

Dear President Trump,

Following the death of Justice Ruth Bader Ginsburg, you announced a nominee to fill the Court's vacancy and have urged the Senate to rush a vote to replace her, pushing for a judge with partisan loyalties to be sworn in just before the health care repeal lawsuit is heard. The Department of Justice is aiding this lawsuit – which several conservative legal scholars, who support ACA repeal, believe is baseless – at your personal direction. Despite the precedent set by Senate Republicans, who refused to vote on the nomination of Judge Garland to the Supreme Court in 2016, declaring that a president should not nominate a new judge in their final year of presidency, you are pushing for a vote on a new justice with five weeks until the election. We write as public health experts and professionals who are gravely concerned about the effects this lawsuit would have, if successful, during the course of the COVID-19 pandemic, which has led to 200,000 deaths - many of them preventable - putting prospects for control of the pandemic further out of reach.

Over 20 million people would lose coverage if the ACA is repealed by legislation or overturned by court order. In the last few months, millions of Americans have lost their jobs and employer coverage, and many of these people are now eligible for ACA marketplace and Medicaid expansion coverage and rely on this critical safety net.

This health coverage is even more vital during a pandemic. To slow spread of the virus, it is essential that people who may have been exposed to SARS-CoV2 get tested promptly, self-isolate and seek medical attention if symptoms worsen. If individuals who are uninsured believe that they will incur significant financial costs by engaging with their health care professionals, they may delay or forgo testing for the virus for themselves and their families, as well as needed medical care if they get seriously ill. News reports have been widely circulated about the unexpected bills uninsured individuals have received for medical care associated with COVID-19. Thus, being uninsured is a disincentive to seek testing and care, working against our collective efforts to combat this pandemic.

Many people who develop COVID-19 require intensive and long-term medical care. This is true for the most serious cases in the elderly and those with underlying medical conditions, who may suffer lung scarring, heart damage, and neurological and mental health effects, even after recovery from acute illness. However, those experiencing milder forms of the disease may also have protracted, major health consequences. Many of these individuals, numbering in the millions now, will require expert medical care and those who are uninsured will again be dissuaded from seeking the care they need or facing financial ruin if they take the steps to ensure their long-term health and wellness. Being uninsured in this context may make the difference between life and death, not just in the short-term but for years as the lingering effects of SARS-CoV2 continue in our communities. Further, if the ACA is repealed, those who seek to replace their ACA coverage may face heightened costs, as insurers will be able to discriminate against those with pre-existing conditions, including COVID-19.

Front-line essential workers have been the heroes of the pandemic, putting their lives on the line to allow the basic necessities of life to continue for the rest of us. From nursing homes to supermarkets, from drug stores to online retail warehouses, these people have been working through the pandemic to ensure all Americans have access to vital services we require and they deserve our support now. The ACA has covered millions of people who would not otherwise have insurance.

Importantly, it has provided coverage to many essential workers who are not covered by their employer. If the Supreme Court effectively overturns the ACA at your request, imperiling the health insurance of the millions who have risked their lives for the rest of us during this pandemic, it will be a cruel thanks for their sacrifice.

You have stated that “We want to terminate health care under Obamacare.” This would strip health coverage from millions of people in the midst of a once-in-a-century pandemic, driving people away from the health care and public health systems that are key to containing SARS-CoV2. Should you succeed in placing a new Justice on the Court, it will mean that fewer people will get tested, more will spread the virus, those who get sick will have to choose between their health and financial ruin, and more people will die.

We the undersigned therefore respectfully request that you reverse course and agree that the winner of the election should select the next Supreme Court justice.

Sincerely,

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