



Mercy Notes

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The New Health Care Law

On March 23 President Obama signed the Patient Protection and Affordable Care Act of 2010 (PPACA) into law.

Exactly what is in this mammoth legislation and what it will mean for our families is unknown. State officials say it will be years before it will be implemented or understood. Federal officials say it will take years to even write the regulations.

Media stories comparing passage of this 2,000-plus-page law to that of Social Security and Medicare fail to note those laws were real bipartisan efforts. The complete Republican opposition to the new law, coupled with the public's angry reaction, leads some to question whether it will survive. At least 21 states are suing to overturn it.

House Speaker Nancy Pelosi's statement that Congress would have to pass the bill so we could see what was in it is coming true. New analyses are surfacing regularly of the impacts of this law, such as the April 22 analysis released by Richard S. Foster, chief actuary of the Centers for Medicare and Medicaid. Foster says the new law may bankrupt many hospital and institutional providers and jeopardize seniors' access to health care:

www.realclearpolitics.com/news/ap/politics/2010/Apr/23/report_says_health_care_will_cover_more_cost_more.html. The expected surge in demand for care could overwhelm existing health care resources, deter providers from treating patients with low-reimbursement coverage, raise consumers' premiums, and cause employers to drop workers' health care benefits: www.thehill.com/homenews/administration/93947-govt-report-new-health-law-could-lead-to-higher-prices-employers-dropping-coverage.

The president campaigned for the law's passage on the promise that Americans who like their insurance plans can keep them. But critics warned that employers would quickly realize it will be much cheaper to drop all employee coverage and pay the penalties for not providing health insurance. AT&T, Verizon, Caterpillar, and John Deere have already crunched the numbers. If the numbers are correct, the cost of PPACA could go through the roof: www.politico.com/news/stories/0510/36926.html.

CLASS Act

The Community Living Assistance Services and Support (CLASS) Act, first drafted by the late Sen. Edward Kennedy, was quietly inserted in the reconciliation bill two days before passage. It is the first federal long-term care insurance program. Though the program is called voluntary, all working adults will be automatically enrolled and must opt out if their employer participates. Otherwise, estimates are that amounts ranging from \$123 to \$250 will be deducted from workers' paychecks each month. Participants must pay premiums for five years and work for at least three, after which they can receive a minimum of \$50-per-day cash benefits to purchase non-medical services and supports for daily living. The program is expected to begin in 2013 or sooner. Advocates say the bill will help fill a gap in the long-term care of older adults: www.npr.org/templates/story/story.php?storyId=125461417. Critics say it is unsustainable: www.washingtontimes.com/news/2010/apr/01/robbing-peter-to-pay-pauls-health-care/.



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Confusion and Concern

An indication of how little legislators understood what they passed: Congress almost inadvertently cancelled its own federal health insurance before the new health care exchanges are even created. Lawmakers and thousands of federal co-workers will be spared losing their health insurance until 2014. But Congressional leadership and committee staff exempted themselves from having to join the health care exchanges they wrote behind closed doors for the rest of America: www.washingtonpost.com/wp-dyn/content/article/2010/04/20/AR2010042005163.html.

According to the Kaiser Family Foundation, over half of Americans do not understand how PPACA will affect their health care. In early April, health insurance call centers, doctors' offices, and personnel departments were swamped by thousands of callers asking where to sign up for their free health care. The foundation reports that callers are shocked to learn health insurance will not be free for most and will not even be in place until at least 2014. Read "Health Care Overhaul Agenda Spawns Mass Confusion for Public": www.mcclatchydc.com/2010/04/06/91696/health-care-overhaul-spawns-mass.html.

State legislators and health officials are confused about how to implement health care under this law and what it means for their budgets. Some call it an unfunded mandate that will swamp their states. Read further: www.stateline.org/live/details/story?contentId=475804. Forty-seven states expect to lose billions of Medicaid dollars to the federal government to pay for the health care overhaul and the director of the National Association of State Medicaid Directors said states cannot afford it. Read further: www.kaiserhealthnews.org/Stories/2010/April/20/Medicaid-Drug-Rebates.aspx.

Heritage Foundation researchers and others warn dumping millions of low income Americans into the dysfunctional Medicaid program will break state budgets and leave low income and elderly recipients stranded with few medical

providers. It will also lead to discrimination of low income workers. Read www.heritage.org/Research/Reports/2010/03/Top-10-Disasters-of-Obamacare and www.thehill.com/blogs/congress-blog/healthcare/95595-health-care-reform-or-a-war-on-minorities.

