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Oversight of IRS's Legal Basis for Expanding Obamacares's Taxes and Subsidies

House Committee on Oversight and Government Reform
Subcommittee on Energy Policy, Health Care and Entitlements

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Mr. Chairman and members of the Committee, good morning and thank you for your service in defense of the great American taxpayer, the forgotten man. Thank you for allowing me to assist you this morning in that noble mission.

I am Charles Willey, a physician in my 29th year in the practice of Internal Medicine in St. Louis, Missouri. My care of patients has me aggressively leading them to long term health. I am indeed their advocate in a manner one would expect of a family member. My healthcare team is responsible and accountable for both the clinical and the economic outcome of our care of patients. You see, we have forged a rather unique business model for our health services. Since 1992, we have been prepaid for population health management, one person at a time.

Given that, in effect, we are paid to keep Medicare beneficiaries happy, healthy, active and energetic for life, we intervene early and often spending whatever time and expending whatever resource is necessary to achieve long term health. Our result is 5-star quality and satisfaction with a medical cost ratio of 60%. This is now happening at a scale of 40,000 members in the Medicare Advantage health plan that I founded in 2003 in St. Louis.

Witness that being healthy costs much less than being sick. Ladies and gentlemen, please understand the implication; if all Medicare beneficiaries were cared for in this method, you could freeze revenue to the Medicare program, cut nothing, and solve the greatest financial crisis of our very troubled time, the \$70 trillion obligation to our honorable customers, the citizens and taxpayers of these United States.

You may wonder how we achieve such fine results. Well, we have aligned the incentives of the health plan and the physicians, with the long term health of the patient. It is also crucial that Medicare Advantage liberates us from much of the destructive regulation found in regular Medicare, Stark law and the S.E.C.

Now, I have set about to replicate these methods for my employees and those of other medical practices and small businesses in my town. Unfortunately, Obamacare throws a wrench into our gears because, it doubles down on all that is wrong with healthcare in America as we know it. It increases destructive regulation, it does nothing about the legions of ambulance chasing lawyers and creates a new entitlement to become and remain sick. It is treating these problems caused by government... with more government.

As an employer of 56 healthcare workers, it is doubly important that they have a health plan that gives them economic responsibility for their health decision and short term reward for becoming and remaining healthy not only for their own benefit but so they can model and teach it to our customers, the patients.

In our company health plan, we have been gradually increasing our deductible while expanding our health savings account. Now Obamacare would limit our deductible to \$2,000 while we would have it be as high as the HSA maximum contribution and help our employees fund their HSA. This option would give the staff an ownership stake in the HSA and high motivation to avoid unnecessary costs by shopping wisely for necessary healthcare service and by becoming healthy so service is not necessary.

Our benefit design would also have a substantially higher premium and copayments for smoking, somewhat higher for being obese, and significantly higher for not complying with diabetes recommendations and keeping the diabetes under control. All of these policies are good for our employee's health upon changing their behavior and good for their savings accounts as well. Obamacare calls these policies discriminatory and prohibits them. This is a clear example of government promoting and maintaining illness that could be cured with a behavior change.

Discrimination against illness someone has through no fault of his or her own, like ovarian cancer, is unacceptable. But it is good to be candid about unhealthy behavior because that will motivate the behavior to stop. This is especially true when the method is to give the person the liberty to continue unhealthy behavior if they so choose but they are simply held accountable and must pay for the extra costs of their behavior.

To do otherwise is enabling much like the spouse or parent of an alcoholic. The lack of courage to oppose the self-destructive behavior actually promotes and maintains the illness, increasing the probability of greater illness, disability and even premature death, as well as all the costs attendant to these. This is how Obamacare is making entitlement of becoming and remaining sick. It codifies obesity, cigarettes smoking, ongoing substance abuse and other behavior choices not to be "discriminated against" in benefit design.

The health benefit plan for my employees would do the opposite of what Obamacare wants it to do – My plan would lead my employees to health, but I can't offer it under the employer mandate.

Now contrary to the clear legislative language in Obamacare, the IRS is blatantly ignoring the law and rewriting it to include the subsidy which triggers the tax penalty against me, the employer, in the federal exchanges, while they were specifically designed for state based exchanges only.

My Missouri legislature opted out of putting up a state based exchange, therefore, protecting my employees from the unhealthy benefit design and higher costs, and protecting my company from the onerous fines. I am not a criminal. I don't need to be fined for helping my employees achieve health and save for their future.

Remember, it costs much more to be sick than to be healthy. Fischer and Wennberg have long established that 50% of American healthcare costs are due to adverse behavior. 'The' problem with access to health care is predominantly a function of cost. Government increases cost in healthcare which decreases access, no doubt about it.

The federal government's mandates discourage the personal responsibility necessary for good health and enables self inflicted illness. The Oregon Medicaid expansion enabled beneficiaries to resume smoking since they could again afford cigarettes and there were no disincentives. Government-generated cost is a major problem with Medicaid and Medicare, and now in Obamacare too; which doubles down on the wrong policies, discouraging healthy behavior, and criminalize the correct incentives.

These are the reasons my company, Innovare Health Advocates has joined *Halbig v Sebelius* to overturn the usurpation of your Congressional authority by the IRS in rewriting law.

By inventing, several medical groups, an electronic prescription writer, a Medicare Advantage health plan and population health software, all the while caring for patients, I have spent a career reforming healthcare from the market place, fending off or working around destructive government policy whenever possible. With relief from this illegal aspect of the law, we at Innovare Health Advocates could continue with our plan for a very high quality, very low cost health care plan for non-Medicare people.

Please indulge me one final point.

Physicians are among the most highly educated and thoroughly trained professionals on the planet. We treat patients 24-7 in any context necessary, dropping whatever else we may be doing. Daily we hold life and death in our hands. It is a high calling. It is a duty and a privilege. It is a never-ending quest for knowledge and is continuous problem solving. We are delighted to serve.

Our collective experience in patient care, including understanding the economics of that care, cannot be managed or replaced by nameless faceless far away bureaucrats. Indeed that is the problem.

This is America. It is demoralizing and humiliating for me to have to beg on behalf of all physicians for the liberty to do what we know best and that for which are very well trained.

You must defend us from government and free us to take care of our patients, and free me from the IRS and Obamacare overreach to take care of my employees with an insurance plan that incentivizes them to health.

And please, ... Join me in my oath to, "first do no harm", then allow me to use my education, knowledge, and experience to fulfill the humble words of the Hippocratic Oath I took 32 years ago:

... to "prevent disease whenever I can, for prevention is preferable to cure."

