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Top Ten Reasons to Repeal ObamaCare

Dean Clancy

President Obama's 2010 health care law¹ has become a top issue in the 2012 election, one that breaks down along strict party lines with Democrats defending and Republicans vowing to repeal the controversial law. In our view, ObamaCare can't be fixed. It must be repealed, so we can start over with a patient-centered approach. Here, then, are our . . .

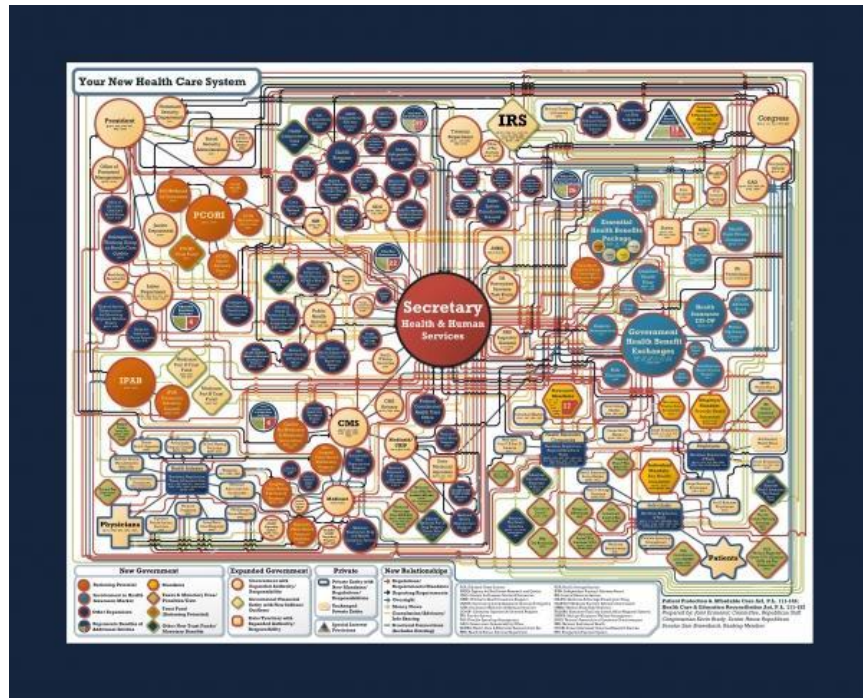
Top Ten Reasons to Repeal ObamaCare

- 1) It's unconstitutional.
- 2) It will drive up health insurance costs.
- 3) It will cause millions of Americans to lose their workplace health benefits.
- 4) It will force us to purchase government-controlled health insurance.
- 5) It will greatly increase the deficit.
- 6) It imposes 18 new taxes, including an expensive tax on medical devices and the first-ever tax on workplace health benefits.
- 7) It will lead to bureaucratic rationing of health care.
- 8) It violates freedom of conscience.
- 9) It's unpopular.
- 10) There's a better way.

For more details, read on . . .

¹ "ObamaCare" refers to the Patient Protection and Affordable Care Act, P.L. 111-148 (enacted March 23, 2010), as amended by the Health Care and Education Reconciliation Act, P.L. 111-152 (enacted March 30, 2010).





Source: Joint Economic Committee, Republican staff, 2010²

1 It's unconstitutional. President Obama's controversial health care law violates the U.S. Constitution, the Tenth Amendment of which declares: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."³ The power to regulate how private citizens pay for their own health care or health insurance is not listed among the enumerated powers of Congress, either explicitly or implicitly; therefore, the law must be presumed to be unconstitutional. When a law is unconstitutional, it must be repealed—period. But suppose for a moment that the health care law is constitutional under the Tenth Amendment. Even then, two of its most important provisions—provisions without which it cannot work and probably would not have passed—have been declared unconstitutional by the U.S. Supreme Court: the mandate on individuals to purchase health insurance (violates the Commerce Clause),⁴ and the massive Medicaid expansion (violates

² Dean Clancy, "ObamaCare in one image," FreedomWorks Blog, September 18, 2012, <http://www.freedomworks.org/blog/dean-clancy/obamacare-chart>.

³ U.S. Constitution, Tenth Amendment. Since the 1930s, the U.S. Supreme Court has declined to enforce the Tenth Amendment. Nevertheless, it remains in force.

⁴ U.S. Supreme Court, *NFIB v. Sebelius* (567 U.S. __ (2012)). In this case, the Supreme Court ruled unconstitutional PPACA's mandate to purchase health insurance (section 1501) while also upholding the tax penalty enacted by Congress to enforce the same mandate (26 USC 5000A). The Commerce Clause is found at U.S. Constitution, Article I, section 8, clause 3.



the Tax and Spend Clause).⁵ (Incredibly, the Court allowed these provisions to continue in effect.)⁶ In our opinion, there are at least two additional unconstitutional provisions: the Medicare spending-reduction/rationing board known as IPAB (violates the Legislative Powers Clause),⁷ and the anti-conscience mandate (the requirement that religious organizations provide free sterilization, contraceptives, and abortion-inducing drugs to their employees, even if doing so violates their religious beliefs) (violates the First Amendment). The IPAB rationing board was crucial to providing the savings needed to fund the new entitlement. The anti-conscience mandate, by contrast, only came to light after the law was enacted; had it been known while the legislation was still pending, ObamaCare would likely have been stopped in the House.⁸ ObamaCare could not have happened without major constitutional violations. If the Supreme court had done it's job, ObamaCare would have been struck down in its entirety.⁹ Happily, voters can finish this job by implementing FreedomWorks' Five Point Plan for Full Repeal.

⁵ *NFIB v. Sebelius*. In this case, the Supreme Court ruled unconstitutional PPACA's expansion of the federal-state Medicaid health care program (sections 2001-2004) as overly coercive of the states, while reading into the statute a new right of states to opt out of the expansion. The Tax and Spend Clause is found at U.S. Constitution, Article I, section 8, clause 1.

