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January 31, 2024

The Honorable Brett Guthrie
Chairman
Subcommittee on Health
House Energy & Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Anna Eshoo
Ranking Member
Subcommittee on Health
House Energy & Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Guthrie, Ranking Member Eshoo, and Members of the House Energy & Commerce Subcommittee on Health,

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, we thank the Subcommittee for holding a hearing on healthcare spending in the United States and the burden unsustainable rising healthcare costs pose on patients, small employers, and taxpayers.

For nearly 40 years, NFIB members have identified the rising cost of healthcare as their number one concern.¹ Furthermore, 98% of small business owners report that they will be unable to provide healthcare benefits within the next five to ten years due to rapidly rising costs.² This outcome will have negative consequences for government finances, healthcare systems, and employers seeking to hire and retain employees. Moreover, the threat of lost coverage should provide a sense of urgency for Congress to act to lower health costs and increase competition in healthcare markets.

The current system has unfairly and unnecessarily forced small business owners to make difficult decisions in response to the unaffordable costs of providing health insurance. This has resulted in the percentage of small businesses offering health insurance dropping dramatically in the last decade. Offer rates for less than 50 employees from 2010 to 2022 went from 39% to 32%.³ Meanwhile, the businesses providing health insurance coverage have no choice but to pass the

¹ Holly Wade & Andrew Heritage, *Small Business Problems and Priorities*, NFIB Research Center, 2020, <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>.

² Holly Wade & Madeleine Oldstone, *Small Business Health Insurance Survey*, NFIB Research Center, March 2023, <https://strgnfibcom.blob.core.windows.net/nfibcom/Health-Insurance-Survey-2023.pdf>.

³ *Percent of private-sector establishments that offer health insurance by firm size and selected characteristics: United States, 2022*, Medical Expenditure Panel Survey (MEPS), Agency for Healthcare Research and Quality, https://meps.ahrq.gov/data_stats/summ_tables/insr/national/series_1/2022/ic22_ia_g.pdf?_gl=1*1fzennf*_ga*MTYxNjgwOTIzMy4xNjk2ODg3ODYx*_ga_45NDTD15Cj*MTY5Njg4NzIxNy4xLjAuMTY5Njg4NzIxNy42MC4wLjA..

rising costs along to their customers: Nearly half of small employers (46%) report having to raise their prices just to keep up with rising health insurance costs. To make matters worse, half of small employers (49%) now earn less due to health insurance premium increases over the last five years.⁴ In fact, since 2014, some counties nationwide have witnessed small business premiums balloon by up to 130%.⁵ These steep increases, not on par with those of larger employers, are the result of failed government policies that destabilized competitive insurance markets, promoted rigidity in plan choices, and discouraged competition.

A healthy Main Street directly impacts the broader U.S. economy, with small firms representing nearly half of U.S. private sector employment.⁶ Failure to address the unsustainable healthcare costs can directly impact small business competitiveness and broader employment and consumer spending. It is critical that small firms remain competitive, including in their ability to attract and retain talent. Thus, it should not be surprising that 63% of all small employers believe offering health insurance to recruit and retain employees is a very or moderately important factor in their business.⁷ High health insurance costs make it impossible for small employers to remain competitive against their larger counterparts. Due to increased benefit mandates, a lack of competition in the small group market, and a lack of bargaining power, small employers often pay more than their large employers to provide similar coverage. U.S. employers expect health benefit costs per employee to rise 5.4% on average the next benefit year, while small employers report an even higher renewal rate of close to 10%.⁸

To improve affordability for small employers, Congress must focus on increasing coverage options for small business owners and self-employed individuals. Congress can make healthcare more affordable, but it also requires tackling the root causes of increasing healthcare costs.

We thank you for your leadership in increasing transparency and competition in our healthcare system through important legislation like the *Lower Costs More Transparency Act*. As you examine additional ways to promote affordability, NFIB urges the following principles and policies to be considered:

Empower small business owners and their employees with greater choice and control.

