



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

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**HEARING BEFORE THE  
HOUSE SMALL BUSINESS COMMITTEE  
ENTITLED  
“CHALLENGES AND SOLUTIONS TO HEALTH  
INSURANCE COVERAGE FOR SMALL BUSINESSES”**

**WRITTEN TESTIMONY OF  
ADAM D. COCKEY, JR.  
2007 IMMEDIATE PAST CHAIRMAN  
NATIONAL ASSOCIATION OF REALTORS®  
BUSINESS ISSUES COMMITTEE**

**NATIONAL ASSOCIATION OF REALTORS®  
MARCH 14, 2007**

Madame Chair Velazquez, Ranking Member Chabot and Members of the Committee, thank you for holding this hearing and giving me the opportunity to talk with you about the challenges that face the nation's small business community and especially the self-employed as they search for accessible and affordable health insurance coverage.

My name is Adam Cockey and I am here on behalf of the 1.3 million members of the National Association of REALTORS® (NAR) who are involved in residential and commercial real estate as brokers, sales people, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry. Members belong to one or more of some 1,400 local associations/boards and 54 state and territory associations of REALTORS®. I am the Senior Vice President of Prudential Carruthers REALTORS®, a real estates services firm located here in the District of Columbia, Maryland and Virginia. I am also the 2007 Immediate Past Chair of the NAR's Business Issues Committee.

As a practicing real estate professional for more than 32 years, I know very well how hard it is to find and keep health insurance when you have no employer-provided coverage. I also know how hard it is to find affordable health coverage for your employees when you're the boss.

While the challenges that I, my fellow REALTORS® and other real estate professionals face are shared by the rapidly growing number of small businesses and self-employed Americans who are part of every sector of our economy, I think that the real estate sales professionals' experience is a perfect example of the challenges that the self-employed, small businesses and individuals whose employers cannot afford to offer health insurance coverage face today.

### **The REALTOR® Experience**

You see, the individual real estate agents who helped you buy or sell your home or find that rental unit in the past are not employees of the realty offices with which they are affiliated. They are independent contractors, a separate legal business entity from the real estate company itself. You might say that they are the smallest of small firms.

Real estate firms, the businesses with which these independent agents are affiliated, are likewise small firms which typically have fewer than five salaried employees – a receptionist, office assistant, or, perhaps a transaction coordinator. This is likely even the case for the “name-brand” offices (e.g.

Prudential, Century 21, Coldwell Banker, etc.) in your community since most are independently-owned franchises.

Today, in most states, real estate agents and other independent contractors - your daughter's piano teacher, your hair stylist or even the delivery man who brings your online purchases to your home - are forced to look for insurance in the individual insurance market. This is a market segment where, for the most part, you basically take or leave whatever coverage is offered. There is no negotiating. There is no leverage.

As the result of this industry structure and the current state of health insurance regulations and industry practices, today 28 percent of the nation's 1.3 million REALTORS® do not have any health insurance. In the seven year period of 1996 to 2004, the percent of uninsured NAR members doubled, going from 13 percent in 1996 to 28 percent in 2004. That's over 336,000 uninsured working REALTORS®. By itself, that's an amazing figure. However, if we add the number of associated, and likely uninsured, REALTOR® family members to that total, the total number of uninsured individuals affiliated with the REALTOR® organization is estimated to be as much, if not more than, 886,000 men, women and children.

In the case of real estate firms, few firms offer health insurance coverage to salaried employees. In 2004, only 13 percent of firms offered coverage to salaried workers. In 1996, this percentage was 34 percent, more than double the more recent figure.

It's also interesting to note that the percentage of uninsured REALTORS® is almost double that of Americans as a whole. In 2004, for example, the percent of the U.S. population without health insurance coverage was estimated to be 15.7 percent compared with the REALTOR® percentage of 28 percent.<sup>1</sup>

When asked why they are uninsured, the overwhelming majority of uninsured REALTORS® – 84 percent – indicate that unaffordable health insurance premiums were the cause. Given the structure of the real estate sales industry, it is not unexpected that real estate professionals would be sensitive to premium costs. Like all self-employed and/or independent contractor workers, real estate licensees have no employer who subsidizes health insurance premiums, no guaranteed monthly income and significant

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<sup>1</sup>Carmen DeNavas-Walt, Bernadette D.Proctor, and Cheryl Hill Lee, U.S. Census Bureau, Current Population Reports, P60-229,*Income, Poverty, and Health Insurance Coverage in the United States: 2004*, U.S. Government Printing Office, Washington, DC, 2005.

monthly business expenses that continue even in those months when there is no sale, and therefore, no income.

