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PERSPECTIVE

Health care reform behind closed doors

By Michael C. Parme

Behind closed doors, Senate aides work furiously on a piece of legislation that will potentially define the trajectory of health care for the next generation of Americans. Despite the legislation's potential impact on millions of Americans and its effect on a huge segment of the national economy, there appears to be no plans to bring the legislation to the Senate floor for debate, nor to any committee for hearing. Rather, the goal appears to be to obtain 50 votes in the Senate so that Vice President Mike Pence can cast the tiebreaking vote. The polarization that characterizes this political moment has culminated in what is quickly becoming a new normal in Congress — clandestine party meetings far removed from the scrutiny of political opponents and media.

It is quite possible that the details of any Senate bill will be disclosed immediately prior to bringing it to the Senate floor for a vote. With precious little time before the Senate recesses for July Fourth, Senate Republicans are likely working furiously to revise the bill and assemble the necessary votes. Meanwhile, public scrutiny increases as Senate Democrats and the White House provide their input.

Partisan Opposition

Senate Republican leaders are feeling pressure from across the aisle. On June 8, Sen. Claire McCaskill (D-Mo.) gave a scathing criticism of the secretive approach undertaken by Republicans to draft the bill. After the chair of the Senate Finance Committee, Orrin Hatch (R-Ut.), refused to confirm whether there would be any hearings regarding the proposed health care bill, McCaskill said, "I heard ... that you want our support — for what? We don't even know. We have no idea what is being proposed. There's a group of guys in a back room somewhere making these decisions."

McCaskill's remarks point to the fact that the Senate has deviated from regular order and appears unwilling — as was the case when the House passed its bill in May — to allow the type of hearings or amendments that led to the passage of the Affordable Care Act (ACA).

Republicans, such as Senate Majority Leader Mitch McConnell (R-Ky), have responded by arguing that the hearings on health care preceding the passage of the ACA were sufficient. While McCaskill's appeal to Senate Republicans for a voice in the legislative process has received traction in



New York Times News Service

Sen. Claire McCaskill on Capitol Hill in Washington, Feb. 3.

the media, she, like other Senate Democrats, has no choice but to wait for the Senate bill to be made public.

Mixed Signals

On May 4, the day after the House of Representatives passed its repeal and replace bill, the American Health Care Act (AHCA), the White House applauded the proposed legislation. President Donald Trump held a ceremony in the Rose Garden, which was attended by Vice President Pence, members of the president's cabinet, and House Republicans. "What we have is something very, very incredibly well-crafted," the president announced to attendees.

However, just over a month later, multiple news outlets are reporting that the president has characterized the House bill as "mean" and has expressed support for a Senate bill that more thoroughly protects the individuals in the health care marketplace. These statements not only cast doubt on the White House's prior endorsement of the House bill, they fuel negative press for Republican efforts to repeal the ACA.

Nevertheless, while the White House may now hope for a Senate bill that better safeguards the essential health benefits currently provided under the ACA, it is almost certain the White House will support whatever legislation passes. In reality, President Trump has invested an enormous amount of political capital in his promise to repeal and replace the ACA, and any bill that musters a majority vote will likely be backed by the White House.

What to Expect

It is difficult to project what the Senate health care bill will say because the drafting process has been shrouded in secrecy. For those hoping for a health care bill significantly different than the House bill, they are likely to be disappointed. In

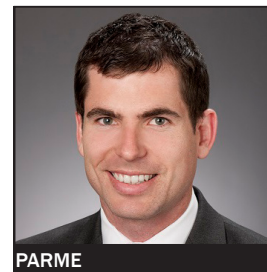
the end, it is likely that the Senate bill will resemble the House bill.

Republicans have been promising to repeal the ACA for so long, and legislation that is out of sync with the House proposal might doom the health care repeal and reform movement. That would have significant, to say the least, political costs in the next election cycle. Given that Republicans control both Congress and the White House, failure to build consensus within the party on repeal and reform legislation would reflect poorly on the party and its leadership. As such, the high political stakes should be sufficient for a bill similar to the House version of the AHCA to capture the necessary votes in the Senate.

Additionally, once passed by the Senate, the bill would need to go to a Conference Committee, during which, representatives from the House and Senate will need to provide a conference report to be approved by both the House and Senate. This essentially means that the report must ultimately get the support of the House Freedom Caucus. This group of hard-line conservatives have demonstrated they will put principle over party. Given the delicate compromises that eventually led to the AHCA's approval in the House, Senate Republicans are unlikely to deviate too far from substantive concepts such as those embodied in the House bill's MacArthur Amendments (which allow states to apply for waivers regarding key provisions of the ACA) to avoid the risk of alienating key votes in the House.

We should expect the Senate bill on the floor for vote before July, and just as was the case with the House vote, we should expect the Senate to move very quickly once the bill is made public.

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