

## FROM THE FLOOR

By Genevieve M. Clavreul, RN, Ph.D.

# The Supremes Face the Music

*The Affordable Care Act gets its day in court*

When President Obama signed The Patient Protection and Affordable Care Act (ACA) into law on March 23, 2010, opponents and proponents alike agreed that the Supreme Court justices would eventually be called to rule upon its constitutionality. This prediction has come true. On December 19, 2011, the Supreme Court announced that it would set aside 5½ hours over three days, March 26-28, to hear arguments on *Dept. of Health and Human Services v. Florida*, *NFIB v. Sebelius* and *Florida v. HHS*. These cases are among a slew of lawsuits that have challenged various parts of the ACA.

### Animated Conversation

The politicking, debate and passage of the ACA were quite arguably one of

this nation's most divisive in recent memory. Almost every American had an opinion about this sweeping health-care legislation and took sides accordingly. I can still recall the emotionally charged town hall meetings that took place in August two years ago. These town halls served to energize supporters both for and against, although many in Congress were ill-prepared to face rooms that were literally standing-room only. The proposed law invigorated the American public and the "conversation" became quite animated.

Watching the legislative process with all the horse-trading, debating, posturing and arguing was correctly compared to watching sausage being made. Pundits, talking heads, legislators and spokespersons were just a few of the personalities that were called upon to weigh in on the ACA.

### Meeting Resistance

The genie was let out of the bottle once the American people were given an opportunity to download and read the nearly 1,000-page bill, which was written in legalese and did little to answer the many questions raised. The bill's language seemed open to interpretation by both supporters and detractors.

Signing the bill into law did not signal an end to the debate, but seemed to ramp up resistance. Lawsuits were announced almost immediately, with the most notable being filed by the State of Florida. Joining in this challenge were suits from 25 other states (Alabama, Alaska, Arizona, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Mississippi, Nebraska, Nevada, North Dakota, Ohio, Pennsylvania, South Carolina, South



Citizens rally to promote both sides of the healthcare debate. Above right: The Supreme Court readies to take a stand on the controversial law.

Dakota, Texas, Utah, Washington, Wisconsin and Wyoming).

The litigants and their lawsuits wound their way through various local, district and federal courts, which in turn issued various rulings, many contradictory, but with each decision the ACA inched its way towards the Supreme Court.

As other provisions in the law began to be fully explored, various groups and agencies added to the cacophony, and the Obama administration began to make the following subtle and not-so-subtle changes.

### So-Called "Death Panels"

In February 2011, the Administration had to backpedal on a proposed Medicare "end-of-life planning" regulation. The proposed regulation would allow for the reimbursement for physicians to provide end-of-life planning as part of the annual physical examination of their more senior patients.

Many people interpreted this to mean that patients might feel pressured into making these decisions before they were ready to do so. After a hue and cry from the public at large the Obama administration backtracked on this prickly issue.

### States Opting-Out

At the end of February 2011, President Obama announced he would support states opting-out of certain provisions of the ACA. This was in response to a bill sponsored by Senators Scott Brown (R-Mass.), Mary Landrieu (D-La.) and Ron Wyden (D-Ore.) that would allow states to ask for "innovation waivers" in 2014 instead of 2017.

### Medicare Savings

March 2011 saw the release of rules for Accountable Care Organization (ACO) models. ACOs are a collaboration of doctors and hospitals that treat Medicare patients. They are expected to provide computerized databases and other resources to coordinate care with hospitals and specialists for

## What's In the Law?

In a nutshell, the ACA promises or enacts the following:

- If you pay for insurance on your own, you can keep your current plan or buy coverage through new state-run insurance marketplaces called "exchanges" starting in 2014. The same applies to those receiving insurance through an employer.
- If you receive Medicare, you will pay less for preventive care and prescription drugs, but your benefits might change if you are insured through a private Medicare Advantage plan.
- If you receive Medicaid, you and your children can maintain eligibility and receive free preventive services.
- If you're uninsured, then coverage would be made available in several ways. If you're refused coverage because of your health, you can get insurance from a new high-risk pool or you can obtain coverage through Medicaid. If your employer does not cover you, and you make too much to qualify for Medicaid, you'd be eligible to buy from private insurers through exchanges starting in 2014.
- Starting in 2014, most Americans will be required to buy health insurance or pay a penalty.

