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MESSAGE FROM THE OFFICERS

by President George Nichols III

Dealing With Change and Searching for New Cheese

(The following is an excerpt from NAIC President George Nichols' speech at Opening Session of the Fall National Meeting in Dallas.)

Boy, have things changed in the past nine months. Who'd have thought 51 jurisdictions would sign the Statement of Intent, announcing a blueprint and a framework for insurance regulation in the future? Who would have thought that interested parties, all of them, would be saying we're moving too fast? Who would have thought that we are on course to meet our goals, some of them early, regarding what we'd set out? Who would have thought there is a fire, in our hearts and minds, to move forward, focused with direction, commitment and dedication?

There are two questions I want to share related to a book I received from one of my staff — *Who Moved My Cheese?,* by Spencer Johnson. The question that we now have to face is 'who moved the cheese for us?'

The second question is more a question of who you are. A mouse? Or are you a man or a woman? The answer will determine where we end up.

In the book, Hem and Haw are the two people; Sniff and Scurry are the mice. Sniff tries to smell out everything, using his nose to get involved. I'm sure you can think of some of our members who sniff things out. Or we could be Scurry, always racing around, being in front of everyone. Sometimes the mice get lost, but after a while they find their way by operating through trial and error.

Or we could be the people, Hem and Haw, always learning and using our past experience. Sometimes it holds us back, and sometimes it allows us to go forward. Now, Hem is angry and waiting for them to bring back the cheese — the good old days when state regulation ruled. We do it my way or no way. Then there's Haw. Now, Haw's a little scared and confused, but slowly, he ventures out to see if he can find some new cheese.

The story of who moved the cheese is simple. It's about change — unexpected change. The book tells of two people and two mice — happy with the big, old room full of cheese. When the cheese runs out, the two mice decide to go through the maze to look for more. But Hem and Haw sit down to discuss it, like we used to in our committee meetings, saying, 'Well, instead of putting something down on paper, let's wait until they bring back the paper we did several years ago.'

We now have to venture outside of our comfort zone to find more cheese. Haw does that. He goes through the maze, always seeming to run into a dead end, until ultimately he comes upon the cheese — the new cheese. He's surprised to see that the mice have already been there eating and enjoying it. Sometimes we must take the challenges in front of us and make them simple, which is what we did with the Statement of Intent.

In the end, Haw and the mice enjoy the cheese. Hem sits, waiting for the cheese to come back, frustrated and angry. He's unwilling to challenge himself to do what is right.

The book leaves some simple reminders about change. It says change happens, and we must keep moving with the change. We must anticipate change and be ready at all times. We must monitor change. Smell the cheese often so you know when it is getting old. Adapt to change . The sooner you let go of the old cheese, the sooner you can get new cheese. Change — always think of change. Savor the adventure and the taste of new cheese. That's what we have achieved in nine months, and that is the momentum we take forward.

I couldn't be more proud of how this organization has been able to move forward. And, boy, have we been challenged, not only among ourselves, but also by interested parties. We have a great deal to be proud of, not only for what we as a body have done, but for what we are doing on behalf of our constituents.

The Statement of Intent is now truly embodied into this organization, and I believe each and every member will do what is right to ensure that what we have done over the years will continue to change and change for the good on behalf of the people we serve. There is one part of the book that is not there that is very, very important. It's the real question that we always must remember — who said it was our cheese in the first place?

Working Group Adopts Privacy Regulation

Members of the National Association of Insurance Commissioners (NAIC) Privacy Issues Working Group adopted standards for the regulation of Consumer Financial and Health Information during deliberations at the organization's Fall National Meeting.

"We believe a national standard for the privacy of personal health and financial information is critical for both consumers and financial institutions," said Kathleen Sebelius, Kansas Commissioner of Insurance, NAIC Vice President and Chair of the Privacy Issues Working Group. "Congressional action to protect privacy across the country will assure consumers that their personal information will be protected regardless of where they live and regardless of which financial entity collects the information."

The privacy regulation is tailored to provisions of the Gramm-Leach-Bliley Act regarding non-personal financial information. A section has been added protecting health information and provides for companies wishing to share, sell, market or give away health information, except for specific business exceptions, to get authorization from consumers.