These factors make it difficult for real estate licensees to afford monthly premiums that can easily reach \$1200 or \$1400 per couple or family. Many of our members report that their monthly insurance premiums now exceed their home mortgage payments.<sup>2</sup>

When we consider the sources of coverage for those members who are insured, we believe that it is a given that the percent of uninsured REALTORS® will continue to increase in the coming years. Among those who have health insurance coverage, REALTORS® are most likely to obtain their coverage from their spouse's employer (25 percent). We expect this source of coverage to decline in future surveys as more and more employers reconsider whether to continue to offer insurance coverage to employee's spouses and dependents. We anticipate that many may be forced to drop coverage for employees' families.

Survey results indicate that group plans provided coverage for 23 percent of the NAR membership.<sup>3</sup> In the past, the typical NAR member with group coverage was typically an agent for whom real estate was a second career and had health insurance as part of their retiree benefits. Today, however, group coverage is also likely to be held by either a new agent who continues to work two jobs as they transition from a prior career or an established agent who takes a second job simply because that job provides the agent with health insurance benefits.

We believe that in the future, group coverage also will be a declining source of insurance coverage for real estate professionals. Those in real estate as a second career may not continue to have health benefits from an earlier job, as retiree insurance benefits become a thing of the past for a new generation of workers. For those working two jobs – real estate sales and a second job that provides benefits - there comes a point when choices have to be made as to which job offers the worker the mix of job fulfillment and benefits that are essential to a healthy life. For those who cannot do without health insurance, real

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<sup>2</sup> One Aurora, Colorado member shared his not uncommon experience during a 2006 Capitol Hill visit – a 93 percent increase in health insurance premiums between 2003 and 2006 for his family of 5. As he put it, *“I have only been able to continue this coverage because of a nest egg and not because of the income from my fledgling business. Unfortunately, I am now in a position where I must pursue employment with a company that has group health care because I can no longer afford these healthcare expenses.”*

<sup>3</sup> A review of detailed survey results indicates that this figure may be an overestimate of the true “group” coverage percentage.

estate is likely not to be the final choice. It is clear from the calls, emails and survey comments that our staff receive that this is already a choice which many of our members face today.

## **The Need for Solutions**

Finding solutions to the problem of the uninsured must become a top priority for this nation. It is a problem that affects over 46 million Americans today. More than half of these individuals are self-employed or the owners and employees of small businesses.<sup>4</sup> These small firms are widely recognized as the largest source of new American jobs and much of the technological innovation from which our economy has benefited. We believe that without change, problems with the availability and affordability of health coverage will increasingly threaten what has been a major source of job growth and innovation in this nation.

The share of the U.S. workforce that is self-employed has reached a remarkable level. This is a result of an extended and continuing period of corporate acquisitions, outsourcing and downsizing, as well as a series of technological and communication advances. Corporate reorganizations have “offered” many formerly employed professionals the opportunity to go into business for themselves following layoffs. For some workers, the opportunity is a welcomed one; for others, it is the only options. Technological and communication advances have loosened the geographic bounds that have tied workers together in a central location or large firm and made it possible to work independently.

The Ford Foundation, for example, estimated in 1999 that the number of freelance, independent contractors and temporary workers totaled 37 million individuals.<sup>5</sup> More recently, the General Accounting Office (GAO) estimated that 30% of the American workforce in 2000 was comprised of these “non-traditional” workers.<sup>6</sup> By way of comparison, the GAO estimated that manufacturing employment totaled 18 million workers in 2000 while an additional 20 million worked for some level of government.

