Individual Mandate Working Group Draft Report

Public Comments

The following public comments were received in response to the Individual Mandate Working Group's draft report. The Working Group accepted public comments at each meeting, during the Public Comment Period: September 28 – October 12, 2018, via phone and e-mail.

Individual Mandate Working Group
Public Comments received during Public Comment Period
September 25 – October 12, 2018

Public Comment from Matt Segel

To the VT Working Group

To me a health sharing ministry is a wonderful compromise between church and state. We are obeying the intention of the mandate, that everyone is insured, or in our case reimbursed for health expenses, but do not have to violate our conscience and help to pay for things that we find morally indefensible. I plead with you to make healthcare sharing exempt from the individual mandate and available for our family.

Sincerely,

Matt Segel

Public Comment from Meg Hansen

Dear Ms. Kessler,

Public discourse about health insurance has become so politicized that few address policy with dispassion. When policymakers assess every law through the prism of Obamacare, championing only those that protect the legislation, the people lose. Obamacare or the Affordable Care Act (ACA) contains substantial design inequities that should be corrected. For example, the individual heath insurance mandate (unpopular with two-thirds of the public) disproportionately hurts vulnerable segments of the population. This is why Congress eliminated the penalty associated with the mandate last December.

Enacting an individual mandate penalty would hurt Vermont's poor

The individual mandate was designed to prevent the latter, or "stabilize" the insurance exchange in politically correct terms, so that insurers could maintain a wide pool of healthier, low-risk, high-premium payers to subsidize the medical costs incurred by the chronically ill. Referring to this argument, Vermont lawmakers maintained that imposing an individual mandate is integral to paying for those with pre-existing conditions. This is not accurate. In truth, the mandate serves as a stick, preventing Americans from escaping the state's failing insurance exchange in search of carrots elsewhere.

Moreover, ACA subsidy provisions (for which 85 percent of persons on the exchange qualify) finance the insurance expenses of low-income Americans and those with pre-existing conditions, whereas the now-eliminated federal individual mandate concentrated these costs on a niche demographic. Low-to-middle middle income individuals without employer-based health insurance (such as small business owners and those juggling multiple part-time jobs), and that do not qualify for religious or hardship exemptions, disproportionately paid the price.

For example, a young couple making $65,000 per year would be ineligible, and could be fined up to $1,390 for saving money and remaining uninsured. IRS data shows that 78.5 percent of Americans that paid mandate penalties for the 2015 tax year earned between $10,000 and $50,000 annually. Therefore, resurrecting such a dysfunctional and coercive mandate in Vermont would set up an anti-competitive and inequitable system of obligatory cross-subsidization, which attempts to pay for the expensive, long-term medical care of persons with chronic conditions by taxing those that cannot afford health insurance.

"When premiums and out-of-pocket costs (i.e. deductibles, copayments, and coinsurance) vastly exceed the mandate penalty, many are compelled to forgo coverage. Census data shows that Americans aged 25-34 years form the largest uninsured group at 25 percent (followed by 20 percent of the 35-44 age cohort). The 2014 Vermont Household Health Insurance Survey shows that Vermonters aged 25-34 years formed the largest uninsured group at 11.0 percent (5.1 percent between 35-44 years and 4.6 percent of the 18-24 age cohort also did not have health insurance). Some could argue that younger Americans do not purchase insurance because they are healthy, but a 2016 Harris Poll indicates that increasingly they cannot afford it. An individual mandate thus serves as a health tax by compelling younger, healthier citizens to purchase unaffordable insurance."

Politicizing Health Insurance

Pro-mandate advocates in contend that enacting an individual mandate will keep the number of uninsured low, citing a Congressional Budget Office report that thirteen million will “lose” insurance by 2027 as a result of the federal mandate repeal. First, recent studies demonstrate that the federal individual mandate had no discernible impact on the proportion of uninsured Americans.

Second, the mandate would ravage the American contract law of mutual assent. Vermonters should have the right to make their own life decisions. The Individual Mandate Working Group's Draft Report states the need to "leverage Vermont's socially responsible culture," that is, the report stresses the need for everyone to contribute. Everyone, however, does not contribute equally. Enacting an individual mandate would perpetrate an injustice by demanding more from some (with limited economic means) than others.

Preventing healthy, wealthy persons that deliberately shun coverage from “free riding” the system when they fall ill represents another inaccurate claim advanced by mandate supporters. In reality, free riding accounts for a mere 0.67 percent of national health expenditures. Moreover, many pay out-of-pocket for treatment when needed and hence, staying uninsured does not amount to gaming the American healthcare system.

The mandate is bad healthcare policy

Cost-effective alternatives to an individual mandate exist. (A) Provide more choice in the form of slimmed down plans with low premiums for catastrophic coverage, which would incentivize the young and healthy to remain in the insurance pool. (B) Create separate and efficient high-risk pools through which greater subsidies could be focused toward tailored medical care (e.g. preventive services) for low income Americans suffering from major chronic illnesses. Maine operates a successful invisible high-risk pool, launched in 2011, which should serve as a model for tending to society’s most vulnerable without arbitrarily taxing some and depriving all of the freedom to choose.

To quote then Democratic presidential candidate Barack Obama's 2008 critique of his opponent Hillary Clinton's plan to force all Americans to purchase insurance or pay a noncompliance penalty, "If a mandate was the solution, we could solve homelessness by mandating everybody buy a house." Obama added.," Punishing families who can't afford health care to begin with just doesn't make sense."

Meg Hansen
Executive Director, VHCF

Public Comment from Tricia Gustafson

Hello Members of the Individual Mandate Working Group,

Health care sharing supports my values and conscience rights. It keeps costs down to support an efficient healthcare system, it is an affordable approach for families, and it supports individual healthcare freedom. That's why health care sharing deserves to be exempt from the individual mandate.