The Department of Health and Human Services is currently drafting federal privacy regulations. These regulations may not go into effect until fall 2002.

"Consumers are worried about what will happen to their personal financial and health information from now until the HHS regulation goes into effect," stated Sebelius. "Our regulation provides a bridge for consumer protection until the HHS regulation is implemented."

The charge of the Privacy Working Group was to explore the uniform approach that the states should take with respect to consumer privacy provisions under the Gramm-Leach-Bliley Act. The goal was to write consumer-friendly model privacy regulations for insurance companies that are as consistent as possible with other financial rules, such as federal rules that pertain to banks.

Members of the NAIC have been discussing and addressing the privacy of personal information, including health information, for more than 20 years. In 1980, the association adopted the Insurance Information and Privacy Protection Model Act, which generally requires insurers to receive authorization from individuals ("opt-in") to disclose personal information. In September 1998, the association adopted the Health Information Privacy Model Act because of the special issues surrounding health information. This model treats personal health information as a different type of information that receives a higher level of privacy protection. The model uses an "opt-in" standard and establishes exceptions that allow insurers to carry on business functions without obtaining consumer consent.

Working Group Announces Four-Step Process for National Treatment

The National Association of Insurance Commissioners' (NAIC) National Treatment of Companies Working Group announced a four-step process to reach its goals for providing insurers national treatment at the Fall National Meeting. The working group has also released a Vision Statement outlining benefits of the national treatment program.

"We believe this four-step process will meet our objectives while instituting greater regulatory efficiencies across all states and maintaining our focus on consumer protection," stated

George Nichols III, Kentucky Insurance Commissioner, NAIC President and Co-Chair of the working group.

The National Treatment of Companies Working Group will hold an interim meeting in November to receive further comments from interested parties and consumers on their proposal for implementing national treatment. The working group will then finalize the proposal at the NAIC's Winter National Meeting.

The four-step process will:

1. Obtain commitments from all NAIC members to participate in the ALERT program by December 2000, with active participation by 2001.

2. Develop "best practices" in the areas of reviewing significant holding-company transactions and company licensing by December 2000 and June 2001, respectively, and encourage such reviews on a more consistent and uniform basis.

3. Implement a national treatment process on a voluntary basis, through a memorandum agreement, as an interim step toward a legally functioning national treatment system between June 2001 and June 2002.

4. Develop enabling state legislation to provide insurance regulators and the NAIC the necessary legal authority to effectuate a national treatment system by June 2003.

The Vision Statement developed by the National Treatment of Companies Working Group explains the benefits of the proposal in concrete terms relative to gains in efficiency and increased consumer protection. A complete copy of the Vision Statement can be found on the NAIC's Web site at www.naic.org.

NAIC Budget Outlined

National Association of Insurance Commissioners (NAIC) Executive Vice President Catherine J. Weatherford outlined the association's proposed budget for the year 2001 during the Fall National Meeting and announced a conference call on the plan for November 6.

Weatherford said the proposed budget calls for projected revenue of $47.9 million, a 3.3% increase. Proposed spending in the 2001 budget is $46.9 million, a 2.8% increase next year over current spending. While this budget does not allocate any resources to implement the proposals currently under development in the Gramm-Leach-Bliley Working Groups, fiscal impact statements are being drafted for membership consideration.

Significant revenue changes from 2000 to 2001 are:

·Database fees are budgeted to increase by $79,675 due to an increase in premium volumes for insurers. This is offset by a continued increase in companies filing under the group-fee cap of $150,000.

·Publications and subscriptions are budgeted to increase $784,000 due to increased sales of hardcopy guides and increased royalties from electronic products. Online accessibility and customization are expected to increase sales of financial data.

·Services revenue is expected to remain the same in 2001. SVO service fees are not budgeted to increase in 2001.

·National meeting registration fees are budgeted to increase $78,054. Fees have been increased to offset rising national meeting costs.

·Other income will increase by approximately $936,100 due to the use of NAIC assets, information, facilities and staff by the National Insurance Producer Registry (NIPR).

