The Overturning of *Chevron* Deference: Implications for the US Healthcare System

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ABSTRACT

In 1984, *Chevron* deference was established by the US Supreme Court in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, granting administrative agencies broad powers to interpret ambiguous laws passed by Congress. This landmark decision has fostered decades of controversy among legal scholars. Opponents argued it deprived courts of their constitutional duty and inappropriately expanded the power of the administrative state, while proponents claimed federal agencies, staffed by experts in their field, possess specialized knowledge to most effectively accomplish the goals of Congress. In June 2024, the Supreme Court's ruling in *Loper Bright Enterprises v. Raimondo* effectively ended *Chevron* deference, altering the judicial landscape with significant implications for US healthcare. In this commentary, we discuss the various potential benefits and challenges that the US healthcare system will face in a post-*Chevron* landscape while also considering the ways in which clinicians will be expected to help address these obstacles.

KEY WORDS: Chevron Deference; Health policy; Supreme Court; Healthcare administration; Healthcare regulation; Healthcare legislation

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In 1984, *Chevron* deference (CD) was established by the United States (US) Supreme Court in their unanimous ruling in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*[1] This landmark decision has been a cornerstone of federal administrative law as this ruling granted US administrative agencies such as the Environmental Protection Agency broad powers to interpret and enforce ambiguous laws passed by Congress. Traditionally, in cases where Congress passes vague legislation, it is the responsibility of the US judicial system to interpret such laws. CD marked a deviation from this standard as courts were instructed to defer to the interpretation of federal agencies so long as these interpretations were deemed "reasonable."[1] This decision has been widely controversial as opponents of CD believe courts have been deprived of their constitutionally mandated responsibility to interpret the law to the best of their abilities in favor of deferring to an agency's interpretation so long as such interpretation was deemed reasonable.[2] Proponents, however, argue that federal agencies, staffed by experts in their field, often have specialized knowledge and technical expertise that courts lack, allowing them to make informed decisions on complex issues.[3]

This judicial cornerstone of administrative law was upended in June of 2024 after the Supreme Court's 6–3 ruling in *Loper Bright Enterprises v. Raimondo.* This case was brought to the courts by a group of New Jersey herring fishermen in response to the National Marine Fisheries Service's (NMFS) enforcement of the Magnuson-Stevens Fishery Conservation and Management Act (FCMA).[4] The FCMA explicitly outlines select groups of fishing boats that are required to carry and fund the costs of third-party observers to monitor their fishing activities, at costs totaling to $700 a day per vessel.[4] The FCMA failed, however, to include herring fishmen in its text, yet the NMFS through their interpretation of the FCMA extended this requirement to include the plaintiffs, putting an undue financial burden on small family-run fishing boats.[5] While most agree that the original interpretation of the FCMA was an overreach in administrative power, the US Supreme Court seized the opportunity in this case to once again deviate from *stare decisis*, a long-standing judicial tradition to defer to and uphold judicial precedent, and make a sweeping decision to end the use of CD across all courts.[5] In the majority opinion, Chief Justice Roberts stated that CD contradicts the Administrative Procedure Act, which requires courts to use their independent judgement in cases rather than deferring to agency interpretation.[5]

The upending of CD will have ramifications that are felt across all aspects of governmental proceedings, including those related to our healthcare system as much of healthcare law is intentionally vague to allow for agency interpretation. Notable examples that contain vague language include the Affordable Care Act, Health Insurance Portability and Accountability Act, and Public Health Service Act. In this commentary, we outline the implications of a post-CD landscape for US medicine and healthcare.

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ENHANCED AGENCY ACCOUNTABILITY

One of the primary criticisms of CD is that it grants agencies of unelected officials excessive power, allowing them to interpret statutes with significant autonomy.[6] Opponents argue this can lead to regulatory overreach, where agencies create and enforce policies that may extend beyond the intent of Congress.[7] The overturning of CD now necessitates that agencies adhere more strictly to statutory boundaries set by lawmakers, ensuring their actions remain within the scope of their delegated authority. Additionally, lawmakers must now enact statutes that are precise and specific to guide regulatory agencies. This enhanced accountability could lead to more transparent and democratic regulatory processes.[7] Agencies such as the Food and Drug Administration (FDA), Centers for Disease Control and Prevention (CDC), and the Centers for Medicare & Medicaid (CMS) will be required to justify their interpretations and decisions more rigorously, knowing that courts will review these interpretations de novo rather than automatically deferring to them. This heightened scrutiny would compel agencies to engage more deeply with stakeholders, including healthcare providers, patients, and industry representatives, during the rule-making process. Such engagement could lead to more balanced and well-considered regulations that better reflect the needs and concerns of the broader healthcare community.

