



August 2, 2010

ATTN: Producer Licensing (EX) Task Force
National Association of Insurance Commissioners
2301 McGee Street
Suite 800
Kansas City, MO 64108-2662

RE: Public Hearing on Producer Licensing Exams

Attention Producer Licensing Task Force:

The Coalition for Financial Security is a not-for-profit 501c4 whose mission is to advocate for effective solutions to the lack of financial security felt by millions of hard-working Americans. The coalition is served by an advisory board that includes former New York City Mayor David Dinkins and former New Mexico Attorney General Patricia Madrid. Since launching in 2005, the coalition has worked with a broad spectrum of non-profits, state legislators, corporations and other associations. Our ultimate goals are to promote solutions that will make financial literacy a staple in America's schools and to put more financial professionals in underserved communities.

At its launch, the Coalition for Financial Security released a poll with the League of United Latin American Citizens (LULAC) that highlighted some of the sources of financial insecurity among working class and minority communities. The poll revealed a very serious knowledge gap among Americans who have the finances to save and protect their finances but did not. For example, 89 percent of those CFS surveyed who did not have life insurance, did not know anyone who sells the product. Eighty percent of this group had never been contacted about it.

Given the survey's findings, CFS has called on the financial industry to make a better effort to recruit agents to work in under-served communities, including the "middle market," working class and minority communities. The coalition has also worked with legislators and regulators in states to make sure the financial profession is open to all qualified individuals who want to work in it.

To that end, CFS has done significant work on the issue of producer licensing. We have collected data, talked to stakeholders and conducted research. Our conclusion is that many states

may have unintentionally allowed their licensing process to become an artificial barrier to entry into the insurance profession. Of particular concern are licensing exams.

The exam data CFS has reviewed indicates that those most affected by possible barriers to entry into the insurance profession come from working middle class or minority backgrounds. Perhaps not coincidentally, these are the same communities that report having the least knowledge about insurance, the least contact with insurance agents and the least use of insurance products.

CFS is unable to attend the Seattle hearing. However we did want to thank the NAIC for its efforts and share our thoughts on this important issue. At the outset, we would like to stress that CFS's suggestions are not intended to undermine the consumer protection mission of professional exams. We are simply calling on all stakeholders to ensure the licensing process does not become a barrier to entry that ultimately hurts consumers.

In 2008, CFS published the results of a survey of state life producer licensing exams titled *Golden Rule Forgotten*. Twenty-five years after Golden Rule insurance company first brought the issue of fairness in producer licensing to light, the survey found persistent racial disparities and other irregularities in insurance licensing.

Among the survey's findings:

- Multiple state pass rates on "entry level" licensing exams below 45 percent;
- Double-digit pass rate disparities by race in many states;
- 94 percent of states surveyed below the 70 percent pass rate suggestion set out by the NAIC's producer licensing handbook.

In the year since CFS published its survey, the coalition has found even more disturbing data relating to producer licensing exams. Last year in Florida, for example, just 32 percent of African Americans passed the state's life and variable annuity exam, compared to 58 percent of Whites. In Louisiana, a recent report showed first-time candidates with a college degree passing the licensing exam just 51 percent of the time. In Maryland in 2008, the pass rate on the life exam was just 44 percent overall, and 27 percent for those who self-identified themselves as African American.

CFS has worked individually with legislators and regulators in these states to try and address these issues, but sees a need for the NAIC to act. In many states, this debate has lacked a sense of urgency that we believe the NAIC can bring.

Too often, our organization hears that low pass rates or racial disparities are "*just how it is in every state*" or a product of "*students not serious about the profession.*" Our organization refuses to accept that as an answer. The reality is that some states, Colorado, Illinois, Ohio and North Carolina to name just a few, appear to have done a tremendous job of encouraging success among all test-takers. Unless Colorado or North Carolina have smarter citizens than states like

Florida or Maryland, the low levels of success and disparities by race appear to be the result of individual state practices.

Why residents of one state should have a swifter track to a license is not clear. It raises questions of fairness. After all, life insurance regulations are not dramatically different among states.

One fear CFS has is that some are finding a false sense of security in low pass rates. Instead of seeing disparities and low levels of success on an exam as warning signs, these stakeholders may be assuring themselves that their tests are protecting consumers if more test takers fail than pass. While this view is rooted in good intentions, the result can have negative consequences for consumers, as they lose access to otherwise qualified agents.

