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Washington Post Healthcare Rx: panelist on the *Post*'s 2009-2010 blog

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- **Not an ending, only a beginning (3/31/10):** PPACA begins a long struggle against cost increases, uncertainty and perverse incentives
- **It will ravage small business (3/19/10):** PPACA will wreck small business – ironic, since reform was supposed to be for small business.
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- **Amending Marshal Lyautey (7/29/09):** Delaying the House vote till after recess is a good thing.
- **Rein Costs In or They'll Rein Us In (7/24/09):** If we don't rein in costs, costs will rein us in.
- **Only If You Like Killing Jobs (7/16/09):** Tax increases on the so-called "wealthy" can wreck healthcare reform and the economy.
- **Innovation, Timeliness, Choice, Quality (7/2/09):** Despite its problems, there's much to admire about America's healthcare.
- **Message to Obama from Small Businesses (6/16/09):** Erratic, unrelenting rise in health-care costs threatens small firms' viability. .

Not an ending, only a beginning (3/31/10)

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Washington Post: *What is your assessment of the now-complete health law and its implications for the future?*

For small business, the new health-care law begins a long struggle against cost increases, uncertainty and perverse incentives (**see timeline here**). Traditionally, small business produces over two-thirds of America's new jobs, but this bill jeopardizes that role.

Premium increases will dominate the near-term horizon. Insurers will no longer be constrained by an impending Congressional vote. Some insurers will see their days as numbered and will hike premiums before exiting the market. Surviving insurers will face fewer competitors and may increase their margins before the law limits their ability to do so. Millions of people will begin gaining insurance, with no commensurate increase in the number of doctors and other providers; this will push medical fees upwards, and insurers will have to cover the increases. The small-group market is always more vulnerable to rate increases, and this market will not change substantially until 2014.

Premium hikes won't be limited to small business. Based on only one of the myriad new tax provisions, AT&T, John Deere, Caterpillar, 3M, and other companies are setting aside billions of dollars for **anticipated losses**. They can't spend these dollars on jobs, products, and investment. Small businesses who sell to these companies will feel the secondary effects of this contraction. Governments will be similarly hit; Arizona **just realized** that the law hands the state an unexpected $3.8 billion obligation over the next three years.

Not only do individuals, businesses, and government have to guess HOW the new rules affect them; they also have to guess WHAT the new rules will be. A "Health Choices Commissioner" will define what constitutes an acceptable health insurance policy. Will everyone's policy have to cover single-occupancy maternity rooms, hair transplants, and liposuction? Only the as-yet unnamed Commissioner can say. Big businesses and unions will have in-house attorneys, accountants, and lobbyists watching their backs. Small businesses won't have that luxury.

Then there are the perverse incentives. Here's just one example: A business with 60 employees doesn't provide health insurance, but all of the employees are in households that earn too much to qualify for federal subsidies. Then, one day, an employee comes in and explains that his wife lost her job the week before. Since the couple's combined income drops below $88,000, they now qualify for a federal subsidy. Because of this one employee -- whose salary hasn't changed -- the firm now owes a penalty of $2,000 for each of its employees -- $120,000 annually. With dozens of similar perverse incentives, how is a business supposed to plan?

Small business will fight every day to survive this bill. As every high school commencement speaker says: "This is not an ending. It is only a beginning."

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It will ravage small business (3/19/10)

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Washington Post: *House Democrats released their* ***new version of the health bill*** *on March 18. What's your assessment of the legislation?*

The Senate bill and reconciliation package will ravage small business. How ironic, given the endlessly repeated, "Let's reform health care for the benefit of small business."

What does the original Senate bill (HR 3590) mean for small business? It means higher taxes and higher insurance costs. There's a new tax on health insurance policies that small businesses buy, but not on those that big businesses and labor unions buy. A painful employer mandate will lower wages, slash jobs, and discourage small firms from growing. This mandate uniquely and arbitrarily falls much harder on construction firms, though the bill never bothers to define what a construction firm is. There is are new and onerous red-tape requirements. A new payroll tax will devour funds that small business owners set aside to reinvest in their firms; while it's nominally a "Medicare" tax, it sets a dangerous precedent by siphoning funds out of Medicare into other uses. A tax credit is supposed to ease the burden on small business, but it is of limited value and short duration.

What does the Reconciliation Act (HR 4872) mean for small business? It takes the Senate bill's employer mandates and makes them even more expensive. It applies these mandates to part-time workers, making it undesirable to hire high school and college students, firm owners' family members, and people who spend most of their time caring for children. A new and unprecedented tax on investment income will discourage the saving and investment that leads to job creation.

Beyond the effects on small business, the bills fail at the basics of health-care reform. Costs will continue rising rapidly - perhaps even faster than before. Tens of millions will remain uninsured indefinitely. The CBO's prediction of lower federal deficits rests on accounting gimmicks that Congress forced them to use. Improvements in quality of health care are an afterthought.

Worst of all, these job destroying provisions coincide with the worst economic crisis since the Great Depression.

The cash cows' beef (3/11/10)

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Washington Post: *Last week, President Obama* ***admonished insurance company executives*** *for excessive rate increases. He took aim at them again in his speech in Philadelphia on Monday. How much of our problem rests with insurance companies and how much is the result of other facets of the health-care system?*

What portion of America's health-care problems are attributable to insurance companies? That's a huge question, and this is a small blog. So I'll only address a narrow slice of the question: How is the insurance industry a problem for small business?

