



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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October 4, 2010

Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Room 445-G Hubert H. Humphrey Building
200 Independence Ave. SW
Washington, DC 20201

**Re: OCIHO-9989-NC, Planning and Establishment of State-Level Exchanges;
Request for Comments Regarding Exchange-Related Provisions in Title I of the
Patient Protection and Affordable Care Act**

Transmitted electronically through <http://www.regulations.gov>

To Whom It May Concern:

On behalf of the 1.1 million members of the National Association of REALTORS® (NAR), I am pleased to provide comments in response to the U.S. Department of Health and Human Services (HHS) request for public comment to aid in the development of standards for establishment and operation of the Exchanges and to address other Exchange-related provisions in Title I of the Patient Protection and Affordable Care Act (PPACA). NAR appreciates the efforts being made to implement this complex legislation in an expedient manner.

NAR is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

Finding affordable and accessible health care coverage is one of the biggest problems facing NAR's members today. NAR's members are individual real estate agents, real estate 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 contractors¹, a separate legal business entity from the real estate office, and struggle to find affordable coverage in the individual market. Realty firms also face difficulties as they search small group markets for affordable coverage for their salaried administrative staffs. As a result, currently 28% of our members are uninsured and only 39% of realty firms owned by our members are able to offer coverage to their salaried staffs. Those members who are fortunate enough to have insurance are challenged every year to hold on to the coverage that they have.

¹ Internal Revenue Code Section 3508 provides criteria that, if satisfied, assure the agent's treatment as an independent contractor.

Consequently, REALTORS® have been active in the different debates surrounding health reform over the past decade. Finding affordable and accessible health care coverage is one of the biggest challenges facing NAR's members today. The careful implementation of the new health reform legislation is a priority for NAR and our members.

Given the make-up of our organization, our comments are focused on considerations from the perspective of the self-employed individual and the small employer. Our comments will address six points of importance for real estate agents, realty firm owners and other self-employed individuals or small business owners:

- Providing a robust range of policy and provider options in the Exchanges;
- Ensuring the availability of affordable insurance options in the Exchanges
- Creating standards and practices governing state Exchanges;
- Allowing flexibility in early stage enrollment and eligibility;
- Providing ample opportunity for feedback and personalized customer service for consumers; and
- Working with Navigators and other third parties to deliver consumer information.

Proving a Robust Range of Health Plan Options in the Exchanges

Throughout the health reform debate, small businesses, the self-employed and consumers without access to employer-provided health coverage were promised that, in addition to being able to keep their current health plans if they were satisfied with them, they would also be able to shop for health insurance coverage that would suit their individual or family needs via the new individual and small businesses Exchanges. The plans available through the Exchanges would provide the set of standardized benefits spelled out by the PPACA and vary only in terms of the type of coverage chosen, i.e. number of insured individuals, deductibles, expanded benefits beyond those required by the Act, etc. As a result, choosing between plans would be made simpler by the ability to “compare apples to apples”. Coverage offered through the Exchanges would meet the individual mandate and employer responsibility components of the PPACA.

REALTORS® feel strongly that reform and the Exchanges will only be successful if there is a robust range of plans available to consumers in each of the tiers of coverage spelled out by authorizing legislation. To this end, we encourage the Department to require both the state and federal Exchange to accept all policies that meet the PPACA's basic criteria. If the Exchanges are allowed to limit the number of policy options and providers participating in the Exchange, we believe that the same lack of choice that our members find in today's individual and small group markets will persist.

In addition, without a robust and vibrant array of choices and an open process, we believe that the goals of reform will not be met. Competition will be stifled and premiums will continue to be unaffordable for many. This will be the case especially for those who make “too much” to qualify for the individual credits or for small employers who aren't eligible for the Act's tax credits. As a

result, families and firms will find themselves subject to the bill's penalties for failing to obtain or offer coverage.

NAR realizes HHS and the states charged with creating the Exchanges must strike a careful balance between having enough choices for consumers, facilitating comparative shopping among plans and administering the Exchanges easily. This is why we urge those creating Exchanges to exercise caution at the outset so that new regulations for what constitutes a qualified health plan and who may offer coverage through the Exchanges are not overly-prescriptive or anticompetitive. At the same time, state and federal regulators must ensure that new plans being offered are solvent and viable, so as to provide stability for consumers – many of which may have not had coverage due to pre-existing conditions and cost barriers.

