



May 14, 2015

TO: Members, California State Assembly

FROM: Julianne Broyles, California Association of Health Underwriters
John Norwood, Independent Insurance Agents and Brokers of California
Shari McHugh, National Association of Insurance and Financial Advisors

SUBJECT: **AB 1163 (RODRIQUEZ)--FAIR NOTICE: AGENTS – SPONSOR SUPPORT ASSEMBLY THIRD READING**

The California Association of Health Underwriters (CAHU), Independent Insurance Agents and Brokers of California (IIABCal) National Association of Insurance and Financial Advisors (NAIFA California) have joined together to sponsor **AB 1163** (Rodriquez). **AB 1163**, as amended May 12, 2015, provides for reasonable notice of major changes made by a carrier to an agent agreement.

AB 1163 will require health insurers and health maintenance organizations (HMOs) to provide their appointed agents with 60 days advance notice of any material changes in their agency agreement. **AB 1163** mandates a delay of implementation of any substantive change made to an agent contract by a health insurer or health maintenance organization (HMO) until the proper notice is given to the agent.

AB 1163 was introduced in response to recent actions by a health insurance carrier that made substantial and material changes to their agreement with licensed health insurance agents with only 48 hours of notice before the changes took effect. **AB 1163** levels the playing field and provides for a fair and reasonable notice to licensed agents when their contract is substantially changed. It is important to note that most independent insurance agents are Main Street small business owners in nearly every community in California.

Our members also believe this change is more critical than ever in light of the ACA required compressed enrollment period each year. Changes that occur to the agent agreement, like the one issued late December 23, 2014 and was effective December 26, 2014 that occurred in the middle of the ACA open enrollment period could never be fairly evaluated in the time crunch. It is important to note that at the end of each year now, agents work with thousands of Californians' individual enrollments and renewals, plus group plan renewals that occur on a calendar year basis, and overlaid with Medi-Care enrollments that happen at the year as well.

An agent or producer agreement is a written contract stipulating the arrangement between an insurance agency and the insurer or HMO it represents. Important details such as ownership of renewals, required levels of service, reporting deadlines, survivorship and the general duties and responsibilities of each party are usually set out in this agreement or appendices. Most agent agreements contain provisions that address how and when notice of changes to the agency agreement

Members, California State Assembly
AB 1163 (Rodriguez) – Sponsor Support
May 14, 2015
Page 2

can be implemented--and that can vary from 30-60 days. Covered California's agent agreement is in place for 5 years and does not permit changes to the agreement during that period.

However, some agency agreements with health insurers and HMO's often contain a separate clause that nullifies any provision of the agreement if the HMO or insurance carrier finds it necessary, in their view, to make substantial changes to the agreement without any notice at all. Such clauses are not permitted by statute in agency agreements made with property and casualty insurers, subject to certain conditions. **AB 1163** would ensure major changes to agent agreements with health insurers and HMOs do not occur without advance warning.

While **AB 1163** notice period may be longer than many health insurer and plans would like, it is far shorter than the Insurance Code Section 769 covering property and casualty insurers and provides for 120 days of notice to agents of changes to their agreement. To our knowledge, there has been no problem in that line of insurance in complying with the 120-day extended notice.

Agents understand business necessity can sometimes drive a need for a material change, whether to commissions or to other obligations under the agreement. That is why special language was added to **AB 1163** to ensure changes that are mutually agreed to or changes made necessary due to a change in state or federal law can occur without delay. In all other cases, under **AB 1163** a change desired by the carrier can take effect as soon as proper notice is given under the terms of the bill.

The California Association of Health Underwriters, the Independent Insurance Agents and Brokers of California and the National Association of Insurance and Financial Advisors of California represent California's licensed health insurance agents. Our licensed members provide reliable insurance advice, act as the consumer's advocate when dealing with carriers and provide a number of essential services relating to the individual and group insurance coverage and obligations post-enrollment. Our members also act as a trusted and effective marketing and distribution channel for health insurance information for all consumers and potential consumers of health care insurance coverage.

Please do not hesitate to contact us if you require further information: Juli Broyles (CAHU) at 916-441-5050; John Norwood (IIABCal) at (916) 447-5053, or Shari McHugh (NAIFA California) at (916) 930-1993.

Please vote "AYE" when **AB 1163 (Rodriguez)** comes before you for consideration.

cc: Office of Governor Brown
The Honorable Freddie Rodriguez
Kelly Green, Assembly Health Committee
Peter Anderson and Bill Lewis, Assembly Republican Caucus