

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

July 15, 2009

The Honorable Henry A. Waxman  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Barton:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, urges Congress to pass reasonable, sound health reform legislation this year. However, the Chamber strongly opposes "America's Affordable Health Choices Act of 2009" in its current form.

While the Chamber is still reviewing the more than 1,000 pages of this legislation, many serious problems have already become evident. In its current form, this bill would greatly increase taxes on American businesses and families, do little to address the rising costs of health care, and restrict choice or force Americans to lose the health care coverage they have.

Chamber members continue to support reforming the health system. Specifically, the Chamber calls for efforts to control costs and improve quality, reform insurance markets, and the creation of a streamlined, simplified marketplace to purchase insurance. However, this bill fails the Chamber's simple litmus test for health reform legislation: in its current form this bill does not improve the current situation; it will largely make things worse.

#### **PROBLEMATIC HEALTH PROVISIONS**

- **Employer Mandate.** The bill contains a job-killing employer mandate and accompanying 8 percent payroll tax. Attempts to carve out some small businesses will not prevent the adverse economic consequences of this provision.
- **Government-Run Insurance Plan.** Because it relies on Medicare rates, the public option in this bill would drastically increase costs for everyone with private insurance. It would leverage government power to crush private competitors, and could lead to government-run health care.

- **Possible ERISA Threats.** The bill may threaten ERISA plans, which are working well to cover more than half of Americans. This legislation could potentially subject group health plans to state causes of action. ERISA plans should not be subject to new state remedies or new bureaucratic hurdles and requirements.
- **Government Health Committee.** The bill creates an unaccountable bureaucracy to make decisions better left between patients, doctors, plan-sponsors, and insurers.
- **Extreme Rating Restrictions.** Although the Chamber supports fairness in rating, this bill eliminates any reasonable distinction between individuals in setting insurance premiums. It would also put an end to many successful wellness programs, and eliminate the existence of personal responsibility for health behaviors.
- **Benefits Package and Out-of-Pocket Costs.** A government-designed “essential benefits package” will limit flexibility and force a one-size-fits-all approach to health benefits. Worse, out-of-pocket limits will lead to further standardization, remove aspects of personal responsibility, and further encourage over-utilization.
- **Individual “Cadillac” Requirement.** The bill requires all individuals to purchase health insurance, but does not specify that a simple, high-deductible catastrophic plan will satisfy this requirement.
- **Unworkable Small Business Credits.** The small business tax credits in the bill are not refundable and are structured such that very few small business can use them.
- **Network Interference.** The government would interfere in the creation of insurance network, judging the “adequacy” of private provider networks.
- **COBRA.** Even with the establishment of a working marketplace and subsidies, this bill leaves in place the expensive and then-unnecessary COBRA program.
- **Medicaid.** Only some children on Medicaid would be allowed into the Exchange. Public programs should move toward vouchers for use in the Exchange.
- **Comparative Effectiveness Tax.** Creates a new tax on every individual with health insurance to finance comparative effectiveness research.

### **PROBLEMATIC TAX PROVISIONS**

- **Small Business Surtax.** The Chamber strongly opposes the proposed surtax on small businesses, which have led America out of the last seven recessions and create two out of every three jobs during a recovery.
- **Competitiveness-Killing Taxes.** The Chamber also opposes the revenue raising provisions in this legislation which impact companies operating globally.

- **Legislative Interpretation of Judicial Doctrines.** The Chamber has long-opposed the codification of the judicially-developed economic substance doctrine. The Chamber believes effective administration and enforcement of the tax code is a much better alternative than a legislative change.

## CONCLUSION

While the Chamber is committed to health care reform, “America’s Affordable Health Choices Act” fails to pass our simple litmus test: this legislation will not address the nation’s health cost explosion, will steeply hike taxes in an already precarious economic situation, will fail to lead to more affordable, accessible, quality health coverage, and will lead us toward government-run health care. In short, it will make a bad situation worse, at great costs to the nation in jobs, taxes, and freedom.

For these reasons, unless there are significant revisions addressing the concerns above, the Chamber strongly opposes “America’s Affordable Health Choices Act.”

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

R. Bruce Josten

Cc: The Members of the Committee on Energy and Commerce