Circuitous Taxpayer Funding of Abortion

PPACA has opened the door to taxpayer funding of abortion. Read a response to the law by Maggie Karner, director of Life and Health Ministries for LCMS World Relief and Human Care: www.lcms.org/pages/internal.asp?NavID=16753.

Community health centers are usually funded through the Department of Health and Human Services (HHS) and thus have been subject to the Hyde Amendment. The Hyde Amendment is a provision that has been renewed each year and attached to the annual Health

and Human Services appropriations bill since 1976. But in an end run around the Hyde Amendment, \$11 billion dollars in the PPACA are directed to the nation's many community health centers through a separate appropriations stream. The funds will not be subject to the Hyde Amendment, which bars taxpayer funding of abortions except in cases of rape, incest, or danger to the mother's life, and the PPACA contains no language to prevent their use for abortions: www.nrlc.org/AHC/NRLC-MemoCommHealth.html.

Read more from National Right to Life: www.nrlc.org/news_and_views/March10/nv032910.html and www.nrlc.org/AHC/Release032110.html. Read further in a Heritage Foundation report: www.heritage.org/Research/Reports/2010/04/Obamacare-Impact-on-Taxpayer-Funding-of-Abortion.

States can opt out of offering any

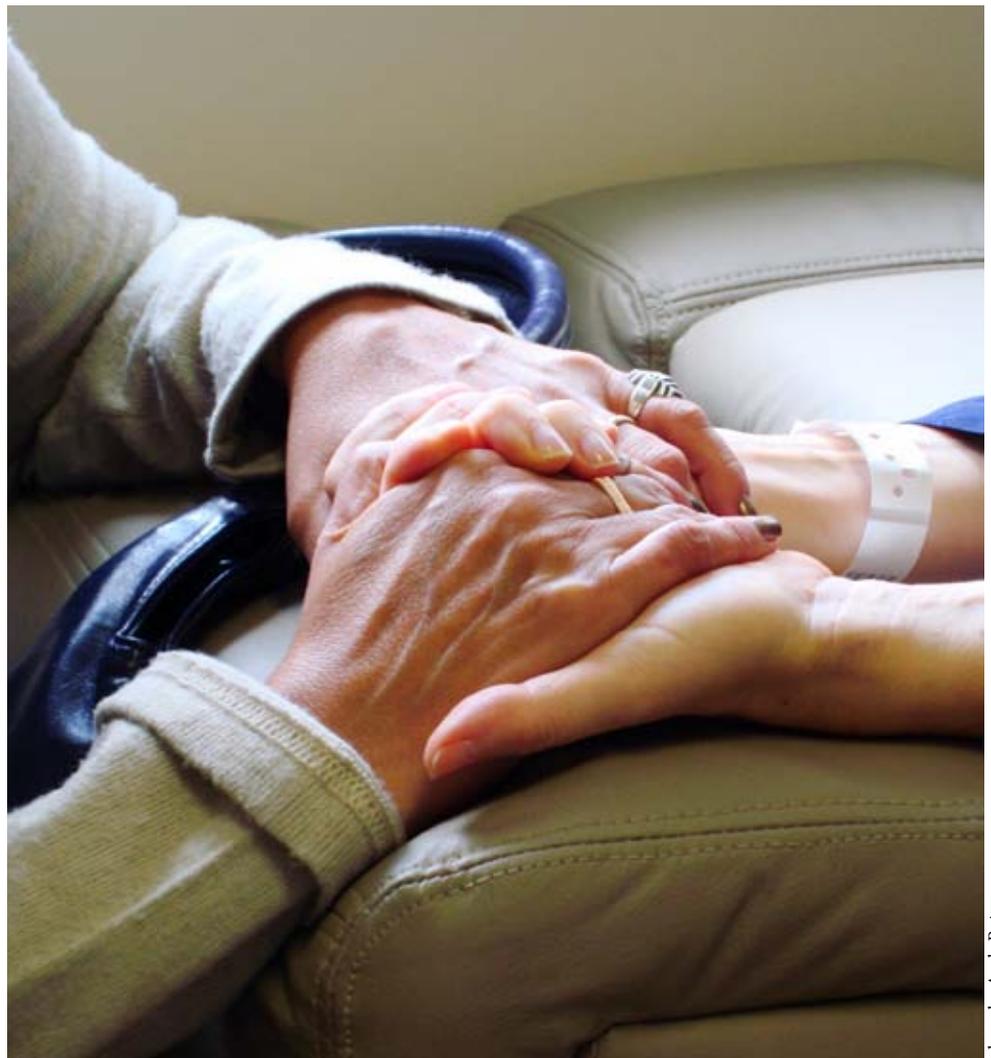


photo by Andy Reis

health insurance plans that cover abortion under the new law. Four states have passed bills to opt out: Tennessee, Florida, Arizona, and Mississippi. At least 26 other states are either trying to pass similar legislation or are seeking sponsors: www.cwnewz.com/content/view/1166/32/.

