Statement of Gail Johnson
President/CEO, Rainbow Station, Inc.

Before the House Committee on Education and the Workforce

Hearing on the "Impact of the Health Care Law on the Economy, Employers and the Workforce"

February 9, 2011

1501 K Street, N.W. Suite 350 Washington, DC 20005
Telephone: 202/628-8000 Fax: 202/628-0812 E-Mail: ifa@franchise.org Internet: www.franchise.org

Statement of Gail Johnson
President/CEO, Rainbow Station, Inc.

United States House of Representatives
Committee on Education and the Workforce

February 9, 2011

Good morning Chairman Kline, Ranking Member Miller and members of the committee. My name is Gail Johnson, and I am grateful for the opportunity to address some of the ramifications of the new health care law facing employers and the workforce.

In my remarks today, I will share my experience as an employer purchasing insurance coverage for our teachers and staff now that the Patient Protection & Affordable Care Act (PPACA) is the law of the land. While this law includes important insurance reforms that increase access to coverage for many more people, taken as a whole, the law is biased toward mandating coverage rather than providing meaningful cost control. Over the next three years, it will force employers to decide between absorbing rising premiums versus paying tax penalties. This will ultimately slow or stall the growth of small and midsized businesses as we struggle with the costly new requirements.

Throughout my career, I have been focused on women and children's health and education issues. Before becoming an entrepreneur, I worked as a pediatric nurse for nearly 25 years. As a nurse, I held many roles, including visiting public health and home healthcare nurse; maternity, pediatric and nursery staff; Lamaze instructor; and faculty member of the Maternal Child Nursing Departments at the Medical College of Virginia (MCV)/Virginia Commonwealth University (VCU) and J. Sergeant Reynolds Community College. I continue to be engaged with the MCV/VCU School of Nursing as the Chair of the Nursing Advancement Council and serve as Vice President, Medical College of Virginia Foundation Board of Trustees.

I am the founder and CEO of Rainbow Station, Inc., a nationally accredited preschool and school-age recreation franchise that offers emergency backup care for mildly ill children on site. We provide developmentally appropriate early education and school-age recreation to 325 children on each campus. There are three corporately owned Rainbow Station campuses in Richmond, Virginia. In 1999, I created PRISM, the franchising company for Rainbow Station, and there are currently franchises operating in Virginia, North Carolina and Texas. All Rainbow Station schools are accredited by the National Academy of Early Childhood Programs and/or the National Afterschool Association's Council on Accreditation as soon as they become eligible for accreditation. Some schools are accredited by the Southern Association of Colleges & Schools.

My corporate Rainbow Station campuses employ 225 employees with annual wages for teachers ranging from $23,000 to $35,000. Currently, there are a total of nine schools open, with a capacity for 3,131 children. Fully enrolled, each campus will generate $2.5 – $3.5 million in revenue annually, depending on geographic location. There are eight additional locations in development, along with several sales pending.

Within Rainbow Station facilities, we have the capacity to provide backup care for mildly ill children. This care is overseen by a pediatric nurse and results in approximately 1,000 productive workdays each year at each Rainbow Station campus being returned to parents and their employers. We provide these parents with the option to leave their child with a nurse, if they choose to go to work. Rainbow Station provides flexibility to working parents who would normally be forced to miss work in order to stay home with a mildly ill child. Using the franchise business model, we hope to continue growth and provide these work/family support solutions and services to more communities across the United States. Unfortunately, growth of our business is being significantly challenged by a lack of access to credit and the uncertainty created by the Patient Protection and Affordable Care Act (PPACA).

My franchise system is an active member of the International Franchise Association (IFA). As the largest and oldest franchising trade group, the IFA's mission is to safeguard the business environment for franchising worldwide. IFA represents more than 90 industries, including more than 11,000 franchisee, 1,100 franchisor and 500 supplier members nationwide. According to a study conducted for the IFA Educational Foundation, there are more than 800,000 franchised establishments in the U.S., creating 18 million American jobs and generating $2.1 trillion in economic output.

The findings of the study, *Small Business Lending Matrix and Analysis*, prepared for the IFA Educational Foundation, support the notion that meaningful economic recovery and meaningful job creation will start with small business lending. In fact, the study determined that for every $1 million in new small business lending, the franchise business sector would create 40.4 jobs and generate $4.2 million in economic output.

Franchised businesses play an important role in the economic health of the U.S. economy, and they are poised to help lead the economy on the path to recovery. IFA Educational Foundation reports show that the franchise industry consistently outperforms the non-franchised business sector, creating more jobs and economic activity in local communities across the country. Franchising grew at a faster pace than many other sectors of the economy from 2001 to 2005, expanding by more than 18 percent. During this time, franchise business output increased 40 percent compared to 26 percent for all businesses.

