To: **Members of NAR's Health Insurance Work Group**
From: **NAR Staff**
Date: **March 22, 2018**
Subject: **Work Group Charge & Convening Document**

Purpose: Review NAR's public policy positions on health insurance in light of recent developments and recommend any updates or changes as needed to the Insurance Committee.

Background: While the percentage of NAR members with health insurance has increased under the Affordable Care Act or ACA (see the appendix), premiums have continued to rise as insurance companies have entered and exited the market, particularly in more rural areas. As independent contractors, 25 percent of NAR members now purchase their health coverage in the more expensive individual market, where reduced competition has been driving up prices and limiting choices.

To address rising health costs, one approach is to enable independent contractors and other small businesses to band together through trade associations in order to obtain coverage in the large group insurance market. The insurance market for large employers and groups tends to be more stable and often offers better coverage options at lower cost. This is because a) federal law generally imposes fewer regulations on plan design and b) with a sufficiently large number of employee participants, employers can bargain with insurance companies for better terms and prices. So-called "Association Health Plans" (AHPs) would enable small businesses to pool their employees with other small businesses' in order to increase bargaining power vis-à-vis insurers, and qualify for a large employer plan under federal law. However, federal regulations currently prohibit AHPs for "working owners" with no employees (i.e., independent contractors) to pool together to purchase across states lines.

Another approach would be to reform the ACA and address the underlying issues driving cost in the individual market, including ensuring a balance of "healthy" individuals to offset the costs of those who use a substantial amount of healthcare. The ACA did set uniform minimum standards on the quality of individual market policies and prohibit insurers from discriminating based on health status or pre-existing conditions. However, rising health cost continue to create problems for those who are not able to take advantage of the new premium tax credits that reduced the cost of coverage for low- and moderate-income households.

Current NAR Policy: For decades, NAR policy has supported allowing bona fide trade associations to offer AHPs to their respective memberships. The policy also supports a more comprehensive set of reforms to address health insurance availability and affordability, guided by the following policy principles approved by NAR's Board of Directors:

1. The nation and its health care system are best served by having all citizens covered by health insurance.
2. Health care coverage and/or insurance should be made available to all.
3. Individuals should have health care coverage that is continuous, i.e. allows for no gaps in coverage.
4. Individuals should have the ability to choose their preferred health insurance plan from an array of policy options that offer choices in the scope of covered services and policy costs.
5. Health care coverage should enhance health and well-being by providing preventive health services and chronic disease management services.

6. The health care delivery system must provide cost effective, quality care in an efficient and timely manner in order to be affordable and sustainable for society. Cost containment, therefore, must be a component of any reform effort.
7. A "single payer" health care system in which the government pays for and allocates health care services should be opposed.
8. Employers should not be required to offer employee health insurance programs.

For the full set of NAR policies adopted by the Board since 1990, please see the "BOD Health Insurance Policies" document.

Association Health Plan (AHP) Rulemaking

On January 5, 2018, the Department of Labor (DOL) proposed to broaden the regulatory definition of "employer" to include "working owners" (including real estate professionals) to band together into AHPs, similar to a large employer plan under federal law.

Under the proposed rule, associations of self-employed individuals or small employers could:

- Form an AHP based on a shared industry (e.g., a national association of carpenters);
- Form an AHP based on a common geographic area (e.g., a greater metropolitan area chamber of commerce); or
- Form an AHP for the sole purpose of offering health insurance if based on a shared industry or common geographic area.

The rule would maintain important consumer protections including the prohibition on health status-based discrimination. However, the rule would also restrict eligibility to working owners, who do not have already have access to a subsidized employer plan through their spouse – even if an AHP could offer a more affordable option and increase the pool of plan participants to bring down costs.

In its regulatory comment letter, NAR offered support for the overall rule, but requested that the Department a) broaden the eligibility criteria so more working owners could participate and b) clarify that while states may continue to regulate AHPs, they may not use their existing authority to undermine the rule. For a copy of this and other regulator letters, see "Health Insurance Resources."

Next, DOL will review the comments and issue a final rule based on the feedback. While expected later this year, the rule could be court challenges over federal preemption and consumer protections.

Possible Meeting Topics

- Health Insurance 101, Risk Pools & Adverse Selection
- Affordable Care Act Requirements & Stabilization
- Association Health Plans & DOL's Rulemaking
- REALTORS® Insurance Marketplace
- State Regulation vs. Federal Preemption
- State REALTOR Association Experience with AHPs

Potential Speakers

- Chris Condeluci – Health Insurance Attorney & Former Senate Republican Counsel
- Fritz Busch – Milliman Health Insurance Actuarial Consultant

APPENDIX: SELECTED STATISTICS FROM NAR MEMBER SURVEYS

NAR has been conducting healthcare surveys of its membership for decades. The following table compares responses to similar questions asked in 2018, 2008 (just before the Affordable Care Act), and 1994. Complete results may be found in the "Health Insurance Resources" document.

Top-line trends:

- The numbered insured increased considerably from 2008 and slightly from 1994.
- Nearly twice as many respondents felt their plan provided the coverage they wanted.
- Usage of government plans rose modestly while individually purchased plans declined.
- A modestly higher share feel the current system meets the needs of most Americans.

	2018	2008	1994
Do you currently have health insurance?			
Yes	86%	77%	87%
No	14%	23%	13%
Where did you obtain your primary health insurance?***			
Employer (spouse's plan, full-time job, etc.)	42%	42%	55%
Individual Market (State/Fed health exchange, insurance broker)	26%	44%	4%
Government (Medicare, VA, Medicaid)	19%	7%	10%
Group	4%	6%	21%
Other	9%	8%	0%
Does your plan cover everything you want?			
Yes	80%	43%	
No	15%	57%	
Do you think the current system is meeting the needs of most Americans?			
Yes	14%	11%	
No	70%	82%	

***Categories are a rough approximation of survey responses as choices varied over time

Please note: Many of the survey questions across time are not exactly the same or separate out the agent's response from the firm, so we include only the numbers close enough to compare.