

Recently, the United States has been increasing its focus on certain health related matters. For instance, the passage of the new Health Care Law forcing people to buy health insurance; increased calls for soda taxes; and, calls for regulation on what people can eat¹.

While there is much controversy concerning the new health rules, as there should be, considering some of the legal questions it raises. If you recall, in a post from earlier this month, I wrote about just such a legal question. You can find that [here](#). There is, however, another issue, which begs your attention.

That issue deals with a patient's right to refuse his/her medical care. The question is whether as result of implementing Obama care, will a patient lose his/her rights to refuse his own medical treatment.

Quickly, just so you know, a patient has a general right to refuse his/her own medical treatment. Parents also generally, have a right to direct their child's medical care². In other words, a doctor cannot make you get a certain treatment. Now, there are some exceptions for children and incompetents; thus, the recent court decision requiring a child to get a certain cancer treatment over his parents objections.

Currently, there are a number of legal challenges to the new rules. Everything from commerce clause issues to freedom of religion has been raised. But, does requiring someone to purchase health care, violate a person's right to refuse his/her own medical care? If so, how so?

You may retort that the purchase requirement has nothing to do with refusing health care. After-all it's not like just because you have health care you have to have a specific treatment. And, it protects those people who would want treatment but couldn't afford it otherwise.

Well, to answer that, I need to remind you of a couple things. Constitutionally, the federal government is not allowed to *require* a state to pass a specific law. The federal government, however, may condition funds on certain requirements.

For instance, if you recall a few years back when the entire Interstate (freeway) system had a certain speed limit. That speed limit thing was in response to a public policy of energy conservation. Namely, 55mph was considered the most efficient speed to drive. (There was other stuff, but you get the gist)

Despite reality, the federal government could not legally force³ the states to impose a speed limit. Nor could it impose a federal speed limit. However, since the states couldn't afford to go without federal funds, they complied.

Now, remember at the beginning of this post, I pointed out how the government was increasing it's focus on health related issues. Sure, there has always been some focus. The President's Council on Physical Fitness has been around since the 1950's. There was a recent change. (No, not more recently than I wrote this paragraph). Now, it is apparently called the President's Council on Physical Fitness and Nutrition.

So, getting back to the point here. What will prevent the government from forcing a patient to comply with a specific course of treatment that is required under public policy? If the government must foot the bill for health care, will it require patients to absolutely comply with treatment or face a fine?

Let's say someone gets a recommended course of treatment for complications caused by obesity. And, as part of the treatment he is required to do 30 minutes of exercise a day and eat certain vegetables and not eat cake or drink frozen coffee drinks. But, let's say, he/she really likes cake and tells the doctor he refuses to stop eating cake.

Now what? Could he be forced to comply? Granted, the example may be silly, but it still reflects the same principle

I leave the question unanswered. You may determine whether this is common sense or not.

1 Again, as with many of these posts, for the sake of time, I will let you look most of this stuff up yourselves.

2 Both under common law and under constitutional law this right has been well settled.

3 granted this was a legal work around