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Association of American Physicians and Surgeons, Inc.
A Voice for Private Physicians Since 1943
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Lawrence R. Huntoon, M.D., Ph.D.
Editor-In-Chief

April 2, 2019

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

The Association of American Physicians and Surgeons (AAPS) thanks you for declining to defend an unconstitutional law, the Affordable Care Act.

AAPS, a national organization representing thousands of physicians in all specialties, has defended the practice of ethical, private medicine since 1943. We are opposed to socialism and believe the federal government should obey the Law of the Land, the U.S. Constitution, even if the popular will seems to support unconstitutional policy.

AAPS filed suit immediately after ACA was signed into law and has filed amicus briefs in a number of lawsuits brought by others.

As you know, ACA was held to be constitutional only under the taxing powers of Congress. We agree with the plaintiffs in *Texas v. United States*. that a “tax” that raises zero revenue is not a tax, and that the individual mandate is a keystone in the structure of ACA and is hence not severable. We would also argue that a tax triggered by failure to buy a product is not a direct tax, excise tax, or income tax, and hence is not a constitutional federal tax.

ACA is very popular with winners, and unpopular with losers, who are probably far more numerous though lacking in powerful voices in the media or Congress.

Winners include:

- those receiving subsidies for policies few can otherwise afford
- some insurers, especial Medicaid managed-care contractors
- information technology purveyors.

Losers include:

- millions who lost their insurance because of ACA and have a “preexisting condition” as a result
- smaller physicians’ practices and hospitals that cannot afford the compliance costs, and the patients who depended upon them

- ordinary Americans who cannot get affordable insurance that meets their needs because of the costly federal insurance mandates, ironically called “minimum essential benefits.”

If there are features in ACA that are constitutional and good public policy, these could be re-enacted. Provisions that help make health insurance and medical care unaffordable—both for ordinary Americans and taxpayers—or that forbid the offering of affordable policies and care that Americans would prefer should not be reenacted or signed into law.

AAPS opposes central planning and favors freedom. We applaud your efforts to expand options available to Americans even under ACA, which the previous Administration foreclosed. If the federal government’s interference in the states’ authority to regulate insurance and the practice of medicine ended, innovative and economical alternatives could arise rapidly in a competitive free market, based on voluntary decisions by Americans instead of special-interest stakeholders and bureaucrats. As a builder and developer, you have a first-hand understanding of the consequences of over-regulation.

Our white paper, “After the Affordable Care Act: Freedom for All vs. Medicare for All” (<http://www.jpands.org/vol24no1/orient.pdf>) may be of interest.

Thank you for standing for the rule of law and the rights of Americans.

Most respectfully,

A handwritten signature in black ink that reads "Jane M. Orient". The signature is written in a cursive, flowing style.

Jane M. Orient, M.D.
Executive Director