Significant expense changes from 2000 to 2001 are:

·Salaries and related employee taxes and benefits are budgeted to increase $957,296 and $106,941, respectively. These increases include an average annual increase of 4.25% on base salaries and an increase in head count of two. This line also includes a turnover factor of 14%.

·Professional services budgets have decreased $80,567 due to the completion of the SVO Efficiency and Effectiveness project.

·Computer services will decrease $80,650, as the cost of data feeds for the SVO is less than anticipated.

·Occupancy expenses reflect a $160,665 increase for a full year at the new headquarters and for utilities included in the lease payment.

·Equipment rental/maintenance costs will decrease by $224,184 due to the change from the mainframe to a client/server platform, which will be completed in March 2001.

·National and interim meeting expenses will increase $155,175 due to cost variations between 2000 and 2001 meeting sites.

·Education Programs are slated to decrease by $224,191 because of the completion of codification training in 2000 and a decrease in program offerings in 2001. The Education and Training Department will offer seven new programs for 2001.

"I encourage interested parties to submit comments on the budget and to take part in the open conference call on November 6," Weatherford said.

Two New Subgroups to Implement Speed to Market

Members of the National Association of Insurance Commissioners' (NAIC) Speed to Market Working Group at the Fall National Meeting announced the formation of two new subgroups to implement the proposed Coordinated Advertising, Rate and Form Review Authority, or CARFRA.

"We need to move forward on a couple of concurrent tracks, and these two subgroups will help us pinpoint our efforts," said Frank Fitzgerald, Michigan Insurance Commissioner and Co-chair of the Speed to Market Working Group. "The time for raising questions is over, and the time for engaging in detail is here."

The CARFRA Subgroup will focus on the specifics of the CARFRA proposal and will be responsible for establishing the process and the standards. Michigan, Pennsylvania, New York, Texas, Oregon and Maine have been appointed to this subgroup, which hopes to have a finalized CARFRA proposal to submit to the Executive Committee for adoption in December. These six states, plus four others to be appointed later, will then participate in a limited launch of CARFRA in the first quarter of 2001.

The second subgroup, known as the Improvements to State-Based Systems Subgroup, will work on making improvements to the state-based filing and review process. This subgroup will be comprised of five states, one representative from an agent group, two from industry groups, and two from consumer groups. Ohio, New York, Alabama, Colorado and Nebraska will be the represented states.

This subgroup will work toward making the suggested improvements to the state-based system, listed on page nine of the Vision Statement. Some of these suggestions include:

·All states becoming members of and implementing SERFF;

·All states coming to an agreement concerning a uniform definition of what constitutes an "Exempt Commercial Policyholder" under commercial lines insurance products;

·States providing continuing training to filing review analysts to assure that consumers are protected;

·States hiring sufficient review staff to guarantee prompt turnaround time for filings;

·States evaluating the need for prior-approval requirements and considering implementing systems that rely more on competition than rate regulation to protect consumers; and

·States performing sufficient market conduct exams to provide appropriate consumer protection as they move away from reliance on prior-approval processes.

"Both subgroups plan to begin work immediately on their proposed charges and to submit their findings to the Speed to Market Working Group at interim meetings in November in Kansas City," said Diane Koken, Pennsylvania Insurance Commissioner and Co-chair of the Speed to Market Working Group.

The CARFRA proposal was developed by the Speed to Market Working Group and exposed in a Vision Statement at interim meetings in Kansas City in August. CARFRA would provide a single point of entry and a coordinated state-based review process, on a voluntary basis, for insurer rates, policy forms and advertising materials for those products identified for coordinated treatment by the CARFRA Board.

CARFRA membership is open to the chief insurance regulators of the states, the District of Columbia and the U.S. territories. The proposal provides that states will contribute regulatory staff to assist with review. A limited CARFRA staff would administer filings and assign them to a review team comprised of regulatory staff. The filings will be stored in an electronic repository that will allow state reviewers to analyze filings in a virtual office setting.

