



April 7, 2017

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell, and Minority Leader Schumer:

On behalf of the American College of Physicians (ACP), I am writing to urge Congress to move away from the harmful changes to patient care that would occur if the American Health Care Act (AHCA) were to become law, and to instead work for bipartisan solutions to improve the Affordable Care Act (ACA) rather than repealing and replacing it. We believe that the AHCA, which would repeal and replace the most important coverage and consumer protections created by the ACA, is so fundamentally flawed that it cannot be made acceptable. Yet we understand that the House leadership is continuing to explore ways to bring a modified version of the AHCA back to a vote after the congressional recess, and even worse, potentially with additional policies that would create new coverage barriers for patients with pre-existing conditions.

We are especially concerned that an amendment reported out of the House Rules Committee on April 6th presages an effort by the House leadership to repeal or weaken Title I of the ACA in a subsequent revised version of the AHCA. Title I is the part of current law that ensures that patients cannot be turned down or charged more for pre-existing conditions, prohibits insurers from establishing annual and lifetime caps on coverage, and guarantees that all plans cover essential benefits like doctor and hospital visits, prescription drugs, mental health and substance use disorder treatment, and other evidence-based health care services. The April 6th amendment to establish the “Federal Invisible Risk Sharing Program,” which would create a fund that states could use to reimburse insurers for some of the costs associated with insuring sicker patients, would only be necessary if the ACA’s Title I consumer protections—such as community rating, guaranteed issue, and essential health benefits (EHBs)—were subsequently weakened or repealed altogether, eliminating the cross-subsidization from healthier persons to less healthy ones that is at the core of the ACA’s pre-existing condition protections. Moreover, the April 6th amendment does not in any way make up for the other harmful policies from the AHCA that would result in 24 million Americans losing health insurance coverage.

The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 148,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

We have already expressed to you our [view](#) that the ACHA violates the principle that Congress must ensure that any possible changes to current law, including to the ACA, the Medicaid program, and the Children's Health Insurance Program should [first, do no harm](#) to patients and ultimately result in better coverage and access to essential medical services. We have [expressed](#) our specific concerns about the adverse impact on patients that would result from repeal of federal requirements relating to EHBs and Medicaid block grants as reported out of the Rules Committee.

For these reasons, we had strongly urged that members of the House and Senate commit to voting against the legislation. When the AHCA was withdrawn from consideration on March 24th, we were hopeful that this signaled a willingness to move away from the flawed and harmful policies in the AHCA to consideration of bipartisan approaches that would improve and build upon the ACA, while making other needed improvements in health care. Rather than moving away from the AHCA to consensus on true bipartisan improvements in current law, though, it's been widely reported that efforts are being made to get agreement among the House majority on a revised bill that would *gut existing law protections for the more than one out of four Americans with pre-existing conditions*—like cancer, diabetes, or heart disease—making insurance unaffordable to those who need it most. Specifically, we are concerned about and would strongly oppose the following changes reportedly under consideration:

Repeal of Community Rating and the Undermining of Guaranteed Issue:

We understand that consideration is being given to allow states to apply for waivers to replace the ACA's strict community rating requirements (which ensures that everyone in the same geographic area pays the same insurance premium for the same insurance policy, regardless of their health, partially adjusted only by age, tobacco use, and family size) **with experience-rated premiums** (premiums based on an individual person's health history and risks), **so that insurers in many states would again be allowed to charge people exorbitant and unaffordable premiums for their pre-existing conditions.** It has also been reported that consideration is being given to allow states to obtain waivers to eliminate current law guaranteed issue requirements.

Before the ACA, insurance plans sold in the individual insurance market in all but five states typically maintained lists of so-called "declinable" medical conditions—including asthma, diabetes, arthritis, obesity, stroke, or pregnancy, or having been diagnosed with cancer in the past 10 years. Even if a revised bill would not explicitly repeal the current law's *guaranteed-issue* requirement—which requires insurers to offer coverage to persons with pre-existing conditions like these—*guaranteed issue without community rating allows insurers to charge as much as they believe a patient's treatment will cost.* The result would be that many patients with pre-existing conditions would be offered coverage that costs them thousands of dollars more for the care that they need, and in the case of patients with expensive

conditions like cancer, hundreds of thousands more. Even if the guaranteed-issue language remains in the law, the requirement will be rendered toothless as more and more people with pre-existing conditions are locked out of the insurance market because coverage is unaffordable.

