

Obamacare: Medical & Political Malpractice

The health care reform law known as Patient Protection and Affordable Care Act, aka Obamacare, is Barack Obama's signature first-term accomplishment. Given the size and importance of America's health care industries, taking over our health care system has long been a major goal of the American left. Rep. John Dingell, Jr., (D-MI) introduced nationalized health care legislation every year for over fifty years. His father, Rep. John Dingell, Sr., began fighting for universal health care coverage in 1935.¹

Health care spending accounted for more than 17% of America's economy in 2009.² Trillions of dollars are at stake. Control of our health care and all it entails -- our lives -- is at stake. And Rep. Dingell even said as much when he acknowledged that "...it takes a long time to do the necessary administrative steps that have to be taken to put the legislation together to control the people."³

In March 2009, Barack Obama and congressional Democrats began their latest attempt to socialize our health care system.⁴ They did so to the neglect of all else, including jobs and the economy. With the unemployment rate soaring to a 25-year high, health care "reform" was Barack Obama's top priority.⁵ On Christmas Eve 2009, the Senate passed health care reform legislation on a party-line vote of 60 to 39.⁶ In March 2010, the House of Representatives passed Obamacare on a vote of 219 to 212.⁷ The most bipartisan aspect of the bill was the opposition to it. Not a single Republican voted for the bill in either chamber of Congress, and 34 House Democrats voted against it too. President Barack Obama signed the bill into law on March 23, 2010.⁸

To keep this report as brief as possible, we will focus on just a few of Obamacare's most obvious failures: **Massive Tax Hikes, Rationing, Assaults On Liberty and Broken Promises.**

I. Taxes

Obamacare is loaded with tax increases. In fact, the Supreme Court upheld the constitutionality of Obamacare based on Congress' ability to impose taxes. According to the Heritage Foundation, there are at least 18 different tax increases contained in Obamacare totaling more than \$830 billion over the next decade.⁹ That's \$830 billion taken out of the private sector to fund a massive, new entitlement program at a time when the country is already trillions in debt.

These taxes will devastate job growth as those resources will be in the hands not of job creators, but rather government bureaucrats. In fact, Darden Restaurants (owners of Olive Garden and Red Lobster) recently announced that it was cutting back the time its hourly workers could be on the job. In a statement Darden said that the reduced hours were "one of many things we are evaluating to help us address the cost implications health care reform will have on our business."¹⁰ In this case, Obamacare means less work and less pay for hourly workers.

Five new tax increases take effect next year:

- **A new tax on medical devices** (\$20 billion)
- **Caps on Flexible Spending Accounts** (\$13 billion) -- This tax will hit families with children with special needs particularly hard.
- **3.8% tax on investment income** (\$113 billion)
- **Reduced Medical Itemized Deductions** (\$15 billion)
- **31% increase in Medicare Payroll Tax** (\$87 billion)¹¹

II. Rationing

Obamacare will lead to rationing. The law establishes a 15-member board of unelected bureaucrats known as the Independent Payment Advisory Board (IPAB). Dr. Donald Palmisano, former president of the American Medical Association, wrote an op-ed in March calling for the repeal of IPAB, referring to it as "one of the most egregious aspects of the law."¹² Here's how Dr. Palmisano described the board:

*"IPAB will essentially mean rationed care for our nation's seniors. The 15 officials who will make up the board will not only be empowered to make what is expected to be billions of dollars' worth of cuts to Medicare every year, but **will be required to do so** when spending exceeds targeted rates.*

"IPAB's recommended cuts will become law unless a supermajority in Congress vetoes the board's proposal and creates its own cost-cutting proposal of equal size -- an unlikely scenario even in the most harmonious of political times. ...

"Now, years later, more seniors are beginning to understand that IPAB's creation and the \$500 billion in cuts to the Medicare program meant to help pay for the law were anything but helpful to them."¹³

The IPAB was a way for Democrats to avoid taking responsibility for creating entitlements we can't afford. Rather than maketough choices, they passed the buck to an unelected board. In England, there is a similar board known as the National Institute for Clinical Effectiveness (NICE). This board routinely denies coverage of life-saving¹⁴ or pain-relieving¹⁵ drugs it determines are too expensive.

On March 22nd, the Republican-led House of Representatives voted 223-to-181 to repeal IPAB.¹⁶ Seven Democrats voted with the overwhelming majority of House Republicans to kill Obama's rationing board, proving once again that the only bi-partisan aspect of Obamacare is the opposition to it.

