

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 189

Senator Grendell

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A BILL

To enact section 3702.01 of the Revised Code to join 1
the Health Care Compact. 2

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3702.01 of the Revised Code be 3
enacted to read as follows: 4

Sec. 3702.01. The "Health Care Compact" is hereby enacted 5
into law and entered into by this state as a party thereto with 6
any other state legally joining in the compact in substantially 7
the following form: 8

THE HEALTH CARE COMPACT 9

Whereas, the separation of powers, both between the branches 10
of the federal government and between federal and state authority, 11
is essential to the preservation of individual liberty; 12

Whereas, the United States Constitution creates a federal 13
government of limited and enumerated powers, and reserves to the 14
states or to the people those powers not granted to the federal 15
government; 16

Whereas, the federal government has enacted many laws that 17
have preempted state laws with respect to health care, and placed 18
increasing strain on state budgets, impairing other 19
responsibilities such as education, infrastructure, and public 20

safety; 21

Whereas, the member states seek to protect individual liberty 22
and personal control over health care decisions, and believe the 23
best method to achieve these ends is by vesting regulatory 24
authority over health care in the states; 25

Whereas, by acting in concert, the member states may express 26
and inspire confidence in the ability of each member state to 27
govern health care effectively; and 28

Whereas, the member states recognize that consent of the 29
United States congress may be more easily secured if the member 30
states collectively seek consent through an interstate compact; 31

NOW THEREFORE, the member states hereto resolve, and by the 32
adoption into law under their respective state constitutions of 33
this health care compact, agree, as follows: 34

SECTION I 35

DEFINITIONS 36

As used in this compact, unless the context clearly indicates 37
otherwise: 38

"Effective date" means the date upon which this compact shall 39
become effective for purposes of the operation of state and 40
federal law in a member state, which shall be the later of: 41

(a) The date upon which this compact shall be adopted under 42
the laws of the member state; and 43

(b) The date upon which this compact receives the consent of 44
congress pursuant to Article I, Section 10, of the United States 45
Constitution, after at least two member states adopt this compact. 46

"Health care" means care, services, supplies, or plans 47
related to the health of an individual and includes, but is not 48
limited to: 49

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body; 50
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(b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and 55
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(c) An individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual. 57
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Except, "health care" does not include any care, services, supplies, or plans provided by the United States department of defense and the United States department of veterans affairs, or provided to native Americans. 60
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"Member state" means a state that is signatory to this compact and that has adopted it under the laws of that state. 64
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"Member state base funding level" means a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. On or before the effective date, each member state shall determine the member state base funding level for its state, and that number shall be binding upon that member state. The preliminary estimate of member state base funding level for the state of Ohio is \$35,043,000,000. 66
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"Member state current year funding level" means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor. 73
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"Member state current year population adjustment factor" means the average population of the member state in the current year less the average population of the member state in federal fiscal year 2010, divided by the average population of the member 77
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state in federal fiscal year 2010, plus 1. Average population in a 81
member state shall be determined by the United States census 82
bureau. 83

"Current year inflation adjustment factor" means the total 84
gross domestic product deflator in the current year divided by the 85
total gross domestic product deflator in federal fiscal year 2010. 86
Total gross domestic product deflator shall be determined by the 87
bureau of economic analysis of the United States department of 88
commerce. 89

SECTION 2 90

PLEDGE 91

The member states shall take joint and separate action to 92
secure the consent of congress to this compact in order to return 93
the authority to regulate health care to the member states 94
consistent with the goals and principles articulated in this 95
compact. The member states shall improve health care policy within 96
their respective jurisdictions and according to the judgment and 97
discretion of each member state. 98

SECTION 3 99

LEGISLATIVE POWER 100

The legislatures of the member states have the primary 101
responsibility to regulate health care in their respective states. 102

SECTION 4 103

STATE CONTROL 104

Each member state, within its state, may suspend by 105
legislation the operation of all federal laws, rules, regulations, 106
and orders regarding health care that are inconsistent with the 107
laws and regulations adopted by the member state pursuant to this 108
compact. Federal and state laws, rules, regulations, and orders 109
regarding health care will remain in effect unless a member state 110

expressly suspends them pursuant to its authority under this 111
compact. For any federal law, rule, regulation, or order that 112
remains in effect in a member state after the effective date, that 113
member state shall be responsible for the associated funding 114
obligations in its state. 115

