Statement of David Martin

Good morning, Mr. Chairman and members of the Committee. I am David Martin, General Director, Long-Term Care, Contracts and Legislative Services at John Hancock Life Insurance Company in Boston. I also serve as the chair of the Long-Term Care Insurance Committee for the American Council of Life Insurers (ACLI). The ACLI is a Washington D. C.-based national trade association representing more than 400 member companies that offer life insurance, annuities, pensions, long-term care insurance, disability income insurance and other retirement and financial protection products. ACLI member companies have 87 percent of the long-term care insurance in force in the United States.

On behalf of the ACLI, I want to thank you for the opportunity to talk about long-term care insurance and the rate stabilization regulation recently adopted by the National Association of Insurance Commissioners (NAIC).

Before, discussing the new rate stability provisions of the NAIC Long-Term Care Insurance Model Regulation, I want to express our gratitude for the leadership role this Committee has taken in highlighting, through a series of hearings and in legislation, the significant role that private long-term care insurance protection plays in retirement security.

One of the greatest risks to asset loss in retirement is unanticipated long-term care expenses. Currently, it costs almost $16,000 annually for daily visits by a home health care aide and over $44,000 per year for nursing home care. Within the next 30 years, these expenses are projected to reach $68,000 per year for a home health care aide to $190,000 for a year of care in a nursing home. These costs can quickly erode a hard-earned retirement nest egg. Moreover, we know you are acutely aware that Medicaid will never be able to foot the bill for the millions of baby boomers who will need long-term care services in the not-so-distant future.

You and members of this Committee have supported the need to encourage the purchase of private long-term care insurance in order to meet the nation's long-term care needs without crippling taxpayers and already strained government programs.

You, Mr. Chairman, were instrumental in including the above-the-line deduction for qualified long-term care insurance in the minimum wage amendment to the Bankruptcy Reform bill, S.625, and in the Patients' Bill of Rights, S.1344. Moreover this provision has been included in two additional pieces of legislation. The Long-Term Care and Retirement Security Act of 2000, S.2225, was introduced by you and cosponsored by other members of this Committee. Most recently, you and other members of this Committee have cosponsored S. 2935, the Omnibus Long-Term Care Act of 2000.

Providing this important tax incentive means that Americans who take advantage of long-term care protection will not be a burden on the Medicaid system and will not have to spend-down their retirement assets to pay for long-term care before becoming eligible for Medicaid. Instead, they will have the choice of a variety of services if they are unable to perform a specific number of activities of daily living or are cognitively impaired. Today's long-term care insurance policies cover a wide range of services to help people live at home, participate in community life, as well as receive skilled care in a nursing home. Policies may also include respite care, medical equipment coverage, care coordination services, payment for family care givers, or coverage for home modification. These options can enable people who are chronically ill to live in the community and to retain their independence.

Like our regulators, we are committed to maintaining and justifying consumer confidence in this increasingly important protection product. We believe that, working together, the industry and its

regulators have come up with a model regulation that affords maximum protection to long-term care insurance purchasers both in terms of consumer protection and rate stability.

Consumer Protections

It can now be said that private long-term care insurance is clearly an idea whose time has come. The product is considered a valuable and meaningful tool for planning a financially secure retirement. It is also a product that is fully regulated with a substantial NAIC Model Act and Regulation which is used as an effective guidepost for states to follow and adopt. All states, including the District of Columbia, have some version of the Model enacted into their state laws and regulations. Further, the NAIC Long-Term Care Insurance Models have been revised, updated and strengthened many times since the initial Models were adopted in 1986.

The passage of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which set certain requirements for long-term care insurance policies in order for them to be eligible for favorable tax treatment as federally qualified long-term care insurance policies, provided the initial spring board needed to encourage purchase of this product. It is important to recognize that HIPPA allows only a portion of the premiums to apply toward the 7.5 percent base for medical expense deductions currently allowed in the federal tax code.

The federal government's message through passage of this law was that individuals have to begin to take responsibility for their own retirement future and that message is now being heard throughout both the public and private sector. We firmly believe the passage of currently proposed federal legislation for an above-the-line deduction, and allowing cafeteria plans and flexible spending accounts to include long-term care insurance will help to continue to expand and build on that important message. The ACLI and its member companies are also very proud and supportive of the major strides that have been made with long-term care insurance with respect to the strong consumer protections now in place. Over the past 15 years, the NAIC, working with consumer groups and the insurance industry, has made certain that much needed consumer protections are included in the NAIC Long-Term Care Insurance Model Act and Regulation. All long-term care policies must meet the consumer protections standards set by the state in which they are sold, and any policy purchased today that qualifies for the HIPAA federal tax incentives must meet numerous NAIC consumer protections and other standards required by this federal law.