Thank you.

Tricia Gustafson
Liberty Health Share Member
So. Burlington, VT

Public Comment from Demetrius Bolduc

I checked into purchasing health insurance for my family on the Vermont Health Exchange prior to returning to Vermont in 2017. There are no reasonably affordable options. Vermonters need more options and more competitionn. Recommend to dismiss BCBS recommendation to not offer any exemption to ministry association members. The more options the better.

Further, there should be no penalty for not having health insurance based on it's lack of availability or attainability. Your report indicates premiums have already been calculated to be raised to make up the anticipated losses of enrollment, so why the penalty?

Additionally, Vermonters were amongst the healthiest in the nation prior to ACA, that serves as a staunch example of not needing burdensome government intervention, so why keep adding more?

Instead of penalizing the uninsured and making them feel excluded, the uninsured should be able to receive care, out of pocket, at the set Medicare/Medicaid rates and not the astronomical rates allowed to be charged today. That would be an inclusive approach to help the State's most vulnerable, low to mid-income, that can't afford the insurance in the first place and don't qualify for other forms of assistance.

Thank you,
Demetrius Bolduc

Public Comment from E. Ward Bitter

To Whom It May Concern,

I vote that healthcare sharing ministries be exempt from any individual mandate in VT. Allow our Christian/Religious beliefs to be respected as they are clearly granted by the Constitution. It is essential that our Sharing Ministries be permitted to exist in all 50 States as I am already sure that this form of sharing in each others pain and misfortune is probably the most cost effective path to paying for healthcare (sort of removing the bureaucratic middleman in all of it.) Without this right we (our family and business) would be forced to move to a new state while our business, Bitter Lacrosse brings close to 5 million in related revenues to Vermont each summer, clearly that would be a big loss to Vermont. Good for all of us.

Thank you in advance for doing what is best for the people who l in be in Vermont. We really do care about each other.

Sincerely,
E. Ward Bitter
Stowe VT 05672

Public Comment from Michele Doucette

Thank you to those of you on the working group regarding health care sharing ministries and the individual mandate for health insurance . As a consumer and chiropractic physician, I strongly support the exemption from the individual mandate for healthcare sharing ministries. I belong to a healthcare sharing ministry and it has worked beautifully for my family . It aligns with my Christian values, my preference for natural and preventative healthcare, and my moral and ethical beliefs. It promotes self-responsibility, positive health care choices, and accountability . Health share ministries are affordable, socially responsible and cost effective cooperative systems. I not only feel secure in my sharing ministry, I genuinely feel happy that my payment shares go to help others with their healthcare costs. Please support HCSMs by exempting them from any individual mandate, and continue to work on solutions to the exponential rise in healthcare costs.

Michele Doucette DC
Wilmington VT

Public Comment from Ryan Jackson

To whom it may concern,

As a Vermont resident, I want to reinforce the majority opinion of the Individual Mandate Working Group that HCSM's be exempt from any Individual Mandate. There are several reasons why health care sharing means so much to me and my family. First, it allows my family and I to get the type of care we

want from the doctor we want to see. Second, it keeps costs down which helps my family stay in Vermont. Third, it protects my conscience rights so my money doesn't support causes I object to. Finally, being able to participate in a HCSM expresses my biblical values for helping others, and it is uniquely American because it supports individual freedom for healthcare choice. Those are the reasons why health care sharing should be exempt from an individual mandate in Vermont.

Regards,
Ryan Jackson
Lowell, Vermont

Public Comment from Laura Beebe

To Whom It May Concern,

As an engaged citizen and devoted Vermonter, I strongly advocate that the Healthcare Sharing Ministries continue to be exempt from the Individual Mandate. I am a member of Liberty Health Share and a Vermonter of Faith. I choose Liberty Health Share because it supports my lifelong religious vows whereas current insurance providers ask me to compromise them. My faith requires a strict commitment to healthy living and abstention from certain medications and medical procedures. It asks that I be very selective about the choices I make regarding my body and money (both seen as divine gifts from God). I am called to help my spiritual family members through financial sharing of burdens and direct prayer for those who are ill. Liberty Health Share has helped ensure that my health and wellness continues to be a spiritualized act as decreed by my faith's doctrine.

Additionally, the little bit of money I save by enrolling in Liberty Health Share, as opposed to insurance, goes directly back to my Church through monthly tithing. These donations help to pay for free health and medical services I receive from my Church. Services include mental health counseling, nutrition classes, programming in preventive health (akin to mindfulness techniques) and spiritual healing practices unique to our beliefs.

I believe Vermont is a state that prides itself in being inclusive and supportive of the diverse lifestyles of its residents. I ask that Healthcare Sharing Ministries be exempt and in doing so, honor the religious diversity found throughout the Green Mountains.

Sincerely,
Laura Beebe

Craftsbury Common, Vermont

Public Comment from Dorothy Bolduc

By Phone: "It is unethical to force people who can't afford health insurance for themselves to pay for other people's health insurance. You cannot force them to pay for other people's health insurance. I took care of people on Medicaid and we were not able to afford coverage."

Public Comment from Dan McCabe

By Phone: Generally requested that we do not have a universal exemption for health care sharing ministries. Asked that we regulate health care sharing ministry entities.

Public Comment from Linus Leavens

I am a lower middle income single father with a 13 year old at home & an 18 year old just starting college at UVM. I work full time for a small family-owned business that can't afford a health plan. I supplement my income by running a part-time business on the side. When VT Health Connect started up, it cost so much that I would not have been able to make my mortgage payments. Liberty Health Share was a blessing. I was able to find affordable care at a reasonable cost. I have up to $1,000,000 cost-sharing for each incident with a reasonable annual unshared amount through Liberty Health Share. I have a 4 year degree in the Biological Sciences. I also consider myself to be a Christian. I do not believe that abortion is a moral means of birth control. Life begins at conception. I do not wish to fund government supported abortions. Please allow Liberty Health Share & other Health Care Sharing Ministries to be exempt from the Vermont Health Care mandate.