The IFA continues to seek solutions to ensure that health insurance is more affordable for franchised businesses and their employees. We support proposals that strengthen consumer-oriented, affordable health insurance options and promote small business health plan legislation. Such legislation will allow owners of franchise businesses to pool together across state lines and purchase affordable health coverage. We also support medical liability reform that focuses on reducing litigation that has lead to higher costs. Unfortunately, the legislation signed into law last year contains a framework that will encourage further shifting of health costs onto the backs of small franchised businesses—in the form of a mandate on employers—and impose new taxes and fees that will be passed along by health insurance providers to consumers.

As a pediatric nurse and small business owner, I understand the need for health care reform. However, increasing access to health coverage and forsaking measures to control health care costs will lead to negative repercussions in the small business community. Franchising encompasses businesses of all sizes, from small single unit locations to multi-unit international brands. Systems such as mine – fast-growing, midsized businesses – are the country’s strongest job creators. Small and midsized businesses that are growing are able to do so by reinvesting income from their operations to expand. These businesses have limited margins for increased labor and operating costs. Complying with the requirements of the new law will force entrepreneurs to invest less into growing their business. I am here today to inform the Committee on Education and the Workforce that the new health care reform law will slow or stall the growth of small and midsized businesses as we struggle to absorb its new costs.

Several aspects of the new law will add costs and regulatory burdens for small business owners. It establishes an employer mandate to provide health insurance coverage to employees. If employers do not purchase coverage, they will be subject to a penalty of $2,000 per full-time worker. The law further restricts workplace flexibility by defining a full-time employee as one who works at least a four day per week schedule. Furthermore, small businesses will now be required to calculate on a monthly basis the variable schedules of hourly employees to determine requirements under the new law and the associated penalties.

Congress empowered the federal bureaucracy to determine an "essential benefits package," ultimately requiring employers to contribute toward a package they otherwise may not have been able to afford. As crafted, I believe the new law will eliminate all flexibility for employers to design an affordable benefits package. This inflexible, one-size-fits-all approach betrays a bias toward mandating coverage rather than curbing costs. This represents a significant government intrusion into the benefits decisions of employers. In order to comply, small employers will be faced with decisions such as cutting back wages, forgoing new hiring and raising prices for services. These measures will further stunt any economic recovery and curtail future job growth.

The new law took care to provide exemptions only to certain businesses—those employing less than 50 full-time equivalent employees—this creates a disincentive to hire or expand beyond this level. As is the case of my business, it plants the cost of compliance squarely on the backs of small and midsized firms employing more than 50 people. It is important to note that in a business like Rainbow Station, we must adhere to required ratios of faculty to children in order to maintain state licensure as well as to earn and maintain national accreditation. The only option my business would have to avoid the employer mandate is to cut back on enrollment; and, therefore, services to the community.

Under the new law, starting in 2014, we will be required to offer coverage or pay a tax penalty. To keep up with the law's mandated essential benefits, we will have to increase the amount of employee cost-sharing. This will drive our health insurance costs higher than we are able to provide today. We also must be mindful that our employee's share of the plan does not exceed 9.5 percent of their household income. Otherwise, they will be eligible for subsidies and would trigger penalties of up to $3,000 per employee who receives a subsidy. How are employers supposed to determine the household income of each employee? This is private information that employees would certainly not expect their employers to ascertain in most cases.

The new law emphasizes access to coverage over curbing rising health care costs. The federal government has forced the hands of employers and transformed health insurance into an obligation, rather than a benefit of employment, a benefit that I use to supplement salary and wages in order to attract and retain quality faculty and staff. Essentially, the decision to offer health insurance coverage will strictly be about cost—insurance premiums versus tax penalties. Health insurance coverage will cease being a benefit of employment or part of a competitive compensation package.

Rainbow Station is already beginning to feel the impact of the new health care law. Since 1992, Rainbow Station has provided health insurance for faculty and staff. Because we are a preschool with relatively low wages—although, I am proud to report that our wages are in the upper quartile for our industry—I have worked diligently to minimize out of pocket healthcare expenses for my teachers and staff. Currently we pay 70 percent of the insurance premium for our faculty and staff. I make a concerted effort each year to keep employee co-pays low and ensure no deductibles. I want my employees to be able to access the health care system with minimal financial barriers.

