

By: Huffman, Nelson

S.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to the Interstate Health Care Compact.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 15, Insurance Code, is amended by adding Chapter 5002 to read as follows:

CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT

Sec. 5002.001. EXECUTION OF COMPACT. This state enacts the Interstate Health Care Compact and enters into the compact with all other states legally joining in the compact in substantially the following form:

Whereas, the separation of powers, both between the branches of the Federal government and between Federal and State authority, is essential to the preservation of individual liberty;

Whereas, the Constitution creates a Federal government of limited and enumerated powers, and reserves to the States or to the people those powers not granted to the Federal government;

Whereas, the Federal government has enacted many laws that have preempted State laws with respect to Health Care, and placed increasing strain on State budgets, impairing other responsibilities such as education, infrastructure, and public safety;

Whereas, the Member States seek to protect individual liberty and personal control over Health Care decisions, and believe the best method to achieve these ends is by vesting regulatory authority

1 over Health Care in the States;

2 Whereas, by acting in concert, the Member States may express and
3 inspire confidence in the ability of each Member State to govern
4 Health Care effectively; and

5 Whereas, the Member States recognize that consent of Congress may
6 be more easily secured if the Member States collectively seek
7 consent through an interstate compact;

8 NOW THEREFORE, the Member States hereto resolve, and by the
9 adoption into law under their respective State Constitutions of
10 this Health Care Compact, agree, as follows:

11 Sec. 1. Definitions. As used in this Compact, unless the context
12 clearly indicates otherwise:

13 "Commission" means the Interstate Advisory Health Care Commission.

14 "Effective Date" means the date upon which this Compact shall
15 become effective for purposes of the operation of State and Federal
16 law in a Member State, which shall be the later of:

17 a) the date upon which this Compact shall be adopted
18 under the laws of the Member State, and

19 b) the date upon which this Compact receives the
20 consent of Congress pursuant to Article I, Section 10,
21 of the United States Constitution, after at least two
22 Member States adopt this Compact.

23 "Health Care" means care, services, supplies, or plans related to
24 the health of an individual and includes but is not limited to:

25 (a) preventive, diagnostic, therapeutic, rehabilitative,
26 maintenance, or palliative care and counseling, service,
27 assessment, or procedure with respect to the physical or mental

1 condition or functional status of an individual or that affects the
2 structure or function of the body, and
3 (b) sale or dispensing of a drug, device, equipment, or other item
4 in accordance with a prescription, and
5 (c) an individual or group plan that provides, or pays the cost of,
6 care, services, or supplies related to the health of an individual,
7 except any care, services, supplies, or plans provided by the
8 United States Department of Defense and United States Department of
9 Veteran Affairs, or provided to Native Americans.
10 "Member State" means a State that is signatory to this Compact and
11 has adopted it under the laws of that State.
12 "Member State Base Funding Level" means a number equal to the total
13 Federal spending on Health Care in the Member State during Federal
14 fiscal year 2010. On or before the Effective Date, each Member State
15 shall determine the Member State Base Funding Level for its State,
16 and that number shall be binding upon that Member State.
17 "Member State Current Year Funding Level" means the Member State
18 Base Funding Level multiplied by the Member State Current Year
19 Population Adjustment Factor multiplied by the Current Year
20 Inflation Adjustment Factor.
21 "Member State Current Year Population Adjustment Factor" means the
22 average population of the Member State in the current year less the
23 average population of the Member State in Federal fiscal year 2010,
24 divided by the average population of the Member State in Federal
25 fiscal year 2010, plus 1. Average population in a Member State shall
26 be determined by the United States Census Bureau.
27 "Current Year Inflation Adjustment Factor" means the Total Gross

1 Domestic Product Deflator in the current year divided by the Total
2 Gross Domestic Product Deflator in Federal fiscal year 2010. Total
3 Gross Domestic Product Deflator shall be determined by the Bureau
4 of Economic Analysis of the United States Department of Commerce.

5 Sec. 2. Pledge. The Member States shall take joint and separate
6 action to secure the consent of the United States Congress to this
7 Compact in order to return the authority to regulate Health Care to
8 the Member States consistent with the goals and principles
9 articulated in this Compact. The Member States shall improve Health
10 Care policy within their respective jurisdictions and according to
11 the judgment and discretion of each Member State.

12 Sec. 3. Legislative Power. The legislatures of the Member States
13 have the primary responsibility to regulate Health Care in their
14 respective States.

