

Regular Session, 2011

SENATE BILL NO. 206

BY SENATOR GUILLORY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INTERGOVERN RELATIONS. Provides for the Health Care Compact. (See Act)

AN ACT

To enact Part LXX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.331 through 1300.340, relative to the Health Care Compact; to provide for definitions; to provide for the regulation of health care by the state; to provide for powers of the state; to provide for the Interstate Advisory Health Care Commission; to provide for congressional consent; to provide for the methods of amendment of the compact; to provide for withdrawal from the compact; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part LXX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1300.331 through 1300.340, is hereby enacted to read as follows:

PART LX. HEALTH CARE COMPACT

§1300.331. Legislative Intent

The Legislature of Louisiana hereby finds the following:

(1)The separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the

1 preservation of individual liberty.

2 (2)The Constitution of the United States of America creates a federal
3 government of limited and enumerated powers and reserves to the states or to
4 the people those powers not granted to the federal government.

5 (3)The federal government has enacted many laws that have preempted
6 state laws with respect to health care and placed increasing strain on state
7 budgets, impairing other responsibilities such as education, infrastructure, and
8 public safety.

9 (4)The member states of this compact seek to protect individual liberty
10 and personal control over health care decisions and believe the best method to
11 achieve these ends is by vesting regulatory authority over health care in the
12 states.

13 (5)By acting in concert, the member states may express and inspire
14 confidence in the ability of each member state to govern health care effectively.

15 (6)The member states recognize that consent of Congress may be more
16 easily secured if the member states collectively seek consent through an
17 interstate compact.

18 **§1300.332. Definitions**

19 As used in this Part, the following terms shall have the following
20 meanings:

21 (1) "Commission" means the Interstate Advisory Health Commission.

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

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

28 (b) The sale or dispensing of a drug, device, equipment, or other item in
29 accordance with a prescription.

1 (c) An individual or group plan that provides, or pays the cost of, care,
2 services, or supplies related to the health of an individual, except any care,
3 services, supplies, or plans provided by the United States Department of Defense
4 and United States Department of Veterans Affairs, or provided to Native
5 Americans.

6 (3) "Member state" means a state that is signatory to this compact and
7 has adopted it under the laws of that state.

8 (4) "Member state base funding level" means a number equal to the total
9 federal spending on health care in the member state during federal fiscal year
10 2010. On or before the effective date, each member state shall determine the
11 member state base funding level for its state, and that number shall be binding
12 upon that member state.

13 (5) "Member state current year funding level" means the member state
14 base funding level multiplied by the member state current year population
15 adjustment factor multiplied by the current year inflation adjustment factor.

16 (6) "Member state current year population adjustment factor" means
17 the average population of the member state in the current year less the average
18 population of the member state in federal fiscal year 2010, divided by the
19 average population of the member state in federal fiscal year 2010, plus one.
20 Average population in a member state shall be determined by the United States
21 Census Bureau.

22 (7) "Current year inflation adjustment factor" means the total gross
23 domestic product deflator in the current year divided by the total gross
24 domestic product deflator in federal fiscal year 2010. Total gross domestic
25 product deflator shall be determined by the Bureau of Economic Analysis of the
26 United States Department of Commerce.

27 §1300.333. Pledge

28 The member states shall take joint and separate action to secure the
29 consent of the United States Congress to this compact in order to return the

1 authority to regulate health care to the member states consistent with the goals
2 and principles articulated in this compact. The member states shall improve
3 health care policy within their respective jurisdictions and according to the
4 judgment and discretion of each member state.

5 §1300.334. Legislative power

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

8 §1300.335. State control

9 Each member state, within its state, may suspend by legislation the
10 operation of all federal laws, rules, regulations, and orders regarding health
11 care that are inconsistent with the laws and regulations adopted by the member
12 state pursuant to this compact. Federal and state laws, rules, regulations, and
13 orders regarding health care will remain in effect unless a member state
14 expressly suspends them pursuant to its authority under this compact. For any
15 federal law, rule, regulation, or order that remains in effect in a member state,
16 that member state shall be responsible for the associated funding obligations in
17 its state.

18 §1300.336. Funding

19 A. Each federal fiscal year, each member state shall have the right to
20 federal monies up to an amount equal to its member state current year funding
21 level for that federal fiscal year, funded by Congress as mandatory spending
22 and not subject to annual appropriation, to support the exercise of member
23 state authority under this compact. This funding shall not be conditional on any
24 action of or regulation, policy, law, or rule being adopted by the member state.

