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## States line up to retake control of healthcare

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The states cannot rely on Washington to correct the travesty that is Obamacare. After forty-seven votes to repeal or reform the Patient Protection and Affordable Care Act (PPACA), Congress has not been able to even hold Health and Human Services (HHS) accountable for the website folly, including over \$1 billion spent for federal exchange and data services contract awards.

From the opaque political proceedings, to passage by desperate arm-twisting and bribes, to the exceptions granted favored groups including members of Congress and staff, to the eighteen unilateral, politically expedient White House revisions, to the un-competitively contracted website disaster, the formation and implementation of PPACA has done grave injury to the political process.

Americans are now watching the entire Act collapse under the weight of its own illegitimacy. Obamacare has, thus far, served to discourage Americans from working, vastly expanded the Medicaid entitlement, caused the cancelation of millions of private insurance plans, pledged tax funds to underwrite insurance's losses, increased premium costs by an average of 41 percent, and distanced doctors from patients.

Jonathan Turley, noted constitutional scholar who generally supports President Obama's policies has said,

*I think many people will come to loathe that they remained silent during this period. . . . I think that many people will look back at this period in history and see nothing but confusion as to why people remained so silent when the president asserted these types of unilateral actions. You have a president who is claiming the right to basically rewrite or ignore or negate federal laws. That is a dangerous thing.*

Of course, when Americans think of federal law, this spectacle of harried negotiation and frantic deal-making that produced a 2,700 page reconciliation product called the PPACA "law" was as repugnant as Washington sausage-making gets. Key Senators and Congressmembers writing in a pending federal appellate amicus brief called the law "disjointed, confusing, and even self-contradictory," describing it as a "preliminary draft" that was pushed to preempt the filibuster after the election of Republican Senator Scott Brown.

The American public is well aware that Congress generally did not read the PPACA, nor did members deliberate the terms in reconciliation. Now that we are all "finding out what is in it," sixty-four percent of Americans polled said that the ACA would not have passed "if we knew then what we know today."

States seeking a way to defend the constitutional order have signed on to lawsuits challenging the legal foundations upon which Obamacare is rationalized. So far, legal challenges have failed.

There is another way that states may organize to pull healthcare back from Washington: the [Healthcare Compact](#). Eight states have already agreed to join in a compact designed to restore control of medical services and systems to the states. An additional ten states are now actively considering adopting the Compact.

Recently, Congressman James Lankford introduced H.J. Res. 110 to authorize "member states ... to implement their own health care systems without interference from federal bureaucrats."

Interstate compacts between states have been in place since before the nation was formed. They have been used over two hundred times to address regional concerns, settle disputes, and defend state sovereignty. For example, compacts have been utilized to organize emergency management, resolve transportation issues, and establish regulatory consistency. Currently, many states are now participating in twenty-five or more compacts.

The Healthcare Compact simply returns healthcare administration to the states. Comparable to a block grant, this compact would provide for allocation of funds back to the states as currently designated by Washington. The Compact also establishes an advisory Healthcare Commission that would convene to recommend non-binding resolutions, assess healthcare issues, and publish data.

At the very least, Congress is obligated to make good on attempts to repeal Obamacare and should expedite approval of the multistate Healthcare Compact. The grant of congressional consent would uphold constitutionally mandated state police power vesting oversight of "health, safety, and welfare" matters in the states. This sovereign state authority logically includes the regulation of healthcare policy.

The federal government has countered that it has the constitutional power to tax and spend for the general welfare and that universal healthcare is a justifiable federal interest. Indeed, this taxing authority rationale was the basis for Chief Justice Roberts' legal defense of the individual mandate. However, even a wildly imaginative interpretation of the tax-and-spend power could not be construed to license the capricious federal meddling and legislative tampering now imposed upon the most personal medical affairs of state citizens.

States should not pass on this opportunity to reacquire control of healthcare matters while resolving the question of state sovereignty. Moreover, Congress has a constitutional duty to allow state laboratories of advanced technology, medical innovation, and economic incentive to fix the mess that Washington has made.

Some states like Vermont have already expressed interest in a single payer plan whereas other states might choose a plan based upon Indiana's successful trial of health savings accounts for government employees. Private organizations have demonstrated great results with cooperative plans that promote individual responsibility and comparative shopping for medical services. Health maintenance organizations like Kaiser Permanente have been able to offer reasonable premiums while featuring preventative programs. States are far better positioned than the federal government best to determine the options that are most efficient and effective.

If entrepreneurial states are given a chance to show that they can do a vastly superior job of providing quality care at competitive cost, they will also restore faith in the American reputation for innovative, reliable, and quality medical care. More importantly, returning healthcare to state management will advance a core American ethic: state dynamism and self-determination.

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