



## OHIO

### HOUSE BILL 450 – HEALTH INSURANCE MANDATE REFORM

#### PROPONENT TESTIMONY

#### OHIO HOUSE GOVERNMENT ACCOUNTABILITY & OVERSIGHT COMMITTEE

FEBRUARY 27, 2018

Chairman Blessing, Vice-Chair Reineke, Ranking Member Clyde and members of the Ohio House Government Accountability and Oversight Committee, thank you for the opportunity to provide proponent testimony on House Bill 450. My name is Chris Ferruso and I serve as Legislative Director for the National Federation of Independent Business (NFIB/Ohio). I am here on behalf of our 23,000 governing members from across the state. We applaud Representative Niraj Antani for introducing this bill to change the way Ohio addresses one segment of healthcare policy; state-imposed health insurance mandates.

By way of background, a typical NFIB/Ohio member employs 25 or fewer and does less than \$2 million in annual sales. Our members come from every industry type, and our organization looks like Main Street in any legislative district across Ohio. We set policy based upon a unique member balloting process. The positions we take before the Ohio General Assembly are directly related to this process.

Additionally, we have our NFIB Research Foundation based out of Washington D.C. which does extensive surveying of our membership on a regular basis. Every four years they publish our *Problems & Priorities*, a massive survey that asks our members from across the country to rank a list of 75 different business issues from most to least problematic. Our last survey, completed in late 2016, also narrowed down Ohio specific data. Since 1986, the top concern amongst our membership, and it holds true for our Ohio members, remains the cost of health insurance. When one considers the bevy of other issues small business owners face such as taxes, regulations, cost of energy, etc., it is striking to see health insurance continues to rank number one.<sup>1</sup>

State-imposed health insurance mandates are frequently introduced to require a certain provider group or illness be covered. While these mandates may have compelling issues they proprot to address, the reality is they distort the market and leave our members bearing the brunt of the cost. Many of you have heard the debates on health insurance mandates. You know that due to federal ERISA law, a state, any state, is limited in what plans are subjected to these mandates. State-imposed health insurance mandates are only applicable to the fully-insured and individual markets. Those self-insured plans, which tend to be larger companies, are not impacted by these mandates.

---

<sup>1</sup> <https://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>

According to the Milliman Report commissioned by the Ohio Department of Insurance, the fully-insured and individual markets make up less than 30% of all eligible, non-elderly, individuals.<sup>2</sup> This means significant gaps in coverage remain, and there exists an inherent unfairness when mandates are enacted. Not only are large, self-insured companies not subjected to these state-imposed mandates, and thus free to design a plan that fits the needs of their employees, subject of course to uniform nation-wide federal law, in many instances public employee benefit plans, including the plans offered to state employees and Medicaid are conveniently excluded.

There is a cost associated with health insurance mandates. Ohio already has many on the books, but we are not the leader amongst the states. The addition of provider and coverage mandates put pressure on health insurance premiums on a segment of the market that is already challenged with offering this benefit. In 2016, 96.4 percent of firms with 50 or more employees offered health insurance coverage to their employees. However, only 38.2 percent of those with fewer than 50 were able to offer coverage.<sup>3</sup> Also, widely reported is that premiums for individual Ohioans obtaining coverage under the Affordable Care Act (ACA) exchange will see average increases of 34 percent.<sup>4</sup> Nearly 80 percent of those on the exchange received a federal subsidy to purchase insurance, meaning all taxpayers will share in this cost increase. While the increase in the small group market for 2018 is not as great, since 2013 the weighted average increase for this group has been 84 percent.<sup>5</sup> Why would the state want to potentially exacerbate this issue by piling on additional mandates on these purchasers?

Further, we believe that simply taking the politically expedient route of passing a mandate does not address a/an issue(s). State-imposed mandates leave gaps in coverage, eliminate plan design flexibility, and do not provide a real solution to healthcare.

I want to address some of the provisions in House Bill 450 (HB 450) and why we believe this legislation is long overdue and how it will address some of the aforementioned issues.

First, HB 450 establishes a review process for existing health insurance mandates. The bill requires a panel to determine the ongoing efficacy of existing mandates, identify mandates that are no longer clinically necessary, and make a recommendation as to whether a mandate should remain in statute or be repealed. The panel will issue a report to be submitted to the General Assembly on an annual basis. Additionally, HB 450 requires an actuarial study on the cost of existing mandates. These important provisions will provide members of the legislature with expert knowledge on both the cost, and the ongoing need of existing state-imposed health insurance mandates.

Next, consumers will be empowered as HB 450 requires notification to individual and group healthcare plan purchasers, on their premium statements, of the potential impact of state-imposed health insurance mandates. In conjunction with this provision is the requirement for the Ohio Department of Insurance to catalog all state-imposed health insurance mandates in statute. We believe these

---

<sup>2</sup> [http://insurance.ohio.gov/Consumer/Documents/Milliman\\_Report.pdf](http://insurance.ohio.gov/Consumer/Documents/Milliman_Report.pdf)

<sup>3</sup> <https://www.kff.org/other/state-indicator/firms-offering-coverage-by-size/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>4</sup> [http://www.cleveland.com/metro/index.ssf/2017/09/ohio\\_premiums\\_for\\_obamacare\\_po.html](http://www.cleveland.com/metro/index.ssf/2017/09/ohio_premiums_for_obamacare_po.html)

<sup>5</sup> <http://www.insurance.ohio.gov/Consumer/Documents/Comparison%202018%20to%202013%20Weighted%20Average%20Annual%20Premium.pdf>

transparency components will empower Ohioans with a better understanding of the impact state lawmakers can, and do, have on health insurance costs.

Further, HB 450 stipulates a more thorough review process before enactment of additional state-imposed health insurance mandates. Prior to enactment the following must be demonstrated: 1) the consumer price index (CPI) for medical services must be equal to or less than the CPI for all other items, 2) at least five other states have enacted a similar mandate and it has been demonstrated in those states that the mandate has not increased premium costs, 3) the mandate applies to public employee benefit plans, Medicaid fee-for-service and managed care plans, and any other health plans funded by the state, and finally 4) a report has been issued by the Department of Insurance that indicates alternative approaches to coverage, and gaps in coverage, that will remain as a result of the mandate. We believe these requirements will foster a more comprehensive dialogue on health insurance policy to find alternatives to mandates that leave so many without coverage.

A final component of HB 450 will codify what is part of the ACA; the state is responsible to assume the costs of any mandated benefit that exceeds those covered under the Essential Health Benefits (EHB) of the ACA. We feel it is important for the state to recognize their obligation under federal law to offset the increased costs associated with exceeding the ACA EHB. This portion of the bill will serve to absorb, for our members that offer health insurance, the potential premium impact associated with new mandated benefits. We believe this provision should be broadly construed as we have seen instances where additional mandated benefits are advertised as clarifications of existing law.

Mr. Chairman and members of the committee, thank you for your time today. I appreciate the opportunity to have a dialogue on state-imposed health insurance mandates. I hope you have a better understanding the impact these have on small businesses. I would be happy to try and address any questions from you and the committee.