



September 19, 2002

To: Insurance Commissioners  
50 states and the District of Columbia

Dear Commissioner:

Re: Follow-Up to Americans for Insurance Reform July 30, 2002 letter

By letter dated July 30, 2002, Americans for Insurance Reform (AIR) requested that you undertake a series of audits, investigations and reforms to control excessive prices during this hard market cycle.

As you may know, the leadership of the National Association of Insurance Commissioners (NAIC) has responded to AIR's letter, which had been sent to each state commissioner. By letter dated August 28, the leadership indicated that they would recommend that the NAIC's Property and Casualty Committee evaluate AIR's proposals, and that they would consider appointing a Market Conditions Working Group "to coordinate the evaluation of [AIR's] recommendations and to monitor the most distressed lines of business, formulate solutions, and propose regulatory responses."

While we are most grateful that the NAIC will undertake this important research and we look forward to working with the NAIC P/C Committee on this effort, the NAIC is not considering, and indeed has no authority to initiate, a number of urgent actions that AIR's letter requests of you to control excessive prices today. Therefore, while we await the results of the NAIC analysis, we would like to know what you plan immediately to do to help those who are being gouged now and need your assistance right away.

You will recall that our July 30 letter contained a list of steps that we asked you to take. The following is a list of actions that we ask you to take immediately. Please let us know what your insurance department plans to do with regard to each of the following:

- a. Regulate excessive pricing. One cause of the cycle is the lack of regulatory action to end excessive and inadequate rates during the different phases of the cycle. Please start now by regulating the excessive prices being charged by insurers today in your state. At least hold the necessary hearings to determine if the prices are not excessive.
- b. Advise your legislators that the solution to prevent shock rate increases such as we are now experiencing is insurance reform, not "tort reform."

- c. Freeze particularly stressed rates until the examination of the prices and remarkable jumps in loss reserves can be fully analyzed. For instance, medical malpractice and homeowner rates should be frozen. A rollback of unjustified rate increases that have already taken effect should then be in order.
- d. Require that risks with poorer experience pay more than good risks in lines of insurance where such methods are not in use today. For example, require medical malpractice insurers to use claims history as a rating factor, and to give that factor significant weight. Auto insurers use an individual's driving record as a rating factor; workers' compensation insurers use the employer's loss experience as a rating factor— so-called "experience mod." Malpractice insurers should do the same. In addition, you should require all medical malpractice insurers to offer all "good" doctors— *i.e.*, all doctors meeting an objective definition of eligibility based on their claims history, their amount of experience and perhaps other factors – the lowest rate.
- e. Create a standby public insurer to write risks when the periodic cycle bottoms and hard markets occur, such as a medical malpractice insurer funded by a start-up loan from the state to compete with the existing malpractice carriers. Several states have created such carriers to write workers' compensation, and in many states such carriers have helped bring down workers' comp rates. Similarly structured medical malpractice insurers should have similar success.
- f. More strongly regulate auto and homeowners insurance to prevent shock price increases and insecurity for policyholders. For example, you must prevent insurers, like State Farm, from overreacting by not writing new business in some states and by adopting draconian underwriting rules for renewal business. If the rate increases are shown to be high due to corporate policy (such as State Farm holding down prices as a marketing strategy), prices should not be allowed to go up suddenly but be spread over at least a three-year period to avoid "sticker shock" for your state's citizens.
- g. Ask the NAIC to stop implementation of the deregulation of commercial rates and forms which the NAIC is unwisely pushing at this time. Oppose the implementation of such deregulation in your state.

While the above measures are by no means the only actions our July 30 letter requests, they are the most urgent. Please advise us of actions you are taking to help your stressed commercial and individual consumers of insurance.

Thank you for your prompt response.

Yours truly,

/s/

J. Robert Hunter

On Behalf of Americans for Insurance Reform