



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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July 16, 2009

United States House of Representatives
Washington, DC 20515

Dear Representative,

On behalf of the NATIONAL ASSOCIATION OF REALTORS® (NAR), I want to share the perspectives of NAR's 1.2 million members on H.R. 3200, the America's Affordable Health Choices Act (AAHCA). Realtors® appreciate the attention given by the cosponsors to one of the most pressing problems facing Realtors® and other self-employed individuals.

NAR's members are individual real estate agents, brokers and realty firm broker/owners. The overwhelming majority of real estate agents are not employees of the realty offices with which they are affiliated. Rather, they are independent contractors, a separate legal business entity from the real estate office, who struggle to find affordable coverage in the individual market. Realty firms, like other small businesses, also face difficulties finding affordable coverage for their salaried administrative staff. As a result, our most recent survey work indicates that 28 percent of our individual members are uninsured and only 39 percent of realty firms are able to offer coverage to their salaried staffs. It is against this background that we provide the following comments.

Treatment of the Self-Employed. NAR strongly believes that any health reform measure must recognize the unique circumstances that being self-employed entails. Totalling more than 22 million individuals, the self-employed are a significant portion of the American workforce and the uninsured. The self-employed have little certainty or regularity in the flow of their income and no employer to contribute to the cost of insurance. As a result, budgeting from month to month, or even, year to year can be extremely difficult.

Given these unique circumstances, NAR strongly believes that the self-employed should not be treated on par with employees of firms unable to provide employee health coverage. Unfortunately, the AAHCA doesn't distinguish between the self-employed and uninsured employees. Nor does the bill allow the self-employed to choose how they participate in the Exchange, i.e. as an individual or as an employer of one. Given the incredibly diverse nature of the self-employed and their individual circumstances, we believe giving self-employed individuals a choice is the right way to determine where the self-employed fit into a health reform framework.

Exchange. Realtors® and the other self-employed workers know how difficult it is to find an objective and comprehensive source of information on health insurance products and make an informed decision on the plan best suited to their needs. It is for this reason that we welcome the incorporation of an “Exchange” in the bill. We would hope that any eventual Exchange include not only access to information on the array of policies available in a given marketplace but that it also include assistance and/or decision software that would assist the participant in identifying the subset of available policies that best fit their individual circumstances.

- **National vs. State Exchanges.** NAR has long held that administrative overhead and inefficiencies have been a major contributor to the high cost of health insurance premiums in the individual and small group markets. Consequently, we are pleased that the Tri-Committee bill creates a national Exchange. NAR does have concerns, however, with the bill’s provisions that would allow the creation of state-based Exchanges, which we believe would do little to reduce the higher administrative costs associated with individual and small group markets. We believe that one national Exchange or a limited number of regional Exchanges would better serve the nation than a system of 50+ mini-Exchanges that replicates the existing dysfunctional state-based insurance markets.

Rating Rules. NAR is pleased to see that the proposed AAHCA market reforms include (1) uniform federal rating rules for the individual and very small employer markets, (2) guaranteed issue and guaranteed renewal rules, and (3) a prohibition on health status and pre-existing conditions as underwriting criteria. While the use of age as a rating criterion is one that may negatively impact our membership, we are supportive of its use as one appropriate rating factor, just as we are of the use of geography.¹

Benefit Options. NAR policy supports benefit options that provide a range of medical benefits that include both primary and preventive care options needed to maintain health and wellbeing. We have long held that no single policy or list of mandates can satisfy the competing tensions between (a) assuring all desired (or desirable) coverage and (b) creating affordable products.

We have concerns, however, with the bill’s procedure for determining what constitutes qualified coverage. We believe that care must be taken to ensure that standards recommended by the Health Benefits Advisory Committee are crafted so that qualified coverage products are affordable and designed to meet the needs and the budgets of a target population that varies in its need for covered services.

Therefore, we believe that given the individual and employer mandate, that such decisions must be made with input from those who will be required to purchase the product, including the self-employed and small employers. Without an affordable option, the best reform plan will fail to meet the needs of this component of the workforce for coverage. For this reason, we believe that the legislation must add the self-employed and small firms to the list of stakeholder groups - consumers, employers, labor, providers, etc. - already identified as required participants in the Advisory Committee. To ignore these vital and growing components of the workforce would be a grave error.

Fragmentation of Small Business Insurance Markets. As an organization of self-employed individuals and small employers, NAR does not support bill provisions that would divide the small group insurance market into a very small employer group (firms with 10 or fewer employees in the first year, 20 or fewer in year two, with administrative discretion in following years) with access to a national Exchange.

NAR’s members are concerned that this segmentation of the traditional small group market will further fragment small group insurance pools, create an uneven playing field for the self-employed and smallest firms vis-à-vis the rest of the small firm universe, and create the potential for some participants to “game” the

¹ NAR’s 2009 Member Survey, the median age of the Association’s 1.2 million Realtors® is 54 years.

system. We would strongly urge that changes be made to provide a single, common federal definition for what constitutes the small group market and give all small employers access to the national Exchange.

