

Understanding the Affordable Care Act Bit by Bit: A Practical Guide



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As the country moves beyond the 2012 Presidential campaign, one thing is clear: The Affordable Care Act (ACA) will reach fruition. There are still rumblings for repeal, despite a significant drop in public support for such an endeavor. A Kaiser Family Foundation poll revealed the change in public sentiment, from a high of 45 percent of respondents favoring repeal and/or replacement of the ACA in July, 2012, to a low of 33 percent just one week after the election.¹

Other naysayers speak of slowing the bill down through congressional funding or other ploys. Even supporters of the law recognize that financial reality and political pressures may result in adjustments to the legislation. There is bipartisan agreement that further legislation will be required to address aspects of the health care system that require attention but were not included in the act. The most notable of these is tort reform. Regardless, the election points in only one direction for health care reform: forward.

In the midst of the political season and commentary by partisans as well as media outlets, very little has actually been said about the contents of the ACA. At times what was said was misleading, if not frank fabrication. As this law moves into the next stage of fulfillment, this column will examine various components of the law and explain how each aspect of the ACA was designed and how it is envisioned to fit into the whole. Every article will offer concise and practical information to assist physicians and other readers in preparing their practices and their lives to best respond to the law as it develops.

What's in a name?

Confusion about the law can start with its very name, which has various iterations. Students of the law should

know the actual, legal title is “The Patient Protection and Affordable Care Act (PPACA; P.L. 111-148) as Amended by the Health Care and Education Reconciliation Act of 2010 (HCERA; P.L. 111-152).”

This title reflects the congressional process that ultimately allowed the law to reach President Barack Obama's desk after the death of its champion Sen. Edward Kennedy, and the placement of a senator averse to the law in the vacant Massachusetts seat. That title was reduced to the Patient Protection and Affordable Care Act (PPACA), then the Affordable Care Act (ACA), although for a brief time the alternative the Accountable Care Act was used by a minority of sources. The derisive term “Obamacare” has been used extensively by opponents of the law, although President Obama made a tentative step toward adopting that name in 2010 and more aggressively accepted it during the presidential election year.

ACA is huge, famously placed at 2,000 pages by some commentators and, it is better understood as components of a whole. Some portions of the law deal with health care cost control and (ultimately) reduction. Other components deal with improving health outcomes for Americans generally and patients in particular.

These two halves are intricately intertwined. In a perfect view of health care reform, the improvement of quality results in cost control. For the purposes of our discussion they will be considered as separate and distinct functions of the law.

The ACA consists of 10 sections, or titles, that underscore the breadth of the ACA. Each of these titles will be addressed in future columns. Here's a look at some of the titles:

Title I: Quality, Affordable Health Care for all Americans

- Insurance reform (pre-existing conditions, dependent coverage, life time caps, etc.)
- Insurance exchanges
- Small business tax credits, employer responsibilities

Title II: Role of Public Programs

- Increasing access to Medicaid
- Enhanced support for the Children's Health Insurance Program (CHIP)
- Dual eligible beneficiaries, Disproportionate Share Hospital (DSH) payments, etc.

Title III: Improving the Quality and Efficiency of Health Care

- Value based reimbursement, pilot for payment bundling, Medicare Advantage adjustments
- Quality reporting and research, Health care quality improvement, New government agencies dedicated to quality
- Enhancing primary care
- Rural care, "independence at home," hospice reform

Title IV: Prevention of Chronic Disease and Improving Public Health

- Preventive care coverage
- Creating healthier communities, Community-based prevention and wellness programs
- Nutritional labeling
- Health disparities, intervention on childhood obesity

Title V: Health Care Workforce

- National Health Care Workforce Commission
- Enhance training in primary care (student loan support, grants, distribution of residency slots, etc.)
- Nurse-managed health clinics, increasing support for advanced nursing education, nurse faculty loan support
- Supporting Federally Qualified Health Centers (FQHCs)

H. R. 3590

One Hundred Eleventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the fifth day of January, two thousand and ten*

An Act

Entitled The Patient Protection and Affordable Care Act.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patient Protection and Affordable Care Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—QUALITY, AFFORDABLE HEALTH CARE FOR ALL AMERICANS

Subtitle A—Immediate Improvements in Health Care Coverage for All Americans

Sec. 1001. Amendments to the Public Health Service Act.

"PART A—INDIVIDUAL AND GROUP MARKET REFORMS

"SUBPART II—IMPROVING COVERAGE

The law is not only vast and far reaching, it is written in virtually impenetrable statutory language. ...For a lay person to spend interminable hours reading the law without understanding the art of statutory construction might be akin to a lawyer with no medical training reading a surgical textbook and feeling he or she had enough knowledge to perform surgery.

Title VI: Transparency and Program Integrity

- Sunshine laws (reporting physician ownership interests, reporting of drug samples, referrals.)
- Enhanced fraud and abuse detection, expansion of the Recovery Audit Contractor (RAC) program, Medicare integrity programs, staff education, coordination with state laws
- Enhanced fraud and abuse penalties

Title VII: Improving Access to Innovative Medical Therapies

- Biologics price competition and innovation
- More affordable medicines for children and underserved communities

Title VIII: CLASS Act

- National Voluntary Insurance Program
- Support to access community living assistance with increased independence

Title IX: Revenue Provisions

- “Cadillac insurance plan” payments
- Durable Medical Equipment (DME) and pharmaceutical fees
- Excise tax on cosmetic procedures
- Closing the “donut hole”

Title X: Strengthening Quality, Affordable Health Care for all Americans

- More programs and pilots for payment reform
- Clarification and revision of previous titles

As I speak about the ACA in various forums across the country I am frequently asked “Should I read the law?” I am confident more people have been moved to do so with the election behind us. I admire those who take on such an enormous challenge, but I always, and emphatically, suggest not.

The law is not only vast and far reaching, it is written in virtually impenetrable statutory language. Statutory interpretation is an art many lawyers do not claim, though we were taught the rudiments in law school. For a lay person to spend interminable hours reading the law without understanding the art of statutory construction might be akin to a lawyer with no medical training reading a surgical textbook and feeling he or she had enough knowledge to perform surgery.

More to the point misreading has often been the source of the half-truths and/or distortions so widely publicized. This is not a matter of intelligence; it is a matter of training.

Fortunately, there are literally thousands of post-statutory interpretation resources available that will leave the reader better educated about the law. Many address the poli-

tics behind the ACA, but fortunately many resources are now delving into the law itself.

This column will describe and explain the ACA in a coherent, concise manner with practical implications. Please stay tuned for more.



Reference

1. Kaiser Family Foundation, www.kff.org/kaiserpolls/8382.cfm, Publication Number: 8382

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