

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 722

By: Jolley of the Senate

3 and

4 Mulready of the House
5
6

7 An Act relating to the Health Care Compact; providing
8 findings; defining terms; providing for certain
9 pledge; declaring certain power; declaring certain
10 state control; giving certain entities the right to
11 certain federal funds; creating the Interstate
12 Advisory Health Care Commission; providing for
13 membership of the Commission; authorizing the
14 Commission to collect and distribute certain
15 information; permitting the Commission to study
16 certain issues and make recommendations; directing
17 certain entities to fund the Commission; providing
18 for certain responsibilities and duties; providing
19 for effective date of compact; providing for certain
20 amendments; providing for withdrawal or dissolution
21 of compact; providing for codification; and declaring
22 an emergency.

23 NOTE: Emergency failed

24 AUTHORS: Add the following House Coauthors: Newell, Trebilcock,
Ritze and Derby

AMENDMENT NO. 1. Page 1, line 18, delete Section 1 and insert a new
Section 1 to read

"SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7300 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 WHEREAS, the separation of powers, both between the branches of
2 the Federal government and between Federal and State authority, is
3 essential to the preservation of individual liberty;

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

7 WHEREAS, the Federal government has enacted many laws that have
8 preempted State laws with respect to Health Care, and placed
9 increasing strain on State budgets, impairing other responsibilities
10 such as education, infrastructure, and public safety;

11 WHEREAS, the Member States seek to protect individual liberty
12 and personal control over Health Care decisions, and believe the
13 best method to achieve these ends is by vesting regulatory authority
14 over Health Care in the States;

15 WHEREAS, by acting in concert, the Member States may express and
16 inspire confidence in the ability of each Member State to govern
17 Health Care effectively; and

18 WHEREAS, the Member States recognize that consent of Congress
19 may be more easily secured if the Member States collectively seek
20 consent through an interstate compact.

21 NOW THEREFORE, the Member States hereto resolve, and by the
22 adoption into law under their respective State Constitutions of this
23 Health Care Compact, agree, as follows:

24 Sec. 1. **Definitions.**

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

3 1. "Commission" means the Interstate Advisory Health Care
4 Commission.

5 2. "Effective Date" means the date upon which this Compact
6 shall become effective for purposes of the operation of State and
7 Federal law in a Member State, which shall be the later of:

8 (a) the date upon which this Compact shall be adopted under the
9 laws of the Member State, and

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

13 3. "Health Care" means care, services, supplies, or plans
14 related to the health of an individual and includes but is not
15 limited to:

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

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

23 (c) an individual or group plan that provides, or pays the cost
24 of, care, services, or supplies related to the health of an

1 individual, except any care, services, supplies, or plans provided
2 by the United States Department of Defense and United States
3 Department of Veterans Affairs, or provided to Native Americans.

4 4. "Member State" means a State that is signatory to this
5 Compact and has adopted it under the laws of that State.

6 5. "Member State Base Funding Level" means a number equal to
7 the total Federal spending on Health Care in the Member State during
8 Federal fiscal year 2010. On or before the Effective Date, each
9 Member State shall determine the Member State Base Funding Level for
10 its State, and that number shall be binding upon that Member State.
11 The preliminary estimate of Member State Base Funding Level for the
12 State of Oklahoma is Ten Billion Three Hundred Forty-four Million.

13 6. "Member State Current Year Funding Level" means the Member
14 State Base Funding Level multiplied by the Member State Current Year
15 Population Adjustment Factor multiplied by the Current Year
16 Inflation Adjustment Factor.

17 7. "Member State Current Year Population Adjustment Factor"
18 means the average population of the Member State in the current year
19 less the average population of the Member State in Federal fiscal
20 year 2010, divided by the average population of the Member State in
21 Federal fiscal year 2010, plus 1. Average population in a Member
22 State shall be determined by the United States Census Bureau.

23 8. "Current Year Inflation Adjustment Factor" means the Total
24 Gross Domestic Product Deflator in the current year divided by the

1 Total Gross Domestic Product Deflator in Federal fiscal year 2010.
2 Total Gross Domestic Product Deflator shall be determined by the
3 Bureau of Economic Analysis of the United States Department of
4 Commerce.

