

HEALTHCARE COMPACT

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Bradley M. Daw

LONG TITLE

General Description:

This bill enacts a Health Care Compact.

Highlighted Provisions:

This bill:

- ▶ adopts the Health Care Compact;
- ▶ defines terms;
- ▶ joins an interstate Advisory Health Care Commission; and
- ▶ pledges to take joint and separate action to secure the consent of the United States

Congress to the compact in order to return the authority to regulate health care to the member states, consistent with the goals and principles articulated in the compact.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63M-1-2507, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63M-1-2507** is enacted to read:



28 **63M-1-2507. The Health Care Compact.**

29 The Health Care Compact is hereby enacted and entered into with all other jurisdictions
30 that legally join in the compact, which is, in form, substantially as follows:

31 **Health Care Compact**

32 Whereas, the separation of powers, both between the branches of the federal
33 government and between federal and state authority, is essential to the preservation of
34 individual liberty;

35 Whereas, the Constitution creates a federal government of limited and numerated
36 powers, and reserves to the states or to the people those powers not granted to the federal
37 government;

38 Whereas, the federal government has enacted many laws that have preempted state laws
39 with respect to health care, and placed increasing strain on state budgets, impairing other
40 responsibilities such as education, infrastructure, and public safety;

41 Whereas, the member states seek to protect individual liberty and personal control over
42 health care decisions, and believe the best method to achieve these ends is by vesting
43 regulatory authority over health care in the states;

44 Whereas, by acting in concert, the member states may express and inspire confidence in
45 the ability of each member state to govern health care effectively; and

46 Whereas, the member states recognize that consent of Congress may be more easily
47 secured if the member states collectively seek consent through an interstate compact;

48 NOW THEREFORE, the member states hereto resolve, and by the adoption into law
49 under their respective state constitutions of this health care compact, agree, as follows:

50 **Sec. 1. Definitions.**

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

52 (1) "Commission" means the Interstate Advisory Health Care Commission.

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

55 (a) the date upon which this compact shall be adopted under the laws of the member
56 state, and

57 (b) the date upon which this compact receives the consent of Congress pursuant to
58 Article I, Section 10, of the United States Constitution, after at least two member states adopt

59 this compact.

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

62 (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care
63 and counseling, service, assessment, or procedure with respect to the physical or mental
64 condition or functional status of an individual or that affects the structure or function of the
65 body, and

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

68 (c) an individual or group plan that provides, or pays the cost of, care, services, or
69 supplies related to the health of an individual, except any care, services, supplies, or plans
70 provided by the United States Department of Defense and United States Department of Veteran
71 Affairs, or provided to Native Americans.

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

74 (5) "Member state base funding level" means a number equal to the total federal
75 spending on health care in the member state during federal fiscal year 2010. On or before the
76 effective date, each member state shall determine the member state base funding level for its
77 state, and that number shall be binding upon that member state. The preliminary estimate of
78 member state base funding level for the state of Utah is \$4,102,000,000.

79 (6) "Member state current year funding level" means the member state base funding
80 level multiplied by the member state current year population adjustment factor multiplied by
81 the current year inflation adjustment factor.

82 (7) "Member state current year population adjustment factor" means the average
83 population of the member state in the current year less the average population of the member
84 state in federal fiscal year 2010, divided by the average population of the member state in
85 federal fiscal year 2010, plus 1. Average population in a member state shall be determined by
86 the United States Census Bureau.

87 (8) "Current year inflation adjustment factor" means the total gross domestic product
88 deflator in the current year divided by the total gross domestic product deflator in federal fiscal
89 year 2010. Total gross domestic product deflator shall be determined by the Bureau of

90 Economic Analysis of the United States Department of Commerce.

91 **Sec. 2. Pledge.**

92 The member states shall take joint and separate action to secure the consent of the
93 United States Congress to this compact in order to return the authority to regulate health care to
94 the member states consistent with the goals and principles articulated in this compact. The
95 member states shall improve health care policy within their respective jurisdictions and
96 according to the judgment and discretion of each member state.