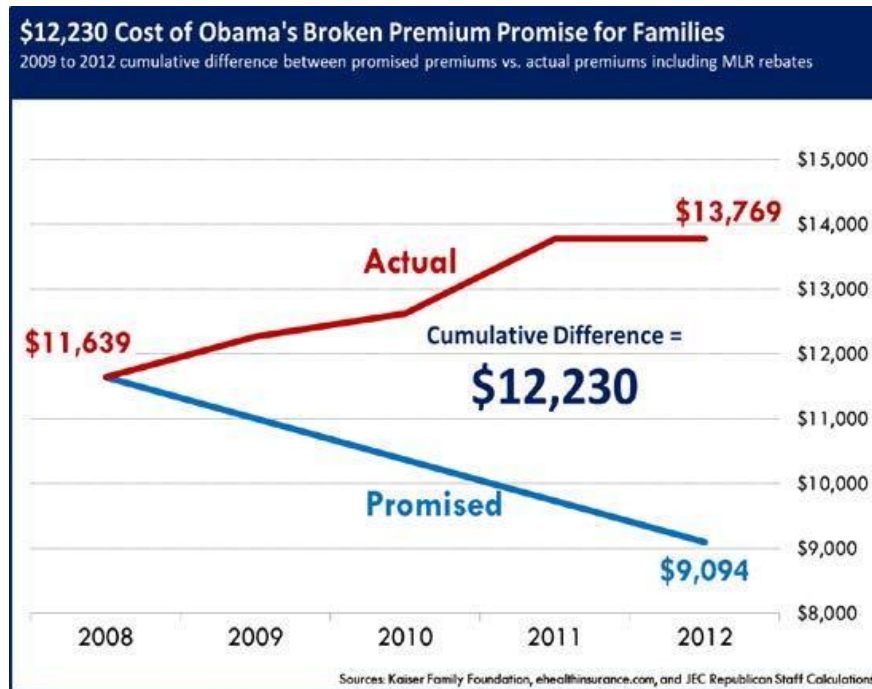
⁶ In what many constitutional conservatives regard as one of the most craven acts of political cowardice in American judicial history, in the ObamaCare case (*NFIB v. Sebelius*, 2012) Chief Justice John Roberts: 1) voted with the four conservative Justices that the individual mandate is unconstitutional (thus constituting a five-member majority to strike down the mandate); 2) voted with the four conservative Justices plus two of the progressive Justices that the Medicaid expansion is unconstitutional (thus constituting a seven-member majority to strike down the expansion); and yet 3) voted with the four progressive Justices to nevertheless preserve these unconstitutional provisions by a creative reinterpretation (i.e., rewriting) of the statute.

⁷ The Legislative Powers Clause (U.S. Constitution, Article I, section 1, clause 1) forbids Congress to delegate its lawmaking powers. In creating IPAB, Congress delegated lawmaking power to a 15-member board formally situated in the Executive Branch but as a practical matter accountable to no one. At press time, the Supreme Court had not yet had a chance to rule on IPAB's constitutionality.

⁸ The law's violation of religious conscience was not known at the time it was enacted. It was promulgated later, by way of an HHS regulation, *specifically*: U.S. Department of Health and Human Services, CMS-9992-F, "Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act [Final Rule]," *Federal Register*, February 15, 2012, pp. 8725-8730, <http://www.gpo.gov/fdsys/pkg/FR-2012-02-15/pdf/2012-3547.pdf>. See also United States Conference of Catholic Bishops, Legal Analysis of the Final HHS Mandate Regulation, March 7, 2012, <http://www.usccb.org/about/general-counsel/upload/2012-hhs-mandate-public-legal-memo.pdf>

⁹ In *NFIB v. Sebelius* (2012), the four conservative Justices argued for striking down the entire law, because its unconstitutional mandate and Medicaid expansion were not "severable" from the rest of the bill. Chief Justice Roberts sided with the Court's four progressives to, in effect, rewrite the statute from the bench, so that, in the majority's opinion, the "severability" question did not have to be reached.





2 It will drive up health insurance costs. Although candidate Obama promised in 2008 that by 2012 his health care reform plan would *reduce* the average price of a family health insurance policy by \$2,500 a year, that price has actually *risen* by more than \$3,000 a year under his Administration (\$2,000 of this increase has occurred since ObamaCare was enacted in 2010).¹⁰ The cumulative cost of this broken promise, for an average family, has been more than \$12,000 to date (see chart above).¹¹ After it takes full effect in 2014, the health care law will drive up premiums even more, because it will increase the number of people with health insurance by more than 20 million, without increasing the supply of doctors or hospitals. Increased demand for services with no corresponding increase in supply *will* drive up prices.¹²

¹⁰ Kaiser Family Foundation, "Employer Health Benefits: 2012 Annual Survey, <http://ehbs.kff.org/pdf/2012/8345.pdf>

¹¹ Joint Economic Committee, Republican Staff, "The \$805 Billion Price Tag of Obama's Broken Promise on Premiums," August 1, 2012, http://www.jec.senate.gov/republicans/public/index.cfm?p=Studies&ContentRecord_id=c8ea5eef-263c-439a-8d59-8cb1462f6931.

¹² The ObamaCare statute curiously prohibits the IRS from punishing anyone who fails to pay the mandate tax. As nicely summed up in Jacob Sullum, "Why Would Anyone Pay the Penalty for Being Uninsured?" *Reason.com*, July 10, 2012, <http://reason.com/blog/2012/07/10/why-would-anyone-pay-the-penalty-for-bei>; "http://reason.com/blog/2012/07/10/why-would-anyone-pay-the-penalty-for-bei," "The law ... severely limits the ability of the IRS to collect the penalties. There are no civil or criminal penalties for refusing to pay it and the IRS cannot seize bank accounts or dock wages to collect it. No interest accumulates for unpaid penalties. So how can the IRS enforce the mandate? Scary letters and threats to withhold tax refunds." The result of this lax enforcement will ultimately be higher premiums for everyone, because PPACA requires insurance companies to issue a policy to everyone who applies for insurance and to charge all customers the same price, regardless of health status. If people don't comply with the mandate, health premiums will rise, as older and sicker folks rush to take advantage of what amounts to underpriced coverage, and the number of uninsured people will also rise as younger, healthier folks find



3 It will cause millions of Americans to lose their workplace health benefits. In 2008, candidate Obama famously promised that, under his plan, “If you like your health care, you can keep it.” He repeated this promise during the heated congressional debate over the legislation in 2009 and 2010. But it’s simply not so. According to official estimates by the Congressional Budget Office, by the year 2019, between 3 and 5 million Americans will lose their job-based health insurance, when their employers “dump” them due to the new law. (Dumping will occur because employers will find it cheaper to pay the penalty for not offering coverage, than to offer it.) CBO cautions that this estimate is uncertain, saying that as many as 3 million could *gain* coverage as a result of the law, or as many as 20 million Americans could *lose* coverage.¹³ Other respected analysts project up to 35 million people will *lose* coverage due to employer dumping because up to 30 percent of employers will simply stop offering coverage.¹⁴ In view of these credible estimates, how believable is the President’s promise that “If you like your health care, you can keep it”?

