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SOURCE: House Republican Conference

Health Care Security

*Three-Point Plan to Boost Access for Employees While Lowering
Businesses' Health Care Costs*

Skyrocketing health care costs have kept employers from hiring at home and decreased the likelihood of future doctor visits for too many. Securing health care coverage for everyone starts with decreasing its cost to employers, rewarding those who save for medical expenses, and putting a stop to the greedy trial lawyers whose petty and frivolous lawsuits translate into higher health care costs for everyone.

■ RISING COSTS IMPACT CAREERS

- ✓ As health care premiums continue to rise, employers are forced to pass more of the expense on to workers in the form of higher co-payments and deductibles, as well as reduced coverage.
- ✓ Employers this year will pay an estimated 12% more for employee health care benefits than in 2003, marking the fifth consecutive year of double-digit increases and a doubling of employer health care costs since 1999 (Source: Kaiser Family Foundation).
- ✓ Decreasing these costs to American businesses will allow them to spend more on expanding their operations by hiring out-of-work Americans.
- ✓ Each percentage-point rise in health-insurance costs increases the number of uninsured by 300,000 people (Source: Congressional Budget Office).
- ✓ Medical liability insurance premiums have increased 505 percent since 1976, driving many doctors out of the profession, closing some specialty practices in entire regions of the nation, and placing unnecessary financial burdens on our nation's employers (Source: National Association of Insurance Commissioners (NAIC)).
- ✓ The average jury award is now \$3.5 million – up more than 70 percent since 1995.
- ✓ The increasing cost of insuring doctors against petty lawsuits is severely reducing the quality of and access to America's top-rate health care:

Background
Information
from
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- ✓ Increased Bargaining Power. Small businesses will see increased bargaining power with health care providers, more freedom from costly state-mandated benefit packages, and lower overhead costs (by as much as 30%).
 - Insurers selling directly to small employers typically incur administrative costs of 20-25%. Under the House plan, AHPs will save small businesses an average of 13 percent on their employee health care costs (Source: Congressional Budget Office).
- ✓ Other requirements and exemptions:
 - Requires AHPs to cover specific diseases, maternal and newborn hospitalization and mental health issues;
 - Exempts AHPs from costly and burdensome state health insurance regulations to enable greater and more effective coverage;
 - Requires AHPs to be financially responsible and strong by reserving enough funds for potential costs and other obligations (based upon recommendations by a qualified actuary).

FLEXIBLE SPENDING ACCOUNTS (FSAS)

- ✓ Employee flexibility. The House plan allows workers to direct their employers to deduct money from their paychecks to be placed in FSAs, tax-free, to pay for health care expenses they may incur during the year.
- ✓ Eligibility. Employers are not restricted based upon the size of their business. Whether or not they offer FSAs is their choice, interpreted so that employees are only restricted by whether or not their employers offer the option.
 - There are no health insurance requirements for a worker to open up an FSA.
 - There are no minimum or maximum contribution limits, except as established by the employer.
- ✓ Qualifying expenses. Money can be drawn from FSAs to pay for most medical expenses, but money may not be used for long-term care or health insurance premiums.
- ✓ Tax benefits to employees. Workers could save significantly on their taxes because the amount committed to an FSA is subtracted from their wages before taxes are applied.
- ✓ Long-term coverage advantages. Thirty million employees in America have access to FSAs, but few take advantage of them because of the use-it-or-lose-it rule.
 - Currently, if one does not use the money he or she has put into an FSA, that money is forfeited to the employer at the end of the year.
 - This “use-it-or-lose-it” rule is a huge disincentive to participating in an FSA. Moreover, the this rule may drive up health care costs by encouraging individuals to spend money on frivolous and unnecessary medical expenses at the end of the year to avoid forfeiting the funds.
 - Under the House plan, up to \$500 of unused funds can be carried forward in the FSA each year, allowing employees to continue investing in their future health

care needs without feeling the pressure to solve all of their family's medical needs on December 31st.