Small business has come to view insurers with hostility. In their view, private insurers -- both for-profits and not-for-profits -- use the small-group market as a cash cow. Premiums are substantially higher for small groups than they are for large groups. Small-group premiums are more volatile, and their choices are more limited. Small businesses depend on brokers for information and insurance products, but brokers can only offer small business the limited products that carriers offer them.

Small-group is the cash cow for several reasons. Unlike large firms, small businesses have no human resources departments to distinguish between justifiable and unjustifiable premium increases. State insurance markets are mostly oligopolies or near-monopolies, so they lack the competitive forces necessary to drive prices down. Year-after-year, the insurance industry has fought reforms (e.g., interstate purchasing, transparency rules, more efficient pooling arrangements) that could make the small-group market more competitive. This intransigence has brought insurers short-term monetary gains, but also hostility from purchasers and politicians. In doing so, the insurers have made it difficult to distinguish between legitimate and spurious criticism.

Small business supports the existence of private, competitive insurance markets. To the regret of small business, the insurance industry may soon look back and realize that it was its own worst enemy.

Peggy Lee sings health care (2/24/10)

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Washington Post: *In advance of Thursday's health-care summit, the White House released its plan for merging comprehensive bills passed last year by the House and Senate. How would you assess President Obama's proposal and what impact if any will it have on action in Congress?*

Reading the 11-page **President's Proposal** reminded me of lyrics that **Peggy Lee** sang: "Is that all there is? Is that all there is? If that's all there is, my friends, then let's keep dancing."

Small business is not at all happy. The House and Senate passed deeply flawed bills, and the new White House proposal does little to improve them. The best that can be said is that a few especially bad provisions (e.g., the construction industry massacre) have dropped out.

But in some ways, the Proposal makes things significantly worse. The employer mandate becomes more expensive (and, hence, a bigger job-killer) for many firms and, it seems, no less expensive for any. This mandate simply orders firms to pay for insurance and/or pay stiff fines. It does nothing that will lead to lower costs or more options.

The Proposal increases entitlements, taxes, and federal government controls over health care. The Proposal tips its hat toward greater effort to combat waste, fraud, and abuse, but we already have the capacity to do that without a new bill.

Like the House and Senate bills, the President's Proposal does nothing to bring the cost of care down, and cost is the fundamental problem with our system. The problems of American health care are most acute in the small business sector yet neither the two bills nor the President's Proposal provides significant relief.

Then there are the missed opportunities. The best idea to arise during the Senate debate was the **Wyden-Collins-Bayh** Optional Free Choice Vouchers amendment. Today, this bipartisan proposal is nowhere to be seen.

Small business has always been at the table. Their voice has been heard and largely ignored. The President's Proposal does nothing to change that perception. The Proposal promises "[to put] small business owners in control of their own health care." But nothing in the document would actually make that happen.

Retreat, rethink, return to principles (1/21/10)

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Washington Post: *After Brown's win in Massachusetts, what should Obama and Congress do now?*

Supporters of the current bills shouldn't ignore the strength or breadth of the Massachusetts message. As the bills slogged their way toward passage in the House and Senate, the substance of health-care reform -- costs, coverage, and quality -- vanished from the conversation. Substance gave way to unsavory deals benefiting a rogue's gallery of special interest groups. Ultimately, each bill disintegrated into a ganglion of payoffs. Budget analysts stated that the bills wouldn't reduce costs or achieve universal coverage. Quality improvement initiatives were thin and speculative. Deficit projections were tainted by accounting shenanigans. After Massachusetts, hurriedly forcing through one of these bills, or some patchwork version thereof, would be a disastrous mistake for the country and for those members of Congress who ignore the warnings that Bay Staters have handed them.

But at the same time, opponents of the current bills should not read Massachusetts as a license to sleep under a tree for another 15 years. For small business and for other Americans, the problems inherent in the health-care system are serious and persistent. The Massachusetts election did not make them go away. NFIB has consistently said that the status quo is not an acceptable option; that is as true today as it was yesterday or a year ago.

Properly read, Massachusetts gives both sides a second chance to do things better. Major social changes demand bipartisan solutions, and that possibility has suddenly returned to health-care reform...if Congress and the White House are willing to take advantage of the new environment. If so, the unsavory deals become unpleasant memories to put behind. Then we can return the principles that began the conversation over reform. Lower costs. More consumer choice. Autonomy for providers. Better quality care. Broader coverage. Private markets. Less red-tape. More efficient markets. Transparency. Fiscal balance. Tort reform. Better delivery systems. Rational reimbursement systems. Equitable taxes and benefits.

F. Scott Fitzgerald famously wrote, "There are no second acts in American lives." Congress and the White House have an opportunity to prove Fitzgerald wrong. Small business is ready to get back to work.

Beware: destination unknown (1/14/10)

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Washington Post: *Even if President Obama signs a comprehensive health-care bill this year, much of it will not take effect until 2013 or later. What do you anticipate will happen in the health-care sector in the intervening years?*

For 2010 to 2013, the Senate and House bills offer only one certainty: tax upon tax upon tax. The bills delay meaningful health-care reform for four years, but immediately bury consumers and employers under a swarm of new taxes. Both bills are so massive, incoherent, and internally inconsistent that their overall effects are beyond anyone's capacity to predict. Both bills sail the health-care system and the U.S. economy past anyone's horizon of experience.

