

**“The Trump Administration’s Attack on the ACA: Reversal in Court Case Threatens Health Care for Millions of Americans”**

**House Committee on Oversight and Reform**

**10:00 AM, Wednesday, July 10, 2019**

**2154 Rayburn House Office Building**

**Rep. Gerald E. Connolly (D-VA)**

Mr. Chairman, thank you for holding today’s hearing to examine the Trump Administration’s efforts to sabotage the Affordable Care Act (ACA) and its protections in court. Once again, we find ourselves defending the ACA as the Trump Administration and Republicans attack the legislation that has helped millions of Americans obtain affordable health care, resulting in historic lows for the nation’s uninsured rate. While he promised the best health care in the world, his administration is actively undermining the health care of 3 million Virginians with pre-existing conditions.

The ACA protects nearly 3 million Virginians who were, prior to the ACA, at risk for losing their health insurance if they got too sick. Insurance companies can no longer indiscriminately deny an individual coverage because of a pre-existing condition. In addition, reforms that allow children to stay on their parent’s health plan until the age of 26 have helped nearly 59,000 young adults in Virginia get or keep health care coverage. The ACA also mandates coverage of many important health services, including mental health screenings, and free preventive care coverage, such as flu shots, cancer screenings, contraception, and mammograms. We have also learned that the ACA has reduced racial disparities in cancer care. The ACA has truly saved lives in Virginia and across the country.

Despite all these benefits provided by the ACA, the Trump Administration is asserting in court that the entire ACA should be overturned. We are here, once again, trying to figure out why the Trump Administration is so insistent on denying Americans their fundamental right to affordable, quality health care. If the entire ACA is struck down, the consequences will be devastating. The Administration has no alternative plan. Millions of Americans would lose health insurance, and millions more would lose protections for their pre-existing conditions.

Despite the gravity of this situation, Acting Office of Management and Budget (OMB) Director Russ Vought would not come before this Committee to answer our questions about how the Administration decided to abandon the ACA and abruptly reverse its position in *Texas v. United States*. It is unfortunate and unacceptable that the Administration continues to block our oversight efforts on issues critical to our country’s health and welfare.

In *Texas v. United States*, several states sued the federal government, arguing that the entire ACA was unconstitutional. They argue that because the individual mandate penalty was zeroed out in the GOP tax scam it is now unconstitutional. They go further in asserting that because the individual mandate was essential to the ACA, the entire law is now unconstitutional. In the District Court, the Department of Justice (DOJ) under the Trump Administration chose not to defend the individual mandate. DOJ also decided that the ACA’s provisions that provide

protection for those with pre-existing conditions were also unconstitutional. Despite the Administration's determinations on those provisions, DOJ continued to defend the ACA in District Court, arguing that the remainder of the law was constitutional. Shockingly, in its December 2018 decision, the District Court sided with the states and held the entire ACA unconstitutional.

Although the District Court agreed with the states' interpretation of the law, legal scholars across the political spectrum disagree with the ruling. Even Jonathan Adler, whose research led to the argument against the ACA in *King v. Burwell*, argued that, "this decision makes a mockery of the rule of law and basic principles of democracy." Despite this consensus, DOJ and the Trump Administration continue their political attack on the ACA. In March 2019, DOJ abruptly decided not to defend the law at all in the appeal of the District Court's decision, stating that "the district court's judgment should be affirmed." This Administration has reversed its own position with potentially devastating consequences for Americans who need reliable health care in order to lead healthy, productive lives and provide for their families.

I'm concerned about reports that DOJ's decision fails to follow longstanding precedent that DOJ defend duly enacted federal laws. In this case, White House officials pushed DOJ to change its position over the objections of Trump appointee Attorney General William Barr. Even the Secretary of Health and Human Services (HHS) Alex Azar—also a Trump appointee—objected to DOJ's decision not to defend the ACA. The White House, OMB, HHS, and DOJ have refused to provide information in response to this Committee's repeated requests for information regarding DOJ's decision.

Republicans' and President Trump's promises to overturn the ACA for political gain have repeatedly failed. And thankfully so. The ACA still stands, but the President's campaign of sabotage has increased premiums and reduced enrollment. This change of position by the DOJ is yet another cynical, ill-informed attempt to strip Americans of vital, life-saving health care coverage.

Americans across the political spectrum support and rely on several provisions of the ACA, such as allowing young adults to stay on their parents' insurance until age 26, a ban on lifetime and annual caps, coverage of mental health services and maternity care, and protections for those with pre-existing conditions. The Trump Administration seeks to gut the entirety of the ACA, including these provisions. If the Administration's efforts are successful, President Trump and the Republicans have offered no plan to help the millions who would lose health care coverage.

I thank the Chairman for holding today's hearing. Since enactment, the ACA has saved millions of lives and allowed millions of Americans the peace of mind that they can obtain health insurance coverage. Congress must continue its oversight to ensure the ACA withstands coordinated efforts by the Trump Administration to sabotage the law. It is our job to protect Americans from attacks on their right to health care.