

SENATE JOINT RESOLUTION R

January 27, 2010, Introduced by Senator PATTERSON 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 affirm 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 affirm a right to independent health care, is proposed, agreed to, and submitted to the people of the state:

ARTICLE I

SEC. 28. (1) TO PRESERVE THE FREEDOM FOR CITIZENS OF THIS STATE TO PROVIDE FOR THEIR HEALTH CARE, NO LAW OR RULE SHALL COMPEL, DIRECTLY OR INDIRECTLY OR THROUGH PENALTIES OR FINES, ANY PERSON, EMPLOYER, OR HEALTH CARE PROVIDER TO PARTICIPATE IN ANY HEALTH CARE SYSTEM. A PERSON OR EMPLOYER MAY PAY DIRECTLY FOR

1 LAWFUL HEALTH CARE SERVICES AND SHALL NOT BE REQUIRED TO PAY
2 PENALTIES OR FINES FOR PAYING DIRECTLY FOR LAWFUL HEALTH CARE
3 SERVICES. A HEALTH CARE PROVIDER MAY ACCEPT DIRECT PAYMENT FOR
4 LAWFUL HEALTH CARE SERVICES AND SHALL NOT BE REQUIRED TO PAY
5 PENALTIES OR FINES FOR ACCEPTING DIRECT PAYMENT FROM A PERSON OR
6 EMPLOYER FOR LAWFUL HEALTH CARE SERVICES. SUBJECT TO REASONABLE AND
7 NECESSARY LAWS AND RULES THAT DO NOT SUBSTANTIALLY LIMIT A PERSON'S
8 OPTIONS, THE PURCHASE OR SALE OF HEALTH INSURANCE OR HEALTH
9 COVERAGE IN PRIVATE HEALTH CARE SYSTEMS SHALL NOT BE PROHIBITED BY
10 LAW OR RULE.

11 (2) THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

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

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

15 (C) PROHIBIT CARE PROVIDED PURSUANT TO, OR PROHIBIT
16 PARTICIPATION UNDER, THE WORKER'S COMPENSATION LAW OR AUTOMOBILE
17 NO-FAULT LAW.

18 (D) AFFECT LAWS OR RULES IN EFFECT AS OF JANUARY 1, 2010.

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

25 (3) AS USED IN THIS SECTION:

26 (A) "DIRECT PAYMENT" AND "PAY DIRECTLY" MEAN PAYMENT FOR
27 LAWFUL HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD

1 PARTY, NOT INCLUDING AN EMPLOYER, PAYING FOR ANY PORTION OF THE
2 SERVICE.

3 (B) "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY
4 WHOSE FUNCTION OR PURPOSE IS THE MANAGEMENT OF, PROCESSING OF,
5 ENROLLMENT OF INDIVIDUALS FOR, OR PAYMENT FOR, IN FULL OR PART,
6 HEALTH CARE SERVICES OR HEALTH CARE INFORMATION FOR ITS
7 PARTICIPANTS.

8 (C) "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED
9 SERVICE OR TREATMENT, TO THE EXTENT THAT THE SERVICE OR TREATMENT
10 IS PERMITTED OR NOT PROHIBITED BY LAW, RULE, OR REGULATION, THAT
11 MAY BE PROVIDED BY PERSONS OR BUSINESSES OTHERWISE PERMITTED TO
12 OFFER THOSE SERVICES OR TREATMENTS.

13 (D) "PENALTIES OR FINES" MEANS ANY CRIMINAL OR CIVIL PENALTY,
14 FINE, TAX, SALARY OR WAGE WITHHOLDING, SURCHARGE, OR ANY NAMED FEE
15 WITH A SIMILAR EFFECT ESTABLISHED BY LAW OR RULE, THAT IS USED TO
16 PUNISH OR DISCOURAGE THE EXERCISE OF RIGHTS PROTECTED UNDER THIS
17 SECTION.

18 (E) "RULE" MEANS A RULE ESTABLISHED BY A GOVERNMENT-
19 ESTABLISHED, -CREATED, OR -CONTROLLED AGENCY.

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