1. Enhance and expand small Business health coverage options.

Reform the Small Business Health Options Program (SHOP) to offer small businesses more flexibility and competitive options. This includes widening the range of plans available, relaxing eligibility, and introducing measures to reduce premiums, such as rewriting the small business

⁴ Holly Wade & Madeleine Oldstone, *Small Business Health Insurance Survey*, NFIB Research Center, March 2023,

<https://strgnfibcom.blob.core.windows.net/nfibcom/Health-Insurance-Survey-2023.pdf>.

⁵ *Instructions for Form 8941, Credit for Small Employer Health Insurance Premiums*, pages 10-30, Internal Revenue Service. 2022,

<https://www.irs.gov/pub/irs-pdf/i8941.pdf>.

⁶ *2022 Small Business Profile: United States*, U.S. Small Business Administration Office of Advocacy, August 31, 2022,

<https://advocacy.sba.gov/wp-content/uploads/2022/08/Small-Business-Economic-Profile-US.pdf>.

⁷ Holly Wade & Madeleine Oldstone, *Small Business Health Insurance Survey*, NFIB Research Center, March 2023,

<https://strgnfibcom.blob.core.windows.net/nfibcom/Health-Insurance-Survey-2023.pdf>.

⁸ Beth Umland, Sunit Patel & Tracy Watts, *Health benefit cost expected to rise 5.4% in 2024*, September 7, 2023.

<https://www.mercer.com/en-us/insights/us-health-news/health-benefit-cost-expected-to-rise-54-in-2024-mercerc-survey/?source=email>

healthcare tax credit to make it usable and workable. Additionally, Congress should continue to pursue policies that level the playing field between large and small employers by allowing small businesses to pool their resources and leverage the purchasing power of larger groups.

2. Re-evaluate and right-size current mandates that drive up the cost of health insurance.

The ACA implemented a complicated employer mandate system, known as the Employer Shared Responsibility Provision, requiring all small businesses with 50 or more full-time employees and dependents (including “full-time equivalent” employees (FTEs)⁹) to offer health insurance to 95% or more of its full-time workforce or face significant fines.

The employer mandate presents serious challenges for small businesses. It is a one-size-fits-all approach with severe market distortive consequences and fails to account for industry revenue differences. This mandate holds back small business growth as businesses face massive changes in their operations if they get close to the 50-FTE threshold. Eliminating the mandate or raising the FTE threshold would remove an arbitrary barrier to growth. Furthermore, the mandate has proven ineffective, as only one percent of the originally projected revenue has been collected from this mandate.¹⁰ Congress should repeal the employer mandate or, at minimum, adjust the threshold to 100 or more full-time employees to provide small firms with more room for growth, define full-time work under the mandate as 40 hours per week, and remove unnecessary, burdensome paperwork requirements.

3. Incentivize innovative healthcare delivery models.

Congress should encourage the adoption of cost-effective healthcare delivery models like telehealth and direct primary care arrangements. Telehealth can increase access and flexibility to care while significantly lowering costs. Telehealth can decrease costs associated with in-person visits, reduce time off work, and increase access for remote employees and constituencies in rural areas. Employer-sponsored telehealth costs 23% less than in-person care.¹¹ Likewise, Direct Primary Care (DPC) arrangements provide significantly lower costs, predictability, and increased access to quality care that can lead to healthier outcomes. Congress should clarify the role and benefits of these arrangements and encourage their adoption by allowing health savings accounts (HSAs) to be used for DPC fees.

4. Protect small businesses' access to stop-loss insurance.

In many instances, self-insurance can offer employers more flexibility in designing coverage, leading to more affordable coverage. Stop-loss insurance enables self-insured employers to mitigate risks, protecting employers and employees from catastrophic losses. An increasing number of group health plan sponsors are utilizing level-funded arrangements. Thirty-eight percent of small firms

⁹ An employer determines its FTEs by a complicated formula. It must combine the number of service hours of all non-full-time employees (less than 30 hours) for the month but not include more than 120 hours per employee. Then, it must divide that total by 120. Internal Revenue Service, *determining if an Employer is an Applicable Large Employer*, <https://www.irs.gov/affordable-care-act/employers/determining-if-an-employer-is-an-applicable-large-employer>.

