



April 4, 2019

The Honorable Frank Pallone  
Chairman  
Energy and Commerce Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Richard Neal  
Chairman  
Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Robert Scott  
Chairman  
Education and Labor Committee  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairmen:

On behalf of the American College of Physicians (ACP), I am writing to express our strong support for *the Protecting Pre-existing Conditions & Making Health Care More Affordable Act of 2019* (H.R. 1884). We applaud your leadership in introducing this legislation, which seeks to reduce health care costs and improve the accessibility and affordability of health coverage, while also taking steps to prevent current efforts underway to undermine the Affordable Care Act (ACA). ACP policy supports many provisions in this legislation, as outlined in detail below, and we stand ready to work with you to help advance this legislation through Congress.

The American College of Physicians is the largest medical specialty organization and the second largest physician group in the United States. ACP members include 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

For many patients, primary care physicians are the first point of contact within the healthcare system. This means they are often the first to see depression, early signs of cancer or chronic disease, and other health concerns. They ensure patients get the right care, in the right setting, by the most appropriate clinician, and in a coordinated way. The two specialties that provide the majority of adult primary care in the United States are internal medicine and family medicine. Internists provide both acute and long-term comprehensive care in the office and the hospital, managing both common and complex or unusual illnesses of adolescents, adults, and the elderly.

## **IMPROVING PATIENTS' LIVES UNDER THE AFFORDABLE CARE ACT**

Before the Affordable Care Act (ACA), almost 50 million people went without any health insurance coverage. Many could not afford coverage because they had a pre-existing condition, and plans sold in the individual market often had skimpy benefits that left people vulnerable to high out-of-pocket costs. The ACA addressed these problems in several ways. It established marketplaces (also called exchanges) where individuals could, during an annual open enrollment period, purchase one of four levels of coverage as well as receive *progressive* income-based premium subsidies (meaning the lower one's income, the higher the subsidy) if their incomes fall between 100 and 400 percent of the federal poverty level (FPL), and cost-sharing subsidies for persons with income up to 250 percent of the FPL. The ACA also established basic consumer protections including: no lifetime or annual dollar limits on coverage; prohibits insurers from denying, cancelling or charging higher premiums to people with pre-existing conditions; requires all health plans to cover 10 categories of essential health benefits; and prohibits insurers from charging higher premiums to women based solely on their gender.

## **TEXAS V. THE UNITED STATES**

On December 14, 2018, a federal judge in Texas ruled that the entire Affordable Care Act (ACA) is unconstitutional. The judge's ruling stated that because the ACA's "individual mandate" – a requirement that most Americans maintain "minimum essential" coverage or face a tax penalty -- is unconstitutional, the rest of the law cannot stand without it. The ACA will remain in place pending appeal. On March 25, 2019, the U.S. Department of Justice filed a brief supporting the Texas decision that invalidated the ACA. On April 1, 2019, the U.S. House of Representatives also filed a brief that warns of chaos in the health care system if the Texas ruling is upheld.

ACP asserts that the ruling from this Texas judge is putting the health of millions of patients at risk. If this ruling stands, patients could once again be turned down or charged more for pre-existing conditions, and insurers would no longer be required to cover essential benefits like prescription drugs, maternity care, doctor visits, and mental health and substance use disorder treatment. The latter benefit is especially crucial as our nation confronts an opioid overdose epidemic that takes 130 lives every day. Additionally, premium subsidies to make coverage affordable would end, high-quality preventive services would be subject to cost-sharing, and annual and lifetime limits on coverage would return. Federal funding for Medicaid expansion would also be terminated, and seniors would no longer have access to no-cost preventive services. In June 2018, we urged the courts to consider the legal and patient protection arguments made by ACP, together with the American Medical Association, the American Academy of Family Physicians, the American Academy of Pediatrics, and the American Academy of Child and Adolescent Psychiatry, in an [amicus curiae](#) brief filed in this case. We collaborated yet again with other organizations in the filing of another [brief](#) for the appeal in April 2019. We stand united in our belief that protections established by the Affordable Care Act that prohibit insurance companies from denying or discontinuing coverage for individuals with pre-existing conditions or other factors such as gender or race are vital to patient care and wellbeing.

## **TITLE I OF H.R. 1884**

### **Making Health Care More Affordable:**

This legislation would expand eligibility for premium tax credits beyond 400 percent of the federal poverty line (FPL), and would increase the size of the tax credit for all income brackets, on a sliding scale, beginning January 1, 2021. It would also fix the so-called “family glitch” under current law, which has prevented some workers from being able to expand their employer-provided insurance to their families.

ACP supports expanding cost-sharing assistance eligibility to purchase insurance in the exchanges as well as increasing the level of premium tax credits and cost sharing subsidies offered to purchase a qualified health plan. We were also pleased to see the elimination of the “family glitch”, which has essentially disqualified many workers and their families from enrolling in more affordable coverage. The family glitch affects an estimated 2 million to 4 million dependents (including half a million children).