The likely devastating consequences are endless. Continued, perhaps accelerating, cost increases. Doctors abandoning Medicare. State finances buckling under anticipated Medicaid expansion. Slowing of pharmaceutical and other biomedical research. Withdrawal of many health insurers from the market. Destabilization of employer-employee relationships as firms strategically brace themselves for even bigger changes arriving in 2014.

For small businesses and their employees, the probable effects include diminished profits and wages. Some firms will shut their doors. Others will shed workers. Still others will be unable to create jobs that they otherwise would have generated. Others will find difficulty attracting financing. Uncertainty discourages capital formation and job creation, and no bill has ever foisted as much risk and uncertainty on the U.S. economy as suddenly and overwhelmingly as this one.

Though few are willing to acknowledge it, the unintended consequences of this bill will begin blowing holes in the American economy between now and 2013. Will these events force Congress to go through the agony of repeatedly reopening and repairing this legislation?

And if the results are one-tenth as bad as I suspect, one other thing will occur between now and 2013. Principled health-care reform advocates who settled for a terrible bill will find their credibility destroyed for years and years into the future.

A kick in the teeth (1/7/10)

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Washington Post: *It has been nearly a year since Washington officials embarked on an effort to overhaul the nation's health-care system. How do you assess the situation today?*

Say goodbye to small construction firms and the opportunities they offer owners and employees. In a covert, last-minute ploy, the Senate heaved them into the jaws of big labor. This abusive treatment is the best place to begin exploring the sleaziness and incoherence of the House and Senate health-care bills.

In dozens of ways, Congress kicked small business in the teeth while filling the outstretched palms of unions, big business, trial attorneys, insurers, hospitals and certain favored provider groups. Despite the promises and platitudes about helping small business, their needs and the overall goal of improving health care were discarded and forgotten.

One of the most egregious horse trades was perpetrated against small construction firms. Both bills contain job-killing employer mandates, but without warning, discussion or pretense of logic, the Senate singled out construction firms for harsher treatment. Unlike every other industry, their exemption plunged from fewer than 50 employees to fewer than five. A small construction firm that grows from four employees to five suddenly loses its ability to compete.

The likely result is a construction industry with only two types of firms: huge (i.e., "unionized") firms and microscopic firms with no capacity to grow or create jobs. Want a custom-built home by a small specialty builder? Forget it; he won't exist. Dream of owning a specialty cabinet-making business? Too bad; you can't add workers when business is good.

With a deep ongoing recession, this attack on small business is breathtaking. No debate. No discussion. No press coverage until after the fact. It bludgeons an industry already reeling from recession and dramatic job losses. All without any pretense of helping the economy, the construction industry, construction workers, home buyers, taxpayers or health care. Call this provision what it is: a naked political payoff to a favored group and a gut wound to a more vulnerable group.

Small business needed health-care reform more than just about any other group; politician after politician swore this was so. Yet, putting politics before policy, the House and Senate chose to inflict incalculable damage on small business in order to enrich and empower their most favored friends -- big business and big labor.

Congress must undo this assault on the construction industry. But after that, there are dozens if not hundreds of other offending provisions to strip out: inequitable taxation on small business' insurance policies, mind-numbing paperwork requirements, powerful disincentives to hire employees from low-income households, limits on employer and employee insurance choices. The list goes on.

Once you understand this construction industry massacre, you're ready to explore the destruction contained in the other 4,000-or-so pages of these two bills.

Disaster turns to disgrace (12/21/09)

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Washington Post: *Were the compromises that led to the Senate bill worth the result?*

NO! The only thing those compromises accomplished was securing support for a bill that fails to lower insurance premiums and that will increase the cost of doing business for America's job creators: small business. From the beginning of the health-care reform debate, everyone said that reform was going to be all about helping small business. They were continually hailed as the constituency most in need of reform and that most needed to help develop solutions to the health-care crisis.

But a strange thing happened on the way to producing that so-called meaningful legislation for our nation's job creators. It got sidetracked and became all about getting to 60 votes in a do-whatever, give-whatever, promise-whatever marathon session to mollify special interests, pacify big business and appease unions. As a result of the horse-trading and deal-making, small business, which had the most to gain, is going to lose out on affordable coverage, lose on the promise of more choices and lose their wallets paying for all of these new taxes. And still, they won't see any decrease in their ever-increasing insurance premiums. In fact, faster increases in premiums are the likeliest possibility.

One of the worst deals -- one that directly harms small business, and has largely flown under-the-radar -- is the small-business health insurance tax. Unlike large businesses, which self-insure and find security under the blanket of **Employee Retirement Income Security Act (ERISA)**, most small businesses are unable to self-insure and can only find and purchase insurance in the fully-insured marketplace. The Senate bill imposes a new $60 billion dollar tax that falls almost exclusively on small business (confirmed in the recent CBO report) because the fee (tax) is assessed on the insurance companies that small businesses buy from. As a result of the Manager's Amendment to H.R. 3590, the price tag of this tax is even larger on small businesses in certain states because the revised legislation provides exemptions to self-insured businesses and not-for-profit insurers. As a result of these deals, expensive new costs will fall even harder and more directly on small business, a group that already pays 18 percent more for the same coverage. And, as if that hike in the small-business insurance tax weren't enough, the Senate has stuffed an additional piece of coal in the small business stocking. One can only assume that, in an effort to appease unions, the Manager's Amendment includes a new health-care mandate on construction companies, requiring them to provide coverage or pay penalties if they have more than five employees, instead of the 50-employee threshold for most other companies. Once again, a backroom deal has added a provision to this so-called reform package -- one that will destroy economic growth that small business could have provided. Clearly, reform that was supposed to be all about small business has turned out to be all about big business and other late-night deal makers, all at the expense of our nation's job creators.

