

1 **SENATE FLOOR VERSION**

2 March 1, 2011

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 722

By: Jolley of the Senate

and

Mulready of the House

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

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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, even though Health
9 Care regulation is properly the authority and responsibility of the
10 States;

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
17 effectively govern Health Care; 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 the
23 present Health Care Compact, agree, as follows:

24 Sec. 1. Definitions.

1 For purposes of this Compact:

2 1. "Member State" shall refer to a state that is signatory to
3 this Compact and has adopted it under the laws of that state;

4 2. "Effective Date" shall refer to the date upon which this
5 Compact shall become effective for purposes of the operation of
6 state and federal law in a Member State, which shall be the latter
7 of:

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

10 b. the date upon which this Compact receives the consent of
11 Congress pursuant to Article I, Section 10, of the Constitution,
12 such consent itself requiring this Compact to have been adopted by
13 at least two Member States;

14 3. "Health Care" shall refer to the definition of "Health care"
15 in Title 45, Part 160, Section 103 of the Code of Federal
16 Regulations in effect on January 1, 2011, except goods and services
17 provided by the Department of Defense and Veterans Administration;

18 4. "Commission" shall refer to the Interstate Advisory Health
19 Care Commission.

20 Sec. 2. Pledge.

21 All Member States pledge themselves to take joint and separate
22 action to secure the consent of Congress to this Compact. All Member
23 States further pledge themselves to improve Health Care policy

1 within their respective jurisdictions and according to the judgment
2 and discretion of each Member State.

3 Sec. 3. Legislative Power.

4 The legislatures of the Member States have the primary
5 responsibility to regulate Health Care in their respective states.

6 Sec. 4. State Control.

7 By consenting to this Compact, Congress agrees that each Member
8 State shall have the authority to enact state laws that supersede
9 any and all federal laws regarding Health Care within its state.
10 Federal and state law regarding Health Care will remain in effect
11 unless a Member State expressly invokes its authority under this
12 Compact.

13 Sec. 5. Funding.

14 1. Each Member State shall have the right to federal funds,
15 funded by Congress as mandatory spending. Each year, the amount to
16 be received by a Member State shall be calculated by adjusting for
17 changes in population and inflation according to the formula
18 described in paragraph 2, to support the exercise of Member State
19 authority under this Compact. This funding shall not be conditional
20 on any action, regulation, policy, law, or rule of any kind of the
21 Member State.

22 2. $F_{s,t} = F_{s,2010} * (1 + (P_{s,t} - P_{s,2010})/P_{2010}) * G_t/G_{2010}$

23 Where:
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1 a. $F_{s,t}$ is total federal Health Care funding in state s during
2 year t ,

3 b. $P_{s,t}$ is the average population of state s during year t as
4 determined by the Census Bureau, and

5 c. G_t is the Total Gross Domestic Product Deflator in year t as
6 determined by the Bureau of Economic Research.

7 3. A preliminary funding level shall be established for each
8 Member State by Congress based upon estimates, with final funding
9 levels calculated and reconciled based upon reports provided by each
10 Member State and audited by the General Accounting Office.

11 Sec. 6. Interstate Advisory Health Care Commission.

12 The Member States hereby create the Interstate Advisory Health
13 Care Commission.

14 1. The Commission shall consist of members appointed by each
15 Member State through a process to be determined by the laws of each
16 Member State. No state may appoint more than two members to the
17 Commission, and at any time a Member State may withdraw its members
18 from the Commission. Each member of the Commission shall be entitled
19 to one vote. The Commission shall not act unless a majority of the
20 members are present, and no action shall be binding on the
21 Commission unless approved by a majority of the total number of
22 members.

23 2. The Commission may elect from among its membership a
24 Chairman. The Commission may adopt and publish bylaws and policies

1 that are not inconsistent with this Compact. The Commission will
2 meet at least once a year, and may meet more frequently, as its
3 bylaws direct.

4 3. The Commission shall collect information and data to assist
5 the Member States in their regulation of Health Care, including, but
6 not limited to, assessing the performance of various state Health
7 Care programs and compiling information on the cost of Health Care.
8 The Commission shall make this information and data available to the
9 legislatures of the Member States.

10 4. The Commission may study the issues of Health Care
11 regulation of particular concern to the Member States, such as the
12 elimination of interstate barriers to the provision of Health Care.
13 After careful consideration, the Commission may make nonbinding
14 recommendations to the Member States. The legislatures of the Member
15 States may then consider these recommendations in determining the
16 appropriate Health Care policy in their respective states.

17 5. Member States shall fund the Commission as the Member States
18 may agree. The Commission shall have all the responsibilities and
19 duties set forth herein, and such additional responsibilities and
20 duties as may be conferred upon it by subsequent action of the
21 respective legislatures of the Member States in accordance with the
22 terms of this Compact.

23 Sec. 7. Congressional Consent.

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1 This Compact shall be effective upon its adoption by the Member
2 States and consent of Congress in a form that is consistent with the
3 purposes of this Compact:

4 1. To secure the right of the Member States to regulate Health
5 Care in their respective states and to supersede any conflicting
6 federal law within their states; and

7 2. To secure federal funding for Member States that choose to
8 invoke their authority under this Compact, pursuant to the mandatory
9 spending formula described in paragraph of Section 5 of this
10 Compact.

11 Sec. 8. Amendments.

12 This Compact may be amended by agreement among the Member States
13 and adoption of such agreement into the laws of the Member States.
14 By consenting to this Compact, Congress also consents to any
15 amendments that directly or indirectly impact the regulation of
16 Health Care in the Member States. For all other amendments, further
17 consent of Congress is expressly required. Variations in the
18 mandatory spending formula described in paragraph of Section 5 of
19 this Compact between Member States will not prevent this Compact
20 from acting as an effective, operational agreement between the
21 states.

22 Sec. 9. Withdrawal; Dissolution.
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1 Any Member State may withdraw from this Compact by adopting a
2 law to that effect. This Compact shall be dissolved upon the
3 withdrawal of all but one of the Member States.

4 SECTION 2. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-23-11 - DO PASS, As
9 Amended and Coauthored.

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