4 It will force us to purchase government-controlled health insurance. The president’s health care law imposes a mandate on all Americans to purchase government-approved health insurance, plus a “mandate tax” on all who fail to obey that mandate. Beginning in 2014, the mandate tax will be \$95 per adult in an uninsured household (or one percent of income, whichever is greater); this penalty will increase to \$325 in 2015 (or two percent of income, whichever is greater) and to \$695 in 2016 (or 2.5 percent of income, whichever is greater). For a family in 2016, the tax will be \$2,085 or 2.5 percent of the household’s income, whichever is greater.¹⁵ After 2016, the amount of the mandate tax will increase annually, in line with inflation. Despite this, the law fails to achieve its stated goal of “universal coverage”; the number of uninsured Americans is expected to remain as high as 30 million people in 2019. The law also exempts an estimated 24 million people from having to obey the mandate or pay the tax.¹⁶ The

coverage increasingly overpriced and decide to go without. The only way for Congress to stop this “health insurance death spiral” will be to either: a) repeal the mandates on the insurers, or b) impose stiffer penalties on persons who disobey both the individual mandate and the mandate tax. The Congressional Budget Office downplays this “death spiral” argument, however, assuming that most people will obey the law simply because it is a law.

¹³ Congressional Budget Office, “The Effects of the Affordable Care Act on Employment-Based Insurance,” March 15, 2012, <https://cbo.gov/publication/43090>. See also “CBO and JCT’s Estimates of the Effects of the Affordable Care Act on the Number of People Obtaining Employment-Based Health Insurance,” March 2012, http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-15-ACA_and_Insurance_2.pdf

¹⁴ Avik Roy, “McKinsey: 30% of Employers to ‘Definitely or Probably’ Stop Offering Health Insurance after 2014,” *Forbes*, June 6, 2012, <http://www.forbes.com/sites/aroy/2011/06/06/mckinsey-30-of-employers-to-definitely-or-probably-stop-offering-health-insurance-after-2014/>

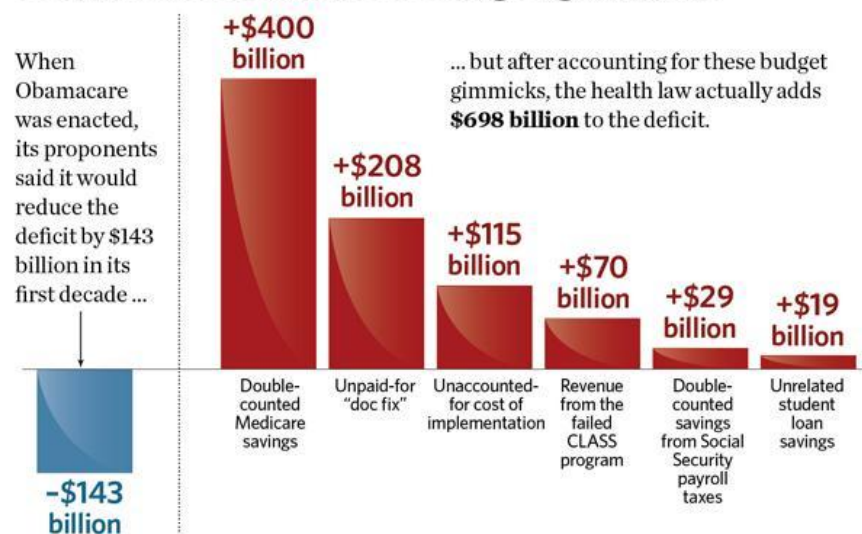
¹⁵ Kaiser Health News, “After the Ruling: A Consumer’s Guide,” June 28, 2012, <http://www.kaiserhealthnews.org/Stories/2012/March/22/consumer-guide-health-law.aspx>

¹⁶ Specifically exempted from the mandate are: people whose insurance premiums would exceed 8 percent of their household income; people who have too little income to file a tax return; members of American Indian tribes;



Democrats' health care mandate is deeply unpopular: more than two-thirds of Americans tell pollsters they oppose it.¹⁷

Obamacare's bundle of budget gimmicks



Source: Senate Budget Committee.

Obamacare in Pictures heritage.org

5 It will greatly increase the deficit. During the debate over the President's health care reform bill, President Obama promised the legislation would "not add one dime to the deficit" and that his new entitlement program would cost "less than \$1 trillion over ten years." In early 2010, the Congressional Budget Office officially estimated that the president's health care law would meet both of these promises: the gross cost of the coverage provisions of the law, CBO projected, would be \$938 billion over the ten-year period 2010-2019 (its net cost would be \$788 billion, after counting the bill's many tax hikes); while the bill would *reduce* the deficit by \$143 billion over the same decade.¹⁸ Waving these estimates in triumph, Democrats rammed the legislation through, without a single Republican vote. Those estimates, however, need to be taken with a gigantic grain of salt. CBO was legally required to count \$841 billion worth of budget gimmicks

undocumented aliens; prisoners; people in certain religious groups like the Amish; people in health care sharing ministries. In addition, the law exempts the following groups from having to pay the mandate tax: people living permanently outside the United States; residents of U.S. territories and possessions; people who are uninsured fewer than three months in a given year; and "hardship cases," as defined by the Secretary of Health and Human Services. The Kaiser Family Foundation has prepared a detailed flow chart on the exemptions from the mandate, available at: http://healthreform.kff.org/the-basics/Requirement-to-buy-coverage-flowchart.aspx?utm_source=hrs&utm_medium=web&utm_campaign=timeline.

