



Questions and Answers: ALEC's *Freedom of Choice in Health Care Act*

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Why does my state need the *Freedom of Choice in Health Care Act*?

Efforts in our state capitol, and in Washington, are gaining steam to put complete control over your health care in the hands of government bureaucrats and appointed "experts."

Government control means you will have less freedom to make the health care choices that are best for you and your family. The *Freedom of Choice in Health Care Act* will protect your health care freedom from these threats.

What does the *Freedom of Choice in Health Care Act* do?

The *Freedom of Choice in Health Care Act* will preserve and protect your right to make your own health care and health insurance choices. Specifically, it would protect your right to pay directly for medical care, and it would prohibit any individual or employer from being penalized for not purchasing government-defined health insurance.

Why should my state's constitution protect the right of patients to pay directly for medical care?

Single-payer systems, like in Canada, make it illegal for citizens to go outside of the government's health care plan and contract for their own medical services. The *Freedom of Choice in Health Care Act* would make this fundamental provision of Canadian-style, single-payer health care unconstitutional.

Patients should have the right to pay directly for medical services with their own money. When consumers control the dollars, they make the treatment decisions. When the government controls the dollars, they make treatment decisions based on what's best for the government, not what's best for the patient.

The consequences of government making medical decisions are often dire, and sometimes deadly. In New Zealand, breast cancer patients were blocked from accessing the lifesaving drug Herceptin because it cost too much. In Sweden the wait for heart surgery can be as long as 25 weeks. In Canada more than 800,000 patients are currently on waiting lists for medical procedures.



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The *Freedom of Choice in Health Care Act* will ensure that patients, not government bureaucrats, decide which doctor to see or what medical treatments to get.

More information about the consequences of single-payer health care can be found in:

* Michael Tanner, “The Grass Is Not Always Greener: A Look at National Health Systems Around the World,” Cato Institute Policy Analysis No. 613, March 18, 2008:

<http://www.cato.org/pubs/pas/pa-613.pdf>.

* John C. Goodman, Linda Gorman, Devon Herrick, and Robert M. Sade, *Health Care Reform: Do Other Countries Have the Answers?*, National Center for Policy Analysis, March 10, 2009: http://www.ncpa.org/pdfs/sp_Do_Other_Countries_Have_the_Answers.pdf.

* <http://BigGovHealth.org>: A website with “single-payer horror stories” and fact sheets on the U.S. and worldwide infant mortality/life expectancy statistics; whether the U.S. Veterans Administration is a model for health reform; and much more.

Why should my state’s constitution block penalties for individuals or employers who don’t purchase health insurance?

It is important for people to have health insurance coverage, but a government requirement to purchase health insurance is ineffective, bureaucratic, and costly. The *Freedom of Choice in Health Care Act* would strike at heart of individual and employer mandates—implemented in Massachusetts, Hawaii, and elsewhere—that just don’t work.

In Massachusetts—a state that imposed an individual mandate and an employer mandate in 2006—more than 1/3 of their uninsured still don’t have coverage; health insurance is 40% more expensive than in the rest of the country; it’s getting harder to see a doctor since before “reform” was enacted; and legislators expect a \$2-\$4 billion shortfall over the next decade.

The Massachusetts mandate didn’t just affect the uninsured. The Massachusetts government actually told 20% of its already-insured citizens to buy more health insurance, because their existing coverage wasn’t “good enough.” When the government enforces a requirement for people to buy health insurance, they need to define what “insurance” is. The Cato Institute estimates that a federal individual mandate will force 100 million Americans to drop their existing plans and buy more expensive health insurance that is “good enough” for bureaucrats.

Employer mandates don’t yield universal coverage and are harmful for consumers and workers. Hawaii has had a “pay or play” employer mandate for 35 years, and yet the number of uninsured has remained the same because employers shifted jobs to (exempt) part-time employees. And when the government forces businesses to buy health insurance for their



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workers, it really means higher taxes and fewer jobs. When businesses face cost increases, they'll pass on those costs in the form of increased prices, job cuts, or wage freezes.

An individual mandate would harm patients, and an employer mandate would threaten our fragile economy. The *Freedom of Choice in Health Care Act* would protect our citizens from these threats.

More information about the consequences of individual and employer mandates can be found in:

* Michael Tanner, "Massachusetts Miracle or Massachusetts Miserable: What the Failure of the 'Massachusetts Model' Tells Us About Health Reform," Cato Institute Briefing Paper No. 112, June 9, 2009: <http://www.cato.org/pubs/bp/bp112.pdf>.

