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**CONSUMER REPRESENTATIVES OPPOSE FINANCE COMMITTEE PROPOSAL
TO GIVE HEALTH INSURANCE AUTHORITY
TO NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS**

Washington, D.C. – Current and former funded Consumer Representatives¹ to the National Association of Insurance Commissioners (NAIC) have announced their opposition to a U. S. Senate Finance Committee proposal that would give the NAIC rule-making authority in drafting health insurance standards. The proposal is contained in the Senate panel's *America's Health Future Act*.

In a letter signed by 14 current and former Consumer Representatives and sent to the Senate Financing Committee, the group urges that rule-making authority be kept in the jurisdiction of government agencies that operate under standards requiring transparency, independence, and open meetings.

“Any institution given the authority to promulgate final regulations which have the force of law- especially those that will determine health insurance benefits for millions of Americans - must be bound, at the very least, by all of the standards which federal government agencies are currently required to follow during the rule-making process,” said Kevin Lucia, a Professor at Georgetown University and NAIC funded Consumer Representative. Based upon its usual manner of conducting business, the NAIC fails to meet any of these standards.

“While we strongly support the valuable advisory role the NAIC has played this year in the health care deliberations, we cannot support expansion of that role to include rule-making authority,” said Betty Ahrens, Director of the Iowa Citizen Action Network.

In its letter, the group said that the NAIC does not operate independently of the insurance industry and, in fact, “a majority of the NAIC Presidents from 1998 through 2007 have gone to work for the industry they regulated, as have many other insurance commissioners with leadership roles in the NAIC. This revolving door gives the impression that leadership positions at the NAIC are stepping-stones to careers in the insurance industry.”

The group also questioned NAIC's commitment to consumer concerns.

“Consumer advocates who have participated in the proceedings have long recognized an institutional bias among insurance regulators toward the interests of the insurance industry,” said Birny Birnbaum, Executive Director of the Center for Economic Justice. “The consumer representatives who participate in its proceedings are significantly outnumbered at NAIC meetings by many hundreds of representatives from the insurance industry and industry-related

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¹ The NAIC selects a small number of people to represent consumer interests at some NAIC proceedings. The representatives volunteer their time and are reimbursed for their expenses to attend some NAIC events.

groups. We need rule-makers to be independent of the insurance industry, and the NAIC clearly does not meet this vital standard,” Birnbaum said.

The group said there must be complete transparency in the rule-making process, pointing out that in recent years, there has been an increase in the number of closed meetings, including exclusion of the NAIC’s own consumer advocates. And, when meetings are open to the public, there is often no opportunity for public input.

“Without transparency, Americans cannot be assured that new health insurance regulations truly represent the input of the public, and address the consumer’s concerns,” said Bob Hunter, Director of Insurance with Consumer Federation of America and a former Texas state insurance commissioner.

The following current and former NAIC Funded Consumer Representatives sent the letter to urge Congress to continue working with the NAIC as advisors, but to leave rule-making responsibilities with a government agency that is independent, transparent, and accountable to the public.

Current Funded NAIC Consumer Representatives

Betty Ahrens
Iowa Citizen Action Network

Amy Bach
United Policyholders

Birny Birnbaum
Center for Economic Justice

Brendan Bridgeland
Center for Insurance Research

Pam J. Bolton
Texas Watch

Karrol Kitt

Kevin Lucia
Assistant Research Professor
Health Policy Institute
Georgetown University

Sally McCarty
Former Indiana Insurance Commissioner

Gregory Squires
Professor of Sociology and Public Policy
and Public Administration
George Washington University

Daniel Schwarcz
Associate Professor
University of Minnesota Law School

Former Funded NAIC Consumer Representatives

Constance Chamberlin
Housing Opportunities Made Equal of
Virginia, Inc.

Kevin P. Lembo
Connecticut State Healthcare Advocate

J. Robert Hunter
Director of Insurance
Consumer Federation of America

Ware Wendell

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****LETTER TO FINANCE COMMITTEE IS BELOW****

September 29, 2009

The Honorable Max Baucus
United States Senate
Washington, DC 20510

Dear Chairman Baucus:

Throughout this year's Congressional deliberations involving health insurance reform, the National Association of Insurance Commissioners (NAIC) has played a constructive advisory role, bringing valuable expertise to members of Congress. As current and former Funded Consumer Representatives to the NAIC, we support the role that NAIC has played in this process.

Last week, the Finance Committee of the United States Senate released the *America's Healthy Future Act*. This proposal invests the NAIC, a private organization, with rule-making authority that is generally reserved for an agency of the federal government. We are deeply concerned about the NAIC's ability to function in this critical role.

Any institution given the authority to promulgate rules that will determine health insurance coverage for millions of Americans must be bound by statutes and regulations related to transparency, open meetings, conflicts of interest disclosures, and rulemaking procedures. Based on its traditional manner of conducting business, the NAIC does not meet these standards.

The NAIC does not operate independently of the insurance industry. In fact, the NAIC is a private organization, funded in large part by the insurance industry itself. Without industry dollars, the NAIC would not operate as it does today. In addition, the majority of the last 10 NAIC presidents, as well as numerous commissioners, have gone directly from their NAIC posts to industry positions, giving the distinct impression that leadership positions at the NAIC are mere stepping-stones to more lucrative careers in the insurance industry. This revolving door is a clear sign of the NAIC's close ties to the insurance industry.

With a few exceptions, the NAIC has historically paid little attention to the concerns of those advocating on behalf of consumers. The fifteen consumer representatives funded by the NAIC to participate in its proceedings are significantly outnumbered at NAIC meetings by hundreds of representatives from the insurance industry and industry-related groups, whose lobbying efforts are financed with funds generated from insurance policyholders. Consumer advocates who have participated in NAIC proceedings have long recognized an institutional bias among insurance regulators toward the interests of the insurance industry.

Finally, a significant amount of the NAIC work process is completed outside of the public eye. In recent years, there has been an increase in the number of meetings that are not open to interested parties, including the NAIC's own funded Consumer Representatives. In some cases, when the public is allowed to attend the meetings, no input is allowed. In those discussions that do include the input of consumer advocates, the advocates are often the lone

proponents for improved transparency in all types of regulatory information and proceedings. As a result, much of NAIC's work is done outside of the public arena without consumer input.

For these reasons, the following current and former NAIC Funded Consumer Representatives urge Congress to continue working with the NAIC as advisors, but to leave rule-making responsibilities with a government agency that is independent, transparent, and accountable to the public.

Thank you for consideration of our concerns.

Signed,

Current Funded Consumer Representatives to the NAIC

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CC: Senate Majority Leader Harry Reid
Assistant Senate Majority Leader Richard Durbin
Senator Chris Dodd
Senator Tom Harkin