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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

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

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 HEALTH CARE FREEDOM

CS/CS/HJR 37

2010

113 | effective date of the amendment, provided such law states with
114 | specificity the public necessity justifying the exceptions from
115 | the provisions of the amendment. The amendment expressly
116 | provides that it may not be construed to prohibit negotiated
117 | provisions in insurance contracts, network agreements, or other
118 | provider agreements contractually limiting copayments,
119 | coinsurance, deductibles, or other patient charges.