III. Assaults On Liberty

Obamacare represents an unprecedented assault on individual liberty. The law largely hinges on the individual mandate, and, as previously noted, the Supreme Court only upheld the mandate under Congress' power to impose taxes. The court rejected the constitutionality of every other argument for Obamacare, such as the regulation of interstate commerce.¹⁷ Obamacare is a tax, and it is a very unusual tax in that it is imposed on those who do not buy a specific product.

This is a dangerous precedent and a dangerous expansion of government power. It is not hard to argue that it would be in the national interest to protect and preserve the jobs associated with the domestic auto industry. Indeed, the government saw fit to invest tens of billions of dollars in the auto bailout.¹⁸ In the interest of securing that taxpayers' investment, could Congress impose taxes on individuals who fail to buy domestically produced automobiles? There seems to be few limits to this new authority.

Worse, Obamacare is now being enforced in ways that demand that churches, religious institutions and Christian-owned businesses violate their core values. In January 2012, the Obama Administration finalized an Obamacare mandate requiring almost all employers, including religious institutions and charities, to cover contraception, sterilization, abortion-inducing drugs and other products or services that many faith-based organizations find morally objectionable.¹⁹ In response, Archbishop Timothy Dolan said:

"To force American citizens to choose between violating their consciences and forgoing their healthcare is literally unconscionable. ...The government should not force Americans to act as if pregnancy is a disease to be prevented at all costs."²⁰

Dolan was joined in his criticism of the mandate by leaders of evangelical, Protestant and Jewish organizations. Below are excerpts of statements by other religious organizations:

The Lutheran Church Missouri Synod:

"This action by HHS will have the effect of forcing many religious organizations to choose between following the letter of the law and operating within the framework of their religious tenets."²¹

The Union of Orthodox Jewish Congregations of America:

"In declining to expand the religious exemption within the healthcare reform law, the Obama Administration has disappointingly failed to respect the needs of religious organizations such as hospitals, social welfare organizations and more."²²

The National Association of Evangelicals:

"No government has the right to compel its citizens to violate their conscience. The HHS rules trample on our most cherished freedoms and set a dangerous precedent."²³

An open letter from leaders of the Southern Baptist Convention:

"The federal government's decision is a flagrant violation of the First Amendment's free exercise clause protections enshrined in the U.S. Constitution. ... In the draft of the Virginia Act for Establishing Religious Freedom (1779), [Thomas] Jefferson wrote, 'To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.' The Obama administration's mandate on contraception coverage is a blatant and outrageous encroachment on religious freedom."²⁴

In May, scores of Catholic dioceses and other institutions filed a dozen federal lawsuits seeking to overturn the mandate.²⁵ The lawsuits were joined by evangelical institutions such as Wheaton College, Biola University and Grace College.²⁶ Potentially facing fines of more than \$1 million a day, the Christian-owned-and-operated company Hobby Lobby joined the law suits in September.²⁷ In Obama's America, health care reform comes with a very steep price in terms of taxes and freedom.

IV. OBAMA'S BROKEN PROMISES

In selling Obamacare to a skeptical public, Barack Obama and congressional Democrats made a lot of dubious promises. The worst were Obama's promise not to raise taxes on the middle class and his oft-repeated claim that if you like your current health insurance, you will be able to keep it.

In September 2009, Barack Obama was interviewed by ABC's George Stephanopoulos about the developing health care reform law.²⁸ Consider this exchange:

STEPHANOPOULOS: *You were against the individual mandate during the campaign. Under this mandate, the government is forcing people to spend money, fining you if you don't. How is that not a tax?*

OBAMA: *Well, hold on a second, George. ... If ... you actually can afford health insurance, but you've just decided, you know what, I want to take my chances. And then you get hit by a bus and you and I have to pay for the emergency room care, that's...*

STEPHANOPOULOS: *That may be, but it's still a tax increase.*

OBAMA: *No. That's not true, George. For us to say that you've got to take a responsibility to get health insurance is absolutely not a tax increase. ...Right now everybody in America, just about, has to get auto insurance. Nobody considers that a tax increase. People say to themselves that is a fair way to make sure that if you hit my car, that I'm not covering all the costs.*

STEPHANOPOULOS: *But it may be fair, it may be good public policy...*

OBAMA: *No, but — but, George, you — you can't just make up that language and decide that that's called a tax increase. Any...*

STEPHANOPOULOS: *I don't think I'm making it up. Merriam Webster's Dictionary: Tax -- "a charge, usually of money, imposed by authority on persons or property for public purposes."*

