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Repeal and Replace of Affordable Care: A Complex, but Not an Impossible Task

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The Affordable Care Act (ACA), signature legislation of President Obama, was arguably the most consequential and comprehensive health care reform since Medicare was introduced as part of President Lyndon B. Johnson's great society. It has been claimed that many of the law's reforms are now so integrated in the health system that full repeal would be impractical, while others including President Elect Trump have rejected that idea and called for full repeal and replacement claiming ACA law cannot be fixed. A tsunami of increasing regulatory burden over the past 8 years, the current health care milieu has moved independent practitioners towards hospital employment in great numbers. In addition, public opinion has been slowly climbing against ObamaCare with 54% of Americans now opposing the law.

President Obama has indicated that the law has accomplished many of its goals, including increasing accessibility, affordability, and quality of health care. However, others have contradicted these assertions and described the ACA as "insurance for many with coverage for few." Some believe that the ACA might be more appropriately labeled the "Medicaid Expansion Act."

There are multiple plans developed over the years by republican members of the congress; however, of significant consequence and importance are President-elect Trump's proposals and the plan developed by Speaker Paul Ryan to repeal and replace the ACA. The President-elect has described the problems he perceives with the ACA; rapidly rising premiums and deductibles, narrow networks, and limits of coverage imposed by health insurance companies. The President-elect has indicated that his goal will be to create a patient-centered health care system that promotes choice, quality, and affordability with health insurance and health care, and take any needed action to alleviate the burdens imposed on American families and businesses by law.

Key words: Affordable Care Act, ObamaCare, Medicaid, exchanges, Trump plan, repeal, replace

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President-elect Donald Trump is embarking to repeal and replace the Affordable Care Act (ACA), also known as ObamaCare (affectionately or pejoratively, depending on who is saying it, but a term approved by President Obama). Now, the public is reminded of the President's famous quote from 8 years ago, that "elections have consequences." President Obama enacted the ACA by reaching the filibuster proof threshold of 60 votes in the Senate and passed the legislation through the House with a 219 to 212 vote along strict partisan lines. President Obama (the only sitting president of the United States in modern history to publish an article in *JAMA*) chronicled the progress of ACA (1).

The ACA was arguably the most consequential and comprehensive health care reform since Medicare was introduced as part of President Lyndon B. Johnson's great society. However, in 1965, Medicare passed in the House with a 313-115 vote and in the Senate with a 68-21 vote with bipartisan support. The proponents claim that the ACA has increased insurance coverage for approximately 20 million individuals (1-5). However, this claim is disputed by Republicans. In the past, multiple manuscripts were published in *New England Journal of Medicine* with perspective from both candidates running for presidency (6,7), in contrast to *JAMA*'s publications which only chronicled the President's views. As recently as October 20, 2016, President Obama has called

on Republicans to abandon their uncompromising opposition to the ACA and work with the next president to improve the 2010 health reform law, exuding confidence that Hilary Rodham Clinton would be the next president (8). The President also reminded Republicans that they have passed the repeal of ObamaCare on 60 some occasions.

In addition, some have claimed that many of the law's reforms are now so integrated in the health system that full repeal would be impractical, while others including President-elect Trump have rejected that idea and called for full repeal and replacement as the ACA cannot be fixed (9-14).

Physicians have been facing a tsunami of increasing regulatory and administrative burdens over the past 8 years, including the Merit-Based Incentive Payment System (MIPS) (15-19), Physician Quality Reporting System (PQRS) (20,21), meaningful use (MU) (22,23), electronic health records (EHRs) (22,23), International Classification of Diseases, 10th Revision (ICD-10) (24-28), and many other regulations (29-35). As a result, physicians have been frustrated and medical practice has changed with substantial barriers to independent practices (36,37). Further, the current health care milieu has moved independent practitioners towards hospital employment in great numbers (15). Nonprofit hospitals also have been declining. In 2009, 67% of all United States urban hospitals were nonprofit, whereas, today, this number has dwindled to less than 50% (38,39). In addition, public opinion has been slowly climbing against ObamaCare with 54% of Americans now opposing the law (40).

Insurance for Many, Coverage for Few

President Obama, in his landmark manuscript (1), indicated that the law has accomplished many of its goals including increasing accessibility, affordability, and quality of health care. He noted that since the ACA became law, the uninsured rate has declined by 43%, from 16% in 2010 to 9.1% in 2015, primarily because of the law's reforms. Further, he also described that there was also accompanying improvements in access to care, financial security, and quality of health care. He expressed enthusiasm with alternative payment models including Accountable Care Organizations (ACOs) and bundled payments with 30% of traditional Medicare payments now flowing through them (1). He attributed slow growth in health care expenditures to ACA and measures it provided. Finally he described the major opportunities to improve the health care system that remains.

