

HOUSE BILL NO. HB0035

Health Care Choice and Protection Act.

Sponsored by: Representative(s) Brechtel, Burkhardt, Edmonds, Gay, Jaggi, Kroeker, Peasley, Quarberg, Semlek and Teeters and Senator(s) Jennings, Meier and Nutting

A BILL

for

1 AN ACT relating to a Health Care Choice and Protection Act;
2 establishing the Health Care Choice and Protection Act;
3 providing that enforcement of specified federal laws in
4 Wyoming is a criminal offense and prescribing penalties;
5 authorizing the attorney general to defend specified
6 actions and prescribing optional legal remedies; providing
7 legislative findings and declarations; and providing for an
8 effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 6-5-401 through 6-5-406 are created
13 to read:

14

15

ARTICLE 4

1 HEALTH CARE CHOICE AND PROTECTION ACT

2

3 **6-5-401. Short title; applicability.**

4

5 (a) This act shall be known and may be cited as the
6 "Health Care Choice and Protection Act."

7

8 (b) This act shall apply to a person's right to
9 choose or decline to choose any mode of securing health
10 care services without risk of penalty or threat of penalty.

11

12 **6-5-402. Definitions.**

13

14 (a) As used in this act:

15

16 (i) "Borders of Wyoming" means the boundaries of
17 Wyoming as described in Section 2 of the Act of Admission
18 of the state of Wyoming, 26 United States Statutes at
19 Large, 222, chapter 664;

20

21 (ii) "Health care services" shall mean any
22 service, treatment or provision of product for the care of
23 physical or mental disease, illness, injury, defect or
24 condition, or to otherwise maintain or improve physical or

1 mental health, subject to all laws and rules regulating
2 health service providers and products within the state of
3 Wyoming;

4
5 (iii) "Mode of securing" shall mean to purchase
6 directly or on credit or by trade, or to contract for
7 third-party payment by insurance or other legal means
8 authorized by the state of Wyoming, or to apply for or
9 accept employer or government sponsored health care
10 benefits under such conditions as may legally be required
11 as a condition of such benefits, or any combination of the
12 same;

13
14 (iv) "Penalty" shall mean any civil or criminal
15 fine, tax, salary or wage withholding, surcharge, fee or
16 any other imposed consequence established by law or rule of
17 a government or its subdivision or agency that is used to
18 punish or discourage the exercise of rights protected under
19 this chapter;

20
21 (v) "This act" means W.S. 6-5-401 through
22 6-5-406.

23

1 **6-5-403. Legislative findings and declaration of**
2 **authority.**

3

4 (a) The legislature declares that the authority for
5 W.S. 6-5-401 through 6-5-406 is the following:

6

7 (i) The Wyoming legislature declares that the
8 federal laws known as the "Patient Protection and
9 Affordable Care Act," Public Law 111-148, and the "Health
10 Care and Education Reconciliation Act of 2010," Public Law
11 111-152, are not authorized by the constitution of the
12 United States and violate its meaning, intent and
13 principles as given by the ratifiers, and are hereby
14 declared to be invalid in the state, shall not be
15 recognized by this state, are specifically rejected by this
16 state and shall be considered null and void and of no
17 effect in this state;

18

19 (ii) It is the sworn or affirmed duty of the
20 Wyoming legislature to protect and defend the constitution
21 of Wyoming and the United States Constitution and in doing
22 so adopt and enact any and all measures as may be necessary
23 within the borders of Wyoming to prevent the enforcement of

1 the Patient Protection and Affordable Care Act and the
2 Health Care and Education Reconciliation Act of 2010;

3

4 (iii) The tenth amendment to the United States
5 Constitution guarantees to the states and their people all
6 powers not granted to the federal government elsewhere in
7 the constitution and reserves to the state and the people
8 of Wyoming certain powers as they were understood at the
9 time that Wyoming was admitted to statehood in 1890. The
10 guaranty of those powers is a matter of contract between
11 the state and people of Wyoming and the several states
12 comprising the United States as of the time the Act of
13 Admission was agreed upon and adopted by Wyoming and the
14 several states comprising the United States in 1889;

15

16 (iv) The ninth amendment to the United States
17 Constitution guarantees to the people rights not granted in
18 the constitution and reserves to the people of Wyoming
19 certain rights, as they were understood at the time Wyoming
20 was admitted to statehood in 1890. The guaranty of those
21 rights is a matter of contract between the state and people
22 of Wyoming and the several states comprising the United
23 States as of the time the Act of Admission was agreed upon
24 and adopted by Wyoming and the United States in 1889;

