



June 22, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of the American College of Physicians (ACP), I am writing to express our strongest possible opposition to the Better Care Reconciliation Act (BCRA) of 2017, legislation to repeal and replace the Affordable Care Act (ACA). Upon initial review, the BCRA does not meet—or come close to meeting—the [criteria](#) that ACP established that any reforms to current law should *first, do no harm* to patients. The BCRA would radically change how Medicaid is financed, reduce premium and cost-sharing subsidies for people in the individual insurance market, and significantly weaken essential consumer protections for the most vulnerable patients. ACP has already expressed our great [concern](#) about the lack of regular order in drafting the BCRA and our deep opposition to using the [flawed policies](#) of the American Health Care Act (AHCA) as passed by the House of Representatives on May 4, 2017. While ACP in the coming days will continue to analyze and review the BCRA as well as any Congressional Budget Office (CBO) report and other independent analyses of the BCRA, ACP urges the strongest possible opposition to the bill and asks all Senators to vote against this harmful legislation.

The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 148,000 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.

Specifically, we are greatly concerned that:

- **The BCRA maintains, and actually worsens, the AHCA's [radical changes](#) to the Medicaid program's structure and financing.** Specifically, ACP strongly opposes slashing federal Medicaid funding through either per capita caps or block grants, phasing out and then completely eliminating the enhanced federal match for expansion states, and eliminating the requirement that Medicaid cover essential health benefits (EHBs). The per capita cap proposal in the AHCA would take health coverage away from millions of the most vulnerable—including women, children, the disabled, low-income working men, and the elderly in long-term care facilities, with a particularly detrimental effect on patients in rural communities and the hospitals that serve them. BCRA is even worse than the House-passed AHCA because it caps the federal contribution tied to CPI-Urban starting in fiscal year 2025 and beyond, much lower than

the expected rate of growth in health care costs, putting state Medicaid programs under intense financial pressure. This will force states to raise taxes, cut optional benefits like prescription drug coverage or home and community based services, reduce reimbursement for health care professionals, or impose cost sharing on vulnerable people in an effort to compensate for the funding cuts. The AHCA's capping and cutting of Medicaid would cause an estimated 14 million beneficiaries to lose coverage, according to the [CBO's score](#); coverage losses from the BCRA would likely be even greater.

- **We strongly oppose BCRA's elimination of federal funding for Medicaid expansion.** The BCRA completely eliminates the higher federal contribution for expansion states as of January 1, 2024, and begins cutting the federal government's contribution starting in 2021. This will result in a loss of coverage for most of the over 11 million Americans who have come to rely on their Medicaid coverage for crucial services like hospitalizations, chronic disease management, and treatment of opioid use disorder. ACP also opposes the BCRA provision that would impose work or job search requirements on certain Medicaid enrollees. Medicaid is not a cash assistance or job training program; it is a health insurance program and eligibility should not be contingent on whether or not an individual is employed or looking for work.
- **BCRA will allow states to obtain waivers to opt-out of federal requirements that ensure people have access to comprehensive essential health benefits and are protected from excessive co-payments and deductibles.** BCRA fundamentally changes the Section 1332 waiver program by removing requirements that waivers ensure that insurance is as comprehensive, affordable, and covers a comparable number of people as without the waiver. By eliminating crucial guardrails, the BCRA creates a backdoor way for insurers to offer less generous coverage to fewer people and to make coverage unaffordable for patients with preexisting conditions. If states opt to eliminate the national requirement that certain plans offer 10 categories of essential benefits, it would result in patients in states that obtain waivers finding that needed care for essential services including prescription drugs, cancer screening, physician hospital visits, contraception, maternity, mental health, and substance use disorder treatment would not be covered by their health plans, or if they are covered, costs would be prohibitive. The CBO score of the House-passed AHCA found that one-sixth of the U.S. population lives in states that would likely seek to waive essential benefits and community rating requirements, if allowed to do so.