BURDEN ON JUDICIAL RESOURCES

The overturning of CD will now shift the burden of interpreting complex healthcare statutes from specialized agencies to the judiciary. Courts, which may lack the necessary expertise and resources, will be tasked with making detailed regulatory decisions. This shift could lead to an overburdened judicial system, with courts struggling to handle an influx of cases challenging agency interpretations.[8]

The increased judicial workload could result in slower resolution of disputes and increased litigation costs for all parties involved. This inefficiency would not only strain the judicial system but also divert resources away from healthcare delivery and innovation, further hindering the sector's ability to respond to emerging health challenges.

INCREASED JUDICIAL OVERSIGHT

Given the shift in power from regulatory agencies that operate under the Executive Branch to the Judicial Branch, courts will need to take a more active role in interpreting healthcare statutes. Advocates for the overturning of CD claim that this shift in branch power is consistent with the checks and balances established by the country's Constitution.[2] This shift could lead to more consistent and predictable interpretations of the law, as judicial decisions would set precedents that agencies will need to follow.

Increased judicial oversight could also mitigate the risk of regulatory capture, where agencies become too closely aligned with the industries they regulate.[9] By subjecting agency interpretations to rigorous judicial review, courts can ensure that regulations serve the public interest rather than the interests of powerful stakeholders and lobbyists. This shift could enhance public trust in the regulatory process, as decisions would be perceived as more impartial and based on legal principles rather than agency discretion.

EFFECT ON REGULATORY CLARITY

The effects of CD on regulatory clarity are controversial. Proponents have argued CD has provided a stable framework that promotes consistency in the interpretation and enforcement of healthcare regulations.[3] Opponents, however, point out that regulatory agencies' policies often change under different presidential administrations, obscuring the healthcare industry's ability to predict future administrative rulings.[10] Although regulations may change under different administrations, policies created during CD ensured a national consistency. The potential surge in litigation and judicial scrutiny could create a fragmented regulatory landscape where different courts provide inconsistent rulings on the same issue.[3] Such inconsistencies would undermine the stability and predictability that healthcare providers and companies depend on to make informed decisions about investments, compliance, and operations.

IMPACT ON INNOVATION

The effects on regulatory clarity will likely influence innovation. Developers in the healthcare sector, including pharmaceutical companies, medical device manufacturers, and healthcare technology startups, may benefit from a more predictable legal environment. Controversy remains on if clarity will improve in a post-CD landscape. CD opponents argue that the CD framework created a dynamic where agencies issue and revise regulations frequently, responding to shifting political landscapes and administrative priorities.[10] This often resulted in a regulatory environment that is unpredictable and difficult for innovators to navigate. With courts taking a more active role in statutory interpretation, legal standards may become more stable and consistent over time.

Alternatively, the end of CD could lead to increased uncertainty and subsequently stifle innovation. The prospect of frequent legal challenges and the possibility of courts

overturning agency decisions could delay the approval process for new drugs and devices, limiting patients' access to novel treatment options. Additionally, smaller companies and startups, which are often at the forefront of innovation, might lack the resources to navigate a more litigious and unpredictable regulatory environment.

PUBLIC TRUST AND INSTITUTIONAL LEGITIMACY

The inevitable shift in regulatory power from experts at the CDC, FDA, and CMS to our judicial system may lead to decisions that appear politically or ideologically motivated rather than based on scientific evidence. Such perceptions could erode public trust in the healthcare system and in the agencies tasked with safeguarding public health. Reduced trust could, in turn, hinder public health initiatives, such as vaccination campaigns, disease prevention programs, and emergency responses to health crises. In order to avoid the potential for mistrust, it is paramount that the judicial system increase their reliance on health experts to inform their decision-making to ensure both scientific evidence and constitutional rights are upheld.

CONCLUSION

The effect of the overturning of CD is likely to have both positive and negative impacts on US healthcare as regulatory agencies will now lose much of the power they have exercised over the past 40 years to influence healthcare policy. While the impact of this decision on our healthcare system will likely be varied, one thing is clear: the role of clinicians and experts in health policy will grow immensely within the judicial system as courts will now require this expertise to guide their rulings. This paradigm will likely present new opportunities for medical professionals as their expert opinions will be utilized more frequently as expert witnesses. The medical profession should prepare itself as a whole for this new role we likely will play within the legal system so that patient outcomes and public interests are prioritized within our Constitutional framework.

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