* Michael F. Cannon, "All the President's Mandates: Compulsory Health Insurance Is A Government Takeover," Cato Institute Briefing Paper No. 114, September 23, 2009: <http://www.cato.org/pubs/bp/bp114.pdf>.

* James Sherk and Robert A. Book, "Employer Health Care Mandates: Taxing Low-Income Workers to Pay for Health Care," Heritage Foundation WebMemo No. 2552, July 21, 2009: http://www.heritage.org/Research/HealthCare/upload/wm_2552.pdf.

Does supporting the *Freedom of Choice in Health Care Act* mean that I favor "free riders" who choose to not purchase health insurance and then show up in the emergency room?

Free riders do present a cost-shifting problem as uncompensated care costs are borne by the already-insured—although researchers estimate uncompensated care to be just 2-3% of overall health costs. The Massachusetts data reveal that at best, an individual mandate didn't affect ER visits at all—and at worst, an individual mandate actually increased ER usage by 17%.

The Massachusetts example shows that an individual mandate alone will not decrease ER usage. One Massachusetts survey reported that although the newly-insured had "insurance coverage" on paper, 90% of them did not have access to care from a non-ER provider. Other reports indicate that average wait times to get appointments with doctors in Boston ranged from 21 days for cardiologists to 70 days for obstetrician-gynecologists. And the Massachusetts Medical Society reports that the average wait to see a primary care doctor is 36 days.

Lawmakers cannot artificially create a growing demand for care without other policies (encouraging "minute clinics," enacting medical liability reform to encourage more doctors to practice, loosening scope of practice laws, etc.) to encourage healthcare supply. And those reforms can be achieved without a bureaucratic, ineffective, and costly requirement to



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purchase health coverage.

More information about the why an individual mandate won't solve the "free rider" problem can be found in:

* Minna Jung, "What Massachusetts Teaches Us About Emergency Departments and Reform," Robert Wood Johnson Foundation's User's Guide to the Health Reform Galaxy Blog, October 5, 2009: <http://rwjfblogs.typepad.com/healthreform/2009/10/what-massachusetts-teaches-us-about-emergency-departments-and-reform.html>.

* Liz Kowalczyk, "ER Visits, Costs in Massachusetts Climb," *Boston Globe*, April 24, 2009: http://www.boston.com/news/local/massachusetts/articles/2009/04/24/er_visits_costs_in_mass_climb/.

Does the *Freedom of Choice in Health Care Act* only benefit insurance companies?

The *Freedom of Choice in Health Care Act* prohibits the forced purchase of private health insurance plans. This benefits patients, not insurance companies.

How will the *Freedom of Choice in Health Care Act* affect Medicaid, SCHIP, or Medicare?

The *Freedom of Choice in Health Care Act* will not in any way impact the funding of, or functioning of Medicaid, SCHIP, or Medicare. The language "This section does not affect laws or rules in effect as of January 1, 2009" clarifies this matter. Citizens will be free to participate in any safety net program (Medicaid, Medicare, SCHIP) to which they are entitled, as well as participate in any proposed programs (the public option or the national health insurance exchange) as they do today. The *Freedom of Choice in Health Care Act* simply ensures that citizens are not forced into these programs.

Does the *Freedom of Choice in Health Care Act* enable my state to block any kind of federal health reform?

No. The *Freedom of Choice in Health Care Act* would not attempt to block implementation of any federal law as long as the federal law does not require an individual/employer mandate, or forbid patients from paying directly for medical services.

Congress is still debating health reform. Doesn't this solve a problem that doesn't yet exist?

Two hundred and twenty years ago, some founders questioned the need for the Bill of Rights to be included in the U.S. Constitution. Eventually, they realized that the Bill of Rights was essential in protecting the people from a powerful central government. Today, the First through Tenth Amendments preserve our freedoms—and the *Freedom of Choice in Health Care Act* will protect our right to health care freedom in the same way.



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But this is more than an issue of federal encroachment. Threats of single-payer health care, or of an individual/employer mandate, also exist at the state level. In 2009, 14 states introduced legislation to enact state-based, single-payer health care. Countless other states have proposed requirements for individuals or employers to purchase health coverage or else pay a fine to the state. The *Freedom of Choice in Health Care Act* would make these state-based assaults on patients' rights unconstitutional.

Does supporting the *Freedom of Choice in Health Care Act* mean that I am against health reform? Doesn't this tie our hands with future reforms?

No. The *Freedom of Choice in Health Care Act* simply states that the cornerstone of any future health care reform must be the preservation and protection of patients' rights.

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