I 59
1985b

PUBLIC HEARING

before

ASSEMBLY CORRECTIONS, HEALTH, AND HUMAN SERVICES COMMITTEE

on

CRISIS IN LIABILITY INSURANCE AVAILABILITY FOR NONPROFIT ORGANIZATIONS

December 16, 1985
State House Annex
Room 438
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:

Assemblyman George J. Otlowski, Chairman

ALSO PRESENT:

Norma Svedosh
Office of Legislative Services
Aide, Assembly Corrections, Health, and
Human Services Committee

New Jersey State Library

* * * * * * *

TABLE OF CONTENTS

	Page
Betty Wilson President of the Center for Non-profit Corporations	2
Acting Commissioner Geoffrey S. Perselay Department of Human Services	7
Craig Becker New Jersey Hospital Association	16
Commissioner Hazel Frank Gluck Department of Insurance	19
Nancy Becker United Ways of New Jersey	28
Dr. Susan Karr New Jersey Division on Women	30
Elizabeth Kelly Office Manager, Housing Coalition of Middlesex County	32
Kaye Kittle Boyer Executive Director, New Jersey Home Economics Association	35
Roberta Burke Executive Director, North Essex Development and Action Council	37
Kate Lynch Wertheimer Child Care Advisory Council	40
Angela Estes Representing Robin's Nest, Incorporated, and New Jersey Association of Children's Residential Facilities	42
Sue Dondiego President, New Jersey Foster Parents Association	45

TABLE OF CONTENTS (continued)

	Page
Jose Morales Puerto Rican Congress of New Jersey	46
Carol Wolff Executive Director, Area Health Education Center, and Representing Community Planning Advocacy Council	50
Carolyn Dylak YWCA Associations of the State Council of New Jersey	53
Florence P. Williams Executive Director, Passaic County Child Care Coordinating Agency (4C's)	58
Sally Duff President, Family Day Care Organization of New Jersey	61
Jean Socolowski President, New Jersey PTA	63
Audrey Fletcher Director, Montclair Child Development Center's Head Start Program	63
APPENDIX	
Statement of Betty Wilson	1x
Statement of Nancy Becker	6x
Statement of Dr. Susan Karr	9x
Statement of Elizabeth Kelly	11x
Statement of Kaye Kittle Boyer	14x
Statement of Kate Lynch Wertheimer	17x
Statement of Angela Estes	19x
Statement of Sue Dondiego	20x

TABLE OF CONTENTS (continued)

	Page
Statement of Jose A. Morales	22x
Statement of Carol Wolff	25x
Statement of Carolyn Dylak	28x
Statement of Florence P. Williams	31x
Statement of Sally Duff	34x
Submitted Testimony of J. Robert Hunter President, National Insurance Consumer Organization	38x
Submitted Testimony of Joanne G. Moy President, Literacy Volunteers of New Jersey, Inc.	48x

di: 1-60
sk: 61-67

* * * * * * *

ASSEMBLYMAN GEORGE J. OTLOWSKI (Chairman): Come to order, please. We're going to get underway. Before I get underway, let me just make a brief statement.

The purpose of this hearing, of course, is to determine the kind of problems that non-profit organizations have with insurance. In many instances, insurance companies are just out of hand, cancelling their contracts with the non-profit organizations. And of course they point out in many instances the judgments that they've had, the lack of proper cash flow as a result of the tremendous judgments that have been levied against insurance companies, that they are forced to drop non-profit organizations. And again they say that some of these non-profit organizations are high-risk organizations.

It has been suggested too that maybe some kind of a trust could be formed and some kind of a pool, whereby all of the non-profit organizations could become a part of that. That would necessitate special legislation, and the hearing, of course, may develop the kind of legislation that is necessary; the kind of framework that would be necessary; and as a matter of fact, this hearing, too, will point out specifically some of the problems that exist and how they can be solved, and as a matter of fact they could have an effect on overall legislation.

So, really, that's the purpose of the hearing, and as a matter of fact one of my notes here even indicates that -- in these non-profit groups -- that even Little League baseball groups have been affected. It has run practically the whole gamut of non-profit organizations.

I think I've covered everything that I wanted to say at this moment. Most of the members that are absent today on this Committee have, because of the fact that the mails have been -- to put it very, very politely -- screwed up. Many of the members didn't have the opportunity to prepare their schedules for this meeting. But it is of great interest to the whole Committee and to the Legislature, and we're going to begin now -- we're going to begin -- and before we begin, just this. If you have a statement we want copies of the statement. We usually get -- what -- eight copies, David? (speaking to David Price, who is sitting in)

MR. PRICE: Yes.

ASSEMBLYMAN OTLOWSKI: We want eight copies of the statement, and if you submit a written statement, you don't have to read it, but if you are going to testify just give us the benefit of your extemporaneous remarks, since we already will have your statement. And if somebody has already covered the ground, you know, I'm going to tell you that the ground has been covered. And I would like to conclude this hearing, you know, expeditiously, so that we're going to confine it to all the material and all the pertinent facts, and we're going to try to do it — as I said — as expeditiously as possible.

First we're going to call on Betty Wilson, President of the Center for Non-profit corporations. Betty, are you here?

BETTY WILSON: Yes.

ASSEMBLYMAN OTLOWSKI: Are you ready?

MS. WILSON: Yes.

ASSEMBLYMAN OTLOWSKI: Do you have copies, Betty? (referring to witness' statement)

MS. WILSON: Yes.

ASSEMBLYMAN OTLOWSKI: Thank you very much. Betty, do you want to begin?

MS. WILSON: Yes, sir. I am Betty Wilson, President of the Center for Non-profit Corporations, and I want to thank you, Chairman Otlowski, for calling this hearing, and for your leadership on this issue. My organization and our members want to commend you for responding to a very urgent need on the part of non-profit groups throughout the State.

The human service non-profit community, as you well know, is made up of groups that provide essential services in the State of New Jersey: day care, home health care, alcoholism treatment, mental health care, and a whole host of others. These community groups have been struggling for many months with this building insurance crisis.

In my words, I think that thousands of New Jersey non-profit groups are being held hostage by the insurance industry. Liability insurance is becoming nearly impossible to purchase because the insurance companies, who are now forced to renew policies, have raised

-- because of State regulation -- the prices so much that they have, in effect, made the product -- placed it -- out of reach. It's impossible for an organization to absorb the kind of increasing costs that we have seen.

I have found myself in the position of advising a day care director to grab an insurance premium that only went up by $500. That's a much lower premium increase than most day care centers are getting these days.

Some examples that I've included in my testimony, from the cases that we've had reported to us, are increases of 166%, an increase of 342%, increase of 540%; and those amounts are typical of the kind of increases that we've seen. Until premium escalation is brought under control this problem is going to worsen. The State regulations that were made permanent on November 17th did nothing to address the premium issue.

Without action soon -- I hate to use the word crisis, but I think there's no other word to apply -- day care centers and other non-profits are going to have to start closing their doors or at least substantially limiting services. Across the country this has already been happening -- as reported in the Home-News and other papers -- to small businesses. Many local governments are what they call running bare; they're running without coverage.

The only alternative is for government to come in and pick up the bill, and I think we would agree that this is not good government policy to apply more tax dollars to pay for insurance premiums. I mean, if we're going to apply more tax dollars, we want to see more services to the people who need them.

Non-profits can't afford to run bare. They can't afford to run without liability coverage, and in fact, any non-profit that has a State contract is required by its contract to have liability coverage.

One would-- The question that immediately arises is what is the reason for this, and I would say that as far as we can determine, bad claims experience has no part in it. In fact, the Department of Human Services -- and I see Commissioner Perselay is on the agenda, and I expect he will be reporting this, but they -- conducted a survey in

which they found that 81.3% of day care centers surveyed reported no claims -- none at all -- between the '80 to '85 period. And of the claims settled, 67% involved awards of under $200. In fact, Mr. Scalera, the Assistant Director who conducted the survey, said of the 44,000 reported cases of abuse and neglect in 1984, only 200 involved child care centers, and only 18 of the 200 were substantiated, and that's less than one half of one percent.

So I think that we just need to dismiss the insurance companies' claims about poor risk. They are not basing that on anything but somebody's imagination.

We recognize that insurance companies are businesses and they are entitled to make a profit, but the insurance industry should not possess unbridled flexibility to raise premiums suddenly, capriciously, and without warning. I heard of one this morning -- and the testifier will tell you later -- that within two years the premium of her organization will go from 7000 to 48,000, which is just unacceptable in any organization.

Insurance companies miscalculated in the early 1980s when they were in hot pursuit of premium dollars, and then they failed to heed early warnings of the impending situations that were evident -- according to everything we've been able to learn -- as much as two years ago.

In their last-minute scramble to recover, they have effectively blackballed whole segments of the economy: non-profits, family day care homes, governments, and some businesses. And we believe they've gone too far.

We believe that laws are needed to control premium increases. Other solutions that we are asking your Committee to look at are the establishment of a joint underwriting authority to cover those risks that the marketplace rejects. In the same manner that we have a backup system for auto insurance and workmen's compensation, we're suggesting that in the case of liability, we should have the same sort of thing.

Other solutions include a State financed or State guaranteed reinsurance pool to insure the insurers. Right now New Jersey

companies -- up until the last few months -- have had to rely on companies such as Lloyd's of London to carry their reinsurance. At the onset of the insurance drought, the reinsurance market collapsed and the State insurance carriers had nowhere to turn. Lloyd's of London, of course, has no loyalty to the State of New Jersey.

Instead of leaving ourselves at the mercy of invisible insurance bankers in some far-off place to protect our insurance market, the State could put its full faith and credit behind a guarantee to insurance policies for New Jersey non-profits, businesses, and governments. Funding for this program would come from reinsurance premiums and perhaps a small surcharge on liability policies. I'm not suggesting that it be funded out of State tax dollars.

Making it legal for non-profits to set up their own risk pool trusts would offer some relief, and I commend you for suggesting legislation along those lines. New Hampshire recently amended its laws to allow day care centers to do this. New Jersey could do that too. We would ask that it be done for all non-profits. Businesses and governments can do it, and in some instances it would make a great deal of sense for non-profits to be able to do this, and we'd like to at least have the option.

I'd like to suggest that we also get behind fostering some competition for the insurance business by allowing banks and others to sell insurance policies. Some analysts believe that competition would force the rates down. Currently, the insurance industry is a virtual unregulated monopoly. Insurance companies, appearing to act in concert, have forced uncontrolled and staggering rate increases onto whole segments of the economy.

Non-profit, business, and government consumers have money to spend on insurance and do, in fact, spend billions of dollars every year. We're not asking for any handout here. But right now they have no choices in the marketplace. A buyer of commercial liability insurance can't shop around for the best price because there's no competitive pricing. Opening up competition could afford new opportunities to purchase insurance at a reasonable cost.

Some have suggested a system of voluntary oversight by the industry-- I think we have ample evidence that that simply would not work; it would be inadequate.

I have attached to your copies of the testimony the testimony of J. Robert Hunter, who is the President of the National Insurance Consumer Organization. This testimony was given in September before the U.S. House of Representatives Subcommittee on Commerce, Transportation, and Tourism. Mr. Hunter is the former head of the Federal Insurance Administration under Presidents Ford and Carter.

He makes a powerful argument that property and casualty insurance officials have deliberately created this pressure on state legislatures by pulling out of markets where they can, and by raising premium prices in staggering amounts where they can't pull out of the market entirely. In the past such a strategy has created panic, and that panic worked to pressure states into making major concessions to the insurance industry, such as reducing victims rights.

I invite you to review Mr. Hunter's statement, because I believe it has some important lessons in it for New Jersey.

I thank you again for your concerns and for your interest. The Center for Non-profit Corporations and our members will work with you in every way we can to help bring relief to this problem that brought us here together today.

ASSEMBLYMAN OTLOWSKI: Betty, thank you very, very much. It has been suggested, as in California in some of the cities that have dropped all insurances-- I don't know how they can do it there without having some legal problems. You would never suggest that all of these non-profit organizations be permitted to operate without insurance?

MS. WILSON: No, and they wouldn't do it anyway. The board of trustees -- any board of trustees -- would be foolhardy to run without insurance. They just can't do it. And we would never, never want to encourage that.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much for your comprehensive presentation.

MS. WILSON: Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much. I understand Commissioner Perselay is here. Is he here? Commissioner, do you want to come up, please? Thank you very, very much for coming and being a part of this session.

ACTING COMMISSIONER GEOFFREY S. PERSELAY: Thank you, Mr. Chairman. Mr. Chairman, before I start I would like to thank you for again being out front on an issue of a critical nature to the human services community. During your tenure you seem to have always been one step ahead or right on top of the most critical issues, and I would like to thank you for that.

ASSEMBLYMAN OTLOWSKI: Let me just say this Commissioner, that I've enjoyed working with you and as a matter of fact our relationship has been a very good one, and I think that that relationship, of course, was helpful in a lot of the legislation that we got out in this last minute here -- the mental health bill that is ready to go now; the boarding home package -- and I just want to commend you for all the help that you've been and for the fact, too, that you've exercised some street smarts on all of these bills. There was some good sound political judgment, and it was healthy, and as a matter of fact it helped with the passage of those bills. The boarding home bills, for example, were consent bills which I thought there was going to be great debate about, and great delay. So, I want to thank you for all your help in that connection, and by the same token your predecessor, George Albanese, was cut out of a similar pattern. When you see him would you tell him that I feel the same way about him? When the changes come by what took place by the tide, I'm going to miss this. Thank you very much.

ACTING COMMISSIONER PERSELAY: Well, I would like to thank you for your leadership and your help through all of the people in the State who required our services. You've been a tremendous leader and a big asset to the Department.

ASSEMBLYMAN OTLOWSKI: Thank you.

ACTING COMMISSIONER PERSELAY: Mr. Chairman, at a time when we've made so many substantive strides in the revision and provision of quality child care services through qualified, licensed, and comitted

providers, we stand here today at a precipice -- a ledge which we are precariously close to being knocked off of by the insurance industry.

The insurance industry has literally been knocking our feet out from under us in our attempt to provide quality child care, residential care, day care, and foster care. We are struggling now against higher premiums, cancellations of policies, and stricter requirements with no actuarial data to back it up. This is at a time when child care, among other care which we provide, is a necessity, and no longer a luxury.

This problem, which affects the thousands of social service providers in our State-- The private not-for-profit agencies provide invaluable care to hundreds of thousands of New Jersey children and adults who depend on them for essential human services. I'm referring to child care centers, family day care homes, foster family homes, 24 hour residential child care facilities, publicly-funded medical transportation providers and clinics, battered spouse shelters, and many, many more.

These businesses are the life-blood of the human service field. They are the front line through which we help New Jersey's needy families and children.

As you are aware, in July of this year the U.S. Congressional Committee on Children, Youth, and Families, heard testimony from human service providers across the nation. Some reported startling increases in insurance premiums. Others reported that their coverage was terminated without notice or not renewed upon expiration.

Unfortunately, I could report to you, as Betty Wilson did, that our human service community is experiencing the same problems. As early as last June our Department began receiving complaints that many of the day care centers and private day care homes throughout the State were experiencing severe problems, including abrupt policy cancellations or non-renewals, difficulty in obtaining alternative sources of coverage, reduction in the terms or conditions of policies, and excessively high premium rates.

Four distinct issues were voiced:

1) Access to coverage was drying up.

2) The terms or conditions of policies were being drastically reduced.

3) The cost of continued or replacement coverage was skyrocketing, and;

4) Insurance carriers were requiring providers to meet programmatic standards exceeding those of this Department and of other State regulatory authorities.

But the actions of insurance providers were not restricted to small-scale providers. Our Department's Division of Youth and Family Services, which purchases blanket liability coverage for the over 5000 foster family homes providing care to children unable to remain with their own families -- our own Division received notice of cancellation from its group policy insurance carrier.

I assure you that the Departments of Human Services and Insurance took swift action to assess the scope of the problem and to develop remedies. These actions included:

1) Our Department convened a 33-member task group representing both Departments, child care advocates, providers, the Center for Non-profit Corporations, and the State Child Care Advisory Council. And I would like to publicly acknowledge Betty Wilson, who testified before me, for her leadership and her role in that task group. It was a major, major assistance. This task group was designed to gather information on this growing crisis and to guide our efforts to solve it.

The second step we took was, our Department also conducted a survey of a random sample of licensed child care centers in the State spanning Head Start, Social Services Block Grant, and privately operated centers. We also worked with the Family Day Care Organization of New Jersey to conduct a similar survey of family day care homes in their network.

The surveys found that a growing number of programs were experiencing cancellations when their policies came up for renewal. Many providers also reported severe cutbacks in the terms of coverage and dramatic increases in premiums ranging from 50% to 400% over existing rates.

Among the reasons often cited by the insurance industry for the above actions was a claim that human service providers constituted higher liability risks and were filing increasing numbers of claims. As an example of such a risk, they pointed to an increased incidence of child abuse or neglect in child care centers and family day care homes. I want to state — and I want to state it very clearly for the record, Mr. Chairman -- that such claims are not founded in fact. Indeed, our survey of child care centers revealed that 81% of the centers reported no liability claims over the last five year period; eleven and a half percent reported only one claim, while 6% reported filing two. Less than one percent filed three or more claims. Of those claims reported, two thirds involved monetary awards of less than $200 each.

Further, the survey showed that of all claims filed during the five year period, eighty-five percent were due to accidental injuries at the center, seven and a half percent were due to vehicular injuries, and only one of the claims was as a result of child abuse, and that claim was settled at no cost to the insurance carrier.

Regarding claims by the insurance industry about child abuse risks in child care settings, our Department's records do no support such conclusions. Of the 44,368 reported cases of abuse and neglect in calendar year 1984, only 200 involved child care centers, and only 18 of those were substantiated.

Fewer than one-tenth of one percent of all substantiated cases of child abuse or neglect in out-of-home settings occurred in child care centers.

I do not have to draw conclusions for you, Mr. Chairman. Based on those findings, the actions of insurance carriers to cancel or not renew policies, to reduce coverage terms, and to raise rates to exorbitant levels are clearly not supported by the data.

Other actions which the Department has taken were: in early September, the Department of Insurance identified an out-of-state insurance company which agreed to write new coverage for New Jersey providers; on September 16 a major step was taken when the Governor declared an insurance emergency. At the same time, the Department of

Insurance issued temporary regulations to prohibit mid-term premium increases, reductions in coverage, or terminations of entire categories of coverage. Additionally, the standards under which carriers decide to cancel or not renew across policy periods became subject to Insurance Department review — A very, very significant step.

These interim provisions, with some revisions, were made permanent by the Insurance Department on November 18 of this year.

As these events developed, our Department issued four alerts to all licensed child care centers and residential care providers. The alerts apprised them of these developments and made them aware of the availability of assistance from the Insurance Department on specific problems.

In addition, when faced with a 400% increase in premium for foster care coverage, our Department instituted a program of self insurance for these providers. This was an unprecedented program and uses State aid funds to cover claims against our foster homes. But we believe this is more cost effective than paying an unreasonably high premium.

Despite our achievements to date, Mr. Chairman, serious problems continue to confront us. We must take additional steps to enable human service providers to obtain adequate liability insurance for their programs at the coverage limits they need and at premiums they can afford.

In our estimation, three critical issues remain:

The current pattern of skyrocketing rates must be controlled if our provider industry is to survive.

Insurance carriers must be prohibited from imposing, as a pre-condition for coverage, standards that exceed those required by this or other State departments through State licensing or other regulatory powers, and third:

The vulnerability of family day care homes must be adequately resolved.

With regard to rates, the Department of Insurance currently lacks authority to regulate the rate-setting practices of insurance carriers across policy renewal periods.

While the recently adopted permanent regulations assures access to general liability coverage, it provides no guarantee that the premium charged is justified by a factual weighing of risks. More importantly, it does not assure that this coverage will be affordable to those insured. This issue is particularly important to my Department, since many of our providers, as I have noted, are non-profit agencies. Many others, while proprietory organizations, must still limit their fees for service and thus their operating costs in order to make them affordable to consumers.

Exorbitant rises in insurance premiums serve to escalate the costs of vital human services beyond the financial reach of many New Jerseyans, and ultimately threaten the viability of the provider industries. A consequence would be the erosion of my Department's efforts to provide essential human services to our needy constituents.

With regard to standard setting, more insurance companies, as a condition for issuing or renewing coverage, are imposing underwriting standards that exceed those set in State licensing or other regulatory laws. Such a practice clearly usurps the authority of State Government, which is empowered by law to establish regulatory standards to ensure the health, safety, and adequacy of its programs.

While we support voluntary efforts to accredit, or otherwise identify for the consumer public, those licensed providers that offer exceptional programs, such higher standards should be voluntary in nature, and minimums should be set by the State. They should not be mandated by insurance companies as a condition of coverage. Such a practice not only supersedes the State's regulatory authority, but also results in unbridled increased costs to providers, who then are faced with raising rates or closing down altogether.

If the insurance industry believes that State licensing standards should be strengthened, they should send their recommendations to the applicable State agency. In this way, their suggestions for regulatory revision can be considered within the framework of the standard-setting process. This would afford ample opportunity for public comment and criticism, and also allow the Department to consider social and economic impacts.

Finally, the State is currently not authorized to regulate family day care homes. These are programs in which five or less children are cared for in the home of a provider. State licensing law applies to child care centers, which are programs serving six or more children. As a result, family day care homes are experiencing greater difficulty in finding insurance coverage, since they are not required to comply with State-mandated life safety, health, program, and staffing standards.

As a break-- It just shows the Catch-22 nature of this. Where we set standards for providers they are not adequate; and the insurance industry is requiring more and more restrictions on the standards and higher standards for our providers to meet in order to provide insurance. Where we don't set standards and where we're not capable and authorized to set standards or licensing for the family day care homes, the insurance industry is saying that because you are not exposed, you are not regulated by State standards -- we won't provide you with insurance. It really is a ludicrous situation.