Penalizing Marriage and Undermining Parents

In a nation where traditional marriage is undergoing systematic dismantling through ongoing efforts to legalize homosexual marriage, and 45 percent of low-income households are headed by single mothers, Congress passed a new law that will potentially penalize marriage and encourage cohabitation. Depending on their income, when two

single adults who previously qualified for federal health subsidies marry, their combined incomes may cost them dearly. They both could lose their government health care subsidies and instead be forced to pay more to obtain their own insurance: www.realclearmarkets.com/articles/2010/04/22/hello_health_care_goodbye_marriage_98431.html. A former Department of Labor economist gives further details: www.taxprof.typepad.com/files/marriage-penalties.pdf.

Heritage Foundation analysts found that the PPACA may undermine parents' rights to oversee their children's health care: www.heritage.org/Research/Reports/2010/04/Obamacare-Impact-on-the-Family. A new "Personal Responsibility Education" program appropriates \$50 million per year to

school-based health centers. Many of these centers provide contraceptives on-site to children, and some refer children for abortion. Federal laws stipulate that teens' confidentiality overrides any parental rights to notification: <http://blog.heritage.org/2010/03/25/parental-rights-and-civil-wrongs-school-based-clinics-and-abortion/>.

Doctor Shortage and Patient Care Expected to Worsen

A December 2009 survey published in the *New England Journal of Medicine* found a majority of doctors expected medical care to worsen if the new law was passed, and almost a third were considering quitting medicine www.themedicusfirm.com/pages/medicus-media-survey-reveals-impact-health-reform.

Further Reading

- Lutheran Services in America provides a summary on what the law means for the disabled and aging. LSA intends to participate in the drafting of regulations by the Department of Health and Human Services www.lcms.org/ca/worldrelief/e-updates/2010_HCR_LTSS_Fact_Sheet.pdf
- This Heritage Foundation web site provides frequent updates on the effects of PPACA as they come to light: www.heritage.org/Initiatives/Health-Care.
- This *New York Times* web site answers readers' questions about the new law: <http://prescriptions.blogs.nytimes.com/2010/04/28/how-will-the-homeless-benefit/>.
- The Guttmacher Institute, the research arm of Planned Parenthood, analyzes PPACA's effects on reproductive health issues: www.guttmacher.org/media/inthenews/2010/03/29/index.html. Note under the Medicaid paragraph that PPACA will "expand abortion coverage in the 17 states that fund abortions for their Medicaid recipients with state dollars."
- Grace-Marie Turner, president of the Galen Institute, says struggling lower and middle income families will find it even harder to make ends meet due to the new taxes created by PPACA: www.galen.org/component,8/action,show_content/id,13/category_id,2/blog_id,1392/type,33/
- The Kaiser Family Foundation provides a summary of the law: www.kff.org/healthreform/upload/8061.pdf.
- The U.S. Chamber of Commerce provides a timeline for business owners: www.uschamber.com/assets/chambers/healthcare_implementation_timeline.pdf.
- On April 27, the Concordia Bioethics Institute hosted a panel discussion on health care reform. Rev. Dr. Kevin Voss and a panel of Concordia University Wisconsin faculty discussed the basics of the new law and its potential repercussions: how it might impact U.S. health care and what it might mean for us on a personal level: <http://martin.cuw.edu/CourseCast/Viewer/Default.aspx?id=1dc02827-0bc7-458a-8a8b-1c4936660623>. Note: this video contains opinions of the panel members and do not necessarily reflect the viewpoints of The Lutheran Church—Missouri Synod or LCMS World Relief and Human Care.
- Rep. Joe Pitts (R-Penn.) introduced the **Protect Life Act (H.R. 5111)** on April 22. It would bar federal funding of abortion through the new health care law, as well as provide conscience protections for medical providers who refuse to participate in abortions. The bill has 101 cosponsors (92 Rep., 9 Dem.). Read more at: www.govtrack.us/congress/bill.xpd?bill=h111-5111.

PPACA will create around 159 new agencies to monitor physicians' decisions and generate additional red tape. Office of Management and Budget Director Peter Orzag announced April 8 that a new Independent Payment Advisory Board (IPAB) will help reduce the national debt, control Medicare payment decisions, and "shift the healthcare system toward quality and efficiency and away from quantity." Orzag admits no one knows how to reimburse for quality over quantity. Only Congress will have the power to block IPAB decisions.

