the FEDERALIST

4 Health Care Reforms That Will Cut Costs Without Repealing Obamacare

Tyler Arnold

September 19, 2017

While Democrats champion the Affordable Care Act, some moderate Republicans are too worried to fully repeal the bill fearing that some individuals will lose coverage.

The ACA did, in total, increase the number of insured Americans, but at an unnecessary cost. People lost plans they wanted. Many saw their premiums increase. Taxes and fees went up. Regulations held back competition. Nearly two-thirds of doctors said Obamacare decreased health-care quality. The country, already with a doctor shortage, increased demand for doctors with no increased supply, which often leads to rationing and denying care. This is precisely what has happened in the United Kingdom.
Access could have been increased without these side effects. We could have increased access, improved quality, and decreased costs with four reforms: medical licensing, prescription drug regulation, Food and Drug Administration approval streamlining, and better patent law.

If politicians want to pass real affordable care, instead of sucking up to insurance companies, they would tackle these reforms to help the middle and lower class.

1. Reform Medical Licensing
In most states, only licensed doctors are permitted to autonomously care for patients. However, in a growing number of states, advanced practice registered nurses (APRNs) have been granted full-practice authority in their specialized area.

According to a Duke University study, the influx of nurse competition resulted in comparable, and sometimes superior, care. A RAND Corporation report studying the effects of expanding practice to APRNs in Ohio showed an increase in health care access and use. It also showed that costs will decrease for services that nurses and doctors both provide. Permitting APRNs to practice autonomously in other states should yield similar results. This would fulfill many outcomes politicians are seeking without any negatives.

Unfortunately, doctors' lobbies call the change dangerous despite its widespread success, in order to protect themselves from competition. Nobel-Prize-winning economist Milton Friedman explained that licensing laws harm medical service because when physicians are

deciding who gets to be a physician, they try to keep out as much competition as possible to increase their average income.
While strict licensing laws help doctors, competition with non-doctors has benefited consumers, improving health costs, quality, and access. This change is a state-level reform.

2. Revamping Prescription Drug Regulations
Many Americans with chronic conditions have to visit the doctor frequently to get their prescriptions. If they pay deductibles, this can quickly become expensive. Medicineslike albuterol for asthma, the EpiPen for bee stings, statins for cardiovascular problems, and insulin for diabetes should not be treated as aggressively as addictive painkillers. They do not pose a similar risk.

Physician Harlan Levine argues that permitting more drugs to be sold over the counter wouldn't only save on doctor visits, but also medicine costs. In a *New York Times* article, he said this will bring the drugs into direct competition with over-the-counter medication, decreasing costs, especially for uninsured Americans. As an example, Levine pointed toward Clariton. After the anti-allergy medicine was sold over the counter, a month's supply became only $1.50.

Digging deep into current prescription laws and reducing regulations on drugs that pose a very small risk will reduce total health-care costs by decreasing the need for doctor visits. It will also open access to doctors across the country.

3. Deregulating the FDA Approval Process
The U.S. Food and Drug Administration's approval policies put lives at risk more directly than any of the other examples do, because they deny Americans life-saving medication.

"By a conservative estimate, FDA delays in allowing U.S. marketing of drugs used safely and effectively elsewhere around the world have cost the lives of at least 200,000 Americans over the past 30 years," Robert Goldberg of Brandeis University said, according to the Cato Institute.

One example is the FDA's sluggish approval of a pulmonary fibrosis drug called pirfenidone. Although finally approving the drug in 2014, the FDA was six years behind Japan, three years behind Europe, and two years behind Canada. It was even four years behind the FDA's own advisory committee, which said to approve the drug in 2010.

Between 2010 and 2014, while Americans awaited FDA permission (because apparently they know how to run our health care better than our doctors and we do), 150,000 Americans died of idiopathic pulmonary fibrosis, which may have been treated with the drug.

The House and Senate passed a national right-to-try bill, which would permit terminally ill patients to try experimental medication. If President Donald Trump signs this, it will be a good first step. However, companies are still sometimes reluctant to sell drugs that have not been FDA-approved, meaning the approval process would still need to speed up. Also, this fix only applies to terminally ill patients, so it does not help patients who need help but aren't terminally ill.

Other FDA regulations are stifling medical innovation, raising costs on consumers. In 1991, because of the FDA's unnecessarily bureaucratic approval process, a pharmaceutical company would have to make $412 million (in 2013 dollars) for a new drug development to be worthwhile. More expensive trial costs, among other things, have raised that threshold to $2.558 billion (in 2013 dollars). Some of these costs are pushed down to consumers, while others make the investment useless and stifle innovation. FDA reform would improve health-care quality and cost.

4. Better Patent Law

Patents grant manufacturers a temporary monopoly on the production of goods they have invented. This prevents other companies from competing with them and producing more of the goods. This artificially raises costs and causes shortages.

For example, biotechnology company Genzyme patented the drug Fabrazyme, which helps cure a deadly disease called Fabry disease. The disease is genetic and prevents a person from being able to produce an enzyme called alpha-galactosidase A. This can cause life-threatening heart, kidney, and brain problems. Genzyme did not have the man-power to produce enough of the medicine, so patients were getting rationed doses. In 2010, the victims of the rationing petitioned the National Institutes of Health to allow other companies to produce the drug and pay royalties to Genzyme. They were denied.

Reforming patent laws to be shorter or to allow other companies to manufacture a product while having to pay a royalty would be progress.

"As a result of rationing, all petitioners have had their symptoms return, including pain and burning in their extremities (neuropathy); decreased kidney function (proteinuria), severe gastrointestinal symptoms, and cardiac problems," C. Allen Black, Jr., a patent attorney representing two of the victims, said in 2011. One of his clients was receiving 30 percent of his dose, while the other was receiving no medicine.

One woman, who believes her husband died from the shortage, filed a lawsuit against Genzyme. The court, however, dismissed the claim, because the company did not have a legal obligation to meet consumer demand. But doesn't the government have some responsibility for these consequences, since it is the entity that forbade an expansion of the drug's availability? Intellectual property lawyer Stephan Kinsella explained that the federal government was able to impose a "compulsory license," which would mean that others could produce the product and pay royalties to Genzyme. They also could have approved an alternative drug that could help with the shortages.

Intellectual property rights are not treated the same as tangible property rights. Physical property is owned indefinitely, while patents expire and are treated more loosely. Reforming patent laws to be shorter or to allow other companies to manufacture a product while having to pay a royalty would be progress. This would permit market competition and protect the market from a government-enforced monopoly.

Virtually nobody believes patents should exist indefinitely, so there is wiggle room with dealing with it. A free, capitalist approach is to permit as much competition as possible, not to hold onto long-term monopolies that cause shortages and high prices.

Individual choice, not government micromanagement, is the answer to the health-care crisis. Any repeal plan should follow with (or include) a plan that gives the people more control over their health care, and allows the market to function. We cannot continue with the failed ACA, nor can we go back to the previous system.