NIPR Board Members Announced

The 2001 National Insurance Producer Registry (NIPR) Board of Directors was announced at the NAIC's Fall National Meeting. Iowa Commissioner and NAIC Secretary-Treasurer Terri Vaughan will replace North Dakota Commissioner Glenn Pomeroy as the president of NIPR.

"The work being done by the National Insurance Producer Registry is integral to the modernization and standardization of insurance regulation," Vaughan said. "I am honored to have been elected president of this organization."

New members to the board include William Anderson, NAIFA; Scott Cipinko, NALC; and Barbara Sutherland, NAII. David Gates, ACLI, is the 2001 NIPR vice president, and Cathy Weatherford, NAIC, is the secretary/treasurer. Andy Robinson of the Texas Department of Insurance, Lee Kincannon of the California Department of Insurance, and MaryEllen Waggoner of the Colorado Division of Insurance are returning members of the board.

Sebelius Testifies on Long-Term Care Issues

Members of the National Association of Insurance Commissioners (NAIC) in testimony before the United States Senate stated there needs to be increased, ongoing consumer education in all aspects of long-term care insurance. The statement was delivered to members of the Senate Special Committee on Aging by Kathleen Sebelius, NAIC Vice President, Kansas Insurance Commissioner and Chair of the Health Insurance and Managed Care Committee.

"Long-term care insurance is a relatively new product. Over the years, it has developed from a policy that just covered nursing home costs into a more sophisticated product that may cover home care services and adult daycare," Sebelius said.

Members of the NAIC believe there needs to be increased and ongoing consumer education in all aspects of long-term care insurance, including: (1) who should and should not buy long-term care insurance; (2) what issues consumers should consider when shopping for this product including benefits, exclusions, restrictions and cost of various policies; and (3) what the potential is for future rate increases.

The Health Insurance Portability and Accountability Act of 1996 created tax-qualified long-term care insurance policies and specifically cited the NAIC's 1993 models for establishing policy requirements and consumer protections for these qualified plans. Since then, the NAIC has updated its models to include additional consumer protections and to recognize changes in the market.

Recent amendments to NAIC models regarding rate stability radically alter the regulatory landscape by eliminating initial loss-ratio requirements in favor of a system that creates incentives for insurers to adequately price their products so that any rate increase will not be necessary.

"Given the unique aspects of rate regulation, this new aspect of consumer protection should be left to the states," said Sebelius. "If, however, Congress decides to implement amendments for tax-qualified plans as part of federal legislation, we would request that there be a transition period before the amendments became effective to give the states ample opportunity to change their laws before any preemption took effect.”

Covington Testifies on Progress of GLBA Initiatives

Testifying before a leading Congressional panel on the status of nationwide insurance regulatory reforms and the impact in Ohio, Lee Covington, Ohio’s Director of Insurance, outlined the progress the NAIC and state insurance regulators are making to meet and surpass the requirements of the Gramm-Leach-Bliley Act (GLBA). The hearing was the second such hearing called by Rep. Michael Oxley, Chair of the U.S. House of Representatives Commerce Subcommittee on Finance and Hazardous Materials Committee.

Covington assured the committee of the NAIC’s commitment to meaningful and timely reforms, “After a series of meetings leading to our most recent national meeting, we have accomplished just what you had hoped to see — specific proposals with specific timeframes.”

Testifying on behalf of the State of Ohio, Covington used the hearing to update members of Congress on progress NAIC members have made to meet the requirements of the Gramm-Leach-Bliley Act and improve the current system of state insurance regulation. In testimony, Covington:

·Commented on the status of regulator-to-regulator dialogue.

·Briefed the committee on the final work product of the NAIC’s Privacy Issues Working Group.

·Discussed efforts to secure a national licensing system and briefed the panel on the developments of the National Insurance Producer Registry (NIPR).

Covington also provided testimony on two of the most important NAIC modernization initiatives — national treatment of insurers and speeding insurance products to market — where state regulators are moving beyond the requirements of GLBA to modernize the state regulatory system.

“We are committed to achieving the specific objectives of regulatory modernization on a set schedule while continuing to preserve consumer protection through state regulation. We look forward to continuing our work with Congress, our governors and legislatures, and other interested parties as we develop and implement our modernized programs,” Covington stated.