The penalty for Medicare guideline noncompliance will rise from \$10,000 to \$50,000 for doctors: <http://blog.heritage.org/2010/04/19/side-effects-the-doctor-is-not-in/>. Physicians say the law does nothing to cap medical lawsuits, though it is expected to interfere with medical decisions and worsen patient care. One physicians' group has sued to overturn the law, saying small practice doctors will be driven out of practice and the physician shortage will worsen: www.cnsnews.com/news/article/63561. Massachusetts' mandatory health insurance law created a surge of newly insured residents. The result was long waits to see doctors and some doctors closing their doors to new patients due to high case loads. Before PPACA passed, the U.S. was projected to need an additional 40,000 primary care doctors by 2025 – now analysts say 53,000 more will be needed: www.azcentral.com/news/articles/2010/05/03/20100503health-doctors0503.html.

A Lutheran Perspective

Mark Hagen, corporate director of public policy for Bethesda Lutheran Communities in Watertown, Wis., (an LCMS Recognized Service Organization) offered his thoughts on how the new health care law might affect the care Bethesda provides for the developmentally disabled:

"While we are encouraged by the inclusion of the Community Living Assistance Services and Supports (CLASS) Act in the bill, we are dis-

mayed that Congress did not address the long-term care needs of people with disabilities, particularly the increasing number of citizens with disabilities on waiting lists. We are also concerned that the expansion of the Medicaid program is unsustainable, especially on a state level, and will adversely affect people with developmental disabilities and limit their access to Medicaid funded supports in the future."

Rev. Dr. Kevin E. Voss, director of the Concordia Bioethics Institute at Concordia University Wisconsin, and member of the LCMS Sanctity of Human Life Committee, offered a comment on the health care reform law:

I believe something needed to be done. As a percentage of gross domestic product, health care costs have escalated from about 5 percent in the 1950s to about 17-18 percent today. This added cost places tremendous strain on the budgets of individuals, families, businesses, and government agencies. Access is another problem that needed solving. An estimated 30-40 million people in this country do not have easy access to routine health care. Many of them are the working poor who do not qualify for government assistance or receive health care benefits from their employers. That group tends not to seek care when they need it unless their illness is severe, then they receive help in a hospital emergency department -- one of the most expensive areas to receive care. Most of the working poor cannot pay, and hospitals must absorb the costs or pass them on to patients who do have insurance.

The bill did seem to address the access issue to some extent; it is estimated that only about 17 million people will not be covered, many because of conscious decisions made on their part. However, from my point of view the legislation is deficient in two areas: human rights and cost. The initial House version of the bill included the Stupak Amendment,

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which reaffirmed the Hyde Amendment, preventing taxpayer dollars from being used for abortions. While the president did sign an executive order reaffirming the Hyde Amendment, many people are skeptical that abortions will not be funded. Concerns center on the increased use of government-supported community health centers and indirect health insurance payments made to those receiving abortions.

I am also concerned that attempts to control health care costs will come at the expense of those who need medical care at the end of life, particularly the elderly. A significant percentage of the health care dollar is spent during the last few weeks of life. Physicians and patients may face inappropriate financial pressures to withhold or withdraw treatments if the government mandates that insurance no longer covers long-term hospital or nursing home stays for people over a certain age or with specific incurable diseases.

Regarding cost, I believe this bill neglected to address an important

factor regarding health care expense — defensive medicine. Although the bill contains a new emphasis on evidence-based practice, there still is little incentive for physicians not to order additional tests or treatments to avoid being sued for missing that one-in-a-million case. Physicians have told me that they estimate 20-30 percent of what they do is defensive medicine. While the bill did reform insurance, it did little to diminish the toll medical malpractice litigation, and even the mere threat of litigation, places upon our health care system.

Sources: azcentral.com, Bethesda Lutheran Communities, CNS.com, Center for Arizona Policy, Christian Web News, Concordia Bioethics Institute, Daily News Central, Galen Institute, Guttmacher Institute, Kaiser Family Foundation, LifeSiteNews.com, Lutheran Services in America, MSNBC, McClatchy Newspapers, NPR, National Right to Life, POLITICO, RealClearPolitics, *Roll Call*, Stateline.org, Tax Analysts, *The Daily Caller*, *The Examiner*, The Heritage Foundation, The Hill, *The New York Times*, *The Wall Street Journal*, *The Washington Times*, U.S. Chamber of Commerce, WeeklyStandard.com, Yahoo.com, govtrack.com.

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