



May 27, 2014

TO: Members, California State Assembly

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

SUBJECT: **AB 2088 (HERNANDEZ)--SUPPLEMENTAL HEALTH POLICIES:  
UNREASONABLE BARRIERS – OPPOSE  
ASSEMBLY THIRD READING**

The California Association of Health Underwriters (CAHU), the Independent Insurance Agents and Brokers of California (IIABCal) and the National Association of Insurance and Financial Advisors of California (NAIFA California) regret that we must **OPPOSE AB 2088 (Hernandez)**, as amended April 21, 2014, because the bill reduces options and increases costs for employers by removing choice in coverage options.

Our organizations 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.

As amended, **AB 2088** stops insurers from selling--and employers with 50 or more employees from purchasing--a limited benefit health plan unless that plan is supplemental to primary coverage that meets the bronze level of coverage as defined by the federal Affordable Care Act (ACA).

The ACA defines bronze level plans as those that have at least a 60% actuarial value and cover minimum essential health benefits. **AB 2088** describes any plan having less than a 60% actuarial value medical plan as a "supplemental plan" that does not meet Minimum Essential Coverage (MEC) standards and therefore cannot be offered, purchased, amended or renewed. **AB 2088** also mandates that insurance carriers notify all affected employers that their plans are non-compliant "supplemental plans" and do not meet **AB 2088** proposed standards.

Under the law today, if an employer has a high deductible plan that is at the 40th percentile, that grandfathered plan still meets the definition of an acceptable plan under the ACA. Our organizations believe that **AB 2088** unnecessarily closes off employer choice in coverage options. California should ensure that employers of 50 or more employees are allowed to continue to use their grandfathered plan to provide coverage in a manner that works for their business as a cost effective solution--regardless if it is ACA compliant coverage or not.

Members, California State Assembly  
**AB 2088 (Hernandez) - OPPOSE**  
May 27, 2014  
Page 2

CAHU, NAIFA California and IIABCal believe that **AB 2088** is an unreasonable attempt to further control what types of plans carriers may sell to employers with 50 or more employees in California. Many grandfathered plans--such as those offered by San Francisco employers under their local health coverage ordinance--still qualify under the ACA as plans that are viable health insurance alternatives to the Minimum Essential Coverage. These grandfathered plans also meet the Internal Revenue Service (IRS) definition of being an acceptable plan for ACA purposes. There are many unanswered questions on how **AB 2088** mandates will impact tax issues for those who have purchased those plans.

**AB 2088** is an effort to eliminate grandfathered plans and will only confuse individuals and businesses that have these plans available to them. Proponents have not provided data that insurers or employers are inappropriately offering or marketing minimum value plans as a substitute for minimum essential coverage.

The ACA allows employers to opt out of having compliant coverage and simply pay the tax penalty. **AB 2088** tries to wipe out this ability by barring certain supplemental market options for large employers. Agents believe that California should instead ensure that employers of 50 or more employees are allowed to continue to be a grandfathered plan to provide what works for their business as a cost effective solution--regardless if it is ACA compliant coverage or not.

For these reasons, our organizations must respectfully **OPPOSE AB 2088 (Hernandez)**.

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.

cc: The Honorable Roger Hernandez  
Lark Park, Office of Governor Brown  
Roger Dunstan, Assembly Health Committee  
Peter Andersen and Kevin Hanley, Assembly Republican Caucus