



BEFORE THE HOUSE GOVERNMENT ACCOUNTABILITY &
OVERSIGHT COMMITTEE
Proponent Testimony on House Bill 450
February 27, 2018

Chairman Blessing, Ranking Member Clyde and members of the House Government Accountability and Oversight Committee, my name is Keith Lake and I am the Vice President of Government Affairs for the Ohio Chamber of Commerce. I am here today to testify in support of House Bill 450, which ensures that already existing health insurance mandates and their costs are periodically reviewed and also encourages a more thoughtful approach to how the General Assembly considers new health insurance mandates in the future.

The Ohio Chamber is the state's leading business advocate, and we represent nearly 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

For decades, the Ohio Chamber has led the fight against a constant barrage of bills that would mandate health insurance plans cover one type of benefit or another. Sometimes we've been successful; other times we have not. Nonetheless, there are more than 30 health insurance mandates in the Ohio Revised Code today. Other states have many more, as there is almost literally no end to the possible treatments and conditions for which the legislature could mandate coverage.

Each time a proposed mandate is debated, proponents make a sincere and compelling appeal as to the expected health benefit or financial relief it would bring to certain patient populations, families, or society in general.

However, there is another side of this policy coin that too often gets ignored, unfortunately. The other side of that coin is that, once the state enacts a mandate, it's

largely employers that bear the financial brunt of mandates – particularly small businesses. Larger employers typically have the financial resources to self-insure, and thus are free from the mandates imposed at the state level because they are governed under federal ERISA law, which supersedes state law.

Even most proponents of mandates agree that they increase health insurance premiums. How much a particular mandated benefit impacts insurance premiums varies, but whether the cost of the mandate is significant or nominal, it still contributes to making health insurance more expensive.

Today, 53 percent of small employers offer health insurance coverage to their employees. Fifteen years ago, this number was 65 percent. For many of the ones that once offered coverage but no longer do, they stopped because it simply became too expensive. At the very least, mandates accelerate this timeline.

The stage was really set for legislation like HB 450 back in December 2016. It was then that the 131st General Assembly added two important provisions to HB 463, legislation that requires coverage for autism services. One of these provisions was a commitment by the legislature to impose a two-year moratorium on any new health insurance mandates. We applaud the General Assembly for, so far, keeping its word in this regard.

The second provision directed the Department of Insurance to conduct an actuarial study on the costs of all health care mandates that already exist under state law. Once completed, the study will tell us just how much the 30-plus mandates already on the books contribute to higher health insurance premiums.

That's why now, while no mandates are actively being considered, is the ideal time to have a conversation about mandates generally. And it's also the perfect time to put in place some guardrails for when, inevitably, the push for the next mandate comes along. That's what HB 450 does: encourages a more thoughtful approach and enacts some guardrails.

Typically, once a mandate is enacted, that's the end of the story. One of the problems with this approach, however, is that a health insurance mandate locks in a standard of care that may be inappropriate in the future. What may be a sensible practice today could become an outmoded practice tomorrow. HB 450 addresses this by establishing a "health care mandated benefits review committee". This committee, to

consist of experts in evidence-based medicine, is charged with conducting a regular review of all existing mandates to: 1) examine the ongoing clinical efficacy of each mandate; 2) identify any that are no longer clinically necessary or effective; and 3) recommend to the General Assembly whether or not the mandate should remain in statute as is or be repealed. Many of the existing mandates have been on the books for decades. This committee is simply going to make sure that they're still appropriate from a medical point of view.

HB 450 also requires that an actuarial study to determine the costs of mandated benefits – just like the one currently being undertaken by the Department of Insurance – be conducted every five years. This way, we'll be able to regularly assess what these costs are.

The bill further builds on the current actuarial study by using the cost information it ultimately shows to promote transparency. It accomplishes this by requiring each health insurance premium invoice to contain a statement informing purchasers how much higher their premium likely is due to all of the benefits mandated by the state. The Ohio Chamber believes this transparency provision of HB 450 will be a valuable source of consumer information.

