

**More That  
Should Be  
Done**

# **Protect Consumers from Individual Health Insurance Marketing & Sales Abuses**

*Harold M. Ting, PhD FACHE  
NAIC Unfunded Consumer Representative*

*Presentation to  
NAIC Regulatory Framework (B) Committee  
November 19, 2020*

# This Presentation

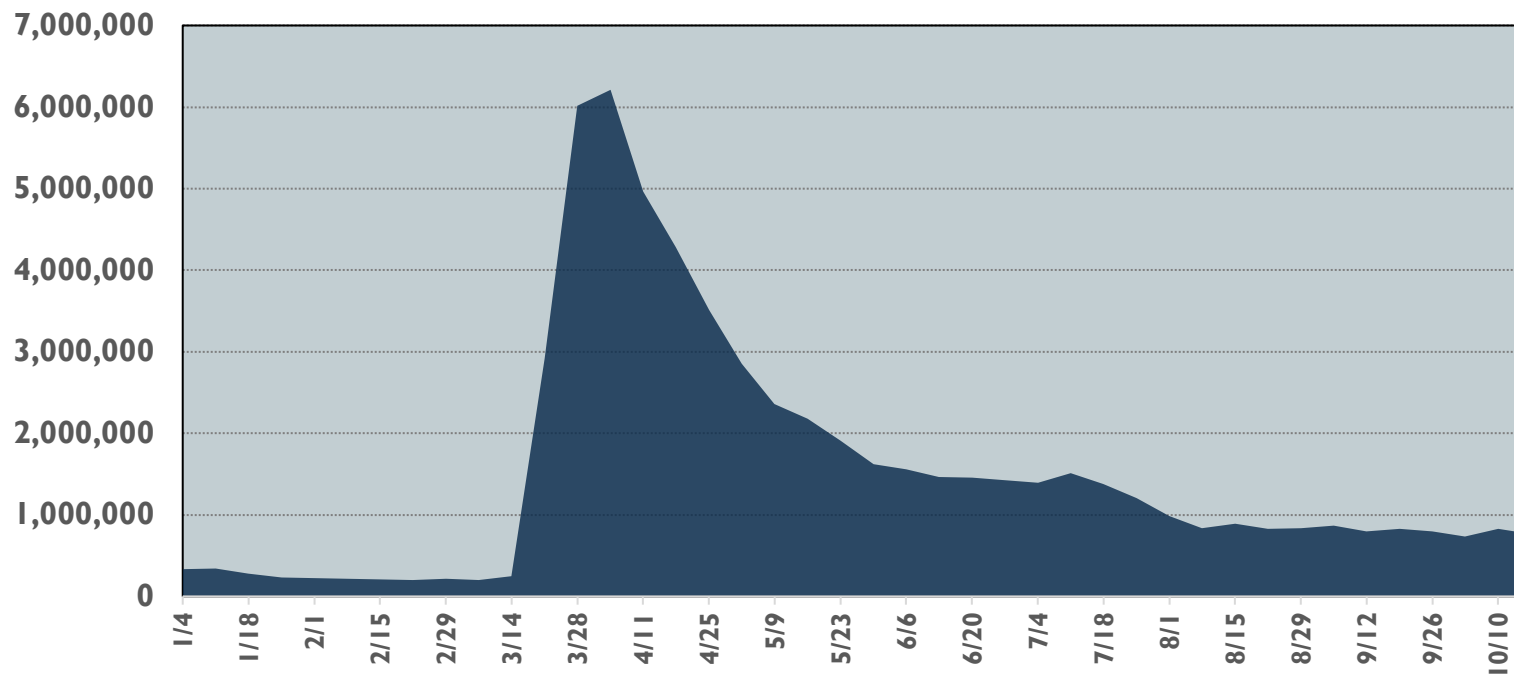
- Explain why the problem is especially serious during the pandemic
- Describe my secret shopping
- Recommend actions to combat it
  - States
  - NAIC

## Serious Harm of Misrepresentation

- Thousands of dollars in uncovered medical bills
- Unwarranted rescission of policies for pre-existing conditions through post-claims underwriting
- Financial ruin & inability to get the healthcare they need.

# An Extremely Urgent Issue

Weekly New U.S. Unemployment Claims, 2020



## MY SECRET SHOPPER

- Searched online for “health insurance” in 6 states: out-of-work 30 year old, \$30-35k income, healthy or diabetes
- Selected top listings that took me on 3+ lead generating websites asking for detailed personal info - selling my data
- Eventually directed to insurance websites that prompted to call an agent
- Many sales reps called at the same time.

## Secret Shopping Experience

- Low cost, non-ACA plans were usually recommended
- Fixed indemnity & healthcare shared ministry were recommended more than STLDI
- Most “sellers” would not give me their full names
- Of those who did, some had revoked or expired licenses

# Common Misrepresentations

- Deceptive use of BC, Aetna logo or name
- No explanation of pre-existing condition exclusions, renewal limitations
- Deceptive examples to give illusion of comprehensive benefits
- Shared ministry plans portrayed as excellent *insurance*.
- Impression of drug coverage when only a discount card
- Association membership requirement not mentioned – in one case, dues were \$90 of \$205 monthly premium.