While the BCRA does not include the AHCA's provision allowing states to waive the prohibition on insurers charging more to patients with pre-existing conditions (community rating requirement), ***allowing states to waive essential benefits would make coverage unaffordable for patients who have pre-existing conditions.***

To illustrate, a waived state might decide that insurers are not required to cover chemotherapy as an essential benefit, meaning that a cancer patient's insurer could impose a dollar limit on how much chemotherapy they will pay for in a year or lifetime, putting the patient at risk of bankruptcy or having to forgo life-saving treatment. This policy would not only affect individual and small group plan enrollees, it could also

undermine annual and lifetime dollar limit prohibitions and out-of-pocket caps for large group employer plans that choose to base their benefits on a state that has waived essential benefit requirements, even if their own state has more rigorous essential benefit requirements.

- **The BCRA discriminates against providers of women’s health services, cutting funding for in the awarding of federal grant funds and/or Medicaid and Children’s Health Insurance Program funding to women’s health clinics that are qualified under existing federal law for the provision of evidence-based services including, but not limited to, provision of contraception, preventive health screenings, sexually transmitted infection testing and treatment, vaccines, counseling, rehabilitation, and referrals.** Patients receiving care from women’s health clinics, particularly those designated as essential community providers (ECPs), predominantly have incomes at or below the federal poverty line and no other source of covered or affordable care in their region.
- **The BCRA destabilizes insurance markets by eliminating the requirement that people purchase insurance without offering an alternative to incentivize healthier people to obtain coverage.** The likely result will be that people will wait until they are sick to purchase coverage, causing a death spiral in insurance premiums. While BCRA would continue cost-sharing reduction payments to health plans for two years, it completely repeals them as of January 1, 2020, further destabilizing the individual insurance market, and increasing out-of-pocket costs to low-income persons.
- **The BCRA would dramatically erode the value of tax credit premium subsidies for those who need them most by cutting funding for those subsidies, by benchmarking the subsidies to health plans that would have higher deductibles than under the ACA, by providing less generous subsidies for older people, by allowing insurers to charge older patients more than under the ACA, by phasing out subsidies at a lower income bracket, and by not having the subsidies increase at the rate needed to keep pace with rising health care costs.** Specifically, the BCRA reduces eligibility from 400 percent of poverty to 350 percent of poverty, reduces the actuarial value of the tax credit subsidies (resulting in higher deductibles and co-payments) compared to current law, and does not ensure that the subsidies will keep pace with expected increases in health care costs, eroding their value over time. Older people would fare worse under the BCRA compared to current law since the premium tax credits for those age 50 and older are less generous and states would be permitted to increase the age rating ratio to 5 to 1. Of particular concern, patients who lose their Medicaid coverage because of BCRA’s caps and cuts in funding and elimination of Medicaid expansion would find that the tax credit subsidies available to them in the individual insurance market would allow for purchase only of high deductible plans, which by definition will make care unaffordable because poor people can’t afford to pay more out-of-pocket. Further, permitting states to determine the medical loss ratio could undermine the value of health insurance and allow insurers to direct a larger portion of consumers’ premium dollar to marketing and profits rather than health care and increasing quality.

The College strongly believes in the *first, do no harm* principle. **Therefore, we strongly urge that the Senate move away from the fundamentally flawed and harmful policies that would result from the BCRA.** Radically cutting and restructuring Medicaid and ending federal funding for expansion, allowing states to waive essential benefits; discriminating in the awarding of federal funds to women’s health clinics; and replacing the ACA’s premium and cost-sharing subsidies with insufficient tax credits that make coverage unaffordable for those who need it most will not fix or improve the healthcare system. The BCRA will not preserve and improve essential coverage, benefits and consumer protections, and access to care for both currently insured and uninsured individuals, children and families.

We urge the Senate to vote down the BCRA and instead start over and seek agreement on bipartisan ways to improve and build on the ACA and to make other improvements in patient care, as proposed in [ACP’s Prescription for a Forward-Looking Agenda to Improve American Health Care](#). The College welcomes the opportunity to share our ideas for bipartisan solutions for improving current law that would help make health care better, more accessible, and more affordable for patients.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Ende", with a long, sweeping flourish extending to the right.

Jack Ende, MD, MACP
President

Cc: Members of the United States Senate