



**Statement of Sally Roberts, MBA, SHRM-SCP
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**Morris Communications Company, LLC
Augusta, Georgia**

**On behalf of the
Society for Human Resource Management**

**Submitted to
U.S. House Committee on Education and the Workforce,
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**Hearing on
“Five Years of Broken Promises: How the President’s
Health Care Law is Affecting America’s Workplaces”**

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Introduction

Chairman Roe, Ranking Member Polis and distinguished members of the Subcommittee, my name is Sally Roberts. I am the Director of Human Resources at Morris Communications Company in Augusta, GA. I am appearing before you today on behalf of the Society for Human Resource Management (SHRM).

I have been a human resources professional for over 20 years and a member of SHRM since 1997. I started in the health care field working for a hospital system in the Atlanta area. After moving to Augusta, I worked as an HR Director for a continuing care health system before joining Morris Communications in 2005.

Throughout my career I have volunteered with SHRM on both a local and state level, and I was recently recognized as a Woman to Watch by WAGT 26 Augusta for my volunteer work. While I have held several volunteer leadership roles within SHRM, I currently serve as State Director of the Georgia SHRM State Council. I appreciate the invitation to appear before you today on behalf of SHRM's more than 275,000 members in over 160 countries.

SHRM is the world's largest association devoted to human resource (HR) management. The Society serves the needs of HR professionals and advances the interests of the HR profession. Founded in 1948, SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

Human resource professionals have responsibility in their organizations for implementing the requirements of the Affordable Care Act (ACA), giving them a unique perspective about the impact of health care reform on both employers and employees. Five years after the ACA's enactment, SHRM members report that implementation of the ACA requirements remains challenging due to the complexity of the law, delays in effective dates of certain provisions and coverage requirements.

Mr. Chairman, although the ACA purports to lower health care costs for Americans, costs continue to rise for employers and employees alike. According to a recent SHRM Research survey¹, 77 percent of respondents said that their health care coverage costs increased from 2014 to 2015. Furthermore, organizations are experiencing specific challenges administering employer-sponsored health care plans when implementing the ACA. As a result, many organizations are changing health care benefits or are turning to other health care design strategies, such as health savings accounts and health reimbursement accounts. In addition, some employers have contracted with insurance brokers, benefits consultant groups or law firms to navigate the law and to ease the burden of reporting requirements. Other employers have also restructured their workforce staffing models as the requirements to provide health care coverage have been implemented. As employers

¹ SHRM Research survey [Health Care Reform–2015 Update](#), March 2015

continue to adjust to increasing health care costs and the ACA, HR professionals are looking ahead to 2018, when an employer tax on high-cost health plans goes into effect. Large organizations expect their health care plans to trigger the excise tax in 2018, which could account for the changes that some employers made to their plans for this year. However, we do anticipate other employer-sponsored plans will also be subject to this excise tax in the coming years.

These are just some of the issues that employers are facing that I will discuss today. In my testimony, I will provide background on my company's health care offerings, discuss Morris Communications' experience with ACA implementation, outline specific areas of concern for HR professionals as they continue to implement the ACA, highlight SHRM health care research, and share SHRM's views on health care reform.

Morris Communications

Morris Communications is a private, family-owned company that traces its beginnings to a corporate structure dating from the 1800s. The modern-day company was established in 1945 with the creation of Southeastern Newspapers Inc., which grew to become Morris Communications Corp. in 1970. In addition to its foundation business of newspaper publishing, the multimedia corporation grew over the years and expanded into magazines and specialized publications, radio broadcasting, visitor publications, commercial and residential broadband data as well as farming and events such as barrel horse racing.

Morris Communications' workforce is as diverse as its holdings. We employ accountants, editors, reporters, press operators, farmers and cable installers, with over 2,200 employees working in 29 states, from Alaska and Hawaii to Colorado, Georgia, Tennessee and Florida. Morris is also a global company, with operations in the United Kingdom, France, Germany, the Principality of Monaco and Australia.

Morris Communications has a long history of offering competitive benefits because our company believes these benefits are vital to an overall compensation package needed to recruit and retain the best employees. Currently, our medical plans cover over 1,500 employees and approximately 3,000 lives. Morris Communications has a self-insured health plan, and because we have employees in multiple states, we must ensure that our plan meets state and local requirements. For example, in Hawaii our employees are on a fully insured plan that meets the requirements of the Hawaii Pre-Paid Health Care Act. We must also comply with requirements in Massachusetts and the City of San Francisco.

