



## Health Reform Under Attack

By Susan Shargel, President

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***“Trust me; I’m going to make sure this health care bill never ever, ever is implemented.”*** – John Boehner (R-Ohio)) House Speaker, Fox News interview, November 4<sup>th</sup>, 2010

Shargel & Co. is a strong supporter of bipartisan agreement on health reform, and celebrated the passage of the Patient Protection and Affordable Care Act in March, 2010. It is a moderate law with a big goal of bringing affordable health insurance to 30 million uninsured Americans.

Now, not even a year later, I am writing this White Paper to warn of the growing threat to health reform and what that impact would be on our clients: small and mid-sized businesses and their employees.

I urge you to read this paper and take action. Distribute this paper through your social media network. Invite me to speak at your business group. Contact your Congress people and let them know where you stand.

***Why should you care? How will health reform help your business and your employees?***

Few business owners realize that small and mid-sized businesses are the big winners in health reform. The new regulations, effective 2014, will give you a tremendous competitive boost. What’s good for you is good for the economy. Here are just a few of the most significant wins.

### **1. PPACA guarantees that your business can buy health insurance from whichever insurer you choose.**

Insurers will no longer be able to turn down your company or raise your rates due to the health problems of your employees. In California today, while small businesses are guaranteed acceptance by all insurers, mid-sized companies (51–100 employees) with significant medical claims are locked into their current insurance coverage with no protection against rates hikes.

**2. PPACA guarantees your premiums will be comparable to rates other businesses are charged.**

The claims risk will be shared among all companies. Pricing will vary based on employee age, residence, and smoking status.

**3. PPACA enables companies to keep talented employees by making family coverage more affordable.**

Smaller businesses usually contribute far less to their employees' family coverage than larger companies; they can't afford the premium burden. But then they lose talented staff to larger companies. PPACA enables employees with incomes up to \$88K for a family of 4 (400% of federal poverty level) to receive subsidies to reduce their premium cost.

**4. PPACA helps small businesses with the lowest wage employees pay for health insurance.**

Tax credits began in 2010 and will continue.

**5. PPACA set ups new insurance markets to compete for your business.**

Small business insurance exchanges (2-100 employees) begin 2014.

**6. PPACA begins the huge task of bringing accountability to health insurance pricing in 2011.**

The new law requires insurers to spend 80% of premiums they collect on health care costs. If they overestimate their costs, your business will receive a refund.

***If this law is so good for business, what is the problem?***

Some are making the 2010 Patient Protection and Affordable Care Act out to be a left-wing socialist policy, a government takeover of the whole health care system. In fact, it actually represents a moderate approach introduced by Republicans Bob Dole, Orrin G. Hatch and Charles E. Grassley in 1993, as an "alternative to the Clinton health care bill," wrote Washington Post reporter Ezra Klein.

The 1993 Health Equity and Access Reform Act was sponsored by Senator John Chafee (R Rhode Island), plus 19 Republicans and 2 Democrats, and was the formal counter measure to the Clinton reform proposal.

It included an individual mandate requiring individuals to purchase insurance. It prohibited insurers from discriminating against people with pre-existing conditions, provided for a standard benefits package, included subsidies to make insurance affordable, and established state based exchanges and purchasing groups. These are all key provisions of the 2010 law.

***What was the major goal of the 1993 bill? To insure 94% of the American people by 2005.***

***What is the major goal of the 2010 law? To insure 94% of the American people by 2019!***

It is difficult to understand what makes these moderate common sense provisions anathema to many Republicans and some Democrats today. The new law does not include the controversial provisions that were put forward by liberal Democrats during the drafting of the law. For example, it does not authorize a new public health insurance option. Nor does it require business to provide insurance coverage to all employees and their dependents, or pay an 8% payroll tax.

### ***Essential Provisions of Health Reform***

In his State of the Union address, President Obama indicated a willingness to work with Congress to improve the health reform law. As we move forward, we believe these three provisions of the law are critical to achieving the goal of extending health insurance coverage to 30 million uninsured Americans. We should not allow them to be negotiated away.

- **Individual mandate and guaranteed issue**

- These proposed reforms work together to ensure that everyone can and will purchase insurance.
- With an individual mandate, we can create regulations that require insurers to accept all applicants and to have no restrictions on pre-existing conditions. Everyone will be covered and the risk shared among all of us.
- Without an individual mandate, these changes are impossible. Why? When insurance is available on demand, there is no reason to buy insurance until the ambulance arrives. Only the sick will purchase coverage. Guaranteed acceptance without a requirement to purchase will destroy the American health insurance system.

