



July 2, 2008

Honorable John Morrison
State Auditor
Commissioner of Insurance and Securities
State Auditor's Office
840 Helena Ave.
Helena, MT 59601

Mr. Greg Welker
National Association of Insurance Commissioners
2301 Mc Gee Street
Suite 800
Kansas City, Missouri 64108-2604

Dear Commissioner Morrison and Mr. Welker:

On behalf of America's Health Insurance Plans (AHIP), we appreciate the opportunity to participate in the discussions regarding the development of Market Regulation Accreditation Program (the "Accreditation Proposal") presently under consideration by the NAIC's Market Regulation and Consumer Protection (D) Committee. AHIP is the national trade association representing nearly 1,300 member companies providing health insurance coverage to more than 200 million Americans.

We congratulate Commissioner Morrison for his leadership on this issue, and support the Committee's continuing efforts to develop a modernized market conduct regulatory process for use by states that is both effective and efficient. AHIP members recognize that an important aspect of a modernized state market analysis program is enhanced insurance department capabilities, from both a legal basis and a staffing basis, and we believe that the core competencies found at the center of the Accreditation Proposal can, if properly implemented, form a proper foundation for the future.

Before we address specific provisions within the Accreditation Proposal, we want to make an observation that does not fit neatly into the Accreditation Proposal format.

The Accreditation Proposal appears to be silent on the issue of insurance department staffing and resource allocations. While we recognize the burdens that some, if not all, insurance departments will face if the Accreditation Proposal were to include the Staffing and Training Core Competencies as published in November of 2007, trained, professional staff are critical to the process. Market regulation modernization is founded upon the analysis of data, and it follows that how that data is analyzed is critical to the future success of the program. While market conduct regulation unfortunately does not have the

pool of professionally designated candidates to draw from (CPAs, etc.), the fact remains that candidates are selected for this work and provision must be made for their professional development, and these provisions, or at least a base line standard should be developed and committed to by insurance departments and the NAIC if market regulation modernization is going to succeed.

Recognizing the expedited schedule that the Chair has set for the Committee's consideration of the Accreditation Proposal with shorter than normal comment periods, we offer these preliminary observations and comments with the understanding that the Chair has stated that there will be another shortened comment period before the next Committee meeting at the Fall NAIC meeting at which time we would anticipate submitting additional observations and comments.

Our specific observations and comments will follow the format and headings found in the Accreditation Proposal.

REGULATORY AUTHORITY CORE COMPETENCIES STANDARDS

Competency: Resource Subsection: Regulatory Authority Standard 3

The Department of Insurance has the ability to keep records confidential, when appropriate.

As you are very aware, the issue of market conduct data confidentiality is a very important one to the insurance industry in general and to those covered entities under the Market Conduct Annual Statement (MCAS) program in particular. We strongly support the Core Competency Criterion for Compliance that state adopted the NAIC Model Law on Examinations (or substantially similar provisions) and the language found within the NAIC Model Law at Section 5. F. (1) that "documents, materials, or other information ... obtained by the commissioner ... in the course of analysis by the commissioner of the financial condition or market conduct of a company shall be confidential by law and privileged..." The Model goes on in (b) to impose the same status on such materials supplied to the NAIC.

Given the clear language of the Model, we would suggest that Standard 3 be rewritten to read "**The department of Insurance has the ability to keep records confidential, when required by law.**"

Competency: Resource Subsection: Regulatory Authority Standard 4

The Department of Insurance has statutory provisions to protect insurance consumers

The Accreditation Proposal states that an insurance department which meets the requirements of the standards established under this provision within the Accreditation Proposal and comply with the NAIC Unfair trade Practices Act and the Unfair Claims Settlement Practices Act will be deemed to meet the standard. We would suggest if the

insurance department meets the Accreditation Proposal standards that they accredited as actually meeting the standard.

DATABASE PARTICIPATION CORE COMPETENCY STANDARDS

Competency: Market Analysis Subsection: Data Collection

This part of the Accreditation Proposal establishes criteria for insurance department compliance and performance with regard to NAIC databases. Yet nowhere in the Accreditation Proposal does there appear to be any corresponding requirements on the NAIC, either to protect data, or to ensure their performance with regard to databases, etc.

If insurance departments are going to be required to expend valuable resources on providing the NAIC with this data, insurance departments should be able to rely on the databases. Also insurance departments need to be able to rely on NAIC compliance with state laws, including but not limited to NAIC Model Law on Examinations, regarding this and any other data.

We believe that this is an area where the Committee should further develop this part of its Accreditation Proposal.

Competency: The Continuum Subsection: Consumer Complaints Standard 5

Each Department of Insurance shall have a system for recording and tracking complaints in a database using a coding system to facilitate analysis and trending.

Criteria for Compliance

- An insurance department shall monitor, on a no less than quarterly basis, the accuracy of complaint data in its complaint tracking system by reconciling complaint data with data provided by regulated entities.

AHIP commends the Committee for including this provision within the Accreditation Proposal. We have been on the record for several years supporting the need for complaint data reconciliation. As we have previously highlighted in our written communications with the NAIC, unfortunately our members have increasingly found that complaint data relied on by the states and reported to the NAIC can contain significant inaccuracies that can result in the attribution of complaints to the wrong company or product type, higher complaint ratios based on incorrect premium numbers, and incorrect market analysis conclusions. The use of inaccurate data leads to the misallocation of regulatory resources and can be damaging to an insurer's reputation.

Allowing companies to review data is the most efficient way to make sure information is accurate because they have every incentive to assure that the basic facts are correct and will apply resources necessary to complete reviews in a timely and efficient manner. In addition, regulators handle enormous amounts of information on a daily basis and do not

have the luxury of devoting resources to double-checking complaint information about each and every regulated entity. Therefore, we encourage the creation of a uniform process to improve data accuracy that incorporates verification of the information by the company or entity under review.

We note that it is important to verify the information that the state reports to the NAIC for regulator use only, as well as the data that is reported by the NAIC on its public website to consumers. We respectfully suggest the verification of the following data elements as critical components of an effective and complete reconciliation process:

1. Number of complaints
2. Company name
3. Company identification number
4. Line type
5. Premium dollar
6. Function code(s)
7. Reason code(s)
8. Disposition code(s)

In conclusion, we welcome the opportunity to offer to the Committee our observations and comments related to the Accreditation Proposal. Recognizing the comment process announced by Chair Morrison, we intend to continue to participate with the Committee during the anticipated second comment period.

Please feel free to contact me with any questions at 202-861-1476 or via e-mail at mmitchell@ahip.org.

Sincerely,

Martin L. Mitchell, Jr.