These were the ACA's main components with the goal of helping rein in the cost of health insurance. It also allowed for children to remain covered under their parents' insurance until the age of 26 and would prohibit discrimination against Americans with pre-existing conditions.

the management of at least 5,000 patients. It's anticipated that this model of care will save taxpayers hundreds of millions of dollars by helping patients stay healthier and avoiding unnecessary complications.

### The Waiver Controversy

June 2011 saw the first of several states request waivers to parts of the ACA under the grounds that implementation might lead to the destabilization of the individual market.

Other entities, other than states, also requested waivers from portions of the newly-enacted law. As of August 2011, a total of 1,472 one-year waivers and 106 three-year waivers had been granted, representing about 3.4 million enrollees. When this information became available, many complained that some of the same organizations

that pushed for the passage of the ACA were now requesting waivers to the very law that they supported. Thus some saw this request as being hypocritical. Others simply saw the system working to allow organizations, groups, associations and so forth to have the time to modify their insurance plans to meet the new law's requirements.

### Coverage Standards

In December 2011, the Obama Administration announced that it would shift the decision about which treatments insurance companies must cover to the states.

Coverage standards would align with those of either the largest plan in the state, the most popular state government-employee plan, the most popular federal-employee plan, the

## The Supremes Face the Music

largest plan offered to consumers who buy coverage in a small group, or the largest HMO in a state's market.

Of course, as with almost anything associated with the ACA, this new bulletin received praise from some sectors and criticism from others. Most notably a concern that this state-by-state option might give rise to disparities in healthcare coverage, with people in some states having a better plan than others. Some pundits speculated that people might move to a state specifically for its more-generous healthcare coverage.

### Nine Justices Hold the Cards

There was much speculation as to when the Supreme Court would take up the case, with many guessing that it might wait until after the 2012 presidential election in order to avoid this politically charged law; others declared that the Supreme Court would tackle this issue prior to the 2012 election. The latter would prove true.

In March, four important issues of the ACA will be addressed by the Supreme Court. A brief description of each is provided below:

#### 1. Anti-Injunction Act

The court will consider whether those challenging the law can be barred from making any legal or constitutional claims until the individual mandate actually goes into effect in 2014.

#### 2. Individual Mandate

This key provision requires nearly all Americans to buy some form of health insurance beginning in 2014 or face financial penalties. The question being, can the federal government, under the Constitution's commerce clause, regulate economic "inactivity"?

#### 3. Severability

This provision is considered a "domino effect" issue, because if the individual mandate section is ruled unconstitutional, must the entire law collapse as well?

#### 4. Medicaid 'Coercion'

The question before the court is whether states can be forced by the federal government to expand their share of Medicaid costs and administration, with the risk of losing that funding if they refuse.

Only time and the Supreme Court will tell us how this story ends. **WN**



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fill out and submit with copy of RN, ACLS, PALS licenses to  
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# NURSE CALENDAR

Edited by Dina Bierman, RN

## Thursday, February 2 8:30 am - 3:30 pm

### Conquering Pain

Courtyard Marina Del Rey  
13480 Maxella Ave., 90292

Sponsored by: Institute for Natural Resources

Tel: (877) 246-6336

Email: [info@inrseminars.com](mailto:info@inrseminars.com)

Web: [www.inrseminars.com](http://www.inrseminars.com)

Cost: \$81

CEUs: 6

Will identify the major physical and psychological factors that contribute to pain perception, describe common types of neuropathic pain and appropriate treatments, and explain important clinical features of back and musculoskeletal pain and abdominal & pelvic pain. Will also list appropriate cautions regarding use of analgesics, NSAIDs, opioids and adjuvant medications, describe practical strategies to reduce the risk of addiction in chronic pain patients and discuss the potential role of alternative therapies in pain relief.

## Thursday, February 9-12 8 am - 5:30 pm

### WH 2.0: Consensus Conference on Women's Health

JW Marriott Los Angeles LA Live  
900 W. Olympic Blvd., LA, 90015

Sponsored by: LA Center for Women's Health & California Hospital Medical Center

Tel: (337) 235-6606

Email: [info@WHconference.com](mailto:info@WHconference.com)

Web: [www.whconference.com](http://www.whconference.com)

Cost: RNs: \$600 (3 days), \$325 (1 day); Residents/students: \$150 (with proof). Includes video presentations, welcome reception, 2 breakfasts, 3 lunches, breakfast & lunch symposia  
CEUs: up to 20.5

Will focus on menopause, cardiovascular disease, uro-gynecological conditions, and breast, ovarian and cervical cancer with complementary and alternative medicine.