We know from experience what can happen if states allow insurers to replace community-rated premiums with experience-rated premiums. Prior to the ACA, [only 7 states](#) had restrictions that prevented individual market insurers from varying premiums based on a person's health status. If the community rating requirement is eliminated, an insurer could, for example, charge cancer patients as much as it determines the patient's chemotherapy and other treatments would cost—typically hundreds of thousands in anticipated costs—making coverage unaffordable for them. Combined with the original bill's inadequate tax credit premium subsidies and repeal of the ACA's cost-sharing subsidies, guaranteed issue without community rating will mean that most people with pre-existing conditions will simply be priced out of the market, leaving them uninsured. While the bill may provide optional funding to the states to establish high risk pools or reinsurance for such patients, the pre-ACA experience with high risk pools was that many had long waiting lists, and offered inadequate coverage with high deductibles and insufficient benefits.

Repeal of Essential Health Benefits (EHBs):

We are concerned that the revised bill may allow states to seek waivers from the essential health benefits required of all plans sold in the individual insurance market, with the result that millions of patients will be at risk of losing coverage for essential services like maternity care, cancer screening tests and treatments, prescription drugs, preventive services, mental health and substance use disorder treatments, and even physician visits, prescription drugs and hospitalizations.

We also know from experience that leaving the determination of covered benefits to the states will leave millions of people with reduced access to care and higher out-of-pocket costs and could leave people with pre-existing conditions unable to find plans that cover the services they most desperately need. This policy would result in insurers dropping benefits to discourage enrollment of sicker patients so those with pre-existing conditions won't be able to find coverage at any price, much less an affordable one. Prior to [passage](#) of the ACA, 62% of individual market enrollees did *not* have coverage of maternity services, 34% did *not* have substance use disorder services, 18% did *not* have mental health services and 9% did *not* have coverage for prescription drugs. A [recent independent analysis](#) found that the AHCA's repeal of current law required benefits would result in patients on average paying \$1,952 more for cancer drugs; \$1,807 for drugs for heart disease; \$1,127 for drugs to treat lung diseases; \$1,607 for drugs to treat mental illnesses; \$4,940 for inpatient admission for mental health; \$4,555 for inpatient admission for substance use treatment; and \$8,501 for maternity care. Such increased costs would make it practically impossible for many patients to avail themselves of the care they need. The result will be delays in getting treatment until their illnesses present at a more advanced, less treatable, and more expensive stage, or not keeping up with life-saving medications prescribed by their physicians.

Moreover, ACP continues to oppose the AHCA due to the following provisions and policies that remain in the current version of the bill:

- The phase-out of the higher federal match in states that have opted to expand Medicaid and the ban on non-expansion states being able to access the higher federal contribution if they choose to expand Medicaid;
- Converting the shared federal-state financing structure for Medicaid to one that would cap the federal contribution per enrollee;
- Providing states with a Medicaid block grant financing option;
- Eliminating EHBs for Medicaid expansion enrollees;
- Imposing work or job search requirements on certain Medicaid enrollees;
- Regressive age-based tax credits, combined with changes that will allow insurers to charge older people much higher premiums than allowed under current law;
- Continuous coverage requirements for patients with pre-existing conditions;
- Legislative or regulatory restrictions that would deny or result in discrimination in the awarding of federal grant funds and/or Medicaid and Children’s Health Insurance Program funding to women’s health clinics that are qualified under existing federal law for the provision of evidence-based services including, but not limited to, provision of contraception, preventive health screenings, sexually transmitted infection testing and treatment, vaccines, counseling, rehabilitation, and referrals, and;
- Elimination of the Prevention and Public Health Fund, which provides billions in dollars to the Centers for Disease Control and Prevention to prevent and control the spread of infectious diseases.

The College strongly believes in the *first, do no harm* principle. Therefore, we continue to urge that Congress move away from the fundamentally flawed and harmful policies that would result from the American Health Care Act and from the changes under consideration that would make the bill even worse for patients. We urge Congress to instead start over and seek agreement on bipartisan ways to improve and build on the ACA. The College welcomes the opportunity to share our ideas for bipartisan solutions that would help make health care better, more accessible, and more affordable for patients rather than imposing great harm on them as the AHCA would do.

Sincerely,



Jack Ende, MD, MACP
President

Cc: Members of Congress