



June 29, 2017

Vote on Senate Republican Healthcare Bill Postponed

On June 27, the Senate Republican leadership announced that it had postponed a vote on the Better Care Reconciliation Act of 2017 (BCRA), the discussion draft bill recently released to repeal and replace the Affordable Care Act (ACA), until after the July 4th recess. They plan to revise the discussion draft during that time and then seek a new Congressional Budget Office (CBO) score. See our recent [Update](#) for more on BCRA and the recently released CBO score.

Many employer groups are hopeful that the Senate uses this extra time to reconsider a provision in the draft bill that simplifies the application process for State Innovation Waivers (under ACA Section 1332). Under the ACA, these waivers allow states to waive certain ACA insurance and other requirements. The concern is that states might seek to use this process to circumvent ERISA (and its long-standing federal preemption standard) to establish a state-level "pay or play" (employer mandate) requirement, even though the BCRA eliminates the penalties connected with the ACA's federal employer mandate. The draft BCRA also requires that the U.S. Secretary of Health and Human Services grant the waiver request if the necessary criteria are satisfied (versus the ACA which currently vests discretion in the Secretary to grant a waiver). Many employer groups are focused on ensuring that any granting of authority to states is confined to the individual insurance market, so as not to threaten ERISA's federal uniformity standard. A technical fix to the existing language would shield employers from the imposition of a state-level employer mandate.

Republicans in the Senate are not unified in their support of the bill and there is mounting opposition from moderate and conservative members over central aspects of the plan to repeal and replace the ACA. It remains to be seen whether the various factions in the Republican party will ultimately come together around a repeal and replace plan they can send to the President for signature. Should you have questions about any aspect of federal health insurance reform, please contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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