



WACEP

Wisconsin Chapter
American College of Emergency Physicians

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President's Message:
The BCRA is Bad for Wisconsin's Emergency Care and Emergency Physicians

Bobby Redwood, MD, MPH

Wisconsin emergency physicians should be leery of the U.S. Senate's latest version of The Better Care Reconciliation Act (BCRA). Stripping away the loaded messaging from the special interest groups and the political baggage that haunts the Affordable Care Act (ACA), what the Senate has proposed is a bill that will deliver a triple blow to emergency medicine in Wisconsin. Stated simply, passing the BCRA will have a negative impact on our patients, our profession, and our physician workforce.

Painful Cuts for Patients: With the BCRA, our patients are definitely being forced to take their medicine (and there is no spoonful of sugar to help it all go down). Tax credits for out-of-pocket expenses will be phased out by 2019, insurers can charge older patients up to five times as much as younger patients, and annual/lifetime limits on individual coverage are coming back. Furthermore, patients will again have the option to buy what Kaiser Health News calls "junk insurance" (low cost, minimal coverage plans that were eliminated under the ACA). Oh, and guess what, the BCRA eliminates the individual mandate, so all those invincible young patients coming in with mental health crises, overdoses, and traumatic injuries will no longer be obligated to have insurance, but EMTALA will still require emergency physicians to provide their uncompensated care. The congressional budget office sums up this can of worms quite nicely, estimating that the BCRA will eliminate insurance coverage for more than 20 million people over the next decade and Wisconsin's hit would be 394,100 newly uninsured patients.

Painful Cuts for Emergency Department Revenue: Since Wisconsin has a thriving, diverse payer mix; the best course for our state would be to reform the ACA, rather than repeal it, so that even more Wisconsinites can have access to private insurance plans. Wisconsin is already worst in the nation in terms of Medicaid reimbursement*, compensating emergency physicians just \$37.77 for a level

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5 visit (compared to Medicare's \$169.14 for a level 5 visit). The changes proposed by the BCRA will distribute federal Medicaid funds to the states based on a capped, per-capita or block grant basis. Our state government has already shown us how much they value our work...what will happen to emergency department and emergency physician compensation under the (presumed) cuts of a block grant system?

Painful New Realities for Practicing Emergency

Physicians: For the 99% of us who are not policy wonks, how will the BCRA affect our daily workflow in the emergency department? For starters, an greater underinsured population will equate to more challenges securing inpatient psychiatric beds, so expect those mental health boarding times to increase. Blocking federal payments to Planned Parenthood will decrease young women's access to contraception, HPV vaccines, cervical cancer screening, and prenatal care; so expect more pelvic exams, more abnormal findings on pelvic exams, and more pregnancy complications. Some of those patients who were briefly insured under the ACA, but have since lost coverage, will be turning to the ED to manage their recently discovered chronic health conditions and lets not forget the return of lifetime limits on individual coverage. "I'm sorry Mrs. Smith, you reached your coverage limit with your last cardiac stent, how about this DNR paperwork instead?" If the BCRA passes, I sincerely hope you compensation is not tied to patient satisfaction, because we are going to be seeing a lot of unhappy individuals under this substandard attempt at health insurance reform.

National ACEP has already weighed in, warning that "the BCRA would allow insurance companies to offer skimpy plans that offer no essential benefits coverage to consumers" and that "the consequences for emergency patients could be devastating." I agree and would add that the consequences for Wisconsin will be particularly jarring for our state's patients, profession, and physician workforce. Tammy Baldwin is a vocal opponent of the BCRA, but Ron Johnson is still on the fence.

Tell Ron Johnson to vote "NO" on the BCRA:

<https://www.ronjohnson.senate.gov/public/index.cfm/email-the-senator>

** WACEP is working hard to improve this dismal statistic.*

Advocacy Update:

Wisconsin Caps Overturned

Lisa Maurer, MD, WACEP Treasurer/Secretary

Earlier this month, the Wisconsin Court of Appeals decision in Mayo v Wisconsin Injured Patients and Families Compensation Fund (IPFCF) made changes to the liability system in our state that will affect every practicing

physician by removing the cap on noneconomic damages altogether. The trial court for this case initially found that although the cap on noneconomic damages was constitutional, the plaintiff in this case was an exception and was awarded \$16.5 million in non-economic damages. This ruling by the Court of Appeals goes one step further, arguing that any cap on noneconomic damages is unconstitutional, and removing it completely.

Wisconsin has adjusted this noneconomic cap several times over the last decade or so. Prior to 2005, Wisconsin had a \$350,000 cap on economic damages. In 2005, a decision in *Ferdon v. IPFCF* struck down the \$350,000, stating that it violates the equal protection rights of severely injured patients. The cap of \$750,000 that was in place until just this month was adopted in 2006 on the basis that a cap would protect the IPFCF and patient's access to care, with the limit of \$750,000 based on other states' experiences. In contrast, Wisconsin has not had a limit on economic damages. For clarification, whereas noneconomic damages corresponds to any pain and suffering the plaintiff may have undergone, economic damages corresponds to actual expenses or lost wages.

The IPFCF is expected to file an appeal with the Wisconsin Supreme Court, but has not done so at this point, and advocates on either side of the issue are watching closely. Patient advocates worry that a cap such that was in place limits the injured patients' ability to be made whole. Most recently, the Court of Appeals argued that in a situation that we had where a cap was in place, but individuals were made to be exceptions to that cap, creates two classes of plaintiffs: one that is fully compensated and one that is not. Proponents for a cap on noneconomic damages, such as the Wisconsin Medical Society, argue that reasonable caps are what maintains a strong IPFCF, ensuring that Wisconsin patients have the ability to recover unlimited economic damages. They also have concerns that a lack of cap incentivizes attorneys to file groundless claims.

Unlike the Wisconsin Medical Society, WACEP does not have a policy compendium to dictate an official position on topics such as this. Let us know what you think the Wisconsin Supreme Court should decide if this case is brought to them. Send us an [email](#), post to our [Facebook page](#) or [tweet us](#).

Annual Member Survey - Please Respond

WACEP leaders are asking for all members to participate in a 3-minute membership survey. Responses will be used to inform WACEP's ongoing planning, and will allow us to evaluate and enhance member value.

[Begin Survey](#)

Dates Announced for 2018 Spring Symposium

Mark your calendars and plan to join Wisconsin ACEP for its 2018 Spring Symposium on March 14 & 15 at The Edgewater in Madison.

WACEP is very proud to have formed a partnership with the Medical College of Wisconsin and the University of Wisconsin to incorporate the annual Research Forum into the WACEP Symposium beginning in 2018. A call for posters will be sent in the coming months.

Plans are underway for the Symposium to also include a Simulation Workshop and to bring back the LLSA Study Group for 2017 articles, as well as the popular Hot Topics in Emergency Medicine roundtable discussions. The 2018 event will also feature keynote presentations by Erik Hess, MD from Mayo Clinic, and Richard Cantor, MD (invited) from the State University of New York.

Stay tuned for additional details and registration information.

Doctor Day 2018 - Registration is Open

Make plans today to join emergency medicine colleagues and physicians from all specialties across Wisconsin on Tuesday, January 30 for Doctor Day 2018 at the Monona Terrace Convention Center in Madison. Hosted by over 20 medical societies, Doctor Day 2018 will again provides physicians an opportunity to meet with their legislators and have input on important health care issues. [Learn more and register.](#)