

January 14, 2010

The Honorable Harry Reid
Majority Leader of the U.S. Senate
522 Hart Senate Office Building
Washington, DC, 20510

The Honorable Nancy Pelosi
Speaker of the U.S. House of Representatives
235 Cannon House Office Building
Washington, DC, 20515

Dear Majority Leader Reid and Speaker Pelosi:

As officers of the National Conference of Insurance Legislators (NCOIL), we write to reaffirm our unwavering support for the 1945 McCarran-Ferguson Act's limited antitrust exemption for insurers and—as you negotiate final healthcare reform legislation—to strongly caution against including any manner of repeal. Rolling back the antitrust exemptions for health and medical malpractice insurers, as did H.R. 3962, would ignore already-existing state antitrust protections and would harm consumers by creating confusing, conflicting regulation and by increasing costs while reducing competition.

Repeal Would Increase Costs, Decrease Competition

Any changes to the limited antitrust exemption would not lower insurance costs for consumers but, in fact, could have the opposite effect should smaller insurers be driven from the market—particularly in communities with already limited availability and affordability of coverage. The limited exemption fosters competition by granting insurers the ability to share loss history and other information, and it ensures that smaller and more regional insurers can compete with large insurers that are less dependent on industry-wide data.

Repeal Would Create Confusing, Duplicative Regulation

Subjecting consumers and the insurance industry to the complicated and very likely contradictory system of state and federal regulation—as would happen if the limited health and medical liability exemption was repealed—would destabilize insurance markets that rely on predictability to gauge risks and price products. Repealing the exemption would lead to costly litigation—ultimately paid for by insurance policyholders—brought to test the limits of state authority.

States Already Enforce Antitrust Protections

The limited antitrust exemption granted under the McCarran-Ferguson Act is not a loophole through which insurers can avoid prosecution for antitrust violations such as boycotts, intimidation, or coercion, nor does it limit the abilities of state attorneys general to prosecute crimes under existing state antitrust laws. States in recent years have vigorously enforced their antitrust statutes to combat broker bid-rigging and other crimes—and have been well-recognized for their efforts.

NCOIL appreciates your interest in a fair and functioning health insurance market and welcomes discussing with you further the critical need for the McCarran-Ferguson limited antitrust exemption—a position that we share with our state partners at the National Association of Insurance Commissioners (NAIC) and the National Conference of State Legislatures (NCSL). We urge you, as you conclude the reconciliation process, to prioritize substance over timelines and to reject any McCarran-Ferguson repeal.

Please feel free to contact the NCOIL National Office at 518-687-0178 should you have any questions.

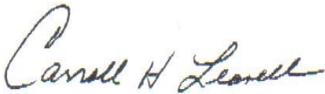
Sincerely,



Rep. Robert Damron (KY)
NCOIL President



Rep. George Keiser (ND)
NCOIL President-Elect



Sen. Carroll Leavell (NM)
NCOIL Vice President



Sen. Vi Simpson (IN)
NCOIL Secretary



Rep. Charles Curtiss (TN)
NCOIL Treasurer

cc: Executive Office of the President of the United States
Members of Congress
NCOIL Legislators
Council of State Governments (CSG)
National Association of Attorneys General (NAAG)
National Association of Insurance Commissioners (NAIC)
National Conference of State Legislatures (NCSL)
National Governors Association (NGA)