

—OPINION—

*What we can all agree on:  
 Health care is broken*

**By Ross K. Goldberg**

The U.S. Supreme Court soon will hear arguments about the legality of the Patient Protection and Affordable Care Act, better known as health care reform.

It is expected that the high court will issue a ruling by June, just as the political season really heats up. But regardless of what the court decides, the health care debate will remain that annoying piece of toilet paper stuck to the sole of your shoe that you can't shake off.

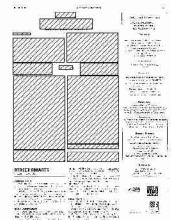
If the court declares the act unconstitutional, Republicans will rejoice in striking down the signature legislation of President Obama's administration. If the law is upheld, Republicans will stoke the fire by declaring that the only recourse is to elect a president and Congress who pledge to overturn ObamaCare.

The Democrats, no less bashful about exercising their political muscles, will of course take the opposite position, leaving the public squarely at the intersection of discouragement and frustration.

There are both constitutional and political wiles at play here. The constitutional component concerns the individual mandate, and whether or not the federal government has the authority to force every American to buy health insurance — and to continue buying it year after year. Supporters point to the Commerce Clause as their ally and the chilling effect that those without health insurance have on the entire society. But opponents argue that there is no other product that all Americans are federally required to purchase and warn us of the slippery slope on which we're headed if the constitutionality of the individual mandate is upheld.

Looking at the law more broadly, politics influence virtually every tentacle of health care reform — from health insurance exchanges to guaranteed issuance. Once again, the same issue of states' rights vs. federal rights vs. individual rights that have been argued as far back as Madison's Federalist Papers bubbles to the surface. And this spirited debate once again reminds us that the principles of liberty and democracy are in fact conflicting ideologies around which our nation has quarreled since our founding and even gone to civil war in an attempt to resolve.

The good news in all of this is the recognition by nearly everyone that our health care system is broken and simply tinkering around the fringes will no longer suffice. With 45 million uninsured, costs continuing to escalate and society



continuing to age, saying that change is needed is like saying that night is dark.

That makes today's debate oddly liberating as compared to the Clinton years, when the debate was over whether or not health care needed fixing. Today, it is not whether to fix it, but how.

Fixing health care will take getting into the weeds of our nation's most complex, emotional, personal and important issue. And it will require every citizen, not just our lawmakers, to exercise moral courage in answering four fundamental questions.

Is health care a right to which every citizen is entitled? If so, is every citizen entitled to the same health care? Put to an extreme, is the person standing at the freeway off ramp holding a cardboard sign entitled to the same doctors, hospitals, drugs and technologies as Donald Trump?

Whose responsibility is it to pay for care? Today one in every four Californians is uninsured, and when these individuals present themselves at a hospital's emergency department, care is provided.

Bills not paid by the patient are absorbed by the hospital as "bad debt." But hospitals need to pay their bills too, so at least part of the cost is "shifted" to those who are able to pay. Some bills are paid in part by the government (MediCal) which gets its money from taxpayers. Is this right? Is this equitable? Is there a better way?

How do we hold individuals accountable for their own health so that they have a personal, financial stake in the game? Smoking, drinking, eating carelessly and avoiding exercise may have been the "good old days" to some, but memory lane is a dead-end street. This notion that everyone has an unlimited right to health care without also having some accountability for their own lifestyle and health habits is simply unsustainable. But how can we effectuate change and force people to behave without further complicating the current debate regarding individual rights and unnecessary government intervention?

How do we measure and assure quality? Medicine is a science, but even good doctors can disagree on a course of treatment. So what measures, incentives and drivers need to be put in place to assure that patients in need get the quality they deserve? One of the most applauded aspects of health care reform is "pay for performance," which financially rewards both payers and providers who achieve quality metrics in defined categories.

How do we assure that this occurs and how do we assure transparency so that patients can use this information to make intelligent decisions about where to get their care?

In the final analysis, how we answer these questions will tell us a lot about our country, our society and ourselves.

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## Viewpoint