*“Many are switching to X plan. It’s just common sense. The prices are cheaper & the coverage is great!”*

- *“ObamaCare plans are very expensive, have high deductibles & limit the doctors & hospitals you can see.”*
- Most did not mention possibility of premium tax credits or deductible or copay reductions
- Not worth it, because *“you don’t need pregnancy, mental health or substance abuse benefits, right?”*.
- Yet several tried to bundle in accident or dental insurance to increase their commissions.



“You’ll Get Written Info After You Apply”

- Resisted providing plan documentation
  - ” Just tell me what questions you have & I’ll answer them.”
- Brochures
  - Name of insurer unclear. NAIC Code never given
  - “description of benefits, exclusions or limitations may vary depending on state laws.”

## Fast Talking, High Pressure Sales

- Pressured to enroll next day -- “Premiums change day to day”.
- Shared ministry plans - *“Premiums will never change.”*
- One agent insulted me when I said I needed more time.
- Shared ministry plan seller reduced premium by \$300, when told I was talking with another agent too.

## Actions States & NAIC Should Take

- Expand state regulations & revise Model #171
- Survey plan enrollees & share results
- Proactively distribute guidance

*Include fixed indemnity, HCISM & STLD plans, whether sold through an association or not.*

## State Regulation & Model 171

- Enhance transparency – insurer name & code, standard summary with **Statement of Benefits & Coverage** in **advance**
- Explain how to learn if eligible for financial assistance
- Prohibit pre-existing condition recission unless insurer proves insured given **documentation & intent to deceive**
- Hold **insurers & agencies accountable** – PA HB 2730

# Enhance Transparency

- Require the official **name** of the insurer with **NAIC Code** on all sales & policy literature
- Mandate **standardized disclosure**
  - Key policy provisions (see box)
  - CMS Statement of Benefits & Coverage
  - Including SBC standard 3 scenarios
- **Provide at least 2 days before application**

## KEY POLICY PROVISIONS

*Period covered by policy*

*Ability to renew*

*Annual benefit payment limits*

*Lifetime benefit payment limits*

*How to see provider network*

*How to see drug formulary*

*Look back period*

## Possibility of Financial Assistance

- Require all marketing & plan materials to
  - advise consumers they may be eligible for financial assistance if they buy ACA plans or qualify for Medicaid
  - provide specific information on who to contact in their state to explore those options.

## Strengthen Pre-Existing Condition Protections

- Only hold consumers accountable for pre-existing conditions, where a licensed medical professional **provided the insured a document** that states those conditions were present. Far superior to applying “prudent person” criteria.
- Prohibit policy rescissions unless enrollee made a false statement with **intent to deceive**, which materially affected the issuer’s acceptance of risk. [PA HB 2730]

## Hold Insurers & Agencies Accountable

- Before a personal solicitation, seller must disclose name, agency, license, insurer [MINN. STAT. 60K.46]
- Hold **insurers** independently responsible for violation of state regulations by sellers of their plans
- Hold **general agents** or **independent agencies** independently responsible for their producers' violations of state regulations.

PA HB 2730



## Pilot A National Survey of Enrollees

- **Enrollee surveys** are the only way to assess whether sellers communicated honestly
- Standard practice at CMS, NCQA
- Require plans of interest to provide info on enrollees & the names of sellers commissioned for those sales
- Survey a sample a few months after enrollment
- Get foundation funding for design, plans pay to implement.

## Types of Survey Questions

- Did you receive a written policy before you enrolled?
- Was your plan presented to you accurately? If not, why?
- STLDI's – Were you aware that pre-existing conditions are not covered? Did the insurer or seller explain to you whether you had any excluded conditions?
- HCSM's – Were you aware that your policy is not insurance?

## Use of Surveys

- Identify plans & sellers that should be investigated for misrepresentation
- Incent sellers to follow ethical sales practices & insurers to drop unethical sellers
- Ideally, provide national consumer ratings at an NAIC website on plans & their sellers.

## Proactive Guidance Outreach NOW

- Adapt *“Before You Buy Low Cost Health Insurance, Know What You Are Buying & Get Advice From A Trusted Source”* & post
- Distribute it via
  - State unemployment agencies to new filers
  - Medicaid agencies to people found ineligible
  - Federal/state exchanges to users.

# Misrepresentation is the COVID-19 of the Individual HI Market



- It's deadly financially & possibly physically
- When it strikes, harm can be irreversible
- State Insurance Depts are the consumers' public health system
  - **FIND** where it is coming from
  - **PREVENT** it from spreading
  - **FIGHT** it with a coordinated national effort.