Health Insurance Mandates
Testimony Before the House Insurance Committee

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While coverage and design mandates for health insurance may be an attractive way for regulators to manage the marketplace to provide certain guarantees, the "unintended" yet predictable consequences of such regulation have an obvious impact on the market. These mandates drive up price, push out competition, and leave unaffordable policies that reflect legislative desires, rather than consumer interest, ultimately fueling increases in the number of uninsured and distorting consumer behavior and expectations surrounding health insurance.

Insurance is fundamentally built around the notion of balancing risk. The fact that insurance doesn't work well today is primarily attributable to the fact that health plans have effectively become payment services, paying for all kinds of treatments, diseases, and illnesses that are predictable and often under the individual's control. Insurance could function as it was intended if it were to cover only insurable risks, best described as known risks over which a person has no control. The moment that the risk ceases to be random or accidental in nature, but rather a predictable occurrence with the ability to plan for the loss accordingly, the risk becomes uninsurable.

Hans-Hermann Hoppe, a professor of economics at the University of Nevada at Las Vegas presents the issue this way:

> *If I know with regard to a particular risk some or all of the factors that determines its outcome, then such a thing is no longer accidental; its likelihood can be individually affected, and therefore cannot possibly be insured. Or, to formulate it somewhat differently, everything that is within either full or partial control of an individual actor cannot be insured—cannot be risk-pooled—but falls within the realm of personal or individual responsibility. Every risk that may be influenced by one's actions is therefore uninsurable: only what is not controllable through individual actions is insurable.*[1]

Dr. Hoppe lays out a clear argument for what is wrong with health insurance today, and establishes a foundation from which to explore the impact of mandates on health insurance and insurance coverage.

So how does this apply to the coverage mandates now before the Texas Legislature, and similar mandates enacted around the country? As health insurance is increasingly considered coverage for everything from the routine to the accidental and catastrophic, there is little wonder that constituents, disease groups and associations, providers, and others in the health care industry come to the legislature asking for new coverage mandates. This session, legislation would mandate insurance coverage for everything from full mental health parity, to gastric bypass surgery, to self-inflicted injuries. Arguably the motivation behind each of these mandates is to

find a payment source for the services that people want, but do not or cannot pay for. That these services are uninsurable is rarely considered.

So what happens as each mandate is added to the insurance plan? Assured of a payment source, there will be no shortage in demand from patients or providers to administer treatments. As losses begin to edge closer to or exceed premiums, insurance plans will be forced to increase premiums to cover the higher losses. And whereas lower losses would help lower costs, higher losses simply drive the price up. Adding a single mandate may not increase the cost of premiums, but taken together, mandates will result in significant premium increases for the consumer.

As a result, many people will choose not to purchase health insurance at the higher prices that cover a range of benefits, many of which are unattractive to the individual consumer, not to mention uninsurable to begin with. In fact, young adults ages 19 to 29 are the fastest growing uninsured in terms of age,[2] and middle- and upper-income earners are the fast growing group of uninsured in terms of income. The Dallas-based National Center for Policy Analysis reports that uninsured adults earning $50,000 to $75,000 annually grew by 47 percent from 1996 to 2006, while uninsured adults making more than $75,000 annually increased 117% over the same period.[3] One can safely assume that for many of the young uninsured and the middle- and high-income uninsured, the question is about the value of the policy for the price. No doubt many of these adults make the rational decision that health insurance is simply a bad value.

What is the better solution? Rather than mandating coverage, individual consumers or employers purchasing coverage on their behalf should have the ability to choose the coverage that is appropriate for their needs. At the same time, health plans should compete with one another to offer the most attractive package of benefits at the best price, without coverage mandates that depress competition and create incentives for consumers to go without insurance rather than be over-insured with a mandate-heavy plan.

A better course of action would be to reject new mandates while repealing the mandates currently in state statute. In the short-term, many health insurance companies would probably continue to cover the services now required under a mandate because people have come to expect those services. However, there will undoubtedly be people who, with the option of a lower-cost plan with fewer mandates, make the switch in the interest of having coverage for those random and catastrophic insurable losses, at a lower price point.

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[1] Hans-Hermann Hoppe, "Uncertainty and Its Exigencies, The Critical Role of Insurance in the Free Market," 7 March 2006, http://www.mises.org/story/2021.
[2] The Commonwealth Fund, "Young Adults Are Fastest Growing Group of Uninsured," 24 May 2006, http://www.cmwf.org/usr_doc/RiteofPassageReleaseFINAL5-22-06rev.pdf.
[3] National Center for Policy Analysis, Devon Herrick, "Crisis of the Uninsured: 2006 Update," 6 Sept 2006, http://www.ncpa.org/pub/ba/ba568/.