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Cover Story » Jennifer Lubell and Matthew DoBias

Looking for a pulse

With plans for reform thrown into disarray, lawmakers ponder scaling back their ambitions

What just weeks ago seemed inevitable now seems impossible—unless lawmakers and the president can revive massive healthcare reforms bills that survived both the House and Senate but were put on life support by a special Senate race in Massachusetts.

Absent a miracle cure, everyone with a stake in the outcome is taking a collective breath to see how to proceed next. Their options range from taking up more modest reforms proposals to tabling reform indefinitely.

“Obviously, things have changed dramatically in terms of the political equation and the mood” on Capitol Hill, said Richard Pollack, executive vice president of advocacy and public policy for the American Hospital Association. The path to reform is at best, “murky” right now, Pollack said. “As each day, as each hour goes by, it seems like more options are being ruled out. We just don’t know what’s going to happen.”

The healthcare reform effort collapsed last week as Republican Scott Brown’s win in Massachusetts killed the Democrat’s fil-

buster-proof majority in the Senate. The loss of that Senate vote delivered a blow to the healthcare reform bill, which House and Senate conferees had once hoped to deliver to President Barack Obama before his State of the Union address, scheduled for Jan. 27.

Disagreement in the House over such things as the extra Medicaid payments negotiated for Nebraska, a tax on high-value health plans known as “Cadillac” plans and overall affordability had also boiled to the surface in recent weeks, creating separate roadblocks to reform.

Some in Washington believe the president’s upcoming speech may be the catalyst that could save one of his major domestic priorities. “I am still confident that healthcare reform will be enacted. It’s too much of a priority for the administration, and Congress hasn’t sunk this much time into it” for it to fail, said Eric Zimmerman, a healthcare lawyer who is a partner with McDermott Will & Emery in Washington.

He also believes the option for the House to take up the Senate bill is still on the table, despite House Speaker Nancy Pelosi’s assertion that it lacked the votes to be successful. “It

seems like that pathway is closing, but I think it remains the only possible pathway to getting reform done.”

Pelosi’s comment “properly reflects the mood in the House at this time. But circumstances change, and I think the president’s State of the Union address will change opinions again,” giving House members an incentive to vote for the Senate bill, he said. “I think that the Democrats will realize that it is less desirable to do nothing, even if enacting health reform is not universally popular,” Zimmerman added.

Obama, in an effort to save reform, acknowledges the solution should be scaled down, and if possible, gain bipartisan support. In an interview with ABC News, the president encouraged lawmakers to quickly “coalesce around those elements of the package that people agree on.” Obama added that there are components in both bills that Democrats and Republicans support.

Looking at a narrower bill

Rep. John Tanner (D-Tenn.), after emerging from a closed-door caucus meeting last week, confirmed that lawmakers were eyeing a narrower bill that might be able to attract Republican votes. “There are some things that we can agree on,” he said. “And what we ought to do is try to put on the floor things the

American public supports and the Republicans agree with us on, and then they either vote with us or against us.”

Much of the talk on Capitol Hill has focused on downsizing a broad health package, separating out health insurance reform measures, Medicaid expansion and cost-containment provisions in an effort to craft a bill—or several—that could pass both chambers of Congress.

Support was growing for a proposal by Rep. Bill Pascrell Jr. (D-N.J.) that would allow an incremental approach to overhauling the healthcare system, using a series of bills instead of one large one to reform the insurance sector and change how care is delivered. Under his plan, which was presented late last week to Democrats during a closed-door meeting, three or four bills would be introduced in quick succession that take the more popular, less controversial components of the broader House reform package.

“You can blame the Senate all you want, but we are our own worst enemy,” Pascrell said. “We do everything in mega-fashion. We need to do it in mini-fashion.”

Rep. Gerry Connolly (D-Va.), who heard Pascrell’s proposal, said, “It appealed to a lot of people.”

