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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/21/2010 05:32 PM

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Senator Baker moved the following:

Senate Amendment

Delete lines 21 - 92

and insert:

(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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14 health insurance in private health care systems may not be
15 prohibited by law or rule.

16 (c) This section does not:

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

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

20 (3) Prohibit care provided pursuant to general law relating
21 to workers' compensation.

22 (4) Affect laws or rules in effect as of March 1, 2010.

23 (5) Affect the terms or conditions of any health care
24 system to the extent that those terms and conditions do not have
25 the effect of punishing a person or an employer for paying
26 directly for lawful health care services or a health care
27 provider for accepting direct payment from a person or an
28 employer for lawful health care services, except that this
29 section may not be construed to prohibit any negotiated
30 provision in any insurance contract, network agreement, or other
31 provider agreement contractually limiting copayments,
32 coinsurance, deductibles, or other patient charges.

33 (6) Affect any general law passed by a two-thirds vote of
34 the membership of each house of the legislature after the
35 effective date of this section, if the law states with
36 specificity the public necessity that justifies an exception
37 from this section.

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

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

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



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43 service.

44 (3) "Health care system" means any public or private entity
45 whose function or purpose is the management of, processing of,
46 enrollment of individuals for, or payment, in full or in part,
47 for health care services, health care data, or health care
48 information for its participants.

49 (4) "Lawful health care services" means any health-related
50 service or treatment, to the extent that the service or
51 treatment is permitted or not prohibited by law or regulation,
52 which may be provided by persons or businesses otherwise
53 permitted to offer such services.

54 (5) "Penalties or fines" means any civil or criminal
55 penalty or fine, tax, salary or wage withholding or surcharge,
56 or named fee with a similar effect established by law or rule by
57 an agency established, created, or controlled by the government
58 which is used to punish or discourage the exercise of rights
59 protected under this section. For purposes of this section only,
60 the term "rule by an agency" may not be construed to mean any
61 negotiated provision in any insurance contract, network
62 agreement, or other provider agreement contractually limiting
63 copayments, coinsurance, deductibles, or other patient charges.

64 BE IT FURTHER RESOLVED that the following title and
65 statement be placed on the ballot:

66 HEALTH CARE FREEDOM
67 CONSTITUTIONAL AMENDMENT
68 ARTICLE I, SECTION 28

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



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



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101 coinsurance, deductibles, or other patient charges.