



January 9, 2008

Honorable Sheila Kuehl
Chair, Senate Health Committee
California State Senate
The Capitol Building
Sacramento CA 95814

RE: ABx1 1 (Nunez/Perata)- Support with clarifying amendments

Dear Senator Kuehl:

Consumers Union, nonprofit publisher of *Consumer Reports*, writes in support of ABx1 1 with amendments. Since our founding in 1936, Consumers Union has worked to attain universal, affordable, high-quality health coverage for all. Over the past year we have sought to help craft reform that would bring affordable, comprehensive health insurance coverage and high quality care to all Californians, perhaps the most important and complex policy issue facing the State of California and the entire nation.

We supported your universal care bill SB 840, as well as AB 8 (Nunez) in its final amended state. We also believe that ABx1 1 would create a system that would ensure the availability of affordable health care on a scale commensurate with the State of California. We urge your support for this landmark bill.

Our framework for evaluating any proposal for universal health reform rests on three broad principles:

- Fair, adequate financing;
- Access to comprehensive, affordable care;
- Quality, efficiency and cost control.

We find that ABx1 1 creates a framework that meets these principles in large measure and would be a dramatic improvement to the current healthcare system in California. We are in the process of reviewing the terms of the accompanying ballot initiative. Our comments at the end of this letter discuss the clarifying amendments we seek.

A. Fair, adequate financing

Consumers Union agrees that all stakeholders including government, employers, providers, and individuals have a responsibility to contribute their fair share to achieving universal coverage. This bill requires consumers to secure coverage, but contains affordability and hardship exemptions (see further discussion below). Solid financing is needed to assure the long-term stability of the program. The bill sets forth the component parts of the financing structure, and the ballot measure contains the rest. The ballot measure states the intent to finance this reform through a \$1.75 per pack tobacco tax, a hospital contribution of 4% of patient revenues, and a

scaled employer contribution from 1% (if payroll is \$100,000 or less) to 6.5% (with payroll greater than \$15 million per year).

The bill and companion initiative provide for bringing in billions of dollars in federal Medicaid matching funds to the California health care system. Together, these pieces, including consumer contributions, appear to create a solid, diversified set of funding streams. We continue to examine the details of the ballot initiative.

B. Realistic access to comprehensive, affordable care

This bill that would widely expand access to insurance through significant public program expansions and simplifications that Consumers Union has long supported. Broadening Medi-Cal and Healthy Families eligibility, including to children regardless of immigration status up to 300% of the federal poverty level (FPL) as well as childless adults up to 250% of the FPL, is to be commended as significant additional help for the poorest Californians.

The mandate to purchase coverage exempts those with income below 250% of the federal poverty level (FPL) who do not qualify for public programs. For those with employer coverage and income between 250 and 400% FPL, coverage would be available under the purchasing pool with a tax credit to assist them in getting coverage. The subsidy available would limit the share paid on premium and the mandate is contingent on subsidies.

The bill also provides that MRMIB shall establish a process for determining “continuing” exemptions when the individual’s contributions to health coverage premiums would “interfere with basic necessities of life”, as well as temporary exemptions for specific circumstances and conditions such as hardship resulting from natural disasters or changes in family circumstance. These exemptions, to be further defined administratively, go a long way to addressing the concern we have voiced from the outset that consumers not be required to purchase a product they cannot afford.

Individual market reforms including guaranteed issue, phased in community rating, and the requirement that 85% of premium dollars go to patient care, will ameliorate some of the dysfunctionality of the non-employer-based private market. Organizing the individual market into five-tiers of coverage with benchmark plans for each will allow for comparison shopping; and creating a floor on benefits requiring coverage for doctor visits, hospital care and prescription drugs, as well as setting maximum deductibles and out of pocket costs, are important new provisions.

We support the broad outreach and education program about the individual mandate with multiple entry points envisioned in this bill in section 12739.51. Widely publicized, clear information about the mandate and ways to access the right coverage for each consumer’s needs will be critically important. And we understand the rationale for defaulting consumers into a plan if they have not obtained minimum creditable coverage on their own: they will have insurance coverage although they did not secure it themselves, and the risk pool and revenue stream will be broadened. Under this bill, methods for collecting premiums from those that have been defaulted into a plan are to be spelled out at a later point.