15 Sec. 4. State Control. Each Member State, within its State, may
16 suspend by legislation the operation of all federal laws, rules,
17 regulations, and orders regarding Health Care that are inconsistent
18 with the laws and regulations adopted by the Member State pursuant
19 to this Compact. Federal and State laws, rules, regulations, and
20 orders regarding Health Care will remain in effect unless a Member
21 State expressly suspends them pursuant to its authority under this
22 Compact. For any federal law, rule, regulation, or order that
23 remains in effect in a Member State after the Effective Date, that
24 Member State shall be responsible for the associated funding
25 obligations in its State.

26 Sec. 5. Funding.

27 (a) Each Federal fiscal year, each Member State shall have the

1 right to Federal monies up to an amount equal to its Member State
2 Current Year Funding Level for that Federal fiscal year, funded by
3 Congress as mandatory spending and not subject to annual
4 appropriation, to support the exercise of Member State authority
5 under this Compact. This funding shall not be conditional on any
6 action of or regulation, policy, law, or rule being adopted by the
7 Member State.

8 (b) By the start of each Federal fiscal year, Congress shall
9 establish an initial Member State Current Year Funding Level for
10 each Member State, based upon reasonable estimates. The final
11 Member State Current Year Funding Level shall be calculated, and
12 funding shall be reconciled by the United States Congress based
13 upon information provided by each Member State and audited by the
14 United States Government Accountability Office.

15 Sec. 6. Interstate Advisory Health Care Commission.

16 (a) The Interstate Advisory Health Care Commission is
17 established. The Commission consists of members appointed by each
18 Member State through a process to be determined by each Member
19 State. A Member State may not appoint more than two members to the
20 Commission and may withdraw membership from the Commission at any
21 time. Each Commission member is entitled to one vote. The
22 Commission shall not act unless a majority of the members are
23 present, and no action shall be binding unless approved by a
24 majority of the Commission's total membership.

25 (b) The Commission may elect from among its membership a
26 Chairperson. The Commission may adopt and publish bylaws and
27 policies that are not inconsistent with this Compact. The

1 Commission shall meet at least once a year, and may meet more
2 frequently.

3 (c) The Commission may study issues of Health Care regulation that
4 are of particular concern to the Member States. The Commission may
5 make non-binding recommendations to the Member States. The
6 legislatures of the Member States may consider these
7 recommendations in determining the appropriate Health Care
8 policies in their respective States.

9 (d) The Commission shall collect information and data to assist
10 the Member States in their regulation of Health Care, including
11 assessing the performance of various State Health Care programs and
12 compiling information on the prices of Health Care. The Commission
13 shall make this information and data available to the legislatures
14 of the Member States. Notwithstanding any other provision in this
15 Compact, no Member State shall disclose to the Commission the
16 health information of any individual, nor shall the Commission
17 disclose the health information of any individual.

18 (e) The Commission shall be funded by the Member States as agreed
19 to by the Member States. The Commission shall have the
20 responsibilities and duties as may be conferred upon it by
21 subsequent action of the respective legislatures of the Member
22 States in accordance with the terms of this Compact.

23 (f) The Commission shall not take any action within a Member State
24 that contravenes any State law of that Member State.

25 Sec. 7. Congressional Consent. This Compact shall be effective on
26 its adoption by at least two Member States and consent of the United
27 States Congress. This Compact shall be effective unless the United

1 States Congress, in consenting to this Compact, alters the
2 fundamental purposes of this Compact, which are:

3 (a) To secure the right of the Member States to regulate Health
4 Care in their respective States pursuant to this Compact and to
5 suspend the operation of any conflicting federal laws, rules,
6 regulations, and orders within their States; and

7 (b) To secure Federal funding for Member States that choose to
8 invoke their authority under this Compact, as prescribed by Section
9 5 above.

10 Sec. 8. Amendments. The Member States, by unanimous agreement,
11 may amend this Compact from time to time without the prior consent
12 or approval of Congress and any amendment shall be effective
13 unless, within one year, the Congress disapproves that amendment.
14 Any State may join this Compact after the date on which Congress
15 consents to the Compact by adoption into law under its State
16 Constitution.

17 Sec. 9. Withdrawal; Dissolution. Any Member State may withdraw
18 from this Compact by adopting a law to that effect, but no such
19 withdrawal shall take effect until six months after the Governor of
20 the withdrawing Member State has given notice of the withdrawal to
21 the other Member States. A withdrawing State shall be liable for any
22 obligations that it may have incurred prior to the date on which its
23 withdrawal becomes effective. This Compact shall be dissolved upon
24 the withdrawal of all but one of the Member States.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 5

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.

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