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Newsroom

Professor Goldstein on Constitutionality of Health-Care Bill

On Republican legal challenges to the health-care bill, RWU Law professor Jared Goldstein says, "These arguments would have been persuasive -- in 1936..."

Legal scholars say health-care bill is constitutional

By Edward Fitzpatrick:

Republicans wasted no time in suing over the landmark health-care overhaul bill. But my guess is the litigation will end up being a waste of time.

Thirteen attorneys general filed a lawsuit no less than seven minutes after President Obama signed the bill into law Tuesday. [...]



But the merits are questionable. Now I'm no legal scholar. But **Professor Jared A. Goldstein**, a former U.S. Justice Department appellate lawyer who teaches constitutional law at the Roger Williams University School of Law, is. And after reading the 23-page complaint, he said, "There was a time when these arguments would have been persuasive, and that time was 1936, when the Supreme Court declared much of the New Deal to be unconstitutional." [...]

Since 1937, the U.S. Supreme Court has held that Congress has broad power to regulate the national economy and to tax for the general welfare, Goldstein said. For example, the high court has upheld Social Security, the Civil Rights Act, the Clean Air Act and other environmental laws, he said.

The new law will require most Americans to carry health insurance, starting in 2014, and those who refuse will have to pay a tax. Tax credits will help pay premiums for working families with incomes up to \$88,000 a year, and Medicaid will cover more low-income people.

The Supreme Court has held that Congress “can tax for any legitimate reason, and certainly providing health care for all Americans is a legitimate reason,” Goldstein said. “It was imposed based on Congress’ reasonable conclusion that when some people don’t have health insurance, it hurts them and shifts a lot of costs onto the rest of us. The tax is little different than taxes Congress imposes on companies that pollute, which are similarly based on the conclusion that pollution hurts everyone and could be deterred through a tax.”

Also, the high court has upheld Congress’ power to regulate “economic activity that substantially affects interstate commerce,” Goldstein said. “And there is no question health care and health insurance affects interstate commerce.”

Full story: http://www.projo.com/news/efitzpatrick/edward_fitzpatrick_25_03-25-10_PVHSI4E_v18.36e674a.html