The destruction this bill will bring to small business cannot be overstated.

Doughnuts in the parking lot (12/15/09)

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***Washington Post:** Should the Senate have ditched the Medicare buy-in?*

No, thank you. Even supporters are doing doughnuts in the parking lot trying to explain away the holes in this idea; the buy-in takes a really bad concept (the public option) and makes it worse. It sends sick people careening into one market and healthy people hurtling in the opposite direction, wreaking havoc with premiums on both sides. Those buying in would almost certainly require heavy subsidies, adding another open-ended burden on the federal budget. Not only would this do nothing to cut costs, it would actually expand and extend the biggest cost problem of all - Medicare's fee-for-service structure. It would enrage doctors, who already feel underpaid by Medicare. And it could well accelerate the collapse of the Medicare Trust Fund and, in doing so, put current and future Medicare recipients at risk. This one has "FAIL" stamped all over it in red ink.

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With a huge pen and sharp scissors (11/30/09)

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Washington Post: *How would you amend Majority Leader Harry Reid's bill?*

Let's start on a positive note: the Senate Finance Committee worked hard to try to make its bill palatable to small business. A number of business-friendly provisions made their way into the Majority Leader's bill. The SHOP health insurance exchanges come to mind; so do insurance market reforms and some opportunities for individual choice in health insurance.

The Senate bill is not the hopelessly unsalvageable House bill. That said, its good points are still greatly overshadowed by its negatives. It will take a lot of work to make the Senate bill acceptable to small business. But since you ask, here's a holiday wish-list:

- More effort to get costs down without damaging quality of care. Wider coverage is great, but cost-cutting has to be up and running from Day One.
- Get rid of the public option. This time-wasting afterthought of an idea would wreck private insurance markets and do nothing to bring costs down.
- Lose the employer mandates. Employer mandates are still job-killers, and exemptions don't change that fact.
- Reduce the torrent of red-tape that the bill wraps around small business.
- Stop the erosion of consumer-driven health insurance products like HSAs, HRAs and FSAs.
- Chuck the accounting tricks so Americans properly compare costs and benefits. A prime example is starting costs in 2010 but delaying reforms till 2014. Another is the now-you-see-it, now-you-don't doc fix.
- Eliminate the CLASS Act - an enormously expensive new entitlement rising up as Medicare and Medicaid are sinking financially.
- Consider seriously the impact a rapid swelling of Medicaid will have on states and the taxpayers (including small business) in those states.
- Add in some real medical liability reform. This issue takes a terrible toll on the doctor-patient relationship, and there's little evidence that our tort system does much to improve health.
- Do more to permit Medicare to shift out of its rusting fee-for-service reimbursement system that increases costs and diminishes quality.
- Index taxes (e.g., the high-cost policy excise tax and the Medicare payroll tax increase) to inflation to avoid creating more AMT-like monstrosities.
- While we're on the Medicare payroll tax expansion, how about if we forget about it altogether? Payroll taxes -- even restricted ones -- diminish the incentive to create jobs. There is also a slippery slope aspect to this tax in that, for the first time, funds collected for Medicare will be diverted to other uses.
- Stop adding tax inequities that further burden small business. A prime example is the insurer tax that falls mostly on the fully insured market.
- Give tax parity to those getting insurance through the group and individual markets, and make sure that the self-employed enjoy this parity, as well.

Not Lucy Ricardo, but not Godot (11/18/09)

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Washington Post: *President Obama has said he wants to sign health-care legislation by year's end, but is this deadline necessary or feasible?*

It's better to take more time rather than rush through a Pandora's box of perverse incentives like the 1,900-page House bill (HR 3962). The quality of the reform is far more important than the date of enactment. At the same time, that doesn't mean it's OK to kick back and relax for another 15 to 20 years.

Open the House bill and out flies a menagerie of stinging things: Job-killing employer mandates, payroll taxes and surtaxes. Hazy market rules to be set and re-set by a powerful "Health Choices Commissioner." A public option menacing private markets and amplifying the financial disasters of Medicare and Medicaid. Onerous red-tape and reporting requirements for firms and individuals. Dozens of new government agencies. New incentives for lawsuits. And a staggering price tag, according to the nonpartisan **Centers for Medicare and Medicaid Services (CMS)** and the **Lewin Group** (which analyzed an earlier, but similar, version of the bill).

Reform that improves on the status quo must meet several conditions: Lower costs over the long haul. No damage to the quality of health care. No bureaucrats interfering with doctor-patient decisions about care. Easier shopping for health insurance. And above all, no threat to Americans' financial security.

HR 3962 fails on these counts and more. Far better to tear off a few more calendar pages than to rush through a destructive assault on one-sixth of the U.S. economy. No segment of society needs reform more than small business does. Millions of independent firms and their employees have struggled with suffocating costs and administrative burdens for nearly a generation. The status quo is unacceptable, but the House bill shows how to make things even worse.

