

Health Insurance Reform Could Lead to Patient Abandonment: Why the Silence?



Not a day goes by that we don't read something about the effort to repeal and replace the Affordable Care Act (ACA). If Congress resumes its efforts to repeal the ACA

after its current recess, and millions of patients lose their healthcare coverage as a result, will that also unleash a tidal wave of litigation on the U.S. healthcare system? I challenge leaders in healthcare and government to address this question.

Politics aside, there is a vital issue about which I am *not* hearing in the ACA repeal debate: details about a specific, well-thought-out policy to preserve access to care and protect the healthcare system from what could easily become a litigation nightmare.

Any replacement legislation must address the potential for patient abandonment.

If the Congressional Budget Office is correct and millions of patients lose their health insurance if/when the ACA is repealed, many patients won't be able to pay for continued care. For those who are actively receiving treatment (think: diabetes, pregnancy, cancer, coronary artery disease, stroke, etc.), physicians would be faced with an impossible choice: to continue treatment in a setting where medications, imaging studies, hospitalization, and consultant care are not available, or face a legal and ethical quagmire of patient abandonment. The predicates for this charge are well established:

- The doctor-patient relationship is established.
- The patient still needs medical attention but is unable to find a suitable alternative.
- Injury or worse, results.

After this, litigation is almost certain to ensue. And "the patient could not pay" is rarely, if ever, a successful defense strategy.

If millions of people lose coverage under a new health insurance program, it is not difficult to imagine that tens of thousands of them will find themselves in this situation. Then, we could easily see a tidal wave of malpractice litigation visited upon America's physicians. It makes me wonder: Have Congress and the President even considered this?

I hope so, but it begs a set of follow-on questions: Why is this issue not being openly discussed? This isn't a political issue; it is a far more serious matter, with grave personal and legal consequences. In the extreme, it is a matter of life and death that doctors must think about every day.

No physician wants to contemplate the abrupt termination of a patient who desperately needs care. And whether or not the latest estimate by the Congressional Budget Office is correct, physicians simply cannot tolerate uncertainty with such serious consequences.

Thoughtful physicians—and patients as well—need to ensure that this issue is addressed. The question is the same, to members of Congress as well as the leaders of organized medicine: "What are you doing to prevent patient abandonment in any reform, repeal, or replace program?" It is an issue that cannot be left to chance. 

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