OBAMA: *George, the fact that you looked up Merriam's Dictionary, the definition of tax increase, indicates to me that you're stretching a little bit right now. Otherwise, you wouldn't have gone to the dictionary to check on the definition. I mean what...*

STEPHANOPOULOS: *I wanted to check for myself. But your critics say it is a tax increase.*

OBAMA: *My critics say everything is a tax increase. My critics say that I'm taking over every sector of the economy. You know that. Look, we can have a legitimate debate about whether or not we're going to have an individual mandate or not, but...*

STEPHANOPOULOS: *But you reject that it's a tax increase?*

OBAMA: *I absolutely reject that notion.*

Obama may have rejected the notion that his individual mandate was a tax increase, but it was the only notion that the Supreme Court accepted in order to uphold Obamacare's constitutionality. Moreover, Obamacare's honest defenders knew it was a tax increase and, unlike Barack Obama, they did not deny it.

In July 2010, the *New York Times* reported that one of the primary legal arguments used by the Obama Administration in defending the individual mandate in court was its constitutionality as a tax.²⁹ Consider this excerpt:

"When Congress required most Americans to obtain [health insurance](#) or pay a penalty, Democrats denied that they were creating a new tax. But in court, the Obama administration and its allies now defend the requirement as an exercise of the government's 'power to lay and collect taxes.' And that power, they say, is even more sweeping than the federal power to regulate interstate commerce."

In the same report, the *New York Times* quotes Professor Jack Balkin of Yale Law School, a strong supporter of ObamaCare who filed a brief defending the constitutionality of the individual mandate. Dr. Balkin put it bluntly, saying that President Obama *"has not been honest with the American people about the nature of this bill. This bill is a tax. Because it's a tax, it's completely constitutional."*³⁰

So what should we conclude? Did the president and congressional Democrats not know what was in the bill they were pushing? Or, as Professor Balkin suggests, did Obama know but choose to deceive George Stephanopoulos and the American people in order to win by any means necessary?

In 2014 Obamacare's individual mandate tax kicks in. The Congressional Budget Office recently estimated that six million Americans -- 50% more than initially estimated -- will be forced to pay this new tax for not purchasing health insurance.³¹ By 2016, the penalty will average \$1,200, and 80% of those impacted will be individuals making less than \$56,000 or families making less than \$115,000 -- a clear violation of Obama's promise not to raise taxes on the middle class.³²

What about Obama's promise that you can keep the health insurance you have now? That too was a lie. Last month David Barr addressed a convention of franchisee owners in Washington, D.C., and told them how Obamacare would impact his business.

Barr has 421 employees, 109 are full-time. He currently pays \$129,000 a year to provide health insurance. Under Obamacare, he estimates his costs will skyrocket to \$440,000 -- "over half his annual profit." But Barr has another option. If he cancels his insurance policies and simply pays the fine, he's out \$158,000 -- a savings of \$282,000.³³ What do you think most businesses faced with such a choice would do?

Major corporations like John Deere, Verizon and AT&T have crunched the numbers and determined that they are better off paying the fines rather than providing health insurance to their employees. For example, AT&T spends \$2.4 billion a year on health insurance 300,000 employees. Obamacare's fines for not providing health insurance would amount to only \$600 million if the company dropped its health insurance and dumped its employees into Obamacare's state exchanges. Thanks to Obamacare, AT&T estimated it could save nearly \$1.8 billion a year by cancelling its health coverage.³⁴

Former Democrat Governor Philip Bredesen of Tennessee opposed Obamacare for the reasons outlined above. In an October 2010 editorial, Gov. Bredesen warned that Obamacare created perverse incentives for businesses and state governments to cancel their employee health insurance:

*"...we'll also have to pay a federal penalty of \$2,000 for each employee because we no longer offer health insurance; that's another \$86 million. ... But if we keep our existing insurance plan, our cost will be \$346 million. We can reduce our annual costs by over \$146 million using the legislated mechanics of health reform to transfer them to the federal government. ... Our thought experiment shows how the economics of dropping existing coverage is about to become very attractive to many employers, both public and private."*³⁵

According to a February 2011 survey by a management consultancy firm, 30% of employers were likely to drop health insurance coverage by 2014 due to Obamacare regulations. The survey found that "the number rises to 50 percent among employers who are highly aware of the health care law."³⁶ No, you won't be able to keep your current health insurance.

This is not an accidental side effect. Barack Obama supports the socialist single-payer model³⁷ and has spoken openly about phasing out employer-provided health insurance coverage.³⁸ Obamacare was designed to destroy private health insurance and lead to a socialist, big government takeover of health care.

