Statement for the Record

Charles W. Boustany Jr., M.D.

Ways & Means Member Day Hearing - Tax Legislation

May 17, 2016

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As the lead Republican sponsor of H.R. 4832, the Health Savings Protection Act, I would like to submit the following statement in the Congressional Record for the Member Day Hearing on Tax Legislation, May 12, 2016.

The Affordable Care Act created a new excise tax on certain high-cost health care plans provided by employers, commonly referred to as the Cadillac Tax. While the purported purpose of this tax was to discourage employers from offering health insurance plans with overly robust health benefit coverage, we now know that the tax will impact many employer-sponsored health plans in a manner that simply incents the employer to reduce the range of health benefits covered by the employer-sponsored plan.

Even more concerning than the behavioral consequences the Cadillac Tax will have on employer-sponsored health coverage, the Internal Revenue Service has interpreted the intent of this provision to also include the dollar value of employee contributions to Health Savings Accounts (HSA) and Flexible Spending Arrangements (FSA). Ultimately, this means an employees' hard-earned money that he or she chooses to set aside as "savings" for their own future health spending needs, is treated as an employer contribution to the overall value of the health plan, subject to the Cadillac Tax. This is beyond troubling given that we should be encouraging Americans to save for their own future health needs. For all these reasons, I am proud to have joined with my colleague, Dr. Ami Bera, to introduce the bipartisan Health Savings Protection Act (H.R. 4832).

HSAs and FSAs are two savings vehicles that provide a means for employees to contribute their own dollars on a tax-preferred basis, specifically set aside to cover any future qualified health expenses they incur. While recent studies show nearly 103.5 million Americans benefit from consumer-directed health savings accounts like these, this figure is actively being accelerated as employers increasingly move toward offering high-deductible health plans to their employees. High-deductible health plans are less costly to the employers as a result of shifting more of the out-of-pocket cost burden to the employee themselves, making the ability of the employee to contribute their own money on a pre-tax basis to health-specific savings accounts even more critical to ensuring Americans are prepared for their own health costs incurred.

In addition to the general benefit to employees of saving for their own health expenses, the mechanics of these accounts also has organic benefits. More specifically, the ability for certain health-related savings accounts to accumulate contributions over time, as well as the feature of automatic deduction and deposit of these contributions from employee paychecks directly into the health-related savings account, ensures a reliable budgeting tool that is particularly beneficial to lower-income employees.

In light of the inclusion of HSA and FSA employee contributions in the calculation of the Cadillac Tax, research out of the American Health Policy Institute has shown that employers are substantially less likely to even offer the additional benefit of an HSA or FSA account to their employees as an option, as elimination of this benefit is the easiest way to avoid triggering the Cadillac Tax penalty.

There has never been a worse time to disincentivized use of health-related savings accounts for Americans and their families. In fact, a recent survey from the Employers Council on Flexible Compensation (ECFC) found the median household income for an FSA participant is $57,080 and for an HSA participant is $57,660. For all these reasons, Dr. Bera and I have introduced the Health Savings Protection Act (H.R. 4832) to exempt employee pre-tax contributions from calculation of the Cadillac Tax. If enacted, this legislation would ensure there are no adverse consequences to employers choosing to offer these critical savings vehicles that allow employees to afford the increasing out-of-pocket health expenses they are presently faced with.

I want to thank my colleague, Dr. Ami Bera, for joining me in introducing this vital legislation that will ensure Americans and their families have an avenue to save pre-tax dollars for their future health care expense needs.

Health Policy Subcommittee Hearing on Member Health-Tax Proposals:

For The Record - Congresswoman Lynn Jenkins

I would like to note that I am cosponsor of the following bills, and emphasize my support for them:

- H.R. 879 – Ax the Tax on Middle Class Americans' Health Plans Act, sponsored by Rep. Guinta
- H.R. 2911 – The Small Business Healthcare Relief Act, sponsored by Rep. Boustany
- H.R. 3678 – The Preserving Access to Orphan Drugs Act of 2015, sponsored by Rep. Mike Kelly

Statement for the Record by Kenny Marchant (TX-24)
Member of the Ways & Means Subcommittee on Health
Tax-Related Proposals to Improve Health Care May 17, 2016

Statement of support for H.R. 3678, the Preserving Orphan Drugs Act of 2015

Chairman Tiberi, Ranking Member McDermott, as a member of the Ways & Means Subcommittee on Health, I am pleased to provide the following statement in support of H.R. H.R. 3678, the Preserving Orphan Drugs Act of 2015.

