

HJR 37

2010

House Joint Resolution

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

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

That the following creation of Section 28 of Article X 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 X

MISCELLANEOUS

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 shall 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 shall 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 shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

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28 (b) Subject to reasonable and necessary rules that do not
 29 substantially limit a person's options, the purchase or sale of
 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 or hospital is required to perform or provide.

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

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

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

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

46 (d) For purposes of this section:

47 (1) "Compel" includes the imposition of penalties or
 48 finances.

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

53 (3) "Health care system" means any public or private
 54 entity whose function or purpose is the management of,
 55 processing of, enrollment of individuals for, or payment, in

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56 full or in part, for health care services, health care data, or
 57 health care information for its participants.

58 (4) "Lawful health care services" means any health-related
 59 service or treatment, to the extent that the service or
 60 treatment is permitted or not prohibited by law or regulation,
 61 that may be provided by persons or businesses otherwise
 62 permitted to offer such services.

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

69 BE IT FURTHER RESOLVED that the following statement be
 70 placed on the ballot:

71 CONSTITUTIONAL AMENDMENT

72 ARTICLE X, SECTION 28

73 HEALTH CARE SERVICES.--Proposing an amendment to the State
 74 Constitution to prohibit laws or rules from compelling any
 75 person, employer, or health care provider to participate in any
 76 health care system; permit a person or employer to purchase
 77 lawful health care services directly from a health care
 78 provider; permit a health care provider to accept direct payment
 79 from a person or employer for lawful health care services;
 80 exempt persons, employers, and health care providers from
 81 penalties and fines for paying or accepting direct payment for
 82 lawful health care services; and permit the purchase or sale of
 83 health insurance in private health care systems. Specifies that

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84 the amendment does not affect which health care services a
85 health care provider or hospital is required to perform or
86 provide; affect which health care services are permitted by law;
87 prohibit care provided pursuant to general law relating to
88 workers' compensation; affect laws or rules in effect as of
89 January 1, 2010; or affect the terms or conditions of any health
90 care system to the extent that those terms and conditions do not
91 have the effect of punishing a person or employer for paying
92 directly for lawful health care services or a health care
93 provider or hospital for accepting direct payment from a person
94 or employer for lawful health care services.