ACLI supports the current NAIC Long-Term Care Insurance Models in total and their adoption in the states. A few examples of the consumer protections that currently exist in the model are:

(1) The offer of a nonforfeiture benefit --- a policy provision that provides a paid-up benefit equal to the premiums if the policy is canceled or lapses;

(2) A contingent benefit upon lapse --- a provision that requires if premiums increase to a certain level (based on a table of increases) the insured is offered (a) a reduction in the benefits provided by the contract so that premium costs remain the same, (b) a conversion of the policy to a paid-up status with a shorter benefit period, or (c) to keep the policy and pay the increase;

(3) the delivery of Long-Term Care Insurance Shopper's Guide --- must be given to consumers by agents and insurers to help consumers understand long-term care insurance and decide which, if any, policy to purchase.

This guide is designed to educate consumers on how to purchase, how the policy works, and the cost and other shopping tips;

(4) An offer of inflation protection --- a policy benefit provision that provides for increases in benefit levels to help pay for expected increases in the costs of long-term care services;

(5) A prohibition on limiting or excluding coverage for Alzheimer's or certain other illnesses;

(6) A prohibition on cancellation of the policy due to advancing age or deteriorating health;

(7) A prohibition on increasing premiums due to advancing age;

(8) A continuation or conversion required for individuals covered under group policies;

(9) A designated individual, other than the insured, to receive notice of policy termination due to nonpayment of a premium, and the reinstatement of the policy if there is proof of cognitive impairment or loss of functional capacity;

(10) A prohibition against post-claims underwriting;

(11) A prohibition on requiring a prior hospital stay in order to qualify for benefits;

(12) Minimum standards for home health and community care benefits; and,

(13) A 30 day free-look period.

Rate Stability

The NAIC has recently completed its work and has adopted a new and important consumer protection provision to address concerns over premium rate increases for long-term care insurance. The goal of this new provision is to increase the likelihood that premium rates offered by long-term care insurance companies will be adequate over the life of the policy, that rate increases will be less likely, that only justified increases will occur, and that necessary increases will be smaller and less frequent.

The following is a list of key provisions of new NAIC provisions on rate stability:

1. **Initial loss ratio requirements eliminated**.

The current 60 percent loss ratio requirement on initial rate filings is eliminated. This enables companies to set more conservative initial premiums.

2. **Limits are established on expense allowances on increases**.

All rate increases are subject to an 85 percent (70 percent for exceptional increases) loss ratio on the increase and 58 percent on the initial premium. The 58 percent allows for a more conservative initial premium and the 85 percent severely limits amounts available for commissions and profit. It provides a powerful incentive for companies to charge an adequate initial premium.

3. **Unnecessary rate increases reimbursed to the policyholder**.

For each rate increase, the insurer must file its subsequent experience with the commissioner and if the increase appears excessive, the commissioner may require the company to increase benefits at no further cost to the policyholder or to reduce the premiums. This makes certain that premium increases that turn

out to be unnecessary are returned to policyholders.

4. **Review of administration and claim practices authorized**.

If the majority of policyholders subject to the increase are eligible for contingent benefit upon lapse, the company must file a plan, subject to commissioner approval, for improved administration or claims processing or demonstrate that appropriate processing is in effect. This is intended to eliminate lax administration and claims handling practices as a cause of continued rate increases. This will force companies to review claims more closely and to prevent them from paying inappropriate claims, which contribute to the need to increase premiums.

5. **Option to escape rate spirals by converting to currently sold insurance provided**.

Any time after the first rate increase, for other than an exceptional rate increase, if the majority of policyholders subject to the increase are eligible for contingent benefit upon lapse, and if the commissioner determines that a rising rate spiral exists, as demonstrated by a significant number of policyholders dropping their insurance, the commissioner may require the company to offer to replace existing coverage with a comparable product currently being sold without underwriting. This is a type of pooling. It provides policyholders trapped in a rising rate spiral the opportunity to switch from the troubled policy to a more stable, current policy without the insured being subject to any underwriting.

6. **State Insurance Commissioner authorized to ban companies from the market place**.

If the Commissioner determines that a company has persistently filed inadequate initial premium rates, the State Insurance Commissioner may ban the company from marketing long-term care insurance in that for up to five years. This penalty will essentially put the company out of this business in the state. It is intended as a last resort for the Insurance Commissioner when all else fails.

7. **Actuarial certifications required**.

For all rate filings, the company is required to provide an actuarial certification that no rate increases are anticipated. Actuaries signing such certifications are subject to existing standards of professional actuarial practice. This puts the burden on the company, rather than the state, to secure actuarial certification.

8. **Disclosure of rate increase histories required**.

Companies must provide consumers with a rate increase history. This is intended to inform consumers of past company practices and to deter companies from increasing premiums.

This new measure, once adopted by states, will provide consumers the necessary peace of mind that the premium rate increase that they would pay in the event of a rate increase, will be smaller, less frequent and more manageable. ACLI supports the NAIC's overall effort and believes consumers should be protected from unreasonable and unexpected rate increases.

