



## THE FUTURE OF THE AFFORDABLE CARE ACT

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### DRAFT SAN DIEGO REGIONAL CHAMBER OF COMMERCE POSITION:

*It is the Chamber's position that any repeal of the Affordable Care Act must be followed by an adequate and timely replacement bill that prioritizes maintenance of expanded coverage, and considers the broader economic impact of healthcare on the local, state and federal levels.*

The Chamber has defined an adequate replacement proposal as one that:

- Prioritizes the protection of expanded coverage;
- Does not impose an unreasonable burden on employers;
- Provides flexibility and assurances of stability for businesses and contractors who have participated in the ACA structure as they are shift into compliance determined by new policies; and
- Modifies or eliminates duplicative, excessive, antiquated and contradictory regulations that drive up costs, divert resources from patient care and inhibit coordination amongst health providers.

**BACKGROUND:** Following promises of a full Affordable Care Act ("ACA") repeal during his campaign, President Trump and a Republican-dominated Congress began the year in a seemingly rapid manner with the paramount goal of repeal or otherwise stripping the infrastructure of ACA. In what was a contentious few weeks following the election results, the debate has been split largely down party line, with Democrats playing a firm defense and Republicans on the offense in a repeal effort.

Already, Republicans have produced legislation to repeal the ACA, and the President has signed a variety of Executive Orders (EO's) to direct federal agencies to begin dismantling the program. These EO's have varying degrees of impact, however current coverage and care is locked in through 2017 and is not expected to change.

Some Republican legislators have voiced hesitation about a repeal effort that does not simultaneously enact a replacement, even if the repeal language dictates that the repeal will not go into effect for at least another two years. At the heart of the issue is the insurance coverage of some 20 million people, including over one million people covered by Covered California throughout the state, and In San Diego County, over 120,000 registrants (73,000 of whom were eligible for subsidies). To date, there has not been a firm answer from Republican leadership about what protections, if any, those at risk of losing coverage will be provided, and if any replacement legislation will provide the same levels of coverage (if any) to those individuals.

Most recently, President Trump has admitted that the process may move into 2018, however he remains steadfastly opposed to allowing the ACA to continue in perpetuity. As legislative options are floated from Republicans, they look to be trending to more mild proposals ("if a state likes the ACA, they can keep it"), but it remains to be seen what political traction they could have. At this point, insurers have started to negotiate with

the administration in the hopes of securing flexibilities for the industry in exchange for remaining in the ACA infrastructure. They are required to submit rates and plans for 2018 in May of 2017.

Additional concerns and potential pitfalls for a repeal package include: the lack of consensus on what a “repeal” package will look like; the desire to keep more popular components of the ACA (such as covering pre-existing conditions) that only work with a mandate or other blanket coverage assumption for the healthy populations; operability; consumer protections versus automatic enrollment or other mechanisms assumed in a replacement bill; reconciling the political viability of a package that meets the demands of Trump (“nobody will lose coverage”) and the expectations of Republicans (“repeal the mandate”); continuing to prolong the process resulting in decreased interest.

**STATE CONSIDERATIONS:** The state of California, through Covered California, has enjoyed a robust and comparatively successful state health exchange. The prospect of repeal has major implications for the state’s budget and health care structure, as maintaining coverage for those individuals under Covered California without federal support would equal a \$20 billion budgetary hole per year, and potentially leave hospitals and emergency departments over exposed to under- or uninsured patients relying on them for their health needs.

Conversely, a replacement law is expected to include increased state flexibility to determine what its coverage systems would look like. Thus far legislators at the state level have made clear their intentions to defend the current system and maintain coverage for those at risk, which would result in the aforementioned budget hole. The other possibility is that the state could be awarded block or per capita grants from the federal government instead of the current funding support coming in the form of Medicaid Expansion money. Block grant dollars will likely not be at the funding level currently received by the state, which results in the state still making the decision about how (or if) to cover those that no longer qualify for coverage and at what cost they cover those individuals.

Governor Jerry Brown, in his January Budget reveal did not indicate that they had any plan or intention to plan for implications of an ACA repeal. Instead, it appears he will defend the current programming and if necessary find ways to maintain coverage and care within the state through state funding mechanisms.

**MAJOR POLICY CONSIDERATIONS- REPUBLICAN & DEMOCRAT PERSPECTIVES**

Issue Area	Republican Perspective	Democrat Perspective
<b>Themes</b>	“Universal Access” “Catastrophic Coverage”	“Universal Coverage” “Pre-paid healthcare”
<b>Mandates</b>	Firmly opposed to mandates for coverage, but have identified “incentivizing” coverage as a possible option to help keep healthy, young “invincibles” in the insurance pools.  Possibly institute auto-enrollment in coverage.	Mandates are necessary to maintain the presence of the healthier populations in insurance pools and keep costs manageable. Without the contributions of this population, costs skyrocket. General belief that without a mandate, and therefore a penalty, these individuals will fail to enroll in coverage or only do so when the need is acute.
Employer	Remove	Keep
Individual	Remove	Keep

<b>Coverage &amp; Benefits</b>	Incentivizing coverage by: <ul style="list-style-type: none"> <li>• Instituting wait times for re-enrollment after a break in coverage</li> <li>• Risk of losing level/quality/better price of coverage due to break</li> <li>• Provide tax credits to individuals without break in coverage</li> </ul>	Maintain coverage through existing system of individual and employer mandates.
<b>Employer Specific Contributions</b>	Likely that Trump will want to preserve items like those listed below, but Republican plans vary on their inclusion <ul style="list-style-type: none"> <li>• Employee wellness programs</li> <li>• Health savings accounts</li> </ul>	Preserve programs currently in place.
<b>Pre-Existing Conditions</b>	Maintain the ban refusing coverage based on pre-existing conditions BUT move those individuals into high-risk pools.	Maintain the ban refusing coverage based on pre-existing conditions.
<b>Medicaid &amp; State Funding</b>	End Medicaid as an entitlement program, end expansion of Medicaid in states and move to capitated payments such as: <ul style="list-style-type: none"> <li>• Block grants to states: Each state receives a fixed amount of money with increased flexibility about how it is spent or dollars prioritized</li> <li>• Per capita payments to states: Each state receives a fixed amount of money based on the number of enrollees (less likely)</li> </ul>	Maintain healthcare as an entitlement, and expand Medicaid expansion into all states (currently only have expanded Medicaid in 31 states).

## TIMELINE FOR REPEAL

<b>1/4/2017</b>	Senate budget resolution passed to shield subsequent repeal legislation from Democratic filibuster Process repeated on House side
<b>1/19/2017</b>	President Trump issues first Executive Order pertaining to the ACA, directing agencies to “waiver, defer, grant exemptions from, or delay” parts of the ACA that result in a fiscal burden on states, employers, individuals or providers
<b>March 2017</b>	Per directive in budget resolution, have committees in charge of health policy draft legislation to cut \$1 billion from US deficit in the course of the next ten years  Legislation from committees presented as reconciliation bills, allowing them to be fast-tracked, that serves as the primary vehicle for repeal (it’s expected that the repeal will not go into effect until 2019 or 2020)
<b>Within first 100 days of Presidency</b>	Expected that a bill to repeal the ACA will be presented to the President within his first 100 days in office.  Whether a replacement bill will be present is still unknown, but appears unlikely.

\*\*This is all subject to change as new proposals are published. The Chamber’s position will evolve as legislation and action are taken at the federal and executive levels\*\*