
HOUSE BILL 2125

State of Washington 62nd Legislature 2011 1st Special Session
By Representatives Parker, Schmick, and Fagan

1 AN ACT Relating to the health care compact; adding a new chapter to
2 Title 74 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** WHEREAS, The separation of powers, both
5 between the branches of the federal government and between federal and
6 state authority, is essential to the preservation of individual
7 liberty;

8 WHEREAS, The United States Constitution creates a federal
9 government of limited and enumerated powers, and reserves to the states
10 or to the people those powers not granted to the federal government;

11 WHEREAS, The federal government has enacted many laws that have
12 preempted state laws with respect to health care, and placed increasing
13 strain on state budgets, impairing other responsibilities such as
14 education, infrastructure, and public safety;

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

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

4 WHEREAS, The member states recognize that consent of the United
5 States congress may be more easily secured if the member states
6 collectively seek consent through an interstate compact;

7 NOW, THEREFORE, The member states hereto resolve, and by the
8 adoption into law under their respective state Constitutions of this
9 health care compact, agree, as set out in this chapter.

10 NEW SECTION. **Sec. 2.** As used in this compact, unless the context
11 clearly indicates otherwise:

12 (1) "Commission" means the interstate advisory health care
13 commission.

14 (2) "Effective date" means the date upon which this compact shall
15 become effective for purposes of the operation of state and federal law
16 in a member state, which shall be the later of:

17 (a) The date upon which this compact shall be adopted under the
18 laws of the member state; and

19 (b) The date upon which this compact receives the consent of
20 congress pursuant to Article I, section 10 of the United States
21 Constitution, after at least two member states adopt this compact.

22 (3) "Health care" means care, services, supplies, or plans related
23 to the health of an individual and includes, but is not limited to:

24 (a) Preventive, diagnostic, therapeutic, rehabilitative,
25 maintenance, or palliative care and counseling, service, assessment, or
26 procedure with respect to the physical or mental condition or
27 functional status of an individual or that affects the structure or
28 function of the body;

29 (b) Sale or dispensing of a drug, device, equipment, or other item
30 in accordance with a prescription; and

31 (c) An individual or group plan that provides, or pays the cost of,
32 care, services, or supplies related to the health of an individual,
33 except any care, services, supplies, or plans provided by the United
34 States department of defense and United States department of veterans
35 affairs, or provided to Native Americans.

36 (4) "Member state" means a state that is signatory to this compact
37 and has adopted it under the laws of that state.

1 (5) "Member state base funding level" means a number equal to the
2 total federal spending on health care in the member state during
3 federal fiscal year 2010. On or before the effective date, each member
4 state shall determine the member state base funding level for its
5 state, and that number shall be binding upon that member state. The
6 preliminary estimate of member state base funding level for the state
7 of Washington is fifteen billion four hundred ninety-seven million
8 dollars.

9 (6) "Member state current year funding level" means the member
10 state base funding level multiplied by the member state current year
11 population adjustment factor multiplied by the current year inflation
12 adjustment factor.

13 (7) "Member state current year population adjustment factor" means
14 the average population of the member state in the current year less the
15 average population of the member state in federal fiscal year 2010,
16 divided by the average population of the member state in federal fiscal
17 year 2010, plus one. Average population in a member state shall be
18 determined by the United States census bureau.

19 (8) "Current year inflation adjustment factor" means the total
20 gross domestic product deflator in the current year divided by the
21 total gross domestic product deflator in federal fiscal year 2010.
22 Total gross domestic product deflator shall be determined by the bureau
23 of economic analysis of the United States department of commerce.

24 NEW SECTION. **Sec. 3.** The member states shall take joint and
25 separate action to secure the consent of the United States congress to
26 this compact in order to return the authority to regulate health care
27 to the member states consistent with the goals and principles
28 articulated in this compact. The member states shall improve health
29 care policy within their respective jurisdictions and according to the
30 judgment and discretion of each member state.

31 NEW SECTION. **Sec. 4.** The legislatures of the member states have
32 the primary responsibility to regulate health care in their respective
33 states.

