

HOUSE JOINT RESOLUTION 745

By Lynn

A RESOLUTION to amend Article XI of the Constitution of Tennessee relative to health care.

WHEREAS, the provision of health care services to Tennesseans is a matter of vital importance to the citizens of this state;

WHEREAS, efforts to restrict or mandate certain forms of health care coverage at the local, state, or national level raise profound issues of great significance to the citizens of this state; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SIXTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article XI of the Constitution of the State of Tennessee be amended by adding the following language as a new section:

Section __.

(a) To preserve the freedom of Tennesseans to provide for their health care:

(1) A law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system.

(2) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

(3) Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

(b) This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide.

(2) Affect which health care services are permitted by law.

(3) Prohibit care provided pursuant to any statutes enacted by the legislature relating to worker's compensation.

(4) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

(c) For the purposes of this section:

(1) "Compel" includes penalties or fines;

(2) "Direct payment or pay directly" means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;

(3) "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;

(4) "Lawful health care services" means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services; and

(5) "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect

established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Seventh General Assembly and that this resolution proposing such amendment be published in compliance with Article XI, Section 3 of the Constitution of Tennessee by means of posting this resolution on the official web site of the secretary of state and on the official web site of the general assembly.

BE IT FURTHER RESOLVED, that the clerk of the house of representatives is directed to deliver copies of this resolution to the secretary of state and to the director of the office of legislative information services.