O P I N I O N  

Pro & Con: Do Americans have a basic human right to health care?

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YES. Americans can have no life, liberty or happiness without health care.

By Robin Miller

In this great country, when extremists crash jets into office towers, our government responds. When an innocent woman is raped and killed, our courts respond. When raging fires threaten homes on hillsides in California, fire departments respond. When a child needs to learn to read and write, a public school teacher responds. When the financial market teeters on collapse, the Treasury responds.

But when a poor woman develops breast cancer and cannot afford health insurance, or the insurance does not cover the exorbitant costs, no one responds. When a man without health insurance has a heart attack, receives the emergency care required and is discharged, no one responds to care for him so another attack doesn’t quickly follow. When a mental illness suddenly strikes and leaves a person homeless and hungry and no one responds to treat the disease.

This is the unfathomable irony of our great country. We have a chance, right now, to right this tragic wrong that tarnishes our nation. We came together in the civil rights movement and we can come together in the health care movement. If we have a right to a court system to bring us justice, if we have a right to fire protection, police protection, a public education, a stable financial system and unemployment protection, don’t we have a right to health care?

Sickness can and will happen to us all. When we are sick we cannot fulfill the American dream. To keep the American dream alive, we must ensure that no American has anything less than the best quality health care available. This is not Communism or socialism. This is basic human decency. This is basic Christianity. This is basic American values. One cannot experience life, liberty and the pursuit of happiness when one is sick and not cared for.

Universal health care for all will not bankrupt this country. It may lower the obscene profits now being made on the backs of the sick, but it will not bankrupt this country. In the marvelous complexity of the human condition, at any given point in time, most people are NOT sick. This is an incredible gift, whether you see it coming from your God, or simply the result of biologic evolution. But what this means is that health care for all when they are sick is doable.

A universal government insurance plan could not work if most people were sick. But with most people not sick, it can work, if inefficiency and fraud are kept in check. The savings realized from eliminating the absurd waste engendered by myriad separate health plans, all with their own copays, deductibles, co-insurance, lifetime caps, coverage exclusions and billing systems is obvious to a grade-schooler. A universal insurance pot, contributed to by all Americans in small amounts, either directly or through government aid, could pay your doctor, without corporate profits and shareholder interests trump the needs of the sick.

We have a universal government insurance system now. It is called Medicare. It is for those 65 and older and those who are disabled. It works. But it can’t work forever because the people who pay monthly premiums into it are sicker and older than most Americans. And younger working people are paying into a huge government trust fund while they are simultaneously paying high private health insurance premiums and high out-of-pocket costs. If everyone had a nonprofit, Medicare-type plan, from birth to death, we could all prosper. Small payments made by everyone over their lifetime cover everyone, because most of the time few people are sick. That is the basic concept of insurance, not the distorted, free-enterprise insurance we have today where corporate profits and shareholder interests trump the needs of the sick.
The health care debate has become endlessly complicated and obtuse. It is really very simple.

Americans need to demand universal health care coverage, or, at the very least, a nonprofit public health care option for themselves and all their fellow Americans.

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NO. Health care isn't a defined right; Congress lacks explicit authority.

By Nathan Gray and John Van Vliet

Health care now! Save the country! Socialists! It's my right!

Let's step back from the emotional debate about the health care proposals and ask two fundamental and related questions. Is health care a basic human right and would a health care law be constitutional?

Consider two types of rights, natural and defined rights. Natural rights exist in the absence of civil government. Examples include expression, thought and the "unalienable rights to life, liberty and the pursuit of happiness." These are basic human rights; enjoyment of these natural rights requires no obligation on fellow citizens (except noninterference). They are protected, not granted, by the Constitution.

Defined rights exist within civil governments and include the right to a jury trial and the right to vote — both explicitly found in the Constitution. In contrast to natural rights, civil government grants or defines these rights.

Does health care fit into the category of natural rights? Does the natural "right to life" imply a natural right to health care? No, health care requires an obligation on fellow citizens; natural rights do not. Health care can never be a natural right; however, it can exist as a defined right. Note the distinction: We can choose to define health care as a right, but it is not a natural right.

So, the question becomes: Have we defined health care as such? Anyone who has read the Constitution, as it currently stands, would have to say no.

The framers drafted the Constitution as a limiting framework of government specifically outlining the powers Congress possesses for the sole purpose of protecting natural rights and defining (granting) other specific rights. Subsequent amendments define additional rights and governmental powers.

If we were to ask our representatives and senators to point to the clause in the Constitution that states health care is a defined right, where would most point? Of course, they would point to the clause that says health care is a right to be enjoyed by every American citizen. Oh, right, we couldn't find that one. It must be somewhere else.

The "general welfare" clause and the "necessary and proper" clause most likely form the basis for those who claim Congress has the authority to pass a law to provide any form of health care. They may argue: It is necessary and proper for Congress to pass a universal health care bill for the general welfare of Americans.

If this were the line of reasoning that prompted our founders to include the general welfare clause, then why did they bother specifying other items?

Congress may legislate to provide for defined rights, protect natural rights and perform enumerated powers, but those laws must serve the general welfare rather than specific interests.

This idea of limiting government was reaffirmed in the 10th Amendment, which says that powers not specifically granted to the federal government belong to the states and the people. This amendment ought to crush any notion that the "elastic clauses" permit Congress to do whatever it pleases.

There is simply nothing in the Constitution to declare that health care is any kind of right or that Congress has authority to make such laws. The power to deal with health care rests with the states, not Washington. Until we amend the Constitution, this debate belongs in the 50 capital cities.

We are not advocating that government never provide health care. We are simply pointing out that should the federal government decide to provide health care, it should be doing so with appropriate authority and in the name of fulfilling a defined right. Unless it is amended, the Constitution does not define such a right, nor does it provide such authority. Representatives in both parties should consider these points every time they introduce legislation.

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