All of the provisions of HB 450 I've explained so far focus on existing mandates and their costs. Just as important, HB 450 puts in place some common-sense guardrails around future mandates. Specifically, it stipulates that no mandated benefit shall be enacted unless four conditions are met.

An argument frequently heard from proponents of mandates – and seemingly of interest to lawmakers – is, “How many other states have already passed a similar mandate?” The logic seems to be, if most other states have already done this, how harmful can it be? While the Ohio Chamber believes that just because some significant number of other states have already passed a mandate isn't a very compelling reason for Ohio to pass a new one, HB 450 utilizes similar logic. The bill prohibits passage of a new mandate if at least five other states haven't already passed a substantially similar one, thus ensuring that Ohio, at the very least, isn't a guinea pig. That's the first of the five conditions that must be satisfied before a new mandate can be enacted.

The second condition is that the mandate must not only apply to health insurance plans sold in the individual and group markets, but also to public employee benefit

plans, Medicaid, and any other plans funded by the state. I call this the “what’s good for the goose is good for the gander” provision.

Third, HB 450 says that the consumer price index measure for medical care services, as determined by the United States Bureau of Labor Statistics, must be equal to or below the consumer price index measure for all items. This common-sense test ensures that we’re not going to contribute to pushing the cost of health care insurance higher if it’s already increasing at a rate greater than inflation. If the CPI for health care is higher than the general CPI, no new mandates. If it’s not, then mandates are not prohibited.

The final condition ensures that alternative approaches have at least been identified and also that we know beforehand what gaps in coverage will still remain even once the mandate has been enacted.

As I mentioned previously, mandates only apply to fully-insured health plans which, in essence, means plans purchased by small businesses or individuals. Thus, at best, they only partially solve the problem. The Ohio Chamber believes that lawmakers should know beforehand what gaps in coverage will still remain.

Furthermore, rarely are alternative approaches to solving the problem mandates seek to address considered. We believe that, in some instances, there must be a better way to solve the problem other than passing a mandate that shifts the financial burden onto the backs of small businesses.

Lastly, there’s one final provision in HB 450 that I want to mention. The federal Affordable Care Act requires states to pay the increased costs associated with any mandates that exceed the ACA’s “essential health benefits” requirements. The bill includes an acknowledgement that the state will comply with this requirement.

Health care costs are a top concern in just about any recent survey of business leaders. Last year, the Ohio Chamber of Commerce Research Foundation began conducting a quarterly survey of business leaders across Ohio to determine the economic health of Ohio’s economy from their perspective. We call this our “Prosperity Pulse”. Earlier this month we released the results of our Fourth Quarter 2017 survey and the cost of health care is the top issue of concern to business leaders. And guess what? It was also the top concern in our 3Q, 2Q and 1Q surveys, as well.

The reason is simple: according to the Kaiser Family Foundation, the average annual premiums for employer-sponsored health insurance rose an average of 3.4 percent in 2017, while overall inflation was just 0.7 percent last year. Average premiums have gone up 19 percent in the past five years and 55 percent in the past decade. With 99 percent of companies employing 200 or more workers offering health benefits to at least some of their workers, along with 53 percent of smaller firms, it's easy to understand why health care costs are a top concern for employers.

We recognize that the reason for these increases is not due exclusively to health care mandates. We won't know how much of a factor mandates are until the actuarial study results come back later this year. But we know they are a contributing factor.

As I've just outlined, HB 450 is a comprehensive proposal designed to protect against health insurance becoming even less affordable and accessible for many Ohioans. It does so by ensuring mandates and their costs are periodically reviewed, by providing health insurance purchasers with additional transparency, by making sure other potential solutions are considered, and by putting some common-sense guardrails around future mandate discussions. The Ohio Chamber strongly supports HB 450 and urges swift passage. Thank you.