



February 23, 2011

The Honorable John Kline
Chairman
Education and the Workforce Committee
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

The Honorable George Miller
Ranking Member
Education and the Workforce Committee
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Ranking Member Miller:

On behalf of the National Small Business Association (NSBA), I am pleased to submit the following comments in response to the Education and the Workforce Committee's Feb. 9 hearing titled, "The Impact of the Health Care Law on the Economy, Employers and the Workforce."

NSBA is the nation's oldest small-business advocacy group representing employers in every state. As a strictly non-partisan organization, we reach more than 150,000 small businesses representing all sectors and industries of the U.S. economy from retail to trade to technology—our members are as diverse as the economy which they fuel.

NSBA's members have consistently voted health care reform among the top one or two priorities for the last decade. Unsustainable increases in the cost of health care and the subsequent untenable increases of health insurance premiums have made health insurance unaffordable for many small businesses. In response, NSBA has advocated for a broad reform proposal developed in 2003 that seeks to: achieve universal coverage; focus on individual responsibility and empowerment; create the right market-based incentives; and focus on improving quality while driving out unnecessary, wasteful, and harmful care. The goal of this proposal is to first lower the cost of health care and improve quality, which would then lead to greater access to quality, affordable health insurance to more individuals, small businesses, their employees and their families.

However, despite the extraordinary need of small businesses for health care reform, NSBA opposed the *Patient Protection and Affordable Care Act* [PPACA, P.L. 111-148], as amended by the *Health Care and Education Reconciliation Act of 2010* [HCERA, P.L. 111-152]. NSBA's members believe the new law will place tremendous new pressures on small businesses to both offer and pay for employee health insurance, starting in the earliest stages of reform. However, the provider-level reforms that could contain costs and enable small businesses to afford this commitment will not be fully effective for many years—if at all. We justifiably expect that small companies caught between these twin pressures will see their ability to grow, prosper, and create jobs greatly diminished.

However, the flaws of PPACA do not obviate the ongoing small-business need for health care reform and cost containment. Thus, while NSBA supported the *Repealing the Job-Killing Health*

Care Law Act (H.R. 2), it was done only with the understanding that replacement legislation would come forth that places health care cost reduction and containment initiatives paramount.

For these reasons, NSBA also supported H. Res 9, which instructs House committees with jurisdiction over health care issues to report legislation that will ameliorate the shortcomings of PPACA. NSBA strongly believes that the key to meaningful health care reform is to first address the unsustainable growth in health care costs paid by employers and consumers. In large part, health care costs were the impetus for health care reform in 2009. Unfortunately, over a prolonged, contentious 15 month debate, this goal was marginalized in PPACA. It is time to get back to small businesses number one health care reform priority: reducing health care costs and premiums while improving health care quality.

NSBA strongly believes that any replacement legislation or new reform policies put forth to improve PPACA should prioritize and expedite health care cost-reduction and containment initiatives that reduce rates of medical utilization and trend inflation while improving health care quality and empowering consumers. NSBA supports greater health care cost-containment initiatives by speeding delivery and payment system reforms, comprehensive reform of medical malpractice laws, and providing economic incentives that encourage prudent consumer behavior.

In addition, regulations already underway from the Department of Health and Human Services defining federal parameters for health insurance exchanges and the essential health benefit package will have a significant long-term impact on small businesses' ability to provide affordable insurance to their employees. Small businesses are gravely concerned that misguided health insurance exchange regulations or excessive mandated essential benefits will exacerbate past health insurance woes while doing nothing to change underlying health costs drivers. Both regulatory requirements provide an opportunity to put downward pressure on health care costs for small businesses. NSBA urges Congress to embrace a strict oversight strategy over the development of these regulations that will have a significant impact on small businesses.

The aforementioned concepts are reflected in NSBA's health policy reform issue brief – *Health Care Reform Today and Tomorrow* (see enclosure). We hope to continue to work with you and your staff as a constructive participant on these and other concepts that will shape our nation's health care system. Please do not hesitate to contact me or NSBA staff to provide additional information on NSBA's health care reform principles or insight into the health care challenges faced by our nation's small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken", with a stylized flourish at the end.

