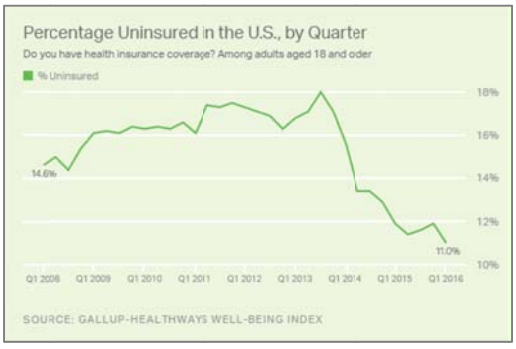
Written Statement for the Record of
Thomas M. Harte, President of Landmark Benefits
Representing the National Association of Health Underwriters
before the United States Senate Committee on Health, Education, Labor and Pensions
Subcommittee on Primary Health and Retirement Security
Roundtable on "Small Business Healthcare – Challenges and Opportunities"
July 7, 2015

Good afternoon. My name is Tom Harte and I am the president of Landmark Benefits Inc.; located in Hampstead, New Hampshire. I started my small business in 1997 and it has become one of the largest independent employee benefit companies in New Hampshire. Today, my company provides services to over 300 corporate clients and the majority are small to mid-sized businesses. Our primary goal for clients is to provide innovative solutions that address the continued increases in premiums by emphasizing both healthcare quality and healthcare cost containment.

I am proud to be here today on behalf of my professional association, the National Association of Health Underwriters (NAHU), which represents approximately 100,000 health insurance agents, brokers, general agents, consultants and other employee benefit specialists nationally. Last year, I completed six years of service as a member of our national Board of Trustees, including serving as the NAHU's national president for 2013-2014. As an association member engaged on the national level since 1996, I know thousands of brokers from all over the United States who serve small businesses with health insurance challenges. Not only did I consult with my own clients about their most critical challenges and opportunities with small group coverage that they have asked me to communicate at today's roundtable, but I also reached out to my colleagues nationwide so that I could share their message today.

Prior to my responding to the primary topics for the consideration of the subcommittee, I want to share with you some of the successes within the market since my last visit in July of 2015.

- The passing of PACE allowed states to determine if increasing the definition of small group to 100 was in the best interest of their small businesses.
- Delay of Excise Tax to 2020 (Thresholds: $10,200 / $27,500)
- To address the affordability issues in the market, both the Moratorium on Medical Device Tax of 2.3% and health insurance tax were suspended for 2017.
- Gallop has reported that the adult uninsured is at 11.0%, which is the lowest it has been in eight years. (http://www.gallup.com/poll/190484/uninsured-rate-lowest-eight-year-trend.aspx)



At the same time, it is important to share with you that small businesses continue to face significant premium increases.

Client Location	Enrolled	Deductible	Rate Adj.
Manchester, NH	65	$5,000	29.96%
Nashua, NH	46	$5,000	29.96%
Kittery, ME - SHOP	12	$2,600 HDHP	12.61%
Lowell, MA	2	$2,000	29.22%
Derry, NH	86	$5,000	18.45%
Salem, NH	10	$500	11.47%
Cambridge, MA	19	$2,000	17.73%
Methuen, MA	8	$2,000	15.47%
Chelmsford, MA	3	$2,000	19.01%

It is also important to understand that most small employers are faced with mandatory health plan changes from the health plans. For example:

- Primary care office copays are increasing from $25 to $30 or $40;
- Specialist office copays are increasing from $50 to $60 or $80; and
- Prescription drug copays are increasing dramatically and cost shares are increasing up to a monthly maximum of $400.

Finally, the recent success of the adult uninsured rate at 11.0% does not take into consideration the "under insured." For example, most employers are increasing plan deductibles and many have increased to as high as $5,000 or $6,000; however, most employees can't afford a deductible event of $1,000 let alone $5,000 or $6,000 – this would result in a financial catastrophe.

With regard to the topics of interest to the subcommittee, I have focused my remaining remarks on these issues:

(1) Factors driving healthcare costs for small businesses;
(2) Health insurance market policies that have affected premiums for small businesses; and
(3) Factors that small businesses must consider when assisting their employees in purchasing health insurance.

It is my and NAHU's hope that now, six years into the implementation of the Patient Protection and Affordable Care Act (ACA), that Congress and President Obama will come together with bipartisan solutions to improve the outcomes of the ACA and resolve many of the unintended consequences that are making coverage more expensive and creating burdens for health insurance consumers.

Factors Driving Healthcare Costs and Health Insurance Market Policies that Have Affected Premiums for Small Businesses

The leading causes of increased health plan premiums are increased utilization and government regulation.

Increased Utilization

In 2014, utilization increased in virtually every metric, with more physician visits, hospitalizations, and prescriptions filled than in 2013. Prior to the recession, higher utilization of services accounted for 43% of the increase, fueled by factors such as increased consumer demand, new and more intensive medical treatments, defensive medicine, our aging population, and unhealthy lifestyles. As American consumers return to increasing use of healthcare services, including many newly insured individuals under the ACA, utilization has increased significantly.

