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The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the American Bar Association, I am writing to convey the ABA's strong support for H.R. 3596, as amended, to partially repeal the McCarran-Ferguson exemption from the federal antitrust laws currently enjoyed by the insurance industry. We are especially pleased that H.R. 3962, the House version of health reform legislation introduced on October 29, incorporates the language of H.R. 3596.

H.R. 3596 was amended, prior to being reported from your Committee, consistent with ABA recommendations to provide safe harbor for certain procompetitive conduct. We appreciated your providing ABA Antitrust Law Section Chair Ilene Knable Gotts an opportunity to present the ABA's full policy on the McCarran-Ferguson exemption before the Judiciary Committee last month and believe the safe harbors incorporated in the legislation will provide clarity and guidance to the industry without diminishing competition.

The ABA believes that the current McCarran-Ferguson exemption to the antitrust laws should be repealed and replaced with legislation that permits certain cooperative activity between insurers to continue, but in general makes insurers subject to the same antitrust laws applicable to all other industries. We also recommend that states retain the authority to regulate the business of insurance. Finally, while we believe that the same concerns and considerations that are addressed by H.R. 3596 apply with equal force to areas of the insurance industry outside of the health care and medical malpractice context, the ABA believes that H.R. 3596, as amended, constitutes an important--and welcome-- first step in this direction.

Please let us know if we can be of help. Thank you.

Sincerely,



Carolyn B. Lamm

cc. Members, Committee on the Judiciary