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Let's Make Health Insurance Legal Again

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Last month, Congress approved a budget that set in motion the plan to repeal the Affordable Care Act. Using an arcane Senate legislative rule called "budget reconciliation," this allows repeal of enough of the ACA to bring it to its knees. But until and unless additional legislation is passed, the ACA's regulations of health insurance will remain in place, and people will continue to suffer

With the implementation of the Affordable Care Act in 2014 an effective ban on many forms of health insurance policies went into effect. Until then people were able to purchase any type of insurance policy that an insurance company was willing to sell them. Insurance companies were free to innovate and create new products.

For example, a new invention, "health status insurance," was already sprouting up in the marketplace. This allowed people to insure themselves against the costs of developing a medical condition that would render them otherwise "uninsurable." The ACA banned it.

This kind of ban stalled innovation that has been present in the insurance market since it first started. Insurance was developed in London in the 17th century, offering a way to spread the risks of unforeseen, unpredictable, highly costly events from an individual or business to the larger community. Insurers were able to design and actuarially calculate the price — based upon statistical risks — of an insurance policy to suit virtually any imaginable occurrence. The advent of the ACA, took many of these specialized policies off the table.

The ACA upended insurance companies as the designers of insurance plans. Instead, the government designed a "one-size-fits-all" plan. It uses a tax called the "individual mandate," which penalizes people for buying any other kind of health insurance not deemed "ACA-

compliant." It eliminated the nascent "health status insurance" market by forcing all people to pay, through their premiums, for the coverage of people with costly pre-existing conditions.

The ACA ended the practice of premiums for individuals that was calculated depending on statistical risk. Now everyone must be charged the same, regardless of pre-existing conditions or risky behavior. This snuffed out in the crib any other new innovations in health insurance product design. The ACA even determined the times of the year that people can buy health insurance. Imagine if there was only a designated time of year one was legally allowed to buy and sell cars, computers or cellphones.

The ACA ended health insurance as we define it. In its place it put a government-designed health plan, administered by the insurance companies, that everyone is compelled to buy. It removed from insurance companies their definitive role of assessing risk and calculating individual premiums accordingly.

It changed the role of health insurance from that of spreading the cost of unforeseen, extremely expensive events to spreading the costs of everyday, totally predictable events. Health insurance companies were essentially transformed into money-transferring agencies.

Today people in 300 counties find there is only one insurance plan available on the individual market. But even if there were more than one plan, the choices are minimal. It's reminiscent of the old days of airline regulation, in which the government determined the routes and the fares of the airlines, and their only differences pertained to the food and the amenities offered.

The 115th Congress is poised to take up the matter of repealing and replacing the Affordable Care Act. Repeal advocates say they want to make health insurance truly affordable and accessible to as many people as possible.

A good place to start would be to unchain the people and the insurers from the mandates and constraints imposed by the planners in Washington. Let people shop for insurance that suits their individual needs, and let insurance companies develop new products and compete for the people's business.

Other critical reforms include breaking up the state-based insurance cartels by allowing health insurance consumers to shop across state lines. Congress should also give the people more control over when and how much to spend on health care through expanded tax-free Health Savings Accounts.

But we will never reach the goal of health insurance affordability and accessibility until we make innovative health insurance legal again.

Jeffrey A. Singer is a general surgeon in private practice in metropolitan Phoenix, AZ. He is principal and founder of Valley Surgical Clinics, Ltd., the largest and oldest group private surgical practice in Arizona. He was integrally involved in the creation and passage of the Arizona Health Care Freedom Act, and serves as treasurer of the US Health Freedom Coalition, which promotes state constitutional protections of freedom of choice in health care decisions.