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HOUSE BILL 323

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY  
Yvette Herrell

AN ACT

RELATING TO HEALTH CARE; ENACTING THE INTERSTATE HEALTH CARE  
FREEDOM COMPACT; AUTHORIZING THE GOVERNOR TO ENTER INTO A  
COMPACT ON BEHALF OF THE STATE WITH ANY OF THE UNITED STATES  
LAWFULLY JOINED IN THE INTERSTATE HEALTH CARE FREEDOM COMPACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. COMPACT CREATED.--The "Interstate Health Care  
Freedom Compact" is enacted into law and entered into with all  
other jurisdictions legally joining therein in the form  
substantially as follows:

"ARTICLE I

FINDINGS AND DECLARATION OF POLICY

A. 4 United States Code Section 112 gives United  
States congressional consent "to ask two or more states to  
enter into agreements or compacts for cooperative effort and

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1 mutual assistance in the prevention of crime and in the  
2 enforcement of their respective criminal laws and policies, and  
3 to establish such agencies, joint or otherwise, as they may  
4 deem desirable for making effective such agreements and  
5 compacts".

6 B. Pursuant to their police powers to protect  
7 public health, safety, welfare and morals, the party states  
8 have enacted or anticipate enacting laws or constitutional  
9 provisions to protect and guarantee their residents' rights and  
10 freedom to pay or not to pay directly for health care services  
11 and to participate or not to participate in health plans and  
12 health systems.

13 C. The party states have enacted or anticipate  
14 enacting laws that make it a crime in their state for anyone to  
15 interfere with their residents' enjoyment of the rights and  
16 freedoms guaranteed by their respective health care freedom  
17 laws.

18 D. The party states find it necessary and deem it  
19 desirable for making effective their respective current or  
20 anticipated health care freedom criminal laws, as well as this  
21 agreement and compact, to do the following:

22 (1) prohibit any governmental agent from  
23 depriving any resident of any party state of the rights and  
24 freedoms guaranteed under their respective current or  
25 anticipated health care freedom laws;

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1 (2) prohibit any governmental agent from  
2 penalizing any resident of any party state for exercising the  
3 rights and freedoms guaranteed under their respective current  
4 or anticipated health care freedom laws;

5 (3) cooperate with each other and give each  
6 other mutual assistance in the prevention of crimes under the  
7 health care freedom criminal laws of any party state; and

8 (4) cooperate with each other and give each  
9 other mutual assistance in the criminal prosecution of anyone  
10 who violates the health care freedom criminal laws of any party  
11 state.

12 ARTICLE II  
13 DEFINITIONS

14 As used in this compact, unless the context clearly  
15 indicates otherwise:

16 A. "health care freedom criminal laws" means any  
17 state law that makes it a crime for anyone to interfere with a  
18 resident's enjoyment of the freedoms protected and guaranteed  
19 by the state's respective health care freedom laws;

20 B. "health care freedom laws" means any state law  
21 or constitutional provision that protects and guarantees a  
22 resident's freedom to pay or not to pay directly for lawful  
23 health care services and to participate or not to participate  
24 in health care plans and health care systems;

25 C. "health care plan" means any legally binding

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1 arrangement under which at least one person or entity promises  
2 and undertakes, in exchange for consideration of a set or  
3 assessed amount of money, to make a payment to another party or  
4 a third party if a specified event occurs involving the  
5 provision of health care services;

6 D. "health care system" means any public or private  
7 entity whose function or purpose is the management of,  
8 processing of or enrollment of individuals in health care plans  
9 or payment for, in full or in part, health care services or  
10 health care data or health care information for its  
11 participants;

12 E. "lawful health care services" means any  
13 health-related service or treatment to the extent that the  
14 service or treatment is permitted or not prohibited by law or  
15 regulation and that may be provided by persons or businesses  
16 otherwise permitted to offer such services;