Some have estimated that by 2010, 41% of the US workforce will be what David Pink has labeled “free agent” workers.<sup>7</sup> In this new world, will a health coverage system based on employer- provided health

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<sup>4</sup> Employees Benefit Research Institute, “The Working Uninsured: Who They Are, How They Have Changed, and The Consequences of Being Uninsured,” EBRI Issue Brief No. 224 (August 31, 2000).

<sup>5</sup> Elena Cabrel, “Building Safety Nets for the New Workforce,” Ford Foundation Report (Spring/Summer 1999).

<sup>6</sup> General Accounting Office, “Contingent Workers: Incomes and Benefits Tend to Lag Behind Those in the Rest of the Workforce,” report no. HEHS-00-76 (June 30, 2000).

<sup>7</sup> David H. Pink, *Free Agent Nation*, (New York: Warner Books, 2001).

insurance be even less successful at providing American workers with access to affordable care than it is currently? Without changes to the existing system, we think so.

### **Solutions: Observations and Considerations**

As is always the case, a discussion of a problem must also include some discussion of solutions. While our organization and its members are not the insurance experts, we would like to share with you some observations and considerations that we believe are important.

**Attention to the Individual Market.** America's health insurance delivery system is primarily an employer-based system. In 2003, for example, only 5.3 percent of non-elderly Americans had individual coverage; by contrast, 69.5 percent had employer-provided coverage<sup>8</sup>. It is not unexpected, therefore, that much debate has focused the problems facing employer-provided insurance plans or those who cannot work (e.g. the elderly, children, etc.). We feel very strongly, however, that any discussion of solutions to the insurance crisis must address the current shortcomings of the nation's state-based individual insurance markets. These markets are not serving the needs of the population that is dependent upon them.

While we are not experts, we have come to understand the challenges that must be faced in reforming of the individual market. The question we now are asking is whether or not the nation's system of state-based coverage for individuals has outlived its ability to effectively pool risk on the scale that is necessary to offer an affordable product. Are there ways of expanding the pool without creating unintended consequences; are there ways in which more competition can be encouraged in those state markets with few active companies; and how do we best incentivize individuals to participate so as to minimize adverse selection?

Given the share of the U.S. population that is currently self-employed and the growth of this segment of the workforce that is projected for the coming decades, it is imperative that the problems facing individual insurance markets be addressed. Any discussions to address the situation should also include each of the key constituencies that will be impacted by any recommended changes. We would hope, therefore, that any future discussions include representatives of the self-employed and small firms.

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<sup>8</sup> Kaiser Family Foundation, *Health Insurance Coverage in America, 2003 Data Update*, November 2004, Table 1, p.28, at <http://www.kff.org/uninsured/7153.cfm>

**Define a Set of Core Health Care Services.** Lacking any guidelines or agreement as to what constitutes a set of core health care services, states have established benefit mandates that vary widely in the type and number of required services. One estimate puts the total number of state mandates at more than 1800.<sup>9</sup> Many states have 40, 50 or more mandates.<sup>10</sup>

The lack of uniformity and complexity in state mandates has increased the administrative costs of regional or national insurance programs, contributed to the withdrawal of insurers from states where they had once operated and created a barrier to efforts by national or regional non-employer groups to develop affordable and uniform national insurance programs tailored to the specific needs of their small business and self-employed members.<sup>11</sup>

Late last year the U.S. Citizens' Health Care Working Group delivered its final report to the Congress and the President. Created as a part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, the Working Group was charged with providing for a nationwide public debate about how to go about improving the health care system to provide every American with the ability to obtain quality, affordable health care coverage and developing an action plan for Congress and the President to consider as they work to make a health care system that works for all Americans.<sup>12</sup>

In a comment letter on the group's interim recommendations, NAR has expressed its support for the Working Group's recommendation that efforts be made to define what constitutes a set of core health care services. We believe that such an effort would be a first step to defining an essential set of coverages around which state regulators could coalesce and begin to build a more uniform set of mandates that would allow for large pools and more competition in the marketplace.

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<sup>9</sup> Council for Affordable Health Insurance, "HEALTH INSURANCE MANDATES IN THE STATES, 2006", Washington, DC, 2006.

