

Survey: 16 predictions on the health care decision

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By Scott Bomboy | National Constitution Center – 16 hrs ago

How will the Supreme Court rule on the Affordable Care Act? We've gathered 16 predictions from published articles, and the opinions are surprising and divisive.

When we looked at coverage from late March until mid-June, there was a lack of consensus on how the nine justices have ruled on the Affordable Care Act. (The decision is expected to be announced on June 25.)

The Affordable Care Act, also called Obamacare by its critics, mandates that all Americans buy health insurance to offset some of the costs of allowing more people to have health care coverage, despite having pre-existing conditions.

The Supreme Court ruling might strike down the individual mandate or the entire law, or the court might uphold the entire law.

[On June 6, the National Constitution Center hosted six legal experts](#), including Randy Barnett and Jack Balkin, two lawyers at the front of the issue.

Moderator John Hockenberry asked the six experts for predictions on the ruling—and he was able to get two predictions, and four “no predictions.”

Here are 16 different opinions we found online, including three from our panel of health care legal experts. They range from politicians to lawyers to administrators.

President Barack Obama

“President Barack Obama predicted ... that the Supreme Court would uphold his signature health-care law and said that overturning it would be a prime example of judicial overreach.”

<http://online.wsj.com/article/SB10001424052702304023504577319944075184350.html>

Mitt Romney

“The GOP presidential candidate says he'll lead the movement to repeal all of part of the law if it is upheld by the Supreme Court.”

<http://www.talkradionews.com/election-12/2012/06/06/romney-predicts-dem-support-for-health-care-repeal.html>

Jeffrey Toobin, CNN

“This law looks like it’s going to be struck down. I’m telling you, all of the predictions, including mine, that the justices would not have a problem with this law were wrong,” Toobin said Tuesday on CNN. “I think this law is in grave, grave trouble.”

<http://thehill.com/blogs/blog-briefing-room/news/218427-toobin-obama-healthcare-reform-law-in-grave-grave-trouble>

Robert Field, a professor of law in the department of health management and policy at Drexel University’s School of Public Health

“Based on [Tuesday’s arguments], I predict [Justice Kennedy] would rule against it [the mandate]. Of course, I have to preface that by saying that predictions are always dangerous. ... He added, however, “I would predict that they will not rule against the act as a whole. There’s just too much there that is clearly unrelated to the mandate.”

<http://news.yahoo.com/legal-experts-offer-predictions-fate-health-reform-legislation-200410482.html>

Nancy Pelosi

“We believe that this bill constitutionally is ironclad,” she told a crowd of about 550 at a Commonwealth Club event at the Fairmont Hotel. “I expect a 6-3 ‘aye’ verdict from the Supreme Court.”

Marilyn Tavenner, acting administrator of the Centers for Medicare & Medicaid Services (CMS)

“Speaking at a June 7 session of the Accountable Care Organization Summit, said she was optimistic the ruling will support the ACA.”

<http://www.govhealthit.com/news/cms-chief-optimistic-supreme-court-will-uphold-healthcare-reform>

David Lauter, Los Angeles Times

“How well can Supreme Court votes be predicted by what justices say in oral arguments? The statistics hold up pretty well, and offer gloomy tidings for the Obama administration and its healthcare law.”

<http://www.latimes.com/news/politics/la-pn-bad-omen-for-health-care-law-many-comments-from-the-justices-20120329,0,1003697.story?track=rss>

Intrade

The online prediction market shows that 70 percent of speculators believe part of the ACA will be ruled unconstitutional.

<https://data.intrade.com/graphing/jsp/closingPricesForm.jsp?contractId=745353&tradeURL=https://www.intrade.com>

Ilya Shapiro, Cato Institute (in late March 2012)

“I think it’s likely they’ll strike down the mandate. It was stunning the questions that Kennedy leveled at the solicitor general.

<http://www.thedailybeast.com/articles/2012/03/29/7-experts-try-to-read-supreme-court-health-care-tea-leaves.html>

Ron Paul

“We must recognize that the federal judiciary has an abysmal record when it comes to protecting liberty. It’s doubtful the entire law will be struck down. Regardless, the political left will continue its drive toward a single-payer, government run health care system.”

<http://blog.chron.com/txpotomac/2012/04/ron-paul-says-supreme-court-has-utterly-abused-commerce-clause-but-hopes-it-will-overturn-obamacare-abomination/>

Howard Dean

“I do believe that it’s likely the individual mandate will be declared unconstitutional,” he continued. “[Justice Anthony] Kennedy will probably side with the four right-wing justices. But I’d be very surprised if they — I think Kennedy will switch sides and it will be 5-4 in favor of severing that finding from the rest of the bill. The question is going to be, is this individual mandate question — can that be considered separately from the rest of the bill? And I think it will be.”

<http://dailycaller.com/2012/03/26/howard-dean-predicts-supreme-court-will-declare-individual-mandate-unconstitutional/#ixzz1xmHZUDEJ>

Daniel Fisher, Forbes writer

“I’m guessing when the justices sit down and contemplate the enormity of striking down all or part of a law of this magnitude, especially months before what will be a national referendum on same, at least a few of them will blink. It only takes one.”

<http://www.forbes.com/sites/danielfisher/2012/03/29/obamacare-will-survive-the-supreme-court-heres-why/2/>

Rep. Steve King (Iowa)

“I think the Supreme Court will come down with a ruling, 5-4, to find the individual mandate is unconstitutional,” King predicts. “And I think that they will rule that it’s not severable. In other words, if part of it has to go, all of it has to go. If they vote on that and publish it, I think it’s probably going to be 6-3, just listening to the questions of the justices that are there. They understand what kind of a mess they would create if they find part of it unconstitutional, but not the rest of it.”

<http://theiowarepublican.com/2012/steve-king-predicts-supreme-court-will-rule-obamacare-unconstitutional/>

Mike Huckabee

“I look at this healthcare bill as a big bowl of stew, and at this point the Supreme Court may say there’s some tainted meat in that stew that we’re going to take out. I don’t know, if you take the tainted meat out, if anybody would still want to eat it.

<http://www.newsmax.com/Newsfront/huckabee-obama-healthcare-court/2012/03/28/id/434163>

Jamal Greene, Columbia Law

6-3 to uphold, in comments made at the National Constitution Center's Health Care Forum

<http://blog.constitutioncenter.org/2012/06/what-happens-after-the-court-rules-on-health-care/>

Stephanos Bibas, University of Pennsylvania Law School

5-4, all struck down, in comments made at the National Constitution Center's Health Care Forum

<http://blog.constitutioncenter.org/2012/06/what-happens-after-the-court-rules-on-health-care/>

Scott Bomboy is the editor-in-chief of [Constitution Daily](#).