Business Group on Health

STATEMENT FOR THE RECORD BY

BUSINESS GROUP ON HEALTH

TO THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY & COMMERCE

SUBCOMMITTEE ON HEALTH

"LOWERING HEALTH CARE COSTS FOR ALL AMERICANS: EXAMINING POLICIES TO INCREASE HEALTH CARE TRANSPARENCY"

Submitted June 10, 2026

Chairman Guthrie, Chairman Griffith, Ranking Member DeGette, and members of the Subcommittee, Business Group on Health appreciates the opportunity to submit this statement for the record on behalf of our members regarding the Subcommittee's June 10, 2026, hearing: "Lowering Health Care Costs for All Americans: Examining Policies to Increase Health Care Transparency."

Business Group on Health is the leading non-profit organization representing employers' perspectives on optimizing workforce strategy through innovative health, benefits and well-being solutions and on health policy issues. The Business Group keeps its membership informed of leading-edge thinking and action on health care cost and delivery, financing, affordability and experience with the health care system. Business Group members include the majority of Fortune 100 companies as well as large public-sector employers, who collectively provide health and well-being programs for more than 60 million individuals in 200 countries. For more information, visit www.businessgrouphealth.org.

Employer-sponsored coverage remains the backbone of the U.S. health care system, providing access to care for nearly 165 million Americans. Employers take this responsibility seriously and are committed to delivering comprehensive, affordable benefits to their workforce. At the same time, employers continue to face significant

pressure from rising healthcare costs, including hospital prices, prescription drug spending, and opacity across many parts of the healthcare system.

I. Transparency Reforms Should Avoid Duplication and Support Employer Plan Decision-Making

Legislation being considered by the Subcommittee, including: Patients Deserve Price Tags Act (H.R. 5582), Clear Healthcare Expense Cost Knowledge Act (H.R. 9117), and the Lower Costs, More Transparency Act of 2026, reflect a shared interest in improving healthcare transparency for patients, employers, and other purchasers. The Business Group applauds the Subcommittee's attention to healthcare transparency and its focus on legislative proposals intended to equip both patients and employers with more timely, accurate, and usable information regarding healthcare prices, claims, vendor compensation, and other cost drivers.

Our members have long supported appropriately tailored transparency reforms that improve visibility for employer plan sponsors, strengthen accountability across the healthcare system, support market-based competition, and help patients better understand potential costs when making care decisions. Undisclosed or inadequately disclosed compensation arrangements can undermine employer decision-making and should be addressed through clear and enforceable transparency standards, such as PBM provisions of the Consolidated Appropriations Act, 2026 (CAA'26) that Congress passed earlier this year. Those reforms, now law to be implemented by the relevant federal agencies, are intended to improve plan sponsor access to information, strengthen PBM and vendor accountability, and help patients better understand anticipated costs.

The recently passed CAA'26 requires PBMs and other service providers to disclose additional information regarding compensation, fees, rebates, other remuneration, and contractual arrangements, helping employer plan sponsors better understand how plan dollars are spent and evaluate whether vendor arrangements are delivering value. CAA'26 provisions, however, have yet to be implemented, and thus any practical impacts and/or benefits of these new transparency requirements remain to be seen.

Federal agencies are also continuing related regulatory work. The Department of Labor is actively developing its proposed *Improving Transparency Into Pharmacy Benefit Fee Disclosure* rule, which would implement and expand upon statutory disclosure requirements by establishing more detailed standards for PBM compensation and fee reporting to ERISA-covered plans.

We believe these reforms should be given time to develop and work as intended before Congress imposes additional overlapping requirements. We are concerned that many of the proposals in the bills as currently formulated may create confusion and additional administrative burden that unintentionally may be counterproductive for employer plans. Additionally, several of the bills in consideration have duplicative and conflicting requirements among them that would be untenable and wasteful if they were to all be enacted. For example: *H.R. 5582: the Patients Deserve Price Tags Act* and the *Lower Cost, More Transparency Act of 2026* both have self-service tools that would be amended into ERISA in different ways that appear to be duplicative in some ways and conflicting in others. Similar provisions throughout the set of bills here must be harmonized (with each other and any other open proposals) to ensure a single, reliable standard is enacted and able to be implemented by the agencies and employer health plans.

We welcome the opportunity to work through the details of the legislation to ensure that the proposals are not duplicative or conflicting, and instead add to the robust and useful information needed by patients to shop for items and services, and by employer plan sponsors to appropriately design and administer their health plans.