So what's the ideal pace for the Congressional proceedings? The actual pace seems to alternate **Waiting for Godot** (talk, talk, talk) and **Lucy** and **Ethel** in the chocolate factory (1,900-page dump-and-vote). Something in the middle would be nice.

(NOTE: At this writing, the new Senate bill isn't out yet.)

Start with a smaller burger (11/3/09)

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Washington Post: *Even if health reform is enacted this year it will take years to implement. What are some things that can be done immediately to improve the health of the nation?*

What can be done to improve the health of the nation immediately? Meaning the next year or two or three? Three points: (1) Individuals can do many things to improve health in a short time-span; (2) Government has very few tools to improve health in a hurry; and (3) There is a short-term/long-term problem in the current Congressional bills.

A determined individual can do much to improve his or her health fairly rapidly: eat less food, eat healthier food, get more exercise, stop smoking, drive more carefully, avoid drugs, enjoy more leisure, have checkups and follow your doctor's advice. "Personal responsibility" sounds trite, but it's the surest way to improve health. The improvements can start this afternoon, without an act of Congress or the president's signature. You know more about what you're doing wrong better than anyone else ever will.

Government can do things that improve health - drastically sometimes - but generally with long time-lags. A few public-sector actions might yield rapid, albeit modest, improvements: Remove legal prohibitions preventing doctors, hospitals and other providers from coordinating care. Require more transparency from insurers and providers so patients can make better choices. Enact tort reform, thereby improving doctor-patient relationships. Above all, do a better job of managing the programs we already have; 10 to 12 million Americans are already eligible for Medicaid or SCHIP today but go uninsured because they don't make it through the programs' red-tape. Public-option enthusiasts ought to ponder that those 10 to 12 million comprise 20 to 25 percent of America's uninsured.

Finally, since we're talking about timing, I'll mention a related concern. As this week's question implies, the current bills provide relatively few tangible benefits until four or five years after passage. Yet huge taxes and fees begin to bear down immediately, especially on small business owners and employees. Our economy is fragile, and it's deeply problematic to ask people and businesses to bear heavy new assessments in exchange for the promise of improvements (many of them questionable) years down the road. The effects will mean higher unemployment and lower income (especially for low-wage workers) and such losses affect workers' health as well as their wealth.

Not enough, and yet too much (10/29/09)

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Washington Post: *Do the current health-care proposals go far enough in cutting health-care costs?*

All the bills currently under consideration need to focus more heavily on containing costs and restraining spending growth. Unfortunately, some of the bills would do the exact opposite, piling on new costs and pushing them upwards for years to come. For small business, this is deeply troubling.

Current legislative proposals heavily emphasize insuring the uninsured, rather than bringing down costs for those who already have insurance. Coverage expansion is an admirable goal but adds costs rather than subtracting them. Similarly, there are new incentives for wellness and prevention - also admirable, **but also cost-increasing**. To its credit, the Finance Committee bill has a number of positive features, notably the design of and rules for health insurance exchanges for small-business owners and employees.

All proposals require tremendous amounts of new money over the next 10 to 20 years, as seen in the Congressional Budget Office **forecasts**. Moreover, CBO forecasts don't include the bills' massive new costs on states, employers and individuals. For states, proposed **Medicaid expansions** could endanger credit ratings and/or force higher taxes. For employers and individuals, new employer mandates could further destroy jobs and reduce employee wages and employer profits.

Current proposals do too little to address some obvious targets for reform, like Medicare and malpractice. Medicare's antiquated fee-for-service reimbursement system is the biggest cost-driver of them all; FFS demolishes incentives for different providers to work together to cut costs and improve care. These misaligned incentives bleed over into Medicaid and private insurance. **Malpractice reform** would have a modest cost-cutting effect, but it's still worth doing and it's nowhere in sight in the proposed legislation.

In other ways, current bills try too hard to constrain costs in ways that cannot work. They give government entities too much cost-cutting responsibility. No matter how well-intentioned, government can never be agile enough to micromanage the healthcare of 300 million Americans. In trying, they end up harming the very people they intend to help. And given the financial train wrecks of Medicare, Medicaid, **MaineDirigo**, **TennCare** and **Keiki Care**, a public option is the least-defensible cost-cutting idea of all. Real cost-cutting has to come from the bottom up - from millions of consumers, employers and providers in markets where insurers face real competition.

Westminster health-care show (10/22/09)

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Washington Post: *Which country has the best health-care system and why? Can the U.S. follow its model?*

"Best health-care system" is like "best in show" at the **Westminster Kennel Club**. In both cases, biased judges blend dozens of variables, using arbitrary weights, into a single ranking. One bowtied emcee declares, "The French health-care system!" The other proclaims, "The Chihuahua!" The worst dog-show statistic in existence is the World Health Organization's "U.S. is No. 37" -- a number that means nothing but makes Hollywood health mavens bark and howl.

But since you ask ... America has a better claim than any other country to the title "best health-care system." No other country can match our strengths. But we clearly have weaknesses -- some of them very serious. While the rest of the world is a great place to look for ideas, there's no single model we can or should adopt. We have our problems, and they have theirs.

