



April 4, 2023

The Honorable Bill Dodd
Member, California State Senate
1021 O St., Ste 7610
Sacramento, CA 95814

SUBJECT: Senate Bill 263 (Dodd) – Oppose Unless Amended

Dear Senator Dodd,

On behalf of our organizations and members, we are strongly **OPPOSED** to **SB 263** unless it is amended to reflect the compensation disclosure provisions in the NAIC Annuity Suitability Model Act

The National Association of Insurance and Financial Advisors of California (NAIFA-California) and Independent Insurance Agents and Brokers of California (IIABCAL) are the largest associations of professional licensed insurance agents and other insurance industry professionals. Together these trade associations represent the great majority of California's 350,000 licensed insurance agents doing business in literally every community in the state.

Our members help millions of individual Californians and businesses evaluate, select, purchase, and use their insurance policies, resulting in greater financial security. Our agents also serve as consumer advocates for the insured and their families when there are coverage issues or concerns arise and when policy benefits are to be paid.

As associations representing insurance agents in California, we understand the importance of consumer protections and laws governing agents and insurers.

Save 15%, Call GEICO.

This widely broadcast advertisement is deceptive and untrue. It implies that a customer will save 15% off their insurance because this company does not pay commissions. The reality is this company spends tens of millions of dollars on advertising to support their sales system which, in turn, results in their products being competitively priced with other insurers.

This is just one example that highlights the danger associated with placing a focus on compensation paid to an insurance agent, rather than consideration of price, coverage, financial strength, claims-handling reputation and ability, and any number of other factors that can distinguish insurance companies and their products in a competitive marketplace.

Insurance products are sold through a variety of different delivery systems: There are so-called "direct writers," who sell policies electronically or through employees who work solely for that company. There are "captive agency companies" that hire agents, as employees or independent contractors, to sell policies solely for that company. There are "independent agents," who have the contractual freedom and expertise to represent multiple, competing insurance companies. And there are "brokers," who, like independent agents, have the ability to sell products for multiple insurers, but are deemed agents of the consumer, not any insurer. The people who sell and service insurance policies are compensated in a wide variety of different ways. Independent agents are paid a sales commission. Captive agents who work as independent contractors are customarily paid a sales commission but can also benefit from office subsidies and heavy national advertising. Employed agents can be paid on commission or salary, or both, and are also

provided office space, support services, health insurance and other employee benefits and often qualify for incentive bonuses. Brokers are customarily paid not by commission, but by fee negotiated with and paid by the policyholder. Despite the different compensation structures, the cost of like insurance products in the marketplace is highly comparable and extremely competitive. That is why statements like the example above are so deceptive.

SB 263 only applies to insurance agents who are paid on commission. The bill thus discriminates against independent agents who own their own businesses and pay all their own overhead and expenses. This is because independent agents are generally paid higher commissions to offset their cost of doing business, as compared with other sales systems.

SB 263 ignores employee agents who are paid a salary, provided office overhead and support services, employee benefits, employee benefits, and sales bonuses or incentives. The bill also creates an unlevel playing field as compared to captive insurance agents because captive agents are generally paid a lower commission because of the financial support provided by the insurer.

SB 263 defines compensation as *anything of value, if paid as commission or otherwise and if paid as cash or by some other means, received by a producer in connection with the recommendation or sale of an annuity or life insurance policy from an insurer, intermediary, or directly from the consumer.*

In our opinion this definition exempts salaried insurance agents, leaving only agents paid by commission as included in the bill. Moreover, other provisions of the bill exempt direct sellers where the agent or representative is paid by salary providing further evidence of the intent to exempt such agents.

Even if this definition is interpreted to include employed agents, the employee could never disclose all of their compensation, including salary, office and support services, employee benefits, bonus and incentives, in a manner that would be comparable or fair to independent agents.

The NAIC Model Act recognizes that producer compensation is one relatively minor component in the overall cost of an insurance policy, that the existence of multiple delivery systems and compensation models make an “apples-to-apples” comparison impossible, and that consumers should evaluate total premium cost, along with any number of other factors before purchasing any insurance policy or product. As such, the Model Act simply requires disclosure of the fact of compensation and avoids discriminating against delivery systems. The Model Act has already been enacted in 33 states with the support of the insurance commissioners in those jurisdictions.

In closing, it is important to highlight the fact that agents do not chase commissions. It gets back to basic business scruples. If agents take care of their clients, chances are high they will grow their business and be well recognized in their communities. This is why so many agents have been in the business for many years and have the privilege of seeing clients benefit from the policies they have been sold. Whether it be sending kids off to college or delivering a death benefit, insurance agents are there for their clients and want to see their hard work pay-off as planned. Insurance agents have to be properly serving their clients because, if they aren't doing so, they will not be doing business in their community for very long. The nature of the insurance agent business is to protect, preserve and grow clients' dreams. SB 263 would jeopardize their ability to do so. For this reason, we respectfully oppose SB 263 (Dodd) unless it is amended to adopt the compensation disclosure provisions in the Model Act.

Please do not hesitate to contact us if you require further information: John Norwood (IIABCal) at (916) 447-5053, or Shari McHugh (NAIFA California) at (916) 930-1993.

Sincerely,



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