

U.S. Senator Orrin Hatch
Statement on the Senate Floor
On data security in the health care exchanges
September 17, 2013
As Prepared For Delivery

Mr. President, to begin, I just want to say that my thoughts and prayers go out to everyone who was impacted by the horrific events at the Navy Yard yesterday morning, particularly to those whose loved ones lost their lives or were injured in this senseless tragedy.

I also want to express my gratitude to the brave men and women who serve in our nation's military for the sacrifices they make for each and every one of us and to the first responders and law enforcement personnel who worked tirelessly to assist those in need and to keep us all safe throughout the day.

It was just a dreadful day, Mr. President. I know that there is little I can say or do to bring comfort to those who are suffering today, but I hope and pray that they will find some measure of peace in the coming days.

Now, I want to take just a few minutes to speak about some of the problems we face as the administration continues to struggle with the implementation of the so-called Affordable Care Act.

It seems as though nearly every week we learn about another problem facing the Obama Administration as they seek to implement this misguided law. More often than not, those problems are revealed through statements announcing delays in certain elements of the law.

The Employer Mandate? Delayed.

The Small Businesses Health Insurance Market? Delayed.

Employee automatic enrollment in the exchanges? Delayed.

Of course, this shouldn't come as a surprise to anyone. This is, after all, the largest expansion of government in a generation. And, it's not like it was carefully crafted.

No, the President's health care law was rushed through Congress in a partisan fashion, virtually ensuring that it would face problems when the rubber meets the proverbial road.

For months now, experts have been warning us about Obamacare's failings and the challenges those failings pose as the administration tries desperately to have something ready to implement by October 1st.

One of the major parts of Obamacare is the health care exchanges. These are designed to be online marketplaces where those without health insurance will be required by law to shop for coverage.

Millions of people are expected to sign up to purchase insurance through the exchanges. As a result, the exchanges are expected to have a massive impact in the overall insurance market, even affecting those who get their insurance elsewhere.

Make no mistake, Mr. President, Obamacare's health insurance exchanges will have an impact on every American, regardless of where they get their health insurance.

That being the case, one would reasonably assume that the administration would not move forward on the exchanges until they were ready. Unfortunately, when it comes to implementing the President's health care law, reason doesn't appear to enter into the equation.

Despite countless red flags, the administration is charging ahead.

They are, to say the least, desperate to avoid another delay when it comes to Obamacare. So, come hell or high water, the exchanges will go live on October 1st.

This is problematic for numerous reasons, not the least of which are the privacy and security considerations that, up to now, appear to have been ignored by administration officials.

When people sign up for insurance through an exchange, they will be required to submit their Social Security numbers, tax returns, household income information, and the like. This is, to say the least, highly sensitive information.

In recent months, we've seen that government-certified security systems have been shown to be less than reliable when it comes to protecting personal information. Just this past July, for example, the IRS accidentally posted thousands of Social Security numbers on its website.

That was just a small mistake with potentially devastating consequences for those who had their information exposed.

The information collected when people sign up for the exchanges will be entered into the Federal Services Data Hub, a new information sharing network that will allow state and federal agencies – including the IRS, the Department of Health and Human Services, the Department of Labor, and the Department of Homeland Security – to verify a person's information.

It is, at this point, unclear whether the Data Hub has adequate security in place to prevent enrollees' information from falling into the hands of data thieves.

Last month, the HHS Office of Inspector General issued a report indicating that the government had failed to meet several deadlines for testing operations and reporting data security vulnerabilities involved with the Data Hub.

This, as you might expect, led to an outcry from Members of Congress from both sides of the aisle. As a result, on September 10, the White House conveniently announced that all testing had been completed and the Data Hub was ready to launch.

This announcement came a mere three weeks before the exchanges were set to go live. Of course, no independent entity will get a chance to verify the testing and to certify that there are, as the administration claims, no security problems. No third party will be able to make recommendations to improve safeguards in order to better protect the privacy of consumers.

Instead, we're supposed to simply rely on the administration's internal testing of the Data Hub security and stop asking questions. This, sadly, is par for the course with the Obama Administration.

So, here we are. We're mere days away from the launch of the exchanges and we've yet to definitively prove whether the massive IT system that will be compiling enrollees' information is secure.

To the millions of consumers about to enroll in the exchanges, this could end up being their worst nightmare.

And, as if the potential disaster surrounding the Data Hub weren't enough, we also have lax regulations regarding the hiring of the so-called navigators.

As you'll recall, Mr. President, under Obamacare, organizations will receive grants to assist the uninsured in determining what type of coverage they qualify for in states where the federal government will be running the exchange. The individuals working with those organizations are called "navigators," and, under the law, they will often have access to enrollees' personal information.

In April, HHS published its proposed rule regarding the certification of navigators. And, almost immediately, Members of Congress recognized that the regulations were far too lenient, cutting corners on things like training and background checks and threatening to leave patients and consumers with inadequate protection.

A group of my colleagues and I sent a letter to Secretary Sebelius outlining our concerns regarding this rule. Our hope was that the requirements for navigators would be enhanced to ensure that consumers were not harmed by unqualified navigators or imposters posing as government counselors.

Sadly, our request fell on deaf ears.

We never received a response.

In late July, HHS issued its final navigator rule, keeping in place the very weak privacy protections, opening the door for private information to fall into the wrong hands.

Consumer watchdog groups are already warning of scams leading to fraud and identity theft with regard to the exchanges. Indeed, it seems that criminals and fraudsters are already lining up to game the system and prey on the innocent.

Now, over the last few years, I've come to the floor several times to talk about the shortcomings of Obamacare. I continue to believe that the law is beyond saving and that it should be repealed in its entirety. That remains my number one goal when it comes to Obamacare.

However, I also believe that those of us who oppose this law – which, according to recent polls, is a growing percentage of the population – cannot stand on the sidelines and let this law inflict harm on the American people.

While we continue to push for a full repeal of the law, we need to do all we can to mitigate the damage.

With regard to privacy and data security, we need to ensure that the administration does not expose the personal data of millions of Americans to more fraud.

That is why today I am introducing the Trust But Verify Act.

If enacted, this important legislation would delay the implementation of the federal and state health insurance exchanges until the Government Accountability Office, in consultation with the HHS Inspector General, can attest that the necessary privacy and data security parameters are in place.

It would simply be irresponsible to open the exchanges without adequate safeguards to protect and secure consumers' personal information. While the administration claims that these safeguards exist, there is simply no way to verify these claims absent an independent review.

Until we can demonstrate to the public that their personal information is secure, we should not move forward with enrollment in the exchanges. It's just that simple.

My legislation would ensure that the exchanges remain on ice until this threshold issue is addressed.

These aren't trifling concerns, Mr. President. These are real problems.

I hope all of my colleagues – even those who continue to support the President's health law – will work with me to address these issues. I yield the floor.

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