While these homes are usually covered by homeowner insurance, such coverage does not always extend to so-called business enterprises. There are an estimated 40,000 family day care homes in New Jersey, Mr. Chairman, that provide care for hundreds of thousands of children, many of whose parents depend on family day care in order to secure or maintain employment.

But children in such homes are entitled to the protection of regulatory standards. If we succeed in this effort, the potential liability risks of family day care homes will be reduced, thereby improving the prospects of obtaining insurance coverage at terms and rates they can afford.

I would like to leave you with some specific recommendations for the Committee's consideration: First, the Department of Insurance should be empowered by law to monitor, regulate, or otherwise restrain insurance rates. Second, insurance carriers should be inhibited from imposing, as a condition for issuing or renewing coverage, standards that exceed the licensing or other regulatory standards of New Jersey State agencies. Third, we must continue to explore alternatives to

New Jersey State Library

traditional insurance coverage, such as self insurance, voluntary insurance pools, or market assistance programs. And fourth, steps must be taken to assure the insurance industry, and all New Jerseyans, that family day care homes meet minimum State standards.

Two bills being considered by this Legislature -- A-100 and A-244 -- would provide this assurance. These bills, briefly, call for a two-tiered program that involves the licensing of family day care umbrella organizations, and the registration of family day care homes serving from three to five children. Because of the great number of homes to be affected, the regulation would be phased in over a five-year period. They were developed in cooperation with the State Child Care Advisory Council, the State Division on Women, and a wide range of child care providers and advocacy groups across the State, most notably the Family Day Care Organization of New Jersey.

I would ask your help in considering the merits of both bills, as well as other feasible alternatives.

Finally, I would respectfully request that additional public hearings on the nature and extent of the insurance crisis be scheduled in January so that more providers can explain how they have been affected.

Shakespeare said that "action is eloquence." I believe that this hearing and the efforts I have detailed for you today are evidence of our strong commitment to action. But all of us -- the Legislature, the Center for Non-profit Corporations, our provider communities, the Department of Insurance, and the Department of Human Services -- must continue our commitment to action until a lasting solution is found. Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you very much, Commissioner. Commissioner, in one of your recommendations here, you recommend establishing pools for insurance, or you also recommend the possibility of self insurance. Has your Department set up hearings or a matter -- or rather -- the machinery to look into the possibility of setting up pools? What it would entail, the kind of legislation that it would entail, the kind of participation that it would entail, and the willingness of people to come in under a pool program?

ACTING COMMISSIONER PERSELAY: We've been working very closely with the Department of Insurance, Mr. Chairman. The 33-member task force that we came up with, which included representation from the Department of Insurance, has really been the spearheading group of people to discuss these various options. It is my understanding-- I've talked with Commissioner Gluck and she intends to have hearings so we can expose or explore further these alternatives. But I'll be quite honest with you, there have been some provider groups that have been affected strongly by this insurance crisis, and they have seemed to -- there are some groups that have seemed to -- come up with various alternatives, including a countywide group of providers that I've recently heard of that came up with a group insurance plan. We would like to explore further with those groups that have these ideas options that we could apply statewide.

ASSEMBLYMAN OTLOWSKI: From where you sit, is it possible that the insurance companies are disenchanted with this kind of insurance because of the fact that the profit margin isn't in this kind of an operation?

ACTING COMMISSIONER PERSELAY: I would-- Far be it for me to gather what the insurance industry is upset with or what their concerns are. I would think that there are a lot of questions that should be asked of the insurance industry given the fact that the incredible increases -- the 50% to 400% increases -- in premiums are not based at all on actuarial data. It's just the cutbacks and limits-- I think the insurance industry is running scared, but the data does not back it up. Does not back it up.

ASSEMBLYMAN OTLOWSKI: But, you are also recommending that the hearings be continued into January to go into some of these other phases. I agree with you. I think that we have to do that to get a better hold on this whole problem, and to get the total picture and to see where we go from there. Commissioner, is there anything else that you wanted to add?

ACTING COMMISSIONER PERSELAY: No, Mr. Chairman, it's just that again, I would like to thank you for your leadership in terms of this issue, and for providing us with this forum. It's almost an issue

which has been held behind closed doors, and I thank you for providing the opportunity for bringing this out in the open, allowing our providers and some of the constituent groups to testify. And, again, it's one of the most critical issues facing the social services community at this point in time.

ASSEMBLYMAN OTLOWSKI: We may be in touch with you before January 14, just to talk about some of the mechanics, some of the things that should be done in the future so that we can be of some help to a succeeding Legislative Committee. We'll be in touch with you from time to time before January 14. All right?

ACTING COMMISSIONER PERSELAY: Okay.

ASSEMBLYMAN OTLOWSKI: Commissioner, thank you very much.

ACTING COMMISSIONER PERSELAY: Thank you very much, and have a happy holiday.

ASSEMBLYMAN OTLOWSKI: Craig Becker?

CRAIG BECKER: Mr. Chairman, I have no formal remarks, but I think it's pretty much to say that what you're hearing--

ASSEMBLYMAN OTLOWSKI: Craig, just for the record, so we get it in the record, would you give us your name and where you're coming from?

MR. BECKER: Sure. Craig Becker with the New Jersey Hospital Association in charge of their government relations.

Mr. Chairman, I think that the hospital industry may have a different slant on the problem of purchasing liability insurance. While we're able to obtain it, I think the problem that we're seeing is the totally escalating costs of our liability insurance. Back in the early '70s we were faced with a similar problem, then there were a series of bills that were passed that helped us out in that case. I think what we're looking for now in this latest crisis, as it appears to be here, is we're seeing much of our insurance going up anywhere between 100%, 200%, and in some cases even 400%. Some sort of relief, perhaps in the tort reform area, where--

ASSEMBLYMAN OTLOWSKI: Excuse me. You are saying and agreeing with the people who testified previously, that there is a crisis in this area. Do you just want to develop that on how it affects the hospitals?

MR. BECKER: Yes, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: And some of the things that happened.

MR. BECKER: It does it in two ways. The first area is just the escalating costs. Most of our hospitals in this State are insured by the Health Care Insurance Exchange, which is an insurance company which was founded by the Hospital Association in an attempt to provide insurance back in the early '70s when it was unavailable. Right now our insurance company is above water, but barely. We're seeing an increase in claims, we're seeing an increase in payments going out, and we're also seeing a significant increase in the price that we pay for the insurance. This is translated back into higher bills for patients, and it's certainly not necessarily reflective of the enormous amount of problems that our hospitals are seeing.

I think the second, and perhaps more importantly, is the reinsurance market. There are only two companies in the State now who will reinsure hospitals, and this is a very big problem, as some of the awards that are being given out are into the millions and are obviously well over what the basic coverage is that we can buy. In fact, some of our reinsurance companies are talking about backing out of the market altogether next year, and if that happens, there will be a real catastrophe in the health care--

ASSEMBLYMAN OTLOWSKI: What you are saying is that some of the awards against hospitals have been very, very high.

MR. BECKER: They have been very significant, yes. We've seen a dramatic increase in that area. We would like to see some sort of reform in this area, such as structured payments, and a cap on pain and suffering. These are issues that are currently being taken up by the Senate Judiciary Committee.

ASSEMBLYMAN OTLOWSKI: Is there any talk about capping the amount of awards?

MR. BECKER: Yes there is, and the Senate Judiciary Committee has taken that up, and has been discussing it.

ASSEMBLYMAN OTLOWSKI: Okay.

MR. BECKER: There is currently a bill over on that side to do just that, by Senator Hurley.

ASSEMBLYMAN OTLOWSKI: In your opinion that's important to hospitals?

MR. BECKER: That would be part of the total package. There certainly needs to be more than just caps on pain and suffering. There certainly needs to be additional reforms.

ASSEMBLYMAN OTLOWSKI: Are the hospitals developing a total approach?

MR. BECKER: Yes, sir, we are. We've been working closely with Senator Lynch in an attempt to get a package through. Obviously, this is a very complex issue. There are many people on different sides, and until everybody is completely satisfied, I assume this will go on unless we have a real crisis and hospitals are faced with the fact of not going with any insurance at all. If that happens I think you'll see some hospitals at least threatening to slow down.

ASSEMBLYMAN OTLOWSKI: Are hospitals now required by law to carry insurance?

MR. BECKER: Yes, sir, they are.

ASSEMBLYMAN OTLOWSKI: But, again, the higher the insurance rates, the higher the per day cost.

MR. BECKER: Yes, sir, it translates directly back into patient cost. The consumers pay for it; it's certainly not the hospitals.

ASSEMBLYMAN OTLOWSKI: I'm sorry, do you want to continue?

MR. BECKER: No, sir, that was it.

ASSEMBLYMAN OTLOWSKI: So your presentation is a whole lot different from the others because you have serious problems that evidently, from what you've said, result from large awards. That's one of the problems.

MR. BECKER: I think it's reflective of the entire eruption -- I guess is what you would call it -- of cases against hospitals, and day care centers, and particularly the concerns that I would assume the insurance companies have.

ASSEMBLYMAN OTLOWSKI: Yes, but in the previous testimony, the people testified and showed that there wasn't this problem of big awards; that, as a matter of fact, the record was pretty good in

avoiding any kind of high payments by insurance companies. But in your case, you're making a statement directly opposite to that. You're saying high awards are a great burden to the hospitals, and as a matter of fact, directly increasing insurance rates, in your opinion.

MR. BECKER: That's a good portion of it, along with many, what we consider frivolous, cases that are filed that are thrown out. In fact, almost 90% of the cases that are filed against hospitals are thrown out; it's the other 10% that—

ASSEMBLYMAN OTLOWSKI: But, Senator Lynch's Committee is going into that in depth.

MR. BECKER: Yes he is, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much.

MR. BECKER: Thank you.

ASSEMBLYMAN OTLOWSKI: I understand that Commissioner Gluck is here. If she's ready, we'll go on. Commissioner?

COMMISSIONER HAZEL FRANK GLUCK: Thank you, sir. Good morning.

ASSEMBLYMAN OTLOWSKI: Good morning, Commissioner, it's good to see you again.

COMMISSIONER GLUCK: It's good to see you, too.

ASSEMBLYMAN OTLOWSKI: I haven't seen you for a long time.

COMMISSIONER GLUCK: I know. How are you? Let me give you a couple of copies of this. (referring to her statement)

Mr. Chairman, we put this together rather quickly. What it is, is a compilation of some historical background -- some people think hysterical background -- with regard to the problem in the insurance industry today.

ASSEMBLYMAN OTLOWSKI: Commissioner, just for the record so we get it for the record here, would you just let us have your name and the Department that you are representing, so it's part of the record?

COMMISSIONER GLUCK: Absolutely. Hazel Frank Gluck, and I'm Commissioner of Insurance.

ASSEMBLYMAN OTLOWSKI: Okay. Commissioner, thank you very much. Before you begin, Commissioner, I just wanted to ask you, the Governor's emergency order in New Jersey which prohibits cancelling of policies-- Does that apply to day care centers and to hospitals?

COMMISSIONER GLUCK: Yes, it applies to everybody.

ASSEMBLYMAN OTLOWSKI: It applies to— It's right across the board.

COMMISSIONER GLUCK: Yes, sir. When we amended it we took out certain groups -- lines of insurance — but not them.

ASSEMBLYMAN OTLOWSKI: But while the Governor's order prohibits them from cancelling insurance, does it also have anything to do with the regulation of rates?

COMMISSIONER GLUCK: No.

ASSEMBLYMAN OTLOWSKI: No. So, they're free to increase their—

COMMISSIONER GLUCK: Absolutely. First of all, it prevents people -- companies — from not renewing policies, unless they have good sound underwriting reasons, and those reasons must be submitted to the Department of Insurance 90 days before the effective date of termination of policy. So that, what we're saying is, some companies have lost their reinsurance treaties. That is a valid reason for not being able to insure. You know, a primary company takes your insurance and lays it off on the reinsurer. If they lose that ability to get reinsurance, then the Department of Insurance is saying, "Okay, you have the right to a non-renew, because that is a valid reason for non-renewing." So, there are some valid reasons for non-renewing that have been set out by the Department of Insurance that are reasons for them to get off a risk. We can't keep them on the risk and keep them dangling if, in fact, they don't have a reinsurer, for instance, or any reinsurance--

ASSEMBLYMAN OTLOWSKI: Before you came into the room, the Commissioner of Human Services and Betty Wilson representing some of the non-profit organizations-- Both of them pointed out that the record clearly shows that there hasn't been any high risks that have developed in the day care centers, and yet that the rates in some cases have gone up 150%, 200%, 450%. How can those people make that kind of a statement and yet have insurance companies raising their rates in that kind of proportion?

COMMISSIONER GLUCK: A couple of reasons. First of all, it hasn't got anything to do with whether or not you've had any claims.

It's my experience over the past six to nine months that it doesn't matter whether you've made a claim or not as to whether or not they will -- before the regulation, when they were going to -- cancel you out or whether they were going to raise the prices. It's got to do with a much larger overall picture. The second thing is that in the instance of child care, since we have had, nationwide, so many well-publicized cases of child abuse, they want to be able to write for day care centers and child care work an exclusion for child abuse. Now, the Department of Insurance will be holding hearings on that in January. We have not let them off the hook, so to speak, when it comes to child abuse, because we have to go through the hearing process and one of the things that they are most unhappy about is that they want to get out from under covering child abuse, because they feel that -- and they will tell you and you heard the prior speaker -- that this is something the industry will say over and over again, and that is that they cannot predict with any certainty what something like that will cost because of the way the courts handle the cases.

ASSEMBLYMAN OTLOWSKI: All right, Commissioner, thank you very, very much. Do you want to go into your formal testimony?

COMMISSIONER GLUCK: Yes, I'd like to, briefly.

The current crisis in insurance as it affects non-profit entities in New Jersey must be viewed in perspective. It is, to a large extent, a reflection of the problems affecting commercial liability insurance across the board, not only in New Jersey, but nationwide. Indeed, there are international implications in that major alien insurers, such as Lloyd's of London, are reluctant to supply the reinsurance or excess coverage that is essential to the stability of the market.

Municipalities are having trouble in obtaining insurance, or affording it if they can get it, since price increases of 300% or 400% are not uncommon. Taverns and restaurants are similarly affected, and you can just about write off the market for anything involving hazardous wastes and pollution.

The reasons for this so-called hard market are several.

The companies are undoubtedly running scared because of their fear of what they regard as capricious re-interpretations of time-tested policy language.

The leading case in this area is that involving Jackson Township in Ocean County. A group of township residents, charging that their drinking water had been contaminated by seepage from a township-owned landfill, won a jury verdict of $15.5 million. The companies are in shock as a result of that verdict because the standard language of the liability policy excluded coverage unless it was sudden and accidental. They thought -- the companies -- the language insulated them against lawsuits for pollution by seepage. But the court held otherwise.

The judgment was later reduced to $5.5 million on appeal but even that is of little solace to the insurance industry, which fears other re-interpretations of policy language and more huge judgments down the road.

But there are other reasons for the companies' current posture too, especially the huge increases in premiums that are being experienced.

In the last years, the competition among insurers has been fierce. There has been substantial price-cutting, giving rise to a phenomenon known as cash-flow underwriting, which means that the companies sold their products at any price simply to get their hands on the money for investment at the prevailing high interest rates. I might add here, Mr. Chairman, that at the time we're talking about -- '80, '81, '82, -- there was a recessionary period, and a very flat market. In other words, nobody was crying out for insurance. And because of that flat market they started also to lower their prices.

With the decline in interest rates, the companies now find themselves paying claims arising from policies that were probably not adequately priced.

Moreover, case flow underwriting has led to what we call a capacity crunch. The ability of a company to write insurance is directly dependent on its policyholders' surplus, which, to oversimplify it, is the amount of money left when a company's

liabilities are subtracted from its assets. The companies ideally should write two dollars of premium for every one dollar of surplus. Thus, for the companies to increase their amount of writings their surpluses must grow each year.

Unfortunately, because of cash-flow underpricing of insurance and the strong demand on the companies for other lines of insurance, the growth of surpluses has not kept pace with the growing needs of the market. Given the choice between committing their surpluses to high-risk coverages, like municipal liability insurance, and the less risky lines, the companies will choose the latter when the surplus capacity is limited.

So it would appear that the companies, despite their justified fears over the ramifications of the Jackson Township case, must bear a large part of the blame for management practices that they should have known would prove to be self-destructive down the road.

The Insurance Department, in seeking remedies for this ailing commercial liability market, is inhibited by the fact that commercial lines of insurance are deregulated. We have no control over prices and limited ability to deal with the availability problem.

However, we did take positive action on September 17th with the adoption of an emergency regulation aimed at halting the arbitrary termination of insurance policies, whether by cancellation or non-renewal. The regulation was adopted on a permanent basis on November 16th.

We have also been talking with industry representatives in an attempt to devise a Market Assistance Plan for the placement of risks that cannot otherwise obtain coverage. Good risks we're talking about now.

We have also been actively searching for companies to provide specific coverages. We have been successful in persuading a New Jersey-based company to write coverage for nurse/midwives. We also found an Arizona company that is willing to write day care centers on a surplus line basis here in New Jersey.

What we have done so far, I believe, will have a salutary effect on the market and has served notice on the industry that the

State will not simply stand by while the companies, which do have a quasi-public function, whether they admit it or not, flee from their responsibilities.

ASSEMBLYMAN OTLOWSKI: Commissioner, on this business of the Market Assistance Plan, do you want to develop that just for a moment?

COMMISSIONER GLUCK: Yes. What it is, Mr. Chairman, is, about 17 companies that would be willing to get together with the Board of Governors -- and the Insurance Commissioner would sit on that Board -- and they would develop a plan whereby they may take every fifth risk that's given to them that couldn't find insurance -- good risks now we're talking about; we're not talking about poor risks -- and it is to help the Department of Insurance and the State of New Jersey through a market assistance plan -- which is exactly as the language suggests -- to place the good risks that can't get coverage in New Jersey.

Now, in order to do that, they want us to pull back from the regulation. They want a replacement regulation. My great fear at the time, talking to them -- and we're still in negotiations with them -- is if we pull back we will see a lot more cancellations, because then they will be free to non-renew and to cancel. We are trying to work out the final steps along the way to a market assistance plan that has teeth in it, because there are other states that have market assistance plans, and in checking with them the commissioners have told me that they have only been fair in their success. So if we pull back on this regulation, which has probably got the broader scope of what any Department of Insurance in this country has done, we want to make absolutely sure that we're not going to be faced with an avalanche of cancellations going down the road.

That's what it would do. It's not mandatory that they accept the risks. It's all a question of good faith between the Department, and the people, and the insurance industry. And they're-- I have to say in all candidness there's a lot of distrust on both sides, so it's been kind of hard to put together. But we're still working to do it, because I feel strongly that if we can get the insurance industry to pick up some of this responsibility, collectively through a market assistance plan, we are probably far better off than we are mucking

around in the private sector, maybe creating other distortions by doing that. It will all depend upon whether or not we feel comfortable.

ASSEMBLYMAN OTLOWSKI: How about the business of these day care centers and some of these other non-profit organizations pooling their resources and setting up their own plans that probably wouldn't be governed by the panic that exists -- for example in that $15 million judgment -- by the panic that exists in some of the other areas where people are afraid to breathe air, or people are afraid to eat bologna, because it might be cancerous-- In all of those situations that create that kind of panic, and obviously affect the rates and affect the whole structure of insurance, and as you pointed out, affect their desire to keep up their surpluses and whatnot, so that they're on safe economic grounds-- How about if these organizations formed their own pools? What do you think of that?

COMMISSIONER GLUCK: Well, let me just say this. We have asked -- I have asked -- that the statutes be looked at and that some of the prohibitions against groups pooling be either pulled back, if they're in the statutes, or that permission be granted through the statute to allow them to self-insure. That's the first step.

The second thing is, I think there is a lot of emotionalism in underwriting, and the chief underwriter of one of the larger companies in New Jersey that does commercial liability writings -- Crum and Foster -- sat at a hearing and said to me, "There's a lot of emotionalism that goes into some of this underwriting, and some of these risks should really not have been put in the position that they have been put in."

The third thing is that if non-profits were to pool, there would be certain standards, sir, that they would have to meet. We could certainly help with any legislation in that regard, but they would have to meet those standards for their own sake, because once they self-insure to pool, then they would be responsible for any of the "long tail," as they say in the industry. Any of the suits that might arise that may not have to be paid off for five, or ten, or fifteen years, so that they would have to have adequate reserves-- And the Department of Insurance probably should approve their plan of

operation, and probably should have a unit in it, Mr. Chairman, which we do not have now that would oversee groups, such as non-profit agencies, that would self-insure. And the reason why I say this to you is because I don't want to sit here a year from now, or two years from now, and have you say to me, "Hazel, you know, we did this, and some reinsurance facility or pool went belly-up. Why wasn't the Department of Insurance watching them?" I'm going to tell you right now that I would implore you, if you consider any legislation, that you also consider the people needed in the Department for this, as well as the appropriation for it. We have only 260 people in our Department now, Mr. Chairman, and the big push now is to get adequate staffing. We think that we need-- I mean, I don't want to kid you and say do this, and us not have the ability to watch -- for the sake of the non-profits, which I think they would probably want too. Or any other group.

ASSEMBLYMAN OTLOWSKI: In that connection, the argument that the non-profit people raised here this morning was the fact that the rates have sky-rocketed and have increased tremendously, and then they buttressed that argument by the fact that the experiences have not been bad. As a matter of fact, if they're correct, the experiences have been good. On that basis, has the Department looked into that discrepancy to determine if there's any truth in that; to determine if there's any way to deal with that?

COMMISSIONER GLUCK: We think there's truth to that, and the only way to deal with that is the way-- We owe the Legislature a report on the Commercial Deregulation Act, Mr. Chairman. That report will come in January. That report is a pretty hard-hitting report.