Individual Mandate. The self-employed are a significant portion of the uninsured today and policies that mandate individual coverage will fall on the self-employed in disproportionate numbers and often with unintended consequences. Among our members who are uninsured, cost is cited as the overwhelming reason for being uninsured. Cost is also a factor cited by other uninsured persons.

Given their experiences, it's not unexpected that neither our members nor other registered voters support the proposed individual mandate. March 2009 polling, conducted by the bipartisan polling team of Hart Research and Public Opinion Strategies for NAR, indicated that only 27 percent of Realtors® and 33 percent of registered voters who strongly favor health reform support an individual mandate.

Since the Tri-Committee proposal includes an individual mandate, NAR believes it is imperative that (1) an array of affordable private plan options must be available to individuals in the Exchange before a mandate is fully implemented, (2) the self-employed be eligible for significant subsidies (individual tax credits or small business tax credits) to improve affordability, and (3) a realistic set of opt-out criteria be developed for affordability and financial hardships. Each of these conditions is even more important given the proposed 2.5 percent penalty for individuals failing to comply with the mandate.

We are pleased that the bill's individual tax credit would be available on a sliding scale to those with incomes up to 400 percent of the federal poverty level.² However, we find it highly problematic that the affordability credit would only be available to those Exchange participants enrolled in the basic plan in years one and two of the Exchange. We believe this provision will burden many families.

Employer Mandate. NAR's members oppose the proposed employer mandate provisions of the bill.³ Small employers today do not fail to offer coverage as the result of any desire to shortchange employees. Small employers compete with other firms for talent and firms that do not offer coverage are at a disadvantage. Consequently, the decision to not offer coverage is a choice they make unwillingly. Firms who make this tough decision do so because they don't have the revenues or after-expense income necessary to provide coverage. We are troubled, therefore, that the Tri-Committee bill would require employers to provide coverage or pay a penalty ranging from 2 to 8 percent of payroll.

And while the bill does provide a small business tax credit and a small business exception, the tax credit is available only to firms employing low-wage earners and the exemption to firms with annual payrolls of less than \$250,000. As many small business owners can attest, payroll expenditures are not necessarily correlated with revenues, let alone profits, especially in challenging economic times like today. It should be noted that a single national threshold could also disadvantage firms located in high cost areas of the country.

An employer mandate that fails to recognize that not all small firms have the revenues necessary to cover premium costs and imposes the large penalties like those envisioned in the bill will have a detrimental impact on a component of the economy responsible for significant portions of job growth. For these reasons, we would urge the Committees to reconsider both of these provisions.

² Concern has also been raised as to the disparate impact that using a uniform national income standard will have on our members located in higher cost regions and urban areas.

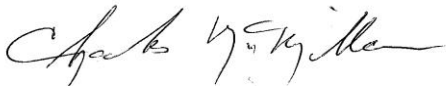
³ NAR's position is a reflection of the low level of support expressed by Realtors® polled on an employer mandate - only 11% of NAR's members who strongly support health reform indicate that they also support an employer mandate. We would note that only one in three registered voters strongly supportive of health reform indicated support for an individual mandate. Source: Hart Research/Public Opinion Strategies National Poll, March 2009

Public Plan Option. Realtors® are concerned with the bill's proposal that would create a new government-run public health coverage option. Realtors® believe (1) the market functions best when there is a level playing field between all providers of a given service and (2) it is extremely difficult, if not impossible, for private firms to compete with the federal government. CBO's recent analysis of HR 3200 has indicated that the bill's proposed public coverage option would operate at a 10 percent cost advantage over private insurance. With the potential for crowding out of privately-provided insurance choices, a public option remains a major concern of Realtors®.

We are also greatly concerned that the growing debate over a public plan option has the potential to derail much needed underwriting, rating and administrative reforms. In the earlier referenced March 2009 Hart Research/Public Opinion Strategies poll of Realtors and registered voters, among Realtors® who strongly support major health reform, only 25 percent supported the creation of a public plan. Among registered voters who strongly support health reform, only 35 percent of those surveyed indicated support for a public plan option. Given this low level of support and the real potential that a public option could become the "third rail" of this reform debate, it is our hope that any reforms enacted build upon the private insurance system and allow consensus rating, underwriting, and administrative reforms to move forward.

In closing, the NATIONAL ASSOCIATION OF REALTORS® looks forward to enactment of meaningful health care reform that will address the needs of the nation's growing self-employed workforce in responsible manner. Realtors® believe that efforts to address the concerns mentioned in this letter must be made before Congress moves forward. We thank you for your time and attention to our members' perspective.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles McMillan".

Charles McMillan, CIPS, GRI
2009 President, National Association of REALTORS®