

House Bill 1014

By: Representative Moore of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To provide a short title; to make legislative findings; to amend Code Section 31-1-11 of the
2 Official Code of Georgia Annotated, relating to no legal compulsion to participate in health
3 care system, so as to define certain terms; to nullify the federal Patient Protection and
4 Affordable Care Act of 2010; to prohibit any federal or state entity from complying with
5 such Act of Congress; to void certain contracts; to provide criminal penalties for public
6 officers and judges who violate such provisions; to provide for civil penalties for any public
7 officers or judges who violate such provisions; to provide for legal representation by the
8 Attorney General; to repeal Article 3 of Chapter 23 of Title 33 of the Official Code of
9 Georgia Annotated, relating to provisions relative to the licensure of insurance navigators;
10 to amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
11 relating to medical assistance generally, so as to prohibit the expansion of Medicaid benefits
12 for the indigent; to provide for related matters; to provide an effective date; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Georgia Health Care Freedom Act."

17 **SECTION 2.**

18 The General Assembly finds that:

19 (1) The people of the several states comprising the United States of America created the
20 federal government to be their agent for certain enumerated purposes, and nothing more;

21 (2) Article I, Section 1 of the United States Constitution provides in pertinent part that
22 "All legislative powers herein granted shall be vested in a Congress of the United States";

23 (3) Article VI, Clause 2 of the United States Constitution provides that laws of the
24 United States are the supreme law of the land, provided that they are made in pursuance
25 of the powers delegated to the federal government in the Constitution;

26 (4) The Tenth Amendment to the United States Constitution defines the total scope of
27 federal power as being that which has been delegated by the people of the several states
28 to the federal government, and all power not delegated to the federal government in the
29 United States Constitution is reserved to the states respectively, or to the people
30 themselves;

31 (5) The Fourteenth Amendment to the United States Constitution provides that the
32 people are to be free from deprivation of life, liberty, or property, without due process of
33 law;

34 (6) The General Assembly has the absolute and sovereign authority to interpose and
35 refuse to enforce the provisions of any federal Act that exceeds the authority of the
36 Congress of the United States pursuant to the United States Constitution;

37 (7) The federal Patient Protection and Affordable Care Act of 2010 is not authorized by
38 the United States Constitution and violates its true meaning and intent as given by its
39 founders and ratifiers and is hereby declared to be invalid in this state, to not be
40 recognized by this state, to be specifically rejected by this state, and to be considered null
41 and void and of no force and effect in this state;

42 (8) The assumption of power that the federal government has made by enacting the
43 federal Patient Protection and Affordable Care Act of 2010 interferes with the right of the
44 people of the State of Georgia to regulate health care as they see fit and makes a mockery
45 of James Madison's assurance in essay number 45 of The Federalist that the "powers
46 delegated" to the federal government are "few and defined," while those of the states are
47 "numerous and indefinite";

48 (9) The judicial decision of the United States Supreme Court upholding the
49 constitutionality of the federal Patient Protection and Affordable Care Act of 2010
50 directly contravenes Article I, Section 1 of the Constitution of the United States of
51 America because, in upholding the Act by recharacterizing it as a tax, even though
52 Congress specifically refused to identify it as a tax, the United States Supreme Court
53 legislated new law in violation of Article I, Section 1 of the Constitution of the United
54 States of America;

55 (10) It is the stated policy of the General Assembly that provisions of the federal Patient
56 Protection and Affordable Care Act of 2010 grossly exceed the powers delegated to the
57 federal government in the Constitution of the United States of America and such
58 provisions cannot and should not be considered the supreme law of the land; and

59 (11) The Medicaid program comprises one of the largest expenditures of state funds in
60 the annual budget, and any increase in the income threshold for eligibility for the
61 Medicaid entitlement program in Georgia would put at risk the state's responsibility to
62 fund other critical state services, including education, infrastructure, and public safety.

63 **SECTION 3.**

64 Code Section 31-1-11 of the Official Code of Georgia Annotated, relating to no legal
65 compulsion to participate in health care system and no legal prohibition on purchase or sale
66 of health insurance in private health care systems, is amended by revising subsection (a) as
67 follows:

68 "(a) As used in this Code section, the term:

69 (1) 'Compel' includes penalties or fines.

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

73 (3) 'Federal entity' means any powers, assets, employees, agents, contractors, agency,
74 department, territory, or any political subdivision of the United States of America.

75 (4) 'Health care exchange' means an American Health Benefit Exchange established by
76 the federal government, any state, or political subdivision of a state, as provided for in the
77 federal Patient Protection and Affordable Care Act.

78 (5) 'Health care service' means any health related service, treatment, or insurance that
79 may be provided by persons or businesses otherwise permitted to offer such services.

80 ~~(3)~~(6) 'Health care system' means any public or private entity whose function or purpose
81 is the management of, processing of, enrollment of individuals for, or payment for, in full
82 or in part, health care services or health care data or health care information for its
83 participants.