Lastly, Barack Obama repeatedly promised that his healthcare reform law would lower costs for the typical family by \$2,500 per year.³⁹ That has not happened. In fact, from 2008 to 2012 health care premiums have gone up \$3,000.⁴⁰

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³ <http://voices.yahoo.com/john-dingell-health-care-reform-control-people-5705806.html>

⁴ <http://www.reuters.com/article/2010/03/22/us-usa-healthcare-timeline-idUSTRE62LOJA20100322>

⁵ http://money.cnn.com/2009/03/06/news/economy/jobs_february/index.htm

⁶ <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/24/AR2009122400662.html>

⁷ <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/21/AR2010032100943.html>

⁸ <http://abcnews.go.com/GMA/HealthCare/obama-sign-health-care-bill-law-republicans-challenge/story?id=10176898>

⁹ <http://blog.heritage.org/2012/08/20/obamacares-18-new-tax-hikes/>

¹⁰ <http://www.orlandosentinel.com/business/os-darden-part-time-workers-20121007,0,1505128.story>

¹¹ <http://blog.heritage.org/2012/08/20/obamacares-18-new-tax-hikes/>

¹² <http://dailycaller.com/2012/03/19/repeal-ipab-now/>

¹³ Ibid.

¹⁴ <http://www.dailymail.co.uk/health/article-1174592/Kidney-cancer-patients-denied-life-saving-drugs-NHS-rationing-body-NICE.html>

¹⁵ <http://www.dailymail.co.uk/health/article-1218887/Rheumatoid-arthritis-drug-eases-pain-expensive-NHS.html>

¹⁶ http://nbcpolitics.nbcnews.com/_news/2012/03/22/10812324-house-votes-to-repeal-key-obamacare-provision?lite

¹⁷ <http://news.yahoo.com/blogs/ticket/supreme-court-issue-obamacare-decision-135554880.html>

¹⁸ <http://online.wsj.com/article/SB10000872396390443995604578000754035510658.html>

¹⁹ <http://www.hhs.gov/news/press/2012pres/01/20120120a.html>

²⁰ <http://www.usccb.org/news/2012/12-012.cfm>

²¹ <http://concordiaandkoinonia.wordpress.com/2012/02/03/a-statement-on-recent-hhs-decision-and-religious-freedom/>

²² <http://matzav.com/agudah-and-ou-protest-obama-administrations-decision-on-health-benefits>

²³ <http://www.nae.net/resources/news/715-press-release-evangelicals-disappointed-with-white-house-decision-on-conscience-protection>

²⁴ http://www.washingtonpost.com/blogs/guest-voices/post/why-baptists-stand-with-catholics-on-birth-control-mandate/2012/02/22/gJQA1RpATR_blog.html

²⁵ <http://www.chicagotribune.com/news/local/ct-met-catholic-obama-lawsuit-20120522,0,7274599.story>

²⁶ <http://www.christianitytoday.com/ct/2012/august-web-only/evangelical-colleges-biola-and-grace-sue-obama-administrati.html>

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²⁸ <http://abcnews.go.com/blogs/politics/2009/09/obama-mandate-is-not-a-tax/>

²⁹ http://www.nytimes.com/2010/07/18/health/policy/18health.html?_r=0

³⁰ Ibid.

³¹ http://www.google.com/hostednews/ap/article/ALeqM5jmIII4FgDvIW-bij_fdHF4v0Wwhbw

³² Ibid.

³³ <http://washingtonexaminer.com/franchisors-warn-obamacare-will-halve-profits/article/2507920>

³⁴ http://money.cnn.com/2010/05/05/news/companies/dropping_benefits.fortune/

³⁵ http://online.wsj.com/article/SB10001424052702304510704575562643804015252.html?mod=WSJ_Opinion_LEADTop

³⁶ <http://www.foxnews.com/politics/2011/06/07/1-in-3-employers-will-drop-health-benefits-after-obamacare-fully-kicks-in/>

³⁷ <http://hotair.com/archives/2009/08/04/obama-2003-uncut-sure-i-support-single-payer-health-care/>

³⁸ <http://newsbusters.org/blogs/noel-sheppard/2009/08/02/obama-2007-said-he-wanted-eliminate-private-health-insurance>

³⁹ http://www.youtube.com/watch?feature=player_embedded&v=_o65vMUk5so

⁴⁰ <http://news.investors.com/092412-626848-health-premiums-up-3065-obama-vowed-2500-cut.aspx?p=full>