- **Subsidies for people to purchase insurance**

- It is only by providing subsidies to those who cannot afford the cost of decent insurance, that we can require everyone to have insurance. Although these subsidies represent a major percentage of the cost of reform, it is critical that they be sufficient to make insurance affordable to lower and middle income Americans or the effectiveness of the entire plan will be compromised.

- **Expansion of Medicaid**

- This provision ensures health coverage for people in true poverty: those at 133% of the federal poverty level and below. (In 2010, FPL is an income of \$14,400 for an individual and \$29,300 for a family of four.) This expansion of Medicaid is causing great concern. Many states today, including California, are struggling with budget deficits and Medicaid is a major portion of the budget. Yet Medicaid is the least expensive way for us to pay for health care for poor people.

***First Priority for Change Accomplished: 1099 Requirement***

We support the repeal of the onerous new requirement that businesses issue 1099s to vendors who supply goods and services over \$600. As the representative of Women Impacting Public Policy (WIPP), I attended a meeting with White House Health Reform Director Nancy Ann DeParle back in July. No one at the table supported this requirement.

***Strategies in the Works to Repeal the 2010 Health Care Reform***

Despite the moderate provisions of the new law, the Congressional Republican leadership has announced that its goal is the total repeal of the 2010 health reform law.

**Congress: What's happened to date?**

House Speaker John B Boehner (R Ohio) successfully sponsored a stand-alone bill to repeal the law in the House of Representatives. Senator Mitch McConnell (R Kentucky) sponsored a similar bill to repeal PPACA in the Senate that was defeated. The votes in both houses were along party lines.

**Congress: What's next?**

*"These are the first steps in a long road that will culminate in 2012."* – Senator John Coryn (R Texas) February 2, 2011

The media has reported many strategies that the Republican leadership has discussed publicly to prevent PPACA from ever being implemented. Here are a few to watch for in the coming weeks and months.

- Defund the law by attaching a section to every appropriations bill that bars the funds from being used to implement health care reform.
  - The Senate passed a funding resolution on December 21st that keeps the government going through March by extending last year's funding resolution.

It did not include funds for the implementation of healthcare or financial reform.

- Sponsor the “No Taxpayer Funding for Abortion Act” that will bar the use of federal funds or tax deductions for any insurance that covers abortions. It would allow federal financing of abortions in cases of “forcible” rape but not statutory or coerced rape, and in cases where a woman is in danger of death from her pregnancy but not of other serious health damage (NY Times 1/29/2011).
- Introduce bills to repeal individual sections of the legislation.
- Modify the law to allow states to decide whether or not to implement the individual mandate. Currently all states have to implement until at least 2017.
- Introduce a constitutional amendment to allow a three quarters majority of state legislatures to repeal any federal law or regulation, including PPACA.
- Use the oversight authority of Congress to slow down or block regulations,

### **Legal Challenges to Health Reform**

Legal challenges to PPACA have been filed in courts throughout the country. There have been four district court rulings to date. Two upheld the law and two ruled against. The most recent ruling by Judge Roger Vinson in the federal district court in Pensacola Florida struck down the entire law. He ruled that the individual mandate was unconstitutional. He reasoned that the mandate was central to and “could not be severed from” the rest of the law and therefore the entire law is unconstitutional.

It is clear that the US Supreme Court will ultimately rule on this critical issue.

### **Anti-reform Strategies at the State Level**

Lawmakers in a number of states are introducing legislation that would criminalize the implementation of PPACA. Wyoming’s legislators have introduced a law that would fine state officials up to \$5000 and send them to jail for two years. (According to Timothy Jost, a Washington and Lee University law professor, “This is blatantly, flagrantly unconstitutional. Federal law is supreme to state law and states cannot punish its enforcement”).

State lawmakers have also discussed shutting down their Medicaid programs if the law is implemented. The federal government would then have to pick up the cost of covering former Medicaid recipients through the subsidized state exchanges.

### ***What can business do?***

The need for health reform is clear to all. We need to move forward, not backward. No one believes that PPACA is the final and complete solution to the health care issues facing us as a country. I do believe that this law is worthy of our best efforts to work towards its success.

As business owners and citizens, we need to speak out against the terribly destructive partisan attacks on health reform; we need to call for our elected representatives to work across party lines; and we need to advocate for further legislation that addresses the absolutely critical issue of health care costs.

### **What's your next action step?**

Together we can make a difference. Tell me what you think. Distribute this paper through your social media network. Invite me to speak at your business group. Contact your elected representatives and let them know where you stand.

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