



## HEALTH REFORM ADVISORY PRACTICE

### Weekly Legislative Update



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August 11, 2017

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## President Trump, Other Conservatives Push for Congress to Reconsider Health Reform Following Recess

Republican lawmakers continue to debate, both publicly and privately, whether major health reform should be on the table when Congress reconvenes in September. Many GOP lawmakers have expressed disappointment about their inability to pass comprehensive, or even partial, health reform legislation before the August recess. Some in the party, including President Donald Trump, want to keep health reform on the agenda, while others are ready to move on to tax reform.

We know Congress will have to take up some health-related legislation by the end of September, including funding for the Children's Health Insurance Program, community health centers and pieces of Medicare. Speculation continues to grow that legislation created to fund these popular initiatives may be used as a vehicle for broader health reform provisions—most notably provisions to stabilize the individual health insurance market.

***Lockton comment:*** It remains to be seen whether Congress would again attempt to tackle weightier issues, like repeal of the Affordable Care Act's (ACA) employer or individual mandate, or some of the ACA-imposed taxes. We think it unlikely.

Some Republicans are reluctant to provide support for repairing the ACA marketplaces (and individual health insurance market generally) before taking another shot at dismantling the ACA. This week, President Trump criticized Senate Majority Leader Mitch McConnell (R-KY) for failing to pass repeal and replace legislation through the Senate, tweeting, "Can you believe that Mitch McConnell, who has screamed Repeal & Replace for 7 years, couldn't get it done." He went on to call on Congress to keep after "repeal and replace." The President's comments come on the heels of statements made by Leader McConnell at a constituent event where he said Trump "had excessive expectations about how quickly things happen in the democratic process."

Despite the push by McConnell and other Senate leaders to move on to tax reform, there continues to be some buzz surrounding a proposal by Sens. Lindsey Graham (R-SC) and Bill Cassidy (R-LA). That proposal, still being refined, aims to provide states with more flexibility, and money, to develop their own health reform solutions. States that want to keep the ACA would be allowed to do so, but many key ACA provisions like the employer mandate would be eliminated at the federal level.

**Lockton comment:** As we've indicated before, a state-by-state approach without a federal opt-in safe harbor could create all sorts of headaches for multistate employers. ERISA was passed in 1974, in part, to provide a uniform set of rules for plan sponsors that were being dogged by the administrative complexities and costs associated with a patchwork of state-by-state regulation. We have been assured the intent of the proposal is not to burden multistate employers, but it remains unclear how these employers will be protected if the Graham-Cassidy proposal moves forward.

Across the Capitol in the House chamber, the Freedom Caucus, which makes up the far-right flank of the GOP House membership, has begun to pressure Speaker of the House Rep. Paul Ryan (R-WI) by filing a petition to require the whole House to vote on a bill to repeal the ACA with a delayed effective date of two years. Like Leader McConnell, the Speaker has advocated moving on to tax reform.

**Lockton comment:** The objective of the Freedom Caucus remains unclear. The bill they are proposing is one of the three bills the Senate voted down two weeks ago, so it appears the legislation would be dead on arrival at the Senate even if it is approved by the House. It appears to be a political ploy, forcing Republicans – who voted overwhelmingly for straight repeal two years ago, when they knew it would never become law – to vote again. Sen. McConnell forced a similar vote in the Senate two weeks ago, largely for the same reason.

### **Programming Note – No Legislative Update Next Friday**

Fear not! Instead, we'll be hosting a webinar on Friday, August 18 beginning at 2 CDT, titled "ACA Repeal Becomes ACA Repair: Where Congress – and the States – Go From Here, and What it Means for Employers."

Please register [here](#), or reach out to your Lockton contact if you haven't yet registered and would like to join.

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