

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE JOINT
4 RESOLUTION 59

By: Newberry

5
6 AS INTRODUCED

7 A Joint Resolution directing the Secretary of State
8 to refer to the people for their approval or
9 rejection a proposed amendment to the Oklahoma
10 Constitution by adding a new section to Article II to
11 be designated as Section 376; defining terms;
12 prohibiting laws or rules that compel entities to
13 participate in any health care system; permitting
14 persons and employers to pay directly for health care
15 services; permitting health care providers to accept
16 direct payment for health care services; making it
17 illegal to prohibit the purchase or sale of health
18 insurance in private health care systems; clarifying
19 scope of language; providing ballot title; and
20 directing filing.

21 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
22 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

23 SECTION 1. The Secretary of State shall refer to the people for
24 their approval or rejection, as and in the manner provided by law,
the following proposed amendment to Article II of the Oklahoma
Constitution by adding a new Section 37 to read as follows:

Section 37. A. For purposes of this section:

1. "Compel" shall include penalties or fines;

1 2. "Direct payment or pay directly" means payment for lawful
2 health care services without a public or private third party, not
3 including an employer, paying for any portion of the service;

4 3. "Health care system" means any public or private entity
5 whose function or purpose is the management of, processing of,
6 enrollment of individuals for or payment for, in full or in part,
7 health care services or health care data or health care information
8 for its participants;

9 4. "Lawful health care services" means any health-related
10 service or treatment to the extent that the service or treatment is
11 permitted or not prohibited by law or regulation that may be
12 provided by persons or businesses otherwise permitted to offer such
13 services; and

14 5. "Penalties or fines" means any civil or criminal penalty or
15 fine, tax, salary or wage withholding or surcharge or any named fee
16 with a similar effect established by law or rule by a government-
17 established, -created or -controlled agency that is used to punish
18 or discourage the exercise of rights protected under this section.

19 B. To preserve the freedom of Oklahomans to provide for their
20 health care:

21 1. A law or rule shall not compel, directly or indirectly, any
22 person, employer or health care provider to participate in any
23 health care system; and

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1 2. A person or employer may pay directly for lawful health care
2 services and shall not be required to pay penalties or fines for
3 paying directly for lawful health care services. A health care
4 provider may accept direct payment for lawful health care services
5 and shall not be required to pay penalties or fines for accepting
6 direct payment from a person or employer for lawful health care
7 services.

8 C. Subject to reasonable and necessary rules that do not
9 substantially limit a person's options, the purchase or sale of
10 health insurance in private health care systems shall not be
11 prohibited by law or rule.

12 D. This section shall not:

- 13 1. Affect which health care services a health care provider or
14 hospital is required to perform or provide;
- 15 2. Affect which health care services are permitted by law;
- 16 3. Prohibit care related to workers' compensation;
- 17 4. Affect laws or rules in effect as of January 1, 2010; or
- 18 5. Affect the terms or conditions of any health care system to
19 the extent that those terms and conditions do not have the effect of
20 punishing a person or employer for paying directly for lawful health
21 care services or a health care provider or hospital for accepting
22 direct payment from a person or employer for lawful health care
23 services.

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1 SECTION 2. The Ballot Title for the proposed Constitutional
2 amendment as set forth in SECTION 1 of this resolution shall be in
3 the following form:

4 BALLOT TITLE

5 Legislative Referendum No. _____ State Question No. _____

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 This measure adds a new section of law to the State
8 Constitution. It adds Section 37 to Article 2. It prohibits
9 making a person use a health care system. It prohibits making
10 an employer use a health care system. It prohibits making a
11 health care provider provide treatment in a health care system.
12 It allows a person to pay for treatment directly. It allows an
13 employer to pay for treatment directly. It allows a health care
14 provider to accept payment for treatment directly. It allows
15 the purchase of health insurance in private health care systems.
16 It allows the sale of health insurance in private health care
17 systems.

18 SHALL THE PROPOSAL BE APPROVED?

19 FOR THE PROPOSAL - YES _____

20 AGAINST THE PROPOSAL - NO _____

21 SECTION 3. The President Pro Tempore of the Senate shall,
22 immediately after the passage of this resolution, prepare and file
23 one copy thereof, including the Ballot Title set forth in SECTION 2

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1 hereof, with the Secretary of State and one copy with the Attorney
2 General.

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