

SENATE BILL No. 973

February 16, 2012, Introduced by Senators MARLEAU, COLBECK, PROOS, KAHN, GREEN, JONES, HANSEN, EMMONS, HILDENBRAND, KOWALL, JANSEN, BOOHER, MEEKHOF, ROCCA, PAVLOV, PAPPAGEORGE, CASPERSON, WALKER, MOOLENAAR and RICHARDVILLE and referred to the Committee on Health Policy.

A bill to enter into the interstate health care compact; and for related purposes.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "interstate health care compact".

3 Sec. 3. The interstate health care compact is enacted into law
4 and entered into with all jurisdictions legally joining in the
5 compact, in the form substantially as follows:

6 The Health Care Compact

7 Whereas, the separation of powers, both between the branches
8 of the federal government and between federal and state authority,
9 is essential to the preservation of individual liberty;

10 Whereas, the constitution creates a federal government of
11 limited and enumerated powers, and reserves to the states or to the

1 people those powers not granted to the federal government;

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

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

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

14 Whereas, the member states recognize that consent of congress
15 may be more easily secured if the member states collectively seek
16 consent through an interstate compact;

17 Now therefore, the member states hereto resolve, and by the
18 adoption into law under their respective state constitutions of
19 this health care compact, agree, as follows:

20 Sec. 1. As used in this compact, unless the context clearly
21 indicates otherwise:

22 (a) "Commission" means the interstate advisory health care
23 commission.

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

27 (i) the date upon which this compact shall be adopted under the

1 laws of the member state, and

2 (ii) the date upon which this compact receives the consent of
3 congress pursuant to article I, section 10, of the United States
4 constitution, after at least 2 member states adopt this compact.

5 (c) "Health care" means care, services, supplies, or plans
6 related to the health of an individual and includes but is not
7 limited to:

8 (i) preventive, diagnostic, therapeutic, rehabilitative,
9 maintenance, or palliative care and counseling, service,
10 assessment, or procedure with respect to the physical or mental
11 condition or functional status of an individual or that affects the
12 structure or function of the body, and

13 (ii) sale or dispensing of a drug, device, equipment, or other
14 item in accordance with a prescription, and

15 (iii) an individual or group plan that provides, or pays the
16 cost of, care, services, or supplies related to the health of an
17 individual, except any care, services, supplies, or plans provided
18 by the United States department of defense and United States
19 department of veterans affairs, or provided to Native Americans.

20 (d) "Member state" means a state that is signatory to this
21 compact and has adopted it under the laws of that state.

22 (e) "Member state base funding level" means a number equal to
23 the total federal spending on health care in the member state
24 during federal fiscal year 2010. On or before the effective date,
25 each member state shall determine the member state base funding
26 level for its state, and that number shall be binding upon that
27 member state. The preliminary estimate of member state base funding

1 level for the state of Michigan is \$29,466,000,000.00.

2 (f) "Member state current year funding level" means the member
3 state base funding level multiplied by the member state current
4 year population adjustment factor multiplied by the current year
5 inflation adjustment factor.

6 (g) "Member state current year population adjustment factor"
7 means the average population of the member state in the current
8 year less the average population of the member state in federal
9 fiscal year 2010, divided by the average population of the member
10 state in federal fiscal year 2010, plus 1. Average population in a
11 member state shall be determined by the United States census
12 bureau.

13 (h) "Current year inflation adjustment factor" means the total
14 gross domestic product deflator in the current year divided by the
15 total gross domestic product deflator in federal fiscal year 2010.
16 Total gross domestic product deflator shall be determined by the
17 bureau of economic analysis of the United States department of
18 commerce.

19 Sec. 2. The member states shall take joint and separate action
20 to secure the consent of the United States congress to this compact
21 in order to return the authority to regulate health care to the
22 member states consistent with the goals and principles articulated
23 in this compact. The member states shall improve health care policy
24 within their respective jurisdictions and according to the judgment
25 and discretion of each member state.

26 Sec. 3. The legislatures of the member states have the primary
27 responsibility to regulate health care in their respective states.

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

12 Sec. 5. (1) Each federal fiscal year, each member state shall
13 have the right to federal money up to an amount equal to its member
14 state current year funding level for that federal fiscal year,
15 funded by congress as mandatory spending and not subject to annual
16 appropriation, to support the exercise of member state authority
17 under this compact. This funding shall not be conditional on any
18 action of or regulation, policy, law, or rule being adopted by the
19 member state.

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

27 Sec. 6. (1) The interstate advisory health care commission is

1 established. The commission consists of members appointed by each
2 member state through a process to be determined by each member
3 state. A member state may not appoint more than 2 members to the
4 commission and may withdraw membership from the commission at any
5 time. Each commission member is entitled to 1 vote. The commission
6 shall not act unless a majority of the members are present, and no
7 action shall be binding unless approved by a majority of the
8 commission's total membership.

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

14 (3) The commission may study issues of health care regulation
15 that are of particular concern to the member states. The commission
16 may make nonbinding recommendations to the member states. The
17 legislatures of the member states may consider these
18 recommendations in determining the appropriate health care policies
19 in their respective states.

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

1 commission disclose the health information of any individual.

2 (5) The commission shall be funded by the member states as
3 agreed to by the member states. The commission shall have the
4 responsibilities and duties as may be conferred upon it by
5 subsequent action of the respective legislatures of the member
6 states in accordance with the terms of this compact.

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

9 Sec. 7. This compact shall be effective on its adoption by at
10 least 2 member states and consent of the United States congress.
11 This compact shall be effective unless the United States congress,
12 in consenting to this compact, alters the fundamental purposes of
13 this compact, which are:

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

18 (b) To secure federal funding for member states that choose to
19 invoke their authority under this compact, as prescribed by section
20 5 above.

21 Sec. 8. The member states, by unanimous agreement, may amend
22 this compact from time to time without the prior consent or
23 approval of congress and any amendment shall be effective unless,
24 within 1 year, the congress disapproves that amendment. Any state
25 may join this compact after the date on which congress consents to
26 the compact by adoption into law under its state constitution.

27 Sec. 9. Any member state may withdraw from this compact by

1 adopting a law to that effect, but no such withdrawal shall take
2 effect until 6 months after the governor of the withdrawing member
3 state has given notice of the withdrawal to the other member
4 states. A withdrawing state shall be liable for any obligations
5 that it may have incurred prior to the date on which its withdrawal
6 becomes effective. This compact shall be dissolved upon the
7 withdrawal of all but 1 of the member states.