



## HEALTH REFORM ADVISORY PRACTICE

### Weekly Legislative Update



**April 28, 2017**

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## **Federal Health Reform Remains Uncertain; California Looks to Take Matters into its Own Hands**

The House Freedom Caucus, widely blamed last month for stalling the American Health Care Act (AHCA), announced this week it will back an amended version of the bill (see our discussion of the proposed amendment in last week's [update](#)).

By no means does this signify the AHCA is destined for passage. The challenge for Speaker of the House Paul Ryan (R-WI), in moving the AHCA to the right to gain votes from the conservative Freedom Caucus, is keeping (and maybe gaining) enough centrist House Republicans to push the bill over the finish line.

Buzz around Washington, D.C., early this week was that a final deal was in reach and a vote could occur before President Donald Trump's 100th day in office, Saturday, April 29. However, it became clear as the week moved along that not enough centrist Republicans were on board for the amended bill to clear the House.

Reports late Thursday indicated around 15 House Republicans remain staunchly opposed to the bill and 20-some are undecided or leaning toward a "no" vote. Assuming zero support from Democrats (one of the few assumptions we feel relatively comfortable making), House Republicans can only lose 22 votes.

Some moderates within the GOP have been consistently opposed to the bill, citing coverage losses, projected cost increases in 2018 and 2019 and Medicaid cuts. Now other moderates have expressed opposition to the recent amendment, fearing political backlash over the prospect of higher premiums for individuals with preexisting conditions. Even some members in the GOP's right flank are opposed to the amended legislation because it does not go far enough to unravel the Affordable Care Act (ACA).

**Lockton comment:** A common narrative has been the right-leaning Freedom Caucus forced Speaker Paul Ryan to pull the AHCA before a vote last month, but it is important to remember many centrist Republicans were also opposed to the bill. It was

speculated that some of the opposition among centrists was sincere, while others did not want to be tied to a “yes” vote on a divisive bill that was expected to fail. With the prospect of a new vote looming, it appears sincerely-held opposition among moderate Republicans is stronger than once believed.

Complicating a potential vote (whether this week or next) is a looming government shutdown if a funding bill cannot be passed. As of this writing, it appears the House and Senate will pass a one-week extension to fund the government, dragging out negotiations and pushing the vote on a permanent funding bill to next week. Republicans need the help of Democrats, at least in the Senate, to pass a funding bill, and some Democrats have indicated they will block the funding bill if Republicans move forward on an AHCA vote.

Whether for lack of votes or partisan politics, the prospects remain unclear for a vote on the amended AHCA. A House recess is scheduled the week of May 8th, so inaction next week likely pushes a vote into late May.

### **White House Releases Tax Reform Proposal**

Adding to an already busy week, the Trump Administration unveiled a high-level summary of its plans for tax reform. Among other priorities, the proposal calls for a significant reduction in the corporate income tax rate, doubling of the standard deduction and repeal of the estate and alternative minimum taxes.

***Lockton comment:*** The White House’s plan also calls for repeal of the ACA’s 3.8 percent tax on investment income. Mention of this tax as part of tax reform calls into question prior comments by the White House and congressional leadership that indicated repeal or modification of any ACA-related taxes would be left to health reform, not tax reform. Interestingly, elimination of this particular tax appears to be important enough to find its way in both, as the AHCA includes a provision eliminating the tax beginning in 2018.

Avoiding deficit spending will require significant changes to current tax preferences in order to offset the lost revenue from the proposed tax cuts. One potential, maybe even likely, target is the tax-free nature of employer-provided health coverage. This employee income tax exclusion for health benefits, which we describe in our [blog post](#), represents the single largest tax incentive under the current tax rules. Making even some portion of employer provided health coverage taxable to employees is likely to increase costs for employers through additional payroll taxes and a migration of healthy individuals away from the employer plan, thereby skewing the plan’s risk pool toward higher cost individuals.

### **California’s Single-Payer Initiative Advances ... Without a Funding Plan**

California’s latest effort to enact a single-payer healthcare program for the state cleared a small legislative committee this week, but as yet there is no plan for funding the initiative’s massive price tag.

The proposed bill, S.B. 562, titled the Healthy California Act, cleared the state senate’s Health

Committee by a 5-2 vote. The bill proposes to create a state-run healthcare program covering all California residents, including undocumented immigrants.

Program participants would pay no premiums, deductibles, co-payments, co-insurance or other out-of-pocket costs for their medical care. The program would cover a vast array of services:

“[A]ll services covered by Medi-Cal, Medicare, the [ACA’s] essential health benefits, and all health...insurance mandated benefits. Benefits required include chiropractic, vision, dental, ancillary health or social services previously covered by a regional center, skilled nursing facility care, and therapies...”

The bill would abolish private health insurance in the state, except when private coverage merely fills gaps in the state program. Medicare enrollees would receive their care through the state program.

But the bill does not outline a method for paying for the program. The intent of the bill’s authors is to collect all federal healthcare dollars provided to California (Medicaid, Medicare, ACA-related funds and any others) in a trust fund to help pay for the program and then raise additional revenue through other as yet to be determined sources.

***Lockton comment:*** It always comes down to dollars and cents. No state has more state income tax brackets or a higher top-line state income tax rate than California. And state and local sales taxes in the Golden State can already reach nearly 10 percent in some areas. It will be interesting to see how state policy makers intend to pay for such a hugely generous program and how taxpayers will react. The financing challenge has sunk single-payer initiatives in Vermont and Colorado in recent months.

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