



DATE: March 7, 2017

TO: WMA Members

FROM: N · A · W

RE: **Obamacare Repeal Update**

National Association of Wholesaler Distributors reported to World Millwork Alliance on its progress of the Obamacare Repeal.

Current state of play:

We are making good progress. The House is moving forward with its effort to repeal much of Obamacare and replace it with a more free-market-based health care system.

Three committees in the House of Representatives have jurisdiction over the legislation. The House Ways and Means Committee and the House Energy & Commerce Committee both today approved those parts of the legislation that were within each committee's jurisdiction. The House Budget Committee is expected to meet next week to combine the other two committee recommendations into a single "reconciliation" bill to be voted on in the full House of Representatives later this month.

The package of legislative recommendations approved by the Ways & Means Committee includes much of NAW's long-standing health policy agenda:

**A reduction to zero in the penalties for failure of employers with 50 or more full-time employees to offer minimum essential coverage retroactive for months beginning after December 31, 2015 (They cannot repeal the underlying employer mandate in a reconciliation bill – see Background report below.)

**A delay until 2025 in the implementation of the 40% excise tax on high-cost employer-sponsored coverage known as the "Cadillac Tax." (The tax cannot be fully repealed in this legislation because of the complicated "reconciliation" rules – see Background report below.)

**Beginning the first of next year, complete and permanent repeal of the health insurance tax ("HIT") applied through an annual fee on fully insured coverage. (Note: with NAW's support, the already-in-effect HIT was temporarily suspended for this year.)

**Repeal of the medical device tax beginning after December 31, 2017

**Provisions permitting expanded the use of health savings accounts (HSA) and flexible spending accounts (FSA)

**Repeal of the 3.8% net investment tax and the 0.9% Medicare Hospital Insurance surtax on upper income individuals, both effective next January

**No limit or cap on the exclusion from an employee's income of the value of employer-sponsored health benefits; that remains income and payroll tax free, and deductible for the employer

Background:

It is important to understand that the rules of procedure in Congress prevent the GOP from fully repealing and replacing Obamacare in a single piece of legislation:

Most legislation is subject to a filibuster in the Senate, and a super majority of 60 votes is required to shut down a filibuster. There are 52 Republicans and 48 Democrats in the Senate, so Republicans cannot shut down a filibuster without Democratic votes. But the Federal Budget Act provides that specific types of legislation that deal with spending and tax issues will be considered as protected “reconciliation bills” that cannot be filibustered and can therefore pass with a simple 51-vote majority.

To be protected from a filibuster, all of the provisions in a reconciliation bill must deal with spending or tax matters; you can neither repeal nor enact non-spending-related statute in a reconciliation bill.

Many of the provisions of Obamacare are spending and tax related, were in fact passed in a reconciliation bill, and can therefore be repealed in reconciliation. But those parts of the current law with no spending/tax consequences, and those provisions in the GOP “replace” plan that are not spending/tax related, cannot be included in a reconciliation bill, and must be considered in a separate piece of legislation.

Given the complicated Congressional procedures, and the need to repeal and replace as much of Obamacare as possible in the protected reconciliation bill, the House Republican leadership has a three-part plan to repeal and replace the existing law:

First: Passage of House GOP health Care bill, *the American Health Care Act*, which repeals and replaces those parts of Obamacare which can be done through the “privileged” reconciliation process

Second: Many administrative and executive actions are within the control of the Department of Health and Human Services, and HHS Secretary Tom Price will be able to roll back many of the law’s regulations and mandates; and

Third: A second piece of legislation replacing those parts of Obamacare which cannot be included in the protected reconciliation package and are therefore subject to a Senate filibuster and will require 60 votes to pass.

A final note:

NAW endorsed the reconciliation recommendations, collectively known as the *American Health Care Act* (“AHCA”), in a March 7th letter to Speaker of the House Paul Ryan. To read the NAW letter, go to: <https://www.naw.org/files/Ryan-Letter.pdf>

N · A · W

About NAW: National Association of Wholesaler Distributors provides advocacy on behalf of the wholesale distribution industry on government relations, education, events, business services, publications, trends and reports. NAW is a federation of wholesale distribution associations.

World Millwork Alliance is a member of the NAW.