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# Statement of the U.S. Chamber of Commerce

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and the Rochester Business Alliance (the Rochester, New York regional Chamber of Commerce)

**ON: Health Reform Overhaul**

**TO: House Education and Labor Committee**

**FROM: Paul Speranza, Vice Chairman, General Counsel & Secretary  
Wegmans Food Markets, Inc.**

**DATE: June 23, 2009**

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The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

U.S. Chamber of Commerce, 1615 H St NW, Washington, DC 20062-2000

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 71 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business – manufacturing, retailing, services, construction, wholesaling, and finance – numbers more than 10,000 members. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 101 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. Currently, some 1,800 business people participate in this process.

The Rochester Business Alliance is the regional Chamber of Commerce and has over 2,000 members.

**Statement on  
Health Care Reform Legislation  
THE HOUSE EDUCATION AND LABOR COMMITTEE  
on behalf of the  
U.S. CHAMBER OF COMMERCE (the “Chamber”)  
and the  
Rochester Business Alliance (the “local Chamber of Commerce”)  
by  
Paul S. Speranza, Jr.  
Vice Chairman, General Counsel and Secretary  
Wegmans Food Markets, Inc.  
June 23, 2009**

Chairman Miller, Congressman Kline, members of the Education and Labor Committee, thank you for the invitation to testify at this hearing. I am Paul Speranza, Vice Chairman, General Counsel and Secretary of Wegmans Food Markets. Wegmans is a regional food chain with 39,000 employees. I am pleased to be here today to testify on behalf of the U.S. Chamber of Commerce is the world’s largest business federation, representing more than three million businesses of every size, sector and region. I am past Chairman of the Board of the Chamber and previously chaired the Chamber’s Employee Benefits Committee for seven years. I am also representing the Rochester Business Alliance where I lead its health care initiatives.

The key concepts I want to share with you today are collaboration and common ground just as we have done in Rochester, New York. In a nationally televised speech in the early 1990’s President William Clinton singled out Rochester as the one community in America that got health care right. For the last four years a collaboration of seven large employers, including Wegmans, has worked hard to regain its national health care status. It has worked on several initiatives including establishing a regional health information organization and employed lean six sigma concepts to assist the local hospital systems to be more efficient. It also instituted a wellness program called eat well, live well which encourages its employees to eat 5 cups of fruits and vegetables per day and walk 10,000 steps per day. Last year over 44,000 employees from over 200 organizations participated making this to our knowledge the largest community wide wellness program in the world. The last United States Secretary of Health and Human Services, Michael Leavitt gave Rochester an award for its overall health care efforts and another award for its wellness program. Recently our RBA employer consortium entered into a partnership with the Finger Lakes Health Systems Agency, the only organization of its kind in New York State which is granted its authority by New York State. It represents all relevant stakeholders in the community including minority groups, religious groups, labor unions and all health care stake holders. We are about to embark on a massive community wide hypertension initiative. Hypertension impacts members of minority communities much more than other groups. Our community has come together and worked together to improve the quality, affordability and access to health care. Our goal is to be the healthiest community in America. We invite each committee member and President Obama to come to Rochester to learn about what we have done. If we can do it in

Rochester, we can do it anywhere. Other American communities also have experiences to share and that many of our health care problems can be improved by dedicated people in local communities. Around America we all need enough time to share our best practices. Congress can help us with information technology, wellness, end of life matters, incentives to change behavior of our citizens and appropriate incentives for our physicians and other health care providers and manage systems efficiently. All of these items will save substantial money.

As you know, more than half of all Americans receive health insurance benefits voluntarily provided by their employers, and the Chamber is committed to reforming the health system to lower costs, improve quality, and expand coverage.

The employer-based system voluntarily provides health benefits to over 130 million Americans. Overwhelmingly, employees are satisfied with these benefits and want their employers to continue providing it to them. Employers have been great innovators in health care, and many reforms we have led the way on have kept the unsustainable rising costs of health insurance from reaching the breaking point.

The Chamber applauds Congress for making health reform a priority. However, we have grave concerns about process being used to advance this legislation. This Committee, in cooperation with the two other committees of primary jurisdiction, crafted legislation behind closed doors. This more than 850-page bill was released just four days ago, and although it still contains significant gaps (including missing cost estimates and expected offsets), already we are engaged in hearings, markups possibly scheduled soon, and the bill will be rushed to the floor without proper time for consideration and revision. The Chamber hopes that the sponsors of this legislation will conduct a process that truly engages stakeholders and discards this rush to legislate, and that they build a piece of legislation that solves the problems we face without creating massive new problems or significantly disrupts the current system. We need a reasonable amount of time to understand the implications of what has been proposed and the opportunity to suggest alternatives that will work.

The business community has been supportive of reform for some time now, as health care costs have continued to rise much faster than the rate of inflation. Even as health insurance premium costs have more than doubled in the past decades, employers continue to pay \$500 billion a year into the system voluntarily to cover employees.<sup>1</sup> It should be easy to draft a bill that employers can support – we are desperate in the face of these unsustainable cost increases. Unfortunately, rather than focusing on common sense, pragmatic reforms (as we have done in Rochester) that both sides of the aisle could support, this legislation embodies a range of bad ideas that threaten to bring down many good initiatives what we support.

