

## HEALTH-CARE REFORM

# Let States Dare to Make Health-Care Mistakes



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The death of Vermont's effort to install single-payer health care is revealing -- and not only for what it says about the feasibility of such government-run systems in the U.S. It also shows conservatives a way forward if the Supreme Court voids broad swaths of the Affordable Care Act in 2015.

In *King v. Burwell*, the court will consider a challenge to the legality of Obamacare subsidies distributed in states using the federally run health-insurance exchange. The law states the subsidies may be distributed only through exchanges "established by the states." But the Obama administration has argued for a broader reading permitting the distribution of subsidies to individuals living in states using the federal exchange.

If the justices determine the law means what it says, it's likely that the architecture of Obamacare in states without their own exchanges will be fundamentally compromised. That is because the absence of public subsidies makes health insurance unaffordable for millions, therefore invalidating the employer mandate in those states and, by extension, creating many exceptions to the individual mandate as well.

This could potentially set up a situation where the states that didn't establish their own exchanges face pressure to establish programs to help furnish affordable health insurance to those who will no longer receive subsidies through Obamacare. While the federal government will need to play some role in helping to finance these reforms, governors and state leaders will have the opportunity (and will be expected) to show leadership in a post-King world.

For conservatives, this would be an important juncture. On one hand, the prospect of federalist reforms, where states take the lead in expanding private coverage while holding down rising medical

costs, is an exciting one. On the other hand, with such federalist policies comes the possibility that some states will try to do what Vermont did and pursue single-payer or big-government approaches to health care.

The temptation for conservatives will be to argue that the federal government should restrict the kinds of changes states can pursue, to prevent others from taking the Vermont route. In the past, some conservatives have in effect made this point: States should be given the freedom and flexibility to pursue solutions that serve their citizens best, this argument goes, so long as federal funds aren't used to support policies that stray from free-market principles.

Such restrictions would be wrong-headed. Federalism means states will try “novel social and economic experiments without risk to the rest of the country,” as Supreme Court Justice Louis Brandeis wrote. And states should be free to craft the health-care system their elected officials select, even if conservatives (or anyone else, for that matter) find the changes offensive. The nature of federalism is that the best ideas will be replicated, while the worst ones won't be.

Vermont's experience is therefore instructive. The state shuttered its effort to set up a single-payer system because, in the words of Democratic Governor Peter Shumlin, “the potential economic disruption and risks would be too great to small businesses, working families and the state's economy.”

The acknowledgment by Vermont officials that it was economically and fiscally infeasible to set up a government-run health-care system will give pause to other states that are interested in doing something similar. The failed experience of one state helps influence what other states will or won't do.

The failure of Vermont's single-payer effort is no guarantee that other states won't adopt similarly wrong-headed programs. But if the Supreme Court rules against the Obama administration in the King case next year, conservatives should nonetheless let many flowers bloom when it comes to state-based reform.

That may be a tough pill for them to swallow, if some states enact policies anathema to free-market values. But conservatives should have enough faith in their principles to believe that these efforts will ultimately fail -- and lead to a consensus that less, not more, government is the best way to change our health-care system for the better.

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