



December 10, 2009

Dear Representative:

Representing the country's largest, oldest and most respected small business associations who have spent more than a decade working to increase access and affordability of private health insurance, the Small Business Coalition for Affordable Healthcare is writing to express our opposition to the Patient Protection and Affordable Care Act (H.R. 3590).

Small business has been a constructive participant in the current healthcare debate. Our small business and self-employed entrepreneurs have been clear about what they need and want: lower costs, more choices and greater competition for private insurance. These reforms are critical, but to be workable and sustainable, they must be balanced against the overall cost of doing business. Unfortunately, with its new taxes, mandates, growth in government programs and overall price tag, the Patient Protection and Affordable Care Act costs too much and delivers too little.

While a few of the provisions in the bill reflect some of the insurance market reforms that the small business and self-employed communities have long sought, those reforms fall short of long-term meaningful relief for small business. Any potential savings from those reforms are more than outweighed by the new taxes, new mandates and expensive new government programs included in the bill. Those new costs of doing business are also disproportionately targeted at small business. If this bill is enacted, the small business community will be forced to divert resources away from hiring and expansion – the very investments our country so desperately needs as it continues to struggle in a faltering economy with double-digit unemployment. Those new costs include:

**A small business health insurance tax**

Though small business has repeatedly called for reducing the cost of health insurance, the Senate bill includes a devastating new \$6.7 billion annual tax (\$60.7 billion over ten years) that will fall almost exclusively on small business and the self-employed because they purchase in the fully-insured market. While the fee is levied on the insurance company, a recent CBO report confirms the small business insurance tax “would be largely passed through to consumers in the form of higher premiums for private coverage.” This will send costs upward – the opposite of what the nation’s small employers need.

**An employer mandate that encourages job cuts, not job creation**

The only certainty of an employer mandate is that it punishes both the employer and employee. The employer bears the first blow in trying to afford the new unfunded mandate and the second blow is borne by the employee in the form of lower wages and job loss. The mandate in H.R. 3590 devastates the small business community in two ways. First, since the bill does little to make insurance more affordable and the tax credit is so limited, few will be able to obtain affordable insurance. Second, the penalties assessed on firms – both offering and non-offering – will most certainly result in a reduction of full-time workers to part-time workers and discourage the hiring of those entrants into the workforce who might qualify for a government subsidy. Overall, the mandate included in this legislation is especially troubling because it fails to recognize how the cost of health benefits directly impacts wages of the employee. Instead, H.R. 3590 blames the employer for a cost (health insurance) that is beyond their control.

### **The temporary small business tax credit falls short**

A short-term tax credit only puts off the inevitable – increased cost in future years. The effectiveness of the tax credit in H.R. 3590 is limited: the full value of the credit is only available to those with wages of less than \$20,000 and phases out at \$40,000. While the credit is designed to offset the cost of insurance, its “savings” potential is merely temporary since it only applies if you buy insurance in the exchange and it expires after just two years.

### **Health insurance exchange plans lack affordable choices**

Small business has long sought a simpler and more efficient way to shop for insurance. H.R. 3590 creates a framework for exchanges that can help ease administrative and overhead costs. However, those savings are quickly erased if the exchange plans are more expensive than what small employers can afford. A recent CBO analysis of premiums under H.R. 3590 paints a disheartening picture: small group premiums, at best, would decrease by about 2 percent and could increase 1 percent. The impact on non-group premiums is even more devastating, as they are expected to increase an average of 10-13 percent per person. Those estimates, in addition to the financing provisions included in the bill, slam the ‘savings’ door shut. Steps must be taken to ensure that a greater variety of more affordable plans are available to small employers and their employees.

### **Limited value of Simple cafeteria plans**

The inclusion of Simple cafeteria plans in H.R. 3590 has the potential to bring about a new option for small employers seeking to offer coverage in an employer-sponsored setting. The bill, however, currently lacks language to permit owners of many “pass-through” business entities to participate in cafeteria plans. Unless owners can participate in the plan, they will be less likely to provide insurance to their workforce.

### **Insurance rating reforms that result in “rate shock”**

Employers in the small group and non-group market have long lived with the fear that a single illness could either price them out of affordable insurance or that they could be rejected for coverage altogether. While H.R. 3590 attempts to ensure that insurance will be more widely available to all, the restrictive rating (3:1 on age) and lack of a phase-in for existing plans threatens to undermine the viability of both plans that people own today or plans that they will buy in the future through the exchange. Only balanced rating reforms that are phased-in over an appropriate timeframe have the potential to transform these poorly functioning insurance markets.