Linus Leavens
South Burlington, VT

Public Comment from Tom Connors

To Whom It May Concern,

I am counsel for Liberty HealthShare, a healthcare sharing ministry based in Canton, Ohio, which has members in Vermont, and I am submitting the following comment regarding the Individual Mandate Working Group report:

The ACA exemption for healthcare sharing ministries represents a careful balance between the government's interest in ensuring healthcare coverage and its interest in accommodating longstanding religious practice. The exemption's limit to ministries in existence at all times since 1999, limits misuse of the exemption, while respecting existing religious practice. This balance enjoys widespread support across the political spectrum, as exemplified by the Working Group's recommendation supporting the exemption, and should be maintained in Vermont.

Tom Connors
Partner, BLACK McCUSKEY SOUERS & ARBAUGH, LPA
Canton, OH 44702

Public Comment from Dale Bellis

To the Individual Mandate Working Group:

I believe health care sharing ministries (HCSM's) should be exempt from any Individual Mandate in VT. I strongly urge VT legislators to adopt the Federal model of exemption to any individual mandate as found at 26 USC 5000A(d)(2)(A) and (B). HCSM's represent a long-standing tradition and practice of meeting one another's healthcare costs that expresses the equally long-standing Christian conviction of how to help others when in need. HCSM's protect Christian conscience and freedom of religious expression that would also be protected by an individual mandate exemption. HCSM's responsibly share each other's medical costs without the use of public funds. For these reasons, and more, HCSM's deserve exemption from any individual mandate established in Vermont, as other jurisdictions have done, including MA, NJ and the District of Columbia.

Regards,

Dale Bellis | Chairman
The National Coalition of Healthcare Sharing Ministries, Inc.
Canton, OH 44646

Public Comment from Rachel Williams and Ken Mahl

Dear Working Group members,

Thank you for the news that the majority of the Vermont Working Group has voted to allow Christian health share ministries an exemption to the impending implementation of a state individual mandate to purchase health insurance. My husband and I have been members of Liberty Healthshare since 2014 and couldn't be happier with it. Besides being concerned that we might lose this affordable coverage, security and meaningful fellowship, I'd add the concern for we who are 65 or older and eligible for Medicare. My husband and I signed up for Medicare Part A when we turned 65 but chose not to purchase any Medicare gap plans but instead decided to continue with Liberty Healthshare to cover the "gaps". We didn't want to lose that connection of helping others and having more choices of what health care providers we use. Should the ministry exemption be taken away, we would be forced to purchase gap insurance, with penalties, for the rest of our lives. We appreciate anything you can do to encourage the Vermont legislature to honor the Federal law exempting Christian health share ministries.

Thank you & God Bless
Rachel Williams & Ken Mahl
31 Cherry St.,
Milton, VT 05468

ALLIANCE
OF HEALTH CARE SHARING MINISTRIES

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Dana Gartzke
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Samaritan Ministries Intl.

Ted Pittenger
Samaritan Ministries Intl.

Howard Russell
Christian Healthcare Ministries

David Gibbs
Christian Care Ministries

October 10, 2018

Via Electronic Mail – imwgcomments@vtlegalaid.org
Robin Lunge, Chair
Individual Mandate Working Group
144 Main Street
Montpelier, VT 05602

Re: Public Comment on Individual Mandate Working Group Recommendations for Exemptions from a Proposed Individual Mandate

Dear Chairwoman Lunge:

I am writing to you on behalf of the Alliance of Health Care Sharing Ministries which represents the nation's three largest health care sharing ministries with over 1 million participants. I want to thank you for the thoughtful approach that you and the other members of the Individual Mandate Working Group have taken in preparing your draft report for the Vermont legislature. The Alliance appreciates the opportunity you gave us to testify before the Working Group, present materials, and provide you with this public comment.

We welcome the Working Group's recommendation to include all nine exemptions from the federal Affordable Care Act in any individual mandate legislation Vermont may consider. These exemptions have worked well at the federal level and have been included in every individual mandate bill that has been proposed or passed in various other states to date. Massachusetts, New Jersey, and Washington, DC all have individual mandates that include these exemptions and proposed legislation in Hawaii, Maryland, and Washington included them as well.

These exemptions acknowledge that there are several ways for Americans to meet their medical expenses. Health care sharing is one of those ways and it has helped people access affordable, quality health care for decades. By providing a way for individuals to help each other directly with their medical expenses, health care sharing makes health care accessible for those who need and desire this option. Your proposal will enable us to continue this mission.

Thank you again for your recommendation.

Sincerely,

Dr. Dave Weldon, M.D., M.C. '95-'09

Alliance of Health Care Sharing Ministries
2200 South Babcock Street
Melbourne, FL 32901
833.997.4273
healthcaresharing.org

Comments on Draft Report of the Individual Mandate Working Group
Christian Science Committee on Publication for Vermont

Introduction

The purpose of this comment is to request that the Individual Mandate Working Group ("Working Group") reconsider its decision to adopt a narrow religious conscience exemption based on the provisions of the Affordable Care Act (ACA) for the following reasons: (1) it is no longer in line with the ACA; (2) it does not align with the religious accommodations in other jurisdictions considering a health insurance mandate; and (3) it is not consistent with Vermont's tradition upholding a strong ethic of individuality and independent thinking.

Instead, we ask that the Working Group recommend a religious exemption that would be available to individuals who hold sincere religious beliefs inconsistent with the requirement to have medical health insurance, and who do not use medical health care during the prior tax year.

