

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2404 Session of
2014

INTRODUCED BY METCALFE, BAKER, CLYMER, MARSHALL, SANKEY AND
SWANGER, JULY 23, 2014

REFERRED TO COMMITTEE ON HEALTH, JULY 23, 2014

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the Health
2 Care Compact; providing for the form of the compact; imposing
3 additional powers and duties on the Governor and the
4 Secretary of the Commonwealth; and establishing the
5 Interstate Advisory Health Care Commission.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Health Care
10 Compact.

11 Section 2. Authority to execute compact.

12 The Governor of Pennsylvania, on behalf of the Commonwealth,
13 is hereby authorized to execute a compact in substantially the
14 following form with any one or more of the states of the United
15 States and the General Assembly hereby signifies in advance its
16 approval and ratification of such compact:

17 HEALTH CARE COMPACT

18 PREAMBLE

19 WHEREAS, The separation of powers, both between the branches

1 of the Federal Government and between Federal and state
2 authority, is essential to the preservation of individual
3 liberty; and

4 WHEREAS, The Constitution of the United States creates a
5 Federal Government of limited and enumerated powers and reserves
6 to the states or to the people those powers not granted to the
7 Federal Government; and

8 WHEREAS, The Federal Government has enacted many laws that
9 have preempted state laws with respect to health care and placed
10 increasing strain on state budgets, impairing other
11 responsibilities such as education, infrastructure and public
12 safety; and

13 WHEREAS, The member states seek to protect individual liberty
14 and personal control over health care decisions, and believe the
15 best method to achieve these ends is by vesting regulatory
16 authority over health care in the states; and

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

20 WHEREAS, The member states recognize that consent of Congress
21 may be more easily secured if the member states collectively
22 seek consent through an interstate compact.

23 ARTICLE I

24 DEFINITIONS

25 As used in this compact, unless the context clearly indicates
26 otherwise:

27 (a) "Commission" means the Interstate Advisory Health Care
28 Commission.

29 (b) "Effective date" means the date upon which this compact
30 shall become effective for purposes of the operation of Federal

1 and state law in a member state, which shall be the later of:

2 (1) The date upon which this compact shall be adopted under
3 the laws of the member state; and

4 (2) the date upon which this compact receives the consent of
5 Congress pursuant to section 10 of Article I of the Constitution
6 of the United States, after at least two member states adopt
7 this compact.

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

11 (1) Preventive, diagnostic, therapeutic, rehabilitative,
12 maintenance, or palliative care and counseling, service,
13 assessment or procedure with respect to the physical or mental
14 condition or functional status of an individual or that affects
15 the structure or function of the body.

16 (2) Sale or dispensing of a drug, device, equipment or other
17 item in accordance with a prescription.

18 (3) An individual or group plan that provides, or pays the
19 cost of, care, services or supplies related to the health of an
20 individual.

21 The term does not include any care, services, supplies or
22 plans provided by the United States Department of Defense and
23 United States Department of Veterans Affairs or provided to
24 Native Americans.

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

27 (e) "Member state base funding level" means a number equal
28 to the total Federal spending on health care in the member state
29 during Federal fiscal year 2010. On or before the effective
30 date, each member state shall determine the member state base

1 funding level for its state, and that number shall be binding
2 upon that member state. The preliminary estimate of member state
3 base funding level for the Commonwealth of Pennsylvania is
4 \$47,448,000,000.

5 (f) "Member state current year funding level" means the
6 member state base funding level multiplied by the member state
7 current year population adjustment factor multiplied by the
8 current year inflation adjustment factor.

9 (g) "Member state current year population adjustment factor"
10 means the average population of the member state in the current
11 year less the average population of the member state in Federal
12 fiscal year 2010, divided by the average population of the
13 member state in Federal fiscal year 2010, plus 1. Average
14 population in a member state shall be determined by the United
15 States Census Bureau.

16 (h) "Current year inflation adjustment factor" means the
17 total gross domestic product deflator in the current year
18 divided by the total gross domestic product deflator in Federal
19 fiscal year 2010. Total gross domestic product deflator shall be
20 determined by the Bureau of Economic Analysis of the United
21 States Department of Commerce.

22 ARTICLE II

23 PLEDGE

24 The member states shall take joint and separate action to
25 secure the consent of Congress to this compact in order to
26 return the authority to regulate health care to the member
27 states consistent with the goals and principles articulated in
28 this compact. The member states shall improve health care policy
29 within their respective jurisdictions and according to the
30 judgment and discretion of each member state.