25 B. By the start of each federal fiscal year, Congress shall establish an
26 initial member state current year funding level for each member state, based
27 upon reasonable estimates. The final member state current year funding level
28 shall be calculated, and funding shall be reconciled by the United States
29 Congress based upon information provided by each member state and audited

1 by the United States Government Accountability Office.

2 §1300.337. Interstate advisory health care commission

3 A. The Interstate Advisory Health Care Commission is hereby
4 established. The commission shall consist of members appointed by each
5 member state through a process to be determined by each member state. A
6 member state may not appoint more than two members to the commission and
7 may withdraw membership from the commission at any time. Each commission
8 member is entitled to one vote. The commission shall not act unless a majority
9 of the members are present, and no action shall be binding unless approved by
10 a majority of the commission's total membership.

11 B. The commission may elect from among its membership a chairperson.
12 The commission may adopt and publish bylaws and policies that are not
13 inconsistent with this compact. The commission shall meet at least once a year,
14 and may meet more frequently.

15 C. The commission may study issues of health care regulation that are
16 of particular concern to the member states. The commission may make non-
17 binding recommendations to the member states. The legislatures of the member
18 states may consider these recommendations in determining the appropriate
19 health care policies in their respective states.

20 D. The commission shall collect information and data to assist the
21 member states in their regulation of health care, including assessing the
22 performance of various state health care programs and compiling information
23 on the prices of health care. The commission shall make this information and
24 data available to the legislatures of the member states. Notwithstanding any
25 other provision in this compact, no member state shall disclose to the
26 commission the health information of any individual, nor shall the commission
27 disclose the health information of any individual.

28 E. The commission shall be funded by the member states as agreed to by
29 the member states. The commission shall have the responsibilities and duties as

1 may be conferred upon it by subsequent action of the respective legislatures of
2 the member states in accordance with the terms of this compact.

3 F. The commission shall not take any action within a member state that
4 contravenes any state law of that member state.

5 §1300.338. Congressional consent

6 This compact shall be effective on its adoption by at least two member
7 states and consent of the United States Congress. This compact shall be effective
8 unless the United States Congress, in consenting to this compact, alters the
9 fundamental purposes of this compact, which are:

10 (1) To secure the right of the member states to regulate health care in
11 their respective states pursuant to this compact and to suspend the operation of
12 any conflicting federal laws, rules, regulations, and orders within their states.

13 (2) To secure federal funding for member states that choose to invoke
14 their authority under this compact.

15 §1300.339. Amendments

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

22 §1300.340. Withdrawal; dissolution

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

1 **Section 2. The provisions of this Act shall become effective upon the later of:**

2 **(1) The date upon which this compact shall be enacted by the state of**
3 **Louisiana.**

4 **(2) The date upon which this compact receives the consent of Congress**
5 **pursuant to Article I, Section 10, of the United States Constitution, after at least**
6 **two states adopt and enact this compact.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Greg Waddell.

DIGEST

Proposed law provides for the Health Care Compact.

Proposed law provides that the member states shall take joint and separate action to secure the consent of the United States Congress to this 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.

Proposed law provides that the legislatures of the member states have the primary responsibility to regulate health care in their respective states.

Proposed law provides that each member state, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state pursuant to the compact.

Proposed law provides that federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to its authority under this compact. For any federal law, rule, regulation, or order that remains in effect in a member state, that member state shall be responsible for the associated funding obligations in its state.

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

Proposed law provides that by the start of each federal fiscal year, Congress shall establish an initial member state current year funding level for each member state, based upon reasonable estimates. The final member state current year funding level shall be calculated, and funding shall be reconciled by the United States Congress based upon information provided by each member state and audited by the United States Government Accountability Office.

Proposed law provides for the establishment of The Interstate Advisory Health Care Commission. Proposed law further provides that the commission consists of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the commission and may withdraw membership from the commission at any time. Each commission member is

entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

Proposed law provides that the commission may study issues of health care regulation that are of particular concern to the member states and may make non-binding recommendations to the member states.

Proposed law provides that the commission shall collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. The commission shall make this information and data available to the legislatures of the member states.

Proposed law provides that the compact shall be effective on its adoption by at least two member states and consent of the United States Congress. This compact shall be effective unless the United States Congress, in consenting to this compact, alters the fundamental purposes of this compact, which are provided for in proposed law.

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

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

Effectiveness contingent upon passage of proposed law and congressional approval.

(Adds R.S. 40:1300.331 - 1300.340)