Prior to deregulation in 1982, we had a system of approval for rates called "prior approval." That system took forever to get through the Department of Insurance, sorry to say. It was cumbersome; some people waited two and three years, which is absolutely inexcusable, in my opinion, and outrageous to have to wait if a rate increase is justified, because that puts the company in peril, and we're responsible for that as well as protecting the consumer. So they changed from prior approval to complete commercial deregulation. Now

it's my-- That's what the insurance industry wanted, that's what the Legislature of this State voted, and the Governor signed, as well as other legislatures and governors across this country. I think they've taken tremendous advantage of it, and I think they've taken tremendous advantage of it to the disadvantage of the consumers of this State. And I think in that instance the industry is their own worst enemy.

Our suggestions that are going to be forthcoming in January are going to ask for a modification of the Commercial Deregulation Act. Tighten it up. I'm not suggesting that we go back to prior approval, and the cumbersome way the Department of Insurance did their job in the past, because I don't think that's the answer. Right now we will be asking for a tightening up, and in that tightening up the Commission will be given more powers to be looking at these great fluctuations in prices. But that's not going to do a heck of a lot of good for the people who already got the increases. I think we're looking probably at another year, or year and a half of increases ahead of us.

ASSEMBLYMAN OTLOWSKI: That report will be available early in 1986, you feel, sometime in January?

COMMISSIONER GLUCK: Yes, sir.

ASSEMBLYMAN OTLOWSKI: Which means, probably, that another year will take place before there's anything done.

COMMISSIONER GLUCK: That doesn't have to be that way. I mean, if that translates into legislation, and it has a high priority, and we get the people on board, we could do it by the summer. But that all depends upon the speed with which it is reacted to. But there's no -- I mean -- question that, given the people to handle it, we can do it.

ASSEMBLYMAN OTLOWSKI: Commissioner, thank you very, very much.

COMMISSIONER GLUCK: You're welcome, Mr. Chairman. Thank you for having this.

ASSEMBLYMAN OTLOWSKI: Thank you. May we have Nancy Becker, please?

Nancy, do you want to give us your name please?

NANCY BECKER: I am Nancy Becker, and I am here testifying on behalf of the United Ways of New Jersey. The United Ways is a State association which represents 16 United Ways in 14 counties in our State. They provide funding for over 500 non-profit agencies throughout the State and represent over 75% of the United Way dollars raised in New Jersey.

This morning we've heard that over the past few years, non-profit agencies in New Jersey have been faced with the crisis of rising insurance costs, reduction in coverage, and, at times, abrupt cancellations of policies. That cancellation now has been stopped as a result of the Governor's order. The operations of many United Way supported agencies have been jeopardized as a result of these actions.

Many of the agencies which United Ways of New Jersey supports are established to provide child care to members of the community. In Union County over the past calendar year, insurance companies increased the premiums charged for liability coverage to child care providers, such as day care centers, scout troops, and latch key programs, an average of 67% over the previous year's cost. The range of the increases fell between 17 and 247%. In addition, at least half of our child care agencies are operating under insurance policies that previously provided coverage for child abuse and assault but have been adjusted to eliminate this particular liability. In some cases, an additional rider is placed on policies providing coverage for child abuse and assault only at an additional fee. Many of our programs do not have the funds to support this additional cost. Furthermore, some of these agencies believed that they were covered for child abuse and assault, when in actuality, their policies did not provide this type of coverage at all.

Our multi-service agencies, such as YMCA's and community centers, have also experienced a dramatic increase in insurance costs, ranging from an increase of 37% to 1000% over last year's costs. The average premium increased 164%. Furthermore, liability coverage carried by most multi-service agencies ranges from $300,000 to $3 million at the maximum.

ASSEMBLYMAN OTLOWSKI: Nancy, excuse me. On the basis of what you've heard here today, and on the basis of some of the things that you are talking about and what's in your written testimony here, you say we encourage action on the part of the Legislature to intervene. What are some of the solutions that you see? What are some of the suggestions that you would make to the Legislature?

MS. BECKER: I'm not prepared to discuss solutions today. We were asked to develop testimony that outlined the problems. Certainly in listening to Commissioner Perselay, and Commissioner Gluck, and Betty Wilson, I prepared to take those suggestion back to the Board of Directors of the United Ways for their input and discussion in early January, when they meet.

ASSEMBLYMAN OTLOWSKI: I wish you would. Frankly, you heard Commissioner Gluck, and as a matter of fact, based upon what she said, you know, it seems to me you are going to be confronted with this problem for the next year. I don't see it getting any better, I don't see any legislation developing that could be helpful at this point unless some drastic action is taken immediately by a deregulatory agency. Or, if some plan comes up by the people who are caught in this dilemma-- Unless they come up with something, you're probably a long way off for any kind of legislation. What about this pooling business that they've been talking about?

MS. BECKER: That certainly sounds like an interesting idea from my point of view, and I would have to take it back to the Board for their discussion. I know that pooling certainly has worked in the case of the public schools, and the community colleges are now permitted to develop insurance pools, basically for the same kinds of reasons: because of escalating costs of insurance. And, I would be happy to take that back to the United Way agencies.

ASSEMBLYMAN OTLOWSKI: Based upon these people that you were talking about -- you know, the non-profit organizations -- from your knowledge, have their experiences been good or have they been bad, have there been big judgments from what you know?

MS. BECKER: My knowledge of the school board situation -- which has been in existence, I believe, for the last two to three years

-- has been a positive one. The community colleges were just permitted by legislation during the past year to form pools, and they have not achieved that step yet; they're planning to do it in the year ahead. My understanding is that the school board situation has worked effectively.

ASSEMBLYMAN OTLOWSKI: Thank you. May I make this suggestion, Nancy? And I don't want to cut you off and I don't want to be presumptive in asking you to do this, but I think if you went back to your people and talked about some of the possible solutions other than the present structure. I think we have to look elsewhere, and it should be something that ought to be workable and acceptable, with very little need for extensive legislative debate and extensive legislative action. Would you do that?

MS. BECKER: I will do that, Mr. Chairman, and since my testimony is printed, I will just thank you for calling this hearing on a very important subject.

ASSEMBLYMAN OTLOWSKI: And, Nancy, do we have the eight copies of that?

MS. BECKER: Yes, you do.

ASSEMBLYMAN OTLOWSKI: We do?

MS. BECKER: Yes.

ASSEMBLYMAN OTLOWSKI: Nancy, thank you very, very much.

MS. BECKER: You're welcome.

ASSEMBLYMAN OTLOWSKI: May we have Dr. Susan Karr?

DR. SUSAN KARR: Thank you, Mr. Chairman. I'm Susan Karr from the New Jersey Division on Women. You have--

ASSEMBLYMAN OTLOWSKI: What's happening within, that they're caught in this situation? (laughter)

DR. KARR: A couple of things. We have long been advocates for the needs of New Jersey's working families, many of whom -- a million and a half of whom — are women. In addition, child care is a very serious need for working women. So that's why we're concerned.

ASSEMBLYMAN OTLOWSKI: Excuse me.

DR. KARR: Yes?

ASSEMBLYMAN OTLOWSKI: Do you have written testimony?

DR. KARR: You have it.

ASSEMBLYMAN OTLOWSKI: We have the copies?

DR. KARR: Yes.

ASSEMBLYMAN OTLOWSKI: How many pages is it?

DR. KARR: Oh, it's only one and a half.

ASSEMBLYMAN OTLOWSKI: All right.

DR. KARR: Okay?

ASSEMBLYMAN OTLOWSKI: All right, good.

DR. KARR: And I— No, no, this is not it. No.

ASSEMBLYMAN OTLOWSKI: Excuse me, I just want to tell everybody else, you know, that I bent overboard for the Commissioners. I'm going back on the ship now and tighten all of the hatches, and we're going to limit everybody to oral testimony and submitting their written testimony. Okay?

DR. KARR: Yes. I'm simply going to summarize my page and a half.

ASSEMBLYMAN OTLOWSKI: Good. Thank you.

DR. KARR: Okay. I'd like to say that, as I just said, we are advocates for working parents, and child care is a major issue for working parents. Working parents need to be able to find child care and to be able to afford it. This is becoming more difficult with this crisis in insurance.

As we have heard, licensed centers, family day care homes, and after school programs are having a hard time. They are threatened, either because they cannot find or cannot afford coverage. And I would like to give you a personal experience. I'm on the board of an after-school program which my daughter attends five days a week. In November, we got word that our sponsor's insurance premium was going up dramatically. As a board we decided to pass along 11% increases, effective immediately, to each of our 35 families. We also made cuts in our budget which affect the quality of the program. While we were able to absorb this this time around, we don't know if we can absorb it again. And I am speaking very personally. My daughter — my eight-year-old -- is going to be one of the ones who is going to be a latchkey child if this program closes. So this-- The insurance industry-- What's going on here is having very personal impact on individual families.

The Division on Women has long been an advocate for working families. We join with our colleagues here and elsewhere; we're part of the task group on insurance that's been alluded to; we're working hard on this issue. We thank you for having these hearings.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much. Will you give some thought to some of the things that we were talking about here--

DR. KARR: Yes.

ASSEMBLYMAN OTLOWSKI: --this morning to see if your organization can be helpful in that direction?

DR. KARR: Absolutely.

ASSEMBLYMAN OTLOWSKI: Would you please?

DR. KARR: Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much. May we have Elizabeth Kelly? Elizabeth Kelly, do you want to let us have your name and where you are coming from, for the record, please?

ELIZABETH KELLY: Right. My name is Elizabeth Kelly. I am Office Manager of the Housing Coalition in Middlesex County, which is a private, non-profit organization providing housing services to residents of Middlesex County and Franklin Township.

I think that what I can add to the discussion today is -- like Dr. Karr added -- a personal example of how the insurance crisis with non-profits affects people, is an example of how the crisis affects a small non-profit organization, very specifically.

Over the past four years, our total insurance costs have increased over 400% from $186 to $899 per year, despite the fact that our organization has never filed a single claim, or been involved in any kind of litigation that could possibly be related to a claim against insurance.

Less than 30 days before our major liability policies expired last August, we were told by our agent that our policies would not be renewed. We were told that this was because of, quote, "New underwriting procedures and increased costs." When I called our agent to ask for further information, I was told very summarily that they simply did not have other companies who would provide coverage, and

that we should place our coverage elsewhere. A few days later I received written notice from our fidelity bond insurer that our fidelity bond policy, which was due to run for another year in the amount of $5000 dollars -- it's a very small policy--

ASSEMBLYMAN OTLOWSKI: Did you make that known to the Commissioner of Insurance?

MS. KELLY: Oh, yes. Oh, yes. It was also being--

ASSEMBLYMAN OTLOWSKI: And did you ask them to find insurance for you?

MS. KELLY: We requested-- We were able to find this on our own. It took, however, 90% of my time over the next three weeks.

ASSEMBLYMAN OTLOWSKI: And you did find other insurance?

MS. KELLY: Three days before our policy was set to expire we were able to place new coverage. I encountered very similar kinds of difficulties during a three month long attempt to obtain officers' and directors' liability coverage.

ASSEMBLYMAN OTLOWSKI: Excuse me, that coverage that you filed, was that out-of-state coverage? Out of the--

MS. KELLY: No it was-- Our policies are now placed with the Insurance Company of North America, through Snediker Valenti Agency in New Brunswick. So, it's a local agency and it's a -- I guess -- national company. We had to go, however, out-of-state to obtain officers' and directors' liability coverage, which we now have through Huntington T. Block in Washington, D.C. We were only able to place our coverage with them because we've recently been accepted as a United Way Agency. Had we not received this acceptance a month previous in June, we would not have been able to obtain any officers' and directors' liability coverage at all.

The problem with this is that our office is very small. We have five people on staff, and all of us are stretched to the limit serving clients, as it is. Most of our clients are homeless, they're facing eviction, they're living in substandard housing because they can't afford to pay market-rate rentals. The time that I spent searching for insurance coverage took me away from other tasks that were much more directly related to the services that the coalition provides.

New Jersey State Library

ASSEMBLYMAN OTLOWSKI: Excuse me, excuse me, excuse me. Your insurance coverage for the people that you service, what kind of coverage is that?

MS. KELLY: Well, we have a basic, standard, liability policy, we have workers--

ASSEMBLYMAN OTLOWSKI: Liability for what?

MS. KELLY: Liability for the office. If somebody slips and falls—

ASSEMBLYMAN OTLOWSKI: Oh, for your office.

MS. KELLY: --within our office.

ASSEMBLYMAN OTLOWSKI: Not for the people that you service?

MS. KELLY: Oh, no, no, no, no, no.

ASSEMBLYMAN OTLOWSKI: And you're having difficulty in getting insurance for your office?

MS. KELLY: Yes. Yes. Yes. Insurance for the office, workers' compensation, officers' and directors' liability, and fidelity bond.

ASSEMBLYMAN OTLOWSKI: What do you have, floor traps in that office of yours? (laughter)

MS. KELLY: No. No, it's just a small -- 1000 square feet -- office. If we had been able to obtain the-- If we had been unable to obtain these insurance policies at a price we could afford, we simply would have had to face the choices of either eliminating many of our services, or possibly ceasing operations. Like everyone else here today, we're calling on your Committee to take immediate action towards providing some sort of legislative remedy for these issues of cancellations, reductions in coverage, and the enormous premium increases. Unfortunately, our insurance was cancelled before the moratorium went into effect, otherwise, we probably wouldn't have had the extreme difficulties that we did. But we're certain that creative alternatives can be found that would provide some sort of solution that will control costs and cancellations so that small, non-profit service providers, like the Coalition, won't continue to be faced -- although there's been testimony already this morning that would indicate to the contrary -- with this kind of crisis.

We've solved our problems, for the time being, at four times the cost. But, it's been made very clear that we have no idea what the next year will bring, and we simply won't be able to survive if the situation continues.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much.

MS. KELLY: Thank you, sir.

ASSEMBLYMAN OTLOWSKI: Thank you very much. May we have Kaye Boyer? Kaye, you want to let us have your name and tell us what organization you're representing, for the record, please?

KAYE KITTLE BOYER: I am Kaye Kittle Boyer, Executive Director of the New Jersey Home Economics Association, and I too want to compliment you on holding hearings so that we can talk with you in a timely manner.

ASSEMBLYMAN OTLOWSKI: Thank you.

MS. BOYER: Before I begin, I wanted to mention too, that on Friday, in the Asbury Park Press, there was an article about Santa Claus, and it questioned his ability of obtaining insurance in this tight market. (laughter) It suggested that he would have a hard time because he is likened to being a private pilot, or a skydiver, and also because he's overweight and smokes. So, at least we're in good company as we testify today.

ASSEMBLYMAN OTLOWSKI: I expect him to testify on December 24th.

MS. BOYER: Oh, well great. I'm glad to know the hearings are going to continue that long. I too have given you written testimony, and I would just summarize it by saying it does document a non-renewal of private policy, prior to the moratorium that was set in New Jersey, a 500% increase in insurance rates from one of our--

ASSEMBLYMAN OTLOWSKI: Non-renewal to members of your organization or to your office staff?

MS. BOYER: It's for our Association.

ASSEMBLYMAN OTLOWSKI: For your Association.

MS. BOYER: Right. For our--

ASSEMBLYMAN OTLOWSKI: Your Association, as such, is having difficulty.

MS. BOYER: That is correct. And we are a different kind of association than you have heard testimony from before. We are non-profit, we are not a trade association, but we do not provide human services such as day care centers do. We're an educational and scientific organization working in the public interest. So that, too, gives a different kind of testimony and it continues to indicate that even though we're a low-risk association, we have had difficulties this past three months in obtaining--

ASSEMBLYMAN OTLOWSKI: And you're regarded as a low-risk association?

MS. BOYER: Definitely. Yes.

ASSEMBLYMAN OTLOWSKI: And you still have difficulty?

MS. BOYER: Definitely.

ASSEMBLYMAN OTLOWSKI: Did you-- And you finally got insurance?

MS. BOYER: We have gotten insurance; it is three times what we had paid previously.

ASSEMBLYMAN OTLOWSKI: Uh-huh. What about some of the things that were talked about here this morning? You know, about these non-profit organizations forming a pool?

MS. BOYER: I think that's an excellent thing to look into. One of the things that goes within that is that some of the non-profits that have less risk than other non-profits might want to segment. And so, we might want to look even within that. But I do think the pooling idea certainly has an excellent future to it.

ASSEMBLYMAN OTLOWSKI: Are-- These non-profit organizations, have they set up any kind of a mechanism -- any kind of a committee or a group -- to start looking into that, and to start working something up like that, so that it can be presented to the Commissioner so that it can be presented to the Legislature?

MS. BOYER: We have not done that yet. It has been looked upon as far as possible ways of doing it for money investment, so the concept is there, and it would certainly be possible to look at it within the insurance area.

ASSEMBLYMAN OTLOWSKI: Thank you very much. Thank you very, very much. May we have Dennis Mansman?

ROBERTA BURKE: (speaking from audience) I'm here for him, and I'm next on the agenda after him, also.

ASSEMBLYMAN OTLOWSKI: You're next on what?

MS. BURKE: I'm here for Dennis Mansman, and I--

ASSEMBLYMAN OTLOWSKI: You're Roberta Burke?

MS. BURKE: That's correct.

ASSEMBLYMAN OTLOWSKI: And you're part of that same group?

MS. BURKE: Yes, I am.

ASSEMBLYMAN OTLOWSKI: All right, Roberta, do you want come up here please? (witness moves to witness table) You mean we're going to get two for one now, right?

MS. BURKE: Actually, you're going to get three for one.

ASSEMBLYMAN OTLOWSKI: Oh, isn't that wonderful. Who is-- How are we going to get-- We get Dennis Mansman, we get Roberta Burke, and who else do we get?

MS. BURKE: No, I'm not on your agenda-- I'm also representing the Alcohol Providers of Essex County -- Those who run the alcoholism programs.

ASSEMBLYMAN OTLOWSKI: Okay. Roberta, do you want to give us your name?

MS. BURKE: My name is Roberta Burke, I am the Executive Director of the North Essex Development and Action Council. And we have programs in Montclair, Verona, and Livingston.

ASSEMBLYMAN OTLOWSKI: And you're also speaking for Dennis Mansman, the New Jersey Association for the Treatment and Prevention of Substance Abuse?

MS. BURKE: That is correct.

ASSEMBLYMAN OTLOWSKI: All right.

MS. BURKE: And there are 67 treatment programs in the State of New Jersey servicing between 17 and 18,000 people with substance abuse problems, and also their families.

ASSEMBLYMAN OTLOWSKI: All right, now, your problems are with your administration -- getting insurance for your administration, for your office function? What are some of the problems that you have?

MS. BURKE: Our problems that the industry is experiencing are the dramatic increases in the cost of our insurance. There have been no claims either in the drug programs in New Jersey, or in any of the alcohol programs in Essex County. And the insurance— Our insurance has gone up in different programs anywhere from 50 to 300%. And the problem is that because of these dramatic increases, some of the smaller programs have been told that their insurance is going to go up again. They're afraid they may have to close. They may not be able to afford to stay open. Also, if a--

ASSEMBLYMAN OTLOWSKI: These are the offices, you're talking about, that are having difficulty in getting insurance?

MS. BURKE: Treatment, yes. The treatment programs.

ASSEMBLYMAN OTLOWSKI: The treatment programs.

MS. BURKE: That's correct. And also, if— So, a small program may be forced to close, because they will not be able to afford the insurance; or a larger program that, perhaps, can afford these dramatic increases will not be able to service as many clients, because the money will have to go in insurance -- it won't be able to be put toward client services. And one thing that we're particularly worried about in the substance abuse field, with the AIDS epidemic, is that we won't be able to treat as many drug abusers.

ASSEMBLYMAN OTLOWSKI: Roberta, in that connection, with the problem -- the, you know, the many, many problems that AIDS poses -- does that have any effect on your present problem with insurance rates and with your administration, do you think? Do you think that, for example? We're talking about an office operation, we're not talking about insuring individual clients, we're talking about your office operation—

MS. BURKE: That's correct. We have to have liability insurance, we have to have malpractice insurance—

ASSEMBLYMAN OTLOWSKI: You must have it?

MS. BURKE: Some of our contracts require that we have it. We have to have $1 million liability, that's written into— In my agency, two of the contracts that I have require that I have million dollar liability, and I must give proof of that.

ASSEMBLYMAN OTLOWSKI: Is that required by your contracts, not by State law?

MS. BURKE: By our contracts.

ASSEMBLYMAN OTLOWSKI: By your contracts.

MS. BURKE: For example, a contract that I have with Essex County requires--

ASSEMBLYMAN OTLOWSKI: They want you to be covered by insurance? They have--

MS. BURKE: --requires that I have a million dollar liability insurance.

ASSEMBLYMAN OTLOWSKI: But there's no State law that requires that?

MS. BURKE: Not that I know of.

ASSEMBLYMAN OTLOWSKI: Obviously, this whole business of AIDS is going to have a tremendous impact on your operation, will it not?

MS. BURKE: Yes, we are-- We have seen some AIDS clients, and the problems is, with our insurance going up, I may not be able to employ-- If I can afford the insurance, I may not be able to employ as many counselors to work with these clients.

ASSEMBLYMAN OTLOWSKI: You heard us talking here this morning about some of the alternatives, and would you think, and would you talk to your group about, you know, exploring the possibility of the non-profit sector having a pool program?

MS. BURKE: We've talked about it, but I certainly am not knowledgeable enough to know that much about it, nor are people in the program, or in the various State -- you know, or in the various programs throughout the State. I mean, the little I know about it, I would certainly think this is a possibility.

ASSEMBLYMAN OTLOWSKI: Is there anything else that you feel that we ought to know about your operation at the moment, that would be helpful to us?