¹⁰ *Economic Report Card for the Affordable Care Act's Employer Mandate*, Council of Economic Advisers, June 11, 2021, <https://trumpwhitehouse.archives.gov/articles/economic-report-card-affordable-care-acts-employer-mandate/>

¹¹ Krisda H. Chaiyachati, Christopher K. Snider, *Economics of a Health System's Direct-to-Consumer Telemedicine for Its Employees*, *The American Journal of Managed Care*, June 2023, <https://www.ajmc.com/view/economics-of-a-health-system-s-direct-to-consumer-telemedicine-for-its-employees>.

reported offering health benefits through a level-funded plan in 2022.¹² Level-funded plans provide small employers with potential cost savings, predictability, and customization. As small businesses' average premiums in the small group market continue to increase alarmingly, self-funding can be an attractive option for small employers looking for an alternative. Congress must protect and expand small businesses' access to stop-loss insurance.

Promote greater access to quality, affordable healthcare through innovation, transparency, and competition.

1. Increase competition in healthcare markets.

A highly consolidated provider market has resulted in untenable costs for employers and patients due to a lack of competition. Misaligned financial incentives, increasing regulatory burdens on small, rural, and independent providers, and restrictions on the expansion of physician-owned hospitals limit competition and accelerate consolidation.

Small business owners would benefit from moving the commercial market toward site-neutral payment policies, which studies find would reduce health expenditures and result in lower premiums and cost-sharing.¹³ Congress should discourage off-campus hospital outpatient departments (HOPDs) from billing add-on hospital fees, leading to lower out-of-pocket costs and disincentivizing consolidation in the hospital market. Congress should require doctors' offices owned by a healthcare system to use a separate and unique National Provider Identifier (NPI) number and bill correctly so payors can differentiate between services delivered in a hospital and non-hospital setting and apply the appropriate reimbursement rates. Congress should also ease regulatory burdens for small and rural providers, re-evaluate restrictions on physician-owned hospitals, and promote alternative practice models.

2. Reduce prescription drug prices through innovation.

Prescription drug costs continue to represent an increasing share of the total healthcare costs for small employers. By encouraging innovation, lawmakers can facilitate the development of more cost-effective treatments and medications and stimulate competition, which can apply downward pressure on high prices. Congress should promote competition through robust generic and biosimilar competition, consider policies such as reciprocity between the United States and other countries that have approved safe and effective drugs, and allow the importation of prescription drugs from countries sold at a lower price point. Lawmakers must also reform The FDA's Interchangeability Standard, which limits biosimilar substitution.¹⁴

¹² 2022 Employer Benefits Survey, Kaser Family Foundation, October 22, 2022, <https://www.kff.org/report-section/ehbs-2022-summary-of-findings/>

¹³ *Moving to Site-Neutrality in Commercial Insurance*. Committee for a Responsible Federal Budget, 2018, <https://www.crfb.org/papers/moving-site-neutrality-commercial-insurance>.

¹⁴ *The FDA prohibits pharmacists from dispensing most biosimilars when a patient arrives with a prescription for a biologic. Under the BPCIA, a pharmacist can only substitute a biologic for a biosimilar if the FDA designates the biosimilar to be "interchangeable." To be considered interchangeable, the BCPIA requires biosimilar makers to prove that patients would not face increased "risk in terms of safety or diminished efficacy" if they alternated between the original biologic and the biosimilar drug during their treatment plan. In 2020, European researchers reviewed 178 studies measuring the safety and efficacy of European patients who switched between biosimilars and biologics. Their study found zero evidence that "switching from a reference biological to a biosimilar is related to any major efficacy, safety, or immunogenicity issues.*

We greatly appreciate your consideration of these recommendations and look forward to working with you to increase healthcare affordability, competition, and choices.

Sincerely,

A handwritten signature in black ink that reads "Josselin Castillo". The signature is written in a cursive, flowing style.

Josselin Castillo
Principal, Federal Government Relations
NFIB