

Testimony in Support of LD 590:
RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish
a Right to Health Care
Health Coverage, Insurance and Financial Services Committee
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My name is Daniel C. Bryant, MD. During my career, patients of mine have dropped out of care or declined referrals or tests because they had no, or inadequate health care coverage; and I've seen others in the Emergency Room who couldn't afford critical follow up care. Experiences like these compel me to offer the following testimony in support of LD 590.

The Universal Declaration of Human Rights¹ states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including... medical care” and the World Health Organization Constitution² states that “Governments have a responsibility for the health of their peoples.” Yet, “the United States has no formally codified right to health, nor does it participate in a human rights treaty that specifies a right to health.”³

A University of Pennsylvania study⁴ of health care provisions in state constitutions found that “[c]lose to a third of states’ constitutions recognize health,” and that “state constitutions, although providing stronger textual support for health care rights than the U.S. Constitution, do not, when applied, provide significantly greater guarantees.” Since then, however, Oregon has passed a Right to Healthcare amendment⁵.

As for Maine, the only reference to health in Maine’s Constitution is to emergency bills (Article IV, Section 16), though the reference (Article I, Section 1) to an “unalienable right” to “enjoying and defending life” could be interpreted as implying a right to health care.

LD 590 states that health care is both a “right of the people” and “necessary to ensure the strength of the State.”

Regarding health care being the “right of the people,” the “implementation and enforcement” language suggests that this “right” is a “positive” one, imposing a duty on government to ensure everyone has health care, rather than a “negative” one, ensuring that people are not actively prevented from seeking health care. A soon-to-be-released Maine poll⁶ found that “the vast majority of voters think that all residents... should have access to low-cost healthcare,” which sounds like voters feel all residents have a right to it in the “positive” sense. As the Pennsylvania study observed, “[s]tate constitutions are charter documents expressing citizens’ values, priorities, and aspirations.”

As for health care being “necessary to ensure the strength of the State,” “prevent[ing] and treat[ing] physical and mental illness” would almost certainly improve the health of the population⁷; benefit businesses by this improvement of the health of the workforce; theoretically,

at least, reduce the cost of foregone care; and make Maine an even more appealing state in general.

Of course, “implementation and enforcement of this right” would cost money but, as many studies have shown⁸, there are ways to do that without increasing total state health care expenditures. Passage of this amendment would encourage legislators and policy makers to look into those ways. The Pennsylvania study again: “state constitutional recognition of health, as well as proposed state constitutional amendments that would expressly recognize health rights, serve as important catalysts for federal and state legislation.”

In conclusion, because of the problems of health care access I’ve seen in my own practice, because respected authorities cite health care as a human right, because Maine’s “unalienable right” to “enjoying and defending life” implies that right, because “the vast majority of voters think that all residents... should have access to low-cost healthcare,” and because establishment of a positive right to health care would likely improve the “strength of the State” and encourage system reform, I support LD 590 and urge the committee to vote “ought to pass” and send it on to the full Legislature.

¹ [Universal Declaration of Human Rights](#), 1948

² [Constitution of the World Health Organization](#), 1946

³ *AMA J Ethics*. 2021;23(3):E235-239. doi: 10.1001/amajethics.2021.235.

⁴ Elizabeth W. Leonard, *State Constitutionalism and the Right to Health Care*, 12 U. PA. J. CONST. L. 1235 (2010). Available at: <https://scholarship.law.upenn.edu/jcl/vol12/iss5/2>

⁵ Ballotpedia on [Measure 111](#)

⁶ [Consumers for Affordable Health Care](#)

⁷ Institute of Medicine (US) Committee on the Consequences of Uninsurance. Washington (DC): Care without Coverage: Too Little, Too Late. 2002. Available at: <https://www.ncbi.nlm.nih.gov/books/NBK220636/>

Borgschulte M, Vogler J. Did the ACA Medicaid expansion save lives? *J Health Econ*. 2020 Jul;72:102333. Available at: <https://pubmed.ncbi.nlm.nih.gov/32592924/>

⁸ [Listing of Single Payer Studies](#), [Assessing the Costs and Impacts of a State-Level Universal Health Care System in Maine](#), and [Feasibility of a Single-Payer Health Care Model for the State of Maine](#)