5 Sec. 2. **Pledge.**

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

13 Sec. 3. **Legislative Power.**

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

16 Sec. 4. **State Control.**

17 Each Member State, within its State, may suspend by legislation
18 the operation of all federal laws, rules, regulations, and orders
19 regarding Health Care that are inconsistent with the laws and
20 regulations adopted by the Member State pursuant to this Compact.
21 Federal and State laws, rules, regulations, and orders regarding
22 Health Care will remain in effect unless a Member State expressly
23 suspends them pursuant to its authority under this Compact. For any
24 federal law, rule, regulation, or order that remains in effect in a

1 Member State after the Effective Date, that Member State shall be
2 responsible for the associated funding obligations in its State.

3 Sec. 5. **Funding.**

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

12 (b) By the start of each Federal fiscal year, Congress shall
13 establish an initial Member State Current Year Funding Level for
14 each Member State, based upon reasonable estimates. The final
15 Member State Current Year Funding Level shall be calculated, and
16 funding shall be reconciled by the United States Congress based upon
17 information provided by each Member State and audited by the United
18 States Government Accountability Office.

19 Sec. 6. **Interstate Advisory Health Care Commission.**

20 (a) The Interstate Advisory Health Care Commission is
21 established. The Commission consists of members appointed by each
22 Member State through a process to be determined by each Member
23 State. A Member State may not appoint more than two members to the
24 Commission and may withdraw membership from the Commission at any

1 time. Each Commission member is entitled to one vote. The
2 Commission shall not act unless a majority of the members are
3 present, and no action shall be binding unless approved by a
4 majority of the Commission's total membership.

5 (b) The Commission may elect from among its membership a
6 Chairperson. The Commission may adopt and publish bylaws and
7 policies that are not inconsistent with this Compact. The
8 Commission shall meet at least once a year, and may meet more
9 frequently.

10 (c) The Commission may study issues of Health Care regulation
11 that are of particular concern to the Member States. The Commission
12 may make nonbinding recommendations to the Member States. The
13 legislatures of the Member States may consider these recommendations
14 in determining the appropriate Health Care policies in their
15 respective States.

16 (d) The Commission shall collect information and data to assist
17 the Member States in their regulation of Health Care, including
18 assessing the performance of various State Health Care programs and
19 compiling information on the prices of Health Care. The Commission
20 shall make this information and data available to the legislatures
21 of the Member States. Notwithstanding any other provision in this
22 Compact, no Member State shall disclose to the Commission the health
23 information of any individual, nor shall the Commission disclose the
24 health information of any individual.

1 (e) The Commission shall be funded by the Member States as
2 agreed to by the Member States. The Commission shall have the
3 responsibilities and duties as may be conferred upon it by
4 subsequent action of the respective legislatures of the Member
5 States in accordance with the terms of this Compact.

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

8 **Sec. 7. Congressional Consent.**

9 This Compact shall be effective on its adoption by at least two
10 Member States and consent of the United States Congress. This
11 Compact shall be effective unless the United States Congress, in
12 consenting to this Compact, alters the fundamental purposes of this
13 Compact, which are:

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

18 (b) To secure Federal funding for Member States that choose to
19 invoke their authority under this Compact, as prescribed by Section
20 5 above.

21 **Sec. 8. Amendments.**

22 The Member States, by unanimous agreement, may amend this
23 Compact from time to time without the prior consent or approval of
24 Congress and any amendment shall be effective unless, within one

1 year, the Congress disapproves that amendment. Any State may join
2 this Compact after the date on which Congress consents to the
3 Compact by adoption into law under its State Constitution.

4 Sec. 9. **Withdrawal; Dissolution.**

5 Any Member State may withdraw from this Compact by adopting a
6 law to that effect, but no such withdrawal shall take effect until
7 six months after the Governor of the withdrawing Member State has
8 given notice of the withdrawal to the other Member States. A
9 withdrawing State shall be liable for any obligations that it may
10 have incurred prior to the date on which its withdrawal becomes
11 effective. This Compact shall be dissolved upon the withdrawal of
12 all but one of the Member States."

13 and amend title to conform

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15 Passed the House of Representatives the 27th day of April, 2011.

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18 _____
Presiding Officer of the House of
Representatives

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20 Passed the Senate the ____ day of _____, 2011.

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23 _____
Presiding Officer of the Senate

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