## Monday, February 13 9 am - 5 pm

### Basic Fetal Monitoring

Centinela Hospital Medical Center  
555 E. Hardy St., Inglewood, 90301

Sponsored by: FlexED

Contact: Bonnie Richardson

Tel: (909) 464-2299

Email: [bonnie@flexed.com](mailto:bonnie@flexed.com)

Web: [www.flexed.com](http://www.flexed.com)

Cost: \$125 for general public; free for affiliated hospitals and club members  
CEUs: 8

Will include essential concepts and skills needed to provide basic fetal monitoring. Will review and practice techniques for obtaining and analyzing monitor strips.

## Saturday, February 25-27 9 am - 5 pm

### Basic to Advanced ECG & Antiarrhythmic Therapy Course

California School of Health Sciences  
3345 Wilshire Blvd., #910, LA, 90010

Sponsored by: California School of Health Sciences

Tel: (213) 252-8908

Email: [info@cshs.edu](mailto:info@cshs.edu)

Web: [www.hprovider.com](http://www.hprovider.com)

Cost: \$200

CEUs: 24

Material focuses on the essential information needed to interpret basic dysrhythmias.

## Tuesday, February 28 9 am - 1 pm

### Head to Toe Assessment in 5 Minutes

West Anaheim Medical Center  
3033 W. Orange Ave., Anaheim, 92804

Sponsored by: FlexED

Contact: Bonnie Richardson

Tel: (909) 464-2299

Email: [bonnie@flexed.com](mailto:bonnie@flexed.com)

Web: [www.flexed.com](http://www.flexed.com)

Cost: \$50 for general public; free for affiliated hospitals and club members  
CEUs: 4

Covers basic adult patient assessment in a quick format, including interview techniques, palpation, percussion, auscultation and inspection. Participants should bring a stethoscope and pen light to class.

## Thursday, April 12-14 8 am - 5 pm

### Preparing Professional Nurses for Cancer Survivorship Care

Doubletree Hotel Monrovia-Pasadena  
924 W. Huntington Dr., Monrovia, 91016

Sponsored by: City of Hope Department of Nursing Research & Education

Contact: Liz Gourdine

Fax: (626) 301-8941

Email: [mgourdine@coh.org](mailto:mgourdine@coh.org)

Web: [www.cityofhope.org](http://www.cityofhope.org)

Cost: No cost, but there are requirements that must be met (*see application*), including two letters of commitment from your institution's administration.  
\*Registration deadline is February 17.  
CEUs: 12

Participants will learn how to improve quality of survivorship care in their cancer settings based on physical, psychological, social and spiritual well-being. This is a research study, so each participant must be committed to providing the brief follow-up tools and interviews necessary at 6, 12 and 18 months.

## Supreme Court Healthcare Law Hearings — Witness History

**O**n March 26-28, the Supreme Court will hear arguments to decide the constitutionality of the newly-minted Patient Protection and Affordable Care Act. (See page 12 for complete article.) For those who want to know if they can watch the hearings live in Washington, D.C., the answer is yes: there will be seats available for the public. So if you plan on traveling to our nation's capital, please note that seating is limited and on a first-come, first-seated basis.

Before the hearing begins, two lines are formed on the plaza in front of the building. One line is for those who wish to attend the entire argument, and the other (a three-minute line) is for those who wish to observe the Court in session only briefly. Seating for the first arguments begin at 9:30 AM, and for the three-minute line, at 10:00. Since these hearings will in all likelihood draw large crowds, and lines generally form before the building opens, one should plan accordingly.

More information can be found at: [www.supremecourt.gov/visiting/visitors-guidetooralargument.aspx](http://www.supremecourt.gov/visiting/visitors-guidetooralargument.aspx).  
— Genevieve M. Clavreul, RN, Ph.D.

Dear Reader: Every care is taken to ensure the accuracy of the above information. However, please verify before attending an event.