

Floor Statement on Cassidy-Collins “Patient Freedom Act”  
Senator Susan M. Collins  
January 23, 2017

First let me commend the senator from Louisiana for his extraordinary work on this bill. It has been a great pleasure to work closely with him as we have made a genuine effort to put together a bill that would be a reasonable replacement for Obamacare, that would help to bring people together, and I just want to commend him for his expertise.

As a physician, Senator Cassidy brings an important perspective to this debate, particularly, since he has practiced for so many years in hospitals in Louisiana that serve the uninsured. So I want to personally thank him for the privilege of working to craft this bill together.

Madam President, there has been much debate recently on the best approach to replacing and reforming the Affordable Care Act. Considerable confusion and anxiety exist about the current status of the law and about the future of health care in our country. What is often overlooked in this discussion, however, is that while the ACA provides valuable assistance for some people who were previously uninsured, the system created by the law is under tremendous financial strain. Obamacare exchanges are on the verge of collapse in many States. The reality is that significant changes must be made; doing nothing cannot be an option.

I am therefore both surprised and disappointed by the remarks of the Democratic leader to the press and on the floor today about the genuine effort that Sen. Cassidy and I have put forward in introducing the Patient Freedom Act.

First of all, let me point out that the Democratic leader could not possibly have read our bill since we hadn't introduced it yet, and it is evident that he has misunderstood many of its provisions. For example in a press statement, he said that we gutted the pre-existing condition protections that we strongly support and that are codified in our bill in Section 101 b. It ensures that insurers cannot discriminate against individuals with pre-existing conditions who pay their premiums.

I guess what disappoints me most, Madam President, is that the Democratic leader's response really represents what's wrong with Washington, D.C. The American people want us to come together. They want Democrats and Republicans to work as a team to solve the problems facing our nation. If we are going to have a leader on the other side of the aisle denounce to the press and come to the Senate floor to criticize a bill that has not even been introduced yet, where are we? I really hope that this is an aberration and that we can work together and that the compromises that we put in the bill are recognized as a good-faith effort to bring both sides of the aisle together in the interests of the American people and in providing access to affordable health care. That's our goal. We're not saying our bill is perfect, we're open to refinements, but we have made a good-faith effort. To hear it described inaccurately and as other than a genuine effort to solve a problem truly disappoints me.

The fact is that the ACA has been in effect for years, yet nearly 30 million people still do not have health insurance coverage. Many of those who do have coverage through the ACA Exchanges are experiencing large spikes in premiums, deductibles, and co-pays, increasing costs to consumers and taxpayers alike. Contrary to the predictions made by the early supporters of the ACA, premiums are increasing in nearly every state, with an average increase of 25 percent nationally.

In New York state, the average increase on the Exchange is 16.6 percent. Perhaps the Democratic leader thinks that is an acceptable rate of increase. It strikes me as pretty high, and even though it is below the national average, it is still in the double digits. The situation is even more dire in some states like Arizona, where premiums have increased by 116 percent. In many counties throughout our country, there is only one or two health insurers offering plans on the Exchange, severely limiting consumer choice.

In my State of Maine premiums for the individual market for 2017 have soared to 22 percent on average, and plan options have become more limited. Now, subsidies do cushion the blow for those consumers who are eligible for them, but others have had to shoulder the full increase, and of course taxpayers have borne a greater burden. Moreover, individuals and families with incomes exceeding 250 percent of the poverty rate are not shielded from the dramatic increases in deductibles and copays. That is important to remember.

The premiums subsidy goes up to incomes up to 400 percent of the poverty rate, and then it drops off the cliff, and you're eligible for no subsidy whatsoever. There is no orderly phase out. But with help for copays and deductibles under the Affordable Care Act, the threshold is 250 percent of the poverty rate. So these huge premium spikes and increases in deductibles and larger copays are having an effect on families and individuals who are by no means wealthy all over this nation.

Many with coverage under the ACA are also facing increasingly narrow networks, which means they may find their preferred doctors are not in their networks. This can be particularly difficult for rural states that may have few specialists and whose citizens rely on major medical centers in nearby states. If patients want to continue to see these doctors, they can be faced with enormous costs that are not covered by their ACA insurance. As one Mainer put it, "[President] Obama said I could keep my doctor, and the insurance company says I can't."

The co-ops created under the ACA to help provide health insurance coverage have been failing at an alarming rate. In fact, only five out of 23 remain operational. It is also important to carefully consider the effects that Obamacare's Medicare cuts have had on providers like rural hospitals and home health agencies, many of whom are struggling. In sum, prices are skyrocketing, coverage is narrowing, and the individual market is likely in a death spiral if Congress fails to act.

Madam President, I know that many members of this Chamber share the goal of expanding access to affordable health care. Over the years, I have collaborated with colleagues on both sides of the aisle on a number of initiatives. Today, I am pleased to join my colleague, Senator and Doctor Bill Cassidy, in introducing The Patient Freedom Act of 2017 to help ensure

that Americans have access to affordable health care that improves choice and helps restrain costs.

Let me emphasize again that our bill is a work in progress. It is not perfect; however, what it does, and it is virtually unique in this regard in this Chamber, is put specific proposals on the table as we seek to craft bills to repair and improve the Affordable Care Act. Other legislation being discussed, such as those designed to help small businesses pool risk so that they can better afford to provide insurance to their employees, also deserve consideration. Let's get a lot of ideas on the table, but you have to start, and we have been willing to step forward and propose a specific bill. To be criticized for that by the Democratic leader is just so disappointing, particularly since the leader is well aware that I work across the aisle all the time to try to find solutions for our country

The Patient Freedom Act is built on the premise that giving people more choices is superior to the "one-size-fits-all" approach that defined the Affordable Care Act. We recognize that what works best for the people of Maine or New Hampshire might not be right for the people of New York or California. Our bill respects these differences by giving states options to choose the path that works best for their citizens.