34 NEW SECTION. **Sec. 5.** Each member state, within its state, may
35 suspend by legislation the operation of all federal laws, rules,

1 regulations, and orders regarding health care that are inconsistent
2 with the laws and regulations adopted by the member state pursuant to
3 this compact. Federal and state laws, rules, regulations, and orders
4 regarding health care will remain in effect unless a member state
5 expressly suspends them pursuant to its authority under this compact.
6 For any federal law, rule, regulation, or order that remains in effect
7 in a member state after the effective date, that member state shall be
8 responsible for the associated funding obligations in its state.

9 NEW SECTION. **Sec. 6.** (1) Each federal fiscal year, each member
10 state shall have the right to federal moneys up to an amount equal to
11 its member state current year funding level for that federal fiscal
12 year, funded by the United States congress as mandatory spending and
13 not subject to annual appropriation, to support the exercise of member
14 state authority under this compact. This funding shall not be
15 conditional on any action of or regulation, policy, law, or rule being
16 adopted by the member state.

17 (2) By the start of each federal fiscal year, the United States
18 congress shall establish an initial member state current year funding
19 level for each member state, based upon reasonable estimates. The
20 final member state current year funding level shall be calculated, and
21 funding shall be reconciled by the United States congress based upon
22 information provided by each member state and audited by the United
23 States government accountability office.

24 NEW SECTION. **Sec. 7.** (1) The interstate advisory health care
25 commission is established. The commission consists of members
26 appointed by each member state through a process to be determined by
27 each member state. A member state may not appoint more than two
28 members to the commission and may withdraw membership from the
29 commission at any time. Each commission member is entitled to one
30 vote. The commission shall not act unless a majority of the members
31 are present, and no action shall be binding unless approved by a
32 majority of the commission's total membership.

33 (2) The commission may elect from among its membership a
34 chairperson. The commission may adopt and publish bylaws and policies
35 that are not inconsistent with this compact. The commission shall meet
36 at least once a year, and may meet more frequently.

1 (3) The commission may study issues of health care regulation that
2 are of particular concern to the member states. The commission may
3 make nonbinding recommendations to the member states. The legislatures
4 of the member states may consider these recommendations in determining
5 the appropriate health care policies in their respective states.

6 (4) The commission shall collect information and data to assist the
7 member states in their regulation of health care, including assessing
8 the performance of various state health care programs and compiling
9 information on the prices of health care. The commission shall make
10 this information and data available to the legislatures of the member
11 states. Notwithstanding any other provision in this compact, no member
12 state shall disclose to the commission the health information of any
13 individual, nor shall the commission disclose the health information of
14 any individual.

15 (5) The commission shall be funded by the member states as agreed
16 to by the member states. The commission shall have the
17 responsibilities and duties as may be conferred upon it by subsequent
18 action of the respective legislatures of the member states in
19 accordance with the terms of this compact.

20 (6) The commission shall not take any action within a member state
21 that contravenes any state law of that member state.

22 NEW SECTION. **Sec. 8.** This compact shall be effective on its
23 adoption by at least two member states and consent of the United States
24 congress. This compact shall be effective unless the United States
25 congress, in consenting to this compact, alters the fundamental
26 purposes of this compact, which are:

27 (1) To secure the right of the member states to regulate health
28 care in their respective states pursuant to this compact and to suspend
29 the operation of any conflicting federal laws, rules, regulations, and
30 orders within their states; and

31 (2) To secure federal funding for member states that choose to
32 invoke their authority under this compact, as prescribed by section 6
33 of this act.

34 NEW SECTION. **Sec. 9.** The member states, by unanimous agreement,
35 may amend this compact from time to time without the prior consent or
36 approval of the United States congress and any amendment shall be

1 effective unless, within one year, the United States congress
2 disapproves that amendment. Any state may join this compact after the
3 date on which congress consents to the compact by adoption into law
4 under its state Constitution.

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

13 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
14 constitute a new chapter in Title 74 RCW.

15 NEW SECTION. **Sec. 12.** A Washington state member of the interstate
16 advisory health care commission shall give the code reviser notice of:
17 (1) The effective date of the health care compact under chapter
18 74.--- RCW (the new chapter created in section 11 of this act); and
19 (2) The withdrawal of Washington state from the health care compact
20 or any event that causes dissolution of the compact.

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