17 F. "pay directly" means payment for lawful health  
18 care services without a public or private third party, not  
19 including an employer, paying for any portion of the service;  
20 and

21 G. "state" means a state of the United States.

22 ARTICLE III

23 TERMS

24 Notwithstanding any state or federal law to the contrary:

25 A. each party state shall give full faith and

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1 credit to the health care freedom criminal laws and health care  
2 freedom laws of every party state;

3 B. a governmental agent shall not deprive residents  
4 of party states of the rights and freedoms protected under  
5 their respective state's health care freedom criminal laws and  
6 guaranteed by their respective state's health care freedom  
7 laws;

8 C. governmental agents shall not penalize residents  
9 of party states for exercising the rights and freedoms  
10 protected under their respective state's health care freedom  
11 criminal laws and guaranteed by their respective state's health  
12 care freedom laws;

13 D. the party states shall cooperate with each other  
14 and give each other mutual assistance in the prevention of  
15 crimes under the health care freedom criminal laws of any party  
16 state; and

17 E. the party states shall cooperate with each other  
18 and give each other mutual assistance in the criminal  
19 prosecution of any person who violates the health care freedom  
20 criminal laws of any party state.

21 ARTICLE IV

22 ENFORCEMENT

23 Notwithstanding any state or federal law to the contrary:

24 A. the chief law enforcement officer of each party  
25 state shall enforce this agreement and compact; and

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1 any information or documents that are reasonably necessary to  
2 facilitate the administration of this compact.

3 C. Within ten days after executing this agreement  
4 and compact, and thereafter on the close of each of their  
5 respective succeeding legislative sessions, the party states  
6 shall notify each other in writing and by appropriate citation  
7 of each of their current health care freedom laws, which shall  
8 be deemed within the subject matter of this agreement and  
9 compact, unless the compact administrator of one or more party  
10 states gives specific notice in writing to all other party  
11 states within sixty days of such notice that it objects to the  
12 inclusion of such law or laws in this agreement and compact.

13 D. Within ten days after executing this agreement  
14 and compact, and thereafter on the close of each of their  
15 respective succeeding legislative sessions, the party states  
16 shall notify each other in writing and by appropriate citation  
17 of each of their current health care freedom criminal laws,  
18 which shall be deemed within the subject matter of this  
19 agreement and compact, unless the compact administrator of one  
20 or more party states gives specific notice in writing to all  
21 other party states within sixty days of such notice that it  
22 objects to the inclusion of such law or laws in this agreement  
23 and compact.

24 ARTICLE VI

25 ENTRY INTO EFFECT AND WITHDRAWAL

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CONSTRUCTION AND SEVERABILITY

A. This compact shall be liberally construed so as to effectuate its purposes.

B. This compact is not intended to:

(1) affect which health care services a health care provider or hospital is required to perform or provide under state or federal law; or

(2) affect which health care services are permitted by state or federal law.

C. This compact is intended to operate as the law of the nation with respect to the party states under 4 United States Code Section 112 to supersede any inconsistent state and federal law and to establish vested rights in favor of residents of the party states in the enjoyment of the rights and freedoms protected by their respective health care freedom criminal laws and guaranteed by their respective health care freedom laws.

D. If any phrase, clause, sentence or provision of this compact is declared in a final judgment by a court of competent jurisdiction to be contrary to the constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact shall not be affected.

E. If the applicability of any phrase, clause, sentence or provision of this compact to any government, agency, person or circumstance is declared in a final judgment

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1 by a court of competent jurisdiction to be contrary to the  
2 constitution of the United States or is otherwise held invalid,  
3 the validity of the remainder of this compact and the  
4 applicability of the remainder of this compact to any  
5 government, agency, person or circumstance shall not be  
6 affected.

7 F. If this compact is held to be contrary to the  
8 constitution of any party state, the compact shall remain in  
9 full force and effect as to the remaining party states and in  
10 full force and effect as to the affected party state as to all  
11 severable matters."