Option one would allow a state to choose to continue operating insurance markets pursuant to all the rules of the Affordable Care Act. So if New York State wants to keep with the status quo despite the 16.6 percent increase on average in the premiums for the insurance market? New York can make that choice. If a state chooses to remain covered by the ACA, Exchange policies will continue to be eligible for cost-sharing subsidies and advanced premium tax credits, and the state's insurance markets will still be subject to ACA requirements. The Individual Mandate and the Employer Mandate will also remain in place for that state. Medicaid-expansion states will continue to receive federal funding. So if a state is happy with the status quo with spiraling cost, with limited choices, with a market that is broken? Fine. Keep the ACA. In some states maybe it's working well. States should have that option, and they would under the Cassidy-Collins bill.

More appealing to many states, however, would be what we call the "better choice" option in the Patient Freedom Act that would allow a state to waive many of the requirements of the Affordable Care Act except for vital consumer protections and still receive federal funding to help its residents purchase affordable health insurance.

Sen. Cassidy has explained how it will work, so I won't go through that all again, but let me just say: eligible individuals in states selecting this option would receive federal funding deposited into their Roth Health Savings Accounts. The aggregate funding for these per-beneficiary deposits would be determined based on the total amount of funding that the federal government would have provided in the form of Affordable Care Act subsidies in each state, plus any funding each state would have received had it chosen to expand its Medicaid program, even if, like my state, it had chosen not to do so. The deposits in the Roth Health Savings Accounts would be phased-out for higher income beneficiaries.

States selecting this option, for every resident who does not have health insurance coverage through his or her employer or through public programs like Medicare or the VA or the Federal Employees Health Benefits program, in those states the option would be a standard health insurance plan that would include first-dollar coverage through the Health Savings Account, basic prescription drug coverage, and a high-deductible health plan. States could automatically enroll their residents who are uninsured into this standard plan, unless an individual opted to use his or her HSA to purchase more comprehensive coverage, or opted out of coverage altogether. I can't imagine someone making the choice of opting out altogether when they would receive this generous subsidy.

In addition to federal funds, individuals and employers could make contributions to these Health Savings Accounts, and the balances would grow tax free. The bill also provides for a partial tax credit for very low-income individuals who do not receive employer-based coverage, to help these workers pay for their deductibles and co-pays.

Here's another important provision: Health care providers receiving payment from the Roth HSAs would be required to publish cash prices for their services. That would add transparency that is sorely lacking in our current system and we need to move toward a more patient-directed health care future. For example, if your physician suggested you have a colonoscopy, you would know whether one hospital or one clinic would charge you more than another so you could make the right decision for you.

Health care reform should be about expanding affordable choices, and that is what our legislation aims to do by allowing states to structure their individual health insurance markets and to do so without the burdensome individual mandate, the employer mandate, or many of the other restrictive requirements in the ACA that have substantially driven up costs and forced millions of Americans to buy coverage that is more than they want, need, or can afford. Americans should have the choice to purchase more affordable coverage, if that is what works best for them.

But let me again emphasize since misinformation was given to the press about the consumer protections in our bill. The Patient Freedom Act would retain several important consumer protections, contrary to what was said earlier today by a colleague who hadn't read our bill. Dependents will be able to remain on their parents' health insurance policies until age 26. Insurance companies will still not be able to exclude coverage for pre-existing conditions or discriminate based on health status. In fact there is no medical underwriting for the standard plan offered under the better option approach. Insurance companies cannot cap benefits by including lifetime or annual limits in their policies, and they must offer to renew policies as long as enrollees continue to pay premiums. Insurance companies must also continue to cover mental health and substance use disorder benefits for individuals, a particularly important benefit given the nation-wide scope of the opioid crisis which has seriously affected my State of Maine and so many other states throughout our country, ruining the lives of individuals, their families and their communities. Provisions like these vital consumer protections should be retained; however, the Washington-centric approach of the ACA must be changed if we are ever to truly reform our broken health care system.

Madam President, I am pleased to see a growing consensus among Members of both the Senate and the House that we must fix the Affordable Care Act and provide reforms at nearly the same time that we repeal the law. This will help protect the families who rely on the program and give insurers time to transition to a new marketplace that is based on more choices for consumers. That is what we are trying to do here. Reforms in the way we provide health insurance must ensure that individuals relying on the current system do not experience a needless and avoidable gap in coverage. If we are going to reform the system, we must begin to put specific proposals on the table for our colleagues to debate, refine, amend, and enact. And that's why the criticism is so disappointing. This is an attempt to put forth a possible solution that would appeal to members on both sides of the aisle.

As we continue our work to find a responsible path to repealing and repairing the ACA, we should give states the freedom to choose what they believe works best for their citizens – whether that means staying with the ACA or selecting a different—and in my view, a better—path that will lead to patient-directed reforms that contain costs and provide more choice. The Patient Freedom Act does exactly that, and I commend my colleague, Senator Cassidy, for his leadership on this legislation. And I also want to thank our co-sponsors Senator Isakson and Senator Capito as well. Thank you Madam President