On a yearly basis, I review Morris Communications' medical and pharmacy claims with our third-party administrator and benefits consultants, looking for trends in diagnoses, prescription drug usage and member utilization of disease management programs. This data helps us design our plan, drive healthy behavior and estimate the following year's

health care costs. This analysis requires a delicate balance between containing costs and offering the best plan we can afford to our employees and their families.

In 2009, for example, after reviewing research that showed the negative impact of smoking on employee health, Morris Communications implemented a no-tobacco-use discount to help change employee behavior and encourage healthier lifestyles. For many of our employees, this was the incentive they needed to stop smoking. In addition, our analysis showed an increase in emergency room utilization for non-emergency services. As a result, Morris Communications increased co-pays for non-emergency services, resulting in fewer trips to the ER and, therefore, decreased health costs.

In 2011, the first ACA-mandated changes were implemented to expand coverage to adult children up to age 26 and to eliminate pre-existing conditions and lifetime maximums for coverage. At the time, our company estimated this would result in a 2 percent increase in our health care costs. As a result, we increased employee premiums by 4 percent to cover the projected and anticipated costs. Since the ACA's implementation, we have increased employee contributions by 19.3 percent, and while the employer portion remains at two-thirds of the total cost, it has also increased by 10 percent during that time. In order to keep the premium increases to a minimum, we have increased deductibles and co-pays and have aggressively managed our prescription drug costs.

Throughout the ACA implementation, we have made changes to ensure that our plans and benefits are compliant with the law and regulations. Until this year, we were able to offer one plan, a Preferred Provider Plan, to all of our employees. However, this year we introduced a second plan, a High-Deductible Plan (HDP), which meets the affordability standard of the ACA. Unfortunately, less than 3 percent of our employees have enrolled in this plan.

Now that I've outlined Morris Communications' current health care benefits, let me share some concerns and challenges we have experienced with implementing the ACA.

Increased Fees and the Excise Tax

At my company, we have seen an increase in employer fees, including a fee on the average number of lives covered under the plan (known as the Patient-Centered Outcomes Research Institute fee) as well as the transitional reinsurance fee, resulting in over \$180,000 in new plan fees and costs this plan year alone.

In addition, rising health care costs are driving employer concerns as the effective date of the 2018 excise tax approaches; this is a tax on excess benefits provided to employees by plans deemed to be "high cost" under the ACA. Morris Communications is no different from other employer-sponsored health care plans as we project that our current plan design, if left unchanged, will result in Morris Communications incurring over \$650,000 in an excise

tax in 2018. To mitigate this cost, we must reduce the value of our medical plans and are therefore considering a full replacement of our PPO plan with an HDP plan. While this option has been considered for over 10 years, so far we have not implemented a full-replacement high-deductible plan due to the potential economic hardship it would cause for our aging workforce. As mentioned above, however, in light of the new ACA requirements, Morris Communications is revisiting this decision.

According to SHRM's March research survey, 33 percent of organizations indicated that they would be subject to the excise tax in 2018. Similar to Morris Communications, a majority of employers are making changes to their employee health benefits to avoid the excise tax. In fact, according to new research from consultancy Towers Watson², 84 percent of U.S. employers expect to make changes to their full-time employee health benefits programs over the next three years. Two in five employers that have done modeling of their plans say they will trigger the 40 percent excise tax in 2018 unless they make benefits changes to rein in costs.

In light of HR professionals and employers reassessment of their health care plans to avoid the excise tax, SHRM supports the legislative proposal, H.R. 879 Ax the Tax on Middle Class Americans' Health Plans Act. The bill, introduced by Representative Frank Guinta, would repeal the 40 percent excise tax on high-value employer-sponsored health care benefits.

Wellness Programs

One approach employers are embracing is the implementation of incentive-based wellness programs as part of their health care cost-containment strategy. As you know, a bipartisan provision in the ACA allows employers to discount health insurance premiums by up to 30 percent—or 50 percent if approved by the Departments of Treasury, Labor, and Health and Human Services—for healthy lifestyle choices like quitting smoking or maintaining a healthy cholesterol level. As a result, a growing number of employers have incorporated wellness programs into their organizations' health and wellness offerings.

A SHRM survey³ found that 76 percent of HR professionals indicated that their organizations offered some type of wellness program, resource or service to employees. Among these respondents, about one-half reported that employee participation increased in 2014, as well as in 2012 and 2013, indicating a pattern of increased use of wellness initiatives over time. In addition, more than two-thirds of respondents from organizations that offered wellness initiatives indicated that these programs were effective in reducing the cost of health care.

