

House 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 following 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

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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 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 March 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 for  
 44 accepting direct payment from a person or employer for lawful  
 45 health care services.

46 (d) For purposes of this section:

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

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  
 56 full or in part, for health care services, health care data, or

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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 which 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 I, 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  
 84 the amendment does not affect which health care services a

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