II. Unintended Detrimental Impacts of Certain Proposals

The Business Group and its members appreciate the Subcommittee's interest in ensuring that employer health plans are provided with disclosures and data from their vendors that support their ability to fulfill their fiduciary duty to plan participants and beneficiaries. Several of the bills proposed are aimed at ensuring employer plan sponsors and their vendors have clarity about what information must be provided. There are, however, some proposals that would have unintended detrimental impacts on employer plan sponsors – increasing costs, risks, and administrative burdens for what we believe is little to no additional substantive value. We provide the following examples below but welcome the opportunity to discuss these and other potential challenges and downside risks to ensure that with any transparency improvements there are not provisions that ultimately adversely impact employer plan sponsors.

a. *H.R. 5583 – The Patients Deserve Price Tags Act*: We support patients having price transparency tools and plans generally already provide tools similar to the "self-service tool" (pg 44) in compliance with other requirements and to support patients. In this case, the self-service tool has several elements that need additional refinement to reflect the information a plan may have and be able to provide and update in a reasonable manner.

The "hold harmless" provision on page 46, lines 4-10 in the self-service tool section must be struck from the bill. The self-service tool provision's "hold harmless" requirement is highly concerning and an unworkable standard for employer plans to be held to with no guarantee of accurate and binding information from the actual medical provider. We believe this provision would, at best, set unattainable expectations for patients who do not possess the requisite information or guarantee from their medical provider, and at worst would be ripe for exploitation by actors who recognize this provision as essentially a "blank check" where with minimal, nonbinding information the plan would be legally bound to pay for any item or service – no matter the cost – as long as there is some connection related to the information put into the self-service tool.

b. **Proposed civil monetary penalties (CMPs) in the bills (sections 6, 7, and 8 of H.R. 5583 and section 2 of H.R. 9117, at minimum) should be removed from the bills.** The proposed CMPs aimed at employer health plans and vendors are unnecessary and will fundamentally change ERISA health plan governance and enforcement in ways that undermine employer authority, transform ERISA into a punitive statute, and will raise costs and constrain innovation.

   We understand that the intent of these provisions is to provide some assurance that the substantive requirements of the bills are followed by employer plans and their service providers. However, we believe such penalties are unnecessary and adequately addressed through long-standing enforcement mechanisms and the applicable prohibited transaction remedies. Adding these CMPs would fundamentally change the nature of ERISA enforcement and the role of federal agencies in health plan design and administration. ERISA has long operated primarily as an equitable framework that helps ensure participants and beneficiaries receive the benefits to which they are entitled under the plan. Moving toward a financially punitive enforcement posture would risk foreclosing opportunities for compliance assistance and constructive engagement with regulators regarding plan practices.

   We are also concerned that focusing CMP authority on vendors, rather than directly on the plan itself, would still present similar issues. In fact, punitive authority directed at vendors will disintermediate employer plan sponsors and undermine plan fiduciary authority and plan control over design and administration. This would distort the plan-vendor relationship, complicate plan

administration, and leave employer plan sponsors responsible for plans over which they have less practical control.

The substantive provisions of the proposals and newly enacted requirements provide employers and their vendors with clear requirements that must be adhered to through their contractual terms and service delivery. The contractual remedies, existing ERISA enforcement provisions, and requirements that apply in some cases under ERISA's prohibited transaction provisions provide the certainty and stringed needed to ensure compliance and hold vendors accountable. Significant new CMP authority, by contrast, risks punishing employer plans and causing vendors to constrain products and services, avoid innovative offerings, and operate in an overly conservative posture designed to avoid federal enforcement exposure rather than to develop and offer employers their best ideas for consideration and adoption. This could erode the value of employer health plans and their ability to offer differentiated, robust benefit programs that support the U.S. labor market and employee engagement.

c. **Special fiduciary attestations in the proposed bills (H.R. 5582 and H.R. 9117, at minimum) are unnecessary and should be removed.** Employers already operate under a well-established fiduciary framework governed by ERISA, which provides mechanisms for oversight and accountability. Adding separate attestation or reporting duties fragments fiduciary responsibilities, imposes unnecessary administrative requirements on the plan, and interferes with the employer plan sponsor's ability to administer its plan and negotiate and enforce agreements with vendors. Congress should avoid layering new attestation requirements onto employer plans where existing fiduciary duties and transparency obligations already provide accountability.

d. **Utilize existing claims and appeals processes for any new explanation of benefits (EOB) provisions.** Both H.R. 5582 and H.R. 9117 (in sections 10 and 3, respectively) contain new EOB provisions. These appear to mainly add additional data to EOBs that the participant or beneficiary would otherwise receive. These should be harmonized with each other and existing, long-standing requirements to supplement or clarify the disclosures and leverage existing mechanisms for timing and delivery, and not create a new, confusing, wasteful scheme that duplicates existing requirements.

III. Continue to Protect ERISA Preemption

We applaud and support Section 9 of *H.R. 5582: Patients Deserve Price Tags Act* which takes great care to protect ERISA preemption and protects the ability of employer plan sponsors to craft uniform, robust national benefit programs for the employees and their families. We welcome discussion on any other ways to promote and protect ERISA preemption and to ensure that it continues to empower employers and their benefit programs.

Thank you to the Subcommittee for your consideration and attention to these important issues, and we would welcome the opportunity to discuss this submission or any other matters impacting access and affordability in employer-sponsored health care.