

**Testimony of**  
**Commissioner Monica Lindeen on behalf of**  
**The National Association of Insurance Commissioners**

**Before the**  
**U.S. House Committee on Energy and Commerce's Subcommittee on Health**

**Regarding:**  
**H.R. 1624 – Protecting Affordable Coverage for Employees Act**

**September 9, 2015**  
**2322 Rayburn House Office Building**

### *Introduction*

Good morning Chairman Pitts, Ranking Member Green, and distinguished members of the subcommittee. My name is Monica Lindeen, and I am the elected Commissioner of Securities and Insurance for the State of Montana, currently serving my second term, and the president of the National Association of Insurance Commissioners (NAIC). I want to thank you for holding this hearing on the Protecting Affordable Coverage for Employees (PACE) Act, H.R. 1624, which Vice-Chair Guthrie, along with Congressman Cardenás, introduced earlier this year.

### *Summarizing the PACE Act*

The NAIC represents the chief insurance regulators of the 50 states, the District of Columbia, and five U.S. territories, whose primary roles are protecting consumers and promoting vibrant and competitive insurance markets. As such, I come before you this morning to urge the immediate passage of the PACE Act, which, as you know, would return the federal definition of “small group” to employers with 1-50 employees.. The Affordable Care Act (ACA) changed the federal definition of the small group market to include employers with 1-100 employees, but allowed the states to continue defining the small group market as employers with 1-50 employees until January 1, 2016. Beginning on or after this date, plans sold or renewed for employers with 51-100 employees will be subject to the various small group health plan regulations established by the ACA, such as essential health benefits, different rating pools, actuarial value requirements, different medical loss ratio requirements, adjusted community rating rules, and others.

### *Assessing the Potential Impact*

The NAIC has endorsed the PACE Act because it would retain state flexibility to set the appropriate limits for the small group health insurance market and ensure stable small group markets that reflect the unique characteristics and dynamics at play in each of the states. If this legislation is not signed into law, a series of market disruptions could occur. Before I enumerate, I want to be clear that the impact will vary by state, which is why defining the small group market should be left to the states, especially since the legislation does not prevent them from changing the definition to include all employers with 1-100 employees as they see fit and a few states have already made the change.

First, failure to pass the PACE Act would subject employers with 51-100 employees, or mid-size employers, to new rating restrictions, which could result in significant premium increases for some groups. For example, by compressing premiums due to the age-rating restrictions established by the ACA for the small group market, the premiums for mid-size employers with a younger population would go up significantly.

Second, employers with 51-100 employees would face additional benefit requirements and cost-sharing restrictions, which would reduce benefit flexibility and could increase out-of-pocket spending. When employers with 1-50 employees were first subjected to these requirements beginning in 2014, the impact was minimal because groups of this size were already subject to certain rating restrictions. Mid-size employers, however, have typically had greater flexibility in rates and benefit options to choose from. Without this flexibility, mid-size employers will have

to seek out new plans that meet essential health benefit benchmark and actuarial value requirements, which could also increase premiums.

Lastly, these regulations could lead some employers with younger and/or healthier employees to self-insure as a way of avoiding higher premiums and limited coverage options, which could result in adverse selection in the small group pool. This, in turn, could increase premiums for employers with 1-50 employees.

As you know, the U.S. Department of Health and Human Services has offered a transition option by publishing guidance that they will not enforce certain small group market regulations for existing health plans provided by employers with 51-100 employees if the plan is renewed on or before October 1, 2016, effectively staving off the new regulations until October 1, 2017. The NAIC surveyed the 50 states and the District of Columbia, and most responded that they will be utilizing this transition option. Nevertheless, we believe a more comprehensive fix provided by this legislation is necessary to preserve coverage options for existing and new purchasers and ensure stability for the future.

### *The Reasons for Urgency*

The NAIC encourages Congress to act quickly. Most mid-size employers shop for coverage annually to ensure the best price for themselves and their employees, but they need final rates and product information by late September in order to make these decisions and carry on with the preparing of employee communications and open enrollment materials and the actual conducting of open enrollment in advance of the effective date. Those employers who may be

new entrants into the market in 2016 also need to know what options will be available to them. Quick action would avoid unnecessary confusion and disruption as we move into 2016.

*Conclusion*

For all of the reasons I have articulated this morning, the NAIC strongly supports immediate passage of the PACE Act. Thank you and I would be happy to answer any questions.