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2 A joint resolution proposing the creation of Section  
3 28 of Article I of the State Constitution, relating to  
4 health care services.

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

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8 That the following creation of Section 28 of Article I of  
9 the State Constitution is agreed to and shall be submitted to  
10 the electors of this state for approval or rejection at the next  
11 general election or at an earlier special election specifically  
12 authorized by law for that purpose:

13 ARTICLE I

14 DECLARATION OF RIGHTS

15 SECTION 28. Health care services.-

16 (a) To preserve the freedom of all residents of the state  
17 to provide for their own health care:

18 (1) A law or rule may not compel, directly or indirectly,  
19 any person or employer to purchase, obtain, or otherwise provide  
20 for health care coverage.

21 (2) A person or an employer may pay directly for lawful  
22 health care services and may not be required to pay penalties or  
23 taxes for paying directly for lawful health care services. A  
24 health care provider may accept direct payment for lawful health  
25 care services and may not be required to pay penalties or taxes  
26 for accepting direct payment from a person or an employer for  
27 lawful health care services.

28 (b) The private market for health care coverage of any  
29 lawful health care service may not be abolished by law or rule.

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30 (c) This section does not:

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

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

34 (3) Prohibit care provided pursuant to general law relating  
35 to workers' compensation.

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

37 (5) Affect the terms or conditions of any health care  
38 system to the extent that those terms and conditions do not have  
39 the effect of punishing a person or an employer for paying  
40 directly for lawful health care services or a health care  
41 provider for accepting direct payment from a person or an  
42 employer for lawful health care services, except that this  
43 section may not be construed to prohibit any negotiated  
44 provision in any insurance contract, network agreement, or other  
45 provider agreement contractually limiting copayments,  
46 coinsurance, deductibles, or other patient charges.

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

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

53 (1) "Compel" includes the imposition of penalties or taxes.

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

58 (3) "Health care system" means any public or private entity

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59 whose function or purpose is the management of, processing of,  
60 enrollment of individuals for, or payment, in full or in part,  
61 for health care services, health care data, or health care  
62 information for its participants.

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

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

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

81 CONSTITUTIONAL AMENDMENT

82 ARTICLE I, SECTION 28

83 HEALTH CARE SERVICES.—Proposing an amendment to the State  
84 Constitution to prohibit laws or rules from compelling any  
85 person or employer to purchase, obtain, or otherwise provide for  
86 health care coverage; permit a person or an employer to purchase  
87 lawful health care services directly from a health care

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