

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 74

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor), SMITH (14), EMERY, JONES (89), GRISAMORE, FUNDERBURK, FISHER (125), NOLTE AND SCHAD (Co-sponsors).

3776L.01I

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section relating to health care services.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 35, to read as follows:

Section 35. 1. As used in this section, the following terms shall mean:

- (1) **"Direct payment" or "pay directly", payment for lawful health care services without a public or private third party, not including an employer, paying any portion of the service;**
- (2) **"Health care system", 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 information for its participants;**
- (3) **"Lawful health care services", 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;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (4) "Penalties or fines", any civil or criminal penalty or fine, tax, salary, or wage
12 withholding or surcharge or any named fee with a similar effect established by law or rule
13 by a government established, created, or controlled agency that is used to punish or
14 discourage the exercise of rights protected under this section.

15 2. To preserve the freedom of citizens of this state to provide for their health care,
16 no law or rule shall compel, directly or indirectly or through penalties or fines, any person,
17 employer, or health care provider to participate in any health care system. A person or
18 employer may pay directly for lawful health care services and shall not be required to pay
19 penalties or fines for paying directly for lawful health care services. A health care provider
20 may accept direct payment for lawful health care services and shall not be required to pay
21 penalties or fines for accepting direct payment from a person or employer for lawful health
22 care services. Subject to reasonable and necessary rules that do not substantially limit a
23 person's options, the purchase or sale of health insurance in private health care systems
24 shall not be prohibited by law or rule.

25 3. This section shall not be construed to:

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

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

29 (3) Prohibit care provided by any provision of this constitution or valid law of this
30 state relating to workers' compensation;

31 (4) Affect laws or rules in effect as of January 1, 2010; or

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

✓