² Towers Watson [2015 Emerging Trends in Health Care Survey](#), March 2015

³ SHRM Research survey [2014 Strategic Benefits Survey—Wellness Initiatives](#), January 2015

However, recent litigation pursued by the Equal Employment Opportunity Commission (EEOC), asserting that medical screenings to participate in wellness programs are not voluntary and therefore are in violation of the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act, has threatened the certainty of law for employers that offer these programs. At a time when employers are faced with increasing health care costs and are making every effort to comply with the law, while still meeting the needs of employees, these recent actions are disappointing.

I know that there have been some recent developments from the EEOC to offer clarification on employer-provided wellness programs. In particular, last month the EEOC sent a notice of proposed rulemaking to the Office of Management and Budget to start the regulatory process to release its long-awaited rules on the interplay of the ADA and the ACA as they affect wellness programs. The proposed rule would amend the regulations implementing the equal employment provisions of the ADA to address the interaction between Title I of the ADA and financial incentives as part of wellness programs offered through group health plans.

In the meantime, given HR professionals' strong concerns about the EEOC's litigation actions, SHRM supports H.R. 1189, the Preserving Employee Wellness Programs Act, which was introduced by Chairmen Kline, Roe and Walberg. This bill would provide important legal certainty and eliminate confusion caused by the EEOC for employers offering employee wellness programs that lower health insurance premiums to reward healthy lifestyle choices.

Employer Reporting Requirements

Another challenge facing my company as well as others is the new employer reporting requirements under the ACA. Effective this year, large employers (those with 50 or more employees) are required to report on health care coverage to the Internal Revenue Service (IRS). While this may seem like a simple task for employers, this means more tax forms to be completed, printed and mailed at the end of the year.

Large employers that sponsor their own health care plans (self-insured employers) serve as both the insurer and the employer. Under these conditions, self-insured employers will be impacted by the new ACA reporting requirements on a larger scale than employers that are not self-insured. For self-insured employers, ACA reporting will present a significant challenge because they will be responsible for reporting both as the insurer and the employer.

Moreover, the reporting forms will require specific information on each employee's insurance coverage (and their spouse and dependents', if applicable), such as employer identification number, taxpayer identification number, addresses, employee's full-time status and length of full-time status, proof of minimal essential coverage offered, coverage

dates, and employees' share of coverage premium costs. Additional information may be required by the IRS over time. Collecting this information to ensure accurate reporting will become an administrative burden for employers.

For example, in a self-insured situation, an employer hires a third-party administrator to manage the administrative tasks, such as reviewing, evaluating and processing insurance claims. However, it is the employer that pays the actual claims. The employer is the insurer, whereas the third-party administrator simply handles the paperwork involved with the claims process. To navigate the ACA reporting requirements, some employers have contracted with health care brokers or consultants or have added staff to collect and track ACA reporting requirements.

To date, Morris Communications has been able to meet the requirements of the ACA without adding to our staff or outsourcing our benefits administration. However, after looking into the effort it will take to track, record and report hours and eligibility, we will either add a position or outsource this function to fulfill the reporting requirements, at an estimated cost of \$50,000. This will add to the cost of providing benefits to our employees.

Exchange Notifications for Multistate Employers

Under the ACA, large employers are required to offer eligible employees a health coverage option that meets affordability standards. In addition, all employers are required to distribute to employees a notice about available health coverage under state- and federal-government-run health insurance exchanges. At Morris Communications, our larger newspapers have HR staff that help communicate benefits information to employees. However, due to the increased requirements of providing notices, particularly exchange notices and summary of benefits coverage (SBC), we are considering centralizing this process. We currently generate all materials that are distributed during open enrollment and determine for our locations what required notices must be disseminated. Because we are in multiple locations and do not conduct the new-hire process for all of our worksites, variance from our recommendation is possible. Yet failure to distribute the required exchange notices or SBCs can result in fines.

Also, if an employee is eligible for an employer-sponsored health plan but enrolls in medical coverage on a state or federal exchange and obtains a tax credit or cost-sharing subsidy, a penalty could be assessed against the employer. For example, when an employee applies through an exchange for an advance payment of a tax credit or cost-sharing subsidy, the exchange determines if the individual is eligible for a credit or subsidy. If an individual is determined to be eligible for advance payment of tax credits or cost-sharing subsidies, the exchange is supposed to notify his or her employer for purposes of the potential tax penalty.