97 **Sec. 3. Legislative Power.**

98 The legislatures of the member states have the primary responsibility to regulate health
99 care in their respective states.

100 **Sec. 4. State Control.**

101 Each member state, within its state, may suspend by legislation the operation of all
102 federal laws, rules, regulations, and orders regarding health care that are inconsistent with the
103 laws and regulations adopted by the member state pursuant to this compact. Federal and state
104 laws, rules, regulations, and orders regarding health care will remain in effect unless a member
105 state expressly suspends them pursuant to its authority under this compact. For any federal
106 law, rule, regulation, or order that remains in effect in a member state after the effective date,
107 that member state shall be responsible for the associated funding obligations in its state.

108 **Sec. 5. Funding.**

109 (a) Each federal fiscal year, each member state shall have the right to federal monies up
110 to an amount equal to its member state current year funding level for that federal fiscal year,
111 funded by Congress as mandatory spending and not subject to annual appropriation, to support
112 the exercise of member state authority under this compact. This funding shall not be
113 conditional on any action of or regulation, policy, law, or rule being adopted by the member
114 state.

115 (b) By the start of each federal fiscal year, Congress shall establish an initial member
116 state current year funding level for each member state, based upon reasonable estimates. The
117 final member state current year funding level shall be calculated, and funding shall be
118 reconciled by the United States Congress based upon information provided by each member
119 state and audited by the United States Government Accountability Office.

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

121 (a) The Interstate Advisory Health Care Commission is established. The commission
122 consists of members appointed by each member state through a process to be determined by
123 each member state. A member state may not appoint more than two members to the
124 commission and may withdraw membership from the commission at any time. Each
125 commission member is entitled to one vote. The commission shall not act unless a majority of
126 the members are present, and no action shall be binding unless approved by a majority of the
127 commission's total membership.

128 (b) The commission may elect from among its membership a chairperson. The
129 commission may adopt and publish bylaws and policies that are not inconsistent with this
130 compact. The commission shall meet at least once a year, and may meet more frequently.

131 (c) The commission may study issues of health care regulation that are of particular
132 concern to the member states. The commission may make non-binding recommendations to
133 the member states. The legislatures of the member states may consider these recommendations
134 in determining the appropriate health care policies in their respective states.

135 (d) The commission shall collect information and data to assist the member states in
136 their regulation of health care, including assessing the performance of various state health care
137 programs and compiling information on the prices of health care. The commission shall make
138 this information and data available to the legislatures of the member states. Notwithstanding
139 any other provision in this compact, no member state shall disclose to the commission the
140 health information of any individual, nor shall the commission disclose the health information
141 of any individual.

142 (e) The commission shall be funded by the member states as agreed to by the member
143 states. The commission shall have the responsibilities and duties as may be conferred upon it
144 by subsequent action of the respective legislatures of the member states in accordance with the
145 terms of this compact.

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

148 **Sec. 7. Congressional Consent.**

149 This compact shall be effective on its adoption by at least two member states and
150 consent of the United States Congress. This compact shall be effective unless the United States
151 Congress, in consenting to this compact, alters the fundamental purposes of this compact.

152 which are:

153 (a) to secure the right of the member states to regulate health care in their respective
154 states pursuant to this compact and to suspend the operation of any conflicting federal laws,
155 rules, regulations, and orders within their states; and

156 (b) to secure federal funding for member states that choose to invoke their authority
157 under this compact, as prescribed by Section 5 of this compact.

158 **Sec. 8. Amendments.**

159 The member states, by unanimous agreement, may amend this compact from time to
160 time without the prior consent or approval of Congress and any amendment shall be effective
161 unless, within one year, the Congress disapproves that amendment. Any state may join this
162 compact after the date on which Congress consents to the compact by adoption into law under
163 its state constitution.

164 **Sec. 9. Withdrawal; Dissolution.**

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

Legislative Review Note
as of 2-7-12 8:42 AM

Office of Legislative Research and General Counsel