

Rep. Charles W. Boustany, Jr., MD
Testimony to Energy and Commerce Subcommittees on Health and
Oversight and Investigations
October 26, 2011

Chairman Upton, Ranking Member Waxman, Members of the Committee:

Thank you for the opportunity to testify before you today in support of H.R. 1173, legislation to repeal the unsustainable CLASS Act. I introduced this bill in March, 2011 with Reps. Phil Gingrey and Bill Lipinski and we have gained more than 70 cosponsors. The bill is simple – it repeals the CLASS Act as the program is fatally flawed, fiscally irresponsible and irreparable.

Since the program was debated and added to President Obama’s health care legislation, I opposed the initiative and argued against it. Once it became law I worked to highlight the problems and fatal flaws of the program. The bicameral Congressional oversight efforts were vigorous, extensive, committed and necessary to expose the truth about this program.

In response to many of these probing questions and serious concerns, Health and Human Services Secretary Kathleen Sebelius provided Congressional testimony stating she had administrative authority to make changes and implement the program. This was false and I am pleased to see in HHS’ announcement to terminate the program they cited the lack of authority to make changes necessary to make the program sustainable and implement it.

Leaving the statute on the books is irresponsible and it must be removed. Keeping the law on the books gives bureaucrats a creative license to keep trying to implement it and is an opening for Congress to keep trying to tweak the program. CLASS is unsustainable and a new unfunded entitlement we cannot afford.

I agree with employer groups and taxpayer advocates who have no doubt CLASS will return if Congress fails to strike it from the books. Liberal special interests groups insist HHS has broad legal authority to fix the program by excluding eligible Americans from the program. They say HHS simply lacks “guts.” What’s more, HHS attorneys have already identified ways a Secretary might navigate around legal concerns raised by the Congressional Research Service. And, Bob Yee, the former CLASS actuary, insists the program could work if HHS ignored the risk of being sued.

Early in the process, CBO warned: “the CLASS program would inevitably add to future deficits (on a cash basis) by more than it reduces deficits in the near term, even though the premiums would be set to ensure solvency of the program.”

Lawmakers ignored these and other warnings from the Medicare Actuary and the American Academy of Actuaries when they inserted this budget-gimmick in PPACA. After months of refusing to answer questions, HHS has finally conceded it lacks legal authority to make CLASS sustainable. Congress should repeal it, instead of waiting for bureaucrats to change their minds.

CLASS is the wrong solution to America's long-term care needs. This budget gimmick will collapse without mandatory enrollment or a taxpayer bailout. I urge this committee to hold a mark up on H.R. 1173 and for Congress to approve the measure.

Beyond CLASS, we must continue encouraging middle-class Americans to plan ahead for their retirement security and purchase long-term care coverage. Medicaid exists for the truly needy; however, it is in serious financial difficulties and cannot afford to cover higher income individuals. Medicare is an important and critical program but is limited and many seniors are disappointed to learn what the program actually covers.

To correct these myths, there must be an earnest and sincere public education campaign to get people to plan for retirement and understand different retirement and health care options. CLASS distracts from this larger problem with empty promises and a false sense of security.

Thank you for giving the opportunity to testify and discuss my legislation.