CALIFORNIA HEALTH ADVOCATES
Medicare: Policy, Advocacy and Education

United Policyholders
Empowering the Insured

February 18, 2013

Commissioner Scott Kipper, Chair
NAIC Senior Issues Task Force
Attn: Jane Sung, Health Policy Counsel
National Association of Insurance Commissioners
444 North Capitol Street, NW, Suite 701
Washington, D.C. 20001

Dear Commissioner Kipper;

We are writing to follow up on the Long-Term Care Insurance hearing at the December meeting. On behalf of the consumers our organizations represent and in our capacity as NAIC consumer representatives we write to express concerns that are similar what we heard from you and your fellow regulators at the last meeting about recent and pervasive large rate increases in long-term care insurance policies.

Purchasers of these policies made a long term investment in these products and are now struggling to maintain some amount of the original protection they bought. While insurers may have miscalculated the premiums they needed to keep the promises they made to consumers who bought these products, consumers should not be forced to pay for those pricing errors. While consumers might have expected some small increase would occur in future decades many would not have purchased a policy if they'd known of the size of the increases they've recently been asked to pay.

The NAIC has worked on this issue since the 1990s, and several times enacted reforms intended to prevent these large unexpected rate increases in policies purchased years and sometimes decades earlier. In one attempt to limit these rate increases the NAIC adopted rate caps, but insurers maneuvered to prevent states from adopting them. Following that failed attempt, the NAIC then adopted revised rating measures that dealt with requirements for initial rates and some limits on rate increases at older ages. Few states adopted these revisions over the objections of insurers.

Then in 2000 the NAIC amended Sections 10 and 20 of the NAIC Model Regulation to provide for stability in initial rates and to discourage rate increases in long-term care insurance policies. Many states enacted rate stability requirements that are in place today. At the time, most of us who were involved in crafting this approach believed that while these new requirements would not eliminate future rate increases, the policies would be more accurately priced and very large rate increases were unlikely to occur. We couldn't have been more wrong. In 2010, 2011, and 2012 consumers received notices of rate increases, many of 40% or more, and some much larger. Some policyholders have not yet received the notice of rate increases companies have already announced to their agents or investors. It seems reasonably clear that the 2000 amendments and stability approach did not have the intended impact.

The NAIC enacted those pricing reforms to protect policyholders against the possibility of large future rate increases – knowing that many of them would be retired and living on fixed incomes when those increases occurred.

In an attempt to soften the blow of large rate increases the NAIC built into the Model Regulation the right to reduce coverage in return for a lower premium, and contingent non-forfeiture, (based on a cumulative amount of rate increases tied to age) that allows policyholders to retain paid-up benefits equal to premiums paid.

But just as we recognize that the stability approach wasn't adequate to prevent large LTC rate increases, we must also recognize that contingent non-forfeiture provisions are a poor substitute for the full value of the security and benefits investment that LTC insurance buyers purchased. The fact is, many LTC policyholders are being forced to reduce their benefits just to be able to afford to keep some level of coverage. As additional increases are phased in, those who have no choice but to opt for a non-forfeiture will be stuck with paid-up benefits at a much lower level than they originally contracted to purchase.

We believe that policyholders deserve to know immediately when an issuer has requested a rate increase, the amount requested, and the amount approved. If a rate increase will be spread over a number of years policyholders must have that information at the beginning of the rate increase cycle, and each year the rate increase occurs.

Given that there appears to be no regulatory approach to control premiums for these policies that the long-term care insurance industry will not oppose, we believe that consumers who invest in these products need greater protection when those rate increases are first filed. We propose that the NAIC amend the Section 28 of the Model Regulation that dictates the cumulative amount of a rate increase necessary to trigger contingent nonforfeiture, to allow a policyholder to convert their benefits to a paid-up policy with any rate increase that exceeds 10% whenever a policyholder has paid $10,000 or more in premiums. We believe this is necessary to protect consumers who buy this financial protection far in advance of need. A consumer who buys this product at age 60 when they are still working will have a very different financial situation when they are 75 and retired. A 40% or larger rate increase at the older ages can have a profound impact on family finances.

Because controlling rate increases has been so unsuccessful we further propose at a minimum that a warning notice appear on the front page of each policy stating; "*There is no limit to the amount that the premium for this policy can increase*." We believe that until these products can be more accurately priced consumers deserve to know at the outset how the premium they agree to pay might change in the future when they may be less able to finance a more expensive premium.

In addition, as insurers move away from the market for stand-alone long-term care insurance and include these benefits in other products we ask that the Task Force do a comprehensive review of the Models for long term care insurance, life, and annuities to determine what standards, requirements, disclosures, and consumer protections do and do not apply to these hybrid products, and evaluate any regulatory gaps that exist for these products.

We look forward to further discussion of these issues and remain at your service for ideas and input.

Sincerely,

Bonnie Burns

California Health Advocates

Amy Bach

Amy Bach, Executive Director
United Policyholders