America's health-care costs are high and increasing steadily. These costs are killing business, particularly small business. A responsible American can find himself uninsured and uninsurable (e.g. lose your job and develop a serious medical condition). And, sadly, some American patients suffer and die unnecessarily due to medical errors (as do people in other countries).

We can learn from other countries if we first recognize their problems. Canada has lower costs than America, but their costs are also rising rapidly. In Europe, few go without health insurance, but cancer patients die more quickly than in America. British hospitals have appalling infection rates. European statistics seriously understate infant mortality rates. Ironically, many countries are adopting American-style elements to solve their own problems.

Knowing all this, other countries do offer success stories we might want to emulate. Switzerland and the Netherlands have achieved near-universal coverage through private insurance markets -- no public option needed. Their insurers willingly cover ill people, thanks to risk-adjustment systems. Canada and the United Kingdom have far better medical liability laws than ours. Health savings accounts have seen some success in South Africa and Singapore. France excels at critical care, while India and Thailand bring state-of-the-art managerial techniques to hospitals serving an international clientele.

The challenge for America is to find multinational best practices and graft them onto America's existing infrastructure. That's harder than looking for a single off-the-rack model to adopt, but it's far more productive.

In the end, who cares if the judges cite 57 reasons for choosing the Chihuahua over the Siberian Husky? For that matter, maybe the winner should be a mutt. So it is with health-care systems.

Killer Tax on Low-Income Workers? No! (10/7/09)

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Washington Post: *Should health-care reform include an employer mandate?*

The Finance Committee was right to keep an employer mandate out of health reform. It's a bad idea in good times. It is a *really* bad idea during a deep recession and has no place in health-care reform.

An employer mandate (or equivalent payroll tax or play-or-pay) is inefficient for several reasons: It doesn't reduce health-care costs and, instead, substitutes a hefty and direct penalty on the very people struggling to pay for insurance. It does nothing for the unemployed, self-employed or early retirees. It harms small and vulnerable firms, ultimately costing the economy jobs and revenue, which is particularly destructive in the current economic environment where hiring is stagnant and unemployment is climbing to nearly 10 percent.

There is consensus among most economists that an employer mandate is ultimately a tax on low-income workers, depressing the wages of some and throwing others out of work. In fact, Obama adviser **Larry Summers** explained how employer mandates cause unemployment among low-wage workers. Employer mandate advocates defend their position as "shared responsibility," an argument eloquently refuted by Obama adviser Ezekiel Emanuel and Victor Fuchs in "**Who Really Pays for Health Care?: The Myth of Shared Responsibility**":

"Employers do not bear the cost of employment-based insurance; workers and households pay for health insurance through lower wages and higher prices. ... Failure to understand that individuals and households actually foot the entire health care bill perpetuates the idea that people can get great health benefits paid for by someone else. It leads to perverse and counterproductive ideas regarding health care reform."

An employer mandate would do its worst to small-business owners and employees. A 2009 **NFIB study** (and **summary**) predicted that an employer mandate could destroy 1.6 million jobs (over five years), around one million of them in small firms. An employer mandate is especially devastating for the newest and most vulnerable businesses. Mandates lay heavy burdens on small firms, increasing their administrative loads and causing additional cash-flow problems, especially during their first five years. A mandate gives employers strong incentives to cut wages, replace full-time employees with machines or exempt part-timers, or to turn to foreign outsourcing.

Forcing small businesses to provide a benefit they and their employees can't afford won't solve the problems of our health-care system.

Malpractice Matters. We Can Do Better (9/17/09)

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Washington Post: *How significant is the malpractice problem? What can be done to reduce defensive medicine and still protect patient rights?*

Depending on whom you ask, a broken medical liability system unnecessarily raises America's health-care bill by somewhere between 2 and 10 percent. It's not what's pushing costs through the roof. (Technology, bad lifestyle choices and an aging population are better culprits.) But medical liability adds an extra blob of costs on top: 5 percent would equal $130 billion a year.

Patients injured by physician negligence should have recourse, but too often our system punishes doctors who've done nothing wrong and fails to compensate patients who really have been wronged. Defensive medicine and doctor-patient mistrust are side effects.

An oft-cited example: a large percentage of obstetricians are sued in relation to cerebral-palsy births. Some research suggests that the result is lots more Caesareans being performed and relatively little change in cerebral palsy rates. C-sections raise the average cost of childbirth and make health insurance more expensive. Higher cost induces some decline in coverage. In addition, malpractice insurance costs and litigation fears drive some OB-GYNs to close their practices. Some places have been left with no practicing obstetricians, creating hardships for patients.

Generally, neither jurors nor judges are medical experts, so there's wide variation in the quality of rulings. Lawyers receive contingency pay, so bigger settlements mean bigger income. There's no penalty for filing frivolous lawsuits. Together, these factors generate strong incentives for plaintiffs to bring suit and for innocent defendants to pay settlements to avoid litigation and increased risk.

Some proposed solutions include: caps on non-economic damages, protections for doctors who self-report errors, mandatory arbitration before initiating litigation, and expert-run health courts (similar to bankruptcy, patent, and drug courts). Other countries offer intriguing possibilities: Some prohibit contingency fees. In the United Kingdom and Canada, losers have to pay the winner's legal bills, so bringing nonsense suits is risky. New Zealand replaced its tort system with no-fault insurance.

Medical liability reform is mostly absent from the current health-care reform debate. That needs to change. We can do better.