### **Employer Mandate (“Pay-or-Play”)**

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<sup>1</sup> Employee Benefit Research Institute: “*EBRI Databook on Employee Benefits, Chapter 2: Finances of the Employee Benefit System.*” Updated September 2008.  
<http://www.ebri.org/pdf/publications/books/databook/DB.Chapter%2002.pdf>

The Chamber does not believe that a mandate on employers to sponsor health insurance will make serious headway to cover the uninsured, but rather could lead to a loss of jobs. Employers who can afford to sponsor health insurance typically provide generous benefits – and most large employers do. Employers who cannot currently afford to offer health insurance benefits will not be able to do so simply because they are mandated to do so – small employers, seasonal employers and businesses that operate on very small profit margins will still be unable to afford to provide benefits. The Massachusetts employer mandate failed to have a meaningful effect on the uninsured, and actually exempted most of the businesses that didn't offer insurance – but it was disruptive to existing plans. In fact, reliance on that employer mandate in part contributed to serious funding problems in the Massachusetts plan.<sup>2</sup>

A better, smarter approach would be to focus on bringing down the costs of health insurance, and encouraging individuals to obtain coverage. This would bring market forces to bear on employers, as their employees would ask anew for benefits that satisfied their individual requirements, without hurting the economy – while also helping more people to obtain insurance and making health care more affordable for all.

### **Minimum Coverage (“Essential Benefits”)**

Even businesses that already offer generous benefits are determined not to be burdened by government-mandated levels of benefits and prescriptive instructions on how benefits must be designed. Because most government employees enjoy the extremely expensive FEHBP (Federal Employees Health Benefit Plan), there is a belief in Congress that it makes sense to force all businesses offering benefits to approach the offerings of FEHBP. However, this would be completely unaffordable and impractical. The design of benefits is a decision that needs to be left between employers and employees. Government-dictated one-size-fits-all plan designs will be disastrous for business – to suppose that a computer programming company and a coal-mining company can afford the same kinds and levels of benefits reveals a lack of understanding of the realities faced by businesses and working Americans.

We are especially concerned about proposals to anoint a new committee of unelected bureaucrats, the majority of which will have had no experience in designing benefits plans, who will basically make laws regarding required levels of benefits. Although Congress may feel an urge to punt this controversial issue to an outside “public-private” group, it is too important, and represents too great a threat to the economic wellbeing of America's job creators, to be allowed to be handed off.

### **Government-Run Insurance Plan (“Public Option”)**

This legislation contains an especially egregious proposal to create a new government-run health insurance plan to “compete” with the private sector. Recent studies continue to

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<sup>2</sup> See Congressional Budget Office: “Key Issues in Analyzing Major Health Insurance Proposals-December 2008”. Available at: <http://www.cbo.gov/ftpdocs/99xx/doc9924/12-18-KeyIssues.pdf>.

find that government cannot and would not compete on a level playing field with private competitors in the insurance market. Government programs tend to hide administrative costs by outsourcing to various other departments and agencies, forcing individuals, enrollees, and participating businesses to pick up the slack. Government costs are artificially low due to cost-shifting to private payers – the consulting firm Milliman recently found that private insurance costs 20-30 percent more because of underpayment by government payers.<sup>3</sup> Proponents of government plans usually cite to MedPAC reports that say government plans pay fairly and private plans overpay – however, numerous providers, hospitals and businesses have reported to the Chamber that private payers tend to support public plan enrollees, and reductions in payment from private plans (or increased enrollment in public plans) would be likely to put many out of business, or at least to severely curtail access to care. The fact that this proposal would directly use Medicare rates is extremely dangerous.

This would be compounded by the problem of a massive shift from the private sector to the public sector. The Lewin Group actuarial firm recently found that tens of millions would be drawn to a public plan by artificially low premiums – a situation that would only worsen the already debilitating cost-shift private payers experience.<sup>4</sup> A loss of 119 million Americans from the private sector to the public sector would devastate the remaining private sector, and likely could lead to the eventuality of a government-run insurance “option” being the only option available.

The business community joins most Americans in opposing a “public option” that would likely be an unfair competitor or lead us toward government-run health care for all. A recent poll by the Kaiser Family Foundation found that while Americans are initially open to a “public option”, when they learn that it might have an unfair advantage over the private sector or that it might lead to single-payer, they strongly opposed it.<sup>5</sup>

Even the op-ed page of the Washington Post has cited the “public option” as a backdoor way to bring the nation to single-payer, socialized medicine. The President’s promise that Americans will be able to keep the health insurance they have cannot be kept if we move to such a system.

We can find no meaningful justification for creation of a new government-run insurance plan other than to gut the private market and bring a large portion of America into government-run health care. Whether or not this proposal is a Trojan horse for single-payer health care, it is apparent that its cause is ideological, not pragmatic or driven by a desire for market competition or good health policy.

