

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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June 16, 2009

The Honorable Edward M. Kennedy  
Chairman  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
Washington, DC 20510

The Honorable Michael B. Enzi  
Ranking Member  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
Washington, DC 20510

Dear Chairman Kennedy and Ranking Member Enzi:

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, is committed to working with the Committee to reform the U.S. health care system. However, in the bill's current configuration, the Chamber will oppose the "Affordable Health Choices Act" unless several key provisions are significantly changed.

As the Committee begins consideration of this comprehensive legislation, the Chamber is gravely concerned about the process. The mark-up is expected to begin tomorrow morning, yet a final version of critical policy language has yet to be publicly released. The Chamber strongly urges the Committee to forego inclusion of any language that would force a pay-or-play system on employers, create a new government-run insurance plan, or create an unelected, unaccountable bureaucracy that would force its decisions upon American workers and employers.

Employers currently provide health insurance benefits voluntarily to more than 160 million Americans. The Committee has repeatedly stated its intention is to build on the employer-based system. However, this bill includes a sweeping new mandate, which would force employers to provide health insurance or pay a new civil fine. This would be harmful to businesses of all sizes, to the economy, and to American workers. An employer mandate would exacerbate the already difficult situation of employers and workers. The Chamber also strongly opposes provisions which would force employers to cash-out employees who opt out of employer-sponsored coverage and instead purchase coverage through a Gateway.

Creating a new government-run insurance plan, whether based on Medicare, run by an appointed panel, backed by entitlement funding, or created in some other way, would lead to serious adverse consequences for employer-sponsored health insurance, and must not be included in legislation. Doctors who treat Medicare patients must not be forced to accept patients enrolled in a new federal plan. As these provisions may be the key factor in determining whether this bill is bipartisan or not, the Committee should immediately submit these provisions for public vetting, and if issues surrounding these provisions cannot be properly addressed, the Committee should remove them.

Creation of an unelected but extremely powerful Medical Advisory Council that effectively dictates benefit design, defines affordability, and that is exempt from obligations, is a fundamentally flawed concept. These decisions should remain between doctors, patients, employers, employees, and the plans they choose to purchase from. The Chamber appreciates that Congress will likely establish criteria for certifying whether an individual has meaningful health insurance, but giving broad, sweeping powers to a Council to create law unless overridden by Congress must not be included.

This bill would also initially provide federal funding for expanding the Medicaid program, but then leaves the states with a massive unfunded mandate to continue the expanded programs. Worse, states that have already expanded their programs would be rewarded with greater federal dollars. Federal subsidies would also be dispersed to those making up to 500 percent of the Federal Poverty Level, another fiscally irresponsible and unsustainable new federal entitlement.

Other issues which seriously concern the Chamber include: a federal cap on insurer profits; redefining “child” to a dependent as old as 26; potentially overly restrictive federal bars to participate in Gateways; possible limitations on self-insurance based on numbers of employees; and numerous provisions (especially relating to federal subsidies) that would amount to massive steerage into Gateways. Unions should not receive special exemptions from new rules. Further, the CLASS Act requires serious scrutiny in its own right and should not be included in the larger legislation.

The Chamber also encourages the Committee to include several provisions that were not included in draft legislation, including the creation of specialized health courts, analysis of Medicare claims data to improve quality and transparency, provisions to allow enrollees in federal health programs to instead take vouchers to Gateways or private insurers, safe harbors and HIPAA changes to help make employee wellness programs more effective, allow insurers and employers to vary premiums in ways that promote healthier lifestyles, and provisions to ensure that federal programs pay their fair share and do not shift costs on to private payers.

The Chamber remains committed to reforming America’s health care system to lower costs, increase quality, and expand coverage; and with serious modifications, the “Affordable Health Choices Act” could be the vehicle to achieve this goal. The Chamber strongly recommends the Committee make the changes outlined within this letter to improve the legislation and make it workable for employers and their employees.

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 tail.

R. Bruce Josten

Cc: The Members of the Committee on Health, Education, Labor and Pensions