Umpire or Play Ball, Not Both (8/7/09)

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Washington Post: *Is a Public Option Necessary? Do you think that a government-sponsored health insurance option is needed to help control rising costs and "keep insurers honest," as President Obama says?*

With multiple public option proposals under discussion, I'll focus on the original: a government-run plan, competing with private insurers, whose existence is guaranteed by law and taxpayers. Such a plan would likely accelerate, not decelerate, the rise in costs.

If the public plan could compete on a level playing field with private insurers, it's hard to say how it would keep anyone honest. But a level playing field is unlikely. **The Lewin Group** predicted a public plan would rapidly and massively erode the private insurance market. An alternative possibility is that the public plan churns through money but ultimately fails; Maine's **Dirigo**, **Tennessee's TennCare** and Hawaii's **Keiki Care** are instructive cases.

Administrative efficiency? Our biggest public plan is Medicare and its costs are high. Claims that Medicare spends less than private insurers on administrative costs are based on a misreading of data (**good explanation here**). Plus, "administrative costs" doesn't even capture fraudulent claims, which some estimates place as high as 12 percent of Medicare's total expenditures. Google "Medicare" and "fraud" and you get 1.4 million hits.

Payments to providers? As I told a reader a few weeks ago: In 1965, President Johnson predicted Medicare would cost $500 million per year ($3.5 billion in 2009 dollars) and he considered that amount "a train wreck." This year, Medicare will actually spend over $500 billion -- 143 times larger than LBJ's prediction. (It'll double again in around 10 years.) Medicare's $30 to $60 trillion long-term funding gap is on course to consume the entire federal budget by mid-century. Medicare's rigid, wasteful, antiquated reimbursement structure rewards doctors for poking, prodding, cutting and slicing, but not for getting patients healthy or keeping them that way.

Back to basics: I work on behalf of small businesses and they need rising costs to decelerate. That means making the private insurance market more competitive and empowering consumers and providers to find ways to restrain costs. Asking the government to be both umpire and player is no way to get that job done.

Amending Marshal Lyautey (7/29/09)

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Washington Post: *What does the delay in voting mean for the chances of a health-care bill passing?*

My job is policy, not political prognostication, but here's my guess: Delaying the House vote till after recess means a bad bill doesn't become a bad law that harms small business - and just about everyone else. The present H.R. 3200 is an unworkable bill. (**Here are 10 reasons why.**) Ramming it through the House on the fly could complicate the job of crafting any bill that helps small business, helps health care, and can pass both houses.

Reform is not a slam-bang, do-it-today, enjoy-it-tomorrow proposition. Small business needs relief in the short-term and the long-term. They need health-care costs to rise more slowly, and eventually decline, while preserving and improving quality of care. They need quality insurance at a price they can afford. Congress can't accomplish that with 1,000 or more pages of detailed prescriptions. A successful bill has to give consumers, providers, and firms sufficient flexibility to discover new ways to deliver quality care and coverage. The present House bill does exactly the opposite.

The Congressional Budget Office believes H.R. 3200 would accelerate health-care spending and create a tremendous fiscal drain. Delaying the vote by a few weeks will do little or no damage to long-run health-care improvements. But passing a flawed bill or gumming up the legislative process with bills that can't pass can do enormous damage.

President Kennedy once spoke of France's Marshal Lyautey, who asked his gardener to plant a tree. In Kennedy's words, "The gardener objected that the tree was slow-growing and would not reach maturity for a hundred years. The Marshal replied, 'In that case, there is no time to lose, plant it this afternoon.'"

Kennedy's story is a great homily against procrastination. However, if the gardener has no planting soil or fertilizer, if his shovel is broken, if there's lightning and thunder outside and if the Marshal hasn't decided which kind of tree to plant - maybe waiting a few days is a good idea. ... That's kind of where things stand before recess.

Rein Costs In or They'll Rein Us In (7/24/09)

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Washington Post: *Are the Blue Dogs right to worry about the costs of a health-care bill?*

The Blue Dogs are right to worry about costs -- it's the No.1 worry for small business. If we don't rein in costs, costs will rein us in. Wages, profits, jobs and governments are sinking under swelling costs. The trend isn't sustainable. If we don't slow the growth, like housing prices, health-care price growth will eventually slow itself on top of our heads. For small business, where problems are most immediate and acute, reform requires better insurance markets and delivery systems.

The small business wish-list includes: Larger risk pools. Functioning insurance markets with competing private insurers. Insurance exchanges expediting transparency and transactions. Voluntary employer defined contributions. Information technology disseminating cost and outcomes information. Affordable benefit design options including consumer-driven health plans.

Small business and others need rational reimbursement and delivery systems to drive costs down. Medicare's fee-for-service structure should be scrapped so payments reward doctors for producing health, not for poking and cutting. Other reforms might include: Comparative effectiveness without government micromanagement. Coordinated care like Mayo or Geisinger. Consumer-friendly venues like Minute Clinics. Drug re-importation. Administrative simplification for providers and consumers.

It is only politically possible to rein in costs if we shed two surreal arguments: (1) Stop arguing that broader benefits (more coverage, more prevention, more technology) will lower costs. There may be lots of reasons to do these things, but they don't tend to cut costs. (2) Stop arguing that mandates to spend money will save money. One line I often hear is: "Force small business to buy insurance or pay massive payroll taxes and this will save small business money." I've seen this logic elsewhere - in emails pleading: "Kind Sir, if you will simply deposit $12,000 in my bank account, I guarantee my late husband's bank will transfer $1,200,000 to your account within seven days."

