

2020 Arizona Revised Statutes

Title 36 - Public Health and Safety

§ 36-1301 Health care services; constitutional freedom of choice; public policy; definitions

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36-1301. Health care services; constitutional freedom of choice; public policy; definitions

A. The power to require or regulate a person's choice in the mode of securing lawful health care services, or to impose a penalty related to that choice, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the tenth amendment. This state exercises its sovereign power to declare the public policy of this state regarding the right of all persons residing in this state in choosing the mode of securing lawful health care services.

B. It is the public policy of this state, consistent with all constitutionally enumerated rights, as well as those rights otherwise retained by the people, that every person in this state may choose or decline to choose any mode of securing lawful health care services without penalty or threat of penalty.

C. The public policy stated in this section does not apply to impair any right of contract related to the provision of lawful health care services to any person or group.

D. The public policy stated in this section does not prohibit or limit care provided pursuant to article XVIII, section 8, Constitution of Arizona, or any statutes enacted by the legislature relating to workers' compensation.

E. A public official or an employee or agent of this state or any political subdivision of this state shall not act to impose, collect, enforce or effectuate any penalty in this state that violates the public policy prescribed in this section.

F. For the purposes of this section:

1. " Lawful health care services" means any health related service or treatment that is permitted or not prohibited by law or regulation and that may be provided by persons or businesses otherwise permitted to offer that service.
2. " Mode of securing" means to purchase directly, on credit or by trade, to contract for third-party payment by insurance or other legal means authorized by this state or to apply for or accept employer or government sponsored health care benefits under any conditions that may legally be required as a condition of those benefits, or any combination of these modes of purchase.
3. " Penalty" means a civil or criminal penalty or fine, a tax, salary or wage withholding or surcharge, or any named fee with a similar effect that is established by law or rule by a government established, created or controlled agency and that is used to punish or discourage the exercise of rights protected pursuant to this section.