We appreciate the Working Group's efforts to ensure all Vermonters have access to quality, affordable health care, one of the most complex policy issues with which state governments are grappling. We are grateful for the opportunity to comment on the Working Group's draft report.

1) **The Working Group's Recommendation Fails to Take Into Account Recent Developments at the Federal Level.**

On October 3, Congress passed the SUPPORT for Patients and Communities Act (the "SUPPORT Act").[1] Section 4003 of that Act[2] reflects a bipartisan rethinking of an earlier decision to provide a narrow ACA exemption that benefits certain religions. In doing so the federal government expands the ACA's religious conscience exemption to include a "member of a religious sect or division thereof which is not described in section 1402(g)(1), who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual." Beginning in 2019, this exemption is only available to individuals who also attest that they have not used medical health care during the preceding tax year (See, Exhibit A). The SUPPORT Act and this accompanying ACA technical fix passed Congress with strong bipartisan support in both the House (395 to 8) and Senate (98 to 1), including the support of our Senators Sanders and Leahy, and Representative Welch. This most recent change to the ACA reflects a fair-minded approach to the individual mandate's religious conscience exemption, its language having been contributed to and accepted by stakeholder groups such as the American Academy of Pediatrics.[3]

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[1] Although this measure has not yet been signed into law, we understand it will be later this month.

[2] The provisions of this section were also the subject of separate legislation known as the Equitable Access to Care and Health (EACH) Act. The EACH Act garnered broad bipartisan support, including co-sponsorship from Representative Welch. It passed the House of Representatives earlier this legislative session and during the prior two sessions. Its high-water mark for bipartisan cosponsors was 225 in the House and 35 in the Senate.

[3] In fact, Section 4003 of the SUPPORT Act contains a Rule of Construction that specifies that none of its provisions 'shall preempt any State law requiring the provision of medical treatment for children, especially those who are seriously ill.'

2) The Working Group's Recommendation Fails to Align with the Religious Accommodations in Other Jurisdictions Considering a Health Insurance Mandate.

Other states recently considering a health insurance mandate have embraced a broader religious conscience exemption similar to what has been in place in Massachusetts since 2007. Most recently, the Council of the District of Columbia passed a health insurance mandate earlier this year that is due to go into effect in January, 2019. That legislation includes a religious conscience exemption that is considerably broader than the one that currently exists in Massachusetts, requiring only that the individual attest to a failure to maintain minimum essential coverage "on the basis of sincerely held religious beliefs' (See Exhibit B). While other jurisdictions considering a state health insurance mandate have not yet legislated the detail of what a religious accommodation to such requirements would look like, most appear supportive of implementing a provision consistent with the broader Massachusetts approach.

3) A Non-Discriminatory Religious Conscience Exemption Upholds Vermont's Ethic of Individuality While Not Detracting From the Purpose of an Individual Mandate.

As the Working Group report acknowledges, the original religious conscience exemption in the ACA was narrow. It applied only to (1) members of health care sharing ministries; and (2) members of religious groups that have a doctrinal prohibition against maintaining health insurance coverage. This narrow exemption unfairly disadvantages those, such as Christian Scientists[4], who turn to religious nonmedical forms of healing for their health needs. The recommendation would have the effect of requiring such individuals to purchase health insurance coverage which does not cover care they would actually use while also paying out-of-pocket for their chosen form of care.[5] This is not consistent with the respect that our State has traditionally afforded to the individuality and autonomy of its citizens.

Among other things, the purpose of an individual mandate is to create a larger risk pool while ensuring that individuals take responsibility for their medical expenses and do not impose a burden on those who are paying into the system. A religious conscience exemption modeled after the Massachusetts law or Section 4003 of the federal SUPPORT Act would not hinder either of these purposes. Such an exemption would only apply to a small segment of the population that does not derive a substantial benefit from the services that are covered by plans available in Vermont's individual market.[6] An individual who fails to maintain minimum essential coverage due to sincerely held religious beliefs but

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[4] Christian Science is a religion and way of life that is based on the Bible and the teachings of Jesus. It was founded about 140 years ago by Mary Baker Eddy. Today, there are branch churches of Christ, Scientist in approximately 70 countries, including seven branches in Vermont. The decision to rely on prayer for health care needs is not based on any doctrinal prohibition against the use of conventional medical treatment, but because it has been found to be effective.

[5] For example, Christian Scientists often employ Christian Science practitioners who dedicate their full time to helping others find healing through prayer in accordance with the teachings of Christian Science. In addition, Christian Science nurses are available as experienced Christian Scientists who are trained to provide spiritual support and skillful practical care to those who choose to rely on Christian Science for healing. Christian Science nursing facilities around the world provide inpatient Christian Science nursing care to individuals who cannot be safely and/or adequately cared for in the home. These forms of care are not typically covered by health insurance plans in the individual market.

[6] This was the primary rationale behind the Massachusetts regulations implementing its existing religious conscience exemption. 830 Mass. Admin. Code § 111M.2.1(6)(b)(2).

uses medical care during the prior tax year is liable for the full cost of that medical care, as well as the penalty for failing to maintain qualifying coverage.[7]

There is no indication that such an approach would encourage fraud or abuse. The fact that Massachusetts has not encountered such problems during the 11 years its religious conscience exemption has been in place, not to mention that the religious exemption was taken by only a tiny fraction (.1%) of the population, suggest that fraud or abuse is not a significant threat in this instance.

Conclusion

For the reasons noted above, we request the Working Group revisit its recommendation concerning the religious conscience exemption. We request the Group recommend an exemption for individuals with sincerely held religious beliefs that are inconsistent with receiving medical health services, and who have not used such services during the prior tax year.

Please feel free to be in touch if you have any questions.

