

By Mr. Koutoujian of Newton, petition of Peter J. Koutoujian, Kevin G. Honan, Matthew C. Patrick, Brian Knuuttila and Brian A. Joyce relative to increasing accountability in the use of public health care funds. Health Care.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO INCREASING ACCOUNTABILITY IN THE USE OF PUBLIC HEALTH CARE FUNDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 7 of Chapter 118G of the General Laws is hereby  
2 amended by striking paragraph 5 and inserting in place thereof the  
3 following:

4 Section 2. Purpose.

5 The Legislature finds and declares the following:

6 It is the policy of the Commonwealth, as a major consumer of  
7 health care services for its elderly, poor and disabled residents,  
8 through various publicly funded programs, to insure that all public  
9 funds appropriated for health care services for its citizens will be  
10 used for such care and not for unrelated activities such as political  
11 contributions, lobbying activities, or efforts to assist, promote or  
12 deter union organizing of health care workers.

13 Moreover, the Commonwealth has the right to insure the  
14 integrity of publicly funded health care programs by prohibiting  
15 health care providers from taking employees away from their  
16 assigned duties in providing health care services under publicly  
17 funded programs to participate in such unrelated activities.

18 Section 3. Commonwealth Health Care Funds for Health Care  
19 Only.

20 (a) No funds appropriated pursuant to M.G.L. Ch. 118G  
21 section 7 or the Health Care Quality Improvement Trust Fund  
22 established in section 2BEE of chapter 29 of the General Laws

23 shall be paid or reimbursed by any governmental unit to any  
24 provider of health care services that uses such funds directly or  
25 indirectly for political contributions, lobbying activities, or efforts  
26 to assist, promote, deter or discourage union organizing.

27 (b) As a condition of receiving monies from any governmental  
28 unit a provider of health care services shall provide a certification  
29 to the division of health care finance and policy that no funds as  
30 defined in this act shall be used for such activities.

31 (c) If the division determines that a recipient provider of health  
32 care services has spent such monies in violation of this section,  
33 the recipient shall be required to document the cost of such  
34 activity. The division of health care finance and policy shall con-  
35 duct an investigation or audit if a complaint is filed by any person  
36 alleging a violation of this section.

37 (d) The division shall consider that there is a rebuttable pre-  
38 sumption that such activities were funded in part from such  
39 monies and shall require the recipient provider of health care serv-  
40 ices to provide all appropriate information and documentation  
41 showing that no such monies were used in violation of this  
42 section.

43 (e) An expense, including legal and consulting fees and salaries  
44 of supervisors and employees, incurred for research for, prepara-  
45 tion, planning or coordination of, or carrying out an activity to  
46 assist, promote or deter union organizing shall be treated as paid  
47 or incurred for that activity.

48 (f) Monies spent in violation of this section shall be reimbursed  
49 to the fund or the division of }health care finance and policy as  
50 appropriate.

51 Section 4. Exempted activities.

52 An expense incurred in connection with: (1) addressing a griev-  
53 ance or negotiation or administering a collective bargaining agree-  
54 ment; (2) performing an activity required by federal or state law  
55 or by a collective bargaining agreement; or (3) obtaining legal  
56 advice about rights and responsibilities under federal or state law  
57 shall not be treated as paid or incurred for activities to assist, pro-  
58 mote, deter or discourage union organizing.