

AZ lawmakers push back against federalized health care

By John LaPlante
July 2, 2009

Powerful political and business interests are pushing for the federal government to take a greater role in health care. But a few state legislators across the country are hoping to thwart that trend.

Last fall, Arizona voters considered Proposition 101, titled the “Freedom of Choice in Health Care Act.” The GOP-supported measure would prohibit laws that “restrict person’s choice of private health care systems or private plans; interfere with person’s or entity’s right to pay directly for lawful medical services; impose a penalty or fine for choosing to obtain or decline health care coverage or for participation in any health care system or plan.”

Gov. Janet Napolitano, a Democrat, opposed the idea. So did the state’s hospital association, and the Arizona Chamber of Commerce and Industry, among others. State Rep. Phil Lopes (head of the Democratic caucus) warned that it would “further push Arizonans into the iron grip of an industry that is failing us.” Still others argued that the act had ambiguous language that could set off expensive legal battles, and could inflate the cost of the state’s Medicaid program by \$2 billion.

It was no surprise, then, that the measure failed.

Some supporters of Prop 101 called the defeat a “moral victory,” since it lost by just over 8,000 votes out of 1.8 million cast. They also praised the opportunity it served to educate the public on health care policy.

Advocates of Prop 101, including those in the Arizona Legislature, kept active. Republican Arizona Rep. Nancy Barto, chair of the House Health and Human Service Committee, filed a revised version of Prop 101, which became HCR2014, “The Healthcare Freedom Act.” The Legislature, on party-line votes, enacted the measure on June 22, and the measure will be placed on the Nov. 10, 2010 ballot in Arizona as a referendum.

If voters approve it, “The Healthcare Freedom Act” would, among other things, forbid any law that compels anyone “to participate in any health care system.” It would also allow patients to pay directly for health care services, and for doctors to receive such payments. (Such “topping off” is forbidden in some single-payer systems.) The amendment would also state that health insurance purchases could not be prohibited.

The amendment, then, nails a stake through the heart of two essential elements of a universal, single-payer system: Everybody in the system, and nobody outside the system. It also effectively

forbids a Hawaii-style play-or-pay mandate on employers or a Massachusetts-style requirement that individuals obtain coverage.

In a press release, Barto claimed that the act would “prevent citizens from being compelled to join a government-run health care system” and “guarantee the right to purchase private health insurance.”

The mere fact that Arizona has been discussing this idea has national implications. Christine Herrera is the director of the Health and Human Services Task Force for the American Legislative Exchange Council (ALEC), a group that counts as members conservative legislators across the country. She told me in an e-mail that as the Arizona debate took place, “Many state legislators [elsewhere] were quietly watching that battle, and wondered how they could duplicate the effort in their state.”

According to a Fox News report, legislators in Indiana, New Mexico, North Dakota and Wyoming have floated similar measures, citing concerns related both to health care policy itself and the vibrancy of federalism.

“Our state legislatures are looking at what’s going on in Washington as trampling state’s rights,” Herrera said.

I called up a Minnesota lawmaker knowledgeable about health care. And Sen. David Hann, R-Eden Prairie, expressed similar sentiments: “There is a real need to restore federalism,” he told me.

Hann is one Minnesota legislator who wants to bring the Arizona ideas to Minnesota. During this last session, Rep. Tom Emmer, R-Delano, was the lead sponsor of H.F. 171, which would, among other things, forbid any law that “restricts a person’s freedom of choice of private health care systems or private health plans.” Hann was one sponsor of S.F. 325 and S.F. 1281, which had identical language. None of the three bills made it out of committee, an inevitability given the numerical advantage held by the DFL, as well as the fact that key party constituencies and leaders favor a single-payer system.

Will the Arizona model be adopted in Arizona itself, let alone anywhere else? I would like to think so, as I don’t see any constitutional justification for a government takeover of one-sixth of the economy. But I’m a lousy prognosticator, so I’ll leave that to others.

Stephen Moore, an editorial board member of the Wall Street Journal and a fan of the Arizona measure, sees legal difficulties but political advantages for state legislators. He wrote:

“Whether state initiatives can block a federal law is an open federalism question. But as Democrats try to define their health care plan as expanding ‘choice’ and ‘competition,’ voters will want to ask why Democrats oppose a measure to guarantee a citizen’s right to participate in the health care marketplace without coercion.”

On the other hand, voters may be quite fine with that. As H.L. Mencken said, “Democracy is the theory that the common people know what they want, and deserve to get it good and hard.” The national debate over health care will go a long ways to determining just what common people like you and me want – and what we get.