[7] Massachusetts and Section 4003 of the SUPPORT Act handle this issue of claiming the exemption slightly differently. Under the Massachusetts approach, an individual claims the religious exemption on the Schedule HC Form, but must also report whether (s)he received medical health care. If so, the individual is subject to the penalty for failing to maintain minimum creditable coverage in addition to being liable for the cost of the medical health care. Under the new federal Act, an individual is not an “applicable individual” to whom the individual mandate applies if (s)he has sincerely held religious beliefs inconsistent with the receipt of medical health care services and attests to not having received such services during the prior tax year.

Exhibit A

Excerpt from the *Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act*. as passed by the Senate and House of Representatives on October 3, 2018

SEC. 4003. ADDITIONAL RELIGIOUS EXEMPTION FROM HEALTH COVERAGE RESPONSIBILITY REQUIREMENT.

(a) In General.—Section 5000A(d)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) RELIGIOUS CONSCIENCE EXEMPTIONS.—

"(i) IN GENERAL.—Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act which certifies that—

"(I) such individual is a member of a recognized religious sect or division thereof which is described in section 1402(g)(1), and is adherent of established tenets or teachings of such sect or division as described in such section; or

"(II) such individual is a member of a religious sect or division thereof which is not described in section 1402(g)(1), who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual.

"(ii) SPECIAL RULES.—

"(I) MEDICAL HEALTH SERVICES DEFINED.—For purposes of this subparagraph, the term 'medical health services' does not include routine dental, vision and hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and such other services as the Secretary of Health and Human Services may provide in implementing section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act.

"(II) ATTESTATION REQUIRED.—Clause (i)(II) shall apply to an individual for months in a taxable year only if the information provided by the individual under section 1411(b)(5)(A) of such Act includes an attestation that the individual has not received medical health services during the preceding taxable year.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2018.

(c) Construction.—Nothing in the amendment made by subsection (a) shall preempt any State law requiring the provision of medical treatment for children, especially those who are seriously ill.

Exhibit B

Excerpt from the "Individual Health Insurance Requirement Congressional Review Emergency Amendment Act of 2018" as passed the Council of the District of Columbia September 5, 2018 and as signed into law on September 28, 2018.

TITLE V. HEALTH AND HUMAN SERVICES SUBTITLE A. INDIVIDUAL HEALTH INSURANCE REQUIREMENT
Sec. 5001 . Short title.
This subtitle may be cited as the "Individual Health Insurance Requirement Congressional Review Emergency Amendment Act of 2018"
CHAPTER 5I. INDIVIDUAL TAXPAYER HEALTH INSURANCE RESPONSIBILITY REQUIREMENT.

"$ 47-5 l0l. Definitions.
"For the purposes of this chapter, the term:
"(l) "Applicable entity" means:
"(A) An employer or other sponsor of an employment-based health plan;
"(B) The Department of Health Care Finance; or
"(C) An insurance carrier licensed or otherwise authorized to ofler
minimum essential coverage.
"(2) "Applicable individual" shall have the same meaning as provided in section
50004 of the Internal Revenue Code of 1986 (26 U.S.C. $ 50004), as the section and irs
implementing regulations were in effect on December 15,2017; provided, that:

..."(D) An individual shall not be considered an applicable individual if the individual files a sworn affidavit with his or her District tax return attesting to a lack of minimum
essential coverage on the basis of sincerely held religious beliefs during the entire taxable year
lor which the return was filed.

October 12, 2018

RE: Comments On Preliminary Recommendations On How Mandatory Health Insurance Should Work In Vermont.

Samaritan Ministries agrees with the majority opinion of the working group that Vermont should adopt the federal government's requirements for who is exempt from mandatory health coverage.

Samaritan Ministries is one of the largest sharing ministries among 1 million Americans using health care sharing nation-wide. These religious ministries coordinate on a voluntary basis the sharing of medical expenses amongst their members along with members providing emotional and spiritual support to each other. Health Care Sharing Ministries share more than $1 billion per year for health care costs and do have government oversight as charities from the IRS and state Attorneys General.

When the Affordable Care Act's individual insurance mandate was drafted, Congress recognized that these ministries were already meeting the health care financial needs of its members and providing a valuable service beyond financial. Therefore, the members of Health Care Sharing Ministries were exempted from the individual mandate at 26 U.S.C. 5000A(d)(2)(B).

Massachusetts had previously exempted members from its individual insurance mandate by way of regulation. See 956 CMR 5.03(3)(b)3.

Other states that are crafting a mandate are also consistently following the pattern set by the ACA by exempting member of health care sharing ministries. See

Maryland- SB 1011, pg. 26, line 8.

New Jersey- SB 1877, section 2, lines 20-21

Washington - S6084, section 1, subsection 2, sub section 6 [Note- A task force for study has now been substituted for the text].

The proposed exemptions are consistent with the ACA, Massachusetts, and New Jersey individual insurance mandates, and what other states are proposing, as it relates to exempting health care sharing ministry members.

I appreciate the hard work you are doing for the residents of Vermont, and thank you for considering your residents who are members of a health care sharing ministry. If you have any questions about health care sharing or if I can assist in any way, please do not hesitate to contact me.

Thank you,

Joel Noble

Director of Public Policy, Samaritan Ministries International

joelnoble@smchcn.net

877-764-2426, x.0128

Commentary from the

Ethan Allen Institute

4836 Kirby Mountain Rd., Concord VT 05824

802 695 1448 eai@ethanallen.org www.ethanallen.org

St. Johnsbury VT *Caledonian-Record*, January 16, 2018

John McClaughry

A State Health Insurance Purchase Mandate?

The House and Senate health care committee chairs in Montpelier are pondering new adventures in health care policy for 2018. High on their list is a Vermont individual insurance mandate.

