first time.