Testimony of

Carol Cutter, Chief Deputy Commissioner Health and Legislative Affairs
Indiana Department of Insurance

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Good afternoon Chairman Kohl, Ranking Member Martinez, and members of the Committee. Thank you for the opportunity to testify today regarding the regulation of long-term care insurance. My name is Carol Cutter, and I am the Chief Deputy Commissioner of Health and Legislative Affairs for the Indiana Department of Insurance. My purpose today is to provide the Committee with the history of the Indiana Long Term Care Partnership Program (ILTCIP).

We believe it is important for the Committee to have detailed information regarding Indiana's experience with long term care partnership products, as you consider any regulatory changes. This program was implemented by then-Governor Evan Bayh in May, 1993. Governor Bayh recognized the need for Indiana residents to assume self-responsibility for funding long term care expenses. He also believed this program would help protect the State of Indiana's Medicaid funds from individuals who could afford to insure, or self-pay with their own assets for long term care costs.

Since it's inception in 1993, ILTCIP has sold more than 45,000 policies covering all types of long term care services including facility-based, assisted living and care at home. 91% of these plans included benefits for all three types of services. Of those more than 45,000 policies, in only 30 times have consumers ultimately exhausted their policy benefits and been forced to apply to Indiana Medicaid for assistance. We have estimated the savings to the state Medicaid program during these years to be in the range of $10-12 million dollars. The documentation supporting this calculation was discussed in the *Issue Brief* written by Mark E. Meiners, George Mason University, for the Center for Health Care Strategies, Inc. in March of 2009.

There are currently nine insurers writing partnership plans in the state of Indiana. Since January, 2006 there have only been 71 complaints related to ANY long term care insurance contract filed with the Indiana Department of Insurance. Of those, 23 were

rate increase complaints and 45 that involved policy holder service or claims handling issues. Without consideration of all the other non-partnership long-term care policies in existence in Indiana, just out of the 45,000 partnership policies, that represents less than 100th of 1 percent. Our consumer consultants address each complaint individually and assist the consumer in obtaining resolution.

In addition to these consumer protection measures, even more importantly, our department carefully scrutinizes all long term care rates whether for a new product, a renewal, or a rate increase. We are especially fortunate to have had as our consulting actuary for over 15 years, a health actuary who also served the federal government. He was the director of the Division of Medicare Cost Estimates for the Health Care Financing Administration, currently known as Centers for Medicare and Medicaid Services. In that capacity he was responsible for the periodic actuarial valuations for Part A and Part B of the Medicare program.

Within this experience, we have not been persuaded that rate stabilization will be effective in controlling costs for long term care products. In fact, several states have already discussed with us their frustrations regarding the apparent inability of rate stabilization to slow down or reduce rate increases. In our review of the rate stabilization model, our conclusion is that this process restricts Indiana's ability to continue to carefully scrutinize long term care pricing.

In our opinion, the most effective change this Committee and the NAIC could consider would be a mandatory actuarial-level review by each state's Department of Insurance for any long term care product. The reason this would make a dramatic difference is that many states currently do not have either a contracted or in-house actuary to conduct formal reviews. Many states simply accept an actuarial memorandum submitted by the insurer as justification for rate structure. This means those states are not conducting any actuarial review on their own of this information. Many of the actuarial justifications that Indiana receives for long term care rate increases are heavily assumptive driven. For instance, the loss ratio a long term care policy must meet before a rate increase can even be submitted is 60%. This means the insurer has paid out 60% **OR MORE** in claim dollars than the company has collected in premiums **FOR THIS POLICY FORM OVER THE ENTIRE LIFE OF THE PRODUCT SINCE IT'S INCEPTION**. Assumptive driven justifications predict loss ratios into the future not based on incurred claims experience. For instance, an insurer may submit a request for an increase that shows a historical loss ratio of 72%. They will then apply an annual percentage increase to this number, again NOT based on incurred claims experience, and project into the future 10 or 20 years which may exponentially end up at a 1000%

loss ratio. This is why Indiana wants to have the ability to continue our current actuarial review process.

The Committee also needs to be aware of the fact that each of these insurers has to meet reserve capital requirements established by the NAIC in conjunction with the American Academy of Actuaries. In addition to solvency requirements that provide financial protection for consumers, there is also an organization called The National Organization for Life and Health Guarantee Association. This entity will step in if an insurer reaches insolvency and will pay claim benefits under a long term care contract. Therefore the consumer has two levels of protection that provide some benefit of financial stability for their purchase.

Indiana was very pleased when the federal congress passed the Deficit Reduction Act of 2005 which recognizes the need for expansion of long term care partnership programs. With federal and state Medicaid budgets in jeopardy due to long term care costs draining these funds, states should be able to have alternate insurance options to offer their constituents. In Indiana only 3% of Medicaid enrollees are receiving nursing home services but these enrollees consume 21% of the entire state Medicaid budget. As the aging population continues to have a greater need for long term care services, this unsustainable discrepancy will only get worse.

Because of this concern, Governor Mitch Daniels has approved a strong consumer awareness campaign for long term care products in general that will be conducted this fall. Indiana has indeed been fortunate to have two governors, both of whom have seen the need for self-responsibility and protection of tax payer funds.

Thank you for opportunity to appear before the Committee. Hopefully I have provided some positive perspective on Indiana's long term care partnership program. I will now be happy to answer any questions from the Committee.