### **New paperwork burdens and costs for small businesses**

The Patient Protection and Affordable Care Act imposes a new tax-compliance paperwork burden on small businesses. The “corporate reporting” provision is an expansion of reporting requirements (for transactions of more than \$600), which adds another \$17 billion to the cost of doing business for small business.

### **A waiting period that lacks flexibility**

Small employers, including those who employ full-time, part-time, temporary and seasonal workers, face much higher turnover rates than their large business counterparts. They face significant challenges related to providing healthcare benefits to their workforces. The Patient Protection and Affordable Care Act presents two specific problems. First, it defines a full-time employee as working an average workweek of 30 hours. Second, it outlines a 90-day waiting period, but then implements fines (at the 30 – 60-day and the 60 – 90-day timeframe) of \$400 and \$600 per affected worker respectively. In industries with above average turnover (e.g. the restaurant industry has roughly a 75 percent turnover rate annually) these provisions would lead to fewer full-time workers and less hiring overall.

**Employers and employees lose flexibility and choice**

Small employers need more affordable health insurance options. However, the prohibition of HSA, FSA and HRA funds to purchase over-the-counter medications, along with the \$2,500 limit on FSA contributions, diminishes flexibility and threatens to further limit the ever-shrinking options employers have to provide meaningful healthcare to their employees.

**An unprecedented increase in the Medicare payroll tax**

Since its creation the payroll taxes dedicated to Medicare programs have been dedicated specifically to funding Medicare. However, the Patient Protection and Affordable Care Act changes the purpose of the tax while setting the precedent to use payroll taxes to pay for other non-Medicare programs. Furthermore, it will raise taxes for some small businesses.

**No meaningful liability reform**

Our medical liability litigation system creates a disincentive for affordability and efficiency while creating a climate where the practice of defensive medicine increases healthcare spending, and overall costs. Those increased costs extract a particularly heavy toll on the ability of small business to access affordable healthcare for their employees and dependents. Meaningful liability reform will inject more fairness into the medical malpractice legal system, and reduce unnecessary litigation and legal costs.

**A public option that threatens choice and competition**

A government-run plan cannot compete fairly with the private market and threatens to destroy the marketplace, further limiting choices. We believe that, with proper reforms, the private market can be held accountable and provide greater competition and lower-cost solutions where insurers compete based on their ability to manage, rather than shed risk.

While our nation's entrepreneurs in the small business and self-employed communities strongly believe that the status quo is unsustainable, the measure of success is not simply to produce reform legislation. As some in the media have recently emphasized, the choice is NOT between the status quo and the bills we have seen emerge from this process. The choice is between flawed legislation and workable alternatives. In short, the legislation must *improve* the status quo. H.R. 3590 fails to provide those much-needed improvements, and instead makes things worse than they are today. We greatly hope that the Senate will refocus its energy and work with small business to develop the common-sense solutions that make our core needs a top priority.

Sincerely,

Aeronautical Repair Station Association  
American Bakers Association  
American Farm Bureau Federation ®  
American Hotel & Lodging Association  
American International Automobile Dealers Association  
American Rental Association  
AMT- The Association For Manufacturing Technology  
Associated Builders and Contractors, Inc.  
Associated Equipment Distributors  
Associated General Contractors of America  
Association For Manufacturing Technology  
Association of Ship Brokers & Agents  
Automotive Aftermarket Industry Association  
Automotive Recyclers Association

Commercial Photographers International  
Electronic Security Association  
Independent Electrical Contractors  
Independent Office Products & Furniture Dealers Alliance  
International Foodservice Distributors Association  
International Franchise Association  
International Housewares Association  
International Sleep Products Association  
National Association of Convenience Stores (NACS)  
National Association of Home Builders  
National Association of Manufacturers  
National Association of Mortgage Brokers  
National Association of Wholesaler-Distributors  
National Automobile Dealers Association  
National Club Association  
National Federation of Independent Business  
National Lumber Building Material Dealers Association (NLBMDA)  
National Retail Federation  
National Retail Lumber Association  
National Roofing Contractors Association  
National Tooling and Machining Association  
National Utility Contractors Association  
Northeastern Retail Lumber Association  
Precision Machined Products Association  
Precision Metalforming Association  
Printing Industries of America  
Professional Photographers of America  
Self-Insurance Institute of America (SIIA)  
Service Station Dealers of America and Allied Trades  
Small Business & Entrepreneurship Council  
Society of American Florists  
Society of Sport and Event Photographers  
Stock Artist Alliance  
The PGA of America  
Tire Industry Association  
U.S. Chamber of Commerce