The mandate to purchase government-approved insurance has had a four-year run in Washington. It was made a cornerstone of Obamacare because older people are sicker than young people. If health insurance premiums are set according to an age group's risk of incurring medical expenses, the premiums for 60-year-olds will be as much as five times the premiums for 20-year-olds.

But when the small business and individual insurance pool is community rated (as Vermont's has been since 1993), all policy holders must be charged the same premium for the same coverage regardless of age. Thus young, healthy people will be made to pay far above their age group's expected medical expenses. Their (under 65) grandparents will pay far less than their age group's expenses.

Faced with far higher premium costs, many young healthy people simply "go bare" without insurance. Without the young, healthy people in the pool, the increasingly older (and sicker) pool will require ever rising premiums. This leads to the "death spiral." To prevent this, the government has to use compulsion to keep the young and healthy in and paying. That's the individual mandate.

Starting in 2019, Congress's repeal of the Obamacare individual mandate will relieve young healthy Vermonters of the threat of a tax of $695, or 2.5 percent of income, for not buying a Federal government-approved health plan.

Senator Claire Ayer and Rep. William Lippert do not want those people to drop their insurance. They are seriously considering shutting off this exit ramp for the young and healthy by creating a Vermont individual mandate to buy state-approved insurance. Then the young and healthy would continue subsidizing the premiums of the older and sicker.

This is "Robin Hood in Reverse." The State requires young people starting off in life, at the bottom rung of their lifetime income ladder, paying off education loans, planning to raise a family and buy a home, to subsidize people 40 years older, at the top of their lifetime earnings, their children grown and gone, and their mortgage paid off.

Whenever a proposal for a state purchase mandate raises its head, the first question one should ask is, "Or else what?"

Will the State levy a tax on you for not buying health insurance, like the now repealed ObamaCare provision? Will it take away an income tax exemption? Will it confiscate your income tax refund? Will it garnish your wages? Will it suspend your professional or business license? Your hunting and fishing license? Your driver's license?

Lippert notes that Massachusetts has had a state insurance mandate since 2007. The enforcement mechanism there is a denial of the personal income tax exemption. However the new Federal tax bill abolishes the personal exemptions used in computing Federal taxable income, which is used for Vermont income tax purposes. To deny those exemptions would require Vermont to create them, which would require major changes in how Vermont taxes income.

There is, however, a far better way than invoking state power to mandate that all Vermonters purchase insurance. It is to hold uninsured persons personally responsible for paying the medical bills they incur. We have long done this for "deadbeat dads" who won't make court-ordered child support payments.

Since 1994 the Ethan Allen Institute has advocated "income tax-based recapture for unpaid medical bills run up by persons who choose to spend their resources on things other than adequate health insurance. Mandating that people buy health insurance of the state's choice is an invasion of their freedom, but on the other hand, there is plenty of justification for dunning people who run up medical costs and expect others to cover them through higher premiums."

Under the personal responsibility alternative, the uninsured patient would be required to pay down an unpaid balance through income-tax payments year after year until it is retired.

This says to the person who prefers not to obtain insurance: "Your government will not fine you for failing to buy health insurance. But if you are unlucky enough to run up a big medical bill that you can't pay from your assets, you will be paying a piece of it off every year at tax time, possibly for the rest of your life. Are you sure you wouldn't prefer to protect against that by investing in a high-deductible insurance policy with limited mandates, with a cap on out-of-pocket payments, and with your own tax-free Health Savings Account?"

A state insurance purchase mandate is repugnant to individual liberty. Holding people responsible for the medical expenses they incur is not an invasion of liberty. The choice couldn't be more clear.

John McClaughry is vice president of the Ethan Allen Institute (www.ethanallen.org).

Commentary from the

Ethan Allen Institute
4836 Kirby Mountain Rd., Concord VT 05824
802 695 1448
eai@ethanallen.org www.ethanallen.org

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John McClaughry

Yet Another Attack On Liberty

The Vermont House has passed – with no apparent opposition – a bill (H.696) to mandate that "applicable individuals" purchase Obamacare health insurance or suffer penalties. "Applicable individuals" means every individual, not otherwise enrolled in employer sponsored insurance, or Medicare and Medicaid, excepting illegal aliens, persons incarcerated and persons claiming a religious exemption. The penalty would take effect in 2019.

The rationale for this new mandate is that, starting in 2019, Congress reduced to zero the tax penalty imposed by the Affordable Care Act (ObamaCare) for not choosing to buy ObamaCare-approved health insurance. Now, with no price to pay for not buying benefit-rich plans, some, perhaps many, young, healthy "applicable individuals" will choose not to do so.

Since 1991 state policy has been to load onto young people the medical expenses of their much older parents and grandparents. This is so despite the fact that it's a "reverse Robin Hood" requirement. Young people, just starting out with their careers, starting families, and perhaps paying off college debts and buying a home, are far less able to pay for their older, sicker, but richer parents and grandparents.

Legislators are worried that without the threat of an Obamacare-type penalty, some of these young, healthy people will escape the state's clutches. Hence the new mandate.

The bill declares the penalties, but doesn't dare to say what they'll be. It creates a working group to design the penalties, which will presumably be written into law next year.

Let's get real here. Just what penalty is the state going to impose on someone who doesn't buy overpriced state-approved health insurance? This has been addressed before. It was a central part of the Health Security Act, promoted but not enacted in the 2005 Legislature (At least the promoters of that bill had the courage to actually declare the penalties).

Here's what those penalties were to be: "Individuals who are not otherwise covered, and who refuse to participate in the Plan, will be sanctioned by some combination of denial of motor vehicle registration, drivers' license, homestead property tax exemption, hunting and fishing licenses, and enrollment in any school or college in the state."

