

# SENATE JOINT RESOLUTION K

August 27, 2009, Introduced by Senators KUIPERS, CROPSEY and BROWN and referred to the Committee on Health Policy.

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 28 to article I, to provide a right to independent health care.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to provide a right to independent health care, is proposed, agreed to, and submitted to the people of the state:

ARTICLE I

SEC. 28. (1) EVERY PERSON HAS A RIGHT TO PROVIDE FOR HIS OR HER OWN HEALTH CARE.

(2) A FEDERAL LAW OR RULE SHALL NOT COMPEL, DIRECTLY OR

1 INDIRECTLY, ANY PERSON, EMPLOYER, OR HEALTH CARE PROVIDER TO  
2 PARTICIPATE IN ANY HEALTH CARE SYSTEM.

3 (3) A PERSON OR EMPLOYER MAY PAY DIRECTLY FOR LAWFUL HEALTH  
4 CARE SERVICES AND SHALL NOT BE REQUIRED TO PAY PENALTIES OR FINES  
5 FOR PAYING DIRECTLY FOR LAWFUL HEALTH CARE SERVICES. A HEALTH CARE  
6 PROVIDER MAY ACCEPT DIRECT PAYMENT FOR LAWFUL HEALTH CARE SERVICES  
7 PROVIDED AND SHALL NOT BE REQUIRED TO PAY PENALTIES OR FINES FOR  
8 ACCEPTING DIRECT PAYMENT FROM A PERSON OR EMPLOYER FOR LAWFUL  
9 HEALTH CARE SERVICES.

10 (4) SUBJECT TO REASONABLE AND NECESSARY RULES AND LAWS THAT DO  
11 NOT SUBSTANTIALLY LIMIT A PERSON'S OR EMPLOYER'S OPTIONS, THE  
12 PURCHASE OR SALE OF HEALTH INSURANCE OR COVERAGE IN PRIVATE HEALTH  
13 CARE SYSTEMS SHALL NOT BE PROHIBITED BY FEDERAL LAW OR RULE.

14 (5) THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

15 (A) AFFECT WHICH HEALTH CARE SERVICES A HEALTH CARE PROVIDER  
16 IS REQUIRED TO PERFORM OR PROVIDE.

17 (B) AFFECT WHICH HEALTH CARE SERVICES ARE PERMITTED BY LAW.

18 (C) PROHIBIT CARE PROVIDED PURSUANT TO, OR PROHIBIT  
19 PARTICIPATION UNDER, WORKER'S COMPENSATION LAW OR AUTOMOBILE NO-  
20 FAULT LAW.

21 (D) AFFECT LAWS OR RULES IN EFFECT AS OF JANUARY 1, 2009.

22 (E) AFFECT THE TERMS OR CONDITIONS OF ANY HEALTH CARE SYSTEM  
23 TO THE EXTENT THAT THOSE TERMS AND CONDITIONS DO NOT HAVE THE  
24 EFFECT OF PUNISHING A PERSON OR EMPLOYER FOR PAYING DIRECTLY FOR  
25 LAWFUL HEALTH CARE SERVICES OR A HEALTH CARE PROVIDER FOR ACCEPTING  
26 DIRECT PAYMENT FROM A PERSON OR EMPLOYER FOR LAWFUL HEALTH CARE  
27 SERVICES.

1 (6) AS USED IN THIS SECTION:

2 (A) "COMPEL" INCLUDES PENALTIES OR FINES.

3 (B) "DIRECT PAYMENT" AND "PAY DIRECTLY" MEAN PAYMENT FOR  
4 LAWFUL HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD  
5 PARTY, NOT INCLUDING AN EMPLOYER, PAYING FOR ANY PORTION OF THE  
6 SERVICE.

7 (C) "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY  
8 WHOSE FUNCTION OR PURPOSE IS THE MANAGEMENT OF, PROCESSING OF,  
9 ENROLLMENT OF INDIVIDUALS FOR, OR PAYMENT FOR, IN FULL OR PART,  
10 HEALTH CARE SERVICES, HEALTH CARE DATA, OR HEALTH CARE INFORMATION  
11 FOR ITS PARTICIPANTS.

12 (D) "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED  
13 SERVICE OR TREATMENT, TO THE EXTENT THAT THE SERVICE OR TREATMENT  
14 IS PERMITTED OR NOT PROHIBITED BY LAW, RULE, OR REGULATION, THAT  
15 MAY BE PROVIDED BY PERSONS OR BUSINESSES OTHERWISE PERMITTED TO  
16 OFFER THOSE SERVICES OR TREATMENTS.

17 (E) "PENALTIES OR FINES" MEANS ANY CRIMINAL OR CIVIL PENALTY,  
18 FINE, TAX, SALARY OR WAGE WITHHOLDING, SURCHARGE, OR ANY NAMED FEE  
19 WITH A SIMILAR EFFECT ESTABLISHED BY LAW OR RULE BY A GOVERNMENT-  
20 ESTABLISHED, -CREATED, OR -CONTROLLED AGENCY, THAT IS USED TO  
21 PUNISH OR DISCOURAGE THE EXERCISE OF RIGHTS PROTECTED UNDER THIS  
22 SECTION.

23 Resolved further, That the foregoing amendment shall be  
24 submitted to the people of the state at the next general election  
25 in the manner provided by law.