¹⁷ Greg Holyk, "As Health Care Law's Trial Approaches, Two-Thirds Say Ditch Individual Mandate," *ABC News*, May 19, 2012, <http://abcnews.go.com/blogs/politics/2012/03/as-health-care-laws-trial-approaches-two-thirds-say-ditch-individual-mandate/>

¹⁸ Congressional Budget Office, Official Cost Estimate of Final Health Care Legislation, March 20, 2010, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/113xx/doc11379/amendreconprop.pdf>



that Democrats had stuffed into the bill to mask its true cost. Those gimmicks included: double-counted Medicare savings (\$400 billion); unpaid-for Medicare “doc fix” (\$208 billion); unaccounted for cost of implementation (\$115 billion); revenue from the failed CLASS program (\$70 billion); double-counted savings from payroll taxes (\$29 billion); and \$19 billion in unrelated student loan savings (see chart above).¹⁹ If you subtract from this figure the \$143 billion CBO projected in deficit reduction, and the true impact of the bill would be to drive up the deficit by \$698 billion over ten years. The most important gimmick was the old trick of enacting 10 years’ worth of tax hikes (2010-2019) but only six years’ worth of new spending (2014-2019). Every year, CBO updates its ten-year estimate; and the true cost of the legislation becomes more apparent. In its most recent re-estimate, in July of this year, CBO raised the ten-year cost of the coverage provisions to \$1.67 trillion (up from \$983 billion in its 2010 estimate) and reduced the bill’s deficit-reduction effect to \$109 billion (down from \$143 billion in the 2010 estimate).²⁰ These figures *include* the budget gimmicks listed above. Filter those out, and the true ten-year cost of just the coverage provisions is around \$2.4 trillion, with the law likely drive the deficit *up* by more than \$700 billion. On top of this, we must remember the government’s truly appalling track record when it comes to projecting the costs of health care legislation. For example, in 1967, the House Ways and Means Committee predicted that the new Medicare program, launched the previous year, would cost about \$12 billion in 1990; actual Medicare spending in 1990 was \$110 billion—off by nearly a factor of 10. Another example is the end-stage renal disease (ESRD) benefit Congress created in 1972; it ended up costing double the initial estimate. And there are many more examples like these.²¹ In view of these facts, can anyone seriously credit the Democrats’ oft-repeated claim that ObamaCare will *reduce* the deficit?

¹⁹ Allison Meyer, “Chart of the Week: Obamacare’s Bundle of Budget Gimmicks,” *The Foundry*, April 8, 2012, <http://blog.heritage.org/2012/04/08/chart-of-the-week-obamacares-bundle-of-budget-gimmicks/>.

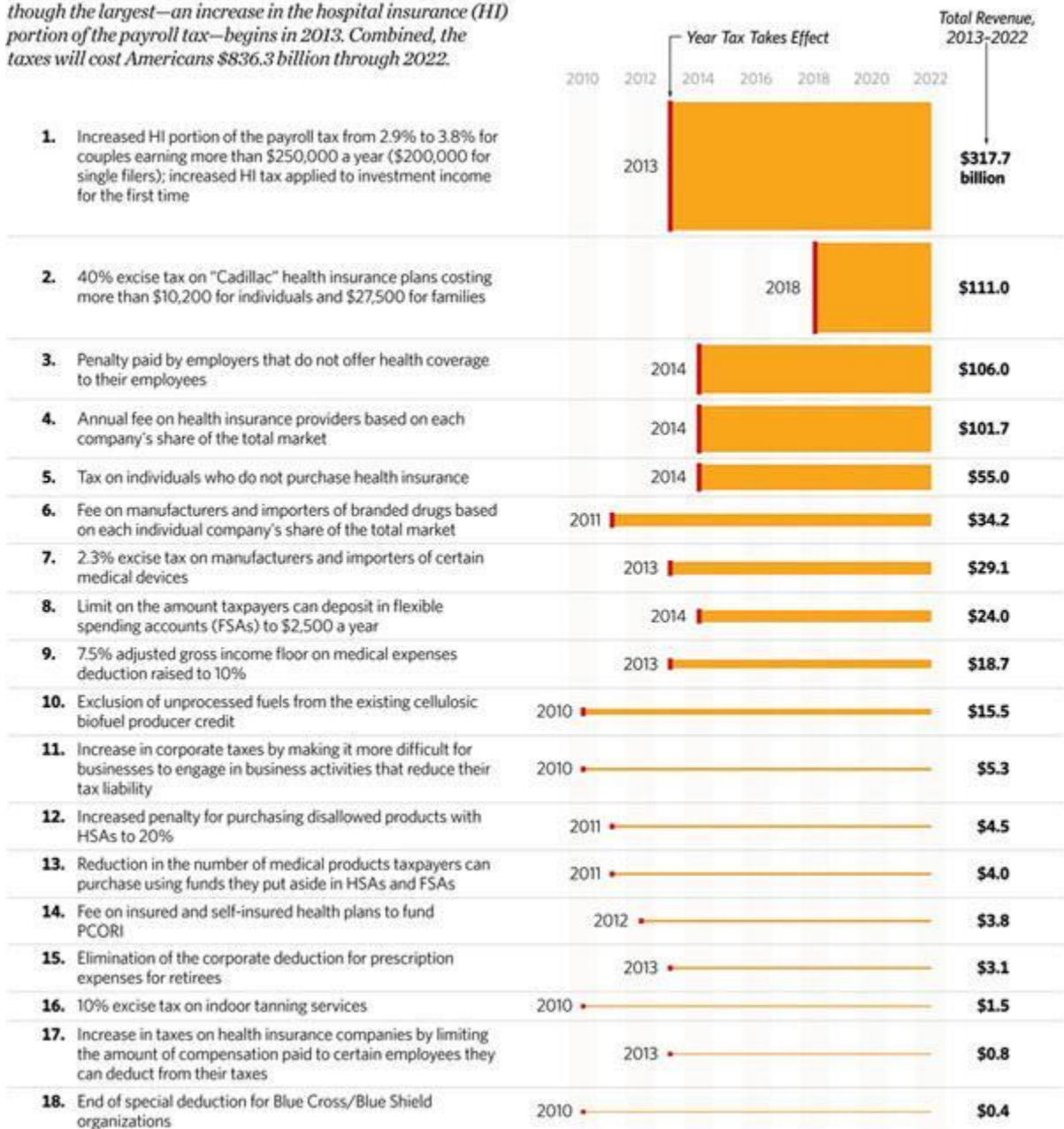
²⁰ Jeffrey H. Anderson, *Weekly Standard*, “CBO: Obamacare to Cost \$1.93 Trillion, Leave 30 Million Uninsured,” http://www.weeklystandard.com/blogs/cbo-obamacare-cost-1930-trillion-leave-30-million-uninsured_649066.html. See also Congressional Budget Office, “Estimates for the Insurance Coverage Provisions of the Affordable Care Act Updated for the Recent Supreme Court Decision,” July 2012, <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43472-07-24-2012-CoverageEstimates.pdf>.

