



The Honorable Orrin Hatch
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hatch:

The small-business community needs substantial relief from health care costs and many of the burdens imposed by the Affordable Care Act. At the National Small Business Association (NSBA), we believe that this level of relief can only be achieved through a broad reform of the current health care system with a goal of reducing the cost of coverage, providing universal access, focusing on individual responsibility and empowerment, creating of the right market-based incentives, and a relentless focus on improving quality while driving out unnecessary, wasteful and harmful care.

As the nation's oldest nonpartisan small-business advocacy group, NSBA has more than 65,000 small-business members nation-wide, and reducing the high cost of health care on small businesses remains the top priority for NSBA. As you work toward a reform of the health care system, NSBA recommends that several key components be included in any legislation.

Specifically:

An end to the employer mandate. The employer mandate creates greater uncertainty, enormous administrative burdens and financial unpredictability for both firms and employees – while doing virtually nothing to expand coverage – and should be repealed.

Eliminating onerous taxes. The Health Insurance Tax (HIT) and similar impositions only add costs that are simply passed along to small-business clients by health insurance companies. The result is fewer businesses offering health insurance to their employees, fewer jobs being created and less innovation.

Maintaining the employer deduction for health insurance. While NSBA believes that some curbs on the unlimited exclusion of tax benefits from income should be explored, limits on the ability to deduct any part of employee compensation as a business expense are unreasonable. Further, a cap on premium deductibility would mean that costs for small businesses with an aging workforce would go up even more (the small group is age-rated), making those companies even more likely to

drop coverage. Such a move would push those aging workers into an already destabilized individual market.

Expansion of Health Savings Accounts (HSAs) and Flexible Spending Accounts (FSAs). The arbitrary limits on the provision of these important tools for saving and consumer behavior need to be reformed and expanded.

Rating reform. The maximum three-to-one ratio for premiums has driven up rates for the young and otherwise uninsured, where cost is a significant barrier. NSBA supports the increase to a 5-to-1 ratio, which would provide relief for individuals and small groups, while keeping the cost down for younger employees and keeping them in the system.

Cadillac Tax. NSBA has long warned against the Cadillac tax because it will punish small businesses with plans that cost more simply due to the make-up of their workforce. The 40 percent excise tax will impact moderate benefit plans that middle class Americans rely on, as well as the employer-sponsored health insurance market. Further, including HSA, FSA and Health Reimbursement Arrangement (HRA) contributions in the calculations is counter to the purpose of this tax. The complicated nature of calculating and paying the Cadillac Tax will further harm small employers.

Furthermore, more work needs to be done to address the underlying drivers of health care costs. Too often the current third-party payment system financially rewards providers based upon frequency and not necessarily based upon the quality of care being delivered. Beyond the benefits that consumerism can bring, more must be done to improve quality and keep costs in check. A key reason health care costs are so high is because health care prices are often hidden – most patients and their physicians have little to no idea how much each procedure, medication, or hospital stay actually costs – which hinders market competition and keeps patients and their health care providers from making fully informed decisions.

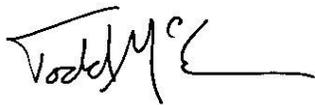
Needed elements to improve the quality of care include:

- Transparency in pricing will make great strides towards creating informed, engaged health care consumers. This is achievable if HHS ensures that insurers provide cost sharing information in a consumer-friendly way. Cost-sharing disclosure requirements should be modified so that the plan's quoted costs for episodes of care are guaranteed, and hospitals should provide uninsured and out-of-network patients with episode-based costs, which should also be guaranteed. Higher health care prices do not necessarily reflect higher quality.
- The continued implementation and the standardization of electronic health records including digital prescription writing, individual electronic medical records, and universal physician IDs can reduce unnecessary procedures, increase efficiency, and improve the quality of care.
- Transparency in the quality of care – in addition to the cost of care – being delivered is crucial to help consumers understand their own health care. Improved data also can form the basis for publicly-available health information about each health care provider, helping patients make informed choices.

- All providers should make publicly available, a plain-language list of the top 20 inpatient and out-patient procedures' charges (for all categories of patients: uninsured, out-of-network, and each negotiated rate with an insurer, plus Medicare and Medicaid rates) and risk-adjusted outcomes, to be updated annually and expanded until all procedures' cost and outcomes are publicly listed.
- Pay-for-performance initiatives should be adopted by insurers following the lead of the Centers for Medicaid and Medicare Services (CMS). Providers should be reimbursed based upon quality of the health outcomes, rather than procedures.
- Federal legislation to mitigate the cost of medical liability and defensive medicine should, at a minimum, establish a national statute of limitations on health care lawsuits, impose a cap on non-economic damages and limit punitive damage awards.
- Beyond traditional medical malpractice laws, NSBA supports some kind of safe harbor for physicians, as well as the use of Health Courts. Any safe harbor rule would have to be in conjunction with carefully-defined, evidence-based medical procedures. Physicians who abide by those standards and report outcomes would be allowed a certain level of protection from medical liability. Health Courts would allow for the establishment of specialized courts for dealing with medical malpractice claims.

We look forward to working with you as you work toward improving our nation's health care and insurance system.

Yours truly,

A handwritten signature in black ink, appearing to read "Todd McCracken". The signature is stylized with a large, sweeping initial "T" and "M".

Todd McCracken
President and CEO