

## **Health Care Compact; HB 2553**

**HB 2553** allows Kansas to join the Interstate Health Care Compact. The Compact would allow Compact Member States to regulate health care within their boundaries and to secure federal funding for Member States that choose to invoke their authority under the funding provisions of the Compact. The U.S. Congress will have to consent to the Compact in order for it to be effective. If approved by Congress, the Compact will become effective on its adoption by at least two Member States. Pursuant to the bill, the Compact could be amended, and a state will be able to withdraw from the Compact.

The bill contains a preamble that includes statements on the importance of the separation of powers, including between federal and state authority, and the preservation of individual liberty and personal control over health care decisions. The bill then establishes the nine articles of the Compact, as follows:

### ***Article I – Definitions***

A number of terms are defined, including the following:

- “Health Care” includes care, services, supplies, or plans related to an individual’s health, with further detail specified in the bill. The definition excludes any care, services, supplies, or plans provided by the U.S. Department of Defense and the U.S. Department of Veterans Affairs, as well as those provided to Native Americans.
- A number of definitions related to a state’s funding level. These are used in Article V and include “Member State Base Funding Level,” which means a number equal to the total federal spending on health care in the Member State during federal fiscal year 2010. For Kansas, the preliminary estimate is set at \$6.985 billion. A number of other terms also use the 2010 federal fiscal year as a base. (See Article V, below, for the application of several of the defined terms.)

### ***Article II – Pledge***

This Compact provision requires Member States to take action to secure the consent of the U.S. Congress to return the authority to regulate health care to the Member States, consistent with the Compact’s provisions. Article II also requires Member States to improve health care policy within their respective jurisdictions, according to each state’s discretion.

### ***Article III – Legislative Power***

This provision grants Member States’ legislatures the primary responsibility to regulate health care in their respective states.

#### **Article IV – State Control**

Article IV grants each Member State the authority to suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with those adopted by the Member State based on the Compact. Those federal provisions that are not suspended remain in effect, and the Member State in question is responsible for the associated funding obligations.

#### **Article V – Funding**

The following provisions are set forth:

- Each Member State is granted the right to federal monies each federal fiscal year up to an amount equal to its “Member State Current Year Funding Level” (defined in Article I as the “Member State Base Funding Level” multiplied by the “Member State Current Year Population Adjustment Factor” and further multiplied by the “Current Year Inflation Adjustment Factor”). This funding will come from Congress as mandatory spending and will not be subject to annual appropriation. It is not conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.
- Congress will be required to establish, by the start of each federal fiscal year, an initial “Member State Current Year Funding Level” based upon reasonable estimates. The final “Member State Current Year Funding Level” must be calculated, and funding must be reconciled by Congress based on information provided by the Member State and audited by the U.S. Government Accountability Office.

#### **Article VI – Interstate Advisory Health Care Commission**

This article establishes the Interstate Advisory Health Care Commission, sets its membership to include not more than two members from each Member State in a process to be determined by the Member State, authorizes it to elect a chairperson from its membership and adopt bylaws and policies, and requires it to meet at least once a year. Further, the Commission is:

- Authorized to study health care regulation issues that are of concern to the Member States and make non-binding recommendations to the Member States; and
- Required to gather information to assist the Member States in their regulation of health care and make this information available to the Member States’ legislatures. Member States are prohibited from disclosing health information of any individual to the Commission, and the Commission likewise is prohibited from disclosing an individual’s health information.

The bill requires the Commission to be funded by the Member States, and it prohibits the Commission from taking any action within a Member State that contravenes any state law of that state.

### ***Article VII – Congressional Consent***

This article deems the Compact effective upon its adoption by at least two Member States and consent of Congress. The article also sets forth the purposes of the Compact and states the Compact is effective unless the Congress, in consenting to the Compact, alters its fundamental purposes. Those purposes are:

- To secure the right of the Member States to regulate health care within their boundaries pursuant to the Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and
- To secure federal funding for Member States that choose to invoke their authority under Article V of the Compact.

### ***Articles VIII and IX***

These articles provide for mechanisms to amend the Compact and for a state to withdraw from the Compact. For withdrawal, the bill allows a state to adopt a law to this effect; however, the law will not take effect until six months after the governor has given notice of the withdrawal to the other Member States.