Only If You Like Killing Jobs (7/16/09)

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Washington Post: *What do you think of financing the health-care bill with a tax on the wealthiest Americans?*

Tax increases are a recipe for wrecking health-care reform and the economy simultaneously. They would increase unemployment, decrease incomes, push up short-term health-care spending and leave long-term spending unscathed. Plus, the whole contraption rests on a spurious definition of who is and is not wealthy, doing its inequitable worst to small business owners and employees.

Let's begin with the spurious "wealthiest Americans:" 75 percent of small business owners (S corps, partnerships, sole proprietors) report business earnings on their **individual income taxes**. Typically, they reinvest the after-tax portion back into their firms to expand markets, hire employees, build facilities and buy supplies. For many, these new taxes would sap their biggest funding source, choking business growth and job creation. Bad idea in good times; terrible idea in a deep recession.

This tax most severely damages those firms experiencing the greatest success and producing the most new jobs. One-third of small business owners employing 20 to 200 employees earn more than $250,000 (after taxes and expenses). This bill effectively tells them, "Slow down. Don't grow. Don't create so many jobs." Even if an owner takes home very little and plows the lion's share into new jobs, this bill treats him as if he's **the guy on the Monopoly board** with cash flying out of tuxedo pockets.

In the short-term, the House bill would drive health-care utilization and prices upward. In the long-term, the bill would do little or nothing to push expenditures downward. The House should **examine** how the **2006** Massachusetts **reforms** are **unraveling**. The Bay State sought universal coverage while giving consumers and providers no incentive to economize. This coverage-before-cost gambit now imperils the state's fiscal stability and the state is beginning to **dismember** health-care **reform** itself.

President Obama calls the rapid rise in health-care costs "a threat to our economy" and a "ticking time bomb for the federal budget." The House Bill's tax increases would mainly serve to speed up the ticking.

Innovation, Timeliness, Choice, Quality (7/2/09)

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Washington Post: *What are the best features of American health care?*

Ask a small business owner what works in the health-care system, and his answer is likely to be "not too much." But American health care has some truly admirable features, and we don't want to jeopardize them as we pursue reform.

A glance at the **Nobel Prize roster** shows how American research and development drives global medical innovation. Lots of those innovators are small businesses or started out that way.

Americans don't endure queues that bog down other systems. (**Sylvia de Vries** fled Canadian red tape for American care -- not the reverse -- to have her 34-pound cancerous tumor removed.) Americans can choose physicians, hospitals and other providers. We're among the healthiest people on earth and our shortcomings stem more from behavior, environment and heredity than inadequate health care. (The World Health Organization's oft-cited "**U.S. ranks #37**" is a hollow number, arbitrarily jumbling health care and non-health care data.)

Make no mistake -- America needs health reform. Small businesses don't have the health-care choices available to most Americans, and the fault lies largely with malfunctioning markets. We must be careful, however, that reforms don't jeopardize our system's virtues. Holes in coverage and lapses in quality are both driven by costs that are high, rising, unpredictable and detached from underlying economics.

Laissez-faire will never be an option in health care, but reforms must unleash markets to reduce wasteful spending and drive costs down. Decision-making must arise primarily from patient-provider collaboration, not distant experts in government. There must be competition among providers and insurers, who need sufficiently flexible pricing, treatment, and reimbursement in order to experiment and innovate. Governments cannot simply order innovation to occur. Transparent cost and outcomes data, supported by improved health information technology, must inform decision-making between patients and doctors. Broader health insurance coverage can make the system more efficient and reduce political pressure for centralized solutions.

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Message to Obama from Small Businesses (6/16/09)

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Washington Post: *What did you think of President Obama's address to the AMA?*

In his American Medical Association speech, President Obama spoke of the strain of health-care costs on small business. This was gratifying. The erratic, unrelenting rise in health-care costs threatens small firms' viability. Small firms pay 113 percent more for insurance today than they did in 1999. They pay 18 percent more than large firms for the same coverage. Their cost increases are volatile and they and their employees have fewer insurance choices than larger businesses.

Typically, small firms that can afford to provide insurance do so, and those that don't offer insurance can't because it's unaffordable. People become small-business owners in part so they can make their own decisions and control their own destinies. Health insurance frustrates small business owners because it's the one cost they have virtually no power to control.

The President also spoke of expanding coverage and improving quality, as he should, but neither is possible without dealing upfront with costs. Affordability problems are worst for small business and these firms desperately need reform. This begins with insurance market reform that leads to more choice, competition and means to control costs. The delivery system must also change in ways that cut costs but don't eliminate the positive features that currently exist.

The President's speech also touched on some more contentious issues. The National Federation for Independent Business (NFIB) opposes a public plan, which would extinguish competition among private insurers. NFIB opposes employer mandates. Even exemptions for the smallest firms wouldn't change the fact that employer mandates destroy jobs, harm workers and fail to help many who need help. Furthermore, a mandate (with an exemption or not) simply does not address the core problem for small business -- costs.

The President placed cost front and center, and that's good for small business. That's a start. Now Congress must ensure that effective cost containment is achieved while ensuring quality care.