84 ~~(4) 'Lawful health care services' means any health related service or treatment to the~~
85 ~~extent that the service or treatment is permitted or not prohibited by law or regulation that~~
86 ~~may be provided by persons or businesses otherwise permitted to offer such services.~~

87 (7) 'Navigator' means an individual, including assistants, application counselors, or other
88 persons, authorized pursuant to the Patient Protection and Affordable Care Act to provide
89 insurance advice and guidance to uninsured individuals and groups seeking health
90 insurance coverage pursuant to the Patient Protection and Affordable Care Act. For the
91 purposes of this article, if an organization or business entity serves as a navigator, an
92 individual performing navigator duties for that organization or business entity shall be
93 considered to be acting in the capacity of a navigator.

94 (8) 'Patient Protection and Affordable Care Act' means Pub.L.111-148, as amended by
95 the federal 'Health Care and Education Reconciliation Act of 2010,' Pub.L.111-152, and
96 any federal rules and regulations adopted pursuant thereto.

97 ~~(5)~~(9) 'Penalties or fines' means any civil or criminal penalty or fine, tax, salary or wage
98 withholding or surcharge, additional tax, or any named fee with a similar effect

99 established by law or rule by a government established, created, or controlled agency that
 100 is used to punish or discourage the exercise of rights protected under this Code section.
 101 (10) 'State entity' means any powers, assets, employees, agents, contractors of the state,
 102 agency, department, including the University System of Georgia and its member
 103 institutions, the Department of Community Health, the Department of Behavioral Health
 104 and Developmental Disabilities, the Department of Human Services, or any political
 105 subdivision, municipality, or other local government authority of the State of Georgia."

106 **SECTION 4.**

107 Said Code section is further amended by revising subsection (b) as follows:

108 "(b) To preserve the freedom of citizens of this state to provide for their health care:

109 (1) No law or rule or regulation shall compel, directly or indirectly, any person,
 110 employer, or health care provider to participate in any health care system; ~~and~~

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

116 (3) The Patient Protection and Affordable Care Act shall be null and void and of no force
 117 and effect in the State of Georgia;

118 (4) Notwithstanding any provision of law to the contrary, no federal entity shall:

119 (A) Enforce or attempt to enforce an act, order, law, executive order, court decision,
 120 or regulation of the United States government in violation of this Code section;

121 (B) Enforce or attempt to enforce any penalty, fine, or additional tax pursuant to the
 122 federal Patient Protection and Affordable Care Act within this state; or

123 (C) Compel or attempt to compel any citizen of this state to purchase or participate in
 124 any unwanted health care service;

125 (5) Notwithstanding any provision of law to the contrary, no state entity shall:

126 (A) Compel or attempt to compel any person to purchase or participate in any health
 127 care service;

128 (B) Plan, create, participate in, or enable a health care exchange, or contract with any
 129 private entity to do so;

130 (C) Participate in or purchase insurance from a health care exchange established by a
 131 nonprofit organization;

132 (D) Establish, facilitate, implement, or participate in the expansion of the Medicaid
 133 program pursuant to the federal Patient Protection and Affordable Care Act;

134 (E) Enforce or attempt to enforce an act, order, law, executive order, court decision,
 135 or regulation of the United States government in violation of this Code section;
 136 (F) Conduct or participate in an involuntary maternal, infant, and early childhood
 137 in-home visitation pursuant to Section 2951 of the federal Patient Protection and
 138 Affordable Care Act and any subsequent amendment to such Act;
 139 (G) Provide advice, guidance, or other assistance with regard to health benefit plans
 140 as a navigator under the provisions of the federal Patient Protection and Affordable
 141 Care Act; or
 142 (H) Provide any navigator any commission, compensation, or anything of value;
 143 (6) A health insurance contract purchased or established in violation of this Code section
 144 shall be void and shall not be enforced by the courts of this state;
 145 (7) It shall be the duty of the General Assembly to adopt and enact any measures
 146 necessary to prevent the enforcement of the Patient Protection and Affordable Care Act
 147 within this state, and the General Assembly is empowered to enact sanctions, fines,
 148 penalties, or otherwise to ensure compliance with this Code section;
 149 (8) Any person who violates this Code section shall be guilty of a felony and shall be
 150 punished by a fine of not less than \$1,000.00 nor more than \$5,000.00, imprisonment for
 151 up to five years, or both;
 152 (9) Any aggrieved person shall have a right to a civil action against any person violating
 153 the provisions of this Code section; and
 154 (10) The Attorney General shall provide legal representation to any aggrieved person
 155 under the provisions of this Code section. Such representation is necessary in order to
 156 preserve the rights and property of the residents of this state and to defend such residents
 157 in the event that any law or regulation violating the public policy set forth in this Code
 158 section is enacted by any government or subdivision or agency of the state."

159 **SECTION 5.**

160 Chapter 23 of Title 33 of the Official Code of Georgia Annotated, relating to licensing
 161 relative to insurance, is amended by repealing Article 3, relating to insurance navigators.

162 **SECTION 6.**

163 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
 164 medical assistance generally, is amended by adding a new Code section to read as follows:

165 "49-4-142.2.

166 On and after the effective date of this Code section, neither the department nor the board
 167 nor any other representative of the state shall expand Medicaid eligibility under this article
 168 through an increase in the income threshold without prior legislative approval. The

169 legislative approval required under this Code section shall be by Act of the General
170 Assembly."

171 **SECTION 7.**

172 This Act shall become effective upon its approval by the Governor or upon its becoming law
173 without such approval.

174 **SECTION 8.**

175 All laws and parts of laws in conflict with this Act are repealed.