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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 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

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29 substantially limit a person's options, the purchase or sale of  
 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  
 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 an employer for paying  
 43 directly for lawful health care services or a health care  
 44 provider for accepting direct payment from a person or an  
 45 employer for lawful health care services, except that this  
 46 section may not be construed to prohibit any negotiated  
 47 provision in any insurance contract, network agreement, or other  
 48 provider agreement contractually limiting copayments,  
 49 coinsurance, deductibles, or other patient charges.

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

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

56 (1) "Compel" includes the imposition of penalties or

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57 finer.

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

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

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

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

82 BE IT FURTHER RESOLVED that the following title and  
 83 statement be placed on the ballot:

84 CONSTITUTIONAL AMENDMENT

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## ARTICLE I, SECTION 28

85  
86 HEALTH CARE SERVICES.—Proposing an amendment to the State  
87 Constitution to prohibit laws or rules from compelling any  
88 person, employer, or health care provider to participate in any  
89 health care system; permit a person or an employer to purchase  
90 lawful health care services directly from a health care  
91 provider; permit a health care provider to accept direct payment  
92 from a person or an employer for lawful health care services;  
93 exempt persons, employers, and health care providers from  
94 penalties and fines for paying directly or accepting direct  
95 payment for lawful health care services; and permit the purchase  
96 or sale of health insurance in private health care systems.  
97 Specifies that the amendment does not affect which health care  
98 services a health care provider is required to perform or  
99 provide; affect which health care services are permitted by law;  
100 prohibit care provided pursuant to general law relating to  
101 workers' compensation; affect laws or rules in effect as of  
102 March 1, 2010; affect the terms or conditions of any health care  
103 system to the extent that those terms and conditions do not have  
104 the effect of punishing a person or an employer for paying  
105 directly for lawful health care services or a health care  
106 provider for accepting direct payment from a person or an  
107 employer for lawful health care services; or affect any general  
108 law passed by two-thirds vote of the membership of each house of  
109 the Legislature, passed after the effective date of the  
110 amendment, provided such law states with specificity the public  
111 necessity justifying the exceptions from the provisions of the  
112 amendment. The amendment expressly provides that it may not be

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113 | construed to prohibit negotiated provisions in insurance  
114 | contracts, network agreements, or other provider agreements  
115 | contractually limiting copayments, coinsurance, deductibles, or  
116 | other patient charges.