Ensuring the Availability of Affordable Insurance Options in the Exchanges

In addition to putting in place policies and procedures that ensure a robust range of policy options and providers in each of the Exchanges, care must also be taken to ensure that policies offered through the Exchanges are affordable. Cost is the primary reason that NAR's members and other small businesses cite for being uninsured. It is imperative that those who determine what constitutes qualified coverage and what is required of policies offered through both Exchanges understand the very real budgetary constraints that face American families, the self-employed and small employers. It is a laudable goal to want to ensure that all Americans have top-notch quality insurance coverage, but it's only an achievable goal if the price of that coverage is one that families and businesses - both running today on very tight margins - can afford.

Creating Standards and Practices Governing Different 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. NAR remains concerned that multiple Exchanges will increase administrative costs and create confusion for consumers. For these reasons, we feel that efforts must be made to avoid duplicate Exchanges within a given state, and that guidelines and the format of Exchanges be as uniform as possible while still allowing for state innovation.

While separate Exchanges for individuals and small groups may be a necessary interim format, we hope that states and HHS begin to seriously explore the factors involved in the eventual merger of the two Exchanges into a single Exchange.

Finally, while NAR has in the past advocated for a single National Exchange, the PPACA has provided states with the option to create their own. We feel it is important for all consumers and small businesses, in every state and territory, to have access to the localized information that is needed in order to meet their responsibilities under the PPACA. We urge state legislatures to move swiftly to provide for the timely creation of Exchanges in their states.

Allowing Flexibility in Early Stage Exchange Enrollment and Affordability Credit Eligibility Determination

Many of the consumers participating in an Exchange will be new to shopping for health insurance on their own, and everyone will be new to dealing with an Exchange. As we work to implement PPACA, it is important that as much flexibility as possible be given to individuals who must not only demonstrate eligibility, but also navigate the enrollment process.

While the challenges for reaching individuals may be apparent, the challenges for the self-employed and small employers cannot be overlooked. In the case of the self-employed, eligibility for individual affordability credits may change from year to year due to fluctuations in income. REALTORS[®], for example, routinely experience wide variations in income from year to year that will make the qualification process more complex. For small employers, enrolling in the Exchange plans and submitting premiums paid on behalf of their workers will present new challenges. We urge that attention to the distinct needs of each type of Exchange participant be a priority of those implementing the Exchanges.

Also, as has been experienced in the past with implementation of new programs or requirements, even the most aggressive public awareness campaigns may not reach some citizens who would qualify for and benefit from purchasing through the Exchanges. In addition, the great amount of misinformation that has been circulated about the reform bill may make some eligible citizens unwilling to participate. Having hard deadlines will be important, but given the magnitude of the reforms, the diverse nature of individual economic circumstances and the emotional debate that has surrounded reforms, flexibility and a longer initial enrollment period for late adapters will be key to seeing the largest numbers of uninsured and underinsured Americans covered.

Providing Ample Opportunity for Feedback and Personalized Customer Service

NAR envisions an Exchange system that allows individuals to shop for insurance from their office, their home, or if needed with the help from someone they trust, including a trusted local insurance broker. The needs of small business owners and individuals will be different and should be taken into account in the portals.

Before launching, we encourage Exchange creators to test portals with a variety of groups to see what consumers like and don't like and what causes the greatest confusion. This will not only help to design a consumer-friendly site, but also will help with customer assistance and satisfaction when the Exchanges are launched. We encourage states and HHS to develop standardized customer assistance guidelines for Exchange operators in order to avoid and minimize consumer confusion.

Working with Navigators and Other Third Parties to Deliver Consumer Information

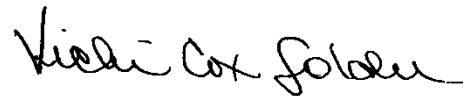
As the launch of the Exchanges near, there will no doubt be a high level of public attention paid by the media, but also political pressures and confusion surrounding their functions and benefits. Consumers gather information in a variety of ways, one of which is to rely on the advice of trusted non-profits or trade associations with which they are affiliated. We encourage HHS and states to work with professional groups that could serve as Navigators for their members. For example, many REALTORS[®] already rely on their national, state and local associations for training, member benefits and industry knowledge. Providing professional training and materials and working with

these groups could serve as an efficient and effective way to reach those with whom the associations already have an existing professional relationship.

Conclusion

In conclusion, NAR's 1.1 million members, almost all of whom shop for insurance in the individual market, welcome the creation of Exchanges where they will be able to access more affordable and quality care for themselves and their families. NAR, its state and local associations and affiliate organizations look forward to continuing to work with the Department at both the national and state level to ensure that by 2014 the Exchanges can ably serve these purposes.

Sincerely,

A handwritten signature in black ink that reads "Vicki Cox Golder". The signature is written in a cursive, flowing style.

Vicki Cox Golder, CRB
2010 President, National Association of REALTORS®