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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 an 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 an 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 may 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 March 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 an employer for paying
42 directly for lawful health care services or a health care
43 provider for accepting direct payment from a person or an
44 employer for lawful health care services, except that this
45 section may not be construed to prohibit any negotiated
46 provision in any insurance contract, network agreement, or other
47 provider agreement contractually limiting copayments,
48 coinsurance, deductibles, or other patient charges.

49 (6) Affect any general law passed by a two-thirds vote of
50 the membership of each house of the legislature after the
51 effective date of this section, if the law states with
52 specificity the public necessity that justifies an exception
53 from this section.

54 (d) As used in this section, the term:

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

56 (2) "Direct payment" or "pay directly" means payment for
57 lawful health care services without a public or private third
58 party, not including an employer, paying for any portion of the

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59 service.

60 (3) "Health care system" means any public or private entity
61 whose function or purpose is the management of, processing of,
62 enrollment of individuals for, or payment, in full or in part,
63 for health care services, health care data, or health care
64 information for its participants.

65 (4) "Lawful health care services" means any health-related
66 service or treatment, to the extent that the service or
67 treatment is permitted or not prohibited by law or regulation,
68 which may be provided by persons or businesses otherwise
69 permitted to offer such services.

70 (5) "Penalties or fines" means any civil or criminal
71 penalty or fine, tax, salary or wage withholding or surcharge,
72 or named fee with a similar effect established by law or rule by
73 an agency established, created, or controlled by the government
74 which is used to punish or discourage the exercise of rights
75 protected under this section. For purposes of this section only,
76 the term "rule by an agency" may not be construed to mean any
77 negotiated provision in any insurance contract, network
78 agreement, or other provider agreement contractually limiting
79 copayments, coinsurance, deductibles, or other patient charges.

80 BE IT FURTHER RESOLVED that the following title and
81 statement be placed on the ballot:

82 HEALTH CARE FREEDOM
83 CONSTITUTIONAL AMENDMENT
84 ARTICLE I, SECTION 28

85 HEALTH CARE SERVICES.—Proposing an amendment to the State
86 Constitution to ensure access to health care services without
87 waiting lists, protect the doctor-patient relationship, guard

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88 against mandates that don't work, prohibit laws or rules from
89 compelling any person, employer, or health care provider to
90 participate in any health care system; permit a person or an
91 employer to purchase lawful health care services directly from a
92 health care provider; permit a health care provider to accept
93 direct payment from a person or an employer for lawful health
94 care services; exempt persons, employers, and health care
95 providers from penalties and fines for paying directly or
96 accepting direct payment for lawful health care services; and
97 permit the purchase or sale of health insurance in private
98 health care systems. Specifies that the amendment does not
99 affect which health care services a health care provider is
100 required to perform or provide; affect which health care
101 services are permitted by law; prohibit care provided pursuant
102 to general law relating to workers' compensation; affect laws or
103 rules in effect as of March 1, 2010; affect the terms or
104 conditions of any health care system to the extent that those
105 terms and conditions do not have the effect of punishing a
106 person or an employer for paying directly for lawful health care
107 services or a health care provider for accepting direct payment
108 from a person or an employer for lawful health care services; or
109 affect any general law passed by two-thirds vote of the
110 membership of each house of the Legislature, passed after the
111 effective date of the amendment, provided such law states with
112 specificity the public necessity justifying the exceptions from
113 the provisions of the amendment. The amendment expressly
114 provides that it may not be construed to prohibit negotiated
115 provisions in insurance contracts, network agreements, or other
116 provider agreements contractually limiting copayments,

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117 coinsurance, deductibles, or other patient charges.