MS. BURKE: It's just that the crisis that is occurring-- Now when we're talking about, well, perhaps we'll be able to get something done within the next year -- I mean, then there are going to be programs that will go out of business within the next year, and services that will be lost.

ASSEMBLYMAN OTLOWSKI: Yes. Roberta, there's a Daniel Alfieri here, from the Methadone Maintenance Clinic?

MS. BURKE: No, Dan hasn't gotten here yet.

ASSEMBLYMAN OTLOWSKI: He's not here yet?

MS. BURKE: No, not yet.

ASSEMBLYMAN OTLOWSKI: I just want to see who else is here.

MS. BURKE: He's also part of the State Association.

ASSEMBLYMAN OTLOWSKI: Is Edward Higgins here? Not here?

MS. BURKE: No.

ASSEMBLYMAN OTLOWSKI: They're the only ones that have that problem which is similar to yours.

MS. BURKE: That is correct.

ASSEMBLYMAN OTLOWSKI: Yes. Roberta, thank you very, very much.

MS. BURKE: Thank you, sir, for having these hearings.

ASSEMBLYMAN OTLOWSKI: Thank you. May we hear from Betty Weatherspoon, please? (someone from audience corrects pronunciation) Oh, Witherspoon, I'm sorry. Is she here? Is Kate Wertheimer here? Kate?

KATE LYNCH WERTHEIMER: (correcting pronunciation) Wertheimer, sir.

ASSEMBLYMAN OTLOWSKI: Wertheimer.

MS. WERTHEIMER: Yes.

ASSEMBLYMAN OTLOWSKI: Kate, you're really an administrative group, aren't you? You just run an office operation. You're not talking about insurance?

MS. WERTHEIMER: The Child Care Advisory Council was established by the Child Care Licensing Act of 1983. We're an advisory group both to the Department of Human Services, and to the Division on Women, and to the Legislature.

ASSEMBLYMAN OTLOWSKI: And your problem is -- what? -- getting insurance for your office operation?

MS. WERTHEIMER: No, sir. No, sir, we're basically an advocacy group, and I'm here to just reflect the general crisis that we sense statewide, and my testimony will go into that.

ASSEMBLYMAN OTLOWSKI: Let me ask you this. Did you give us copies of your--

MS. WERTHEIMER: I'm sorry, it's being typed. It will be gotten to you later on today.

ASSEMBLYMAN OTLOWSKI: Oh, you're going to give it to us extemporaneously?

MS. WERTHEIMER: No, no. What I have in my testimony reflects what has been said by everyone else, so you will have it in writing. And I would just like to reiterate--

ASSEMBLYMAN OTLOWSKI: Oh, good. But in the meantime, you're going to give us an outline?

MS. WERTHEIMER: Not really an outline. We support the suggestions made by Commissioner Perselay, and think it's very important that the Insurance Commissioner be given the power to begin regulation, and that the pool ideas be explored.

ASSEMBLYMAN OTLOWSKI: Excuse me. Are you working closely with the Commissioner?

MS. WERTHEIMER: Yes, we are.

ASSEMBLYMAN OTLOWSKI: I suggest that you intensify that whole relationship, because I think that he can be very, very helpful here.

MS. WERTHEIMER: Oh, I think so. And we are mandated legislatively to deal with him on this. And I just wanted to reflect our strong feelings as to what he has been doing, and what Division of Youth and Family Services has been doing, particularly Nick Scalera.

ASSEMBLYMAN OTLOWSKI: And I think, you know, I think you ought to push him, too, in that direction of pooling so that he can assign some of his staff people to start developing that, you know, into a mechanism to determine -- so that we can determine whether he'll -- what kind of legislative action he would need for that, or what kind of a-- If you can really do it by regulation. Would you do that?

MS. WERTHEIMER: Yes. In fact, last month we established a committee to study and report out on this very specific issue and to make recommendations, in particular, legislative recommendations.

ASSEMBLYMAN OTLOWSKI: When do you think a report like that will be available?

MS. WERTHEIMER: Since the people— The two co-chairs of the committee are day care providers. I think that we're going to get recommendations very quickly from them, because they are in crisis situations themselves.

ASSEMBLYMAN OTLOWSKI: Wonderful. Thank you. Is there anything else you want to say?

MS. WERTHEIMER: No, sir. My testimony will be coming in this afternoon.

ASSEMBLYMAN OTLOWSKI: And your testimony will be made available so it becomes part of the record.

MS. WERTHEIMER: Yes, sir.

ASSEMBLYMAN OTLOWSKI: Thank you very much.

MS. WERTHEIMER: Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you. May we hear from the New Jersey Association for Children's Residential Facilities, and that's a duo? A duet?

ANGELA ESTES: You just get half of the team today.

ASSEMBLYMAN OTLOWSKI: You just got half of the team? Do you have written testimony?

MS. ESTES: No, I don't.

ASSEMBLYMAN OTLOWSKI: You're going to do it extemporaneously?

MS. ESTES: It'll be very brief.

ASSEMBLYMAN OTLOWSKI: All right.

MS. ESTES: I promise.

ASSEMBLYMAN OTLOWSKI: Would you, just for the record, let us have your name and the association that you represent?

MS. ESTES: Certainly. My name is Angela Estes. I am the Director of Robin's Nest, Incorporated, which is a group home, and I also am here today representing the New Jersey Association of Children's Residential Facilities.

ASSEMBLYMAN OTLOWSKI: You represent group homes?

MS. ESTES: Yes, our members are private group home and residential center providers who contract with the Division of Youth and Family Services.

ASSEMBLYMAN OTLOWSKI: What about the group homes and the problems that they are having with insurance companies?

MS. ESTES: Well, as an agency director I am very concerned with our inability to get adequate liability coverage, in addition to the increase in premiums. But furthermore, members of my Board of Directors are very concerned that the courts have allowed individuals such as they to be served personally for an incident that may occur in one of our agencies.

ASSEMBLYMAN OTLOWSKI: The courts have done what?

MS. ESTES: That court decisions are having -- are allowing -- boards of directors to be sued personally. As a matter of fact, even a director of an agency, such as I, could be sued. And this may be giving us a clue as to the extent of the problem.

ASSEMBLYMAN OTLOWSKI: You know, the truth of the matter is -- you're aware of this -- that the courts are taking that line, generally -- and that applies almost to any kind of a corporate structure -- where they're opening that door wider and wider, and lifting the protective corporate veil, so that you can strike at individuals. I'm just wondering, myself, where that's going to take us, and as a matter of fact, how you're going to get people to serve on these boards, when you're going to be exposing them to personal liability.

MS. ESTES: I think you're taking my speech. You're right.

ASSEMBLYMAN OTLOWSKI: You want to develop that just for a moment so it becomes--

MS. ESTES: You're doing a beautiful job on my speech. (laughter) I wanted to say why this is such a critical issue for residential providers. The Division of Youth and Family Services, which contracts for our services, does not pay the full cost of care. In effect, the Division is mandating that we do our own private fund raising to meet our operating deficit. So, therefore, small agencies such as ours depend on volunteer board of directors to raise necessary dollars to provide quality care and appropriate programing for emotionally disturbed adolescent children.

How can we do that without the presence of prominent people to serve on our boards? It is no wonder that responsible members of the community are becoming reluctant to serve. After all, why should they subject themselves to that kind of personal exposure? And yet, I want you to understand that without that kind of involvement, small, private, non-profit residential and group home centers are going to find it impossible to raise the dollars necessary to provide quality care and adequate programing for children who are under the care, custody, and supervision of the State of New Jersey.

It is a critical issue, and I'm glad that the Committee Chairman himself recognizes that.

ASSEMBLYMAN OTLOWSKI: As a matter of fact-- Are you going to submit written testimony on that score?

MS. ESTES: I am willing to do that. I got this phone call at four o'clock on Friday.

ASSEMBLYMAN OTLOWSKI: You know what I'd like you to do, just for the record? To submit a written memorandum, developing this theme that you just pointed out, you know, that the courts are going in the direction that could jeopardize many, many volunteer and non-profit benefits that we get now from citizens who are willing to give their time, and who are willing to serve voluntarily, and who are doing it out of compassion and who are doing it out of a sense of community obligation. And yet, to subject these people to personal suits could be a devastating thing to that whole program. And I think that we should have a memorandum from you on that score so that at least it can be made a part of the record. And that's something, of course, that the Legislature may have to grapple with to provide legislation in that area alone. In that area alone. And as a matter of fact, I am willing to sponsor that legislation myself because I think that it could be a devastating thing. Aren't we going to say that people who have the goodness of purpose and the goodness of spirit-- Are we going to say to these people, "Well, you can come in, but be careful, because, you know, we're going to take away your home; we're going to take away whatever money you have, because we're now going to make you personally liable for the actions of your group." I think that this is a

devastating thing and it's far-reaching, and it could destroy, you know, what this country has always stood for, and what it always encouraged.

Let me have the memorandum, and let's go from there on that.

MS. ESTES: Thank you very much, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much. Now, Sue Sondiego-- Am I pronouncing that correctly?

SUE DONDIEGO: Dondiego.

ASSEMBLYMAN OTLOWSKI: Santiego? Oh, Dondiego. If that were a man's name, and if there were a balcony, it would make a heck of a scene. (laughter) Sue, you want to tell us where you're coming from?

MS. DONDIEGO: Yes. I am Sue Dondiego. I'm President of the New Jersey Foster Parents Association. My testimony is only a page long, but I'm not going to read that.

ASSEMBLYMAN OTLOWSKI: Sue, hold it. Sue, would you sit in that other chair so that all the mikes pick up your testimony? Sue, you got written testimony here?

MS. DONDIEGO: Yes. I just wanted to state that I am here on behalf of Foster Parents. One of our great concern has always been, why children need out-of-home placement, and I understand why everyone is here today. And we see the ripple effect of what's happening possibly resulting in more children needing out-of-home placement if day care is not available to many families who now use it. And that is our concern, that is what we wanted you to be aware of. We would hate to see this insurance problem result in more children being placed out of their homes, and we wanted you to be aware of this.

ASSEMBLYMAN OTLOWSKI: Sue, how does this affect your Association -- what's going on, the increase in the rates, the cancellations-- How does that affect you Association?

MS. DONDIEGO: Fortunately, the Department of Human Services and the Division of Youth and Family Services pick up the slack when insurance on Foster Parents was cancelled. We are all volunteers, so we are covered by the Division of Youth and Family Services. They took care of that for us as individual foster parents.

ASSEMBLYMAN OTLOWSKI: And you're working with them at the present time?

MS. DONDIEGO: Yes, sir. Very closely.

ASSEMBLYMAN OTLOWSKI: Is there anything else that you want to say?

MS. DONDIEGO: No. We certainly understand the problem and we would like to see this Committee do whatever it can to help the non-profits, and we certainly would support them in their efforts.

ASSEMBLYMAN OTLOWSKI: Sue, thank you very, very much.

MS. DONDIEGO: Thank you.

ASSEMBLYMAN OTLOWSKI: Jose Morales?

JOSE A. MORALES: Yes, sir. I thank you for the opportunity for having us here today. Even though I have a prepared statement, I'm going to address very few of it, because after listening to some of my colleagues--

ASSEMBLYMAN OTLOWSKI: Before you begin--

MR. MORALES: Okay. My name is Jose Morales, and I'm with the Puerto Rican Congress of New Jersey; also with the Hispanic Working Group on Human Services Issues.

After listening to some of my colleagues, there are some additional concerns that I have. For example, we have been investing quite a few thousands and millions of dollars trying to bring in more quality into the area of services at the local level, and specifically through our community-based non-profit organizations.

A lot of new initiatives have been implemented in order to prevent child abuse and neglect; in order to prevent family violence; in order to really expand family involvement in actual delivery of services. In trying to look at how much money do we actually have in order to run and sponsor our programs, the current crisis basically translates into a major stumbling block in our way in order to really accomplish that.

Before Commissioner Albanese left, he made sure that State aid initiative funding was approved by the Legislature and really expanded services at the local level. The moneys that were then

legislated at the State level -- If we were to pay this liability at this point -- would basically be shifted to the insurance companies. We would be back to where we were -- what -- three, four years ago. We wouldn't have the resources then to continue doing what we are doing right now.

In the case of the 40 Hispanic community-based organizations across this State, to us, it would be really detrimental. We have traditionally been underfunded, even though right now you have some consistency in terms of the rates for pre-school day care. In our case, we really don't get that much money from the fee scale that was implemented. I mean, most of our families are at the bottom of the economic ladder. We don't have-- We basically don't have the money to pay the insurance. The other--

ASSEMBLYMAN OTLOWSKI: Jose, excuse me. Your increases in insurances have been what? What kind of percentages have you been?

MR. MORALES: Okay. I have ones that are as low as 150 and some that are as high as probably 300 at this point. In my individual case--

ASSEMBLYMAN OTLOWSKI: From 150% to 300%, the increases--

MR. MORALES: Yes. In our individual case, we got a 215% increase for our specific agency. It's been very substantial.

ASSEMBLYMAN OTLOWSKI: Substantial, so that it has a tremendous reflection upon your operation and your operating budget.

MR. MORALES: Yes, sir. The major problem is, even though we understand that there is really not much money, period, to go around in order to do all the things and innovative things that everybody wants to do in the State of New Jersey. We have been expanding services with very few dollars. We have been very creative with the money that we have. We have been able to do -- self-help groups -- real prevention involving the people. This at minimum cost -- really cheap, I mean.

If we were to pay this insurance -- this additional cost -- as we are being forced to do, we're not going to be able to do this. Essentially, if we were to charge the State of New Jersey for our purchase of service contracts, what the actual service costs -- we would never be able to be reimbursed.

ASSEMBLYMAN OTLOWSKI: What you see, that these increasing insurance rates could drive your service right out of the community.

MR. MORALES: Not just our service, sir, but basically a service that we're providing for the purpose itself: getting people off welfare; getting people off public assistance; being a burden of society. And it sure is-- The way it is being seen at this point would basically send us right back to the '60s.

ASSEMBLYMAN OTLOWSKI: Jose, in that connection, you spoke of Commissioner George Albanese. Are you working closely with the Department of Human Services to develop some kind of an alternative for this insurance business? Because, if it keeps going like this for any length of time, I'm afraid that you're right, it's going to drive you--

MR. MORALES: Mr. Chairman, we were really hoping, honestly and sincerely, that the Legislature can basically legislate to regulate this, to prevent this from continue happening.

ASSEMBLYMAN OTLOWSKI: Yeah, but I'm afraid that, you know, your problem is immediate. You need immediate action, and, you know, the Legislature isn't the speediest body in the world, you know.

MR. MORALES: Well, New Jersey Legislature has proven to be very responsive once they have listened to the people, and I guess that that's-- All of us came here today, because we really trust that something can be done at this level.

ASSEMBLYMAN OTLOWSKI: I'm happy that you have more confidence than I. But in any event, I think that one of the things that you ought to do immediately-- I've been saying this to most of the people that have been here today, as you probably have heard, that you try to work with Commissioner Perselay, to work up a pooling program of insurances so that you can get out of the bind, you know, with the private -- that the private companies are putting you into. Now the--

MR. MORALES: Sir, the problem that we're having is that it doesn't matter what alternative we look at at this point, it means having to pay more. And that more we don't have.

ASSEMBLYMAN OTLOWSKI: And you just-- You don't have it. You don't have it because--

MR. MORALES: We don't have--

ASSEMBLYMAN OTLOWSKI: —the truth of the matter--

MR. MORALES: The Department doesn't have it.

ASSEMBLYMAN OTLOWSKI: I'm not saying that the Department has it, I'm saying that the Department should try to devise, or suggest — and then I can pick it up -- suggest a mechanism of creating a pool insurance for all of the non-profit organizations whereby, you know, it would be divorced, or -- divorced from the present private companies and what they're doing to this whole business of non-profit corporations. If we could form such a pooling operation that would be self-sufficient, and that would meet your requirements, this is-- I think that this can be done pretty quickly, and that's why I've been emphasizing it here today. Because--

MR. MORALES: I don't reject your recommendation, and I think it is a good one for the time being, but it will really mean not continuing to do, for a year or so, some of the innovative, cost-effective things that we have initiated during the last two or three years.

ASSEMBLYMAN OTLOWSKI: I would like to see something done in the next three months, in the next three -- January, February -- by March, that something could be done. Now you're not going to get it done by comprehensive legislation. You're not going to get that done in that period, because the Legislature just doesn't work that way. As a matter of fact, you heard some testimony here today where the Senate Judiciary Committee is going into certain aspects; the Legislature is going to be reorganized in January 14th -- too bad -- but in any event they're going to be reorganized on January 14th. For example, the Committee that I head, I understand, now will be broken down into three separate committees, and before you get that reorganization, and before they get their feet wet, and before they get a sense of direction, and before some leadership develops, that's going to take time.

So, that's why I'm saying that the fastest express that I see on the track is for the Department of Human Services to give its talent, its know-how, its administrative abilities, its staff, working together with the non-profit organizations to develop a mechanism for pooling. And if that's done, maybe we can get that, you know, passed quickly.

MR. MORALES: Sir, I agree with you. Like I said, for the time being, I guess that's the best route to take at this point. You realize I thank you for the opportunity. I will be issuing a corrected statement, adding the things that I basically mentioned now.

ASSEMBLYMAN OTLOWSKI: Jose, you know, I come from a community that is primarily Hispanic, so I am in complete sympathy and even more, I understand what you are talking about, because we have several Hispanic day care centers in our town that are very, very important to the town because they permit the mother and father to work, and they permit-- As a result of that they're able to send their children to schools -- some of them send their children to private schools -- and it permits them to improve their homes cosmetically, which has a tremendous effect upon the whole aspect of the city; it permits them to own their homes, which is very vital to a good community. So I know where you're coming from, and I know that it would be a great tragedy if these day care centers would be knocked out because of some private insurance scheme that can't cope with the problem. So, there's got to be some alternative approach that is quick, efficient, and that answers some of the questions that you are raising.

Would you do me the favor-- Would you make it your business to talk to some of the people who are really giving this some leadership? You know, these non-profit organi-- Betty Wilson is somebody you might talk to about her-- You know, she knows something about how the Legislature works, she knows something about the Commissioners. If you talk to her, she could probably be of some help to you.

MR. MORALES: We'll do-- Fine.

ASSEMBLYMAN OTLOWSKI: Would you? All right? Thank you very, very much.

MR. MORALES: Thank you. Okay.

ASSEMBLYMAN OTLOWSKI: Is Carol Wolff here?

CAROL WOLFF: Yes.

ASSEMBLYMAN OTLOWSKI: Carol, you know, for the record, tell us who you are, where you're coming from.

MS. WOLFF: My name is Carol Wolff, and I am wearing two hats today. I am Executive Director of the Area Health Education Center, located in Camden, New Jersey, and I am also an officer of the Community Planning Advocacy Council, which represents 223 non-profit organizations throughout the County of Camden.

ASSEMBLYMAN OTLOWSKI: Yes. And you're having a problem getting insurances for your organizations?

MS. WOLFF: Yes, and in particular, it relates to insurance for the board of directors -- the directors' and officers' liability insurance. And that is, as was mentioned before, a very serious problem. We're talking about volunteers -- people who are not renumerated in any way, who are giving their time and effort to guarantee the fiscal and programmatic integrity of a non-profit, and who are now liable to lawsuits. And at this point, I am not, as a non-profit, able to get this type of insurance.

ASSEMBLYMAN OTLOWSKI: Carol, you heard me mention before -- from I think it was Sue, wasn't it? Or was it Kate that I made that suggestion to -- about giving me a special memorandum on that? Is it in your-- Is it in your-- Do you deal with that in your testimony?

MS. WOLFF: It's actually-- It's the main emphasis within the testimony. Yes.

ASSEMBLYMAN OTLOWSKI: Let's hear that part. I think we heard everything else; let's just hear that part.

MS. WOLFF: As I mentioned earlier in the testimony, the lack of liability insurance would jeopardize this organization. I also mentioned that the legal and programmatic importance of a volunteer board of directors. Without liability insurance for members of the board of directors, I seriously question how long they will continue to volunteer their time and effort. And I feel that they have every right to expect protection for their role as a member of the board. And yet, I consider that we-- The likelihood of us being sued for providing health education services is minimal. However, I think that those board members have a right for this kind of protection. And we're not able to get it.

ASSEMBLYMAN OTLOWSKI: Would you do me a favor? Notwithstanding your testimony, send me a special memorandum just on that particular phase alone, all right?

MS. WOLFF: I'd be glad to do that.

ASSEMBLYMAN OTLOWSKI: Is there anything particularly that-- I think we heard, and we're aware, that the fact that your organization, like everybody else, is getting hit, and hit hard, and it's affecting your total operation. And are you working with the Commissioner of Human Services?

MS. WOLFF: I'm in the process of filing a complaint, as a matter of fact, with the Department of Insurance, because the company that did cover us for board and officers' liability dropped us and said that they stood on the grounds that they would drop -- not renew our policy -- irregardless (sic) of the emergency order that had been enacted. So I'm in the process, through Betty Wilson's help, of filing a complaint with the Insurance Department against that insurance company.

ASSEMBLYMAN OTLOWSKI: You're working with Betty Wilson in the overall approach?

MS. WOLFF: With the Center for Non-profits. Yes.

ASSEMBLYMAN OTLOWSKI: I wish too that -- you know -- that when you're working with her group on this particular subject, would you push that business about, you know, grouping this thing? All right?

MS. WOLFF: Be glad to do that.

ASSEMBLYMAN OTLOWSKI: Thank you very much.

MS. WOLFF: Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you. Let me have that memorandum, all right?

MS. WOLFF: I will.

ASSEMBLYMAN OTLOWSKI: I missed somebody here. Is Miss Carolyn Dylak here, please? Carolyn, did I call you before? (negative indication) No, I didn't? Carolyn, let us have, you know, your name and your organization that you represent, for the record.

