

## HEALTH CARE REFORM'S IMPACT ON HOSPITAL REAL ESTATE DEVELOPMENT

### PART 1 OF 2

It seems like yesterday, but we are two years into the "health care reform" era. The Affordable Care Act ("ACA") became law in March of 2010. The primary goals of the ACA are three-fold: increase coverage, reduce the cost of care and improve the quality of care. Few argue the importance of the objectives. When Congress passed the ACA:

- 45 million Americans lacked coverage;
- Health care constituted a full 16% of GNP (compared to Britain's 8.4% and France's 11%);
- The per capita annual cost of care was \$7,290 (about double that of most industrialized countries); and
- Quality was comparatively poor (as measured by preventable deaths in the US vs. other developed nations).

Clearly, more Americans will be covered under the ACA, but probably not as many as could be. Only time will tell whether the ACA will result in permanent cost containment and quality improvements.

One of the main factors that ultimately drove hospitals to support (or at least not vehemently oppose) the ACA was the expected trade off: while there will be significant cuts in hospital reimbursement from Medicare and Medicaid, this will be offset, so the logic goes, by more insurance payments and less charity care that will naturally follow from the mandate that essentially all Americans be covered. The problem with this assumption is that there is growing speculation that despite the mandate, many people will nevertheless choose not to obtain insurance.

The other factor at play is uncertainty. A few weeks ago the U.S. Supreme Court heard oral arguments in the cases that seek to declare the ACA unconstitutional as an impermissible use by Congress of the Commerce Clause. There is a fair probability that even if the Court finds the mandate to be unconstitutional, it will save the ACA from repeal by "severing" the mandate component from the Act. If that happens, the great trade off will not materialize for hospitals. Instead, hospitals will be faced with cuts in reimbursement without the hoped for revenue influx. This uncertainty causes a degree of paralysis by hospitals that might otherwise deploy capital for new real estate developments.

The Court is expected to issue a decision by the end of June.