Having just completed the renewal process for our insurance policy, I would like to share with the Committee one example of what small and medium-sized employers are struggling with across the United States. If I did nothing and just renewed our policy from 2010, I would face a premium increase of **18 percent**. Our insurance broker informed us that the annual trend increase is 12 percent, and businesses with insurance plans and employee pools similar to our business can expect a 12 percent increase each year moving forward. That increase encompasses continually rising insurance, technology, medical, pharmacy and legal costs across the entire health care industry. An additional 3 to 5 percent of the increase is attributed to the new mandates and administrative costs caused by PPACA that are effective in 2011.

Last month, everything changed. This year we will insure 84 lives at a cost of approximately $502,000. The 18 percent increase would have driven the cost of my premiums to nearly $593,000. Due to the economic climate of the past two years, unfortunately, I could not afford to absorb this increase to our bottom line. Therefore, my choices were to either pass this cost on to my teachers and staff or make changes to the plan. Specifically, we chose to add an employee deductible of $500 to keep our insurance premium costs nearly flat and so our employees' premium will also not rise. For the first time in our nearly 20 year history, our employees will pay a deductible for their health care. We have sacrificed one of our goals in providing employee benefits by unfortunately increasing a financial barrier to accessing health care services.

This change resulted in forfeiting our ability to "grandfather" our health insurance plan. Moving forward, our plan must comply with all of the mandates required by PPACA each year as the law is implemented. While the Administration provided some flexibility to its initial grandfather rules—by allowing small businesses to shop for comparable coverage from different carriers—there remain many hurdles to successfully keeping the health plan our employees like. In the future I will have even harder choices to make. Our insurance plan must now comply with new requirements. For example, my policy must have no dollar limits on durable medical equipment. The majority of my teachers and staff are young females. Traditionally, the demographics of my workforce allowed me to avoid the higher cost of a plan that had no limits on durable medical equipment. The new law prevents me from purchasing a policy that meets the specific health care needs of my workforce. This will continue to drive up our costs each year. My young faculty and staff, thankfully, are healthy adults that do not need wheelchairs, oxygen tents or catheters. I am being compelled to purchase an expensive policy that provides coverage for medical care my workforce does not require.

In January 2014, I will have a very difficult decision to make. Do I continue to provide insurance coverage to my teachers and staff or drop coverage altogether and pay the penalty? The penalty would cost me anywhere from $168,000 to $252,000 per year and is dependent upon how many of my staff enter the exchange to purchase insurance and qualify for subsidies. Choosing to forego providing health insurance coverage to my employees may “save” Rainbow Station’s bottom line as much as $300,000. Will I be able to retain and attract the highest quality early-childhood educators, nurses and staff without providing a competitive employee benefits package?

I am also concerned that if we are compelled to eliminate our health insurance coverage, what will my employees face in the individual marketplace? There is great uncertainty regarding how the exchanges will function and the quality of insurance products our employees will find available to purchase. Furthermore, the situation is even more unsettling when you think about how many other franchisees and small businesses across the country reach the conclusion that their business will no longer be economically viable due to the rising cost of insurance coverage. Unfortunately, more businesses will drop coverage and try to “save” money by instead paying the tax penalty.

Supporters of the law point to the small business tax credit as a benefit for some employers, but the tax credit is entirely inadequate. For a growing company like ours, which provides an important service to the community, the thresholds are entirely too small to be of any assistance. In order to qualify for the tax credit, we would have to cut hours for our full-time staff to ensure we were under the 25 full-time equivalent employee threshold. As I noted earlier in my statement, Rainbow Station must adhere to state mandated staff to children ratios. There is not much we could do to meet the requirements of the tax credit. Encouraging companies to cut back hours or eliminate staff is the wrong message our government should be sending small businesses—particularly during a recession. It is clear that the tax credit is too narrowly restricted to be of any benefit to small businesses.

As I review the new health care law I see a structure designed to discourage economic growth among small and midsized companies. At a time when our government should be doing everything in its power to encourage job growth and recovery, I see a federal requirement that creates disincentives for higher wages, new hiring and robust employee benefits. This law will direct my business decisions in such a way that forces me to devote more of our capital investment resources toward operating costs rather than growth.

I want to thank the members of the Committee on Education and the Workforce for the opportunity to participate in today's important hearing on the effects of the health care law on employers. It is my hope that we can work together to fix the unworkable aspects of the new law that will harm our economy. Moving forward I would encourage Congress to pass legislation that balances the need to improve access to coverage together with controlling the rising costs of care. We must enact new legislation that incentivizes consumer-oriented solutions to health insurance and finally enable my franchise system to band together across state lines to purchase affordable coverage for our employees.

Thank you and I look forward to answering any questions you may have.