

WILL THEY OR WON'T THEY?

Will Congress Dismantle Obamacare?

Lawrence I. Bonchek, M.D., F.A.C.C., F.A.C.S.
Editor in Chief



The recent mid-term elections were a sobering experience for President Obama and the Democratic Party. For us as health care providers, the Republicans' control of both houses of Congress, and their vow to drastically amend or even reverse the Accountable Care Act (ACA), has the potential for far-reaching implications.

But though Republican control of both Houses of Congress may seem like both a mandate and an opportunity for sweeping change, a number of factors mitigate against a drastic reversal of health care policy.

The first and foremost factor is systemic. The President has the power of the veto, which he will doubtless use to protect his signature legislative achievement from dramatic changes, and it is doubtful the Republicans could attract enough Democrats to override a veto. Though the Republicans will surely attempt to work around this barrier by attaching ACA-altering amendments to other essential and less partisan legislation, such as budget bills, the President has made clear his intention to sustain the ACA at all costs. He is likely to veto otherwise desirable legislation if it contains objectionable changes that threaten his legacy, even if doing so risks heightening his ongoing conflicts with Congress or precipitating a government shutdown, for which Republicans—as the majority party—would be blamed.

The second factor is organizational. Parties that gain control of Congress usually find they cannot sustain the seemingly monolithic unanimity that got them there, and they often accomplish far less of their agenda than anticipated. Internal fissures open up almost immediately, as extreme elements within the party succumb to the hubristic temptation to advance their most radical political agendas, while more pragmatic members, remembering that in the future (as in the past) the shoe might be on

the other foot, take a longer-term view and counsel a more cautious approach.

At the state level, where the ACA's impact is most palpable, there is already dissent about overturning it. Among the 23 states that have accepted Federal funding to expand Medicaid in 2014, several—including our neighbors Ohio and New Jersey—have Republican governors. In 5 other states, including Pennsylvania, Republican governors have succumbed to political pressure not to reject the ACA's mandates altogether, and have obtained HHS waivers to use alternative mechanisms that modestly expand coverage for the poor while retaining conservative principles such as requiring the use of private insurers, preserving limits on access and coverage, and imposing a variety of idiosyncratic rules.*

The third, and most important factor, is political/electoral. Even the most fervent opponents of the ACA not only wish to remain in office themselves, but also to elect a Republican President in 2016. If public opinion overwhelmingly favors the ACA, they will bow to the wishes of the national electorate in a Presidential election, where sentiment about major public issues holds sway. (Not so in local elections. In 2014 a meta-analysis of polls gave Congress a 14% approval rating, yet 95% of incumbents who ran were re-elected. A similar combination of disdain for Congress and high re-election rates in 2012 led one observer to call it a “throw the bums in” election. That sarcasm fixed the blame on a disaffected and inattentive electorate, but shameless gerrymandering also plays a dominant role.)

Despite its rocky start, the ACA has benefited a diverse group of new adherents, and it now enjoys support from various corners of the political spectrum. Some are obvious, like the approximately 10 million people who have acquired newly affordable health

NOTE

* Governor Corbett's Healthy Pennsylvania plan uses Federal funds to subsidize private insurance for those it covers, but it limits the state's costs by imposing cost-sharing requirements, restricting eligibility, and limiting benefits.¹ Its cost-sharing requirements have been criticized as too costly for

those who most need help obtaining insurance coverage,² and Governor-elect Tom Wolfe has pledged to use Federal funds for conventional Medicaid expansion instead.

insurance (including many who have “pre-existing conditions,”), and young adults who can remain on their parents’ policies till age 26. But other supporters, including many who objected at first and would be expected to vote Republican, are not so obvious.

Small business owners, for example, have been singularly stressed in recent years by the rapidly rising cost of health care. Since they necessarily could only purchase expensive health insurance policies designed for small groups, many could not afford to do so. Nonetheless, as entrepreneurs who generally favor free market solutions and resent government solutions on principle, they initially objected to the ACA and instead aimed their ire about costs at the medical establishment. However, the ACA enables employees to obtain health insurance individually, so small employers no longer are confined to purchasing expensive small group policies, but instead can offer their employees a fixed dollar benefit to purchase individual health insurance. This approach not only protects small employers from the general rise in premiums, but even better, from the shock of one employees’ sudden catastrophic illness causing the group’s premium to skyrocket, forcing them to consider dropping coverage entirely.

Another result of the ACA that appeals to conservatives is the phenomenon of “job unlock,” which I discussed more extensively in my editorial last Spring.³ When workers’ health insurance is no longer tied to their employer, they aren’t locked into a dead-end job they hate. Their freedom to move under the ACA is an economic good, because it increases job mobility and satisfaction, and the efficient allocation of labor.

Last, and perhaps the most influential counterweights to Republican dismantling of the ACA, are the insurance companies. Had there been a Federal public insurance option, even dominant insurers would not have been able to raise premiums above the level charged by the Federal exchange. But since the Federal public option was removed from the final version of the ACA, the surge of new enrollees at market-driven premium rates led many cynics to call the ACA the “Health Insurance Industry Benefits Act.” Insurers have thus become the Obama administration’s allies in lower court challenges, culminating in the current case before the Supreme Court that challenges Federal insurance subsidies for

subscribers with low or moderate incomes in states without insurance marketplaces. As the *NY Times* pointed out in a front page article on Nov. 18, 2014, “insurers may soon be on a collision course with the Republican majority in the new Congress. Insurers . . . have built their business plans around the law and will strenuously resist Republican efforts to dismantle it.”

Withal, will the Republicans dismantle Obamacare or won’t they? No one knows, but one thing is certain: it won’t be as easy as it seems.

IN THIS ISSUE

This issue contains a plethora of informative articles. First, Dr. Joseph Kontra provides a typically illuminating and comprehensive discussion of the biology and importance of HPV vaccination in young people of both genders for the prevention of genital cancer, and the controversy that surrounds that recommendation.

Dr. Todd Wood discusses a new approach to categorizing, diagnosing, and managing Pulmonary Embolism using a rapid response team with a systematic method that has been instituted at Lancaster General Hospital.

Dr. Joseph McPhee and associates provide a state-of-the-art perspective on the evolution of the surgical management of obesity, including a historical review of past techniques and results, and a detailed illustration of contemporary methods used at LGH.

Erin Sutcliffe, MS, a Certified Genetic Counselor at LGH, discusses the methodology, epidemiology, and logistics of screening for hereditary non-polyposis colorectal cancer (Lynch syndrome).

Dr. Fred Rogers and co-workers discuss the history of the exemplary Trauma Center and surgical trauma program at LGH.

And, as always, Dr. Alan Peterson provides his always-informative update on the “Choosing Wisely” initiative from The Board of Internal Medicine Foundation. In this issue he provides recommendations from The American Academy of Dermatology, The American Urological Association, and The American College of Obstetricians and Gynecologists.

I hope you find this issue informative and stimulating.

REFERENCES

1. www.portal.state.pa.us/portal/server.pt?open=514&objID=1598151&parentname=ObjMgr&parentid=127&mode=2
2. jurist.org/datetime/2014/04/leigh-coogan-pennsylvania-medicaid.php.
3. Bonchek, LI. The ACA: Politics and Economics, Debunking Myths. *J Lanc Gen Hosp.* 2014; 9: 14.