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**Giving States Flexibility to Change Obamacare without Changing the Law:
Examining the Potential Uses of the Affordable Care Act's State Waiver Process**

***New policy brief from the Rockefeller Institute of Government examines the
role of innovation waivers in helping states respond to changes in healthcare
policy and markets***

Albany, NY —In a new policy brief, “The Affordable Care Act's 1332 Waiver: An Avenue for Short-Run Adjustment, Innovative Change, or Political Acceptance?,” Rockefeller Institute researchers Michael Gusmano, John Kaelin, and Thomas Gais explore the potential of the Affordable Care Act's 1332 waiver as a tool for widespread, state-level policy change to address challenges in Affordable Care Act (ACA) implementation.

Section 1332 of the Affordable Care Act is intended to give states the flexibility to achieve the goals of the legislation while adapting to local factors by applying for an innovation waiver. Based on the list of provisions that may be subject to the waiver, many core features of the ACA could be changed at the state level through a Section 1332 waiver, including the creation of health insurance exchanges, ACA certification standards for qualified health plans, ACA requirements related to essential health benefits (EHB), cost-sharing reduction payments and premium tax credits (with alternative funding available), and employer and individual mandates.

In their [new brief](#), Gusmano, Kaelin, and Gais examine the waiver's origins, powers and limitations, uses to date, and its potential role in adapting the ACA to changing and diverse circumstances. They observe, for example, a shift in the purposes of 1332 applications before and after the 2016 elections — suggesting a new function for waivers to not only pursue innovative pathways to implementation, but to help states respond quickly and effectively to rapid changes in healthcare markets. The authors also outline ways in which the waiver process may be improved.

“The current federal administration has been more aggressive in allowing states to choose their own paths on Obamacare implementation — that can mean undermining the law or innovating to make improvements,” said Rockefeller Institute President Jim Malatras. “As this waiver process becomes an increasingly important part of American policymaking, it's vital that we follow it carefully and understand how it works.”

Thomas Gais is director of research at the Rockefeller Institute of Government. John Kaelin and Michael Gusmano are visiting fellows at the Institute. Gusmano is also an associate professor in the Department of Health Systems & Policy at Rutgers University.

[Read the full report.](#)

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