SECTION 5 116

FUNDING 117

(a) Each federal fiscal year, each member state shall have 118
the right to federal monies up to an amount equal to its member 119
state current year funding level for that federal fiscal year, 120
funded by congress as mandatory spending and not subject to annual 121
appropriation, to support the exercise of member state authority 122
under this compact. This funding shall not be conditional on any 123
action of or regulation, policy, law, or rule being adopted by the 124
member state. 125

(b) By the start of each federal fiscal year, congress shall 126
establish an initial member state current year funding level for 127
each member state, based upon reasonable estimates. The final 128
member state current year funding level shall be calculated, and 129
funding shall be reconciled by congress based upon information 130
provided by each member state and audited by the United States 131
government accountability office. 132

SECTION 6 133

INTERSTATE ADVISORY HEALTH CARE COMMISSION 134

(a) The interstate advisory health care commission is 135
established. The commission consists of members appointed by each 136
member state through a process to be determined by each member 137
state. A member state may not appoint more than two members to the 138
commission and may withdraw membership from the commission at any 139
time. Each commission member is entitled to one vote. The 140
commission shall not act unless a majority of the members are 141

present, and no action shall be binding unless approved by a 142
majority of the commission's total membership. 143

(b) The commission may elect from among its membership a 144
chairperson. The commission may adopt and publish bylaws and 145
policies that are not inconsistent with this compact. The 146
commission shall meet at least once a year, and may meet more 147
frequently. 148

(c) The commission may study issues of health care regulation 149
that are of particular concern to the member states. The 150
commission may make nonbinding recommendations to the member 151
states. The legislatures of the member states may consider these 152
recommendations in determining the appropriate health care 153
policies in their respective states. 154

(d) The commission shall collect information and data to 155
assist the member states in their regulation of health care, 156
including assessing the performance of various state health care 157
programs and compiling information on the prices of health care. 158
The commission shall make this information and data available to 159
the legislatures of the member states. Notwithstanding any other 160
provision in this compact, no member state shall disclose to the 161
commission the health information of any individual, nor shall the 162
commission disclose the health information of any individual. 163

(e) The commission shall be funded by the member states as 164
agreed to by the member states. The commission shall have the 165
responsibilities and duties as may be conferred upon it by 166
subsequent action of the respective legislatures of the member 167
states in accordance with the terms of this compact. 168

(f) The commission shall not take any action within a member 169
state that contravenes any state law of that member state. 170

SECTION 7 171

CONGRESSIONAL CONSENT 172

This compact shall be effective upon its adoption by at least 173
two member states and consent of congress. This compact shall be 174
effective unless congress, in consenting to this compact, alters 175
the fundamental purposes of this compact, which are: 176

(a) To secure the right of the member states to regulate 177
health care in their respective states pursuant to this compact 178
and to suspend the operation of any conflicting federal laws, 179
rules, regulations, and orders within their states; and 180

(b) To secure federal funding for member states that choose 181
to invoke their authority under this compact, as prescribed by 182
section 5 above. 183

SECTION 8 184

AMENDMENTS 185

The member states, by unanimous agreement, may amend this 186
compact from time to time without the prior consent or approval of 187
congress and any amendment shall be effective unless, within one 188
year, the congress disapproves that amendment. Any state may join 189
this compact after the date on which congress consents to the 190
compact by adoption into law under its state constitution. 191

SECTION 9 192

WITHDRAWAL; DISSOLUTION 193

Any member state may withdraw from this compact by adopting a 194
law to that effect, but no such withdrawal shall take effect until 195
six months after the governor of the withdrawing member state has 196
given notice of the withdrawal to the other member states. A 197
withdrawing state shall be liable for any obligations that it may 198
have incurred prior to the date on which its withdrawal becomes 199
effective. This compact shall be dissolved upon the withdrawal of 200
all but one of the member states. 201