

The American Health Care Act

Question: What is the Likely Result of the House's Passage of the American Health Care Act?

Answer: On May 4, the House of Representatives voted to pass the American Health Care Act ("AHCA"), intended to repeal and replace the Patient Protection and Affordable Care Act ("PPACA;" commonly known as "Obamacare"). The bill now goes to the Senate. Analysts believe that the AHCA will not pass the Senate in its present form. With the Senate now composed of 52 Republicans and 48 Democrats, the Republicans do not have the 60 votes required to pass the bill through normal legislative channels, and will therefore have to proceed by means of the budget reconciliation process (which is the way the PPACA was passed). However, not all the Republicans in the Senate support the House bill, and there are divergent views in the Republican Senate caucus regarding what the future of federal healthcare legislation should look like. In addition, the reconciliation process is theoretically limited to issues which are not "extraneous" to the budget process, so it is unclear exactly which provisions of the AHCA are actually subject to the reconciliation process. The lack of a consensus among Republican Senators may likely result in no legislation being passed. However, should the bill pass the Senate with its essential terms intact, it would mean the loss of billions of dollars in federal subsidies to Medicaid and the health insurance exchanges. Analysts estimate this could result in up to 24 million Americans becoming uninsured. Other provisions of the bill allow states to opt out of mandatory coverage requirements, which could cause confusion in the marketplace. In addition, the bill contains ambiguities. For example, the bill continues the mandate that employers provide health coverage for their employees, but removes the penalties which apply to employers who do not comply with the law. If an employer could violate the law without penalty, what incentive would the employer have to comply? Such issues would likely lead to litigation, with courts making the final calls, but litigation is a protracted process and it could be years before any definitive results are reached.

Weekly Charting Tip: The independent practice is dead. NOT SO! Like Mark Twain, the reports of its death are greatly exaggerated. A 2015 AMA study found that over 60% of all physicians in this country practice medicine in groups of 10 or fewer physicians. Additionally, with the proper use of ONC certified HER, and not being afraid to learn from the user friendly CMS website, the small practitioner can play with the big boys (and girls). Of course, compliance with the rules and regulations is essential. Stay tuned for more information about compliance.

-Yours, Larry Kobak, Esq., Partner, Kern, Augustine, PC

If you have any questions, please contact Kern Augustine, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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