In contrast, opponents have argued that the law may have improved the number of insureds, but caused a significant dent in coverage, i.e., the ability to receive services. The rate in the decline of uninsured has been questioned as the numbers are dependent on multiple factors including depression, whereas, the uninsured rate was lower in previous years (2,4). Overall, the exact number of enrolled in the ACA remains a mystery varying from 15 to 20 million as many of them have lost their insurance and have moved on to ACA.

Some believe that the ACA might be more appropriately labeled the "Medicaid Expansion Act (4)." The Congressional Budget Office (CBO) in March 2016 confirmed that there has been a large reduction in the number of uninsured individuals; however, the sources of coverage are significantly different from its expectations when the law was in the process of enactment (41). Medicaid and Children's Health Insurance Program (CHIP) will cover an estimated 17 million more people in 2016 than the CBO's earlier assessment (4). Further, enrollment in the ACA exchanges has been disappointing, with an estimated 10 million fewer people enrolled compared with earlier projections. This led the Department of Health and Human Services (HHS) to sharply reduce its goals for growth in exchange coverage in 2016 (4). Multiple causes have been implicated for the disappointing trend in exchange enrollment and the strong Medicaid growth. These are related to the premiums and out-of-pocket exposure making exchange plans unattractive to many. Further, subsidies are focused on people with incomes near the poverty line, which leaves many middle class and modest income households to face substantial and uncertain cost if they enroll in exchange plans. It has been described that enrolling in a bronze plan to keep premiums low only provides catastrophic coverage. Consequently, it has been described that for many households, the President's promise of affordable coverage has not been realized (4).

The second achievement the president described is related to health care costs – present and future. Analysts are uncertain about the cause and continuation of the slowdown in the growth of health care costs, with some of the credit presumably being attributed to moderation in spending due to prevailing economic conditions (4). Further, the CBO and others expect spending to increase more rapidly in the future (42). Even without repeal, the political future of the tax on expensive health plans offered through employers, also known as the Cadillac tax, was uncertain because of bipartisan opposition in congress and amongst both business, and labor leaders.

Without the implementation of the Cadillac tax, it will be extremely difficult to maintain revenues to pay for the ACA, and also to exert downward pressure on the cost of employer-sponsored insurance (4). In fact, many health economists are concerned that an important incentive to hold down costs will disappear, with the elimination of the Cadillac tax. Increasing deductibles and copays also have significant effect in reducing the growth in health care expenditures. In addition, it has been described that the early enthusiasm for some of the new technologies developed in the 1990s and 2000s ebbed beginning in 2006, leading to a general "exnovation" or scaling back of many common and expensive treatments such as coronary artery bypass graft surgery, carotid endarterectomy, coronary artery stenting, and inpatient spinal surgery (2,43).

A study by the Commonwealth Fund, published in June 2014, a strong supporter of the ACA (42) described U.S. health care system as the most expensive and the worst in quality of the 11 nations studied, based on analysis of health care spending and quality comparisons internationally. Studies have shown that in 2004 the United States was fifth, decreasing to eleventh out of 11 in 2014 for overall quality despite the enactment of the ACA and expansion of regulations (15,44).

Skinner and Chandra (2) have described that the more important measures are whether the ACA improved health and saved money. In a 2008 Oregon health insurance experiment, a randomized trial of Medicaid expansion, found that newly insured individuals used more hospital care, were given more prescription drugs, and received more preventive care than before receiving insurance (45). Even though, almost everyone reported being able to see a physician, hypertension and diabetes control did not change relative to the control group, overall medical spending increased by $1,000 per person annually, and emergency department use increased by 40% (45,46). These findings from Oregon, in contrast to claims that were made to justify the ACA (47), illustrate caution with potential optimism for primary goal of expanding insurance, and the related consequences, specifically through Medicaid. Thus, providing health insurance may not automatically result in an improvement in health.

In addition to failure to improve health care costs in Medicaid, ACOs also have been a source of disappointment. Even though many ACOs have proven to be successful in achieving improvements in health process measures, timely access to physicians, and overall patient satisfaction, there are indications that costs and quality have not improved as dramatically as proponents would have hoped (2,33-35).