Section 12739.51 would require a report to the Legislature on intended interagency agreements and enforcement steps to collect from consumers defaulted into a plan. This would give the Legislature a chance to act if it deems the proposed steps unacceptable. We seek the following amendment to clarify in advance that, whatever those future agreements may be, certain

protections are in place to ensure that debt collection problems we have seen in the hospital billing realm do not occur here. We suggest the following amendment to 12739.51(e):

Neither the state, its assignees, or agents including collection agencies shall, in carrying out the duties under this section, use wage garnishments or liens on primary residences as a means of collection. No interest shall accrue for individuals who have defaulted into a plan. Collection fees, if any, for individuals shall be reasonable, as determined by MRMIB.

Nothing in this section shall be construed to diminish or eliminate any protections consumers have under existing federal and state debt collection laws, or any other consumer protections available under state or federal law.

C. Quality, Efficiency and Cost Control

This bill contains concrete measures aimed at controlling health care costs, an essential step to ensuring that the reforms enacted are enduring. Given the skyrocketing cost of health care, strong measures are needed to slow that escalation and to sustain any new program for the long-term. There is no silver bullet for containing health care costs, but a constellation of provisions in this bill is targeted at prevention to ensure that chronic conditions and their attendant costs are avoided in the first place or effectively managed, thus saving health care system dollars. These provisions include “Community Makeover Grants,” wellness incentives, diabetes management and smoking cessation programs.

The creation of a plan for significantly enhancing our system for collecting and disseminating health care safety, quality and cost information at all levels of the healthcare system as contained in this bill is a critically important step to save health system dollars. The bill’s California Health Care Cost and Quality Transparency Committee will develop a plan, to ensure comprehensive and efficient collection of data from physicians, hospitals, and nursing homes to help consumers choose the best-value care and give providers the information and incentives they need to improve their performance.

Public disclosure of safety and quality information, such as mortality rates by hospital, has been shown to instigate concrete, self-improvement by health care providers—to save lives and also save health system dollars for both public and private payers. Studies repeatedly show that public reporting of medical outcomes leads to improved performance.¹ And improving performance saves lives, while also saving money in the health care system. While there are some voluntary efforts underway to collect data on health care quality and cost, the data are incomplete, inconsistent and hard to compare.

Under ABx1 1, health care providers will have the information they need to evaluate their performance vis a vis their peers and make improvements. Requiring public reporting of key cost drivers such as hospital-acquired infections, as 20 other states do, for example would result in significant savings—of lives and dollars. The Administration estimates that hospital-acquired infections cost the health care system in California \$3 billion per year, and medical errors cost another \$1 billion per year. Exposing these outcomes and other federal “Patient Safety Indicators” to the light of day would result in quality improvement and reduced hospital stays.

¹ See, e.g., “Hospital Performance Reports: Impact on Quality, Market-Share and Regulation”, Hibbard, J., Stockard, J., and Tusler, M., Health Affairs (July/August 2005)

In addition, the bill's support for the use of e-prescribing, electronic medical records, and personal health records will we believe foster better health, help avert medical errors and achieve long-term systemic savings.

Clarifying amendments requested

- Section 12739.51(e)- Per above draft language, to clarify enforcement shall not include wage garnishment and certain other features.
- Clarify that the benefits provided in the purchasing pool, other than those under the Healthy Families Program, include the covered services required under Knox-Keene plus prescription drugs.
- Section 17052.30- Clarify that the premium on which the tax credit will be based is for a product that provides coverage for physician visits and prescription drugs with no deductible.

Conclusion

Consumers Union appreciates and applauds the deep commitment shown by the Assembly Speaker, President pro Tem, and the Governor to making high quality, affordable health care available to all Californians. We believe that ABx1 1, with the suggested clarifying amendments, would provide an historic step toward comprehensive reform in California. We urge your "aye" vote.

Respectfully submitted,



Elizabeth M. Imholz,
Special Projects Director

cc. Members of the Senate Health Committee
Assembly Speaker Fabian Nunez
Senate President pro Tem Don Perata
Governor Arnold Schwarzenegger