1 ARTICLE III

2 LEGISLATIVE POWER

3 The legislatures of the member states have the primary
4 responsibility to regulate health care in their respective
5 states.

6 ARTICLE IV

7 STATE CONTROL

8 Each member state, within its state, may suspend by
9 legislation the operation of all Federal laws, rules,
10 regulations and orders regarding health care that are
11 inconsistent with the laws and regulations adopted by the member
12 state pursuant to this compact. Federal and state laws, rules,
13 regulations and orders regarding health care will remain in
14 effect unless a member state expressly suspends them pursuant to
15 its authority under this compact. For any Federal law, rule,
16 regulation or order that remains in effect in a member state
17 after the effective date, that member state shall be responsible
18 for the associated funding obligations in its state.

19 ARTICLE V

20 FUNDING

21 (a) Each Federal fiscal year, each member state shall have
22 the right to Federal monies up to an amount equal to its member
23 state current year funding level for that Federal fiscal year,
24 funded by Congress as mandatory spending and not subject to
25 annual appropriation, to support the exercise of member state
26 authority under this compact. This funding shall not be
27 conditional on any action of or regulation, policy, law or rule
28 being adopted by the member state.

29 (b) By the start of each Federal fiscal year, Congress shall
30 establish an initial member state current year funding level for

1 each member state, based upon reasonable estimates. The final
2 member state current year funding level shall be calculated, and
3 funding shall be reconciled by Congress, based upon information
4 provided by each member state and audited by the United States
5 Government Accountability Office.

6 ARTICLE VI

7 INTERSTATE ADVISORY HEALTH CARE COMMISSION

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

17 (b) The commission may elect from among its membership a
18 chairperson. The commission may adopt and publish bylaws and
19 policies that are not inconsistent with this compact. The
20 commission shall meet at least once a year and may meet more
21 frequently.

22 (c) The commission may study issues of health care
23 regulation that are of particular concern to the member states.
24 The commission may make non-binding recommendations to the
25 member states. The legislatures of the member states may
26 consider these recommendations in determining the appropriate
27 health care policies in their respective states.

28 (d) The commission shall collect information and data to
29 assist the member states in their regulation of health care,
30 including assessing the performance of various state health care

1 programs and compiling information on the prices of health care.
2 The commission shall make this information and data available to
3 the legislatures of the member states.

4 Notwithstanding any other provision in this compact, no
5 member state shall disclose to the commission the health
6 information of any individual, nor shall the commission disclose
7 the health information of any individual.

8 (e) The commission shall be funded by the member states as
9 agreed to by the member states. The commission shall have the
10 responsibilities and duties as may be conferred upon it by
11 subsequent action of the respective legislatures of the member
12 states in accordance with the terms of this compact.

13 (f) The commission shall not take any action within a member
14 state that contravenes any state law of that member state.

15 ARTICLE VII

16 CONGRESSIONAL CONSENT

17 This compact shall be effective on its adoption by at least
18 two member states and consent of Congress. This compact shall be
19 effective unless Congress, in consenting to this compact, alters
20 the fundamental purposes of this compact, which are:

21 (1) To secure the right of the member states to regulate
22 health care in their respective states pursuant to this compact
23 and to suspend the operation of any conflicting Federal laws,
24 rules, regulations and orders within their states.

25 (2) To secure Federal funding for member states that choose
26 to invoke their authority under this compact, as prescribed by
27 Article V.

28 ARTICLE VIII

29 AMENDMENTS

30 The member states, by unanimous agreement, may amend this

compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, Congress disapproves that amendment. Any state may join this compact after the date on which Congress consents to the compact by adoption into law under its state constitution.

ARTICLE IX

WITHDRAWAL; DISSOLUTION

Any member state may withdraw from this compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the governor of the withdrawing member state has given notice of the withdrawal to the other member states. A withdrawing state shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This compact shall be dissolved upon the withdrawal of all but one of the member states.

Section 3. The Governor is authorized to apply, on behalf of the Commonwealth, to Congress for its consent and approval to the compact set forth in section 2.

Section 4. The Governor shall not enter into any compact with a member state under this act until that state shall have passed a substantially similar act embodying the agreement between the two states as set forth in section 2.

Section 5. The Governor shall publish the date of approval by the Congress of the United States as prescribed by section 10 of Article I of the Constitution of the United States of the compact authorized by this act as a notice in the Pennsylvania Bulletin.

Section 6. The compact authorized by this act shall become operative and effective upon publication of the notice provided for under section 5.

1 Section 7. This act shall take effect immediately.