

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 2
Committee Substitute Favorable 1/31/11
Third Edition Engrossed 2/2/11
PROPOSED SENATE COMMITTEE SUBSTITUTE H2-PCS80020-RK-4

Short Title: Protect Health Care Freedom.

(Public)

Sponsors:

Referred to:

January 27, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH
3 INSURANCE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 58 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 49A.

8 "North Carolina Health Care Protection Act.

9 "**§ 58-49A-1. Constraints on health care freedom prohibited.**

10 (a) A law or rule shall not do any of the following:

11 (1) Compel a person to (i) provide for health care services or medical treatment
12 for that person or (ii) contract with, or enroll in, a public or private health
13 care system or health insurance plan.

14 (2) Interfere with a person's right to pay directly for lawful health care services
15 or medical treatment to preserve or enhance that person's life or health.

16 (3) Impose a penalty, tax, fee, or fine on a person for (i) providing for, or failing
17 to provide for, health care services or medical treatment for that person or
18 (ii) contracting with, or enrolling in, or failing to contract with or enroll in, a
19 public or private health care system or health insurance plan.

20 As used in this subsection, health care services or medical treatments do not include drug
21 testing, drug screening, or communicable disease controls. This subsection does not apply to
22 persons in custody of the Department of Correction or a local confinement facility or who have
23 not completed all requirements imposed as the result of a sentence in a criminal conviction,
24 including, but not limited to, any type of probation, parole, or post-release supervision.

25 (b) This section shall not be construed to expand, limit, or otherwise modify any of the
26 following:

27 (1) The common-law doctrine of necessities that a spouse is liable for the
28 necessary expenses incurred by the other spouse, including expenses
29 incurred by medical necessity, or any other duty a person owes to a spouse
30 or dependent with respect to the provision of health care services or medical
31 treatment.



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- 1 (2) Any law regarding which health care services or medical treatments are
2 lawful within this State or who is authorized to provide health care services
3 or medical treatments within this State.
- 4 (3) Any right or duty of a health care agent with respect to the principal pursuant
5 to a health care power of attorney executed in accordance with Article 3 of
6 Chapter 32A of the General Statutes.
- 7 (4) Any law regarding the right or duty of a parent or guardian in the
8 determination or provision of health care services or medical treatment for a
9 minor.
- 10 (5) Any law regarding the screening of newborns for metabolic or other
11 hereditary and congenital disorders, examination and testing of a child for
12 lead poisoning under G.S. 130A-131.9, and health assessments for children
13 entering Kindergarten in the public schools as required in G.S. 130A-440.
- 14 (6) Any law regarding health care services or medical treatments ordered under
15 the Workers' Compensation Act.
- 16 (7) Any law regarding health care services or medical treatment regarding
17 involuntary commitments for mental illness or substance abuse.
- 18 (8) The physical and mental examination of a party ordered by a judge in a civil
19 action pursuant to Rule 45 of the Rules of Civil Procedure, blood or genetic
20 testing to establish paternity pursuant to G.S. 8-50.1 and G.S. 110-132.2, and
21 the taking of DNA or any other biological evidence in accordance with
22 Chapter 15A of the North Carolina General Statutes.
- 23 (9) Any law requiring the provision of health insurance for employees as a
24 condition of receiving State economic incentives.
- 25 (10) Any law regarding the examination and testing of persons to determine
26 possible exposure to nuclear, biological, or chemical agents caused by a
27 terrorist incident, as provided in Article 22 of Chapter 130A of the North
28 Carolina General Statutes.
- 29 (c) An individual aggrieved by a violation of this section has standing to bring a private
30 right of action for the violation. In addition, the Attorney General shall have the duty and
31 standing to bring or defend a State or federal action or proceeding on behalf of the residents of
32 this State to enforce the provisions of this section. Any funds required by the Office of the
33 Attorney General to fulfill the responsibilities under this subsection shall be provided by the
34 Department of Justice from other funds appropriated to the Department and from other grants
35 or funding that are available from other sources."

36 **SECTION 2.** This act is effective when it becomes law.