Will PPACA Self-Repeal

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The Patient Protection and Affordable Care Act (PPACA, or "Obamacare") survived two potentially mortal challenges in 2012. The Supreme Court upheld the law in *NFIB v Sebelius*. And the American electorate preserved the political status quo. Now, the law will face its third and biggest challenge – itself. Or more specifically, the perverse economic incentives imbedded throughout the law's 900-plus pages and tens of thousands of pages of associated regulations.

Many of the unintended consequences of the law have lain dormant until recently. Businesses and others withheld unpleasant actions in hopes that the Court or the election would sweep PPACA into the dustbin. That didn't happen, so now the revelations have begun.

Several restaurant groups are exploring strategies for coping with the potentially ruinous effects of PPACA on their businesses. One strategy is to cut full-time employees back to part-time hours in order to avoid the financial consequences of PPACA's employer mandate. Another is to raise prices, thus passing the costs along to customers. Thus, just as the Great Recession threatens a return performance, PPACA is cutting incomes and raising food prices. And now that the first movers have gone public, expect the possibility of a cascade of announcements.

The restaurant announcements were greeted by a torrent of Web-based accusations that the businesses were driven by profit-driven greed. It didn't take long, however, to see the hollowness of that argument. On November 19, the *Pittsburgh Post-Gazette* showed that publicly-owned and non-profit organizations are following the restaurants' lead ("Health-care law brings double dose of trouble for part-time CCAC profs"). The Community College of Allegheny County (Pennsylvania) announced that it would cut back the hours of 200 adjunct professors and 200 other employees, thus assuring that under PPACA's rules, they will be classified as part-time. Otherwise, PPACA would force the college to either provide the adjuncts with health insurance or to pay thousands of dollars a year in penalties for each of them.

Doing a quick calculation here, without this action, the college would face at bare minimum a $2,000-per-year penalty for each of these 400 employees – an $800,000-per-year liability, and more if the college bought them insurance. Note that no profit motive is found anywhere in this story. But for many private businesses, these sorts of penalties would exceed annual profits.

A college spokesman said, "While it is of course the college's preference to provide coverage to these positions, there simply are not funds available to do so." Area unions urged the adjunct professors to unionize. The adjuncts may wish to investigate how that strategy worked out for Hostess employees and for the Twinkie.

One Allegheny adjunct said:

> "It's kind of a double whammy for us because we are facing a legal requirement [under the new law] to get health care and if the college is reducing our hours, we don't have the money to pay for it," said Adam Davis, an adjunct professor who has taught biology at CCAC since 2005."

Professor Davis actually faces a triple whammy, rather than double. Not only will he lose income and have to buy insurance, but the insurance he must now purchase will also become much more expensive because of PPACA. This is because his insurance provider must charge him enough to cover the cost of the underlying health care, including imbedded taxes. And PPACA is about to send the cost of doctors and hospitals through the roof.

PPACA supposedly adds 30 million new people to the insurance rolls, and these 30 million will want to consume health care. But PPACA produces no new doctors, nurses or hospitals – at least not for many years. From Econ 101, we know that greater demand and static supply add up to price increases and/or shortages.

In fact, the biggest increase in demand may come not from the 30 million newly-insured, but rather from the other 280 million. PPACA now requires insurers to pay 100 percent of the costs of a long list of preventive services – check-ups, screenings, counseling, etc. A 2003 Duke University paper has recently resurfaced in the blogosphere. That study asked what would happen if every American received the *minimum* level of preventive services recommended by the U.S. Government. The result was these services would consume roughly 7.5 hours per day for every primary care physician in America. Note that this would leave doctors with practically no time to treat sick people.

(And if you're thinking "maybe all these preventive services will lower overall costs," think again. The evidence says otherwise. See "The Problem with Prevention;" scroll down to 7/24/09 entry)

Brad deLong, a liberal Berkeley economist and well-known blogger asked in November,

> "What is your guess as to what will happen if [PPACA] works for access, works for quality, works for coverage--but the extra health care workforce needed isn't there, and the lines start to get longer?"

It's a good question, and it would have been nice for PPACA's authors to ask that question in early 2010. But here we are, almost three years later and the question is just coming over the horizon.

The current Congress is not going to have a change of mind and repeal PPACA voluntarily. But sometimes, laws effectively repeal themselves when their unintended consequences kick in. To get an idea of how this happens and how legislators react, try the following five Google searches:

> TennCare failure
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> "Kentucky Kare" failure
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> "Keiki Care" failure
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> Dirigo failure
>
> PacAdvantage failure

Click on some of the links that pop up. You'll find case after case of states in the 1990s and 2000s passing PPACA-like health care reforms to great fanfare, followed by whirlpools of unintended consequences, and culminating with the same legislators who had written the laws rushing to undo their own self-destructing handiwork.

Will PPACA follow to same path to self-destruction? I think it's likely. Many disagree. We'll see.

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