

As Introduced

128th General Assembly
Regular Session
2009-2010

H. J. R. No. 3

Representatives Maag, Sears

Cosponsors: Representatives Adams, J., Adams, R., Amstutz, Bacon, Baker, Balderson, Batchelder, Blair, Blessing, Boose, Bulp, Burke, Combs, Daniels, Derickson, Evans, Goodwin, Hackett, Hall, Hite, Hottinger, Huffman, Jordan, Lehner, Martin, Mecklenborg, McClain, Morgan, Ruhl, Snitchler, Stautberg, Stebelton, Uecker, Wachtmann, Wagner, Zehringer

JOINT RESOLUTION

Proposing to enact Section 43 of Article II of the
Constitution of the State of Ohio to prohibit a
law or rule from compelling a person, employer, or
health care provider to participate in a health
care system.

Be it resolved by the General Assembly of the State of Ohio,
three-fifths of the members elected to each house concurring
herein, that there shall be submitted to the electors of the
state, in the manner prescribed by law at the general election to
be held February 2, 2010, a proposal to enact Section 43 of
Article II of the Constitution of the State of Ohio to read as
follows:

ARTICLE II

Section 43. (A) To preserve the freedom of Ohioans to provide
for their health care:

(1) A law or rule shall not compel, directly or indirectly,

any person, employer, or health care provider to participate in 16
any health care system. 17

(2) A person or employer may pay directly for lawful health 18
care services and shall not be required to pay penalties or fines 19
for paying directly for lawful health care services. A health care 20
provider may accept direct payment for lawful health care services 21
and shall not be required to pay penalties or fines for accepting 22
direct payment from a person or employer for lawful health care 23
services. 24

(B) Subject to reasonable and necessary rules that do not 25
substantially limit a person's options, the purchase or sale of 26
health insurance in private health care systems shall not be 27
prohibited by law or rule. 28

(C) This section does not: 29

(1) Affect which health care services a health care provider 30
or hospital is required to perform or provide; 31

(2) Affect which health care services are permitted by law; 32

(3) Prohibit care provided through any statutes enacted by 33
the General Assembly relating to workers' compensation; 34

(4) Affect laws or rules in effect as of January 1, 2009; 35

(5) Affect the terms or conditions of any health care system 36
to the extent that those terms and conditions do not have the 37
effect of punishing a person or employer for paying directly for 38
lawful health care services or a health care provider or hospital 39
for accepting direct payment from a person or employer for lawful 40
health care services. 41

(D) As used in this section: 42

(1) "Compel" includes penalties or fines. 43

(2) "Direct payment" or "pay directly" means payment for 44
lawful health care services without a public or private third 45

party, not including an employer, paying for any portion of the 46
service. 47

(3) "Health care system" means any public or private entity 48
whose function or purpose is the management of, processing of, 49
enrollment of individuals for or payment for, in full or in part, 50
health care services or health care data or health care 51
information for its participants. 52

(4) "Lawful health care services" means any health-related 53
service or treatment to the extent that the service or treatment 54
is permitted or not prohibited by law or rules that may be 55
provided by persons or businesses otherwise permitted to offer 56
such services. 57

(5) "Penalties or fines" means any civil or criminal penalty 58
or fine, tax, salary or wage withholding or surcharge, or any 59
named fee with a similar effect established by law or rule by a 60
government-established, -created, or -controlled agency that is 61
used to punish or discourage the exercise of rights protected 62
under this section. 63

EFFECTIVE DATE 64

If adopted by a majority of the electors voting on this 65
proposal at the general election held February 2, 2010, Section 43 66
of Article II of the Constitution of the State of Ohio shall take 67
effect immediately. 68