

By the Committee on Health Regulation; and Senators Baker, Fasano, Storms, Negron, Bennett, Haridopolos, Gaetz, Oelrich, Richter, Dockery, and Gardiner

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Senate Joint Resolution

A joint resolution proposing the creation of Section 28 of Article I of the State Constitution, relating to health care services.

Be It Resolved by the Legislature of the State of Florida:

That the creation of Section 28 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 28. Health care services.-

(a) To preserve the freedom of all residents of the state to provide for their own health care:

(1) A law or rule may 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 may 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 may not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

(b) Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of

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30 health insurance in private health care systems shall not be
31 prohibited by law or rule.

32 (c) This section does not:

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

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

36 (3) Prohibit care provided pursuant to general law relating
37 to workers' compensation.

38 (4) Affect laws or rules in effect as of January 1, 2010.

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

45 (d) For purposes of this section:

46 (1) "Compel" includes the imposition of penalties or fines.

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

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

56 (4) "Lawful health care services" means any health-related
57 service or treatment, to the extent that the service or
58 treatment is permitted or not prohibited by law or regulation,

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59 which may be provided by persons or businesses otherwise
60 permitted to offer such services.

61 (5) "Penalties or fines" means any civil or criminal
62 penalty or fine, tax, salary or wage withholding or surcharge,
63 or any named fee with a similar effect established by law or
64 rule by an agency established, created, or controlled by the
65 government which is used to punish or discourage the exercise of
66 rights protected under this section.

67 BE IT FURTHER RESOLVED that the following statement be
68 placed on the ballot:

69 CONSTITUTIONAL AMENDMENT

70 ARTICLE I, SECTION 28

71 HEALTH CARE SERVICES.—Proposing an amendment to the State
72 Constitution to prohibit laws or rules from compelling any
73 person, employer, or health care provider to participate in any
74 health care system; permit a person or employer to purchase
75 lawful health care services directly from a health care
76 provider; permit a health care provider to accept direct payment
77 from a person or employer for lawful health care services;
78 exempt persons, employers, and health care providers from
79 penalties and fines for paying or accepting direct payment for
80 lawful health care services; and permit the purchase or sale of
81 health insurance in private health care systems. Specifies that
82 the amendment does not affect which health care services a
83 health care provider is required to perform or provide; affect
84 which health care services are permitted by law; prohibit care
85 provided pursuant to general law relating to workers'
86 compensation; affect laws or rules in effect as of January 1,
87 2010; or affect the terms or conditions of any health care

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88 system to the extent that those terms and conditions do not have
89 the effect of punishing a person or employer for paying directly
90 for lawful health care services or a health care provider for
91 accepting direct payment from a person or employer for lawful
92 health care services.