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<sup>3</sup> Hospital & Physician Cost Shift, Payment Level Comparison of Medicare, Medicaid, and Commercial Payers. Milliman, December 2008. <http://www.ahip.org/content/default.aspx?docid=25216>

<sup>4</sup> The Cost and Coverage Impacts of a Public Plan: Alternative Design Options. Lewin Group staff working paper #4, April 2009. <http://www.lewin.com/content/publications/LewinCostandCoverageImpactsofPublicPlan-Alternative%20DesignOptions.pdf>

<sup>5</sup> Kaiser Family Foundation Health Tracking Poll, April 2009. <http://www.kff.org/kaiserpolls/upload/7891.pdf>.

## **ERISA Changes**

The reason so many employers are able to offer quality, affordable health insurance to their tens of millions of employees is because the Employee Retirement Income Security Act of 1974 (ERISA) allows them to administer uniform benefits across state lines, with maximum flexibility to allow employers to design plans that meet their employees' needs.<sup>6</sup> This proposal would threaten the success of ERISA plans by apparently allowing a new host of lawsuits under state law, revisiting many issues raised by the Patients' Bill of Rights of past Congresses. Obviously, if this is true, we would be very troubled by these provisions.

Congress should be focused on lowering the costs of health care and expanding access to those currently without coverage. Why is there an effort to interfere with the parts of the system that are working well? The Chamber views such initiatives as counterproductive at best, and at worst, efforts to force more Americans out of private, voluntary employer-provided coverage, and into a government-run exchange that will inevitably lure individuals into a government-run insurance plan. These solutions in search of a problem will cause unnecessary disruption in current plan offerings – contrasting with the President and many leaders in Congress' constant claim that “if you like the plan you have, you can keep it.”

## **Financing of Health Reform**

This year Congress made the bold and fiscally responsible decision to offset new spending and operate under a pay-as-you-go structure to avoid increasing the deficit. This proposal may end up appearing deficit neutral on its face, but only because there are numerous proposals to pair it with massive new taxes. These taxes would be devastating to the economy, to businesses, and to the workers they employ. Among these wrong-headed proposals is a movement to create a European-style Value-Added Tax (VAT). A VAT would have negative implications throughout the entire economy, particularly hurting those with the lowest incomes, who would see the same increases in the costs of affected goods that those with higher incomes would see. This would hurt the already lowered consumption levels we are currently experiencing, lengthening the economic downturn. There are not enough “rich” people in America to pay for this. Taxes of many others will rise. With this and other major government expenditures of the recent past, the inflation that will flow from all of this will be a tax on everybody.

Proposals to tax sugary drinks and alcohol would be similarly regressive. The revenues gained under such a proposal would come directly from those with the lowest incomes who have the fewest options to purchase and the least time and ability to change their dietary habits. These would also be the people most likely to further forego needed care if

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<sup>6</sup> Over a hundred million Americans have health, retirement and other valuable benefits voluntarily provided by their employer under a nationally uniform framework established by the Employee Retirement Income Security Act. See National Coalition on Benefits: About the Coalition. Available at: <http://www.coalitiononbenefits.org/About/>

health expenditures through tax-free vehicles like Flexible Spending Arrangements and Health Savings Accounts were threatened.

Proposals to tax employee health benefits would also have extremely negative reverberations in the economy. These taxes would fall directly on workers, who would see their taxable income increased – although employers would also see FICA and payroll taxes increase, and would have to pass some or all of those costs on to the workers.

### **Reforms Widely Supported**

Congress has rightly recognized that now is the time to reform the insurance markets. This will necessitate some hard decisions about how to enact and enforce guaranteed issue of insurance to all comers, guaranteed renewals, rate control, increased access to competing options, and more. And Congress has rightly recognized that these reforms will not be feasible unless everyone is in the system and has skin in the game – no gaming the system and waiting to buy insurance until you are sick.

If we can build connectors that work, and reform the insurance market, much of the work is done. We need to focus on controlling costs and making coverage affordable, and the initial task will be complete. This will be extremely challenging, necessitating a variety of delivery system reforms, payment and reimbursement reform, implementation of comprehensive strategies to boost health information technology, wellness, prevention, disease management, coordination of care, initiatives to support primary care and much more. This will require sacrifice on the part of many groups – insurers, hospitals, pharmaceutical companies, providers, workers, and yes, employers.

Further, this large bill has left out many of the key solutions we believe could lower health care costs and improve quality. Medical liability reform was not explored, not even test projects through creation of specialized health courts. The massive Medicare claims database, which could be used to jump start quality and transparency efforts, is left out. Employers are not given any safe harbors or encouragement to create wellness programs for employees. Enrollees in public programs are not given the option to instead take their government premiums and enroll in competing private options. And individuals and the self-employed are not given options to use pre-tax dollars to purchase health insurance, and thus still will not have tax parity.

The business community stands ready to work with Congress to pass such reforms. The Chamber will be on the front line fighting for the success of legislation that truly addresses these problems and proposes these solutions. But the Tri-Committee bill is a far cry from such a targeted piece of legislation. All of us, as Americans we can find common ground and collaborate just as we have done in Rochester, New York.