



# Legislative Research Council

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JUN 27 2013  
S.D. SEC. OF STATE

Sen. Ryan Maher, Chair  
Rep. Lance Carson, Vice Chair

James Fry, Director  
Doug Decker, Code Counsel

June 26, 2013

Michael F. Shaw  
May, Adam, Gerdes & Thompson LLP  
503 South Pierre Street  
P.O. Box 160  
Pierre, South Dakota 57501-0160

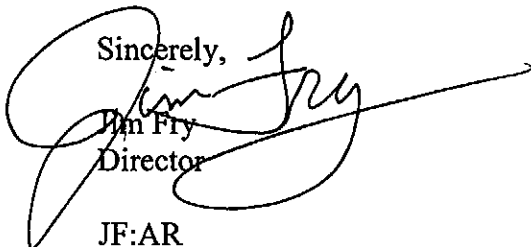
Dear Mr. Shaw:

Pursuant to SDCL 12-13-25, this office is required to review each initiated law or initiated amendment to the South Dakota Constitution. Further, this office is required by SDCL 12-13-24 to determine if each initiative or initiated amendment is "written in a clear and coherent manner in the style and form of other legislation" and that it is "worded so that the effect of the measure is not misleading or likely to cause confusion among voters." You are under no obligation to accept any of the suggestions contained in this letter. But please keep in mind the legal standards established in SDCL 12-12-24.

We have reviewed your initiated measure and approve it for proper style and form as well as clarity. However, a title that encompasses the subject of the proposed initiative is required. Additionally, Article 3 Section 1 of the Constitution requires a specific enacting clause be included in any initiated measure that must read "BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:" and should be located on the line following the title and immediately preceding the first section.

This letter constitutes neither an endorsement of your initiated measure nor a guarantee of its statutory sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiated measure, please take care to ensure that your statements or advertising do not imply that this office endorses or approves your proposals.

Sincerely,



James Fry  
Director

JF:AR

Cc: The Honorable Jason Gant, Secretary of State

FOR AN ACT ENTITLED, An Act to

FULL TEXT OF INITIATED MEASURE  
BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

this the network / served providers? y went to city as st insurer? cover out network - a different st share

Section 1. No health insurer, including the South Dakota Medicaid program and Medicare, may obstruct patient choice by excluding a health care provider licensed under the laws of this state from participating on the health insurer's panel of providers if the provider is located within the geographic coverage area of the health benefit plan and is willing and fully qualified to meet the terms and conditions of participation as established by the health insurer.

Section 2. Terms used in this Initiated Measure mean:

- (1) "Health benefit plan," any hospital or medical expense policy or certificate, hospital or medical service plan, nonprofit hospital, medical-surgical health service corporation contract or certificate, provider sponsored integrated health delivery network, self-insured plan or plan provided by multiple employer welfare arrangements, health maintenance organization subscriber contract of more than six-month duration, or any health benefit plan that affects the rights of a South Dakota insured and bears a reasonable relation to South Dakota, whether delivered or issued for delivery in South Dakota. The term does not include specified disease, hospital indemnity, fixed indemnity, accident only, credit, dental, vision, Medicare supplement, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, or any plan or coverage exempted from state regulation by (ERISA)

does this relate to plan? policy? certificate?

Employee Retirement (2)

Income Security Act § 1974 (ERISA), 29 U.S.C. 18; [you may use any citation you like as long as it shows date + can be reasonably found]

"Health insurer," any entity within the definitions set forth in subdivisions 58-17F-1(11), (12), and (15), any entity offering a health benefit plan as defined by § 58-17F-2, all self-insurers or

multiple employer welfare arrangements, and self-insured employer-organized associations. The term does not include any

entity exempted from state regulation by ~~ERISA~~  
the Employee Retirement Income Security Act of 1974 (ERISA) 29.U.S.C

- (3) "Health care provider," any individual or entity within the scope of 18:  
the definition of health care provider as defined by subdivision

58-17F-1(9). [May consider just using the text of the definition instead of a cross reference. The text of this subdivision is  
(9) "Health care provider" or "provider," a health care professional or a facility" - this may be less confusing.]

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Jim Fry  
Director

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