

Congress of the United States

Washington, DC 20510

April 3, 2017

The Honorable Tom Price
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Secretary Price:

Based on our experience with health reform over the past decade in Massachusetts, we write to caution you against efforts to undermine the Affordable Care Act (ACA) in your capacity as Secretary of the U.S. Department of Health and Human Services (HHS). In Massachusetts, we know that access to affordable, comprehensive health insurance has helped improve the health and welfare of individuals and families across the Commonwealth. As HHS Secretary, you have a responsibility to protect the health and welfare of the American people. Hamstringing the ACA to achieve a desired political outcome is a dereliction of this duty and an injustice to the American people.

In 2006, Massachusetts passed legislation to expand the availability of health care coverage and to enact consumer protections and insurance market reforms that would strengthen the quality of that coverage. This original reform was a major accomplishment, but there was still work to be done. With the input of patients, providers, and health care entities, the Massachusetts legislature came together to pass incremental fixes, and the administration tailored regulations to ease implementation.¹ Massachusetts made additional changes to take advantage of the new tools provided by the ACA when it was signed into law in 2010. As a result of these reform efforts, more than 97 percent of Massachusetts residents have health insurance.²

Instead of following the example set by leaders in our Commonwealth, of working together to improve access to affordable, high-quality coverage for everyone, Speaker Ryan announced his intent to pursue a three-phase plan to repeal and replace the ACA and tear coverage away from the American people.³ The first phase in that plan — the legislative reconciliation process — has now failed. The second phase Speaker Ryan envisioned involved the HHS Secretary using his broad authority under the ACA to take administrative action to weaken the law.

As Speaker Ryan continues to evaluate potential legislative paths forward, we are concerned that you will do the opposite of what was done by leaders in Massachusetts, who have continuously worked together to strengthen our health care. We are concerned that you will take steps intended to facilitate the demise of the individual insurance market, minimize or remove

¹ <http://kff.org/health-costs/issue-brief/massachusetts-health-care-reform-six-years-later/>

² <https://www.census.gov/content/dam/Census/library/publications/2016/demo/p60-257.pdf>

³ <http://www.cnn.com/videos/politics/2017/03/09/paul-ryan-full-health-care-bill-powerpoint-presenation.cnn>

consumer protections, and permit detrimental changes to the Medicaid program utilizing your authority as HHS Secretary.

We have already seen a preview of this administrative attack on the ACA. In January, the Trump Administration withdrew planned advertising for the ACA's 2017 open enrollment period, making it less likely for younger, healthier individuals to purchase insurance in the individual market and potentially harming the risk pool for 2017. At the request of several members of this body, the HHS Inspector General commenced a review of this action,⁴ which calls into question the Administration's commitment to the outreach and enrollment efforts necessary to help stabilize the individual market and keep insurance costs down for everyone.

Just a few weeks later, the Center for Medicare and Medicaid Services (CMS) issued its "Proposed Rule to Increase Patients' Health Insurance Choices for 2018."⁵ Through this proposed rule, CMS would place further restrictions on special enrollment periods and cut the open enrollment period for the individual market in half. As one health policy researcher claimed, "The overall effect of many of the policies here would... shrink enrollment, not grow enrollment."⁶ Blocking access to insurance coverage will not fix the issues in the individual market; it will only make them worse.

Individual market experts have also called attention to a potential litany of administrative actions that could — if upheld by the courts — sabotage the law's success.⁷ Some of these actions, such as relaxing the essential health benefits requirements and giving states the option to incorporate work requirements into Medicaid, were included in the House's failed ACA replacement proposal. Enacting these changes administratively, coupled with President Trump's broad and vague executive order to "ease the burden" of the ACA, would not only lead to the erosion of the individual market, but would remove the guarantee of access to reliable, comprehensive health insurance coverage, which is at the heart of the ACA.

Throughout your confirmation process, you consistently stated that you would leave your old role as a legislator behind and would commit to your new role as an administrator, which requires you to carry out the laws passed by Congress. Despite House Republicans' efforts, Congress has passed no law that either repeals or replaces the ACA. This means that, as even Speaker Ryan expressly recognized, the ACA remains the law of the land.⁸ Your administrative efforts must reflect that reality. As a duty of your office, you must ensure the ACA is fully implemented and executed as intended under the law.

The ACA has led to increased and improved health insurance coverage, and we know first-hand that Congress and the Administration have the capacity to make it stronger. We hope that efforts to repeal the ACA are finally a relic of the past, and, as has been the case for the past seven years, we stand ready to work with you on bipartisan efforts to improve the health care system

⁴ <http://thehill.com/policy/healthcare/325740-inspector-general-reviewing-hhs-decision-to-pull-obamacare-ads>

⁵ <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2017-Press-releases-items/2017-02-15.html>

⁶ <http://www.npr.org/sections/health-shots/2017/02/15/515440836/shorter-enrollment-period-for-obamacare-proposed-by-administration>

⁷ <http://theincidentaleconomist.com/wordpress/executive-actions-trump-could-take-to-change-the-aca/>

⁸ <http://www.vox.com/policy-and-politics/2017/3/24/15055128/ahca-obamacare-paul-ryan>

for millions of families across the country. In the meantime, we sincerely hope that you will uphold the honor of your office and act in the best interests of the American people.

Sincerely,



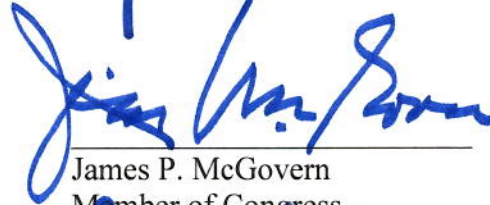
Edward J. Markey
United States Senator



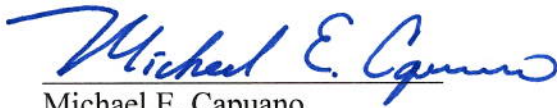
Elizabeth Warren
United States Senator



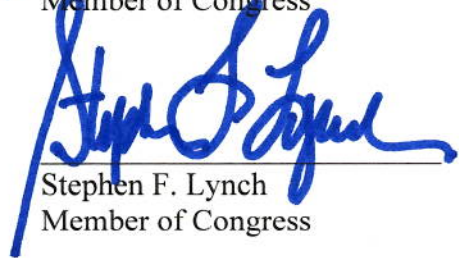
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Member of Congress



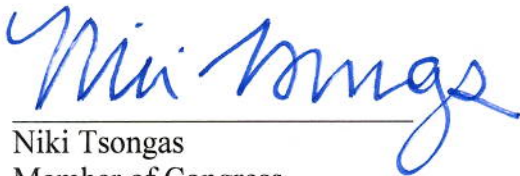
James P. McGovern
Member of Congress



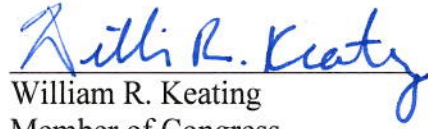
Michael E. Capuano
Member of Congress



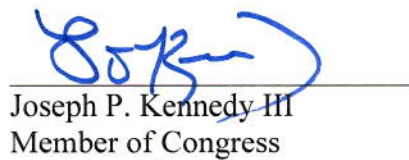
Stephen F. Lynch
Member of Congress



Niki Tsongas
Member of Congress



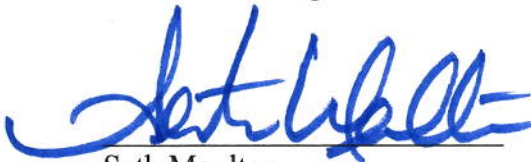
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