

**Initiative #45  
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 coverage plan; and
- 5       ♦ restrict the state from limiting a person's ability to make or receive direct  
6       payments for lawful 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 measure specifies that the right to health care choice  
10       limits the ability of state government to either require health insurance or any other  
11       type of health care coverage, or to restrict direct payment for health care services.

12       ***Health care coverage requirements.*** Colorado law does not require a person to  
13       have any type of health care coverage. A person may purchase coverage from a  
14       private insurer; participate in a health plan through their employer; choose to enroll in  
15       a public program such as Medicaid and Medicare, if eligible; or have no coverage. If a  
16       person does not have health care coverage, or if the plan does not cover a specific  
17       service, services may be paid for out-of-pocket.

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

23       ***Payments for health care services.*** Currently, health care services can be paid  
24       for by health insurance companies, the government, patients, or some combination of  
25       these sources. When an individual has coverage, a third party, such as an insurance  
26       company or the government, negotiates with the provider to establish a price for  
27       health care services. Direct payments refer to when a person pays a provider directly,  
28       without seeking approval from a third party. No state or federal law prohibits a person  
29       from seeking services outside of a health care plan and paying a provider directly.

30       ***Effects of Amendment ?.*** Amendment ? does not change current health care  
31       coverage requirements, but it places restrictions on what the state may require in the  
32       future. The measure prohibits the state from requiring a person to obtain health care  
33       coverage, regulating direct payments, or penalizing a person for participating or not  
34       participating in any particular plan. The measure does not apply to workers'

1 compensation insurance and mandatory emergency medical care performed by  
2 hospitals and other health care providers.

3 The measure also prohibits the state from enforcing health care coverage  
4 requirements at the direction of the federal government. However, Amendment ?  
5 does not impact the federal government's ability to enforce the coverage requirements  
6 created by federal health care laws. Coloradans are still required to have acceptable  
7 coverage under federal law beginning in 2014.

## 8 **Arguments For**

9 1) Making decisions about health care is a basic right. Decisions about how to  
10 pay for health care, and what health care to pay for, are better left to individuals rather  
11 than to the government. Any government requirement to have health care coverage  
12 interferes with a person's ability to manage his or her own health care and spending.  
13 Amendment ? maintains a person's right to choose the most appropriate coverage for  
14 his or her situation and prevents the state from limiting a person's health care choices.

15 2) Amendment ? protects the ability of each person to determine how to pay for  
16 health care services, including making direct payments to providers. This measure  
17 prevents the state from requiring that only the government or health insurance  
18 companies control payments and approval for all services. Preserving the ability to  
19 pay for services directly allows a person to receive care at his or her choosing, even if  
20 the government or insurance companies place limits on health care services.

21 3) Adding a constitutional right to health care choice is a statement in opposition  
22 to full government control of health care. Individuals should be able to make decisions  
23 about health care without interference from the government or insurance companies.  
24 Amendment? sets Colorado apart as a state that values freedom of choice in health  
25 care services.

## 26 **Arguments Against**

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

33 2) Health care is a vital service. The measure creates an undefined right in the  
34 constitution, and the effects of this change may jeopardize the health care system.  
35 Current and future health care laws and regulations could also be challenged if they  
36 conflict with the measure. Ultimately, the courts will interpret what the right to "health  
37 care choice" means.

1           3) Amendment ? limits the state's options to improve access to health care  
2 coverage, which could hurt the people who need it the most and increase costs for  
3 everyone. In Colorado, over 750,000 people, or approximately 15 percent of the  
4 population, do not have health insurance. Expanding health insurance coverage  
5 prevents the insured population from having to cover the costs of the uninsured,  
6 increases access to health care, and decreases the rate of medical bankruptcy.  
7 Society benefits when more people have health care coverage.

8           **Estimate of Fiscal Impact**

9           Amendment ? is not expected to affect state or local government revenue or  
10 spending.