

The Affordable Care Act in the Trump Administration

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One of President Trump's first actions in office was to sign an Executive Order stating that his Administration will seek to repeal the Affordable Care Act (the "Act"). In the meantime, President Trump directed the executive branch to take *"all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market."* The Order directs the Secretary of HHS and the heads of other executive departments and agencies with authority under the Act to have all *"authority and discretion"* to waive, defer, grant exemptions from or delay implementing any provisions of the Act that would impose a fiscal burden on a State, individual, health care provider, health insurer, medical device maker, etc. The Order states that the heads of applicable departments and agencies shall encourage the free and open market to preserve maximum options for patients and consumers. To the extent any rulemaking is needed to carry out the directives in the Order, the heads of agencies are directed to follow through with notice and comment rulemaking. The Executive Order regarding agency actions pending the Act's repeal is in today's federal register, and can be found here: <https://www.federalregister.gov/documents/2017/01/24/2017-01799/minimizing-the-economic-burden-of-the-patient-protection-and-affordable-care-act-pending-repeal>. There are a large number of regulations that could be impacted in a short time frame. It is unclear whether and what agency action would be taken at the present when there is not yet in place an alternative system to the Affordable Care Act. Dorsey attorneys will be closely following the changes to the Affordable Care Act and will provide updates as developments unfold.

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