



Issue 3 Is Bad Medicine and Could Keep Lawmakers From Doing Their Jobs

If you have not read the full text of the “Ohio Health Care Freedom Amendment” or state ballot Issue 3, you should. Drafters of the amendment say that it will eliminate the personal responsibility or ‘individual mandate’ provision to purchase health insurance under the Affordable Care Act. However, the amendment cannot do that. It cannot ‘opt’ Ohio out of federal law. But, the proposed amendment could impact many other current and future health care related laws in our state.

If voters approve Issue 3, it will create a conflict between federal law, which requires everyone to purchase health insurance, and Ohio’s Constitution, which would say that no one can be required to purchase health insurance. The Supremacy Clause of the U.S. Constitution states that when a state constitution or state law and federal law conflict, federal law prevails. ***The fate of the Affordable Care Act will be determined by the U.S. Supreme Court, not state statutes or ballot initiatives.***

After studying the ballot language, law professors from Case Western Reserve University say that the proposed amendment is so ambiguously worded that ***it would threaten any future improvements to a wide range of already-existing Ohio health programs, practices, and policies enacted and supported by elected officials on both sides of the aisle.***

Among the laws, programs, and policies that are likely to be affected are:

- School immunization and disease tracking,
- The workers’ compensation system,
- Child support enforcement orders,
- College and University student health insurance coverage requirements,
- The monitoring of ‘pill mills’ under recently passed legislation, and
- Licensing of health care providers and insurance agents.

Proponents would point out that the amendment does not impact laws in place as of March 2010. However, Ohio’s health policy will be frozen in place. The language, definitions, and prohibitions contained in the amendment are so broadly worded that the amendment arguably would not allow future changes to countless other laws, rules and reporting requirements designed to provide oversight of the medical and insurance professions, and to protect workers, consumers, and public health.

The amendment would prohibit lawmakers from doing their jobs.

If Issue 3 passes Ohio will be stuck with constitutional language so sweeping and so ambiguous as to jeopardize and make uncertain the future of many health care laws. It will also generate years of costly litigation as corporations and individuals who are negatively affected by legislative efforts to protect the public health file legal challenges claiming new laws violate their rights under the Ohio Constitution. Who will pay? We all will.

*For more information, contact Ohio Consumers for Health Coverage,
Cathy Levine, co-chair, 614-456-0060 or Col Owens, co-chair, 513-300-3042.*

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