Covington’s complete testimony is available on the NAIC’s Web site at www.naic.org under “News/Press/Publications.”

HIGHLIGHTS OF FALL NATIONAL MEETING

SR2000 Awards

Three insurance departments were recognized for successfully implementing all 11 technology-based initiatives in the State Regulation 2000 (SR 2000) program: the District of Columbia Department of Insurance and Securities Regulation, the Oklahoma Department of Insurance and the Tennessee Department of Commerce and Insurance.

This brings the program to 70% toward 100% compliance for all 55 states and U.S. territories. Of those 55 jurisdictions, 75% are more than half way toward completing all 11 initiatives and 12 states are within two initiatives of completing the SR 2000 program.

Four States Earn Second Round Accreditation

Four states were awarded second round accreditation certificates under the National Association of Insurance Commissioners’ (NAIC) Financial Regulation Standards and Accreditation Program. The certifications were presented to New Mexico, Tennessee, New Jersey and Vermont at the Opening Session of the Fall National Meeting. With these four awards, the total number of states receiving second round accreditation certificates is 40.

State Lines

National Lessons From Regional Opportunities

New Hampshire, like other states, has been challenged with transitions and disruptions in the health insurance marketplace. My arrival at the New Hampshire Insurance Department late last spring occurred during the midst of department analysis of the application of Anthem Insurance Companies Inc. to acquire the last remaining nonprofit health insurer then insuring nearly half of the commercial marketplace. Within weeks of the completion of that transaction, Tufts Health Plan of New England, a New Hampshire domestic insuring subscribers in New Hampshire, Maine and Rhode Island, was put into receivership and then, after unsuccessful exploration of opportunities to rehabilitate the plan, subjected to an order of liquidation on January 3, 2000. The liquidation proceeds apace. It pretty quickly became apparent that there were regional implications for these issues. I would like to concentrate on the liquidation of Tufts to reflect on what I have learned about opportunities for, and effectiveness of, interstate regulatory cooperation and coordination. While fact patterns and geography won't be exactly replicated elsewhere, some of what I've learned may be exportable.

(1) When things start going bad it's usually wise to get the bad news out early and often. Various constituencies clustered around the failing health plan needed to know we were all in this together. The New Hampshire Department initiated calls to other health plans, hospital and medical associations, agents and brokers, and business associations. We shored up our consumer support capabilities to eliminate consumer confusion. This included providing regularly updated service on our Web site. We made contacts and briefed the executive and legislative branches. Because the department had built bridges to many constituencies during deliberation on the aforementioned Anthem transaction, the communications were reasonably fluid. These early and regular communications and updates did much to minimize uncertainty.

(2) NAIC members in concert can enhance regulatory efficiency. A challenge was posed in opening durable lines of communication with other regulators. Sure, there were past communications state to state, as well as through the NAIC and the Northeastern Zone, but to my knowledge there had never been such an intense need for the New Hampshire Department to communicate on a matter of such urgent uncertainty, i.e., patient care and continuity of coverage, as well as the orderly migration of business to alternative carriers. Those lines of communication among New Hampshire, Maine and Rhode Island regulators proved essential as the weeks went forward. Additionally, because the plan parent was a Massachusetts-based plan and a number of its affiliates were Massachusetts corporations, our communications with the Massachusetts Department were also vital. Relationships with those regulators in other states did much to minimize confusion and disruption. We appreciated their assistance.

(3) State borders do not necessarily define marketplace. In addition to interstate communications about market disruptions, new opportunities have developed to explore interstate initiatives to address other marketplace issues. During the past six months, the three northern New England states, as well as a broader group of states within the Northeastern Zone, have been engaged in discussions regarding prescription-drug coverages. These discussions may promote productive initiatives, particularly in the prescription drug coverage area. Additionally, discussions have been initiated among the three northern-most states with regard to the individual health insurance marketplace.

We in New Hampshire look forward to ongoing regional opportunities and believe our recent experiences bode well for national, cooperative opportunities to address regulatory challenges.

By Commissioner Paula Rogers
New Hampshire Department of Insurance