- Alternatively, up to \$500 of unused funds can be rolled over to a Health Savings Account for eligible individuals.

MEDICAL LIABILITY REFORM

- ✓ Speedy resolution of claims. Limits the number of years a person has to file a health care liability action to three years after the date of injury (with some exceptions). This component ensures that claims are brought before evidence is destroyed and while witnesses' memories are fresh.
- ✓ Fair accountability. Weighs the degree of fault so that a person with 1% of the blame is not forced to pay 100% of the damages. This component eliminates the incentive to look for "deep pockets," making one party unfairly responsible for another's negligence.
- ✓ Maximum patient recovery. Empowers courts to maximize patients' awards by ensuring that an unjust portion of the patient's recovery is not misdirected to his/her attorney. The plan prohibits attorneys from pocketing large percentages of an injured patient's award.
- ✓ Full compensation for patient injuries. Allows patients to recover maximum economic damages such as medical expenses and loss of future earnings.
- ✓ Reasonable limits on punitive, non-economic damages. Limits punitive and non-economic damages to make the punishment fit the offense. The plan limits unquantifiable non-economic damages ("pain and suffering") to \$250,000 but does NOT cap punitive damages. The plan allows punitive damages to be the greater of two times the amount of the economic damages awarded or \$250,000.
- ✓ Flexibility for states that have already enacted damage caps. Respects states' abilities to enact and enforce other damage caps than those provided in the plan. The \$250,000 cap on non-economic damages serves as a ceiling on non-economic damages for states that have no plans in place. States with other limits, whether higher or lower, can continue to enforce those limits.
- ✓ Experts predict significant positive changes with reform. The House plan would decrease premiums for medical malpractice insurance by an average of 25 – 30 percent (Source: Congressional Budget Office). Specifically:
 - Placing reasonable limits on malpractice claims would save from \$60 – 108 billion each year in health care costs (Source: NAIC) – money more efficiently spent by American businesses expanding their operations through hiring.
 - Enacting sensible malpractice reform would save American taxpayers at least \$30 billion annually by reducing federal health care spending (Source: Department of Health and Human Services).

■ APPENDIX: MEDICAL LIABILITY REFORM

- ✓ **Medical malpractice reform at work.** California is a great model for medical liability reform. While the nation's medical liability premiums have increased by 505 percent since 1976, California's have only increased by 167 percent since it passed its medical malpractice reforms in 1975 (Source: NAIC).

- Ob-gyn's in California pay about \$57,000 annually for liability insurance, while Ob-gyn's in crisis states like Pennsylvania, Florida and Ohio pay more than \$100,000 annually (Source: Medical Liability Monitor).
- ✓ **What it means to be a medical liability "crisis" state.** Nineteen states in the U.S. are considered to be in a state of "crisis," with 23 states showing "warning signs" (Source: American Medical Association). The following are examples of the state of medicine in a few crisis states:
 - In Pennsylvania, Philadelphia's Methodist Hospital announced it would stop delivering babies and discontinue its prenatal care program for low-income women.
 - In Florida, women are facing waiting lists of four months before being able to get an appointment for a mammogram because at least six mammography centers in South Florida alone have stopped offering the procedure as a result of increasing medical liability insurance premiums. "This trend is troubling. There are a growing number of older people and less and less people to provide mammograms," said Jolean McPherson, a Florida spokeswoman for the American Cancer Society (Source: *South Florida Sun Sentinel*, Nov. 4, 2002).
 - In Arizona, a baby was born on the side of the road after her mother passed her community hospital, where the insurance crisis had closed the maternity ward.
 - In Nevada, more than 30 Las Vegas obstetricians have closed their practices in recent months, leaving the city with about 85 obstetricians to deliver more than 23,000 babies in the next year. "If I was a woman planning a family in Las Vegas, I'd be very concerned. I would certainly think twice about starting a family," said Kathryn Moore, director of state legislation for the American College of Obstetricians and Gynecologists (Source: *Las Vegas Review Journal*, Aug. 29, 2002).