Another issue CFS has seen is states that purposely want “challenging” exams. While this too is likely intended for the consumers’ benefit, it can have the opposite impact. The purpose of a licensing exam is not to find the “best of the best.” It is to determine whether a candidate for a license can perform the job at an entry level.

Interestingly, the U.S. Supreme Court considered a case this summer regarding the city of Chicago’s hiring of firefighters. In the 1990s, the city decided that it would only hire those who scored 89 or above on the city’s written test, even though experts agreed those who scored in the 70s or 80s had demonstrated the knowledge necessary to do the job. The court found that by only choosing those who were “well qualified” instead of just “qualified,” the city unjustifiably denied opportunity to others.

CFS raises this case only to provide context. The matter centered on hiring practices and may not be a perfect comparison to licensing. It does, however, suggest other professions struggle with issues in their professional examinations. It also is a reminder that standards and cut scores must not be arbitrary or statistically meaningless. Exams should allow all of those who demonstrate entry level knowledge to get a license - - not just the smartest or best test takers.

The NAIC has identified the steps states should take when they see symptoms such as low pass rates and disparities. From CFS’s vantage point, the problem is that these suggestions are not being put into practice. In our own state work, CFS has often found states turning away from problems or repeatedly asking for more data, instead of urgently embracing the solutions recommended by the NAIC.

As one means of encouraging closer adherence to the handbook, **CFS suggests the NAIC collect and publish every state’s pass rate a on a quarterly basis.** This will help shine more light on issues in producer licensing and help all stakeholders identify how much progress is being made. We would suggest the NAIC include demographic information for states that publish it too. The NAIC already collects and publishes data on state licensing with regard to uniformity issues. Our suggestion that the organization publish pass rates is merely an extension of that current practice.

When states do see symptoms arise in their exams, CFS supports the comprehensive exam review provisions laid out in the NAIC's handbook. We would urge the NAIC to make such reviews, along with what data would trigger them, more well-known. Among other things, the handbook recommends acquiring a new job analysis; examining the validity of the cut score; reviewing items for language and other issues; and employing an exam review committee that includes both new and experienced producers.

Finally, CFS believes it is important that states maintain close oversight of their test-providers. Test vendors are for-profit companies who often determine, or at least recommend to states, key testing parameters such as cut scores and the difficulty of exams.

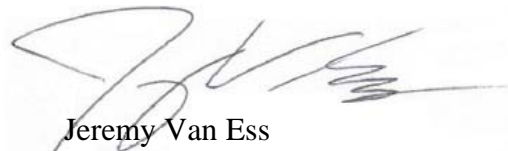
This situation is ripe for conflicts of interest. Testing is big business. Examinees often pay vendors on a per-test basis. For example, test takers in Maryland pay \$70 to take the exam the first time and \$70 for each subsequent retake. Maryland's 2008 demographic report showed that 573 test takers sat for the general portion of the state's licensing exam during the fourth quarter in 2008. At \$70 a test, that equals \$40,110 in testing fees for the life exam alone. An additional 1,182 examinees appear to have sat for either the Accident and Health Producer exam or the Life, Accident and Health Combo exam. Combined, that represents \$122,850 in testing fees for just one quarter!

The for-profit nature of testing has led to issues in some states, including Indiana in 2006. In this case, the commissioner switched vendors when he believed the state's producer licensing exam was intentionally made difficult to in order to make more people fail and pay for retakes.

CFS does not mean to single out test providers. Many of them have answers to the challenges we see today. The reality is all stakeholders must band together to become part of the solution.

In summary, CFS recognizes the challenges facing states and the primary consumer protection mission of licensing. However, CFS believes that data coming from states strongly suggests the licensing exams in some states may have become barriers to entry for otherwise qualified producers. This too has a negative impact on consumers. Fortunately, we also believe the NAIC has answers for these states. With these answers in hand, we would urge the NAIC to place a sustained spotlight on this issue and to continue to shine it until all stakeholders are confident exams and other steps in the licensing process are not arbitrarily preventing some from helping their neighbors get the tools they need to achieve financial security.

Sincerely



Jeremy Van Ess
Director