

# Oral Testimony to House Oversight and Government Reform Committee

12 December 2013

*Eric Novack, MD*

Mr. Chairman, members of the committee, thank you for having me back again. When President Obama made the case in 2009 that the US needed to lower costs and improve access to healthcare, I agreed with him. On June 23, 2009, I told the House Subcommittee on Health that, “the system within which you are allowed to provide care is as important to the delivery as the people providing it. So if we are not willing to put the same level of attention and same level of attention to detail... into designing the system, it is doomed to fail.”<sup>1</sup>

During that same hearing, Congressman Dingell announced that he “would never presume to tell somebody how to take out an appendix or to replace a knee, but [he does] know a little bit about drafting law. [He has] been doing it for about 50 years...”<sup>2</sup>

Since then, President Obama and the Democrats’ health care law has failed to deliver on nearly every promise, including “if you like your doctor, you can keep her”, and “if you like your health care, you can keep it.”

The problems and failings certainly extend to Medicaid.

In February 2013, the Obama administration made clear their position about access to care for Medicaid patients in a court filing in the 9<sup>th</sup> Circuit— “there is no general mandate under Medicaid to reimburse providers for all or substantially all of their costs.”<sup>3</sup> As Children’s Defense Fund President Marian Wright Edelman said at the June 23, 2009 hearing, talking about a child on Medicaid who died, “his mother... couldn’t get them [the dentists] to take him because of the low Medicaid... reimbursement rates.”<sup>4</sup>

In addition, Obamacare architect Jonathan Gruber’s research<sup>5</sup> and left economist Austin Frakt’s research<sup>6</sup> suggest between 50%-80% of all new

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<sup>1</sup> <http://democrats.energycommerce.house.gov/sites/default/files/documents/Final-Transcript-Health-Comprehensive-Health-Care-Reform-Discussion-Draft-2009-6-23.pdf> (page 193 of pdf, page 183 of testimony)

<sup>2</sup> Ibid (page 186 of pdf, page 176 of testimony)

<sup>3</sup> [http://www.nytimes.com/2013/02/26/us/politics/states-can-cut-back-on-medicaid-payments-administration-says.html?\\_r=0](http://www.nytimes.com/2013/02/26/us/politics/states-can-cut-back-on-medicaid-payments-administration-says.html?_r=0)

<sup>4</sup> <http://democrats.energycommerce.house.gov/sites/default/files/documents/Final-Transcript-Health-Comprehensive-Health-Care-Reform-Discussion-Draft-2009-6-23.pdf> (page 192 of pdf, page 182 of testimony)

<sup>5</sup> <http://www.nber.org/papers/w12858>

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Medicaid enrollees will lose private insurance as it is crowded out by Medicaid.

And in Arizona, according to a 2013 Milliman report<sup>7</sup>, most hospitals receive 70% of Medicare rates for Medicaid—which is unsustainable.

While some will benefit from the expansion, the losers will far outnumber the winners. To respond to Congressman Dingell-- he may not be saying how the surgery gets done, but he is certainly impacting who will get it and when. But the access problems do not end with Medicaid...

As I wrote in August 2010, the health care exchanges are really just a variation of Arizona's 100% Medicaid managed care system<sup>8</sup>, which, the last time it was expanded, has actually cost over 4 times what was predicted by supporters.<sup>9</sup>

The policies available through the exchanges, even with subsidies are, for many, far more expensive than Democrats and the President promised... and many have higher deductibles, copays, and coinsurance—and very narrow provider networks.

OrthoArizona, the group of over 70 musculoskeletal providers I am in, does not have a single exchange contract by choice. One reason is the required 90-day grace period for policies. This means we can provide 2 months of care thinking the patient has coverage, and then we are 'on the hook' for payment, and the insurers have no responsibility. And OrthoArizona is not alone.

At least one Phoenix area hospital system does not yet have a single exchange contract—in large part because the rates being offered are at or near Medicaid rates.

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<sup>6</sup> [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1782210](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1782210)

<sup>7</sup> <http://www.azahcccs.gov/commercial/Downloads/rates/MillmanAHCCCSReport20120628.pdf>

<sup>8</sup> <http://www.washingtontimes.com/news/2010/aug/4/the-arizona-experiment/>

<sup>9</sup> <http://goldwaterinstitute.org/10-reasons-to-decline-medicaid-expansion>

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I recently spoke with a retired professor at an esteemed NY Medical school. She feels Obamacare is morally right. But she notes that none of her personal doctors take Medicare, let alone Medicaid. Unwilling to make a moral stand and not go to those doctors, the professor blames the doctors—and seeks to have government force them and hospitals accept whatever payment the government decides, even if they go out of business doing so.

I strongly suspect we will be hearing some variation of this very from the administration very soon.

Those who do not wish to defend the failures of the law are quick to say, “well, what is your solution?” This hearing is not focused on alternatives, but I want to quickly mention 3 areas that should contribute to the many larger proposals that do exist.

This year, Arizona passed a first in the nation price transparency law. The law extends the already ‘only in the nation’ state constitutional right to spend your own resources for legal health care services and also ends direct pay price discrimination based upon insurance status. This law goes into effect on January 1, 2014.

