

By Senator Wise

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1 A bill to be entitled
2 An act relating to the Health Care Compact; providing
3 definitions; requiring member states of the compact to
4 take action to secure the consent of Congress for the
5 compact; asserting that member states of the compact
6 have the primary responsibility to regulate health
7 care in their respective states; authorizing member
8 states to suspend the operation of federal laws and
9 orders regarding health care; asserting the rights of
10 member states to a certain amount of federal moneys;
11 creating the Interstate Advisory Health Care
12 Commission; specifying the membership and
13 responsibilities of the commission; requiring
14 congressional consent to the compact before it may
15 take effect; authorizing member states to amend the
16 compact under certain circumstances; authorizing
17 member states to withdraw from the compact; providing
18 an effective date.

19
20 WEREAS, the separation of powers, both between the branches
21 of the Federal Government and between federal and state
22 authorities, is essential to the preservation of individual
23 liberty, and

24 WHEREAS, the United States Constitution creates a Federal
25 Government of limited and enumerated powers, and reserves to the
26 states or to the people those powers not granted to the Federal
27 Government, and

28 WHEREAS, the Federal Government has enacted many laws that
29 have preempted state laws with respect to health care, and

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30 placed increasing strain on state budgets, impairing other
31 responsibilities such as education, infrastructure, and public
32 safety, and

33 WHEREAS, the member states seek to protect individual
34 liberty and personal control over health care decisions, and
35 believe the best method to achieve these ends is by vesting
36 regulatory authority over health care in the states, and

37 WHEREAS, by acting in concert, the member states may
38 express and inspire confidence in the ability of each member
39 state to govern health care effectively, and

40 WHEREAS, the member states recognize that consent of
41 Congress may be more easily secured if the member states
42 collectively seek consent through an interstate compact, NOW,
43 THEREFORE,

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45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. The Health Care Compact.—

48 (1) DEFINITIONS.—As used in this compact, unless the
49 context clearly indicates otherwise, the term:

50 (a) "Commission" means the Interstate Advisory Health Care
51 Commission.

52 (b) "Effective date" means the date upon which this compact
53 takes effect for purposes of the operation of state and federal
54 law in a member state, which shall be the later of the date upon
55 which this compact:

56 1. Is adopted under the laws of the member state; and

57 2. Receives the consent of Congress pursuant to s. 10, Art.

58 I of the United States Constitution and after at least two

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59 member states adopt this compact.

60 (c) "Health care" means care, services, supplies, or plans
61 related to the health of an individual and includes, but is not
62 limited to:

63 1. Preventive, diagnostic, therapeutic, rehabilitative,
64 maintenance, or palliative care and counseling services,
65 assessments, or procedures with respect to the physical or
66 mental condition or functional status of an individual or
67 affecting the structure or function of the body;

68 2. Selling or dispensing a drug, device, equipment, or
69 other item pursuant to a prescription; and

70 3. An individual or group plan that provides, or pays the
71 cost of, care, services, or supplies related to the health of an
72 individual, except for any care, services, supplies, or plans
73 provided by the United States Department of Defense and United
74 States Department of Veterans Affairs or provided to Native
75 Americans.

76 (d) "Member state" means a state that is signatory to this
77 compact and has adopted it under the laws of that state.

78 (e) "Member state base funding level" means a number equal
79 to the total federal spending on health care in the member state
80 during the 2010 federal fiscal year. On or before the effective
81 date, each member state shall determine the member state base
82 funding level for its state, and that number is binding on that
83 member state. The preliminary estimate of member state base
84 funding level for the State of Florida is

85 (f) "Member state current year funding level" means the
86 member state base funding level multiplied by the member state
87 current year population adjustment factor multiplied by the

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88 current year inflation adjustment factor.

89 (g) "Member state current year population adjustment
90 factor" means the average population of the member state in the
91 current year less the average population of the member state in
92 the 2010 federal fiscal year, divided by the average population
93 of the member state in the 2010 federal fiscal year, plus 1. The
94 average population in a member state shall be determined by the
95 United States Census Bureau.

96 (h) "Current year inflation adjustment factor" means the
97 total gross domestic product deflator in the current year
98 divided by the total gross domestic product deflator in the 2010
99 federal fiscal year. The total gross domestic product deflator
100 shall be determined by the Bureau of Economic Analysis of the
101 United States Department of Commerce.

102 (2) PLEDGE.—The member states shall take joint and separate
103 action to secure the consent of Congress to this compact in
104 order to return the authority to regulate health care to the
105 member states consistent with the goals and principles
106 articulated in this compact. The member states shall improve
107 health care policy within their respective jurisdictions and
108 according to the judgment and discretion of each member state.