## **TITLE II OF H.R. 1884**

### **Protecting People with Pre-Existing Conditions and Combatting Efforts to Undermine the ACA:**

This legislation would also rescind two final regulations issued by the administration in 2018 that allowed for the proliferation of skimpy insurance plans that do not meet current law coverage/benefit requirements and consumer protections leaving those with pre-existing conditions extremely vulnerable to financial hardship. Specifically, the bill would prevent the expansion of short-term, limited-duration health plans (STLD) and association health plans (AHPs), which are not required to comply with certain ACA consumer protections.

ACP strongly supports the provisions in H.R. 1884 that rescind these harmful regulations that promote the expansion of STLD plans and AHPs. All Americans should have access to affordable health coverage that provides essential benefits and consumer protections. Unfortunately, the administrative rulemaking process is being used to change, weaken or ultimately strike down current-law benefits and coverage protections, which, if successful, will lead to higher costs and millions losing health coverage. The Congressional Budget Office and Joint Committee on Taxation estimate that premiums in the ACA-compliant small group and non-group markets will be about 3 percent higher than they would have without the STLD and AHP regulations.

STLD plans and AHPs expose individuals who buy them to undue financial risk with no assurance of adequate health coverage should they get sick. The CMS Office of Actuary estimates that broadening access to extended STLD plans will cause marketplace premiums to increase and federal spending to rise by over \$38 billion over the next 10 years. Before the ACA protections were in place, insurance plans sold in the individual insurance market in all but five

states typically maintained lists of so-called "declinable" pre-existing medical conditions—including asthma, diabetes, arthritis, obesity, stroke, or pregnancy, or having been diagnosed with cancer in the past 10 years. According to a [study](#) by the Kaiser Family Foundation, 52 million people (27 percent of the nonelderly population) have a pre-existing condition that would have been deniable in the pre-ACA individual market. For that patient population, the ACA represented a sea change in their ability to access affordable medical care, and even a saving grace in helping to avoid catastrophic medical debt. It is vital that current-law protections for those with pre-existing conditions remain intact and that lawmakers remain vigilant in ensuring that these protections are not weakened or eliminated through any legislative or administrative action or inaction.

### **Improving Marketplace Stability:**

This legislation establishes a state-based reinsurance program that would allow states to set up their own reinsurance programs, or to use the funds to provide premium subsidies or cost-sharing support. It also provides a federal default reinsurance program for states that do not opt to run their own reinsurance programs, in order to ensure that residents of all 50 states and the District of Columbia benefit from reduced premiums.

We agree that Congress should act decisively to help stabilize the market. The health insurance marketplace remains unstable in many parts of the country. Several insurers have exited from the exchange markets in recent years, and those who remain are evaluating the stability of the markets to determine future participation. ACP supports reinsurance programs that can help provide stability and ensure that patients get to keep the coverage they have while protecting insurers from high costs. Alaska, Minnesota, and Oregon were the first states to gain approval to implement their own reinsurance programs, which they have been doing since 2018. In 2018, four additional states – Wisconsin, Maryland, Maine, and New Jersey – received federal approval to establish reinsurance programs that will begin in 2019. The Robert Wood Johnson Foundation released a recent [report](#) with findings on the effectiveness of these reinsurance programs in the initial three states.

One non-partisan study estimates that a “generous” reinsurance fund, enough to reduce age-specific premiums by 19 percent would cost \$34 billion in FY 2020, while a standard reinsurance fund, reducing age-specific premiums by four percent would cost \$6.2 billion. However, they also found that the cost to federal taxpayers can be reduced by allowing states to charge a per-enrollee fee on all group, individual, and self-insured health plan enrollees, resulting in an additional cost to taxpayers of between \$3 billion (standard) and \$18.8 billion (generous).

### **Ensuring Funding for Outreach and Education:**

The legislation requires the Department of Health and Human Services (HHS) to implement a navigator program for the federally-facilitated Marketplace (FFM) and funds it at \$100 million per year. The legislation also requires HHS to conduct marketing and outreach for the FFM and funds these activities at \$100 million per year.

ACP believes that Federal and state governments, navigators and other assisters, community and health professional organizations, health insurers, and other stakeholders play a vital role in helping educate enrollees about the health care exchanges, the availability of premium tax credits, cost-sharing subsidies, and free or low-cost preventive care and why it is important. Evidence shows that people exposed to a high volume of federal government-sponsored health insurance advertising are more likely to shop for and enroll in coverage. ACP developed its own member resources to help enroll patients in health insurance, which are available on our [website](#).

## **CONCLUSION**

We appreciate this opportunity to share our feedback on this important legislation and look forward to working with you on efforts to improve health coverage for all Americans. Should you have any questions, please contact Jonni McCrann at [jmccrann@acponline.org](mailto:jmccrann@acponline.org).

Sincerely,

A handwritten signature in cursive script that reads "Ana María López".

Ana María López, MD, MPH, MACP  
President