Repeal and Replace: President-Elect's Strategy

Whether through a total repeal or a reconciliation process, "ObamaCare is certain to be effectively repealed" as Robert Laszewski writes, "there are no ifs, ands, or buts about it". Trump voters have voted for him expecting that he and republicans would repeal and replace the ACA (13). Those who disagree with Laszewski indicate that without 60-member supermajority support in the Senate, the Republicans may not be able to repeal; however, through reconciliation process it may effectively be repealed (11,13).

There are multiple plans developed over the years by Republican members of the Congress; however, of significant consequence and importance are President-elect Trump's proposals and the plan developed by Speaker Paul Ryan (10,12).

The President-elect has described the problems he perceives with the ACA; rapidly rising premiums and deductibles, narrow networks, and limits of coverage imposed by health insurance companies (9,12). President-elect Trump has promised that he will work with Congress to repeal ACA and replace it with a solution that includes health savings accounts and returns the historic role in regulating health insurance to the states. The President-elect has indicated that his goal will be to create a patient-centered health care system that promotes choice, quality, and affordability with health insurance and health care, and take any needed action to alleviate the burdens imposed on American families and businesses by law (9,12). The single clearest policy proposal thus far from the president-elects plan, appears to be enabling people to purchase insurance across state lines which he posits, will maximize choice and create a dynamic market for health insurance. Further, the president-elect also states that he will work with both congress and the states to re-establish high-risk pools – a proven approach to insuring access to health insurance coverage for individuals who have significant medical expenses and who have not maintained continuous coverage. President-elect Trump (9,12) has summarized the plan as follows:

1. Completely Repeal Obamacare with elimination of the individual mandate.
2. Modify existing law that inhibits the sale of health insurance across state lines. As long as the plan purchased complies with state requirements, any vendor ought to be able to offer insurance in any state. By allowing full competition in this market,

insurance costs will go down and consumer satisfaction will go up.

3. Allow individuals to fully deduct health insurance premium payments from their tax returns under the current tax system. "Businesses are allowed to take these deductions so why wouldn't Congress allow individuals the same exemptions? As we allow the free market to provide insurance coverage opportunities to companies and individuals, we must also make sure that no one slips through the cracks simply because they cannot afford insurance. We must review basic options for Medicaid and work with states to ensure that those who want healthcare coverage can have it."
4. Allow individuals to use Health Savings Accounts (HSAs). "Contributions into HSAs should be tax-free and should be allowed to accumulate. These accounts would become part of the estate of the individual and could be passed on to heirs without fear of any death penalty. These plans should be particularly attractive to young people who are healthy and can afford high-deductible insurance plans. These funds can be used by any member of a family without penalty. The flexibility and security provided by HSAs will be of great benefit to all who participate."
5. Require price transparency from all healthcare providers, especially doctors and healthcare organizations like clinics and hospitals. "Individuals should be able to shop to find the best prices for procedures, exams or any other medical-related procedure."
6. Block-grant Medicaid to the states. "Nearly every state already offers benefits beyond what is required in the current Medicaid structure. The state governments know their people best and can manage the administration of Medicaid far better without federal overhead. States will have the incentives to seek out and eliminate fraud, waste and abuse to preserve our precious resources."
7. Remove barriers to entry into free markets for drug providers that offer safe, reliable and cheaper products. "Congress will need the courage to step away from the special interests and do what is right for America. Though the pharmaceutical industry is in the private sector, drug companies provide a public service. Allowing consumers access to imported, safe and dependable drugs from overseas will bring more options to consumers".

Plans from Congress

Speaker Paul Ryan has published health care reform as part of his "better way" document released in June of this year (48). Even though it is not in a legislative format, it is detailed as the plan either President Clinton or President Obama had the morning after they were elected (13). Experts expect Speaker Ryan to take the point on putting the legislative details on the table, which will generally follow the outline. Essentials of Ryan Plan are as follows: more choices and lower costs, real protection and peace of mind, cutting-edge cures and treatments, a stronger Medicare (10).

Conclusion

Repealing and replacing the ACA has been described as a difficult, if not impossible task. Bearing that perspective in mind, there are many paths for this to be achieved. Repeal can be achieved by defunding the money used for the exchange subsidies, the Medicaid expansion, and that run the exchanges (13); replacement will be the harder part. President-elect Trump and Republicans have to approach Democrats and work with them on a replacement strategy. In today's partisan political era, it may seem to be extremely difficult; however, political exigency might make this happen. Fully one-quarter of the Senate Democrats will be up for re-election in 2018 and some of them are from states that supported President-elect Donald Trump. A bipartisan solution will not only create a future course, but also a transition period before the new plan can be operative.

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