

The facts on Issue 3 - The Ohio Healthcare Freedom Amendment

1. What does Issue 3 accomplish?

- At the state level, it prohibits the State of Ohio from limiting your healthcare freedom. Issue 3 amends the Ohio constitution to say Ohio cannot:
 - Force you to participate in a healthcare system.
 - Prohibit your purchase or sale of healthcare or healthcare insurance.
 - Fine you for purchasing or selling healthcare or healthcare insurance.
- At the federal level, Issue 3 strengthens the argument that a government mandate to purchase private health insurance is unconstitutional because it exceeds Congress's commerce power and violates a fundamental right to liberty.
- These benefits aren't affected by whether federal law supersedes state law.

2. Why is it important to pass Issue 3 and preserve healthcare freedom?

- Medical decisions should be made by doctors and patients, not politicians and bureaucrats.
- If Issue 3 doesn't pass, the government can:
 - Control your medical choices.
 - Force you to purchase costly government-defined health insurance.
 - Make you pay more to upgrade your existing health insurance to meet government requirements.
 - Force you to disclose private medical information.
 - Prohibit you from obtaining private health care.
- If the federal government can force you to buy a private product for the rest of your life against your will, what limits are there on its power?
 - Legal scholars who support the individual mandate believe the government also has the power to force you to buy a GM car or force you to buy broccoli.
 - What about forcing you to go to the doctor for preventative care or checkups?
 - Where does it end?
- Issue 3 gives Ohioans a way to fight back against inappropriate government control over their lives.
- At the end of the day, those who oppose Issue 3 are really opposing freedom. We are confident Ohioans will understand that and vote yes on Issue 3.

3. **So what do the opponents of Issue 3 have against it?**

The opponents of Issue 3 make several arguments that don't hold up.

- They say Issue 3 will take away important benefits under the Affordable Care Act, including (1) prescription drug coverage and preventative care for seniors, (2) coverage for children under their parents' insurance until age 26, and (3) coverage for preexisting conditions.
 - We don't need an individual mandate to provide prescription coverage for seniors or to require insurance companies to cover children up to age 26.
 - We also don't need it to ensure coverage for people with preexisting conditions. We can solve that problem with two changes. First, equalize the tax treatment of getting insurance through an employer or buying it individually so more people buy it individually and therefore take it with them when they change jobs. Second, for those who are sick and can't get their own insurance to start with, provide government-subsidized, high-risk insurance pools that offer affordable coverage.
 - President Obama was right during the 2008 campaign when he opposed the individual mandate and said, "If a mandate was the solution, we can try that to solve homelessness by mandating everybody to buy a house."
- Opponents also say Issue 3 will allow people to continue to get free medical care and shift their medical costs onto others.
 - But most of the people getting free medical care aren't required to purchase insurance by the individual mandate. For example, illegal aliens and low income people are exempt from the individual mandate or its penalties. (See Footnote 1 for details.)
 - In reality, the individual mandate isn't designed to eliminate cost-shifting but to force healthy people to purchase health insurance. This helps insurance companies bear the costs imposed on them by the Affordable Care Act and subsidizes their profits. That's why big insurance companies lobbied for the individual mandate in the first place.
 - And ironically, the Affordable Care Act actually increases cost-shifting in at least two ways. First, it mandates one-size-fits-all coverage, which means many people pay for coverage they don't need. Second, it adds 18 million people to the Medicaid rolls, which makes everyone pay more for health insurance as doctors charge more to cover their losses on Medicaid patients.
- Recently, the opponents of Issue 3 have claimed that it is badly written and will wreak havoc on other Ohio laws.
 - But Issue 3 is clear and straightforward.
 - It grandfathers laws in effect as of March 19, 2010.

- That means those laws won't be affected unless our elected representatives want to modify them to take away our healthcare freedom.
 - And it is not correct to say Issue 3 will undermine Ohio's worker's compensation laws. Article II of the Ohio Constitution specifically gives the state the power to compel people to participate in worker's compensation, and Issue 3 doesn't override that.
- Finally, the opponents say the Affordable Care Act is working fine, and Issue 3 will undermine it.
 - Issue 3 doesn't take away anyone's rights or choices under the Affordable Care Act.
 - Even so, there is a growing consensus that the Act is financially unsustainable. It gives employers strong incentives to drop their healthcare coverage. When they do that, the Act's government-subsidized insurance exchanges will face enormous, unsustainable costs, estimated at over \$1 trillion during the ten-year period after full implementation. In an effort to postpone this looming crisis until after the 2012 elections, the Obama Administration has granted over 1,400 waivers to politically-connected unions and companies to exempt them from provisions of the Act.
 - Under the circumstances, as important as Issue 3 is to preserving freedom, it won't be the final word in this debate.

Footnote 1 – In its recent decision finding the individual mandate unconstitutional, the federal 11th Circuit Court of Appeals addressed the extent to which the individual mandate regulates people who don't have health insurance and shift costs to others by not paying their medical bills. The court said, "In reality, the primary persons regulated by the individual mandate are not cost-shifters but *healthy individuals* who forego purchasing insurance."

As the court noted, a majority of cost-shifters aren't affected by the individual mandate:

- Illegal aliens and other nonresidents account for \$8.1 billion of \$43 billion a year in estimated cost-shifting. The Affordable Care Act exempts them from the individual mandate.
- Low income people account for \$15 billion of cost-shifting. Some of them are covered by the Affordable Care Act's Medicaid expansion, so they won't need insurance. The rest don't have to pay any penalties if they fail to purchase insurance, which means the individual mandate won't affect their decision whether to purchase insurance.
- People who have insurance and don't pay their co-pays or deductibles account for \$3.3 billion of cost-shifting. Since they are already insured, the individual mandate won't reduce their cost-shifting.

The court concluded: "The individual mandate forces healthy and voluntarily uninsured individuals to purchase insurance from private insurers and pay premiums *now* in order to subsidize the private insurer's costs in covering more unhealthy individuals under the Act's reforms."