ACLI acknowledges that there have been situations where rate increases have occurred and that some states did not have the proper tools to regulate and evaluate the rates. It is important to stress though that the majority of the market has not experienced rate increases on this product line. The industry has stepped up to the plate on this issue and has joined with state regulators, and consumer groups, working countless hours over the past three years to adequately and appropriately address this matter --- and

trying to accomplish all of this without harming future market innovation and growth.

We recognize that the fear of rate increases has been a concern for some. It is important to remember that long-term care insurance is a guaranteed renewable product which means insurers are permitted under the contract to revise the premiums, but only if the rates are changed for the entire class of policyholders. Again, the majority of long-term care insurers have not raised the premium rates, but where rates have been increased, many of those increases have not been to an extent that should cause alarm to all consumers or regulators.

It is important to note, too, that in recent years the average termination or lapse rate for long-term care insurance by policyholders has declined. A long-term care policy lapses if the policyholder does not pay the premium by the end of a specified time, or if the policyholder replaces it with a newer product. ACLI's analysis shows that in the individual market, two percent of policyholders voluntarily lapsed or replaced their policies in 1997 versus six percent in 1992. Group terminations fell to seven percent in 1997 from eight and one-half percent in 1995. To minimize lapse rates, companies typically offer new policyholders time to examine the policy, and the full premium is returned if the buyer decides within a specified period not to keep the policy. Since many buyers are older, many long-term care policies allow the policyholder to designate a third party for the insurer to notify when premiums are not paid. Insurers frequently reinstate coverage if the policy lapses because the policyholder has a cognitive impairment.

Though the issue of concern on premium rate increases is centered around a limited segment of the market, the insurance industry believes it had to address the concerns head on and believes we have accomplished that goal working with the NAIC. The next step is for the states to move forward and adopt the new provisions. In many cases states will have to repeal their current legislative or regulatory requirements and replace them with the new NAIC rate stability provisions. Some states will have to have new statutory authority to monitor, implement and enforce these unique new provisions and this will take enabling legislation by the state to allow the state insurance departments to move forward on them. ACLI is committed to working with the states to accomplish that goal.

A Smart and Knowledgeable Consumer

Another important part of purchasing long-term care insurance is to be a smart and knowledgeable consumer. Consumers must think through their purchase and understand what it is they are buying.

ACLI encourages consumers, when considering a major purchase of long-term care insurance, to:

(1) look for insurance companies that are reputable, consumer oriented, financially sound and licensed in their particular state,

(2) obtain the name, address and telephone number of the agent and insurance company,

(3) take time when making a purchase, ask for and read the outline of coverage of several policies,

(4) understand what the policy covers and ask questions to be clear about what the policy is not intended to cover,

(5) understand when the policy becomes effective, what triggers benefits and if it is tax deductible at the state and/or federal level,

(6) answer questions on medical history and health truthfully on the application, and,

(7) contact the State Insurance Department or the State Health Insurance Assistance Program with questions on long-term care insurance and the insurance company with specific questions about the policy.

In conclusion, we believe that protection and coverage for long-term care is critical to the economic security and peace of mind of all American families. Private long-term care insurance is an important part of the solution for tomorrow's uncertain future. As Americans enter the 21st century, living longer than ever before, their lives can be made more secure knowing that long-term care insurance can provide choices, help assure quality care, and protect their hard-earned savings and assets when they need assistance in the future. We also believe that the costs to Medicaid --- and therefore to tomorrow's taxpayers --- will be extraordinary as the baby boom generation ages into retirement, unless middle-income workers are encouraged to purchase private insurance now to provide for their own eventual long-term care needs. ACLI believes it is essential that Americans be given an above-the line deduction for this product that is so vital for their retirement security.

While the financial benefits to individual policyholders are obvious, the benefits to government - and future taxpayers - of wider purchase of private long-term care insurance are substantial as illustrated by a new ACLI study *Can Aging Baby Boomers avoid the Nursing Home?* Medicaid's annual nursing home expenditures are projected to skyrocket from today's $29 billion to $134 billion by 2030 - an increase of 360 percent. ACLI's research indicates that by paying policyholders' nursing home costs - and by keeping policyholders out of nursing homes by paying for home- and community-based services, private long-term care insurance could reduce Medicaid's institutional care expenditures by $40 billion a year, or about 30 percent.

In addition, the ACLI study found that wider purchase of long-term care insurance could increase general tax revenues by $8 billion per year, because of the number of family caregivers who would remain at work. Today, 31 percent of caregivers quit work to care for an older person; nearly two-thirds have to cut back their work schedules; more than a quarter take leaves of absence, and 10 percent turn down promotions because of their caregiving responsibilities. It costs the typical working caregiver about $109 per day in lost wages and health benefits to provide full-time care at home - which is almost as much as the cost of nursing home care. I have brought copies of the study and have placed them on the table with my testimony.

Thank you Mr Chairman, and again, we look forward to working with you. I will be happy to answer any question that the Committee may have at this time.