

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 435

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO HEALTH FREEDOM ACT; AMENDING SECTION 39-9002, IDAHO
2 CODE, TO REVISE A DEFINITION; AMENDING SECTION 39-9003, IDAHO CODE,
3 TO REVISE PROVISIONS REGARDING A STATEMENT OF PUBLIC POLICY; AMENDING
4 SECTION 39-9004, IDAHO CODE, TO PROHIBIT CERTAIN PERSONS FROM TAKING
5 CERTAIN ACTIONS IN VIOLATION OF THE PUBLIC POLICY OF THE STATE OF IDAHO
6 AND TO PROVIDE PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY; AND
7 DECLARING AN EMERGENCY.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 39-9002, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-9002. DEFINITIONS. (1) "Health care services" shall mean any ser-
13 vice, treatment, or provision of product for the prevention of or care of
14 physical or mental disease, illness, injury, defect or condition, or to oth-
15 erwise maintain or improve physical or mental health, including any immu-
16 nization, inoculation, or injection, subject to all laws and rules regulat-
17 ing health service providers and products within the state of Idaho.

18 (2) "Mode of securing" shall mean to purchase directly or on credit or
19 by trade, or to contract for third-party payment by insurance or other le-
20 gal means authorized by the state of Idaho, or to apply for or accept employer
21 or government sponsored health care benefits under such conditions as may
22 legally be required as a condition of such benefits, or any combination of
23 the same.

24 (3) "Penalty" shall mean any civil or criminal fine, tax, salary or wage
25 withholding, surcharge, fee or any other imposed consequence, established
26 by law or rule of the federal government of the United States of America or
27 its subdivision or agency, that is used to punish or discourage the exercise
28 of rights protected under this chapter.

29 SECTION 2. That Section 39-9003, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 39-9003. STATEMENT OF PUBLIC POLICY. (1) The power to require or regu-
32 late a person's choice in choosing health care services or in the mode of se-
33 curing health care services, or to impose a penalty related thereto, is not
34 found in the Constitution of the United States of America, and is therefore a
35 power reserved to the people pursuant to the Ninth Amendment, and to the sev-
36 eral states pursuant to the Tenth Amendment. The state of Idaho hereby exer-
37 cises its sovereign power to declare the public policy of the state of Idaho
38 regarding the right of all persons residing in the state of Idaho in choosing
39 health care services or in choosing the mode of securing health care services

1 free from the imposition of penalties, or the threat thereof, by the federal
2 government of the United States of America relating thereto.

3 (2) It is hereby declared that the public policy of the state of Idaho,
4 consistent with our constitutionally recognized and inalienable rights of
5 liberty, is that every person within the state of Idaho is and shall be free
6 to choose or decline to choose any or all health care services or mode of se-
7 curing health care services without penalty or threat of penalty by the fed-
8 eral government of the United States of America.

9 (3) The policy stated herein shall not be applied to impair any right
10 of contract related to the provision of health care services to any person or
11 group.

12 SECTION 3. That Section 39-9004, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 39-9004. ENFORCEMENT. (1) No public official, employee, or agent of
15 the state of Idaho or any of its political subdivisions, shall act, assist in
16 an act, or provide resources to assist in an act to impose, collect, enforce,
17 or effectuate any penalty in the state of Idaho that violates the public pol-
18 icy set forth in section 39-9003(2), Idaho Code.

19 (2) Any person violating the provisions of subsection (1) of this sec-
20 tion may be assessed a civil penalty not in excess of one thousand dollars
21 (\$1,000) for a first violation. A person violating the provisions of subsec-
22 tion (1) of this section for a second or subsequent time shall be guilty of a
23 misdemeanor and may be sentenced to jail for up to six (6) months or fined up
24 to five thousand dollars (\$5,000), or both. Any fine must be paid by the in-
25 dividual and may not be paid by a government entity with public tax dollars.

26 (3) The attorney general shall take such action as is provided in sec-
27 tion 67-1401(15), Idaho Code, in the defense or prosecution of rights pro-
28 tected under this act.

29 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
30 to be severable, and if any provision of this act or the application of such
31 provision to any person or circumstance is declared invalid for any reason,
32 such declaration shall not affect the validity of the remaining portions of
33 this act.

34 SECTION 5. An emergency existing therefor, which emergency is hereby
35 declared to exist, this act shall be in full force and effect on and after its
36 passage and approval.