²¹ Joint Economic Committee, Republican Staff, “Are Health Care Cost Estimates Reliable?” July 31, 2009, http://www.jec.senate.gov/republicans/public/?a=Files.Serve&File_id=5802c84c-e821-4ab3-baeb-793f3ae2e036.



Timetable of Taxes from Obamacare

Several taxes from Obamacare have already taken effect, though the largest—an increase in the hospital insurance (HI) portion of the payroll tax—begins in 2013. Combined, the taxes will cost Americans \$836.3 billion through 2022.



Sources: Joint Committee on Taxation and Congressional Budget Office.

Health Care heritage.org



6 It imposes 18 new taxes, including an expensive tax on medical devices and the first-ever tax on workplace health benefits. The president's health care law contains 18 new taxes totaling \$514 billion in ten-year revenue.²² These taxes will hit medical innovators, health insurance, and even the sale of your home. ObamaCare's tax hikes include:

ObamaCare's 18 New Taxes

- 1) Increased HI portion of the payroll tax from 2.9% to 3.8% for couples earning more than \$250,000 a year (\$200,000 for single filers); increased HI tax applied to investment income for the first time.
- 2) 40% excise tax on "Cadillac" health insurance plans costing more than \$10,200 for individuals and \$27,500 for families.
- 3) Penalty paid by employers that do not offer health coverage to their employees.
- 4) Annual fee on health insurance providers based on each company's share of the total market.
- 5) Tax on individuals who do not purchase health insurance.
- 6) Fee on manufacturers and importers of branded drugs, based on each individual company's share of the total market.
- 7) 2.3% excise tax on manufacturers and importers of certain medical devices.
- 8) Limit on the amount taxpayers can deposit in flexible spending accounts (FSAs) to \$2,500 a year.
- 9) 7.5% adjusted gross income floor on medical expenses deduction raised to 10%.
- 10) Exclusion of unprocessed fuels from the existing cellulosic biofuel producer credit.
- 11) Increase in corporate taxes by making it more difficult for businesses to engage in activities that reduce their tax liability.
- 12) Increased penalty for purchasing disallowed products with HSAs to 20%.
- 13) Reduction in the number of medical products taxpayers can purchase using funds they put aside in HSAs and FSAs.
- 14) Fee on insured and self-insured health plans to fund PCORI agency.
- 15) Elimination of the corporate deduction for prescription expenses for retirees.
- 16) 10% excise tax on in-door tanning services.
- 17) Increase in taxes on health insurance companies, by limiting the amount of compensation paid to certain employees they can deduct from their taxes.
- 18) End of special deduction for Blue Cross / Blue Shield organizations.²³

²² Congressional Budget Office, "Estimates for the Insurance Coverage Provisions of the Affordable Care Act Updated for the Recent Supreme Court Decision," July 2012,

²² <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43472-07-24-2012-CoverageEstimates.pdf>.

²³ Alyene Singer and John Fleming, "Obamacare's 18 New Tax Hikes," *The Foundry*, August 20, 2012, <http://blog.heritage.org/2012/08/20/obamacares-18-new-tax-hikes/>. Some of ObamaCare's taxes have already taken effect. Singer and Fleming estimate that the revenue raised by ObamaCare's taxes over its first 13 years (2010-2022) will be \$836.3 billion.



It has been estimated that collecting these new taxes will require the hiring of more than 16,000 new IRS agents, auditors, and other employees.²⁴ The *Medical Device Tax* (item No. 7, above) will be particularly harmful. As mentioned, ObamaCare imposes a new 2.3 percent excise tax on gross sales of medical devices, even if the company does not earn a profit in a given year. The medical device industry employs more than 400,000 people in more than 10,000 manufacturing and distribution facilities across this country. In addition to killing small-business jobs and negatively affecting research and development budgets, the Medical Device Tax will increase the cost of health care, by driving up the cost of everything from prosthetics to pacemakers. Meanwhile, perhaps the most alarming new tax, for workers, will be the stiff new *40 percent “Cadillac Tax”* tax on “overly generous” health insurance plans (item No. 2, above). Thanks to this tax, employee health benefits will be taxed for the first time. For affected plans, this new tax will, over time, tend to cause employers to offer less comprehensive health benefits coverage (i.e., employees’ deductibles and copays will tend to go up).²⁵

7 It will lead to bureaucratic rationing of health care. One of the ways congressional Democrats funded the President’s health care law was to reduce Medicare spending by \$716 billion over ten years (2013-2022), and use these savings to fund their new health care entitlement (ObamaCare).²⁶ The Medicare reductions will be carried out by a powerful new, 15-member government board called IPAB, or Independent Payment Advisory Board.²⁷ IPAB will

²⁴ U.S. House Committee on Ways and Means, “Ways and Means Republicans’ Report: Democrats’ Health Care Bill Contains Massive Expansion of IRS’s Power,” March 18, 2010, <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=176997>.