OrthoArizona, since its inception in 1994, has focused on quality and utilization and cost. We have shown repeatedly with payers that local, same specialty physician accountability is a reproducible and effective way to lower health care costs while maintaining high quality orthopedic care.

Intelligent InSites, a software company with whom I do work, is a company that provides a platform that takes automatically collected data and provides analytics on that data combined with other sources of information. Getting better, more accurate, unbiased information in the hands of everyone from transporters in the hospital to doctors to health care system CEOs to you—the top policy makers in the country—has never been more needed.

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Ultimately, we must move to policies that ensure patients and families maintain control over their health care decisions, and that includes access to quality physicians.

Eric N. Novack, MD

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## Orthopedic Surgery

Orthopedic Surgeon                      Board Certified 2003 (ABOS)  
Partner in Phoenix Orthopaedic Consultants, a division of  
Orthopedic Surgeons Network of America                      Glendale, Arizona

- Managing partner
- see 3500-4500 patient visits per year,  
approximately 350 surgeries per year

Partner, Pinnacle Surgery Center  
- original partner since 2005  
- multispecialty physician owned surgery center

*general orthopedic practice a mix of nearly all ages with about 50%  
acute injuries and fractures and 50% predominantly shoulder, knee, and elbow*

## Software/Technology

Senior Medical Advisor                      Intelligent InSites (since April 2013)  
Role involves internal education, interfacing with customers,  
partners, and involvement in strategic planning with rest of executive team

*Software company focused on providing Operational Intelligence to  
health care customers. Focused on using automated data collection of patients,  
staff, equipment location and status and their relationships to give health care  
clients and enterprises better, more accurate data to increase efficiency, reduce  
costs, improve patient safety and give providers more time to provide care.*

## Political/ Advocacy/ Policy Consulting and Strategy

Originated "Health Care Freedom Act" concept, which is now law in 10  
states, passed as constitutional amendments in 2 states, and is on  
1 state ballot as a constitutional amendment in November 2011,  
and 4 more in November 2012

Chairman, Arizonans for Health Care Freedom                      2010  
Lead successful effort to amend Arizona Constitution with the  
Arizona Health Care Freedom Act (Proposition 106)

Provide ongoing Health Care policy analysis and strategy for both local  
and national interests

# Eric N. Novack, MD

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Speaker, "Five Key Issues that Will Decide the Election", sponsored by the Bipartisan Policy Center and The Hill, August 2012

Testified in front of US House of Representatives Oversight and Government Reform Committee's Subcommittee on Health on the likely impact of PPACA on the doctor-patient relationship July 2012

Testified in front of full US House of Representatives Energy and Commerce Committee on health care reform June 2009

Chairman, US Health Freedom Coalition  
501c-4 organization dedicated to promoting health care freedom

Founder, Benjamin Rush Foundation  
501c-3 organization whose mission is to educate about the principles of personal liberty in health and health care

Senior Fellow in Health Policy, Americans for Prosperity 2009 – 2010  
Lead health care policy analyst, strategist, and media for umbrella effort during national health care policy debate

Organizing Member, Benjamin Rush Society May 2008  
Group promoting student involvement and debate about health care issues and concerns in medical schools

Led legislative efforts to pass patient centered health care reforms at Arizona state legislature 2009-Present

Chairman, Medical Choice for Arizona for Nov 2008 Election  
Proposition 101: The Freedom of Choice in Health Care Act

President OSNA Foundation since inception in 2011  
Charitable Foundation (501c3) created by OSNA to give back, locally, nationally, and globally

Radio Talk Show Host March 2005 – Sept 2007  
"The Eric Novack Show" KKNT 960 AM Phoenix

## Education/Licensure

Arizona Medical License- active since 2001

Board Certified, American Board of Orthopedic Surgery 2003

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Orthopedic Residency                      2001  
University of Washington      Seattle, Washington

Medical Doctor Degree                      1996  
University of California, San Francisco  
Member of Alpha Omega Alpha honor society

Bachelor of Science Degree      1991 (Magna Cum Laude)  
Brown University

## Publication/ Media/ Presentations (selected)

Op-Eds Published in numerous publications including the Washington Times, Washington Examiner, Human Events, Politico.com, Arizona Republic, TheHill.com, The Oklahoman, The Daily Caller

TV Appearances on CNN, Fox News, local and statewide TV. Radio appearances including many nationally syndicated shows including Sean Hannity, G. Gordon Liddy, Herman Cain, and Jim Bohannon

Quoted in Wall Street Journal, New York Times, Los Angeles Times, Arizona Republic, Washington Post

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – "Truth in Testimony"  
Required by House Rule XI, Clause 2(g)(5)

Name: ERIC W. NOVACK, MD

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2010. Include the source and amount of each grant or contract.

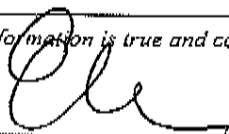
NONE

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Ortho Arizona - physician partnership - I am a  
surgeon and partner

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2010, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

I certify that the above information is true and correct.  
Signature: 

Date: 12-11-13