

What's Next For ACA Repeal?

By **Michael Parme**

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On July 27, 2017, shortly after midnight, debate closed on the Senate health care bill and the so-called “skinny” repeal was brought to vote. It was anticipated that Senate Democrats would bring a motion to commit, which would fail, and the Senate would then vote on the “skinny” repeal. The “skinny” repeal bill called for repeal of the individual mandate and employer mandate, temporary elimination of certain taxes on medical devices, state waivers of the Patient Protection and Affordable Care Act’s (ACA) essential health benefits, and increased limits on health savings accounts.



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Late-Night Drama

When Senate Republicans held the procedural vote open much longer than anticipated, it signaled they did not have confidence they could obtain the necessary votes for the “skinny” repeal bill. With Sens. Susan Collins, R-Maine, and Lisa Murkowski, R-Alaska, seemingly entrenched in their opposition to the bill, all eyes turned to Sens. Dean Heller, R-Nev., and John McCain, R-Ariz., Republican Senators could not afford a single defection given that all 48 Senate Democrats were united against the bill. As the procedural vote was held open, Vice President Mike Pence could be seen speaking to both McCain and Heller. It had been assumed by many observers that Heller would support the “skinny” repeal, although he had been a swing vote on the motion to proceed earlier that week.

McCain, on the other hand, had become more of a swing vote. Following his vote in support of the motion to proceed, McCain gave a speech to the Senate that called for a return to regular order and bipartisan participation in the legislative process. Before the vote, he and Sens. Lindsey Graham, R-S.C., and Ron Johnson, R-Wis., held a press conference during which they derided the “skinny” repeal as a “disaster” as far as policy. They insisted that the U.S. House of Representatives promise not to approve the “skinny” bill as passed by the Senate. Those assurances were provided later in the day by House Speaker Paul Ryan, R-Wis., who responded, “If moving forward requires a conference committee that is something the House is willing to do.” Following that statement, Graham and Johnson stated they would support the “skinny” repeal bill.

McCain, however, made no such statement. It was clear as the procedural vote was held open that his Republican colleagues and Pence were making a direct appeal for him to support the bill. As the vote was further delayed and McCain walked around the Senate chamber, it became clear he might vote

“no” on the bill. When the vote finally went forward, it was high drama in the Senate. McCain’s name was called and there was no response. Media outlets have reported he was off the Senate floor speaking to Pence. McCain then entered moments later and the Senate was silent as he lifted his arm to be heard and said, “No.” With Murkowski and Collins remaining in opposition, the bill was dead.

What Now?

The bill will go back to committee. In their remarks following the vote, both Majority Leader Mitch McConnell, R-Ky., and Senate Minority Leader Chuck Schumer, D-N.Y., discussed turning the page. McConnell acknowledged the bill’s failure was a disappointment and indicated it was time for Senate Democrats to provide their ideas. Schumer made an impassioned plea to the Senate to return to regular order and mend partisan divides to come up with a bipartisan bill. Although it is unclear what comes next, the mood of the Senate was very much one of turning to other business. That may not be optimal given that there is broad consensus that the ACA has flaws and the insurance markets need to be stabilized. It remains to be seen whether a spirit of bipartisanship can take hold and provide a foothold for future reform, or, alternately, whether Republicans will abandon health care as a priority on the legislative agenda.

Following the vote, President Donald Trump called on Senate Republicans to come up with another health care bill, invoking the rhetoric of partisanship. The comments, however, directly conflict with the sentiments expressed immediately following the vote. Moreover, since the vote, there have been indications that there are some bipartisan efforts underway to come up with a new bipartisan proposal. Sen. Bill Nelson, D-Fla., held a dinner meeting, purportedly to discuss a bipartisan approach to health care reform, with Collins, Murkowski, Sen. Mike Rounds, R-S.D., and certain Senate Democrats.

One proposal that was not voted on last week was the so-called Graham-Cassidy-Heller proposal, which remains the most viable Republican-sponsored bill. This proposal calls for repeal of the individual mandate, employer mandate and medical device tax, while maintaining the requirement that insurers cover pre-existing conditions. The proposal involves deep cuts to Medicaid and leaves taxes on the wealthy in place, allocating tax revenue to the states through block grants designed to give states flexibility to decide how funds are spent. This proposal is yet to be scored by the Congressional Budget Office. Still, it seems unlikely to garner the required 50 votes at this time.

While the ACA remains the law of the land for the time being, it also remains under siege even if there is not a fully crystallized health care reform proposal on the table. Notably, in January 2017, the administration discontinued advertising to facilitate enrollment. Since then, the president has for many months threatened to discontinue subsidies paid to insurers that defray the cost of insuring low-income Americans. Those threats were renewed following Friday’s vote. Such efforts have further destabilized the insurance markets by creating uncertainty for insurers. While Congress’ efforts at health care reform to date have been unsuccessful, abandoning the project leaves the ACA in a compromised position. While the best chance for stabilization of the markets is a bipartisan bill that has the support of the White House, it remains unclear whether there is sufficient political will or time to begin the process over.

Michael C. Parme is a partner at Haight Brown & Bonesteel LLP in San Diego. Parme is co-chair of the firm’s construction law practice group and is a member of the risk management and insurance law, construction law, food safety, and employment and labor practice groups.

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