²⁵ The “Cadillac” tax will begin to be collected on January 1, 2018. It will be applied to health plans costing at least \$10,200 a year for a single individual, or \$27,500 for a family. (A higher threshold applies to early retirees and certain “high-risk” professions: \$11,500 single / \$29,450 family.) The number of people whose health plan is subject to the tax will tend to grow over time, because of rapidly rising health care costs. To minimize this effect, the law “indexes” the tax thresholds, so they will rise each year at the rate of inflation (CPI), plus one percentage point. This will provide only partial relief, however, because health care costs traditionally rise at a rate of two to five percentage points faster than CPI. (Source: “Healthcare Costs Soar Above Overall Inflation,” HealthLeadersMedia, 10/12/2012, <http://www.healthleadersmedia.com/page-1/FIN-258088/Healthcare-Costs-Soar-Above-Overall-Inflation>.) The tax is levied on the insurance company that offers the plan, not directly on the employer or employee who pay for the plan; but the financial impact is the same. (Source: Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the Health Care and Education Reconciliation Act, P.L. 111-152 (2010), pp. 1941-1956.)

²⁶ Congressional Budget Office, Cost Estimate for H.R.6079, the Repeal of Obamacare Act, as Passed by the House of Representatives on July 11, 2012,” July 24, 2012, p.13, <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43471-hr6079.pdf>.

²⁷ Here’s the process IPAB will follow to achieve Medicare savings: If Medicare’s growth rate appears likely to exceed a certain “global budget” target defined in the Act, then the 15 “experts” at IPAB (none of whom, incidentally, is required to be a doctor) must develop a proposal to get Medicare spending back in line. If the Secretary of Health and Human Services (HHS) decides she doesn’t like the proposal, she can substitute one of her own. But either way, the decision, once published, goes into effect automatically—and basically cannot be reversed. (Incidentally, the Secretary will have an incentive not to appoint any IPAB members, because then all of this power will remain exclusively in her hands.)



exercise vast powers with virtually no accountability or oversight.²⁸ Medicare is in dire need of major reforms to make it financially sustainable and prevent it from bankrupting the federal government.²⁹ But IPAB is exactly the wrong way to go. IPAB is prohibited by the statute from doing anything to actually reform Medicare's rules or structure. Instead, it can only impose meat-ax cuts to the amounts paid to doctors and hospitals. If these cuts are allowed to take effect, rationing and care-denials will inevitably result, because Medicare currently only pays doctors about 80 percent of what private insurers pay them,³⁰ and cutting them much further will force many providers to stop accepting Medicare patients. This could be especially bad for rural and disabled patients. Today, thanks in part to ObamaCare, nearly half of all physicians are seriously considering leaving practice, which would cause a severe doctor shortage.³¹ IPAB's Medicare cuts will, in effect, force health care providers to choose between seeing fewer Medicare patients and going bankrupt; some will do both. In fact, right after ObamaCare passed, the top actuary (official number-cruncher) at Medicare estimated that IPAB's 10-year cuts will put 15 percent of America's hospitals out of business.³² And here's the kicker: One of IPAB's earliest and most enthusiastic supporters, former Senator Democratic Leader Tom Daschle, who was President Obama's first choice for HHS Secretary, would like to see its power extended to cover all forms of health insurance, not just Medicare. In other words: *Today, rationing for seniors; tomorrow, rationing for all!*³³

²⁸ IPAB is a constitutional anomaly: an executive agency wielding legislative power that's legally immune to judicial oversight. The Democratic Congress wanted IPAB to be the sole judge of the laws that it creates and executes, because it feared that politicians are too cowardly to make the "tough decisions" needed to keep Medicare from bankrupting the government. In addition, IPAB is exempt from the "sunshine" laws that apply to virtually every other federal board and commission. It doesn't have to hold public meetings, consider public input on its proposals, or even make transcripts of its deliberations publicly available. Meanwhile, it "may accept, use, and dispose of gifts or donations of services or property," providing a not-so-subtle invitation to health-industry lobbyists to lavish board members with favors and goodies in hopes of influencing IPAB's decisions. Even its budget is shielded from regular congressional scrutiny by being put on "auto-pilot" status. Interestingly, jobs at this powerful agency will be cushy. Salaries will start at \$165,300 for board members and \$179,700 for the chairman. Each employee will be paid up to \$145,700 a year — plus travel and expenses.

²⁹ Medicare is the second-largest program in the entire federal budget (after Social Security), and (at 7 percent a year) the fastest-growing. The Medicare hospital trust fund is currently threatened by a mind-boggling, \$36 trillion funding shortfall over the next 75 years. Medicare employs thousands of bureaucrats to administer 100,000 pages of mind-numbing rules, yet still manages to waste 10-20 percent of Medicare's roughly \$600 billion-a-year budget on erroneous and fraudulent payments.

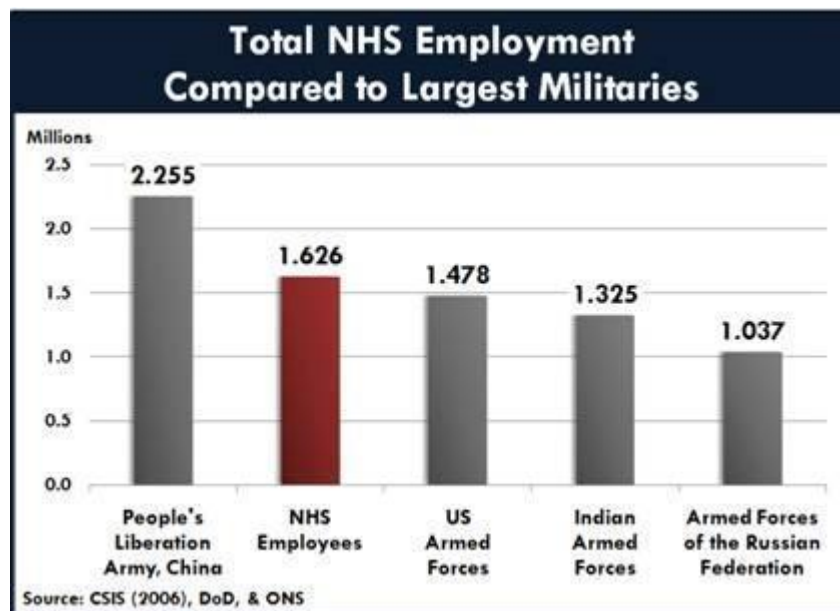
³⁰ Robert E. Moffit, "Why Traditional Medicare Must (and Will) Be Reformed," *The Foundry*, September 10, 2012, <http://www.heritage.org/research/reports/2012/09/why-traditional-medicare-must-and-will-be-reformed>.

