

Current Events and the Constitution: Is the Healthcare Act Constitutional?



Constitutional Question: Does the Commerce Clause empower Congress to require all Americans to purchase health insurance? Should suits brought by states challenging the constitutionality of the Affordable Health Care Act be allowed to proceed?

Constitutional Principles: Limited Government, Federalism, Checks and Balances

Constitution Resources from the Bill of Rights Institute's Americapedia:
[The Commerce Clause](#)

News Resources:

[Michigan judge rejects challenge to health care law mandate](#)
[Federal judge lets 20 states' health-care lawsuit move forward](#)
[Post-Gaming the Florida Health Care Ruling](#)

Questions to Consider:

1. What is the Defense of Marriage Act? Why has it been in the news recently?
2. In Article II, Section 3, where the Constitution references the responsibilities of the President, it states "*he shall take care that the laws be faithfully executed*". Similarly, in the Oath of Office, the President swears:
"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States." In these contexts, what does "faithfully" mean?
3. In the separated powers of the U.S. government, each branch has a different role. What are the roles of each of these branches with respect to laws?
4. According to Attorney General Eric Holder, the Department of Justice and President Obama believe that Section 3 of the Defense of Marriage Act "violates the equal protection component of the Fifth Amendment." After reading the text of the Act and the Fourteenth Amendment's Equal Protection clause, do you believe that Section 3 violates the Equal Protection Clause? Why or why not?

Extension:

A. The Florida Court ruling will also allow the states to challenge the Affordable Health Care Act's requirement that states extend Medicaid to cover not just the very poor but also low-income individuals. Medicaid is a federal/state partnership and states can opt in or out. If states do not agree to extend coverage to more people, however, they will then lose out on the federal contributions to Medicare. Does this requirement, as the states claim, infringe on state sovereignty?

B. A federal judge in Virginia heard arguments on October 18 on the constitutionality of the Affordable Health Care Act. What were the arguments on each side? How do these arguments compare to those made in Michigan? Which were more persuasive?

What do YOU think?

The Commerce Clause DOES empower Congress to require all Americans to purchase health insurance.	The Commerce Clause DOES NOT empower Congress to require all Americans to purchase health insurance.

Suits brought by states challenging the constitutionality of the Affordable Health Care Act SHOULD be allowed to proceed.	Suits brought by states challenging the constitutionality of the Affordable Health Care Act SHOULD NOT be allowed to proceed.