CAROLYN DYLAK: My name is Carolyn Dylak, and I represent the 18 member YWCA Associations of the State Council of New Jersey. We too come before you because of drastically increased premiums, cancellations, exclusions, concern about our board of directors, and lack of availability of officers' and directors' insurance. And so, to be brief, let me just add one new point and what we are concerned about that might be possible conclusions.

Some of our associations, like myself, serve an urban community -- I'm in Orange, New Jersey. In order to remain in this community and serve the women -- who many are single-parent family heads -- so that we can offer safe, quality child care, we simply are accosted and in a critical status where are insurance rates have gone up the way they have. My own insurance went from $9000 last year to $31,000 this year. The men's Y in our community has closed its doors. If we are to remain open and continue to serve this urban area, we need some relief, and our suggestions are on the last page--

ASSEMBLYMAN OTLOWSKI: Yeah, excuse me. This one here: New Jersey Y's are discriminated against--

MS. DYLAK: Let me elaborate on that, sir.

ASSEMBLYMAN OTLOWSKI: --in the marketplace and unable to participate in national package.

MS. DYLAK: Let me elaborate on that.

ASSEMBLYMAN OTLOWSKI: What-- There's discrimination leveled at the Y's?

MS. DYLAK: In New Jersey. Our national package has a new insurance company writing for it, and so as the-- Each anniversary date of an association becomes apparent, if they would stay with the national package they would then go with a new insurer. When the Governor's order went into effect, my own insurance, for instance, was due to expire in October, as was the Trenton YWCA. The new insurance company that is writing for the national package, after the Governor's order, refused to write any insurance in the State of New Jersey, and since they weren't a previous holder, they were not under the Governor's order.

ASSEMBLYMAN OTLOWSKI: Why did they-- Why did they refuse to write any insurance in New Jersey?

MS. DYLAK: They did not want to have the kind of non-cancellation legislation that had been put in effect by the Governor's order. They informed us-- On September 20th, they informed our national broker that they would not cover any Y's in New Jersey, from that date forward.

ASSEMBLYMAN OTLOWSKI: They will not cover anybody in New Jersey?

MS. DYLAK: No, they will not cover YWCAs in the national package in the State of New Jersey. Now, this is not a company with whom we have had insurance previously, so they were not bound by the Governor's order. It's optional for YWCA's to be part of the national package.

ASSEMBLYMAN OTLOWSKI: It was the Governor's order that made them take that position where they wouldn't insure any Y in New Jersey?

MS. DYLAK: Yes, sir. And we have taken that to the Commissioner and several assistants. But they are within their rights. They had not given us insurance previously -- our particular association. Now the package is available to associations outside of New Jersey, but we are not eligible for it. We can, however, remain with the company that formerly had the package.

ASSEMBLYMAN OTLOWSKI: The Governor's order merely said that an insurance company could not cancel its insurance.

MS. DYLAK: It's not a case of cancelling. This company-- Okay, the national YWCA--

ASSEMBLYMAN OTLOWSKI: And it didn't affect the rates, because they're having a lot of fun increasing the rates.

MS. DYLAK: Right. But this company doesn't want to write in New Jersey because it would not be allowed to cancel which it chose, as it can in other states.

ASSEMBLYMAN OTLOWSKI: David just tells me evidently that company just doesn't want to have that kind of a rope around their necks with that kind of a restriction.

MS. DYLAK: That is my impression, sir. That is my impression. And those Y's who stayed with the former company, the least increase in their rate was a double. Many of them in the State of New Jersey -- not many, some of them -- quadrupled. I-- My association was caught in the bind, because we expired on October 19th, and at that time Home Insurance refused to honor the Governor's order, and rather than go with no insurance at all, we signed a new carrier. We had six agents working, and in 30 days we wrote a policy -- two and a half hours before the close of the business day. That's how close we came to closing our doors without any insurance.

ASSEMBLYMAN OTLOWSKI: And what was the increase?

MS. DYLAK: We were $9000 in 1985, we are $31,000, and we had to come up with that cash in three days in an urban community.

ASSEMBLYMAN OTLOWSKI: It went from 9000 to 31,000?

MS. DYLAK: Yes, sir. Yes, sir, it did. With the child abuse exclusion, and with the--

ASSEMBLYMAN OTLOWSKI: Did that include the buying of the Y and all their property? (laughter)

MS. DYLAK: That was only my liability, sir. That was not my hazard insurance, it was not my officers' and directors' insurance, it was only my liability insurance. And I have a very good loss record, as do many of the associations that I am coming to you about.

ASSEMBLYMAN OTLOWSKI: But excuse me. Was this made known to the Commissioner of Insurance -- this increase?

MS. DYLAK: The increase in rate was not made known to the Commissioner of Insurance because it was not the same host company. I went to the market to get a new host, because at the time, the older company was saying it would not honor the Governor's order. That was made know to the Commissioner. Several different people here in Trenton assured me they were working on it, but no one came to us with any kind of answer, and it got closer and closer to the time when our policy would expire.

ASSEMBLYMAN OTLOWSKI: An how long ago was this?

MS. DYLAK: I wrote this-- My old policy expired on October 19th. We wrote the new policy on October 18th.

ASSEMBLYMAN OTLOWSKI: Yeah. I would want the people on our staff to get in touch— to make sure that we're in touch with Commissioner Hazel Gluck to find out, you know, what happened here, why it happened, why it wasn't looked into, and why something hasn't been done about this. Can we do that, please? (speaking to aide) And may we— Is this part of that thing? This is your— It's in your testimony—

MS. DYLAK: With all due respect, it's alluded to— Yes, it's in my testimony. With all due—

ASSEMBLYMAN OTLOWSKI: Could I have something more specific from you?

MS. DYLAK: Yes, sir.

ASSEMBLYMAN OTLOWSKI: Before you leave today would you talk to—

MS. DYLAK: All right.

ASSEMBLYMAN OTLOWSKI: —David Matos here to give him something specific?

MS. DYLAK: I don't want to jeopardize the insurance I have, even though it's very expensive, because I worked very hard to get it.

ASSEMBLYMAN OTLOWSKI: What I would want to know— I would want to know the name of the Y, I would want to know your name, your address, your telephone number—

MS. DYLAK: I would be happy to give you that, sir.

ASSEMBLYMAN OTLOWSKI: —when this took place, the kind of an increase it was, what the names of the companies, when you notified the Commissioner— I would just want that plain, simple information.

MS. DYLAK: I will be happy to do that.

May I make the two suggestions that I come with from the council as to how — what possible ways there might be to resolve this. Even though I appreciate the fact that a pool would be quicker, we really believe that a cap or a ceiling, not just on the amount a corporate body could be sued for—

ASSEMBLYMAN OTLOWSKI: You're abdicating (sic) a cap?

MS. DYLAK: Yes, sir. But also on an individual representing a non-profit. Not just on the non-profit, but on the individual

representing the non-profit. So that I as director, my staff and my board-- There would be a cap on the amount of judgment that a court could find. We think--

ASSEMBLYMAN OTLOWSKI: Oh, you-- A cap on the judgment?

MS. DYLAK: Yes, sir. We think, then, that the insurance company would have a measurable market--

ASSEMBLYMAN OTLOWSKI: What kind of -- well, yeah -- what kind of cap are you suggesting?

MS. DYLAK: I'm not in the position to suggesting the amount of money, if that's what you're asking. Because I come from Essex County, where there are two primary sexual abuse cases in the courts, it's a very difficult market. None that are involved with YWCA's--

ASSEMBLYMAN OTLOWSKI: Well, they're talking about that in New York now, particularly the physicians' malpractice -- of putting a cap on it. But you have no idea of the--

MS. DYLAK: As to the amount?

ASSEMBLYMAN OTLOWSKI: As to the amount.

MS. DYLAK: If you would allow us to research that and come back with it, I would. I'm not familiar--

ASSEMBLYMAN OTLOWSKI: Would you please?

MS. DYLAK: Yes, sir. And our second suggestion is that the liability insurance be required to have a relationship to a history of loss.

ASSEMBLYMAN OTLOWSKI: To a history of what?

MS. DYLAK: To a loss history. To a loss history. To the amount of claims that we have had.

ASSEMBLYMAN OTLOWSKI: Wait, wait-- Oh, a loss history. I'm sorry.

MS. DYLAK: Yes. Am I talking too close to the microphone, is that it?

ASSEMBLYMAN OTLOWSKI: No, it's not you, it's not your diction, it's these damn mechanical devices here.

MS. DYLAK: All right. It seems to us that workmen's compensation rates relate to a loss history. And insurance premiums

were regulated to relate to a loss history, either regional or by association, we as associations would be motivated to prevent that loss history, and insurance companies would be insured of getting a just amount of compensation for the policies that they issue.

We also think that we have to take some actions, and one of the actions we believe that we need--

ASSEMBLYMAN OTLOWSKI: Is that in your testimony?

MS. DYLAK: Yes, sir. Yes.

ASSEMBLYMAN OTLOWSKI: It's in your--

MS. DYLAK: Yes. We believe that we need to think seriously about budgeting to contain insurance loss at a non-catastrophic risk within our own budget, so that insurance can be for catastrophic risks. We want to take a look at that. We're also reaching for a real state-of-the-art in the prevention of sexual abuse. And that's described in there too. We think that's our obligation.

I thank you very much for allowing me to comment.

ASSEMBLYMAN OTLOWSKI: Thank you. You've been very helpful. Thank you very, very much. And you're going to make sure that David gets that information? (positive indication from witness) Thank you.

May we hear from Alan Frost, please? He's not here? May we hear from Ken White, please? Florence Williams? Florence, we have your testimony?

FLORENCE P. WILLIAMS: Yes, you do.

ASSEMBLYMAN OTLOWSKI: Yeah.

MS. WILLIAMS: Yes, eight copies. I'd like to thank you for this opportunity. I'm Florence Williams, and I am Executive Director of the Passaic County Child Care Coordinating Agency, also known as 4C's.

Our Agency provides a variety of services to child care centers, and--

ASSEMBLYMAN OTLOWSKI: Psychiatric services?

MS. WILLIAMS: No, no. Child care-- Day care.

ASSEMBLYMAN OTLOWSKI: Oh, child--

MS. WILLIAMS: Day care centers in Passaic County and also throughout the State, in terms of training and technical assistance.

We have-- I don't need to reiterate what people have already said in terms of day care centers. I would like to say something about family day care and also respond to two points made by previous witnesses.

First of all, in terms of family day care, our Agency sponsors the largest family day care organization in the State. We sponsor-- Right now we have 176 providers -- people that we have recruited, trained, and monitored to care for children in their homes. We have contracts with the Division of Youth and Family Services, and we operate under DYFS standards, even though -- DYFS standards for family day care -- even though there is no State regulation in terms of licensing or registration.

However, even though we operate under these standards, and even though we do train and monitor the homes, we are still caught in the insurance bind.

ASSEMBLYMAN OTLOWSKI: Excuse me. The insurance covers the people who take care of the children?

MS. WILLIAMS: The family day care insurance would be liability insurance for the provider and our Agency as the sponsor.

ASSEMBLYMAN OTLOWSKI: And you're having difficulty in getting that insurance?

MS. WILLIAMS: Yes. We're having difficulty in getting it. Prior to this year, we had-- We did not require our providers to have insurance. It was voluntary. But this year, our board decided with all the publicity, that we -- even though we have right now almost 800 children in care, and have had for many years-- We've had, in 15 years, one lawsuit, which was dropped by the plaintiff, and it was an accident. It was nothing about sexual abuse. In 15 years our loss record -- our claim record, if you will -- has been almost non-existent, and yet, we are experiencing great difficulty in obtaining liability coverage which our board now says they want us to have, and which we do need. And I--

ASSEMBLYMAN OTLOWSKI: Presently you are covered?

MS. WILLIAMS: No, we're not covered. We--

ASSEMBLYMAN OTLOWSKI: You're not covered?

MS. WILLIAMS: We have an application into an insurance company. Our first application-- The first company that we applied to told us the rate would be $25 per child for the year for each child in care. In one month it had gone up to $40, and when we said, "Okay, it would be 40," he said, "Get it to me by November the 15th and you'll be okay." Well, within that time, we were not able to collect all of the money that we needed and when we called him he said, "It's $60 and I can give you a one day binder." So we said forget it and we went to look for other insurance. It's a difficult situation, especially because we do have standards. We do monitor. We're not talking about women who are unknown to anyone who are baby-sitting in their homes. We're talking about people who voluntarily affiliate with us, and submit to our monitoring and submit to DYFS standards. And we think that should be worth some consideration by insurers.

I would want to make two responses to prior testimony. One has to do with pooling with other non-profits. That may be a very good suggestion for us, and I don't know anything about insurances -- actuary tables and all that -- but it seems to me that in order to do it, you do need resources, because you have to not only pay your premiums, I think the pool itself has to have adequate reserves. And I would just be very concerned that day care centers, which are notoriously underfunded, might not be able to come up with the funding for such a pool. I also would be very cautious because the State-subsidized centers -- the SSBG funded centers -- might be able, through funding, to participate in a pool. But what about privately operated centers? There are private non-profits that do not receive State subsidies, and they might have tremendous difficulty coming up with what it might cost to be in a pool. So I would just submit that as a caution.

The other thing is that the Commissioner spoke about a -- what did she call that -- a market assistance plan. Red lights went off in my head because my big question is, who defines what a good risk is, and who defines it, and who writes the definition? If the definition were so strict that substantial numbers of centers were excluded, then I don't think we could favor such a plan. I would not

want poor risks to be included, but there would have to be some monitoring of who determined what a good risk was, and I think that would be one of our concerns.

ASSEMBLYMAN OTLOWSKI: Have you talked to the Commissioner of Insurance to try to get her help in getting you insurance?

MS. WILLIAMS: We belong to the Family Day Care Organization, and the president is going to speak. She is working, I believe, on the task force with the Commissioner.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much.

MS. WILLIAMS: Thank you for this opportunity, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: May we have Sally Duff?

Sally, just for the record, give us your name and the organization that you represent.

SALLY DUFF: I'm Sally Duff, President of the Family Day Care Organization of New Jersey. Florence is a part of our organization. She is called a sponsoring agency.

ASSEMBLYMAN OTLOWSKI: She what?

MS. DUFF: Florence is a part of our organization. She is called a sponsoring agency.

We have sponsoring agencies in practically every county. Those sponsoring agencies approve and screen family day care homes where women care for children in their homes -- no more than five, because if it were six, it would be center care. So, we are talking about family day care, under five.

Those women are caring for an estimated -- about 3,000 children. Now, those children represent the sponsored family day care. That's just a very small portion of family day care. Most family day care is non-sponsored; it's given by the lady down the street and nobody knows about where that house is, so-- All of us have one thing in common, though. We're unable to get insurance for our family day-care homes. There are two kinds of insurance that we deal with: there's the kind that a sponsoring agency buys that Florence just spoke to you about, where the agency buys the insurance for their providers, or the providers pay money in and the agency buys it for them. So, there are two types. They could either pay for it

New Jersey State Library

themselves, or in the case of the agency that I represent, we purchase the insurance for our providers.

Then, with the family day-care homes that are not sponsored, they buy their own. And the way they buy their own is through their homeowners policy. And those women cannot get family day care insurance either because their homeowners policy had been cancelled.

ASSEMBLYMAN OTLOWSKI: What's been the experience of that group, as far as the insurance is concerned -- the increase in the rates?

MS. DUFF: Well, first of all, we can't get it. But those of us who have gotten it-- And I have a story similar to the one you heard with the "Y." For our agency, we were cancelled in June, and we scurried around trying to find insurance. And we finally found a carrier in September, when it was going to be cancelled. But we did find a carrier, and it's triple, with less coverage and exclusion for child abuse. And I'm sure that's what you heard all morning. I wasn't here to hear all the testimony.

So, I am a part of that child-care insurance task group that Nick Scalera heads up, and that Joseph Kenny is a member of, that he is there to help us resolve our insurance crisis issues. And I'm a part of that. When we were working on this-- He's very aware that family day care providers are working without insurance, but he says that he can't do anything about it until family day care is legislated, because the insurance carriers say they can't insure something in New Jersey that isn't even legislated.

So, we've been working on that too. Now, we've been working with Assemblyman Kern, trying to get a family day-care registration bill through the Assembly. It's now in the Appropriations Committee.

ASSEMBLYMAN OTLOWSKI: Does it have anything to do with insurance?

MS. DUFF: If we don't get that through, no one will write insurance for us in New Jersey. That's the connection. And so we feel it is imperative for us to get that -- the bill -- through, A-244 -- and the zoning piece is already in the Senate, and it's ready for the vote. It's already been through your Committee, the A-244 -- the Family Day Care Registration Bill.

ASSEMBLYMAN OTLOWSKI: I see it in the testimony. Is there anything else you want to add?

MS. DUFF: No, except that we do need your help and helping us-- Because meantime, those women are giving child care in their own homes without insurance. They are risking their homes and their futures. They haven't closed the homes; they are still working there, but without insurance.

ASSEMBLYMAN OTLOWSKI: Thank you very much.

MS. DUFF: Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you.

May we have Jean Socolowski, please?

JEAN SOCOLOWSKI: Jean Socolowski, President, New Jersey PTA.

I will not testify today; a written statement will be presented to you. We are an umbrella advocacy group which has problems in each of these areas. Thank you.

ASSEMBLYMAN OTLOWSKI: Thank you very much. Thank you.

May we have Audrey Fletcher? Audrey Fletcher? Audrey?

AUDREY FLETCHER: My name is Audrey Fletcher. I direct the Montclair Child Development Center's Head Start program in Montclair.

ASSEMBLYMAN OTLOWSKI: Audrey, did you give us your written testimony?

MS. FLETCHER: No, I am afraid I was not able to prepare one.

ASSEMBLYMAN OTLOWSKI: What?

MS. FLETCHER: I was not able to prepare one for today--

ASSEMBLYMAN OTLOWSKI: Oh, all right.

MS. FLETCHER: --but I will follow up, if you would like for me to do that.

ASSEMBLYMAN OTLOWSKI: All right. You can submit it by way of the mail, all right?

MS. FLETCHER: Okay, fine. I was just made aware of it.

ASSEMBLYMAN OTLOWSKI: And then just address it to David Price, you know, Office of Legislative Services, State House, Trenton, New Jersey, 08625. Okay?

MS. FLETCHER: I'll get it together.

ASSEMBLYMAN OTLOWSKI: What did you want to say now, Audrey?

MS. FLETCHER: Okay, I just wanted to highlight some of the testimony that has already been given before you this morning. Two of the key areas that I would like to emphasize have to do with the importance of what a lack of insurance would mean to centers or agencies such as ours, as it pertains to having volunteers involved in our organizations.

I don't, in any way, pretend to be an insurance professional. In fact, I've not really been that interested or concerned about insurance, until really, just a few days ago, when I received in my office a copy of our renewed premium, which took us from $631 last year to $13,200 the coming year. Immediately, I—

ASSEMBLYMAN OTLOWSKI: From $600 to $13,000?

MS. FLETCHER: That's correct. I immediately got in touch with our insurance agent, who two years ago, when we switched over insurance with him, gave me a very nice pitch towards the fact that insurance companies were busy and interested in writing as much insurance as they could for non-profit agencies, and so much so that they developed, or had written, what they call the business owner's policy, which would seem to be very perfect for non-profit agencies. And the premium was certainly much lower than we were paying prior to two years ago. So, we naturally switched over with that kind of coverage.

Well, in the past two year period, as you -- as everyone is well aware of, the situations involving child abuse and what is happening right now in the court systems has caused, from what I've been told by people who are familiar with insurance practices -- has caused insurance companies to cover themselves to the extent that they are saying that if they are not receiving the kinds of premiums that would cover the kinds of claims that they are either experiencing or anticipate to experience in the future, that they pass that cost along to us, the non-profit agencies.

Now, one would look at that and say, "Well, you really can't blame them. Why should they pay for it out of their pockets? They are in the business of making a profit," and so therefore they do pass the law. So, who is the culprit in this? How can we resolve this?

ASSEMBLYMAN OTLOWSKI: Audrey, excuse me. But that increase, from $600 to $13,000, practically knocks you out of the ballgame, doesn't it?

MS. FLETCHER: It certainly does. That is one salaried position. Now, do I decide to decrease my staff, which is very minimal? We are Federally-funded. Our funds come through the County of Essex. We operate a Head Start program, as I mentioned earlier. Our budget is set from year to year. Any increases that we have experienced in the past have been very minimal increases, and they have basically been limited to a certain area of our budget. It doesn't cover fringe benefits increase.

ASSEMBLYMAN OTLOWSKI: Audrey, you know, just from what we have heard here on some of these increases that are absolutely shocking—

MS. FLETCHER: That's right.

ASSEMBLYMAN OTLOWSKI: --I see many of these services being knocked out completely—

MS. FLETCHER: No question about it.

ASSEMBLYMAN OTLOWSKI: Just by insurance. Just by insurance.

MS. FLETCHER: Exactly. And we cannot -- even if we wanted to-- Not that we would, but if we did, we could not even pass this cost on to our parents. I couldn't even say to a parent, "Well, if you split the cost with us"-- If we are looking at a formula that says 55 hours per child -- which is one way of looking at it, from what we were told -- or $1 per square foot-- And we are fortunate, you know, always thought we were fortunate, in the extent that we have a school building that we have just purchased from our local Board of Education. And, if that formula is used, then we are charged $1 per square foot, which means that our costs would even be higher than the $13,200 that I have testified to already.

So, you know, it's a-- We're caught between a rock and a hard place.

ASSEMBLYMAN OTLOWSKI: Audrey, I think your testimony, of course, has been very, very helpful because it clearly indicates that this kind of an increase is just going to destroy these social services— Just insurance alone.

