

By Robert Betz, Ph.D.



The Healthcare Law Shuffle

I found the recent vote in the U.S House of Representative on January 19, along with follow-up action on January 20, to be of greater significance than many in the health policy crowd seemingly want to attach to it. On January 19, the House voted 245-189 to pass H.R. 2, which would repeal the Affordable Care Act (ACA) and the healthcare-related provisions of the Health Care and Education Reconciliation Act of 2010. Three Democrats joined Republicans in voting for the repeal. All three originally voted against the ACA's passage. No Republican opposed the bill.

Gauging responses, Democrats and a fair representation from the policy and media communities were seemingly dismissive of the Republican led vote on H.R. 2. This is because the measure is not expected to be taken up by the Democratic controlled Senate. Also, President Obama has threatened to veto the measure if it ever does come to his desk. What is even more surprising is the number of major health groups in Washington that were reserved or even missing in action on H.R. 2. To paraphrase Sherlock Holmes "This is the dog that did not bark." The easy answer would be that many large healthcare interest groups supported the passage of ACA in the last Congress. They probably did not want to antagonize the White House by weighing in on the measure. However, I think something else may also be going on.

The '10-2' attitude

Many in the health policy community seem to be quietly saying that the Republican led repeal/revision efforts in the House of Representatives are bothersome, but not

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significant in terms of real changes on the near horizon. Maybe arrogance is not the word, but people down South have a saying that may apply in this case. They describe taking such an attitude as being "10-2." That being, "they tend-to believe their own bull." A dangerous disposition regardless of who you might be.

To understand the significance of what the Republicans are about to do, I think you only have to look at when the House voted 253-175 to pass H.R. 9, which instructs the authorizing committees of House Ways & Means; Judiciary, Education & the Workforce (formerly Education & Labor); and Energy & Commerce, to develop "replacement" legislation for ACA. Fourteen Democrats joined Republicans in voting in favor of this resolution. By a vote of 428-1, the House also approved a Democratic amendment to the resolution directing the Committees to report language permanently fixing the hateful sustainable growth formula used to determine Medicare physician reimbursement rates – commonly referred to as the "doc fix."

Some say you should not watch sausage or legislation being made. Nevertheless, it is in these authorizing committees where the real revisions to ACA will occur. Some “10-2s” in the policy and media communities seemingly believe that what these committees come up with will only be problematic given the Democrat-led Senate and a Democrat President. I think they are underestimating the Republicans on this. As they say, this is not the Republican leadership’s first rodeo. According to recent polling, the public support for the ACA is soft, and the negatives are still extremely high. Remember that consternation over the ACA was a driving force in the 2010 elections that catapulted the Republicans back into the majority in the House. House Republicans sincerely do have internal issues with Tea Party members, but they will get these handled. More important is if you look at

insurance across state lines. This is to say that you will likely see the President doing more legislative partnering with the House Republicans than with the Senate Democrats.

All of this will be going on as the White House and Senate argue with House Republicans over appropriations and deficit reduction. The House has approved a measure, H.R. 38, which directs budget planners to set FY2011 non-security spending at FY 2008 spending levels. I know there is a high glaze-over effect when people in Washington talk about “baselines.” But distinction is important in this instance. President Obama talked in his State of the Union address about a five-year freeze in domestic spending. However, his baseline is current spending. The House Republicans are talking about a 2008 baseline. Big difference at the starting gate of new cooperation.

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the leadership line-up, these folks are very competent legislators. I think they will take every opportunity – and there will be many this session of Congress – to make significant changes to certain provisions of ACA.

The House will shift to more targeted legislation to roll back specific provisions of the law, likely beginning with repeal of the 1099 reporting provision (an effort which currently has bipartisan and White House support). The House is also expected to consider some standalone healthcare measures, likely including provisions dealing with medical malpractice reform and allowing consumers to purchase in-

On January 20, the House Republican Study Committee released an aggressive plan to cut \$2.5 trillion over 10 years, mostly through cuts to discretionary spending; the plan has not yet been endorsed by Republican leaders. In his State of the Union address, President Obama proposed freezing domestic spending for the next five years to reduce the federal deficit by more than \$400 billion over the next decade. For the President to look politically serious on deficit reduction, he will have to come closer to compromise with the House numbers. Bank on members of his own party being outraged when he does. **JHC**

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