The employer will have 90 days from the date of the notice to appeal a determination that it does not provide minimum essential coverage or provides coverage that is not affordable with respect to the employee. However, only a few state exchanges have begun to send out paper notifications to employers and the federal exchange has not yet distributed notifications. This delay in notifications to employers leaves organizations vulnerable to potential tax penalties, adds administrative burden to appeal the exchange's determination and creates a sense of uncertainty.

Specific to Morris Communications, as mentioned previously, we have employees in multiple states. To date, we have not yet received any notifications from the state or federal exchanges regarding employees that are eligible for subsidies. In addition, often information from agencies is sent to an individual location and not the corporate headquarters. That's why we prefer electronic notifications to ease the process and minimize confusion. In our larger locations we have HR staff who may be able to recognize the importance of a notification from a state or federal exchange and who will take prompt action to forward it to our corporate offices so that we can complete it. However, in our smaller locations we run the risk of these notifications being overlooked and therefore going unanswered.

Definition of "Full-Time" Employee

Lastly, SHRM has strong concerns regarding the ACA's definition of "full time" as an employee working 30 hours a week because this is inconsistent with standard employment practices and benefits coverage requirements in the U.S. and because it conflicts with other federal and state laws.

As you know, the ACA requires employers with more than 50 full-time employees to provide affordable group health insurance coverage to employees and their dependents or pay a financial penalty. Because the ACA defines a full-time employee as an individual who works an average of at least 30 hours per week, more employers run the risk of financial penalties unless they expand coverage to include certain part-time employees. As a result, the ACA's definition of full-time employee is having an adverse impact on both employers and employees.

Some employers have opted to eliminate health care coverage for part-time employees who work less than 30 hours a week, leaving these individuals without valuable employer-provided coverage. Others have restructured their staffing models to reduce the work hours of part-time employees to below the 30-hour threshold that triggers the coverage requirements. Consider, for example, that according to SHRM's March research survey, 20 percent of SHRM members' organizations have already reduced part-time hours to below 30 per week or are planning to do so in the following year to comply with the ACA.

As noted above, the ACA's definition of full time is inconsistent with current employment law. The Fair Labor Standards Act (FLSA) already sets the standard for full-time employment at 40 hours per week. Specifically, the FLSA states that nonexempt employees must receive overtime pay for hours worked in excess of 40 in a workweek at a rate of time and one-half their regular rate of pay. This 40-hour standard is highly recognized by most American employees, especially those who rely on overtime wages.

If the traditional definition of full time is not restored, our nation's workforce will likely experience significant disruptions. Aligning the law's definition of full-time employee status with traditional practices would help avoid any unnecessary disruptions to employees' wages and hours and would provide financial stability and significant relief for employees. Given these concerns, SHRM strongly supports the House-passed bipartisan Save American Workers Act, H.R. 30, because it would restore consistency and a common understanding of what constitutes full-time work under federal law, while still allowing employers to voluntarily offer health care coverage to employees working less than 40 hours, as many currently do.

Conclusion

Mr. Chairman and Ranking Member Polis, thank you again for allowing me to share my experience implementing the ACA and SHRM's views on health reform.

In closing, I would like to briefly reflect on how the implementation of the ACA has personally impacted me in my role as Director of Human Resources. Prior to the law, benefits occupied about one-third of my time, allowing me to concentrate on employee relations, compliance issues and, more importantly, making sure that our workforce was aligned to meet our strategic business objectives. However, since health care reform was enacted, I spend closer to two-thirds of my time on benefits. This time is spent in understanding the changes in regulations and educating HR staff and employees on these changes. The ACA has made benefits much more complicated than they ever were before. When the ACA was passed, we considered making significant changes; however, Morris Communications still believes that in order to attract and retain the skilled employees we need to be successful, we must offer a competitive health care package. For that reason, we have continued to comply with regulations, contain costs, and offer a benefits plan that we are proud of for employees and their families.

Many employers around the country are having this very same conversation when determining benefits packages. In the SHRM Research survey released in March, 21 percent of SHRM members reported expecting to decrease their health benefits offerings and 7 percent indicated a reduction in non-health benefits (such as financial benefits and compensation or retirement savings and planning benefits) for 2015. These types of

changes to overall compensation and benefits packages will have a negative impact on employee retention and employer recruitment efforts.

SHRM believes that effective health care reform should expand access to affordable coverage but that organizations should not have to change business practices and benefits in order to afford the required changes. Unfortunately, the ACA's current coverage requirements are increasing costs and restricting employer flexibility to offer a benefits package that best meets the needs of employees.

I welcome your questions.