Changes in the rate of utilization could also be attributed to plan design and the use of technologies in place of traditional medicine. To help offset the impact of increasing premiums, insurers and plan administrators have increasingly turned to higher deductibles. From 2009 to 2014, premiums increased by 26% in employer-sponsored plans while deductibles increased by 47%. In 2006, only 10% of employers offered plans with deductibles over $1,000 and 3% had deductibles over $2,000, compared to 40% and 18% in 2014, respectively.

Deductible Expenses	X > $1,000	X > $2,000
2006	10% of employers	3% of employers
2014	40%	18%

This increased out-of-pocket expense before coverage is deterring many individuals from seeking necessary healthcare services. This delay of care will exacerbate medical conditions, requiring more expensive care at a later date. Telemedicine is a way that some patients are seeking care without receiving more expensive care in person, as these services can be available at a significantly reduced first-dollar cost to the patient. Other plan design changes include value-based insurance design, which encourage chronic disease management while reducing the need for more expensive care.

Government Regulation

The ACA has imposed significant compliance burdens on employers, employees, individuals, and local and state government. Many of these compliance burdens discourage employer-sponsored coverage by adding onerous requirements and responsibilities that must be performed on behalf of employees. For small employers, many of the ACA's arbitrary provisions, such as narrow rating bands, limits on composite rating, new levels of minimum coverage, and employer reporting requirements, have resulted in higher costs.

However, the compliance burden does not end with just employers, as individuals, providers, state and local governments, and all other elements of the healthcare delivery and financing system must meet the requirements of the law.

On June 14, 2016, the House Energy & Commerce Health Subcommittee held a hearing on "*Advancing Patient Solutions for Lower Costs and Better Care*," which included a discussion of the age rating bands. The age rating bands require insurers to charge their older policy holders three times that of younger policy holders while older policy holders tend to use up to six times as much healthcare in dollar value. This current 3:1 age band rating is a change from what was in effect in the states prior to the ACA when states were able to select their own age band rating, with the most commonly used rating being 5:1. The shift in age rating bands to 3:1 caused an increase in cost to younger policy holders, many of whom would rather drop coverage than pay the increase in premium; however, these are the same group of young, healthy policy holders that are needed in the market in order to avoid adverse selection. I believe that the policy in place prior to the ACA, which allowed states to determine the appropriate age rating bands to implement within their borders, is a far better way to control costs, and in the absence of state action, requiring a 5:1 age band rating would encourage young, healthy policy holders to maintain their coverage and support a far more sustainable health insurance market.

Further, final regulations concerning employer reporting have also burdened employers of all sizes. I can testify that some of my employer clients have spent 100's of hours in preparation, coordination, and deployment of these reporting demands. Additionally, the cost for reporting with either a payroll company or third-party administrator is excessive at best. In March 2014, the Department of the Treasury and the Internal Revenue Service (IRS) released final regulations on what health plan information all employers will be required to report to the federal government annually for enforcement of both the health reform law's individual and employer mandates. Unfortunately, the final regulations are confusing and extremely complicated for businesses of all sizes. I am concerned that many employers may stop offering health insurance coverage to their employees, especially small employers that are not mandated to do so, because the reporting compliance burden is too much for their business to bear.

There is legislation pending (H.R. 2712 and S. 1996) that will ease the compliance reporting requirements for employers offering health insurance coverage to their employees. The bill clarifies that any information regarding health insurance that is communicated to employees must be aligned with the processes that are already in place by employer or employee, including the use of electronic notification for all notification forms. We believe that providing employees with multiple and similar notices is confusing for employees and both costly and confusing to employers.

Finally, the legislation requires that the Department of the Treasury, in consultation with the Department of Health and Human Services (HHS), Department of Labor, and Small Business Administration, write a report to

Congress that would detail the processes necessary to develop a prospective reporting system. Greater sharing of employer plan information between the IRS and HHS to improve exchange subsidy eligibility determinations would work best if the Administration would also allow greater employer flexibility to provide information to employees and health exchanges regarding the employer health coverage offered on a prospective basis. Under a voluntarily prospective reporting system, employers could provide to the IRS information about coverage offered to employees electronically at the employer's open-enrollment period or by the January 31 statutory deadline at the employer's election. I believe if greater flexibility was provided and prospective reporting allowed, it will result in greater coordination between the exchanges and the IRS, leading to fewer faulty subsidy determinations and penalty assessments, which, in the long term, will aid in deterring the steady increase of premium costs.

Factors that small businesses must consider when assisting their employees in purchasing health insurance

It is no surprise that one of the leading factors in considering the purchase of health insurance is cost: cost to both the employee and to the employer. When I spoke to this subcommittee's roundtable last year, I spoke about the dangers of implementing the Cadillac tax. In contrast, today, I am going to shift to address a tax benefit that is in jeopardy, and I would like to take this opportunity to encourage the committee's support for the continuation of the "employer exclusion."

