



**STATEMENT OF JON JENSEN
ON BEHALF OF THE
INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA**

BEFORE THE

**COMMITTEE ON BANKING
SUBCOMMITTEE ON SECURITIES, INSURANCE, AND INVESTMENTS**

**AT THE HEARING TITLED:
“Streamlining Regulation, Improving Consumer Protection and
Increasing Competition in Insurance Markets”**

UNITED STATES SENATE

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Introduction

The Independent Agents and Brokers of America (IABA) thanks the Committee, and especially Subcommittee Chairman Jon Tester and Ranking Member Mike Johanns, for the opportunity today to testify in support of agent licensing reform. IABA’s support for state insurance regulation is well-known to observers of the insurance industry and to the members of the subcommittee, and we continue to confidently believe that states are the most appropriate and effective regulators of this vital financial sector. However, while our support

for state regulation remains unwavering, we are just as strongly committed to the pursuit and implementation of regulatory and legislative reforms that address the inefficiencies and unnecessary duplication that continue to hinder its effectiveness. The foundation of state regulation remains strong and offers considerable benefits, but the difficult truth is that sufficient progress on producer licensing reform and similar marketplace access issues has not been achieved. The need for effective licensing reform is greater than ever.

Producer Licensing Reform and the Need for NARAB II

State law requires insurance agents and brokers to be licensed in every jurisdiction in which they conduct business, which forces most producers today to comply with inconsistent standards and duplicative licensing processes. These requirements are costly, burdensome and time consuming, and they hinder the ability of insurance agents and brokers to effectively address the needs of consumers. In fact, the current licensing system is so complex and confusing for our members that many are forced to retain expensive consultants or vendors or hire staff people dedicated to achieving compliance with the requirements of the states in which they operate.

Some observers mistakenly believe that most insurance agents operate only within the borders of the state in which they are physically located and that the problems associated with the current licensing system only affect the nation's largest insurance providers. The marketplace, however, has changed considerably in recent decades. There are certainly agencies that have elected to remain small and perhaps only service the needs of clients in one or two states, but that is no longer the norm. My firm spends tens of thousands of dollars per year on licensing fees alone, but the more significant cost for us is the immeasurable staff time that goes into maintaining hundreds of licenses and responding to the duplicative state requirements and document requests. For smaller businesses, which lack the staff and resources of larger competitors, the exorbitant cost and unnecessary complexity of ongoing licensing compliance is especially burdensome. Research conducted by IIABA has found the following:

- Approximately 60% of IIABA member businesses have a staffer whose duties are dedicated to obtaining and maintain the appropriate insurance licenses for the agency and its personnel. On average (across all agencies surveyed), insurance agencies have one full-time equivalent employee dedicated to such activities.
- About 3% of insurance agency operating expenses, on average, are spent on licensing compliance efforts. This percentage is highest for the smallest agencies (4.3%)

The inefficiencies, unwarranted expenses, and redundancy associated with the existing licensing system are further exacerbated because many insurance agents serve the needs of consumers and business located in other jurisdictions. Both society and the insurance marketplace have changed considerably in recent decades, and it is incredibly common for insurance agencies to work with customers in other states. IIABA's largest members today operate in all 50 states, and it is increasingly common for small and mid-sized agencies to be licensed in 25-50 jurisdictions as well. In fact, research conducted by our association has found that producers who operate in more than one state are licensed in an average of nine jurisdictions.

Lack of True Reciprocity

Perhaps the most significant deficiency with the current licensing mechanism is the inability of states – despite their best efforts – to fully implement true licensing reciprocity.

Congress recognized the need to reform the multi-state licensing system in 1999, when it incorporated the original NARAB subtitle into the Gramm-Leach-Bliley Act (GLBA). GLBA did not provide for the immediate establishment of the National Association of Registered Agents and Brokers and instead included a series of “act or else” provisions that encouraged the states to simplify the licensing process. In order to forestall the creation of NARAB, at least a majority of states (interpreted to be 29 jurisdictions) were required to license nonresidents on a reciprocal basis. To be deemed “NARAB compliant,” GLBA mandated that states issue a nonresident license to any applicant who meets three simple criteria: (1) is licensed in good standing in his/her home state, (2) submits the appropriate application, and (3) pays the required fee. The act is precise and states that a nonresident license must be issued “without satisfying any additional requirements.” In short, GLBA required compliant states to accept the licensing process of a producer’s home state as adequate and complete, and no additional paperwork requests or other requirements are permitted (no matter how trivial or important they may seem).

Unfortunately, true reciprocity remains elusive. Agents and brokers hoped meaningful and tangible reform was imminent following GLBA’s passage and the subsequent enactment of at least elements of the Producer Licensing Model Act (PLMA) by most jurisdictions, but insurance producers still await the promised benefits a dozen years later. Producers expected the implementation of something analogous to a driver’s license-type system, which might allow nonresidents to easily and efficiently operate in multiple states after qualifying for licensure at home. Congress’s action in the late 1990s spurred some activity and modest state-level improvements, but insurance producers have been largely disappointed by the lack of meaningful progress made in recent years.

States too often ignore the principle of reciprocity and opt instead to reevaluate and second-guess the licensing decisions of a person’s resident state. Although the GLBA and the PLMA clearly establish the limits of what may be required of a nonresident applicant – *a nonresident in good standing in his/her home state shall receive a license if the proper application or notice is submitted and the fees are paid* – states continue to impose additional conditions and fail to respect the licensing determinations made by resident regulators. The imposition of these extra requirements (such as the submission of documents and other information that have already been provided to the home state regulator) makes it impossible for many insurance producers to quickly obtain and efficiently maintain the necessary licenses and violates the reciprocity standards established in federal and state law.