Add to that a straight-out tax or fine, as in Obamacare, loss of your income tax exemption, confiscation of your income tax refund, garnishing of your wages, and maybe, for particularly defiant behavior, a trip to the correctional center, and you have the full panoply of state power over the liberty of Vermonters.

What is really scandalous is that this bill passed the House without opposition. The bill is now in the Senate Health and Welfare Committee, whose chairwoman, Sen. Claire Ayer, D-Addison, is on record in favor of the idea. Let's hope there are enough senators concerned about preserving our liberties to reject this latest Big Government assault weapon.

John McClaughry is vice president of the Ethan Allen Institute.

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What to Do with the Uninsured

Some Democrats would fine the uninsured. There is a better way. One version of Obamacare would fine anyone who failed to purchase insurance. Far better to impose a sanction that establishes the principle of personal responsibility.

John McClaughry

The version of Obamacare offered by the Senate Health, Education, Labor, and Pensions (HELP) Committee has a number of controversial provisions. Conspicuous among them is a proposed fine of as much as $1,000 a year levied on individuals who refuse to purchase health-insurance coverage as the bill mandates.

The antecedent of the individual mandate is the Massachusetts health-care reform of 2006. That measure -- spearheaded by Republican then-governor Mitt Romney, and lauded by Ted Kennedy, who is now the chairman of the HELP Committee -- contained a universal individual mandate to purchase state-approved insurance coverage. Or else what?

Romney had proposed a self-insurance option, whereby an individual could post a $10,000 bond to cover unanticipated medical costs. Liberal Democratic legislators rejected that option, leaving only a penalty for failure to enroll.

In 2008, Massachusetts started levying fines on non-compliers. The amount of the fine is half the cost of the premium of the cheapest approved plan in the person's region of the state, up to approximately $1,000 a year.

The Obama-Kennedy individual mandate is perhaps the first attempt by the federal government to require individuals to buy a particular product, or suffer a fine.

The problem this measure aims to solve is real: People incur medical expenses that exceed their ability to pay, leaving others (medical providers, insured patients, taxpayers, and so on) holding the bag. However, there is a better way to deal with this problem.

The operative principle should be personal responsibility. The responsible thing to do is to buy health insurance to cover most of the costs of illness or injury.

Unfortunately, state governments have made health insurance unaffordable for many consumers. They have done this by piling on costly mandates, requiring guaranteed issue (applicants cannot be turned down because of a pre-existing health condition), imposing community rating (everyone in a particular region pays the same premium, regardless of personal history), and outlawing low-cost policies that have high deductibles or offer only catastrophic coverage.

Faced with the steep cost of insurance, many people -- especially healthy young people -- choose to go without. Fine -- but if they then incur high medical expenses, they ought to accept the primary responsibility for paying for the services they have received.

Consider this proposal: If an uninsured person incurs medical expenses and leaves an unpaid balance, the provider must try for 90 days to collect. At that point the unpaid balance is posted to an account in the patient's name, managed for the government by a credit-card company. Each year the account manager reports to the patient his or her balance, on the equivalent of an IRS 1099 form. When preparing that year's taxes, the individual must include a stated fraction of that amount in his or her gross income. (The same result could be achieved with an inverse tax credit.)

The fraction reported would be graduated according to the patient's income and the amount of the balance due. For a high-income taxpayer with a low account balance, the amount subject to tax the first year might be 100 percent of the balance. For a taxpayer with minimal income, the balance would carry over undiminished to the following year.

Thus the uninsured patient would be required to pay off the unpaid balance via income- tax payments year after year until it is retired. Whether the account balance would be adjusted upward annually to match the depreciation of the dollar, whether interest would be charged on the average balance, whether the IRS would have a claim on a decedent's estate for the unpaid balance, and whether such liabilities would survive bankruptcy are questions for policy makers to decide. A further question is how much of the tax payment collected the government would deduct to cover administrative costs before remitting the remainder to the providers who weren't paid for their services.

In sum, the proposal says to the person who prefers not to obtain insurance: "Your government will not fine you for failing to buy health insurance. But if you are unlucky enough to run up a big medical bill that you can't pay from your assets, you will be paying a piece of it off every year at tax time, possibly for the rest of your life. Are you sure you wouldn't prefer to invest in a high-deductible insurance policy with limited mandates, with a cap on out-of-pocket payments, and with your own tax-free Health Savings Account?"

It will be objected that it might be years -- if ever -- before an ordinary individual could pay off a large hospital bill through annual income-tax payments. That's true. But the proposal at least fixes the economic responsibility for paying for services received upon the person benefiting from the services, and it sets up a virtually effort-free mechanism for paying.

To the extent the government returns the tax collections from this provision to the unpaid providers, the proposal will also reduce the otherwise unavoidable cost shift to insured patients, via higher premiums.

This plan is a clear conceptual alternative to the government forcing every citizen to buy government-approved insurance. The uninsured patient will be spared an oppressive government mandate to buy coverage. But the patient will know that if he or she suddenly requires expensive medical care, the consequence of having failed to enroll in suitable coverage will be reduced after-tax income. That will emphasize that the unpaid bill remains the patient's responsibility, not society's.

No scheme is perfect. If expenses are incurred, somebody has to bear the burden. But by obviating the argument for an illiberal individual mandate, such an income-tax-based recapture plan has a lot to recommend it.

-- John McClaughry is president of the Ethan Allen Institute in Vermont.

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Health insurance mandate a step backward for Vermont health care

By Meg Hansen VHCF

"If a mandate was the solution, we could solve homelessness by mandating everybody buy a house," then-Democratic presidential candidate Barack Obama quipped in a 2008 critique of his opponent Hillary Clinton's health care plan to force everyone to purchase insurance or pay a noncompliance penalty. Six months into his presidency, however, the individual mandate became integral to the Patient Protection and Affordable Care Act (ACA), and Obama's stance evolved to "Everybody must do their part."