Todd O. McCracken
President

Cc:
Members of the Education and the Workforce Committee

Health Care Reform Today and Tomorrow

Small businesses need health care costs-containment

NSBA opposed the *Patient Protection and Affordable Care Act* [PPACA, P.L. 111-148] and the *Health Care and Education Reconciliation Act of 2010* [HCERA, P.L. 111-152] due to its failure to truly address health care costs and insurance premium prices. New legislative activities and agency regulations should prioritize and expedite health care cost-reduction and containment initiatives that reduce rates of medical utilization and trend inflation while improving health care quality and empowering consumers.

Legislative Initiatives: Health Care Cost-Reduction and Containment

Despite PPACA's passage, reducing health care spending growth remains an urgent and unresolved issue, especially with an expansion of insurance coverage to 32 million people in 2014. NSBA supports greater health care cost-containment initiatives by speeding delivery and payment system reforms, comprehensive reform of medical malpractice laws, and providing economic incentives that encourage prudent consumer behavior.

- **Delivery System Reform:** NSBA supports an aggressive system-wide public sector implementation and private sector adoption of the Centers for Medicare and Medicaid Services' (CMS) pilot and demonstration projects that transform the health care delivery system into a value-based, not quantity-based, purchasing model (e.g., bundling, accountable care organizations, medical homes, etc.) that rewards quality (i.e., prevent costly medical errors, hospital readmissions, and geographic variations) and coordination of care (i.e., better management of chronically ill patients).
- **Medical Malpractice Reform:** Congress must pursue a comprehensive approach to tort reform that embraces health courts, limits medical malpractice awards, and subsequently reduces the phenomenon of defensive medicine that results in higher health care costs and inflated health care premiums.
- **Consumer Behavior:** PPACA does nothing to encourage cost-conscious consumer behavior, aside from the unnecessarily blunt "Cadillac tax," which will not begin to have an effect until at least 2018, and which is insufficiently transparent and imposes unintended administrative burdens on small businesses. The lack of consumer responsibility and empowerment causes both prices and utilization to go unchecked. In order to address this pitfall, Congress must reshape employer provided tax incentives to match the essential benefits package, regardless of whether health care is purchased through an employer or individually. Such incentives would be capped at the premium level for the required package, and additional coverage would be purchased using after-tax dollars. This will curtail over-insurance and ease demand for health benefits in lieu of other compensation. Additionally, in order to allow consumers to have "skin in the game," Congress must repeal the restrictions and limitation placed on health savings accounts and flexible spending accounts.

Regulatory Initiatives: Health Insurance Exchanges and Essential Health Benefits

Regulations from the Department of Health and Human Services defining federal parameters for health insurance exchanges and the essential health benefit package will have a significant long-term impact on small businesses ability to provide affordable insurance to their employees. Small businesses are gravely concerned that misguided health insurance exchange regulations or excessive mandated essential benefits will exacerbate past health insurance woes while doing nothing to change underlying health costs drivers. Both regulatory requirements provide an opportunity to put downward pressure on health care costs for small businesses.

- **Insurance Exchanges:** Health insurance exchanges should make it easier for individuals and small businesses to shop, compare, and enroll in health insurance coverage. NSBA supports insurance exchanges established through states, not the federal government. Additionally, true competition necessitates legislative changes that allow individuals, small businesses, and their employees to utilize federal subsidies and tax credits outside the insurance exchanges.
- **Essential Health Benefits:** Small businesses and their employees fear that the design and scope of the "essential health benefits package" will be too costly and restrictive. Small business consultation throughout the development of the basic benefits package is necessary to ensure the package reflects the needs of small businesses, their employees, and families. Flexibility in plan design that includes a truly minimal set of essential benefits to comply with the actuarial value requirements will provide small businesses with more options to offer affordable coverage to their employees.