MS. FLETCHER: Assemblyman, if we do not get additional dollars to cover our insurance premium, which is due before the 18th of January-- What we are required to have down is $5,000 toward the $13,200 maximum -- total amount. If we don't have it, then I am surely faced with the real possibility of all, if not most, of my Board members saying to me, "Thank you, but I cannot put myself in a position where I am absolutely liable for what happens." Our incident of loss is excellent. We have been in business now for 17 years, and--

ASSEMBLYMAN OTLOWSKI: Audrey, excuse me. Who are your Assembly people in your district?

MS. FLETCHER: Well, right now we have two new Assembly people coming to you, Assemblywoman Crecco and Assemblyman Kelly.

ASSEMBLYMAN OTLOWSKI: I think you made your point and you made it well. As a matter of fact, what you say is absolutely not only shocking, it's frightening. I would just suggest-- Are you working closely with Betty Wilson's group?

MS. FLETCHER: No. I didn't know anything of this group until this morning.

ASSEMBLYMAN OTLOWSKI: I suggest that you talk to her about this, too.

MS. FLETCHER: I intend to.

ASSEMBLYMAN OTLOWSKI: She's still in the room here. All right?

MS. FLETCHER: All right.

ASSEMBLYMAN OTLOWSKI: Thank you very, very much.

MS. FLETCHER: Thank you for holding the hearing.

ASSEMBLYMAN OTLOWSKI: Thank you.

Florence Williams? (No response) Incidentally, I am concluding this now. I just want to say this in conclusion. These hearings, of course, I believe, have served a wonderful purpose. They have highlighted a problem that exists in the -- or problems that exist in the child care and in the non-profit organizations that is not only frightening but, as I said, it's shocking. And as a matter of fact, I am going to push for whatever action we can get, and that it be quick, because it's obvious that you are already gravely wounded now. I just

want to assure those of you that are here, and that have been patient enough to stay throughout this hearing, that I want to thank you for bringing this hearing about. I was encouraged to bring this hearing about by the number of people who made the requests, and when the staff made it known to me that there was sufficient interest, and the problem was a frightening problem, we then held this hearing. This hearing, I hope, is going to be the first step in some of the action that should take place quickly.

And I hope, as I said throughout this, that Betty Wilson will explore some of the possibilities that we talked about, and deal closely with the Commissioner of Human Services and the Commissioner of Insurance. And frankly, they ought to make their staff people available to you to help you to try to put something together that's workable and that could be put together quickly.

All right, with that, thank you very, very much. We stand adjourned.

(Brief adjournment)

ASSEMBLYMAN OTLOWSKI: Can we put this in the record? Who is handling all this-- Risk pooling entity. Is it on? (speaking to hearing reporter, who gives affirmative response)

I want this to be part of the record. First Trust, a non-profit, risking pool entity specializing exclusively in providing and arranging innovative protection for private, educational, religious, and charitable organizations, and it's now in operation in Illinois. They are located at the President's Plaza Office Center, 8600 West Bryn Mawr Avenue, Chicago, Illinois, 60631. The phone is 1-312-399-1665. I am going to put this with this stuff as part of the record.

(HEARING CONCLUDED)

APPENDIX

TESTIMONY

OF

BETTY WILSON
PRESIDENT-CENTER FOR NON-PROFIT CORPORATIONS, TRENTON, NJ

BEFORE

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE
ASSEMBLYMAN GEORGE OTLOWSKI, CHAIRMAN

ON

"CRISIS IN LIABILITY INSURANCE AVAILABILITY
FOR NON-PROFIT ORGANIZATIONS"

December 16, 1985

Thank you, Mr. Chairman, for your leadership in calling this hearing today. You and your committee are commended by my organization and by the tens of thousands of non-profit groups and their constituents whom we serve.

The human service non-profit community is made up of day care centers, residential centers, mental health centers, alcohol and drug treatment facilities, senior citizen groups, home health care agencies and a host of others in our state who care for our neediest and most vulnerable citizens. These community groups have been struggling with this insurance crisis for many months.

Thousands of New Jersey non-profit groups are being held hostage by the insurance industry. Liability insurance coverage is becoming nearly impossible to buy because insurance companies, forced to renew policies by New Jersey Insurance Department regulations, are raising prices at staggering, unaffordable rates.

Something is very wrong when a worried day-care director has to be counseled to "grab" an insurance renewal that "only" costs her $500 more than last year. Staggering premium increases throughout

New Jersey make that sound advice because the premium is lower than most day-care centers are getting these days.

Exorbitant premium increases are reported daily to the Center for Non-Profit Corporations. Examples: $2,800 to $5,250 (166 percent); $19,000 to $65,000 (342 percent) or $500 to $2,700 (540 percent).

New Jersey's 4,000 non-profit groups all face the equivalent of cancellation of their liability policies when faced with staggering premium increases they cannot afford to pay.

Until premium escalation is under control, the problem will worsen. Recent state regulations stopping insurance companies from cancelling policies or refusing to renew was only a partial solution. When the Department of Insurance on November 16 extended the regulation until 1990, the only changes they made gave relief to the insurance industry and none to the consumer.

Without action soon, non-profit groups will have to start closing as some businesses around the country have already done. Their only alternative is to raise fees, appeal for more contributions, turn to United Way for more money or ask government to foot the bill. That means that hard won charitable gifts, client fees and taxes will be spent for insurance premiums rather than to care for children, the sick and the elderly. That is neither good sense nor good public policy.

Non-profit groups can't afford to take the risk of "running bare" - operating without liability coverage. Prudent management compels a non-profit board of trustees to carry liability insurance. Furthermore, non-profits with state contracts are also required by law to carry it.

Bad claims experience plays no part in the rising insurance costs.

In fact, a survey of New Jersey day-care centers shows they're such good risks that insurers ought to be clamoring for their business. According to a report from Nicholas Scalera, Assistant Director of the New Jersey Division of Youth and Family Services, 81.3 percent of day-care centers surveyed reported no claims over the 1980-1985 period. Of the claims settled, 67 percent involved awards of under $200 each.

Refuting claims about child sexual abuse risks in day-care settings, Scalera said, "Of 44,000 reported cases of abuse and neglect in 1984, only 200 involved child care centers. Only 18 of the 200 were substantiated." That's less than one-half of 1 percent.

Insurance companies are businesses and are entitled to make a profit. But the insurance industry should not possess unbridled flexibility to raise premiums suddenly, capriciously and without warning. Poor business judgment within the insurance industry is largely responsible for the current crisis. Insurance companies miscalculated in the early '80s when they were in hot pursuit of premium dollars. They then failed to heed early warnings of the impending crisis which were evident as long as two years ago.

In a last-minute scramble to recover, the insurance industry has effectively blackballed whole segments of the economy - non-profits, family day care homes, governments and some businesses. They've gone too far.

Laws are needed to control premium increases. Other solutions include a joint underwriting authority to cover those risks that the marketplace rejects. It could work like the backup system we have in auto insurance.

3A

Other solutions include a state-financed or state-guaranteed reinsurance pool to insure the insurers. Right now New Jersey insurance companies have to rely on companies such as Lloyd's of London to carry their reinsurance. At the onset of the insurance "drought," the reinsurance market collapsed and state insurance carriers were stuck.

Instead of leaving ourselves at the mercy of invisible insurance bankers in some far-off place to protect the insurance market, the state could put up its full faith and credit to guarantee insurance policies for New Jersey non-profits, businesses and governments. Funding for this program would come from reinsurance premiums and perhaps a small surcharge on liability policies.

Making it legal for non-profits to set up their own risk-pool trusts would offer some relief. New Hampshire recently amended its laws to allow day-care centers to form risk-pool trusts. New Jersey could do that, too, and permit risk-pool trusts for all non-profits. Governments and businesses can already form them in New Jersey. Some find it an effective way to protect themselves and keep costs down.

Let's also foster some competition for insurance business by allowing banks and others to sell insurance policies. Some analysts believe competition would force rates down. Currently the insurance industry is a virtual unregulated monopoly. Insurance companies, appearing to act in concert, have forced uncontrolled and staggering rate increases onto consumers who are being priced out of the market.

Non-profit, business and government consumers have money to spend on insurance and do, in fact, spend billions every year. But right now they have no choices in the marketplace. A buyer of

commercial liability insurance can't shop around for the best price because there is no competitive pricing. Opening up competition could afford new opportunities to purchase insurance at a reasonable cost.

A system of voluntary industry oversight to correct the inequities in the current system ought to be rejected. The industry's spotty record, the complexity of the problem and the public interest all demand more protection than is promised by voluntary self-regulation.

I have attached for your further information a copy of testimony of J. Robert Hunter, President, National Insurance Consumer Organization, before the U.S. House of Representatives Subcommittee on Commerce, Transportation and Tourism. Mr. Hunter is former head of the Federal Insurance Administration under Presidents Ford and Carter.

Mr. Hunter makes a powerful argument that property/casualty insurance officials have deliberagely created this pressure on state legislatures by pulling out of markets where they can and by raising premium prices in staggering amounts. In the past such a strategy created such panic that it worked to pressure states into making concessions to the insurance industry including reducing victims rights.

I invite you to review Mr. Hunter's statement because I believe it has some important lessons in it for New Jersey.

I thank you again for your concern and interest. The Center for Non-Profit Corporations and our members will work with you in every way we can to win relief from the mounting insurance crisis that brings us here today.

# # # # #

United Ways
New Jersey

3131 Princeton Pike
Bldg. 4, P.O. Box 29
Trenton, New Jersey 086
Phone: (609) 896-3118

President
Joan K. Corbet
United Way of Union County

Vice-President
Richard K. Jones
Delaware Valley United Way
Procter & Gamble Distributin

Secretary
James E. Bourque
Executive Director, United Wa
of Monmouth County

Treasurer
Bruce Conway
Executive Director, United Way
of Salem County

Executive Committee
Alan J. Aftanski
United Way of Central Jersey
Kolodzij, Aftanski and Williar
Attorneys at Law
James G. Crowley
President, Delaware Valley
United Way
Fritz M. Heinemann
Executive Director, United W
of Bergen County
Steven B. Hoskins
United Way of Essex and
West Hudson
McCarter and English,
Attorneys at Law
Norman Le Gueux
United Way of Hudson County
New Jersey Bell Telephone
Anthony Marino
United Way of Atlantic County
New Jersey Expressway
Authority
Dell Raudelunas
Executive Director, United W
of Union County

Executive Secretary
Judy M. Nemet

December 16, 1985

Testimony before the Assembly Corrections, Health and Human Services Committee

Regarding Increase in Insurance Costs for Non-Profit Agencies

Mr. Chairman, Members of the Committee, my name is Nancy Becker and I am testifying on behalf of the United Ways of New Jersey, the state association which represents 16 United Ways in 14 counties in our state. We provide funding for over 500 non-profit agencies throughout the state and represent over 75 percent of the United Way dollars raised in New Jersey.

Over the past few years, non-profit agencies in New Jersey have been faced with a crisis of rising insurance costs, reduction in coverage and at times abrupt cancellations of policies. The operations of many United Way supported agencies have been jeopardized as a result of these kinds of actions.

Many of the agencies which United Ways of New Jersey supports are established to provide child care to the members of a community. In Union County over the past calendar year, insurance companies increased the premiums charged for liability coverage to child care providers, such as day care centers, scout troupes and latch key programs, an average of 67 percent over the previous year's cost. The range of these increases fell between 17

and 247 percent. In addition, at least half of our child care agencies are operating under insurance policies that previously provided coverage for child abuse and assault but have been adjusted to eliminate this particular liability. In some cases, an additional rider is placed on policies providing coverage for child abuse and assault only at an additional fee. Many of our programs do not have the funds to support this additional cost. Furthermore, some of these agencies believed that they were covered for child abuse and assault when in actuality, their policies did not provide this type of coverage at all.

Our multi-service agencies, such as YMCAs and community centers, have also experienced a dramatic increase in insurance costs, ranging from an increase of 37 to 1,000 percent over last year's costs. The average premium increased 164 percent. Furthermore, liability coverage carried by most multi-service agencies ranges from $300,000 to $3 million as the maximum. The majority of these organizations work under policies providing coverage only slightly in excess of the $300,000. figure.

For the United Way agencies in Union County, for example, the average face value of an insurance policy is $1.4 million for a multi-service agency and $830,000. for a child care center.

United Way funded programs in Hudson County face similarly rising costs where the average premium increase

in the past year is 89 percent higher than the previous year's premiums. For example, the Boys Club of Jersey City paid $6,248. last year for their insurance premium. Their renewal premium rose 188 percent to $18,000, including coverage for child abuse and assault charges. An occupational center in Hudson County which provides vocational training for the mentally retarded was hit with a 117 percent increase in insurance premiums over the last two years for a policy that does not provide coverage for child abuse and assault charges. These are just two examples.

The insurance industry says it is facing a crisis. If that is the case, where is the supporting evidence? What are the number of claims and by how much are they increasing? What is the dollar figure for these escalating awards? Where is the substantiated evidence that such a crisis exists?

United Way supported agencies provide vital services to communities throughout the state, offering educational, social and recreational services to children and adults alike. We encourage action on the part of the legislature to intervene in the spiraling costs of insurance before those costs result in the limitation or elimination of services and programs supported by the United Way.

Thank you for your time and consideration of this matter.

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION ON WOMEN

JOHN P. RENNA
COMMISSIONER

379 WEST STATE STREET
CN 800
TRENTON, NEW JERSEY 08625-0800

TO: Geroge J. Otlowski, Chair
Assembly Corrections, Health and
Human Services Committee

FROM: Dr. Susan Karr,
N.J. Department of Community Affairs,
Division on Women

RE: Statement for the Public Hearing
on the Crisis in Liability Insurance Availability
for Nonprofit Organizations

DATE: December 16, 1985

Recent actions by the insurance industry pose a threat to the well-being of a significant segment of the workforce in New Jersey and across the country.

Family day care homes, licensed child care centers and after school programs, the vast majority of which have non-profit status, have been hit this year with insurance problems ranging from non-renewals to sudden, exorbitant premium increases.

There are over 1700 licensed child care centers in New Jersey serving an estimated 100,000 children. In addition, there may be as many as 500 programs serving school-age children who would otherwise qualify as "latchkey" children. There are also hundreds of family day care homes, many of which accommodate infants. Thus while the total number of children in out-of-home care in New Jersey is not known, it is certainly well over 100,000.

In 1984, over 1.5 million women in New Jersey twenty years old and older were in the civilian labor force. That represents almost 55% of the women in that age group. Earlier figures, census figures from 1980, tell us that at that point there were over 500,000 mothers in the work force.

Statistics, common sense and personal experience support the contention that working parents, who are a significant part of our workforce, must be able to find child care. In addition, they must be able to afford it.

Historically, there has been a shortage of child care in New Jersey, especially for infants. Our efforts as advocates around these issues have been to increase child care, not only in numerical terms but also in qualitative ones. The recent actions of the insurance industry threaten to

NEW JERSEY IS AN EQUAL OPPORTUNITY EMPLOYER

undo much of our work. Child care centers, family day care homes and after school programs are considering closing either because they suddenly cannot find insurance coverage, or because they cannot absorb the astronomical premium increases.

I would like, if I may, to illustrate this with a personal example. I am on the Board of an After School Program which my daughter attends five days a week. In November the Board was told that our sponsor's insurance premium had been raised. In order to pay it, we had to pass along to our parents 11% increases, effective immediately, and to cut back on supplies and programming. In short, in order to pay we made our program less affordable and lowered its quality.

If increases continue, this particular program may have to close. If that happens, between 30 and 40 kindergartners through fourth graders will be on their own, in many cases home alone, for up to three hours every day after school. My eight year old daughter will be one of them. Is this what the insurance industry intends?

The N.J. Division on Women, which joined a State-initiated Task Group on Insurance earlier this year, urges that there be legislative relief in this issue. Working families and their children appeal to you for your help.

1925W

10X

HOUSING COALITION OF MIDDLESEX COUNTY
9 Elm Row
New Brunswick, New Jersey 08901
(201) 249-9700

TESTIMONY BEFORE THE ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE, Monday, December 16, 1985

My name is Elizabeth Kelly, and I am Office Manager of the Housing Coalition of Middlesex County, a private, non-profit organization which provides housing services to residents of Middlesex County and Franklin Township. Over the past four years, our total insurance costs have gone from $186 to $899 per year, despite the fact that our organization has NEVER filed any claims or been involved in litigation related to a claim against insurance.

Less than thirty days before our major liability and workers' compensation policies expired last August, we were informed by our agent that the policies would not be renewed. We were told that because of "new underwriting procedures and increased costs" the agency was no longer writing liability insurance with our carrier, the Warwick Insurance Company. When I called the agent to ask for further information, I was told summarily that they did not have any other companies who would provide coverage and that we should place our coverage elsewhere. A few days later, I received written notice from Western Surety Company that our Fidelity Bond policy in the amount of $5,000 was also being cancelled in September.

I spent the next three weeks devoting 90% of my time in the office to the search for a new insurance carrier. I contacted every agency listed in the telephone book and sought references from board

members, other agencies, and contacts in the community. Over and over I was told that the insurance market had been tight, that agents had seen many non-renewals of non-profit liability coverage, and that there was nothing the insurance agencies or carriers could do for us. Finally, three days before our old liability policy expired, we were able to place liability coverage with the Insurance Company of North America through the Snediker Valenti Agency in New Brunswick. INA also agreed to write the Fidelity Bond as part of the liability package.

I encountered identical difficulties during a 3-month attempt to obtain officers and directors liability coverage. No local agency could find a carrier willing to write the insurance. Finally, a referral from Uma Desai at the Voluntary Action Center led us to the Huntington T. Block Agency in Washington, D.C. Through them we have obtained an officers and directors liability policy that provides the coverage we need at a price we can afford because we have recently been accepted by the United Way.

Our office is small, and all staff members are stretched to the limit serving clients as it is. Most of our clients are homeless, facing eviction, or living in substandard housing because they cannot afford to pay market-rate rentals. The time I spent searching for insurance coverage took me away from other tasks more directly related to the services the Coalition provides to these clients. Had we been unable to obtain the necessary insurance coverage at a price we could afford, the Coalition would have faced the hard choices of eliminating many of our services or possibly ceasing operations.

12x

We call upon the Committee to take immediate action toward providing a legislative remedy for these issues of cancellations, reductions of coverage, and enormous increases in premiums imposed by the insurance industry state-wide. Creative alternative--a joint underwriting authority, a risk pooling trust, a state government reinsurance pool, etc.--can be developed to control costs and cancellations so that small, non-profit service providers like the Coalition will not be faced with this ongoing crisis in insurance coverage. We have "solved" our problems--at four times the cost--but we have no idea what next year will bring, and we will not be able to survive if this situation continues.

N E W J E R S E Y
H O M E E C O N O M I C S A S S O C I A T I O N

TESTIMONY BEFORE THE ASSEMBLY CORRECTIONS,
HEALTH AND HUMAN SERVICES COMMITTEE
DECEMBER 16, 1985

I appreciate this opportunity you have made available to talk with you about our recent insurance problems. I am Kaye Kittle Boyer, Executive Director of the New Jersey Home Economics Association.

For review, home economics is the discipline which links families and individuals with their physical, social, and economic environments. To become a home economist, a person takes prescribed courses at a college or university and graduates with an associate, bachelor's, master's or doctorate degree.

There are over 5,000 graduate home economists in New Jersey. The purpose of the New Jersey Home Economics Association is to improve the quality and standards of individual and family life through education, research, cooperative programs and public information. The Home Economics Association is not a trade association; rather it is a nonprofit association working in the public interest.

In 1986, we will celebrate our 60th anniversary. Of those 60 years, we have carried general liability insurance for eight (8)

years, or continuously since 1977. We have had no claims placed against us.

In 1985, insurance cost $300. Our insurance renewal date for 1986 was October 27th. We were informed in August that our carrier would not renew our general liability insurance because our premium fell below the company's new minimum insurance standards.

Our most recent broker was based in Washington, DC, because the best that any New Jersey broker could quote was double the premium for identical coverage.

Since we were forced to seek a new carrier this year, I asked our Washington broker to research the market and communicate our options. It was difficult to get even one quote. It came in after the renewal date had passed, and was five times our previous figure.

During this period, I was not lax about following up with the broker. I made at least twenty documented telephone calls between August and November to the broker. The broker, not having requests processed by the intermediary, could not give me the necessary information to take to the NJHEA Board of Trustees for action.

During this time, I made other contacts to try to give the Board

an alternative insurance choice, including the Center for Non-Profit Corporations and the New Jersey Society of Association Executives. The latter contact suggested a New Jersey based agency and this broker was able to obtain one quote, at over four times what we had previously paid. With further negotiation, it was reduced by $300 and we have obtained insurance for $1052.

What does this increase mean to us? It uses up the income from 50 active members or 125 student members. It means we will have to reduce our current activities and use unforecast resources to increase fund raising activities, so that our savings are not totally depleted.

We are a low risk association. We do not run card parties, flea markets, or day care centers. We have various groups that meet, in total, about 60 times during the year, and we publish a newsletter four times per year.

Our association is concerned about the cost of this insurance and the difficulty experienced in finding a carrier. We hope that the situation will change so that other groups will be able to use their time and resources in a more effective and efficient manner.

Kaye Kittle Boyer
15 Little John Road
Manalapan, NJ 07726
201-536-6216

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE
HEARING ON LIABILITY INSURANCE PROBLEMS FOR HUMAN SERVICES PROVIDERS

TESTIMONY
KATE LYNCH WERTHEIMER, CHAIRPERSON
NEW JERSEY CHILD CARE ADVISORY COUNCIL

My name is Kate Lynch Wertheimer and I am the Chair of the Child Care Advisory Council. The Council was created by the Child Care Licensing Act of 1983. The Council was made aware of the crisis with insurance coverage facing child care providers during the summer. At that time liability insurance coverage for the providers was being cancelled at the time of renewal. Because of quick action by the Division of Youth and Family Services and the Department of Insurance and the Governor, the State adopted a regulation that would prevent this practice.

