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H.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the Interstate Health Care Compact.  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
4 SECTION 1. Title 15, Insurance Code, is amended by adding  
5 Chapter 5002 to read as follows:  
6 CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT  
7 Sec. 5002.001. EXECUTION OF COMPACT. This state enacts the  
8 Interstate Health Care Compact and enters into the compact with all  
9 other states legally joining in the compact in substantially the  
10 following form:  
11 Whereas, the separation of powers, both between the branches of the  
12 Federal government and between Federal and State authority, is  
13 essential to the preservation of individual liberty;  
14 Whereas, the Constitution creates a Federal government of limited  
15 and enumerated powers, and reserves to the States or to the people  
16 those powers not granted to the Federal government;  
17 Whereas, the Federal government has enacted many laws that have  
18 preempted State laws with respect to Health Care, and placed  
19 increasing strain on State budgets, impairing other  
20 responsibilities such as education, infrastructure, and public  
21 safety;  
22 Whereas, the Member States seek to protect individual liberty and

1 personal control over Health Care decisions, and believe the best  
2 method to achieve these ends is by vesting regulatory authority  
3 over Health Care in the States;

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

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

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

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

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

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

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

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

1 Member States adopt this Compact.

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

4 (a) preventive, diagnostic, therapeutic, rehabilitative,  
5 maintenance, or palliative care and counseling, service,  
6 assessment, or procedure with respect to the physical or mental  
7 condition or functional status of an individual or that affects the  
8 structure or function of the body, and

9 (b) sale or dispensing of a drug, device, equipment, or other item  
10 in accordance with a prescription, and

11 (c) an individual or group plan that provides, or pays the cost of,  
12 care, services, or supplies related to the health of an individual,  
13 except any care, services, supplies, or plans provided by the  
14 United States Department of Defense and United States Department of  
15 Veteran Affairs, or provided to Native Americans.

16 "Member State" means a State that is signatory to this Compact and  
17 has adopted it under the laws of that State.

18 "Member State Base Funding Level" means a number equal to the total  
19 Federal spending on Health Care in the Member State during Federal  
20 fiscal year 2010. On or before the Effective Date, each Member State  
21 shall determine the Member State Base Funding Level for its State,  
22 and that number shall be binding upon that Member State.

23 "Member State Current Year Funding Level" means the Member State

1 Base Funding Level multiplied by the Member State Current Year  
2 Population Adjustment Factor multiplied by the Current Year  
3 Inflation Adjustment Factor.

4 "Member State Current Year Population Adjustment Factor" means the  
5 average population of the Member State in the current year less the  
6 average population of the Member State in Federal fiscal year 2010,  
7 divided by the average population of the Member State in Federal  
8 fiscal year 2010, plus 1. Average population in a Member State shall  
9 be determined by the United States Census Bureau.

10 "Current Year Inflation Adjustment Factor" means the Total Gross  
11 Domestic Product Deflator in the current year divided by the Total  
12 Gross Domestic Product Deflator in Federal fiscal year 2010. Total  
13 Gross Domestic Product Deflator shall be determined by the Bureau  
14 of Economic Analysis of the United States Department of Commerce.

15 Sec. 2. Pledge. The Member States shall take joint and separate  
16 action to secure the consent of the United States Congress to this  
17 Compact in order to return the authority to regulate Health Care to  
18 the Member States consistent with the goals and principles  
19 articulated in this Compact. The Member States shall improve Health  
20 Care policy within their respective jurisdictions and according to  
21 the judgment and discretion of each Member State.

22 Sec. 3. Legislative Power. The legislatures of the Member States  
23 have the primary responsibility to regulate Health Care in their  
24 respective States.

1 Sec. 4. State Control. Each Member State, within its State, may  
2 suspend by legislation the operation of all federal laws, rules,  
3 regulations, and orders regarding Health Care that are inconsistent  
4 with the laws and regulations adopted by the Member State pursuant  
5 to this Compact. Federal and State laws, rules, regulations, and  
6 orders regarding Health Care will remain in effect unless a Member  
7 State expressly suspends them pursuant to its authority under this  
8 Compact. For any federal law, rule, regulation, or order that  
9 remains in effect in a Member State after the Effective Date, that  
10 Member State shall be responsible for the associated funding  
11 obligations in its State.

12 Sec. 5. Funding.

13 (a) Each Federal fiscal year, each Member State shall have the  
14 right to Federal monies up to an amount equal to its Member State  
15 Current Year Funding Level for that Federal fiscal year, funded by  
16 Congress as mandatory spending and not subject to annual  
17 appropriation, to support the exercise of Member State authority  
18 under this Compact. This funding shall not be conditional on any  
19 action of or regulation, policy, law, or rule being adopted by the  
20 Member State.

21 (b) By the start of each Federal fiscal year, Congress shall  
22 establish an initial Member State Current Year Funding Level for  
23 each Member State, based upon reasonable estimates. The final  
24 Member State Current Year Funding Level shall be calculated, and  
25 funding shall be reconciled by the United States Congress based

1 upon information provided by each Member State and audited by the  
2 United States Government Accountability Office.

3 Sec. 6. Interstate Advisory Health Care Commission.

4 (a) The Interstate Advisory Health Care Commission is  
5 established. The Commission consists of members appointed by each  
6 Member State through a process to be determined by each Member  
7 State. A Member State may not appoint more than two members to the  
8 Commission and may withdraw membership from the Commission at any  
9 time. Each Commission member is entitled to one vote. The  
10 Commission shall not act unless a majority of the members are  
11 present, and no action shall be binding unless approved by a  
12 majority of the Commission's total membership.

13 (b) The Commission may elect from among its membership a  
14 Chairperson. The Commission may adopt and publish bylaws and  
15 policies that are not inconsistent with this Compact. The  
16 Commission shall meet at least once a year, and may meet more  
17 frequently.

18 (c) The Commission may study issues of Health Care regulation that  
19 are of particular concern to the Member States. The Commission may  
20 make non-binding recommendations to the Member States. The  
21 legislatures of the Member States may consider these  
22 recommendations in determining the appropriate Health Care  
23 policies in their respective States.

24 (d) The Commission shall collect information and data to assist

1 the Member States in their regulation of Health Care, including  
2 assessing the performance of various State Health Care programs and  
3 compiling information on the prices of Health Care. The Commission  
4 shall make this information and data available to the legislatures  
5 of the Member States. Notwithstanding any other provision in this  
6 Compact, no Member State shall disclose to the Commission the  
7 health information of any individual, nor shall the Commission  
8 disclose the health information of any individual.

9 (e) The Commission shall be funded by the Member States as agreed  
10 to by the Member States. The Commission shall have the  
11 responsibilities and duties as may be conferred upon it by  
12 subsequent action of the respective legislatures of the Member  
13 States in accordance with the terms of this Compact.

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

16 Sec. 7. Congressional Consent. This Compact shall be effective on  
17 its adoption by at least two Member States and consent of the United  
18 States Congress. This Compact shall be effective unless the United  
19 States Congress, in consenting to this Compact, alters the  
20 fundamental purposes of this Compact, which are:

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

1 (b) To secure Federal funding for Member States that choose to  
2 invoke their authority under this Compact, as prescribed by Section  
3 5 above.

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

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

19 SECTION 2. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2011.