



NEW YORK STATE SENATOR

James L. Seward

Health Care Freedom Act

JAMES L. SEWARD April 15, 2010

Over the past several years, health care and health insurance have been topics dominating the headlines. The issue was a major focus during the 2008 presidential race and has been a major point of discussion in almost every election since. Certainly, the health care conversation trickles down to the dinner table, as families struggle with a multitude of complex options and agonize over how to pay for costly coverage.

The recent approval of the federal health care plan has ratcheted up the dialogue to a whole new level. One of the focal points receiving a great deal of attention is the federally mandated requirement forcing individuals to purchase health insurance. It is this section of the legislation that has generated a great deal of apprehension from individuals, business owners, even medical professionals.

Upon hearing the concerns, I have introduced legislation aimed at staving off the Washington D.C. directive. Under the New York Health Care Freedom Act (senate bill 7374), individuals would have the right to choose their health care plans, and also be allowed to opt out of coverage. The law would also shield individuals and employers from penalties and fines if they choose not to participate in the government mandated system.

Forcing individuals to purchase health insurance under penalty of law flies in the face of our Constitution. New Yorkers have always had the right to choose their own health care coverage. Selecting a doctor and health insurance coverage are very personal decisions and government meddling is not welcome.

The New York Health Care Freedom Act is not an attempt to “opt out of” or nullify federal health insurance legislation. The intent of the proposal is to make a strong statement that individuals should never be forced to buy any good or services as a condition of living in the United States. It is intended to protect the liberty of New York citizens to control their own medical care, and wouldn't affect those who want the federal care.

If enacted, the New York Health Care Freedom Act would:

- Prohibit any law or rule from directly or indirectly compelling any person, employer or health care provider to participate in any health care system;

- Allow a person or employer to pay directly for lawful health care services without paying penalties or fines;

- Permit a health care provider to accept direct payment from a person or employer for lawful health care services without paying penalties or fines;

- Assert that, subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of private health insurance shall not be prohibited.

Similar amendments have already been signed into law in three states and proposed in thirty-six others. I should also point out that attorneys general in eighteen states have filed suit in federal court in an attempt to declare the new federal health care reform law unconstitutional. To date, Attorney General Andrew Cuomo has not agreed to join the lawsuit. I would urge him to sign on as well and stand up for the constitutional rights of New Yorkers.

Providing health care to more individuals is certainly a noble proposition. To accomplish that feat, government should be looking for ways to bring the cost of care down, not enforcing its will on citizens who can't afford expensive coverage. As a former chairman of the Senate Standing Committee on Insurance and the current ranking Republican, I have developed a number of state policies to help provide consumers with a wider availability of health insurance options at an affordable cost. That is an objective we should continue to explore.

The federal government can't tell you what kind of car to buy, force you to eat at a certain restaurant, or require you to join a specific health club. There is no basis for Washington D.C. to restrict health insurance or force individuals to spend their hard earned money on something they don't want or can't afford.