<sup>10</sup> *Ibid.*

<sup>11</sup> Since most large companies can choose to avoid state mandates by self-insuring under the Employee Retirement Income Security Act (ERISA), which exempts self-insured companies from state oversight, these mandates and their associated apply only to those health insurance policies controlled by state health insurance laws, i.e. typically policies purchased by small businesses and individuals.

<sup>12</sup> NAR's members participated in many of the Working Group's community meetings held across the country. NAR hosted a Working Group community meeting for its members during the NAR legislative conference on May 16, 2006, in Washington, DC. In addition, NAR submitted comments on the Working Group's interim final recommendations. NAR's letter may be accessed at [http://www.realtor.org/small\\_business\\_health\\_coverage.nsf/docfiles/L-06Aug-chcwg.pdf/\\$FILE/L-06Aug-chcwg.pdf](http://www.realtor.org/small_business_health_coverage.nsf/docfiles/L-06Aug-chcwg.pdf/$FILE/L-06Aug-chcwg.pdf)

**Acknowledge Resource Limitations.** In addition, as much as we all would like to be able to have unlimited access to health services, we believe that it is important that any national or state solution acknowledge that resources – family, business and government resources - are not unlimited. NAR’s average real estate sales agent member made \$37,600 in 2005 and spent an average of \$6,800 in business expenses to earn that income, leaving roughly \$2566 a month to cover mortgage, taxes, insurance, food, clothing, children’s expenses, etc. What can we rationally expect this individual to pay for health insurance coverage?

**Tax Treatment of Health Insurance Premiums.** Many proponents of health insurance reform advocate for more favorable tax treatment of health insurance premiums. While NAR has no broad policy that is applicable to these recent proposals, we would comment that favorable tax treatment of health insurance premiums should not be seen as the sole solution to the problems facing the uninsured. We speak from experience.

Since 2003, independent contractors have been able to fully deduct the cost of health insurance premiums. This tax change was one for which we advocated successfully and it has helped to make health insurance more affordable for REALTORS<sup>®</sup> who had sufficient income to pay the premiums or newly available to those who had “almost” had the necessary funds.

However, as the percentage of members uninsured indicates, tax deductibility has not been a complete solution for those who still find premiums more than marginally out of their reach or have been denied coverage. As one member very succinctly put it, “If I don’t have the money to pay the premiums each month, I can’t take advantage the deduction or a tax credit.” Despite this experience, NAR continues to evaluate proposals as they arise and is open to exploring ways in which an alternative or additional tax treatment could help a larger proportion of our uninsured members.

**A Role for Non-Traditional Partners.** There are any number of community and non-profit organizations that have not traditionally been involved in facilitating access to health care but which could serve a valuable role in meeting the needs of the nation’s small businesses, the self-employed and individuals if existing regulatory barriers could be overcome. Among the array of



organizations which have been established to serve a particular membership and could play a facilitating role are professional or trade associations, like the NAR.

Trade associations have a long tradition of serving their members personal and professional needs. Member service is why these organizations exist and they are uniquely positioned to meet their members' needs. When it comes to designing a member health insurance program on a national or regional basis, however, the complexity of our state-based system of insurance regulation presents an insurmountable obstacle to trade organizations. The administrative burden of offering a nationwide insurance program that meets the mandate and rating requirements of the fifty states and four territories has been insurmountable, even for an organization as large as NAR.

While some individuals argue that this approach has been tried before (e.g. MEWAs) and experience has found them subject to abuse, we believe that those earlier structures did not provide clear regulatory authority nor did they sufficiently limit the types of groups that could offer the insurance programs. We believe that with careful crafting there are ways to make use of these tried, tested but untapped groups.

## **Conclusion**

I would like to close and let you know that finding a solution to the health insurance access problem is a priority issue for the small business community and the National Association of REALTORS®. Just as our 2007 NAR president, Pat Combs pledged in her remarks earlier this year before the Senate Health, Education, Labor and Pension Committee's first health roundtable, NAR stands ready to do whatever we can to assist you in your efforts to address this very important and growing problem.

Thank you for giving me the opportunity to share my thoughts. I am happy to take any questions.