

HOUSE BILL No. 2520

By Committee on Health and Human Services

1-24

1 AN ACT concerning public health care; relating to the interstate health
2 care compact.

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4 WHEREAS, The separation of powers, both between the branches of
5 the federal government and between federal and state authority, is essential
6 to the preservation of individual liberty; and

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8 WHEREAS, The constitution creates a federal government of limited
9 and enumerated powers, and reserves to the states or to the people those
10 powers not granted to the federal government; and

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12 WHEREAS, The federal government has enacted many laws that have
13 preempted state laws with respect to health care, and placed increasing
14 strain on state budgets, impairing other responsibilities such as education,
15 infrastructure, and public safety; and

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17 WHEREAS, The member states seek to protect individual liberty and
18 personal control over health care decisions, and believe the best method to
19 achieve these ends is by vesting regulatory authority over health care in
20 the states; and

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22 WHEREAS, By acting in concert, the member states may express and
23 inspire confidence in the ability of each member state to govern health
24 care effectively; and

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26 WHEREAS, The member states recognize that consent of congress
27 may be more easily secured if the member states collectively seek consent
28 through an interstate compact; and

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30 NOW THEREFORE, The member states hereto resolve, and by the
31 adoption into law under their respective state constitutions of this health
32 care compact, agree, as follows:

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34 *Be it enacted by the Legislature of the State of Kansas:*

35 Section 1. This act may be known and cited as the interstate health
36 care compact.

1 THE INTERSTATE HEALTH CARE COMPACT
2 ARTICLE I
3 DEFINITIONS

4 As used in this Compact, unless the context clearly indicates otherwise:

5 (a) "Commission" means the Interstate Advisory Health Care
6 Commission.

7 (b) "Effective Date" means the date upon which this Compact shall
8 become effective for purposes of the operation of State and Federal law in
9 a Member State, which shall be the later of:

10 (1) the date upon which this Compact shall be adopted under the laws
11 of the Member State, and

12 (2) the date upon which this Compact receives the consent of
13 Congress pursuant to Article I, Section 10, of the United States
14 Constitution, after at least two Member States adopt this Compact.

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

17 (1) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or
18 palliative care and counseling, service, assessment, or procedure with
19 respect to the physical or mental condition or functional status of an
20 individual or that affects the structure or function of the body, and

21 (2) sale or dispensing of a drug, device, equipment, or other item in
22 accordance with a prescription, and

23 (3) an individual or group plan that provides, or pays the cost of, care,
24 services, or supplies related to the health of an individual, except any care,
25 services, supplies, or plans provided by the United States Department of
26 Defense and United States Department of Veterans Affairs, or provided to
27 Native Americans.

28 (d) "Member State" means a State that is signatory to this Compact
29 and has adopted it under the laws of that State.

30 (e) "Member State Base Funding Level" means a number equal to the
31 total Federal spending on Health Care in the Member State during Federal
32 fiscal year 2010. On or before the Effective Date, each Member State
33 shall determine the Member State Base Funding Level for its State, and
34 that number shall be binding upon that Member State. The preliminary
35 estimate of Member State Base Funding Level for the State of Kansas is
36 \$6,985,000,000.

37 (f) "Member State Current Year Funding Level" means the Member
38 State Base Funding Level multiplied by the Member State Current Year
39 Population Adjustment Factor multiplied by the Current Year Inflation
40 Adjustment Factor.

41 (g) "Member State Current Year Population Adjustment Factor"
42 means the average population of the Member State in the current year less
43 the average population of the Member State in Federal fiscal year 2010,

1 divided by the average population of the Member State in Federal fiscal
2 year 2010, plus 1. Average population in a Member State shall be
3 determined by the United States Census Bureau.

4 (h) "Current Year Inflation Adjustment Factor" means the Total Gross
5 Domestic Product Deflator in the current year divided by the Total Gross
6 Domestic Product Deflator in Federal fiscal year 2010. Total Gross
7 Domestic Product Deflator shall be determined by the Bureau of
8 Economic Analysis of the United States Department of Commerce.

9 ARTICLE II

10 PLEDGE

11 The Member States shall take joint and separate action to secure the
12 consent of the United States Congress to this Compact in order to return
13 the authority to regulate Health Care to the Member States consistent with
14 the goals and principles articulated in this Compact. The Member States
15 shall improve Health Care policy within their respective jurisdictions and
16 according to the judgment and discretion of each Member State.

17 ARTICLE III

18 LEGISLATIVE POWER

19 The legislatures of the Member States have the primary responsibility
20 to regulate Health Care in their respective States.

21 ARTICLE IV

22 STATE CONTROL

23 Each Member State, within its State, may suspend by legislation the
24 operation of all federal laws, rules, regulations, and orders regarding
25 Health Care that are inconsistent with the laws and regulations adopted by
26 the Member State pursuant to this Compact. Federal and State laws, rules,
27 regulations, and orders regarding Health Care will remain in effect unless a
28 Member State expressly suspends them pursuant to its authority under this
29 Compact. For any federal law, rule, regulation, or order that remains in
30 effect in a Member State after the Effective Date, that Member State shall
31 be responsible for the associated funding obligations in its State.

32 ARTICLE V

33 FUNDING

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

41 (b) By the start of each Federal fiscal year, Congress shall establish
42 an initial Member State Current Year Funding Level for each Member
43 State, based upon reasonable estimates. The final Member State Current

1 Year Funding Level shall be calculated, and funding shall be reconciled by
2 the United States Congress based upon information provided by each
3 Member State and audited by the United States Government
4 Accountability Office.

5 ARTICLE VI

6 INTERSTATE ADVISORY HEALTH CARE COMMISSION

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

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

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

25 (d) The Commission shall collect information and data to assist the
26 Member States in their regulation of Health Care, including assessing the
27 performance of various State Health Care programs and compiling
28 information on the prices of Health Care. The Commission shall make this
29 information and data available to the legislatures of the Member States.
30 Notwithstanding any other provision in this Compact, no Member State
31 shall disclose to the Commission the health information of any individual,
32 nor shall the Commission disclose the health information of any
33 individual.

34 (e) The Commission shall be funded by the Member States as agreed
35 to by the Member States. The Commission shall have the responsibilities
36 and duties as may be conferred upon it by subsequent action of the
37 respective legislatures of the Member States in accordance with the terms
38 of this Compact.

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

41 ARTICLE VII

42 CONGRESSIONAL CONSENT

43 This Compact shall be effective on its adoption by at least two Member

1 States and consent of the United States Congress. This Compact shall be
2 effective unless the United States Congress, in consenting to this Compact,
3 alters the fundamental purposes of this Compact, which are:

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

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

11 ARTICLE VIII
12 AMENDMENTS

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

19 ARTICLE IX
20 WITHDRAWAL; DISSOLUTION

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

28 Sec. 2. This act shall take effect and be in force from and after its
29 publication in the statute book.