The Gramm-Leach-Bliley Act empowers the National Association of Insurance Commissioners (NAIC) to determine whether states have achieved and maintain compliance with the requirements of the NARAB reciprocity standard. The NAIC has previously asserted that nearly every state has satisfied the standard, yet the suggestion that so many jurisdictions recognize nonresidents on a truly reciprocal basis would surprise the practitioners who must regularly comply with the extra hurdles and requirements imposed by states.

Duplicative Layers of Licensing Requirements

While most observers are aware that insurance agents and brokers must obtain a license in every state in which they operate, fewer recognize that nonresidents often confront three

layers of duplicative and redundant licensing requirements in each jurisdiction. Specifically, many insurance departments require nonresidents to (1) obtain an individual insurance license, (2) obtain a similar license for the applicant's agency, and (3) register as a foreign corporation with the Secretary of State, even when the state's corporate statutes impose no such mandate. These multiple layers of licensure offer no additional benefit or protection to consumers, yet they impose considerable costs, delays, and unintended consequences on the agent and broker community. The effects of these requirements are considerable for insurance producers who operate in multiple states, and the enforcement of many of these rules violates the principle of reciprocity and the GLBA/NARAB standard. Addressing these problems would produce significant benefits and enable insurance firms to focus greater resources on serving the needs of consumers.

The NARAB II Proposal

IIABA believes the most efficient, effective, and sensible way to address the licensing and marketplace access problems discussed above is through targeted legislation at the federal level. Limited federal legislation can effectively remedy identified deficiencies in the current system, establish greater interstate consistency in key areas, and preserve day-to-day regulation in the hands of state officials. This pragmatic and politically-feasible approach can be used on a compartmentalized issue-by-issue basis to address acknowledged problems and to establish uniformity and interstate consistency where necessary.

Our experience in recent years suggests that there are certain problems with the state regulatory system that are resistant to reform via the traditional path of model laws and state-by-state legislative action. Targeted federal legislation can overcome the structural impediments, collective action challenges, and other practical and political barriers that have stalled previous reform efforts. There are only a finite number of areas where uniformity and consistency are essential, and Congress has the ability to address each of these issues on a national basis. This can be done through a single legislative act or a series of bills and can be achieved without dismantling, replacing, or impairing the state-based system. State regulators do a tremendous job protecting consumers and ensuring the solvency of insurers, and nothing should be done to undermine or jeopardize their ability to do so on a prospective basis.

IIABA specifically supports the use of this approach to address the licensing problems identified above, and the most appropriate and practical way to do so is through the NARAB II legislation, which has twice passed the House of Representatives. This legislation, S. 534, has once again been introduced in this Congress by Subcommittee Chairman Jon Tester and Ranking Member Mike Johanns. Companion legislation (H.R. 1155) has been introduced in the House of Representatives by Insurance Subcommittee Chairman Randy Neugebauer and Rep. David Scott. The NARAB II proposal would, as the NAIC has previously stated, "achieve the goal of nonresident reciprocity in insurance producer licensing" and "work in partnership with existing State licensing operations." The measure has enjoyed broad industry support, and nearly the entire insurance industry has endorsed the legislation. The NAIC, too, has fully endorsed S. 534. Finally, the legislation enjoys strong bipartisan Congressional support, and in fact it already enjoys the support of 14 bipartisan original cosponsors in the Senate and 41 in the House.

The NARAB II proposal would immediately establish the National Association of Registered Agents and Brokers and provide agents and brokers with a long-awaited vehicle for obtaining the authority to operate on a multistate basis. It would eliminate barriers faced by agents who operate in multiple states, establish licensing reciprocity, and create a one-stop facility for those who require nonresident licenses. The bipartisan proposal benefits policyholders by

increasing marketplace competition and consumer choice and by enabling insurance producers to more quickly and responsively serve the needs of consumers.

S. 534 ensures that any agent or broker who elects to become a member of NARAB will enjoy the benefits of true licensing reciprocity. In order to join NARAB, however, an insurance producer must be licensed in good standing in his/her home state, undergo a recent criminal background check (long a priority of state insurance regulators), and satisfy the criteria established by NARAB. These criteria would include standards for personal qualifications, training, and experience, and – in order to discourage forum shopping and prevent a race to the bottom – the bill instructs the board to “consider the highest levels of insurance producer qualifications established under the licensing laws of the states.”

NARAB’s simple and limited mission would be to serve as a portal or central clearinghouse for insurance producers and agencies who seek the regulatory authority to operate in multiple states. The bill discretely utilizes targeted congressional action to produce efficiencies and is deferential to states’ rights at the same time. S. 534 merely addresses marketplace entry and appropriately leaves regulatory authority in the hands of state officials. The proposal does nothing to limit or restrict the ability of state regulators to enforce state marketplace and consumer protection laws. State officials will continue to be responsible for regulating the conduct of producers and will, for example, investigate complaints and take enforcement and disciplinary action against any agent or broker who violates the law. In short, the NARAB II proposal would strengthen state insurance regulation, reduce unnecessary redundancies and regulatory costs, and enable the industry to more effectively serve the needs of insurance buyers – and it would achieve these results without displacing or adversely affecting state regulatory oversight.

Conclusion

The IIABA thanks the subcommittee for its efforts – past and present – to implement tangible and effective insurance marketplace improvements. We appreciate today’s hearing on “Streamlining Regulation, Improving Consumer Protection and Increasing Competition in Insurance Markets” and we look forward to working with you on passage of the NARAB II proposal.