³¹ Shannon Pettypiece, "About Half of Doctors Say They're Burned Out by Workload," Bloomberg, August 20, 2012, <http://www.bloomberg.com/news/2012-08-20/about-half-of-doctors-say-they-re-burned-out-by-workload.html>.

³² Richard S. Foster, Chief Actuary, Center for Medicare and Medicaid Services (CMS), "Estimated Financial Effects of the 'Patient Protection and Affordable Care Act,' as Amended," April 22, 2010, http://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/downloads/PPACA_2010-04-22.pdf

³³ Daschle argues that IPAB should be expanded to cover all forms of health insurance in order to prevent doctors from shifting costs onto patients with private medical insurance. (Source: Jackie Calmes, "After Health Care Passage,





Source: Joint Economic Committee, Republican Staff, 2010

By the way, an instructive example of our health care future under ObamaCare may be seen in Britain. The United Kingdom nationalized its health care industry in 1948. Today, a government agency with the creepy acronym of NICE explicitly rations British patients' health care, setting forth rules for determining who will receive care and who will not, based on a cost-benefit concept known as Quality-Adjusted Life Years (QALYs). Generally, if a treatment costs more than £20,000-30,000 per additional QALY gained through the treatment (an arbitrary limit determined by budgetary constraints), then it is deemed "not cost effective," and individuals and families who want those treatments are left to pay for them entirely out of pocket, sometimes by traveling abroad. Britain has also experienced a massive expansion in the number of government employees, thanks to its takeover of health care. The UK's National Health Service (NHS) now employs no fewer than 1.6 million people, a figure equal to 25 percent of all government employees and 20 percent of all private-sector employees in the United Kingdom. If it were an army, the NHS would be the second largest on earth, behind only that of China (see figure above).³⁴ ObamaCare creates the conditions for British-style bureaucratic rationing in the United States.

Obama Pushes to Get It Rolling," *New York Times*. April 18, 2010, <http://www.nytimes.com/2010/04/18/health/policy/18cost.html? r=0>.

³⁴ Joint Economic Committee, Republican Staff, "The U.K. De-Bureaucratizes Health Care: We Should Too," September 22, 2010, http://www.jec.senate.gov/republicans/public/?a=Files.Serve&File_id=9bf72ff0-f2ad-4486-9dd7-e8305d5d61a6.



8 It violates freedom of conscience. Regardless of one's views on such matters as abortion, contraception, and sterilization—and FreedomWorks as an organization takes no position on these issues—the First Amendment indisputably protects the rights of those who cannot in good conscience participate or cooperate in these practices. ObamaCare, however, runs roughshod over the rights of conscience in its zeal to provide “free,” universal insurance coverage of “reproductive health services” for women. It's one thing, for example, to use legal contraceptives. It's quite another to force one's fellow citizens to pay for those contraceptives. And it's another yet, to do so when those citizens oppose contraception on religious or moral grounds. The rights of conscience are enshrined in the First Amendment precisely because they represent an essential part of every person's natural liberty; we must defend our conscience rights vigilantly, regardless of who proposes to infringe them and no matter how “noble” or “beneficial” the alleged justification for the infringement. Under HHS regulations issued pursuant to the President's health care law, every insurer must cover—and every employer with more than 50 employees must offer coverage that includes—certain preventive health benefits for women; and these benefits must include no-cost coverage of sterilization services and FDA-approved prescription contraceptives (including contraceptives that can act as abortifacients). A narrow exemption is granted in the HHS regulations for “religious employers” who meet certain very strict definitions. Thus, certain churches and other houses of worship will be exempt. But countless religious schools, universities, hospitals, and charitable institutions will not. The anti-conscience mandate takes effect in August of 2013.^{35 36}

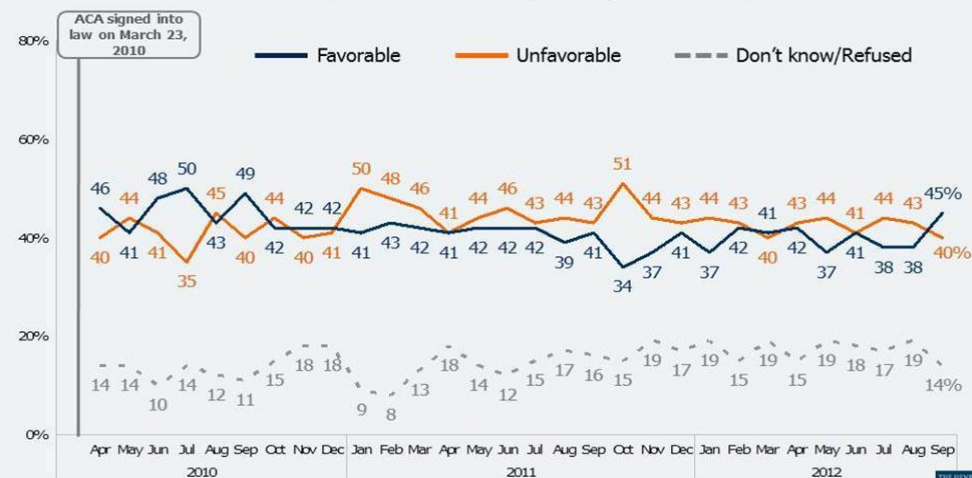
³⁵ U.S. Department of Health and Human Services, CMS-9992-F, “Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act [Final Rule],” *Federal Register*, February 15, 2012, pp. 8725-8730, <http://www.gpo.gov/fdsys/pkg/FR-2012-02-15/pdf/2012-3547.pdf>.