The piecemeal approach appeals to some providers as well, including Chris Van Gorder, president and CEO of Scripps Health, a four-hospital system in San Diego, who thinks lawmakers should get a strategic plan, and attack the issue in sections. “I’ve always felt that this should be done incrementally. Frankly, I think that’s what’s going to happen now. This is not the best time to take on massive health reform.

“Clearly the system is broken and needs to be fixed. But setting arbitrary dates to get it done is foolish,” Van Gorder said. In pursuing an incremental strategy, he believes insurance reform would be a natural place to start.

“We need to make it easier for people to get insurance and not deny people based on pre-existing conditions.” Van Gorder acknowledged that premiums and taxes may have to go up to make this happen, but that insurance reform would be a positive thing for the country overall.

Secondly, he said Congress should work on reining in costs, and making the system more efficient. He pointed to health information technology incentives in the stimulus law as a great way to improve quality and efficiencies. Pay-for-performance programs and other quality initiatives could also be put into place, he said. “All of this has to be done in a thoughtful and integrated manner,” he said.

Some worry that their interests could get left out if lawmakers slice and dice the compre-

LIMITED CHOICES

Democratic leaders in Washington are left with a range of options for revamping healthcare after the loss of a supermajority in the Senate, none of which may appeal to them

- Approve a series of targeted bills that reflect popular options
- Do nothing on healthcare and move on to other issues like job creation
- Pare down key provisions and approve them in a bill or bills through reconciliation, a budgetary procedure that would limit the available reform provisions
- The House could vote on the Senate bill unchanged, a move that seems likely to fail, according to House Speaker Nancy Pelosi (D-Calif.)
- The House could vote on the Senate bill with the understanding it will be effectively amended later through “corrective” bills

Source: *Modern Healthcare* reporting

hensive bills in order to win enough votes to get something passed. “Our elected officials are in fight-or-flight mode, and that’s when you start making mistakes,” said Guy Medaglia, president and CEO of St. Anthony Hospital in Chicago, a 151-bed safety net provider that became independent in 2009 after splitting from Ascension Health. “They’re looking at the clock and saying, ‘We’ve got to get something done very quickly.’ Safety net hospitals could really fall to the side on all this.”

Wait-and-see approach

The insurance lobby, already the target of much of Congress’ reforms to date, has decided to take a wait-and-see approach on these developing alternatives. “Healthcare reform continues to be our top priority, and we believe that there is still a way to achieve reform that lowers costs and provides greater

health security to all Americans. We are not going to speculate about what might happen or comment on a potential piece of legislation,” said Robert Zirkelbach, spokesman for America’s Health Insurance Plans.

Lawmakers have also discussed paring down some of the key provisions in a reform bill and passing it using a legislative procedure known as reconciliation. Under such a move, the bill would only require a majority vote to pass in the Senate—a number that grew in importance last week after Democrats lost the deciding 60th seat in the Massachusetts election.

“We could fix this so that the largest part of it could go on 50 votes,” Rep. Louise Slaughter (D-N.Y.), chairwoman of the House Rules Committee, told reporters. When asked if the move suggested using the reconciliation process, Slaughter said, “It suggests that exactly.” The process, however, could prove as frustrating to lawmakers as it would be limiting in its scope. Reconciliation is a budgetary process, meaning the Senate parliamentarian would ultimately decide what can and cannot be included in a bill, rather than lawmakers close to the issues.

WEB POLL

What’s next for reform?

In the wake of the victory by Republican Scott Brown to capture the Massachusetts Senate seat held by the late Edward Kennedy, what’s next for Congress? Can parts of the current legislation be salvaged? Should lawmakers start from scratch? Or will the ultimate answer be the status quo?

Share your opinion by participating in a new *Modern Healthcare* online poll, located at the bottom left-hand corner of ModernHealthcare.com.

‘Worse than nothing’

Trying to pass a “corrections” bill under reconciliation “is much more complicated than people say,” said a healthcare lobbyist who asked to not be identified. It would be challenging because of the complexity of the reform bills, especially with the interaction between the subsidies and exchanges, the lobbyist said. “From a hospital standpoint, I think it would be worse than nothing,” he added.

