

**Amendment ?
Health Care Choice**

- 1 Amendment ? proposes amending the Colorado Constitution to:
- 2 ◆ add health care choice as a constitutional right;
 - 3 ◆ prohibit the state from requiring or enforcing any requirement that a
4 person participate in a public or private health insurance plan; and
 - 5 ◆ restrict the state from limiting a person's ability to make or receive direct
6 payments for health care services.

7 **Summary and Analysis**

8 Amendment ? adds health care choice as a right listed in the bill of rights in the
9 Colorado Constitution. The Colorado bill of rights, like the bill of rights in the
10 U.S. Constitution, contains the rights and duties of the people of Colorado and outlines
11 the principles of state government. While the measure does not specifically define the
12 term "health care choice," it does include provisions that limit the ability of state
13 government to require health insurance or to restrict direct payment for health care
14 services.

15 ***Current health insurance requirements.*** Current Colorado law does not require
16 a person to have health insurance. A person may purchase health insurance from a
17 private insurer; participate in a health insurance plan through their employer; enroll in
18 a public health care program such as Medicaid and Medicare, if eligible; or not have
19 any type of health insurance and pay for health care services out-of-pocket.

20 In March 2010, a package of laws to reform health care was adopted by the
21 United States Congress and signed by the President. Beginning in 2014, most people
22 are required to provide proof of health insurance or other acceptable coverage to the
23 Internal Revenue Service. Persons without acceptable health coverage will pay a
24 federal tax penalty based on income.

25 ***Health insurance requirements under Amendment ?.*** Amendment ? prohibits
26 Colorado from requiring a person to have health insurance or participate in a public
27 health care program such as Medicaid. The measure also prohibits the state from
28 enforcing health insurance requirements at the direction of the federal government.
29 Workers' compensation insurance and mandatory emergency medical care provided
30 by hospitals are not affected. Amendment ? does not impact the federal government's
31 ability to enforce the insurance requirement created by federal health care reform.
32 Coloradans are required to have acceptable health coverage under federal law
33 beginning in 2014.

1 **Direct payments for health care services.** State and federal law do not restrict
2 direct payments for health care services. Direct payments refer to when patients pay
3 the whole cost of health care services to providers. Currently, health care services
4 can be paid for by health insurance companies, the government, patients, or some
5 combination of these sources. Amendment ? prohibits Colorado from restricting direct
6 payments between patients and doctors for health care services. By ensuring the
7 ability to make direct payments, a health care system cannot be created in which
8 services are only paid for by the government or health insurance companies.

9 **Arguments For**

10 1) Making decisions about health care is a basic right. Any government
11 requirement to buy health insurance takes away a person's ability to manage his or
12 her own health care and spending. Decisions about health insurance are better left to
13 individuals rather than the government. Amendment ? prevents the state from limiting
14 a person's health care choices.

15 2) Amendment ? protects the ability of people to pay directly for health care
16 services. Not everyone wants or needs health insurance, and each person should
17 have the choice to pay directly for health care expenses. This measure prevents the
18 state from requiring that only the government or health insurance companies control
19 payments. When health care payments are centralized, patients cannot manage their
20 own health care services; instead, the government or health insurance companies
21 decide which services a patient can receive and when. Preserving a patient's right to
22 pay directly for health care services prevents such rationing of health care.

23 3) Adding a constitutional right to health care choice could provide a basis for
24 individuals and the state to challenge the federal requirement that all persons have
25 health care coverage. This measure is a statement in opposition to federal health
26 care reform and sets Colorado apart as a state with a free market for health care
27 services, which will attract businesses and help the economy.

28 **Arguments Against**

29 1) Amendment ? may mislead voters into thinking they can opt out of federal
30 health insurance requirements. Regardless of whether this measure passes, federal
31 law still requires Coloradans to have health insurance beginning in 2014. A state
32 constitutional amendment cannot overturn federal law. Further, this measure is
33 unnecessary because people can already pay doctors directly for health care services
34 and no law restricts this practice.

35 2) The measure creates an undefined right in the constitution and the effects of
36 this change are unknown. Health care is a vital service and key component of the
37 state economy and many health care laws and regulations could be overturned if they
38 conflict with this right to health care choice. Amendment ? may create confusion
39 among consumers, employers, health insurance companies, and health care

1 providers, and could result in costly legal challenges to the state. Ultimately, the courts
2 will interpret what the right to health care choice means.

3 3) Amendment ? limits the state's options to improve access to health care
4 coverage, which could hurt the people who need it the most. In Colorado, there are
5 currently over 750,000 people without health insurance — most are not uninsured by
6 choice. Expanding health insurance coverage increases access to cost-effective
7 preventative care, reduces expensive emergency room visits, decreases the rate of
8 medical bankruptcy, and prevents people from having to cover the costs of the
9 uninsured. Society benefits when more people have health care coverage.