³⁶ The HHS “anti-conscience” mandate was promulgated by the same Administration that, prior to the law's enactment, had publicly promised to respect the rights of conscience in implementing the law. In order to secure the votes of certain “pro-life” House Democrats to pass the health care bill, President Obama provided solemn assurances and also issued an executive order to the effect that no one would be forced to pay through the new entitlement for other people's abortions, contraceptives, or sterilizations. (Source: Dan Pfeiffer, “One More Step Towards Health Insurance Reform,” White House blog, March 21, 2010, <http://www.whitehouse.gov/blog/2010/03/21/one-more-step-towards-health-insurance-reform>.) The Democrats who accepted these assurances turned out to have been hoodwinked. Individuals will, in fact, be forced to help pay for abortions under ObamaCare, through an accounting scheme in the law that tries to disguise what's going on but cannot change the fact that money is fungible; and individuals will be forced, under the anti-conscience mandate, to pay for sterilization and contraceptives (including abortifacient contraceptives). Many of these hoodwinked Democrats went on to lose in the 2010 elections, quite possibly as a result of their votes in favor of the health care bill.



Public Still Divided On ACA; Favorable Views Tick Up This Month

As you may know, a health reform bill was signed into law in 2010. Given what you know about the health reform law, do you have a generally favorable or generally unfavorable opinion of it?



Source: Kaiser Family Foundation Health Tracking Polls



9 It's unpopular. ObamaCare is unpopular. A majority of Americans have rejected it from the start. In fact, according to most polls, opposition to this law has exceeded 50 percent of the population continuously since the spring of 2009, when congressional Democrats first unveiled the bill. Even the poll most friendly to the President's health care law, the Kaiser monthly tracking poll, has found the public to be, at best, consistently deeply divided on the law (see chart above).³⁷

10 There's a better way. Let's start over. With a fresh approach. One that doesn't insert bureaucrats into the doctor-patient relationship. Instead of a crushing burden of mandates and taxes, let's try *freedom*. Our goal should be to build a truly patient-centered, consumer-driven system, one that's so successful and popular that no politician will ever again dare to take it over. Instead of focusing on achieving "universal coverage," which requires centralized government control, we should focus on reducing costs and expanding individual freedom. Indeed, the *only* effective way to reduce health care costs is to put patients in charge of their own health care dollars and decisions. Wherever markets are allowed to work, costs go down, quality improves, and innovation accelerates. Health care is no different. Incidentally, coverage gains will also occur, as a natural and welcome by-product of patients and health care providers working together in freedom. Here is a ten-point plan for reforming our broken health care system:

³⁷ Kaiser Family Foundation Health Tracking Polls, "Public Still Divided on ACA," September 2012, <http://facts.kff.org/chart.aspx?ch=1456>.



FreedomWorks' Ten-Point Plan for Patient-Centered Care

- 1) Let individuals deduct all of their medical expenditures off of their taxes.
- 2) Expand Health Savings Accounts.
- 3) Allow people to purchase health insurance across state lines, to increase competition and reduce costly government mandates.
- 4) Reform state medical malpractice laws to lower litigation costs and reduce defensive medicine.
- 5) Help people with preexisting medical conditions by fully funding state preexisting-conditions pools and requiring insurers to accept everyone who has remained continuously covered with insurance.
- 6) Repeal Medicare's "individual mandate" (i.e., let seniors carry private health insurance in lieu of Medicare, if they wish—without having to forgo their Social Security).
- 7) Let seniors purchase goods and services from doctors, without regard to Medicare's price controls.
- 8) Allow seniors to have Health Savings Accounts.
- 9) Let all Medicare seniors enroll in the same health plans enjoyed by Members of Congress.
- 10) Block-grant Medicaid (i.e., give states a fixed sum of money to provide health care and health insurance protection to the poor).

We can do this. We can preserve and strengthen the world's best health care system. But first we must repeal ObamaCare.

Dean Clancy is FreedomWorks' Legislative Counsel and Vice President, Health Care Policy. He leads our efforts to reverse the government takeover of health care and adopt a patient-centered approach.



Instead of ObamaCare . . .

Instead of ...

- ... creating 159 new boards, agencies, and programs to micro-manage our health care;*
- ... giving the HHS Secretary 1,968 new powers to oversee one-sixth of our economy;*
- ... forcing people to buy health insurance against their will;*
- ... raising health insurance premiums and overall health costs;*
- ... spending \$2.4 trillion over ten years on a massive new entitlement program;*
- ... driving up the deficit by more than \$700 billion;*
- ... imposing 18 new taxes totaling \$514 billion in new taxes on the American people;*
- ... hiring more than 16,000 new IRS agents to collect all those new taxes;*
- ... siphoning \$716 billion out of Medicare to fund a new entitlement;*
- ... making deep, “meat ax” reductions in Medicare payments to doctors and hospitals;*
- ... setting up a powerful, unaccountable, 15-member Medicare rationing board (IPAB);*
- ... passing a 2,700-page law that almost no Member of Congress has had time to read;*
- ... employing \$841 billion in budget gimmicks to mask the true cost of the bill;*
- ... doling out expensive earmarks to bribe reluctant Senators to vote for the bill;*
- ... passing that bill with votes from only one political party (Democrats)*

... why not try an approach that’s nonpartisan, commonsense, and patient-centered?

Why not try freedom?

. . . Patient-Centered Care.



Top Ten Reasons to Repeal ObamaCare

- 1) It's unconstitutional.
- 2) It will drive up health insurance costs.
- 3) It will cause millions of Americans to lose their workplace health benefits.
- 4) It will force us to purchase government-controlled health insurance.
- 5) It will greatly increase the deficit.
- 6) It imposes 18 new taxes, including an expensive tax on medical devices and the first-ever tax on workplace health benefits.
- 7) It will lead to bureaucratic rationing of health care.
- 8) It violates freedom of conscience.
- 9) It's unpopular.
- 10) There's a better way.

Are You Willing to Bet Your Family's Health on ObamaCare?

Demand [Full Repeal Now!](#)

For more information:

<http://www.freedomworks.org/tags/obamacare>

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