Also up in the air at the moment is the agreement the nation’s hospitals made with the White House and Senate Finance Committee to accept \$155 billion over 10 years in lowered federal insurance reimbursement

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toward the cost of insuring Americans without coverage.

While accepting reductions to Medicare and Medicaid payments, hospitals expected to benefit financially over the long term by caring for more insured individuals under the new health reforms.

"That agreement was made in the context of getting to 96%-97% coverage," Pollack said. If that's the context in which lawmakers "will continue to discuss this agreement, that agreement is still out there. If not, it raises questions about it."

In the event lawmakers do walk away from healthcare reform and inevitably turn their attention to other things such as reducing the deficit, "Our biggest concern is our provider payments will get cut without expanded coverage taking place. And that's an outcome no one wants to see," the AHA's Pollack said.

Physician groups at the moment seem distracted by a more immediate concern than larger reform: the fate of their Medicare payments and possible resolution of the problem in an upcoming vote in the Senate.

"At this point, a clear road map to healthcare reform is not apparent," said Patrick Smith, senior vice president of government affairs with the Medical Group Management Association. The MGMA will be closely monitoring the discussions by congressional leaders and the administration as they attempt to reach a pathway to reform, Smith said.

In the meantime, "We are very concerned about challenges to positive resolution of the physician payment issue that are intertwined with Senate consideration of the debt limit bill." A potential exists for this bill to contain a permanent fix to Medicare's sustainable growth-rate formula, which is tied to the health of the economy and has been threatening cuts to physician payments since

2003. Doctors face another 21.2% cut to their payments on March 1 unless Congress intervenes once again.

The largest physician group, the American Medical Association, was a major player in

the crafting of the current legislation and still supports reform. "The Massachusetts Senate election has complicated the prospects for comprehensive health reform, but the crisis of the uninsured remains very real to millions of Americans who have reduced access to healthcare because they don't have coverage," wrote J. James Rohack, presi-



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dent of the AMA, in an e-mail. "Our nation still needs reform of the healthcare system, and AMA will stay engaged in the process to get the best outcome for patients and physicians," Rohack wrote.

While the opportunity to do wide-scale reform may have passed, Pollack tried to wax optimistic. "I'd like to think there's some glimmer of hope that there's some sort of way to find a bipartisan pathway here to do something constructive," he said.

Jeff Korsmo, executive director of the Mayo Clinic Health Policy Center, Rochester, Minn., said industry officials are going to continue pushing for payment and quality reforms regardless of last week's events. "None of us knows, but we don't view it as the end. We view it as a moment that we have to work through, and hopefully we'll still be able to do what's right for the patients and the country," Korsmo said.



Pascrell: "We need to do it in mini-fashion."

Korsmo repeated the mantra of many of his reform-minded colleagues, that continuing with the status quo will bankrupt Medicare within a decade. Mayo has long pushed for pay-

ment reforms that would reward providers based on quality of care, because the existing system rewards inefficiencies and duplication—issues that are too important to abandon because of political setbacks.

"Obviously in all likelihood this week's events will cause people to delay and revisit moving forward. In our view, if we have reform that addresses those issues in a reasonable period of time, we're still moving in the right direction for the country," Korsmo said.

Whatever option ultimately moves forward, it's doubtful that it will match up to the two bills that have already passed in the House and Senate, Rep. Connolly of Virginia, said. "I think the worst position for a politician to be in is to

say, 'Open wide and swallow, this is good for you.' "

—with Gregg Blesch, Joe Carlson and Rebecca Vesely

Business graduate schools survey open

Modern Healthcare's eighth annual Business Graduate Schools for Physician Executives Survey is now open for participation. This survey is intended for U.S. institutions that award MBAs or similar degrees that focus on physicians. To participate, e-mail a request to Rebecca Mielcarski, special projects/research editor, at rmielcarski@modernhealthcare.com. Be sure to include your name, the institution you represent and your direct contact information. Completed surveys are due March 15 with selected results to appear in the April 26 issue of *Modern Healthcare*. For more information, visit modernhealthcare.com/surveys.