I am an original cosponsor of H.R. 3678, which is a bi-partisan solution spearheaded by Congressman Mike Kelly, with the support of Chairman Pat Tiberi and Representatives Richard Neal, Diane Black, George Holding, Charles Rangel, Lynn Jenkins, and Devin Nunes. I support H.R. 3678, the Preserving Orphan Drugs Act of 2015 in order to help Americans with rare diseases. These ailments and the effect they can have on families have always been a focus of this committee, and this legislation is consistent with our tradition.

In an October 2015 letter, the National Organization for Rare Disorders (NORD) wrote to then Chairman Ryan in support of the Kelly-Neal-Black legislation. NORD explained that the Affordable Care Act unintentionally created an imbalance for rare disease therapies, and that H.R. 3678, if enacted, will correct that imbalance.

As this subcommittee and the full committee consider legislation related to healthcare and tax in the remaining days of this Congress, I look forward to working with you and our colleagues to move this bipartisan legislation forward.

Mr. Chairman, Again I thank you for calling today's hearing. As you examine tax-related policies to improve health care, I support the inclusion of H.R. 3678 as part of the agenda. Thank you for including my statement and considering the Preserving Orphan Drugs Act of 2015 as part of today's hearing.

Statement for the Record by Kenny Marchant (TX-24)
Member of the Ways & Means Subcommittee on Health
Tax-Related Proposals to Improve Health Care May 17, 2016

Statement of support for H.R. 1218, Personal Health Investment Today Act (PHIT Act)

Chairman Tiberi, Ranking Member McDermott, as a member of the Ways & Means Subcommittee on Health, I am pleased to provide the following statement in support of H.R. 1218, the Personal Health Investment Today Act (PHIT Act).

H.R. 1218 expands the IRS definition of qualified medical expenses to include physical activity as a form of prevention. This allows consumers to invest in their own personal health, and choose how to spend their own hard earned dollars as it relates to maintaining a healthy lifestyle. The ability to direct such funds would extend to pre-tax medical accounts to help reduce the incidence of preventable chronic diseases.

The PHIT Act is a bi-partisan solution spearheaded by Congressmen Charles Boustany, M.D. (R-LA) and Ron Kind (D-WI). They have been working tirelessly on finding affordable solutions to help today's working families, adults and seniors practice good preventative healthcare.
Each year, our country spends hundreds of billions of dollars on treating chronic medical conditions. It is time for Congress to pass meaningful legislation that encourages steps to stay out of the hospital and reverse the strain on our nation's healthcare delivery system.
Research indicates long term economic benefits to more active population.

The Cooper Institute, based in Dallas, Texas, found significant long term savings to the Medicare program when individuals are physically at mid-life. For instance, a 40 percent reduction in annual healthcare costs were realized, resulting in an average savings of $5,242 for men and $3,694 for women based on Medicare claims data. Moreover, the Robert Wood Johnson Foundation issued a study finding that children who remain inactive are more likely to be inactive adults, whom are then six times more likely to have inactive children. The statics are staggering and together, with the help of the PHIT Act, we can reverse the cycle.

Mr. Chairman, I thank you for calling today's hearing. As you examine tax-related policies to improve health care, I support the inclusion of H.R. 1218 as part of the agenda. Thank you for including my statement and considering the PHIT Act as part of today's hearing.

Richard E. Neal
Ways and Means Health Tax Member Day
STATEMENT FOR THE RECORD
May 16, 2016

Mr. Chairman, I write in support of HR 3678, *The Preserving Access to Orphan Drugs Act*, which Representative Kelly and I introduced last year. This legislation provides a simple correction to the Affordable Care Act to guarantee that all orphan drugs be exempted from the bonded annual pharmaceutical fee contained in this landmark legislation, consistent with the original intent of the legislation.

The ACA exempted orphan drugs from the pharmaceutical fee so that remedies for rare diseases would not be unduly burdened by this cost. This is an extension of well-established federal policy that recognizes that bringing drugs to market to treat rare diseases is challenging because of the limited demand. These drugs are enormously important to the patients who need them, and the federal government has long partnered with the rare disease patient community to knock down barriers to innovation in this sector. When the Congress exempted orphan drugs from the pharmaceutical fee, several classes of drugs that had not utilized the Orphan Drug credit were overlooked. This distinction discriminates against many beneficial therapies.

This legislation removes that distinction and restores orphan drugs as a policy priority to protect a patient community that depends on investment and innovation despite their limited numbers. This bill is simple, sensible and long overdue, and signals our continuing institutional commitment to innovation, quality of treatment, and guaranteeing that no Americans fall through the cracks of our healthcare system.