However, the insurance industry responded to this regulation by increasing rates astronomically at the time of renewal. We have heard reports of increases of $4,000 to $10,000 annually. These types of increases are simply impossible for most child care providers to meet, and if they do not have liability insurance they must close their doors for they cannot be licensed without it.

I feel that the benefits of good quality, affordable, available child care to the children, families, and the community as a whole are obvious to everyone. The impact to the community of a massive shut-down of child care providers, both emotional and financial, would be devastating.

The Child Care Council has established a committee to study and report on this issue, and DYFS is conducting an exhaustive study of providers statewide; however, I am sure the results will not surprise anyone. There is a need for the legislature to act to give the Department of Insurance the power to regulate rates of liability insurance in New Jersey and to explore other avenues of action to head off a true crisis in this state.

Thank you for your attention to this issue.

TESTIMONY
to the
ASSEMBLY CORRECTIONS, HEALTH AND WELFARE COMMITTEE

December 16, 1985

Angela Estes, New Jersey Association
of
Children's Residential Facilities

My name is Angela Estes, and I am the Director of Robins' Nest, Inc., a group home provider. Today I am representing the New Jersey Association of Children's Residential Facilities. The members of this organization are private group home and residential center providers who contract with the Division of Youth and Family Services.

As an agency Director, I am concerned that we are unable to secure adequate limits on our liability coverage. Tremendous premium increases have likewise become problemmatic for our agencies.

Furthermore, members of my Board of Directors are concerned that the courts have allowed individuals such as they to be sued personally for an incident that might occur in an agency.

Why is this such a critical issue for our residential providers? The Division of Youth and Family Services does not pay our agencies the full cost of care. In effect, D.Y.F.S. mandates that our member agencies privately fund raise to meet our operating deficits.

Small agencies depend on volunteer Boards of Directors to raise the dollars necessary to provide quality care and appropriate programming for emotionally disturbed kids.

How can we do that without the presence of prominant people to serve on our Boards? It is no wonder that responsible members of the community would be reluctant to serve. Afterall, why should they subject thermselves to that kind of personal exposure?

Yet, without their involvement, we will find it difficult, perhaps impossible, to raise the dollars necessary to care for the highly disturbed children who are under the care, custody and supervision of the State of New Jersey.

On behalf of the Association, I thank the committee for its interest, concern and efforts to resolve a critical issue.

NEW JERSEY FOSTER PARENTS ASSOCIATION

P.O. BOX 220 • MIDDLESEX, NEW JERSEY 08846

SUE DONDIEGO
President

PETE PARISI
Vice President

BERNARD E. DONDIEGO
Treasurer

MARY STERLING
Corresponding Secretary

CHUCK HIDDEMEN
Recording Secretary



Join the Family that Cares

PUBLIC HEARING

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

ON

LIABILITY INSURANCE

ASSEMBLYMAN GEORGE J. OTLOWSKI, CHAIRMAN

December 16, 1985

Sue Dondiego, President

Thank you for the opportunity to address this committee on our concerns relating to liability insurance.

I am expressing these concerns as a member of the DYFS Task Group on Child Care Insurance and President of the New Jersey Foster Parents Association. Our Association is extremely concerned that the lack of liability insurance will result in those needing child care the most, being denied this necessary and essential service.

The Governor's emergency regulation which was adopted by the Department of Insurance on November 15th, as a permanent rule, addressed the immediate problem of the lack of available liability insurance coverage. While this rule restricts primary insurance carriers in certain areas, it does not apply to surplus line insurance carriers.

Many licensed child care providers find themselves faced with impossible standards imposed by insurance companies and inadequate coverage at astronomical premium rates. Those child care providers unlicensed by the state are finding themselves with no coverage at all. Both licensed and unlicensed providers are left with two unacceptable choices; close their doors or operate without insurance coverage.

For a large percentage of families in New Jersey, child care has become a necessity, not a luxury. Almost one million children from infancy to 13 years have working mothers. Child care is also an important service provided to many in order to keep families together. If this service is not available the result may possible mean more children needing out of home placement.

We urge this committee to take the necessary steps to prevent this possibility from becoming a reality.

Sue Dondiego, President
New Jersey Foster Parents Ass'n.

CRISIS IN LIABLILITY INSURANCE AVAILABILITY AND/OR AFFORDABILITY FOR NON-PROFIT CHILD CARE CENTERS

Testimony Before
The New Jersey Assembly Corrections
Health and Human Services Committee

DECEMBER 16, 1985

JOSE A. MORALES

ACTING DIRECTOR

PUERTO RICAN CONGRESS OF NEW JERSEY

Mr. Chairman, thank you for inviting the Puerto Rican Congress of New Jersey to testify at this important hearing on the impact of the insurance crisis on non-profit organizations in New Jersey.

My name is José A. Morales, Acting Director of the Puerto Rican Congress of New Jersey. This is a non-profit, statewide Hispanic agency who advocates and works for the betterment of the socio-economic conditions of Hispanics in New Jersey. I am speaking on behalf of the Hispanic community based organizations throughout the state, which provides direct human services to Hispanics in their localities, in Spanish and in a culturally sensitive manner. Sixteen of those agencies work directly with children in Bilingual/Bicultural child care programs. They all approach their work with a commitment to improve the quality of child care and early education programs for Hispanic children in this state.

Our child care programs are subsidized by the Social Services Block Grants of the Department of Human Services and serve low income families most of them living below the poverty level.

Licensing regulations in this state require that child care centers have liability insurance, which we understand is an essential protection. Our centers are finding it impossible or very expensive to meet this requirement due to the rising rates of insurance and/or cancellations of coverage. Those centers that have been able to find coverage have reported to us that exclusions such as child abuse claims have been added to their policies and underwriting restrictions tightened. Rate increases have ranged from 200 to 500 per cent in some cases and additional accreditation requirements than those imposed by our licensing standards, requested. Some centers have dealt with the problem by purchasing a malpractice policy for the staff and a liability insurance for the center paying an exorbitant amount of money for the total coverage.

Our main concern is that this crisis is jeopardizing the quality of child care at a time when there is an unprecedented need for quality services. Funds needed to hire qualified staff, for in-service training, to purchase educational resources and for health and safety improvements at the centers are being diverted to comply with the insurance requirements in order to operate in a legal fashion. Non-profit centers, which operate on a very limited budget, are not able to pass the increased insurance costs onto the families they serve. Even with the implementation of the new "Fee Policy", based on a sliding fee scale, our families' ability to pay is so limited that the centers' possibility of recouping the insurance costs is none.

It is not possible for the child care centers to operate without insurance. If insurers cannot find a way to provide coverage for child care centers, we might have to look at other solutions. We do not want to see providers giving up and closing centers at a time when parents need to work to support their families and child care is needed more than ever. Children will suffer most if undercover facilities replace much of the present licensed system.

One possible solution to the liability insurance problem is legislative action to force insurance companies to provide affordable coverage to the much needed child care industry.

The Puerto Rican Congress will offer any assistance, information and support if you decide to move toward that direction.

Thank you.

AREA
HEALTH
EDUCATION
CENTERS
AHEC

CAMDEN AHEC
GARDEN AHEC
SHORE AHEC

CAMDEN AHEC • 4TH FLOOR, 1800 PAVILION WEST AT 2101 FERRY AVENUE • CAMDEN, NEW JERSEY 08104 • 609/962-8333

TESTIMONY BEFORE THE

STATE OF NEW JERSEY
ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

PUBLIC HEARING

on

CRISIS IN LIABILITY INSURANCE AVAILABILITY
FOR NON-PROFIT ORGANIZATIONS

December 16, 1985

I appreciate the opportunity to talk with you about the liability insurance crisis and its impact upon not-for-profit organizations, such as the one I represent. I am the Executive Director of an Area Health Education Center (AHEC) located in the City of Camden, New Jersey. This organization is a 501 c(3) non-profit chartered in the State of New Jersey since 1981. We provide health education programs to health care practitioners--such as nurses, respiratory therapists, nurse-midwives, physical therapists and social workers. We also provide entry-level health careers training and health education programs to consumers throughout southern New Jersey in collaboration with county health departments, hospitals and the University of Medicine and Dentistry of New Jersey.

This Area Health Education Center is governed by an eleven-member Board of Directors--all of whom represent area health care providers and consumers. This board of Directors which has responsibility for the fiscal and programmatic integrity of the organization is vital to our success. The Board sets policy and sees that staff carry out these policies. All members of the Board of Directors are volunteers and they receive no renumeration of any kind for their time and effort in support of this organization. The insurance crisis for non-profits has placed

their involvement in jeopardy and could have severe consequences for many non-profits such as AHEC. And, I regret to add that AHEC is not unique in its crisis but only one example of many organizations who at present or soon will be facing a similar crisis with regard to liability insurance.

Let me tell you how the crisis in availability of liability insurance has affected the Camden Area Health Health Education Center. Since our inception in 1981, AHEC has acquired and paid on an annual basis the sum of $1500 for Board and Officers Liability insurance. This insurance was covered by a firm in Evanston, Illinois. In early September, our insurance agent, who is located in southern New Jersey, notified us that our policy which was about to expire would not be renewed. Our agent then contacted the Illinois Insurance firm by letter and told them that ninety days was the customery time frame for notification of non-renewal and that this was not the case with only one weeks notice to AHEC. As a result the Insurance carrier agreed to extend the policy for one-month to October 19, 1985. The additional fee for this one-month of extended coverage was over $200.00. In the interim, the Governor and the State of New Jersey recognized the insurance crisis and enacted Emergency Rule -NJAC11:1-20 requiring that insurance policies in affect as of September should not be dropped. Although the Illinois Insurance firm holding our policy was informed of this regulation, their response was that "they stand by their non-renewal notice" and therefore dropped our coverage as of October 19, 1985. We have communicated this problem to Commissioner Gluck at the State Department of Insurance and I am now in the process of filing a formal complaint. To date, we have not received a response from the department to telephone calls or letters and have been told that the department is inundated with similar concerns from other organizations. We have also contacted several other insurance companies and to date have not been able to find a carrier willing to cover our organization for Director and Officers Liability insurance.

I mentioned earlier in my testimony that the lack of liability insurance would jeopardize this organization. I also mentioned the legal and programmatic importance of a volunteer board of directors. Without liability insurance for members of the board of directors I seriously question how long they will continue to volunteer their time and effort. And I feel they have every right to expect protection for their role as a member of the Board. Although, I seriously doubt that we are risk for law suits with regard to the health education programs we provide, volunteer members of the board would like to have liability insurance in case this should happen.

Another issue, which I have not addressed thus far in this testimony, is the costs of premiums for liability insurance. However, I understand from reading and talking with directors of other non-profits that the premiums are climbing significantly. This will present a serious problem for non-profits who are continuously seeking ways to keep their operating costs low as they raise monies to provide services to the communities they serve.

How will non-profits such as the Area Health Education Center (AHEC),and there are hundreds of non-profits throughout this state providing vital and needed services, continue to attract committed volunteers to their Board of Directors if liability insurance is not available? This is the crisis we face and need to find solutions to this dilemna. Your help is needed.

Thank you for the opportunity to share these concerns with you.

Carol Wolff

Executive Director
Area Health Education Center, Inc.
2101 Ferry Avenue
Camden, New Jersey 08104

OF ESSEX & WEST HUDSON

395 MAIN STREET, ORANGE, NEW JERSEY 07050 • (201) 672-9500

December 16, 1985

TESTIMONY: Assembly Corrections, Health and Human Services Committee
Crisis in Liability Insurance Availability for Nonprofit Organizations

New Jersey State Council of YWCAs
Carolyn Dylak, representative

My name is Carolyn Dylak. I represent the New Jersey State Council of Young Womens Christian Associations--- a coalition of eighteen YWCAs from Passaic and Clifton to Lakewood and Ocean County.

I am happy to be here and appreciate being ab le to speak on behalf of the more than 30,000women and children members of the associations in this state.

In the past year, Y's in New Jersey have faced critical insurance issues that threaten their growth and existance.

New Jersey Y's are discriminated against in the market place and unable to participate in national package.

Our annual liability premiums have doubled, tripled and and in two cases quadrupled.

High priority programs have been individually rated beyond viability or excluded from coverage.

In some cases, insurance needs are forcing associations to choose between closing their doors, canceling priority programs, or exposing members, staff and board to catostraphic personal financial vulnerability.

National market discriminates : The National Y offers to local associations an insurance package through a national broker. New Jersey Y's who were a part of this package, whose policies expired after September 20th are not quoted for the coverage with the new underwriter.. New Jersey Y's must either look for their own coverage or face the drastically increased premiums of the original company. The lowest premium quoted has been twice that of 1985.

My own association, even with a new carrier, faced an increase in liability premium from $9000 in 1985 to $31,000 in 1986. These increases appear to be unrelated to local or regional loss history.

2SX

Cost and Availability: Other associations who were not a part of the national package, face similar rate increases. If Y's cannot meet the premiums and seek new quotes the market is flat. Our association was unable to find liability coverage - we came within 24 hours of the anniversary date and expiration of our policy, before one of the six agents working for us was able to bring in a quote. Other associations who find new coverage are faced with high priority child care programs rated out of reach. Some associations have been unable to continure Officer and Directors coverage because of sky rocketing rates.

Exclusions: In every case where child care coverage was found, sexual abuse coverage has been excluded, as have team sports.

RATIONALE-
Child Care and the Urban Community

In our affiliation with the YWCA of the USA, we are committed to serving women, fighting injustice and the promotion of the dignity and worthwhileness of all persons.

Available, quality child care is imperative if women who are single-parent heads of families are to remain off the welfare roles and grow as productive members of the work force.

Safe nurturing child care is imperative if children are to grow and develope with self esteem and physical and emotional readiness for school.

If the insurance market forces up the cost of child care we will only be able to serve the affluent.

Many associations are struggling to remain in the inner city. In my own community the men's Y closed their doors in 1985. Our Y was forced to present $31,000 cash in three days in order to bind liability insurance, to continue programs without exposing the essence of our corporation, board staff and elegibility for government contracts to solvency risks.

Team Sports and Risk
Many of our associations house indoor swimming pools and sponsor swim teams- the exclusion of team sports from coverage forces us to consider eliminating an activity that provides opportunities for sucess for youth who often are not able to suceed in other areas.

My own association sponsors two very visible, sucessful girls basketball teams- More than thirty minority girls experiance not only sucess, but team work and a sense of belonging. We are forced to continue without insurance or cancel these programs. We have no insurance loss history identified with either activity.

Like ours, many associations have been a part of their community for more than fifty years. As a group we pose to this committee the following questions.

1)COULD A LEGAL CAP OR CEILING BE PLACED ON THE AMOUNT OF FINANCIAL JUDGEMENT THAT CAN BE FOUND AGAINST A NONPROFIT AND OR ANY INDIVIDUAL REPRESENTING THAT NONPROFIT? This ceiling could offer measurable risk to the insurance market in the face of ever increasing judgements--

2) COULD LIABILITY INSURANCE PREMIUMS BE REGULATED_ REQUIRING THAT RATES REFLECT LOSS HISTORY IN A SIMILAR MANNER TO RATING REGULATIONS ON WORKMENS COMPENSATION? Would this provide a just return to the insurer and incentive for loss prevention on behalf of the insuree?

Lastly, we as a coalition of nonprofit associations pledge to influence our sister associations to reach for a sophisticated level of loss prevention.

We must seek a "State of the Art" sophistication in preventing the sexual abuse of children through screening staff and volunteers, psychological testing, programing and supervision.

We will strive to budget to self-insure below catostrophic limits.

We commit ourselves to this research in loss prevention and budgeting for higher deductibles. We encourage this committee to consider the effects of the New Jersey insurance market on all nonprofits and assist us.

Respectfully submitted,

Carolyn J Dylak
Executive Director
YWCA of Essex and West Hudson

representing the New Jersey State Council of YWCAs

concern for the welfare of our
4C
nation's children

Passaic County
Child Care Coordinating Agency, Inc.

14 West Broadway
Paterson, N.J. 07505
201-684-1904

December 16, 1985

TESTIMONY OF FLORENCE P. WILLIAMS, EXECUTIVE DIRECTOR, BEFORE THE NEW JERSEY ASSEMBLY COMMITTEE ON CORRECTIONS, HEALTH AND HUMAN SERVICES; ASSEMBLYMAN, GEORGE OTLOWSKI, CHAIRMAN

Mr. Chairman and members of the Committee, I am here to testify regarding the impact of liability insurance rate increases and cancellations on day care services in New Jersey.

The Passaic County Child Care Coordinating, Inc. has been coordinating day care services and also providing direct services to families in New Jersey for 15 years. The agency, also known as 4C's, operates the largest Family Day Care Program in the state, with over 150 providers caring for almost 800 children in their homes. Obviously, our interest in a stable insurance situation is great.

But 4C's is not only concerned with the impact of the insurance problem on Family Day Care. We are also concerned with the dramatic effect it is having on day care centers. 4C's has been providing technical assistance and monitoring services to centers in Passaic County for many years and center staff, parents and Boards all avail themselves of 4C's services. Directors have been seeking our advice regarding insurance carriers and I regret to say that we have been able to offer very little assistance or information or even encouragement.

Despite the Governor's emergency insurance regulation which prevents abrupt cancellations and rate increases centers and Family Day Care providers are still faced with three major issues:

1. Extremely high costs for new policies and renewed policies
2. Insurance Company imposed standards for care
3. Lack of state regulation of Family Day Care homes

If nothing is done about these issues the ramifications for day care in New Jersey will be very serious. In an age when there are grossly insufficient services the day care community is concerned that parents will be even more woefully underserved than they are now.

What is the result of exorbitant rate increases and insurance industry imposed standards?

Reductions in program quality will result from unreasonable insurance rates. In Passaic County one center, which is typical, experienced an $8,000.00 increase in the cost of its annual insurance premium-their liability insurance alone increased by over $6,000.00. The result in that center as in so many others was that raises for the poorly paid staff members were eliminated, field trips for children, were reduced, and there was no money to pay for needed repairs to the facility. The impact on staff salaries is especially serious because day care salaries are already so low that centers are having great difficulty in attracting qualified personnel. If salary funds must be shifted to pay insurance costs day care centers will ultimately have to reduce enrollments because they will not be able to maintain required staff child ratios and they will continue to lose sorely needed qualified staff. Centers that are borderline in terms of their financing will close.

In an age when over 60% of mothers are working and the increase in single parent families headed by working women has fueled an unprecedented demand for day care, New Jersey can ill afford to lose programs and day care slots and endanger the welfare of children in care by doing nothing about this insurance situation.

Why is the lack of state regulation of Family Day Care important?

Because New Jersey does not regulate Family Day Care through either licensing or registration, insurance companies are extremely reluctant to even consider writing liability insurance for providers. Insurance companies want the assurance that the state has set standards and requires some sort of monitoring of care. In New Jersey only organizations such as 4C's, which sponsors Family Day Care providers,

Testimony of Florence P. Williams.....cont.

provide training and monitoring of Family Day Care homes. But the sponsored Family Day Care providers affiliate with agencies voluntarily. There are thousands of unsponsored homes in which children are cared for while their parents work and no one except the parents of the children in care knows who they are or what kind of care they provide. Obviously, this seems like an extremely risky proposition for insurance companies, hence their reluctance to provide coverage.

Unfortunately, the sponsored programs have been caught in this bind and even though we require our providers to adhere to DYFS Family Day Care standards and we monitor the homes and provide training we too are finding it almost impossible to obtain coverage. 4C's now has an application for coverage under consideration with an insurance company which I am told will probably cost approximately $200.00 per year per provider. This is a cost which ultimately will be passed on to the parent in the form of higher weekly charges.

If the state would regulate all Family Day Care homes and require their compliance with state imposed standards, insurance companies would consider the risk to be less than it is now and it would be easier to obtain insurance.

We urge you, our legislators, to consider this problem and act to prevent the loss of child care services that will result from this serious liability insurance situation.

Florence P. Williams,
Executive Director,
Passaic County Child Care
Coordinating Agency, Inc.

DECEMBER 16, 1985
TESTIMONY FOR THE ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE AT THE PUBLIC HEARING ON THE CRISIS IN LIABILITY INSURANCE AVAILABILITY FOR NONPROFIT ORGANIZATIONS, PRESENTED BY SALLY DUFF, PRESIDENT OF THE FAMILY DAY CARE ORGANIZATION OF NEW JERSEY.

I am Sally Duff, President of THE FAMILY DAY CARE ORGANIZATION OF NEW JERSEY. THE FAMILY DAY CARE ORGANIZATION is a private, non-profit organization whose members are involved in Family Day Care programs throughout the state. We have representation from virtually every county. The Sponsoring Agencies in those counties represent approximately 750 Providers, each with no more than five children in her home. This translates into around 3000 children being cared for in Sponsored Family Day Care. This Sponsored Family Day Care is just a small portion of the Family Day Care provided in this state. Most Family Day Care is non-sponsored. In fact, The Division of Youth and Family Services, (DYFS), has estimated there are 30,000 homes that are not a part of a sponsorship. And, we all, the sponsored child care, and the non-sponsored child care, have one thing in common....we can't find affordable liability insurance. Our premiums have doubled and tripled with less coverage.

There are two types of insurance available to Family Day Care. There is the policy that a Sponsoring Agency buys for all the homes it has screened and approved. This is usually purchased on a "per home" rate. Then there is the policy an individual buys who is not

a part of a Sponsoring Agency. This is usually a rider on their home-owners policy. Companies are no longer writing these policies and some companies have cancelled, leaving the Providers without any insurance. One of the companies listed by the Department of Insurance as willing to provide coverage spent two days trying to decide if they would cover Family Day Care. They finally responded to my inquiry by saying that they would cover Family Day Care if there were no pets, no swimming pools and the home was licensed or registered by the state. I explained there was no licensing or registration for Family Day Care in New Jersey. There response was "Sorry, we can't cover your home". I then explained that the Sponsoring Agencies who have a contract with DYFS use their standards to approve homes, but it fell on deaf ears.