The employer exclusion is used to reference the tax benefit that excludes employer-provided contributions toward an employee's health insurance from that employee's compensation for income and payroll tax purposes. This exclusion makes employer-provided health coverage an attractive form of compensation for workers. According to a new poll from Accenture, three-quarters of workers see health benefits as a "*vital reason*" for continuing to work for their employers, and one-third would quit if their employers stopped offering insurance. A similar percentage said they wouldn't work as hard if their benefits disappeared.

Employer-sponsored coverage is the bedrock of private insurance coverage in the United States. According to the Bureau of Labor Statistics, about 175 million Americans have employer-sponsored coverage and are statistically more likely to maintain coverage year after year. Providing coverage through employers or other group arrangements offers controlled entry and exit in the health insurance market, which ensures the spreading of risk, federally guaranteed consumer protections, like portability rights, the ease of group purchasing and enrollment, and the economies of scale of group purchasing power. In addition, it is a means for employers to provide equitable contributions for their employees.

Several recent health insurance and tax-reform proposals have suggested eliminating or capping the tax exclusion provided to individuals who have employer-provided group coverage and perhaps substituting it for some other tax preference. Capping the exclusion for employees would degrade the benefit and serve as a tax increase for middle-class Americans. Eliminating the exclusion would mean that most of the advantages of employer-provided coverage would no longer exist: No longer would there be a potent means for spreading

risk among healthy and unhealthy individuals; employers and individuals would lose many group purchasing efficiencies; workers would be less likely to have their employer as an advocate in coverage disputes; employers would be less likely to involve themselves in matters of quality assessment and innovation; and employers could suffer in terms of worker productivity and labor costs because employer-sponsored insurance leads far more workers to purchase health insurance than they would on their own. Some employers would not meet participation requirements for group coverage so the entire workforce would lose employer-sponsored coverage. This shift might seem minor, but it could compel employers to stop providing health insurance, according to the Congressional Budget Office and the Joint Committee on Taxation. Companies will expect their employees to secure affordable coverage in the individual market. For many people, particularly older and lower-income workers, that may be impossible, even with the implementation of the ACA.

One plan would eliminate the tax exclusion for employer-provided health insurance, preventing companies from purchasing coverage with pre-tax dollars, and instead provides individuals with a tax deduction of $7,500 a year for buying insurance. Families would receive a deduction worth $20,500. These types of tax deductions would encourage young, healthy workers to forgo employer-sponsored insurance because they could purchase cheaper plans elsewhere. Employers would be left with an older, sicker risk pool, thus higher costs – if they can get group coverage at all. As costs escalate, even the most generous employers may quit offering health insurance altogether. De-linking coverage from employment like this would make health insurance more expensive and less accessible, thereby contradicting the objectives of the ACA.

Adding to the threat to employer-sponsored insurance is the increase in cost to the employers. In a recent survey, almost 90% of businesses reported that their costs had increased because of the law. Employers are responding by laying off workers, making full-time employees part-time so the mandate doesn't apply or dropping coverage altogether. In all three cases, the result is fewer people with employer coverage.

Getting businesses out of the healthcare business would be a mistake. We urge you to maintain the system that has worked for Americans for decades, and preserve employer-sponsored health coverage through the continuation of the employer exclusion.

Small Group Market Policy Recommendations

We all have a stake in having a functioning, viable health insurance marketplace for small employers. While the ACA has brought many changes and market resources to consumers and employers, I am concerned about policies threatening the small group's viability that could lead to its erosion. The membership of the National Association of Health Underwriters feel that the following policy changes would have a significant impact on improving the cost and coverage options available today for our nation's small employers and their employees:

- To address the affordability of health insurance we need:
  - Further delays of the Excise tax;

- Continued suspension of the health insurance tax;
- Continued moratorium on medical device tax; and
- Legislation that allows states to increase the law's age rating bands from the current 3:1 spread to bands that more closely resembles the natural breakdown of age and meet the needs of a particular state. If a state does not set its own bands, the default should be 5:1.

- Preservation the law's risk-adjustment mechanisms (often referred to as "The Three Rs") since they are crucial to preserving long-term private insurance market stability.
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- To address the accessibility of health insurance we need:
  - To remove agent and broker commissions from the medical loss ratio calculation in the small and individual health insurance markets, to ensure small business access to agent and broker services and to economically help the hundreds of thousands of agent small business owners nationwide.
- To address the simplification of health insurance we need:
  - A repeal of the employer mandate, or failing, that establishes the eligibility threshold at 101 or more employees; and
  - To Allow employers to set the definition of a full-time employee as one that works 40 or more hours a week for health coverage purposes.

In closing, I would like to thank Chairman Enzi, Ranking Member Sanders and all of the members of the subcommittee for the amazing opportunity to share information about the opportunities and challenges small business owners like me and my clients are having in today's health insurance marketplace. If you have any questions or need more information, please do not hesitate to contact me at either (603) 329-4535 or tharte@landmarkbenefits.com.