

HOUSE BILL 880

J1
HB 603/10 – HGO

CONSTITUTIONAL AMENDMENT

11r0406

By: **The Minority Leader and Delegates Smigiel, Afzali, Aumann, Bates, Beitzel, Boteler, Cluster, Costa, Dwyer, Eckardt, Elliott, Fisher, Frank, George, Glass, Haddaway–Riccio, Hershey, Hogan, Hough, Impallaria, Jacobs, Kach, Kipke, Krebs, McComas, McConkey, McDermott, McDonough, McMillan, W. Miller, Myers, Norman, O’Donnell, Otto, Parrott, Ready, Schuh, Schulz, Serafini, Stifler, Stocksdale, Szeliga, and Vitale**

Introduced and read first time: February 11, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Freedom Act of 2011**

3 FOR the purpose of adding a new article to the Maryland Constitution to enact limits
4 on the regulation of health care in the State; prohibiting a law from compelling
5 certain persons to participate in a health care system; prohibiting certain
6 persons from being required to pay penalties or fines for not participating in any
7 health care system; authorizing certain persons to pay directly for certain
8 health care services; authorizing a health care provider to accept direct payment
9 for certain health care services; prohibiting certain persons from being required
10 to pay penalties or fines under certain circumstances; specifying that the
11 purchase or sale of certain health insurance may not be prohibited by law;
12 specifying that this Act does not affect which health care services a health care
13 provider is required to perform or provide, which health care services are
14 authorized or not prohibited by law, or the terms and conditions of any health
15 care system under certain circumstances; specifying that this Act does not
16 prohibit health care provided under any law relating to workers’ compensation;
17 defining certain terms; and submitting this amendment to the qualified voters
18 of the State for their adoption or rejection.

19 BY proposing an addition to the Maryland Constitution
20 New Article XX – Regulation of Health Care
21 Section 1

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
3 concurring), That it be proposed that the Maryland Constitution read as follows:

4 **ARTICLE XX – REGULATION OF HEALTH CARE**

5 **1.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “DIRECT PAYMENT” MEANS PAYMENT FOR LAWFUL HEALTH
9 CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, OTHER THAN AN
10 EMPLOYER, PAYING FOR ANY PORTION OF THE LAWFUL HEALTH CARE
11 SERVICES.

12 (3) “HEALTH CARE PROVIDER” MEANS ANY PERSON, INCLUDING
13 A PHYSICIAN OR HOSPITAL, THAT IS LICENSED OR OTHERWISE AUTHORIZED TO
14 PROVIDE LAWFUL HEALTH CARE SERVICES IN THE STATE.

15 (4) “LAWFUL HEALTH CARE SERVICES” MEANS ANY
16 HEALTH-RELATED SERVICE OR TREATMENT TO THE EXTENT THE SERVICE OR
17 TREATMENT IS AUTHORIZED OR NOT PROHIBITED BY LAW TO BE PROVIDED BY
18 PERSONS AUTHORIZED TO OFFER THE SERVICE OR TREATMENT.

19 (5) “PAY DIRECTLY” MEANS PAYING FOR LAWFUL HEALTH CARE
20 SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, OTHER THAN AN
21 EMPLOYER, PAYING FOR ANY PORTION OF THE LAWFUL HEALTH CARE
22 SERVICES.

23 (B) TO PRESERVE THE FREEDOM OF MARYLANDERS TO PROVIDE FOR
24 THEIR HEALTH CARE:

25 (1) A LAW MAY NOT COMPEL, DIRECTLY OR INDIRECTLY, ANY
26 INDIVIDUAL, EMPLOYER, OR HEALTH CARE PROVIDER TO PARTICIPATE IN ANY
27 HEALTH CARE SYSTEM;

28 (2) AN INDIVIDUAL, AN EMPLOYER, OR A HEALTH CARE
29 PROVIDER MAY NOT BE REQUIRED TO PAY PENALTIES OR FINES FOR NOT
30 PARTICIPATING IN ANY HEALTH CARE SYSTEM;

31 (3) AN INDIVIDUAL OR EMPLOYER MAY PAY DIRECTLY FOR
32 LAWFUL HEALTH CARE SERVICES AND MAY NOT BE REQUIRED TO PAY

1 PENALTIES OR FINES FOR PAYING DIRECTLY FOR LAWFUL HEALTH CARE
2 SERVICES; AND

3 (4) A HEALTH CARE PROVIDER MAY ACCEPT DIRECT PAYMENT
4 FOR LAWFUL HEALTH CARE SERVICES AND MAY NOT BE REQUIRED TO PAY
5 PENALTIES OR FINES FOR ACCEPTING DIRECT PAYMENT FROM AN INDIVIDUAL
6 OR EMPLOYER FOR LAWFUL HEALTH CARE SERVICES.

7 (C) SUBJECT TO REASONABLE AND NECESSARY LAWS THAT DO NOT
8 SUBSTANTIALLY LIMIT AN INDIVIDUAL'S HEALTH CARE OPTIONS, THE
9 PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE HEALTH CARE SYSTEMS
10 MAY NOT BE PROHIBITED BY LAW.

11 (D) THIS SECTION DOES NOT:

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

14 (2) AFFECT WHICH HEALTH CARE SERVICES ARE AUTHORIZED OR
15 NOT PROHIBITED BY LAW;

16 (3) PROHIBIT HEALTH CARE PROVIDED UNDER ANY LAW
17 RELATING TO WORKERS' COMPENSATION; OR

18 (4) AFFECT THE TERMS OR CONDITIONS OF ANY HEALTH CARE
19 SYSTEM TO THE EXTENT THAT THOSE TERMS AND CONDITIONS DO NOT HAVE
20 THE EFFECT OF PENALIZING:

21 (I) AN INDIVIDUAL OR EMPLOYER FOR PAYING DIRECTLY
22 FOR LAWFUL HEALTH CARE SERVICES; OR

23 (II) A HEALTH CARE PROVIDER FOR ACCEPTING DIRECT
24 PAYMENT FROM AN INDIVIDUAL OR EMPLOYER FOR LAWFUL HEALTH CARE
25 SERVICES.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
27 determines that the amendment to the Maryland Constitution proposed by this Act
28 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
29 Maryland Constitution concerning local approval of constitutional amendments do not
30 apply.

31 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
32 proposed as an amendment to the Maryland Constitution shall be submitted to the
33 qualified voters of the State at the next general election to be held in November, 2012
34 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.

1 At that general election, the vote on this proposed amendment to the Constitution
2 shall be by ballot, and upon each ballot there shall be printed the words “For the
3 Constitutional Amendment” and “Against the Constitutional Amendment,” as now
4 provided by law. Immediately after the election, all returns shall be made to the
5 Governor of the vote for and against the proposed amendment, as directed by Article
6 XIV of the Maryland Constitution, and further proceedings had in accordance with
7 Article XIV.