109 (3) LEGISLATIVE POWER.—The legislatures of the member
110 states have the primary responsibility to regulate health care
111 in their respective states.

112 (4) STATE CONTROL.—Each member state, within its state, may
113 suspend by legislation the operation of all federal laws, rules,
114 regulations, and orders regarding health care which are
115 inconsistent with the laws and regulations adopted by the member
116 state pursuant to this compact. Federal and state laws, rules,

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117 regulations, and orders regarding health care shall remain in
118 effect unless a member state expressly suspends them pursuant to
119 its authority under this compact. If a federal law, rule,
120 regulation, or order remains in effect in a member state after
121 the effective date, that member state is responsible for the
122 associated funding obligations in its state.

123 (5) FUNDING.—

124 (a) Each federal fiscal year, each member state is entitled
125 to federal moneys up to an amount equal to its member state
126 current year funding level for that federal fiscal year, funded
127 by Congress as mandatory spending and not subject to annual
128 appropriation, to support the exercise of member state authority
129 under this compact. This funding may not be conditional on any
130 action of or regulation, policy, law, or rule being adopted by
131 the member state.

132 (b) By the start of each federal fiscal year, Congress
133 shall establish an initial member state current year funding
134 level for each member state, based upon reasonable estimates.
135 The final member state current year funding level shall be
136 calculated, and funding shall be reconciled by Congress based
137 upon information provided by each member state and audited by
138 the United States Government Accountability Office.

139 (6) INTERSTATE ADVISORY HEALTH CARE COMMISSION.—

140 (a) The Interstate Advisory Health Care Commission is
141 established. The commission consists of members appointed by
142 each member state through a process to be determined by each
143 member state. A member state may not appoint more than two
144 members to the commission and may withdraw from membership in
145 the commission at any time. Each commission member is entitled

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146 to one vote. The commission may not act unless a majority of the
147 members are present, and no action is binding unless the action
148 is approved by a majority of the commission's total membership.

149 (b) The commission may elect from among its membership a
150 chairperson. The commission may adopt and publish bylaws and
151 policies that are not inconsistent with this compact. The
152 commission shall meet at least once a year, and may meet more
153 frequently.

154 (c) The commission may study issues of health care
155 regulation that are of particular concern to the member states.
156 The commission may make nonbinding recommendations to the member
157 states. The legislatures of the member states may consider these
158 recommendations in determining the appropriate health care
159 policies in their respective states.

160 (d) The commission shall collect information and data to
161 assist the member states in their regulation of health care,
162 including assessing the performance of various state health care
163 programs and compiling information on the prices of health care.
164 The commission shall make this information and data available to
165 the legislatures of the member states.

166 (e) Notwithstanding any other provision in this compact, a
167 member state may not disclose to the commission the health
168 information of any individual.

169 (f) The commission shall be funded by the member states as
170 agreed to by the member states. The commission shall have the
171 responsibilities and duties as may be conferred upon it by
172 subsequent action of the respective legislatures of the member
173 states pursuant to the terms of this compact.

174 (g) The commission may not take any action within a member

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175 state which contravenes any state law of that member state.

176 (7) CONGRESSIONAL CONSENT.—This compact takes effect upon
177 its adoption by at least two member states and with the consent
178 of Congress. This compact is effective unless the Congress, in
179 consenting to this compact, alters the fundamental purposes of
180 this compact, which are to:

181 (a) Secure the right of the member states to regulate
182 health care in their respective states pursuant to this compact
183 and to suspend the operation of any conflicting federal laws,
184 rules, regulations, and orders within their states; and

185 (b) Secure federal funding for member states that choose to
186 invoke their authority under this compact, as prescribed by
187 subsection (5).

188 (8) AMENDMENTS.—The member states, by unanimous agreement,
189 may amend this compact from time to time without the prior
190 consent or approval of Congress and any amendment is effective
191 unless, within 1 year, the Congress disapproves that amendment.
192 After the date that Congress consents to this compact, any state
193 may join the compact by adopting the compact into law under its
194 State Constitution.

195 (9) WITHDRAWAL; DISSOLUTION.—Any member state may withdraw
196 from this compact by adopting a law to that effect, but the
197 withdrawal may not take effect until 6 months after the Governor
198 of the withdrawing member state has given notice of the
199 withdrawal to the other member states. A withdrawing member
200 state is liable for any obligations that it may have incurred
201 before the date on which its withdrawal becomes effective. This
202 compact is dissolved upon the withdrawal of all but one of the
203 member states.

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Section 2. This act shall take effect July 1, 2012.