Testimony of

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Before the

Consumer Operated and Oriented Plan (CO-OP) Advisory Board

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My name is Brian Webb, and I am Manager of Health Policy and Legislation for the National Association of Insurance Commissioners (NAIC), which represents the insurance regulators in the 50 states, the District of Columbia, and 5 U.S. territories. I appreciate the opportunity to come before you today to outline the steps a new Consumer Operated and Oriented Plan (Co-Op) would need to complete to operate in a state.

Before I begin, I must highlight the fact that I can only provide a general description of the requirements a new Co-Op would need to fulfill in order to sell health insurance. Each state has the authority to establish and enforce its own rules for health insurers. Through the NAIC, state regulators have attempted to make the processes and requirements more uniform over the years, but variations still exist.

Obtaining a License

The first step would be for the Co-Op to obtain a Certificate of Authority – a license – in every state in which the Co-Op would like to operate. To assist companies and states, the NAIC has developed a Uniform Certificate of Authority Application that can be filled out online. A new entity (or a redomesticating entity) would fill out a Primary Application and designate a primary state, which would review the application. If an entity already has a Certificate of Authority to operate in a primary state they may file an Expansion Application to move into another state.

As part of the Primary Application, the applicant must provide: 1) the lines of business it will sell (i.e., HMO, PPO, individual, small group); 2) the name of the company (the name may not mislead or mirror another company); 3) biographical affidavits for the officers, directors and key managerial personnel of the applicant, and individuals with a ten percent or greater beneficial ownership in the applicant and the applicant's ultimate controlling parent; 4) the plan of operation; 5) financial information, including the company’s capital and surplus, deposits, holding companies (debt-to-equity rate), and SEC or consolidated GAAP statements. An Expansion Application requires the same information, plus a Certificate of Compliance from the primary state and a report on financial exams – seasoning is also required in most cases.

The primary state will first review the completeness of the submission and will typically notify the applicant within two weeks whether additional information is required. Final review of the application is typically completed with 90 days after a complete application is received. Review of a complete Expansion Application typically takes up to 60 days.

Meeting Financial Requirements

To operate as a health insurance company, a Co-Op would be required to meet the statutory deposit and surplus and capital requirements in the state. Attached are charts prepared by the NAIC that show the deposit and capital and surplus requirements in state law. These requirements often include a limitation of 10 percent on the amount of capital that may be placed on a single risk. In addition, states utilize the NAIC Risk-Based Capital (RBC) standard to provide additional security to consumers.

The NAIC RBC formula for health insurers takes into account a variety of risks, including:

1. Underwriting risk and insurance risk (the risk that medical care expenditures will exceed premiums collected)
2. Business risk (operating costs, contracts, guaranty funds, etc)
3. Asset risk - Affiliates
4. Asset risk - Other (including credit risk, interest risk, market risk)

Companies are required to submit quarterly and annual financial data to the NAIC for review and state regulators are informed of any “red lights.” Health insurance companies are also subject to audits about every 5 years, or more frequently if necessary, to ensure they are accurately reporting their financial information.

State regulators and the NAIC take very seriously their responsibility to protect consumers from the financial failure of health insurance companies. Paying premiums has little benefit if the company does not have the funds necessary to reimburse the claims. Non-profit Co-Ops would need to prove their ability to not only raise the funds necessary to start a health insurance business, but also the ability to maintain solvency well into the future.

Filing Rates and Forms

Finally, the Co-Op would need to submit rates and policy forms to the state insurance commissioner. To streamline the process, the NAIC has developed the System for Electronic Rate and Form Filing (SERFF) which provides an electronic format for filing rates and forms in multiple states. All states, the District of Columbia and Puerto Rico allow companies to submit rates and forms through SERFF; twenty-four states require submission through SERFF.

While rating rules and policy requirements can differ greatly from state to state, SERFF helps companies by walking them through a checklist of state and federal requirements and them submitting their requests to the states. Some states require rates and/or forms to be filed with and approved by the state before they can be used. Other states only require the rates and/or forms to be filed with the state. In all states, insurance commissioners have the authority to review the policy forms to ensure they comply with all state benefit, notification, readability, and marketing requirements. States that approve rates generally require companies to provide an actuarial certification that the rates are adequate, justified, reasonable and nondiscriminatory.

The filing of rates and policy forms, and of marketing materials in most states, does take time. Of course, this takes more time in states that must review and approve the rates and forms before they can be used in the marketplace. If Co-Ops are to be ready to sell products in the Exchanges beginning in 2014, the time required to ready approved products for sale must be taken into account.

Conclusion

As Commissioner Praeger stated in her testimony before this board on January 13, 2011, "It is absolutely critical for the protection of consumers that Co-Ops be treated identically to other insurers or HMOs." To protect consumers from fraudulent, insolvent, mismanaged, or abusive health plans, Co-Ops must be required to comply completely with state licensure, solvency and rate and form filing requirements. Cutting a few corners may seem like a good idea and first, but things can go bad quickly and consumers are the ones who end up losing the most.

State regulators, through the NAIC, have created systems aimed at making the creation of new companies and the expansion into new states or markets far more efficient, but the requirements, by necessity, can be daunting. The NAIC is prepared to offer its expertise and assistance to this board as you work to make the Co-Op program a success.