

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS55516-LBx-299A (01/26)

Short Title: 10th Amendment/Health Reform.

(Public)

Sponsors: Senator Forrester.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA RELATING TO  
3 HEALTH CARE SERVICES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 14 of the North Carolina Constitution is amended by adding  
6 the following new section:

7 "Sec. 6. Health Care Services.

8 (1) To preserve the right of North Carolinians to provide for their health care:

9 (a) A law or rule shall not compel, directly or indirectly, any person, employer,  
10 or health care provider to participate in any health care system.

11 (b) A person or employer may pay directly for lawful health care services and  
12 shall not be required to pay penalties or fines for paying directly for lawful  
13 health care services. A health care provider may accept direct payment for  
14 lawful health care services and shall not be required to pay penalties or fines  
15 for accepting direct payment from a person or employer for lawful health  
16 care services.

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

20 (3) This section does not:

21 (a) Affect which health care services a health care provider or hospital is  
22 required to perform or provide.

23 (b) Affect which health care services are permitted by law.

24 (c) Prohibit care provided pursuant to laws relating to workers' compensation.

25 (d) Affect laws or rules in effect as of January 1, 2010.

26 (e) Affect the terms or conditions of any health care system to the extent that  
27 those terms and conditions do not have the effect of punishing a person or  
28 employer for paying directly for lawful health care services or a health care  
29 provider or hospital for accepting direct payment from a person or employer  
30 for lawful health care services.

31 (4) For the purposes of this section:

32 (a) "Compel" includes penalties or fines.

33 (b) "Direct payment or pay directly" means payment for lawful health care  
34 services without a public or private third party, not including an employer,  
35 paying for any portion of the service.



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- 1 (c) "Health care system" means any public or private entity whose function or  
2 purpose is the management of, processing of, enrollment of individuals for  
3 or payment for, in full or in part, health care services or health care data or  
4 health care information for its participants.
- 5 (d) "Lawful health care services" means any health-related service or treatment  
6 to the extent that the service or treatment is permitted or not prohibited by  
7 law or regulation that may be provided by persons or businesses otherwise  
8 permitted to offer such services.
- 9 (e) "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or  
10 wage withholding, or surcharge or any named fee with a similar effect  
11 established by law or rule by a government-established, -created, or  
12 -controlled agency that is used to punish or discourage the exercise of rights  
13 protected under this section."

14 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to  
15 the qualified voters of the State at an election on November 2, 2010, which election shall be  
16 conducted under the laws then governing elections in the State. Ballots, voting systems, or both  
17 may be used in accordance with Chapter 163 of the General Statutes. The question to be used in  
18 the voting systems and ballots shall be:

19  FOR  AGAINST

20 Constitutional Amendment on Health Reform."

21 **SECTION 3.** If a majority of votes cast on the question are in favor of the  
22 amendment set out in Section 1 of this act, the State Board of Elections shall certify the  
23 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so  
24 certified among the permanent records of that office.

25 **SECTION 4.** The amendment set out in Section 1 of this act becomes effective  
26 upon its certification.