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United States Senate Committee on Small Business & Entrepreneurship “The Small Business Health Care Crisis: Possible Solutions”

Feb. 5, 2003

Testimony of Jack Faris, President
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Affordable Health Care Options for Small Business

On behalf of the 600,000 members of NFIB, I want to thank you for inviting me to testify today about the worsening health care crisis that faces small business. Since 1986, the cost of health insurance has been the top concern of our members. So it is very appropriate that your first hearing as Chair of the Small Business Committee focuses on this problem.

Because of the current structure of the health care industry, too many small business owners and their employees do not have access to affordable health insurance. When I talk to small business owners as I travel the country, I am amazed to find so many of them – those without health insurance – who are not, in fact, going to the emergency room for their every medical need. They’re going to their doctors, and they are writing their own individual checks for treatment, prescription drugs and even their occasional ER visits.

A recent Census Bureau report says slightly more than 41 million Americans now lack health coverage. The number of people covered by employment-based health insurance declined a point to just under 63 percent in 2001. The Census Bureau says the drop-off in employer health coverage occurred in the small business sector, largely in firms with fewer than 25 employees. It’s no coincidence that these events are taking place as the cost of insurance continues to skyrocket – double-digit increases year after year, pricing more and more small firms out of the market.

It is critical that small employers have the ability to offer health insurance to their employees. Competition for skilled men and women is keen. Medium to large companies attract those employees because the companies can offer insurance and other benefits.

Certainly, the issue is more complex than the small-business dilemma. As I noted a moment ago, health insurance costs for all Americans are rising by double-digit percentages every year, after a brief respite in the mid '90s. As noted recently in the *Washington Business Journal*, the

consulting firm Hewitt and Associates suggests premiums will increase by an average of about 15 percent this year. Last year's increase was almost 14 percent. For NFIB members, on average, premium increases are ranging from 25-50%.

Our population is aging and requiring more care. New technologies deliver miraculous – but expensive – solutions to cure disease and extend lives. Prescription drug makers flood TV with new products, encouraging us to ask our doctors if those little pills are right for us.

In the search for a solution, consider the two extremes: universal health care and individual coverage.

I think we are all pretty familiar with the concept of universal health care. It is still very much on the minds of some in Congress. The devil is in the details, whether it comes in the form of government-run health care or mandates on employers to provide it in the workplace.

As for individual coverage, it wouldn't sit well with large employers and labor unions because health care is a very important part of the compensation package and contract negotiations. In addition, there are serious questions about how to be certain that every individual would purchase health insurance – and how some would be able to pay for it.

The solution lies somewhere in between the two extremes. Let us hope that we can move toward that solution quickly. The problems facing small business owners, their employees, and families must be addressed as part of that debate.

We understand that no one solution will help all of the 41 million uninsured. Therefore, we propose a multi-faceted approach that will help move countless numbers of Americans off the rolls of those without health care. We are aggressively urging enactment of legislation to permit Association Health Plans – AHPs – to operate nationwide. We encourage the expansion of medical savings accounts – MSAs – and flexible spending accounts. We support tax credits for the purchase of health insurance.

Association Health Plans will allow small business owners to band together across state lines through their membership in recognized trade and professional associations to purchase health care for their families and employees. Organizations such as NFIB, the U.S. Chamber of Commerce and the National Restaurant Association would be able to offer insurance to their members.

AHPs would help rural states by giving employers who are members of associations or trade groups another option – particularly important in rural areas where only one or two choices are available today.

Association Health Plans will make health insurance more affordable for small businesses. The Congressional Budget Office has estimated that small firms obtaining health insurance through AHPs will realize premium reductions of 13 percent on average. In fact, reductions range from

nine percent to 25 percent. It is estimated that more than 300,000, up to as many as two new million employers, employees and their families would be able to obtain health care coverage if given access to Association Health Plans.

Creation of nationwide AHPs is really a matter of righting a wrong which has plagued small employers for years: Currently, labor unions, medium-sized companies and the Fortune 500 companies have the ability to offer health benefits to their employees under ERISA (The Employee Retirement Act of 1974). This law exempts those companies and the unions from the cumbersome task of having to comply with the varying rules, regulations and benefit mandates of the 50 states. Small firms have no such exemption.

We must address the growing cost of those benefit mandates. The idea that insurance should pay for the wide range of medical treatments and services covered by state mandates while laudatory, is unaffordable and therefore unrealistic.

The Council for Affordable Health Insurance says that since January 1970, mandates have increased 25-fold. Last year alone, the organization has discovered 125 new mandates introduced in states across the country. The number of benefit mandates is now approaching 1,300.

Sponsors of such mandates say their proposals will only add a few pennies to the premium for a health insurance policy – and that's true for each one mandate. But PricewaterhouseCoopers has estimated that mandates overall raise the cost of health insurance by 15 percent. The result is a significant increase in the number of small employers who can no longer afford to offer health insurance to their employees.

Association Health Plans would solve that problem to some extent for small business owners. However, state and federal lawmakers must come to grips with the reality that continually mandating new coverage does nothing to address the problem of providing basic, affordable health insurance to all Americans.

Let me also address some of the criticisms, which we believe are falsely made, against Association Health Plans. As many of you know, some insurance companies are not fond of the competition that AHPs would bring to bear. In fact, many insurance companies raise untrue allegations about AHPs. The allegation that AHPs will cherry-pick good risks ignores several facts. Current law prohibits any group health plans (including AHPs) to exclude sick or high-risk individuals, or employers with high claims experience, from the health plan. AHPs are subject to all the preexisting condition, portability, nondiscrimination, special enrollment and renewability provisions under HIPAA.

Only bona fide associations, which are in existence for three years for purposes other than, providing health insurance, can operate an AHP. This prevents insurance companies from setting up sham associations for the purpose of excluding high risks.

Insurance companies also like to refer to AHPs as multiple employer welfare arrangements (MEWAs). However, the AHPs established in legislation introduced last year are not MEWAs. A MEWA can be operated by any organization for the sole purpose of providing health insurance to multiple employers. They are not required to meet the explicit and strict solvency standards of an AHP. In fact, many of the problems that MEWAs have created are explicitly prevented by the stringent mechanics of the AHP legislation.

To prevent fraudulent plans from forming, the bill requires the plans put up and maintain capital surpluses before they can be certified. In addition, plans must maintain sufficient claims reserves, stop loss insurance and indemnification insurance to guarantee that claims will be paid even in the event of financial difficulty or plan termination. The bill also gives clear and strong regulatory authority to ensure that the Department of Labor in partnership with state regulators are able to ensure that AHPs will meet the very strong certification and reserve requirements provided in the legislation.

Ours is by no means a complete solution to this most vital national challenge. Our goal as a nation must be to make certain that no person in need will ever be left unattended. We cannot afford to wait for the perfect solution. There is none. The longer we delay, the more we will hear the calls for government-provided health care, and certainly, that is not the perfect solution.

Thank you for holding this hearing today and inviting me to testify on behalf of NFIB members. We very much appreciate your support for Association Health Plans and pledge to do all that we can to enact this legislation into law.