

Congress of the United States
House of Representatives
Washington, DC 20515

November 18, 2009

The Honorable Harry Reid
Majority Leader
U.S. Senate
S-221 The Capitol
Washington, DC 20510

The Honorable Dick Durbin
Majority Whip
U.S. Senate
S-321 The Capitol
Washington, DC 20510

Dear Majority Leader Reid and Majority Whip Durbin:

As the Senate finalizes its version of health care reform legislation, we urge you to include a provision from the House-passed bill that repeals the health and medical malpractice insurance industries' exemptions from all Federal antitrust laws. Subjecting the health and medical malpractice insurance industries to the antitrust laws is a vital step toward reforming health care, lowering prices for consumers and doctors, and leveling the playing field for American businesses.

As you may be aware, the health insurance industry, as well as all other lines of insurance has enjoyed an exemption from the Federal antitrust laws since passage of the McCarran-Ferguson Act in 1945. Regulation of the insurance industry has since been left largely to the states, which suffer from a lack of resources to go after offenders, as well as a patchwork of fifty different state regulatory regimes with inconsistent enforcement. A recent survey by the Center for American Progress of actions by state insurance commissioners found only extremely limited and sporadic state enforcement.¹ We believe that because of this, the antitrust exemption has allowed insurance companies to engage in anti-competitive and anti-consumer behavior.

For this reason, section 262 of the House-passed version of H.R. 3962, the "Affordable Health Care for America Act," included a full repeal of the McCarran-Ferguson Act as it applies to health insurers and medical malpractice insurers. The bill also ensured that the Federal Trade Commission (FTC) could work with the U.S. Department of Justice in investigating the insurance industry by permitting the FTC to investigate health insurers and medical malpractice insurers regardless of whether they were carried on for profit.

We would look forward to working with you to ensure that these provisions are enacted into law. Please feel free to contact us if we can be of assistance.

Sincerely,


Louise M. Slaughter (D-NY)


Peter DeFazio (D-OR)

¹ David Balto & Stephanie Gross, *Don't Leave It to the States: Leaving Health Insurance Oversight to State Regulators Is A Dangerous Idea*, Oct. 22, 2009, available at http://www.americanprogress.org/issues/2009/10/health_oversight.html.