1

2 (v) Article 1, section 1, of the Wyoming
3 constitution provides that all power is inherent in the
4 people, and all free governments are founded on their
5 authority, and instituted for their peace, safety and
6 happiness; for all the advancement of these ends they have
7 at all times an inalienable and indefeasible right to
8 alter, reform or abolish the government in such manner as
9 they may think proper;

10

11 (vi) Article 1, section 7, of the Wyoming
12 constitution provides that absolute, arbitrary power over
13 the lives, liberty and property of freemen exists nowhere
14 in a republic, not even in the largest majority;

15

16 (vii) Article 1, sections 1 and 7, of the
17 Wyoming constitution clearly provide that the people of the
18 state have the sole and exclusive right of governing
19 themselves as a free, sovereign and independent state, and
20 do so and forever hereafter shall exercise and enjoy every
21 power, jurisdiction and right, pertaining thereto, which is
22 not, or may not hereafter be, by them expressly delegated
23 to the United States of America;

24

1 (viii) The declaration of independence clearly
2 provides that government derives its power directly from
3 the consent of the governed and Wyoming affirms the
4 language of the second paragraph of the declaration of
5 independence which states "We hold these truths to be self-
6 evident, that all men are created equal, that they are
7 endowed by the Creator with certain inalienable Rights,
8 that among these are Life, Liberty and the pursuit of
9 Happiness. That to secure these rights, Governments are
10 instituted among Men, deriving their just powers from the
11 consent of the governed..."

12

13 **6-5-404. Enforcement of federal laws prohibited;**
14 **offenses and penalties.**

15

16 (a) Any official, agent, employee or public servant
17 of the state of Wyoming as defined in W.S. 6-5-101, who
18 enforces or attempts to enforce an act, order, law,
19 statute, rule or regulation of the government of the United
20 States in violation of this article shall be guilty of a
21 felony punishable by a fine of not more than five thousand
22 dollars (\$5,000.00), imprisonment in the county jail for
23 not more than two (2) years, or both.

24

1 (b) Any official, agent or employee of the United
2 States government or any employee of a corporation
3 providing services to the United States government that
4 enforces or attempts to enforce an act, order, law,
5 statute, rule or regulation of the government of the United
6 States in violation of this article shall be guilty of a
7 felony punishable by imprisonment for not more than five
8 (5) years, a fine of not more than five thousand dollars
9 (\$5,000.00), or both.

10

11 **6-5-405. Defense of Wyoming citizens; private right**
12 **of action.**

13

14 (a) The attorney general shall defend a citizen of
15 Wyoming who is prosecuted by the United States government
16 or agents for violation of the Patient Protection and
17 Affordable Care Act or the Health Care and Education
18 Reconciliation Act of 2010.

19

20 (b) If, upon request to do so by any seated Wyoming
21 legislator or any twenty-five (25) electors, by signing a
22 petition of request, the attorney general of Wyoming fails
23 to bring a prosecution of the persons alleged to have
24 violated this section within sixty (60) days of the

1 request, any attorney admitted to practice in Wyoming may
2 bring such prosecution, at the expense of the state of
3 Wyoming, as if that attorney were the attorney general of
4 Wyoming.

5

6 (c) In addition to any other remedies, a person
7 suffering pecuniary loss because of a violation by another
8 person of this article may bring an action in any court of
9 competent jurisdiction and shall be entitled to recover all
10 of the following:

11

12 (i) The greater of five thousand dollars
13 (\$5,000.00) or twice the amount of the pecuniary loss;

14

15 (ii) All costs and reasonable attorney fees.

16

17 **6-5-406. Protection of health care choice.**

18

19 (a) It is affirmed by the Wyoming legislature, being
20 consistent with the constitutionally protected inalienable
21 rights and liberty of the people, that every person within
22 the borders of Wyoming is and shall be free to choose or
23 decline to choose any mode of securing health care services
24 without penalty or threat of penalty.

1

2 (b) No law shall restrict a person's natural right
3 and power of contract to secure the blessings of liberty to
4 choose private health care systems or private plans. No law
5 shall interfere with the right of a person or entity to pay
6 for lawful medical services to preserve life or health, nor
7 shall any law impose a penalty, tax, fee or fine, of any
8 type, to decline or to contract for health care coverage or
9 to participate in any particular health care system or
10 plan, except as required by a court where an individual or
11 entity is a named party in a judicial dispute. Nothing
12 herein shall be construed to expand, limit or otherwise
13 modify any determination of law regarding what constitutes
14 lawful medical services within the state of Wyoming.

15

16 **Section 2.** This act is effective immediately upon
17 completion of all acts necessary for a bill to become law
18 as provided by Article 4, Section 8 of the Wyoming
19 Constitution.

20

21

(END)