I'm part of a the Task Group on Child Care Insurance, that is chaired by Nick Scalera, Assistant Director of DYFS. Joseph Kenny, Assistant Commissioner of the New Jersey Department of Insurance attends these meetings to help us resolve our insurance problems. He states that his department can't help us until we are regulated. The non-existance of state regulations on Family Day Care is obviously impacting heavily on our ability to get insurance coverage. We need regulations. Without them the Insurance Industry has an excuse to withhold coverage.

The insurance industry seems to think Family Day Care is a high risk industry. To address this issue, a survey was taken this past summer of all the programs in our organization. We found out there were only two claims in the past three years....and both were for under $200. Now, that's not what I would call high risk. The risks are very low throughout this state. The amount the courts award in some Child Care related claims I've heard about in other states is another issue and may warrent a cap being set on such claims. If this is the reason the Insurance Industry is shying away from Child Care, perhaps they should be dealing with the Court award system and not Family Day Care. Working parents don't want to be told by their Family Day Care Providers that they are going to close their homes because they can no longer get insurance. And, companies don't want to lose their valued employees because of unavailable Childcare.

We in the Family Day Care community, are really concerned about this new attitude within the Insurance Industry not to insure us. We need insurance! Our Providers can't be expected to risk the financial exposure that operating their homes without liability insurance would bring. Most Family Day Care Providers have neither the means nor the inclination to try to deal with this issue. They are to busy caring for your children and grandchildren. We don't know the Insurance Industry, but we do know Child Care. And, we do know that in order to keep these homes open, we need insurance.

The Insurance Industry says they won't give us insurance without regulation. Assemblymen Kern has been working with us to try to get Family Day Care legislated. Assembly bill 244 is the Family Day Care registration bill that is in the Assembly Appropriations Committee. Assembly Bill 243, the zoneing piece, has been through the Assembly and has been released by the Senate Municipal Committee and is ready to be listed for the vote. We are doing all we can to get Family Day Care regulated. But, we need your help. Meanwhile, Providers are caring for children, risking futures and homes.

NATIONAL INSURANCE
CONSUMER ORGANIZATION



DEC. 9 · 1985

TESTIMONY OF

J.ROBERT HUNTER
PRESIDENT, NATIONAL INSURANCE CONSUMER ORGANIZATION

BEFORE THE

SUBCOMMITTEE ON COMMERCE, TRANSPORTATION AND TOURISM
US HOUSE OF REPRESENTATIVES

LIABILITY INSURANCE CRISIS

SEPTEMBER 19, 1985

33x

344 Commerce Street
Alexandria, Virginia 22314
(703) 549-8050

Good morning Mr. Chairman and Members of the Subcommittee. I am Bob Hunter, President of NICO.

OVERVIEW

We are here this morning to discuss a mounting crisis in America, a crisis which involves every man, woman and child: the nation is losing its liability insurance. (See Chart Number 1.) Day care centers are losing their insurance and are being forced to close, perhaps driving second breadwinners out of work or creating new latchkey children. Nurse-midwives are losing their insurance and the lower cost birthing centers are shutting down. Doctors are marching on state capitals because insurance is unavailable or costs have skyrocketed. Cities, transit authorities, even whole states are losing their liability insurance. One of the leading auto insurers in the District of Columbia has pulled out. The list goes on and on.

And prices have skyrocketed. As Chart Number two shows, the cost of insuring an auto in America has gone up at 9.1% for the first 6 months of 1985, exceeding the rate of change for all of 1984. 1/ The annualized rate of change is 18.2%, a record dollar change.

What is going on here? Are these practices of insurers justified?

The answer is "NO!" What we are witnessing is a manufactured crisis intended to bloat insurer profits and reduce victims' rights.

Property-Casualty insurance has a cyclical profitability, as Chart Number 3 shows. 2/ In 1984, if you accept the insurer's whopping reserve increases as valid (quite a large leap of faith), they earned about a 3% rate of return on net worth (equity). That is too low. It would indicate that their premiums were about 5% short. If their premiums had been 5% higher, they would have earned a rate of return on net worth of about 15%, more than enough for an industry of the low to average riskiness of Property/Casualty insurance.3/

A five percent premium shortfall is not a crisis. Yet we see all of the cancellations and mammoth price increases such as:

- A 70% increase for OB/GYNs in Maryland (totally unjustified -- per analysis, attached as Exhibit I).
- 300% to 900% increases in lawyer and architect malpractice insurance premiums around the country.
- Increases of 200% to 500% for the day care centers who can get insurance. Many can't.

- o 300% to 1000% increases for public transit authorities.

The list goes on and on, but the statistics don't justify any of this!

What is going on?

THE LAST CYCLE BOTTOM - 1974/5

If you look again at the cycle chart you will see that 1984 was a typical "bottom-of-the-cycle" year. The last time it happened was in the mid-1970's when I served as Federal Insurance Administrator. At that time, the country observed the twin crises of medical malpractice and product liability unavailability and skyrocketing premiums.

After insurers abandoned the medical and product manufacturer lines, the federal government reviewed the situation. I was fortunate to be part of the interagency working groups that found that there was no justification for the insurer actions. 4/ We concluded that the insurers had just panicked from lack of data.

But look at what happened; their profits skyrocketed to all time record levels. They learned that the state regulators would, during the panic, give away the store in rate increases. They also learned that state legislators would act to reduce victims' rights in the wake of the panic (over half the states did so 5/). The fact that they achieved much of their 1975 legislative agenda and now are back for a bigger bite from the apple is very significant. Where will this raid on victims' rights end?

They are applying the lessons they learned in the mid-1970's very well today -- to day care centers, to nurse-midwives, to doctors, to product manufacturers, and so on. They are petitioning Congress for product liability tort law changes and the states for changes in other tort systems.

THE HEAT IS ON

Some property/casualty officials have made statements in the public record that: "It is right for the industry to withdraw and let the pressures for reform build in the courts and in the state legislatures." (Journal of Commerce, 6/18/85) Reinsurance, a critical aspect of maintaining available and affordable insurance rates may not be available from overseas because syndicates would "simply not write reinsurance for the American casualty industry" in 1986. A representative of that overseas market (Lloyd's of London) was recently reported to have said that if a new policy form is not adopted by state regulators, reinsurance wouldn't be provided to American liability underwriters.

Wall Street knows what is going on. Chart Number 4 shows that the property/casualty stocks have soared to record highs more than doubling the Dow Jones Industrial Average rise in 1985. 6/ Wall Street expects state regulators to allow excessive rate increases; Wall Street is right! At the end of the first six months of 1985, the surplus of insurers has skyrocketed by $8 billion, over the year earlier figure, a growth of 13.4%. 7/

Insurers blame this crisis on the courts and the tort law and say the only way to fix it is to take away as many victims' rights as possible. They can point to such statistics as these:

> Of 28 insurers writing liability insurance for day care centers in Maryland last year, 15 have left the market. Of the remaining 13, six will not write any new business. The last 7, those who will write new business, all have excluded child abuse from their policies. The Maryland Commissioner of Insurance has termed the pull out "hysteria" since no data supports it. 8/

Insurers will say this points to the need for tort reform, 9/ while admitting that data don't justify the pull out. 10/ I believe it shows joint action intend to create an atmosphere where rates can be put too high and legislators will be intimidated into action designed to take away victims' rights. Further, at the top of the cycle a few years ago, the now-dreaded liability insurance prices were being slashed wildly and even being sold after the insured event happened, such as in the case of the MGM Grand Hotel fire where liability coverage was written months after the fire. 11/ If tort reform was so desperately needed in 1974 and 1975, why not in 1981? Why again today? The crisis is within the insurance industry, not in the courts.

Now, insurance premiums represent 11.1% of the disposable income in this country. 12/ It is the fourth leading purchase Americans make (behind food, housing and federal income taxes, although we expect it to pass federal taxes this year). It is growing at an 18% rate for the first six months (see charts Number 5 and 6). 13/

THE MCCARRAN-FERGUSON ACT

In 1944, the Supreme Court found that insurance was interstate commerce and, thus, subject to anti-trust and other federal statutes. In 1945, under heavy insurer pressure, you passed the McCarran-Ferguson Act which uniquely exempts insurance from the federal anti-trust laws (except should intimidation, coercion or boycott occur). Congress delegated the authority to regulate insurance to the states with no standards for regulatory excellence and no ongoing congressional oversight. Indeed, the FTC cannot even study

insurance under current law 14/ unless you specifically authorize it in advance. (FTC's power was revoked because they had the audacity to point out that whole life insurance was not a wise purchase for most Americans. The fact that the FTC was right did not alter their fate.)

The immensely important McCarran-Ferguson Act was adopted by that earlier Congress without benefit of a hearing. The legislative history makes it clear that President Roosevelt wanted only a short, two or three-year moratorium after which anti-trust laws would fully apply. 15/ That is, in fact, what both houses of Congress adopted but their language was somewhat different, requiring a conference. Mysteriously, the conference committee reported back a bill that continues in effect today; an infinite moratorium.

Every independent study of insurance concludes that the states have failed mysteriously in their attempts to regulate this giant industry. 16/

The states have allowed this crisis to happen. Had they been equipped to keep prices to statutory standards (all states require that the rates be "not excessive, not inadequate, not unfairly discriminatory") we would not be in the mess we are in today with clearly excessive prices going into effect routinely around the nation and unfair cancellations rampant.

WHAT SHOULD CONGRESS DO?

(1) We call upon the Judiciary Committees of both houses to review the McCarran-Ferguson Act to determine if it is working to protect America. The quality of state regulation is documented to be inadequate; the insolvency funds are a "Maryland S&L Crisis Waiting to Happen."

(2) NICO also believes that the approach enacted at a previous bottom, 1968/9 is worthy of consideration by you: The Urban Property Protection and Reinsurance Act of 1968 was a response to the unavailability of insurance in the inner cities in the wake of the riot situation of the late 60's. 17/

To be sure, the predicate for the withdrawal of riot insurance was strong, given the very serious situation extant in the country at the time. But the finding of the President's Panel on the Insurance Crisis is just as valid for the day care provider community today and others losing coverage as it was for the inner city communities of the late 60's: "Communities without insurance are communities without hope." 18/ Using the day care situation as an example, providers will have to shut down, possibly forcing spouses to decide among themselves which one will have to stop working, or the latchkey situation will be exacerbated, or other undesirable results will be forced on parents. Some families

may even have to give up a home for loss of the second income, situations not unlike the loss of mortgage following loss of insurance in inner city areas plagued by riot almost two decades ago.

In the riot insurance crisis, the federal government agreed to reinsure (insure the insurance companies -- a sort of lay-off bookie arrangement) the insurers against the specified peril of riot and civil commotion in return for a reinsurance premium and a commitment to participate in a pool to make sure insurance is available to all residents whose homes met reasonable standards of insurability.

The federal government made $125 million writing this reinsurance!

The cities were saved from the sure death that being uninsured brings in twentieth century America!

The program worked well.

I think that a program of stand-by authority should be prepared to take care of the day care and nurse-midwives current problem (and, perhaps, some of the others). The authority should be granted to cover future crises as well, to stabilize the insurance profit cycle's harsh symptoms. A copy of a draft bill to accomplish this has been provided to your staff.

When a line of insurance became severely distressed, representatives of those purchasers could appeal to the agency given authority to reinsure. The agency would make a finding as to the extent and cause of the dislocation. If a distressed situation is certified, then the agency could offer reinsurance to insurers who would agree to make a market in the line. Following meetings with the insurers, the agency head would determine what the cause of distress was and would offer to reinsure only that cause (e.g., only reinsure the peril of child abuse for day care liability if that is the finding). Insurers would pay a reinsurance premium designed to be self-sufficient.

Insurers, the administrator of the program and representatives of the distressed industry would meet to set standards for insurability under which those who qualify are assured of an insurance market.

Studies will be undertaken to determine if other longer range action (risk management, tort reform, etc.) is also needed to resolve underlying problems.

Funding for this program would come from reinsurance premiums. I also envision a small surcharge, perhaps one-quarter of one percent of premiums written by all property/casualty insurers, to back up the program. This is in case

premiums are insufficient over a short period or if it is determined by Congress that some short term subsidy is required to stabilize a distressed line sometime in the future.

The one-quarter of one percent surcharge would cost only 81 cents on the average private passenger car premium but would yield over $300 million this year. Over a ten year cycle, with a 10% growth in premiums and a 10% interest rate, $7 billion would flow into the Treasury. I would envision these funds being used in the general revenue area, but carefully accounted for to be available to the agency head when needed.

(3) NICO has asked the Department of Justice to review the evidence to see if a conspiracy to boycott insureds has occurred in Day Care insurance and other lines, the intent of which is to intimidate state regulation into granting excessive rate increases and to intimidate state and federal legislators into passing unjustified tort law modifications which will maximize insurer profit levels. 19/ Such boycotts and intimidations are <u>not</u> exempt from federal review under the provisions of the McCarran-Ferguson Act. We call upon you to monitor Justice's activity as respects this important request.

(4) We call upon Congress to require federal licensing of alien insurers that are not licensed by any state in this nation but who insure or reinsure here. If Lloyd's of London will use its economic clout to dictate our nation's policy forms, we think they should be subject to review by some authority here. A copy of a draft bill that would accomplish this has been given to your staff.

CONCLUSION

America deserves a better deal on its insurance. The federal government cannot sit idly by and let the insurance industry hold day care providers, nurse-midwives, and others, hostage in a large game beyond the providers' control. The terrorist tactics of insurers every 10 years at cycle bottom must be dealt with in a systematic way that adds the stability to our economy that insurance is meant to deliver. This price gouging must be stopped. It is time the Congress began to look seriously at the delegation it made to the states in 1945 to see if we are, as a nation, getting the most we can out of that eleven percent of our disposable income we pay into insurance premiums.

FOOTNOTES

1/ CPI data on "auto insurance", Bureau of Labor Statistics.

2/ Source of data: Citybank Economics and Insurance Services Office.

3/ For a discussion of risk in the property/casualty insurance business, see Investment Income and Profitability in Property/Casualty Insurance Ratemaking, J.R. Hunter and J.W. Wilson, 1983, Chapter 5.

4/ Hearing on December 3, 1975, Subcommittee on Health of the Committee on Labor and Public Welfare, US Senate. Among the interesting data supplied by ISO at that hearing were exhibits that showed that the average claim cost ISO used for ratemaking significantly exceeded the limit of liability, clearly ratemaking that had run amok. That led to this exchange:

Sen. Laxalt: Is malpractice always a loser as far as carriers are concerned?

Mr. Hunter: If they charge these rates, they could not help but win. (Page 141.)

In John Guinther's book, The Malpractitioners, Anchor Press, 1978, Guinther cites this exchange at page 169 in a chapter entitled "They Could Not Help But Win." In the following chapter, called "They Won," Guinther reviewed the later experience.

Final Report, Product Liability Task Force. Report on Product Liability Ratemaking, Product Liability and Accident Compensation Task Force, US Department of Commerce, 1980. At page ix the Report states that "overly subjective ratemaking practices were one of the principal causes of the product liability insurance problem."

5/ St. Louis Post Dispatch, Section B, P.3, 4/14/84.

6/ Source of data: Best's Property/Casualty Stock Index, A.M. Best and Company, Oldwick, NJ.

7/ According to the Insurance Information Institute's *Executive Letter* of August 26, 1985, Policyholder surplus grew from $58.2 billion as of 6/30/84 to $66.0 billion as of 6/30/85.

8/ "The day care facilities have been caught up in this availability crunch and are being deemed higher risk, not necessarily based on a claims experience but due more to an insurance hysteria . . ." Testimony of Edward J. Muhl, Insurance Commissioner of the State of Maryland, before the

House Select Committee on Children, Youth and Families, July 30, 1985.

9/ "Any permanent solution (of the day care insurance crisis) will require significant changes in the tort system." Testimony of Frank Neuhauser, Vice-President and Actuary for AIG (a leading insurer of day care centers) before the House Select Committee on Children, Youth and Families, July 30, 1985.

10/ "The countrywide experience for those companies reporting premium and loss data to the Insurance Services Office . . . appears to conform with the current loss experience for the majority of commercial insurance lines . . (these data) do not suggest that insurers should abandon the market." Testimony of James L. Kimble, Senior Counsel, American Insurance Association, before the House Select Committee on Children, Youth and Families, July 30, 1985. The testimony was also endorsed by the Alliance of American Insurers.

11/ See, for instance, the National Underwriter, 11/20/81, page 1, where it says:

> A large commercial umbrella (liability) risk came up for renewal and was rated at $105,000, about the same as the previous year. But the insured was not satisfied. Aware of the aggresive rate competition in the commercial lines market today, he decided to shop around. He approached a second agent, who submitted the very same risk to a different company, which offered to write it for just $20,000.
> But the insured was still not happy. He continued shopping and eventually the original company, which originally wanted $105,000 came back and took the business for $5,000. That's right, $5,000. (Emphasis added.)

12/

Item	1984 Amount Spent in Billions a/	Column (1) - 1984 Disposable Income of $2,578.1 Billion a/
Food	444.3	17.2%
Housing	397.8	15.4
Personal Income Taxes	302.6	11.7
INSURANCE b/	287.1	11.1

a/ Source: US Department of Commerce, Bureau of Economic Analysis
b/ Source: Bests Management Reports, December 31, 1984, page 1.
Life Insurance Fact Book, page 56.
Blue Cross Association, Telephone call of 1/25/85.

13/ Source: Best's Aggregates and Averages and Best's Advance Rating Report of July 15, 1985.

14/ The law was euphemistically entitled the "FTC Improvements Act of 1979."

15/ See Statement of Honorable Claude Pepper before the Subcommittee on Monopolies and Commercial Law on the Insurance Industry's Antitrust Exemption, April 11, 1984; found at page 5 of the Subcommittee's report, Competition in the Insurance Industry.

16/ See, for instance, Issues and Needed Improvements in State Regulation of the Insurance Business, General Accounting Office, 1979; Invisible Bankers, Andrew Tobias, Linden Press, 1982; The Life Insurance Game, Ronald Kessler, Holt, Rinehart and Winston, 1985; "Protection for Sale: The Insurance Industry," NBC-TV Nes, 1981; Risk, Reality and Reason, the Conference of Insurance Legislators, September, 1983.

One of the tests of state preparedness to deal with a crisis in availability and pricing of liability insurance is actuarial staff. Of the 52 states (including DC and Puerto Rico) NICO surveyed, we find that 26 have actuaries. So one-half of the states have no actuaries at all.
There are 62 actuaries employed by the states, of the 7,682 actuaries in the nation. It is well known in the industry that those best suited to deal with matters pertaining to liability insurance are those who have passed the examinations enabeling them to be "Fellows" in the Casualty Actuarial Sociaty. State regulation has only 8 such persons. They are employed by only 5 states [Connecticut (1), Massachusetts (1), Michigan (1), New Jersey (1) and New York (4).]
Aetna Life and Casualty Insurance Company alone employs 126 actuaries. Travelers has 100.

Source of data: American Academy of Actuaries 1985 Yearbook and Directory of Members by Business Affiliation.

17/ Public Law 90-448, 82 Stat. 476; 12 U.S.C. 1749bbb, 42 U.S.C. 4011.

18/ Meeting the Insurance Crisis of Our Cities, A report of the President's National Advisory Panel on Insurance in Riot-Affected Areas, January, 1968, p. 1.

19/ See Exhibit II for a copy of the letter to the Justice Department.

4-7x

LITERACY VOLUNTEERS of AMERICA Inc.

Literacy Volunteers of New Jersey, Inc.

A Member Organization of Literacy Volunteers of America, Inc.

Roosevelt School
Brooks Boulevard
Manville, New Jersey 08835

(201) 231-0039

Joanne Moy
President

Rex Smith
ice President

ean Schmidt
Secretary

Carroll Andres
Treasurer

andra Barlow
Director

December 23, 1985

Mr. David Price, Committee Aide
State of New Jersey
Assembly Corrections, Health and Human Services Committee
CN-042
State House Annex
Trenton, New Jersey 08625

Dear Mr. Price:

The following is being submitted as testimony to be entered for the record for the December 16, 1985 public hearing on: Crisis in Liability Insurance Availability for Nonprofit Organizations.

Literacy Volunteers of America-New Jersey, Inc. is a member organization of the National Organization, Literacy Volunteers of America, Inc., Syracuse, New York. We are a 30 member board of directors with an operating budget of over $123,000 with over 1,400 volunteers in the State of New Jersey. We train volunteers throughout this state to become tutors to teach illiterate adults to read.

We have never had any Board of Director's liability insurance and an umbrella policy from our national office is not available. To date we have contacted two companies without any success.

Cullen Bogart Parker, Inc., 935 Allwood Road, Clifton, N.J. 07012:
Paul E. Erickson of this agency sent a letter informing us that the premium would be $8,000.00 Annually for a limit of $1,000,000.00. This, of course, would be an impossible amount for our organization to pay.
Woodward and Williamson, 15 Exchange Place, Jersey City, N.J. 07302:
On August 6, 1985 Joseph Cox of this agency sent a letter stating they "have been unsuccessful in obtaining a market for this coverage" (Directors and Officers Liability)

Our executive director, Sandra Barlow, contacted a few non-profit organizations for advise but was told they were having problems of drastically increased premium rates or

policy cancellations.

I urge the Assembly Correction, Health and Human Services Committee to consider some of the proposals being presented before them. Should such an insurance crisis continue to exist, the continued safe operation of our volunteer programs and services could be jeoparidized.

Sincerely,

Joanne G. Moy

Joanne G. Moy, President

49X