Last December, when the Tax Cuts and Jobs Act eliminated the mandate (an aspect of ACA or Obamacare unpopular with two-thirds of the public), a number of Democrat-controlled state legislatures, eager to show up D.C., sought to resurrect it at the state level. On May 28, Republican Governor Phil Scott signed House Bill 696, requiring all Vermonters to buy health insurance or endure the consequences (details of which will be decided in 2019).

Obamacare architect and MIT economics professor Jonathan Gruber (who famously attributed ACA's success in Congress to the "stupidity of the American voter") analogized the individual mandate to one part of a "three-legged stool." The other two components entail prohibiting insurers from raising premiums or denying coverage to Americans with pre-existing medical conditions, and providing subsidies to make insurance affordable.

Beginning in 2014, insurance firms could no longer charge premiums based on an individual's health status. Rates for say, Clara with a chronic illness like COPD, needing frequent and costly medical care, could not exceed that of Jim in good health. As a result, Jim (likely younger) would need to pay high premiums disproportionate to his minimal use of medical services, motivating him to leave the insurance market.

The individual mandate was designed to prevent the latter, or "stabilize" the insurance exchange in politically correct terms, so that insurers could maintain a wide pool of low-risk, high premium payers like Jim to subsidize the medical costs incurred by the chronically ill like Clara. Referring to this argument, proponents of the Vermont mandate like Rep. Anne Donahue, Republican vice chair of the House Health Care Committee, maintain that imposing an individual mandate is integral to paying for those with pre-existing conditions. She is wrong.

Chris Pope of the Manhattan Institute explained that ACA subsidy provisions (for which 85 percent of persons on the exchange qualify) finance the insurance expenses of low-income Americans and those with pre-existing conditions, whereas the now-eliminated mandate concentrated these costs on a niche demographic. Lower-middle income employer-based health insurance, such as small business owners and those juggling multiple part-time jobs, disproportionately paid the price. According to a Vermont Joint Fiscal Office report, 78.4 percent of Vermonters that paid individual mandate penalties for the 2015 tax year (total of $6.1 million) made an annual income between $10,000 and $50,000.

Obamacare offered exemptions from the penalty for varying reasons like low income and religious affiliation. Individuals with a household income between 100-400 percent of the Federal Poverty Level received a hardship exemption, provided they bought insurance through a government marketplace. Low-to-middle income Americans did not qualify for this exemption (or Medicaid). For example, a young couple making $65,000 per year would be ineligible, and could be fined up to $1,390 for saving money and thus remaining uninsured.

This mandatory cross-subsidization set up an anti-competitive and inequitable system that attempted to pay for the expensive, long-term medical care of persons with chronic conditions by taxing those that could not afford health insurance. When premiums and out-of-pocket costs (i.e. deductibles, copayments, and coinsurance) vastly exceed the mandate penalty, many forgo coverage. The 2014 Vermont Household Health Insurance Survey shows that Vermonters aged 25-34 years formed the largest uninsured group at 11.0 percent (5.1 percent between 35-44 years and 4.6 percent of the 18-24 age cohort also did not have health insurance). Some could argue that younger Americans do not purchase insurance because they are healthy, but a 2016 Harris Poll indicates that increasingly they cannot afford it.

Economic factors like astonishing student loan debt have set up Millennials to become the first American generation to fare worse financially than their parents. We are lagging behind predecessors in achieving milestones such as buying homes, having children, and saving for retirement. Why, then, are the Vermont mandate's Democrat sponsors, all the politicians that voted in its favor, and Gov. Scott compelling young Vermonters to purchase unaffordable insurance? As Rep. Warren Van Wyck, one of the sixteen House Republicans to oppose H.696 remarked, "I thought we were trying to attract young people to the state."

The U.S. Supreme Court upheld the constitutionality of the individual mandate in 2012 for it functions as a tax and hence, falls under Congress' power to tax citizens. At present, Gov. Scott and Majority Democrats are embroiled in a budget standoff, playing out over a special session, because he refuses to raise taxes on Vermonters. Yet, he enacted the mandate - a health tax - into law with nary a peep of resistance.

The Scott Administration contends that this mandate will keep the number of uninsured Vermonters low, citing Congressional Budget Office data that thirteen million will "lose" insurance by 2027 as a result of the federal mandate repeal. First, recent studies demonstrate that the federal individual mandate had no discernible impact on the proportion of uninsured Americans. Second, the dysfunctional and coercive mandate ravaged American contract law of mutual assent. In its absence, millions of Americans may voluntarily choose not to buy a commodity.

Don't we have the right to make our own life decisions? Montpelier says no. Our political class finds the clarion call of collective responsibility more seductive than personal liberty. Green Mountain Care Board chairman Kevin Mullin (a former Rutland Republican senator) stressed that everyone needs to contribute - except the mandate adds to Obamacare's inequities by demanding more from some than others. (Note that adults under the age of twenty-six may remain on their parents' insurance plans, and thus the healthiest category from higher income strata do not participate in the exchange).

Indeed, cost-effective alternatives to an individual mandate exist. (A) Provide more choice in the form of slimmed down plans with low premiums for catastrophic coverage, which would incentivize the young and healthy to remain in the insurance pool. (B) Create separate and efficient high-risk pools through which greater subsidies could be focused toward tailored medical care (e.g. preventive services) for low income Americans suffering from major chronic illnesses. Maine operates a successful invisible high-risk pool, launched in 2011, which should serve as a model for tending to society's neediest without arbitrarily taxing some and depriving all of the freedom to choose.

To borrow from a 2008 Obama campaign mailer, "Punishing families who can't afford health care to begin with just doesn't make sense."

Meg Hansen is executive director of VHFC, a nonprofit committed to free-market reforms in American health care.