

As Introduced

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Representative Retherford

**Cosponsors: Representatives Dean, Thompson, Becker, Hood, Blessing,
LaTourette, Butler, Perales, Conditt, Koehler, Vitale, Roegner, Young, Henne,
Romanchuk**

A BILL

To enact sections 190.01 and 190.02 of the Revised 1
Code to enter into the Health Care Compact. 2

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

Section 1. That sections 190.01 and 190.02 of the Revised 3
Code be enacted to read as follows: 4

Sec. 190.01. "The Health Care Compact" is hereby ratified, 5
enacted into law, and entered into by the state of Ohio as a 6
party to the compact with any other state that has legally 7
joined in the compact as follows: 8

Whereas, the separation of powers, both between the 9
branches of the Federal government and between Federal and State 10
authority, is essential to the preservation of individual 11
liberty; 12

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

Whereas, the Federal government has enacted many laws that 16

have preempted State laws with respect to Health Care, and 17
placed increasing strain on State budgets, impairing other 18
responsibilities such as education, infrastructure, and public 19
safety; 20

Whereas, the Member States seek to protect individual 21
liberty and personal control over Health Care decisions, and 22
believe the best method to achieve these ends is by vesting 23
regulatory authority over Health Care in the States; 24

Whereas, by acting in concert, the Member States may 25
express and inspire confidence in the ability of each Member 26
State to govern Health Care effectively; and 27

Whereas, the Member States recognize that consent of 28
Congress may be more easily secured if the Member States 29
collectively seek consent through an interstate compact; 30

NOW THEREFORE, the Member States hereto resolve, and by 31
the adoption into law under their respective State Constitutions 32
of this Health Care Compact, agree, as follows: 33

Sec. 1. Definitions. As used in this Compact, unless the 34
context clearly indicates otherwise: 35

"Commission" means the Interstate Advisory Health Care 36
Commission. 37

"Effective Date" means the date upon which this Compact 38
shall become effective for purposes of the operation of State 39
and Federal law in a Member State, which shall be the later of: 40

(a) the date upon which this Compact shall be adopted 41
under the laws of the Member State, and 42

(b) the date upon which this Compact receives the consent 43
of Congress pursuant to Article I, Section 10, of the United 44

States Constitution, after at least two Member States adopt this 45
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, 50
maintenance, or palliative care and counseling, service, 51
assessment, or procedure with respect to the physical or mental 52
condition or functional status of an individual or that affects 53
the structure or function of the body, and 54

(b) sale or dispensing of a drug, device, equipment, or 55
other item in accordance with a prescription, and 56

(c) an individual or group plan that provides, or pays the 57
cost of, care, services, or supplies related to the health of an 58
individual, except any care, services, supplies, or plans 59
provided by the United States Department of Defense and United 60
States Department of Veteran Affairs, or provided to Native 61
Americans. 62

"Member State" means a State that is signatory to this 63
Compact and has adopted it under the laws of that State. 64

"Member State Base Funding Level" means a number equal to 65
the total Federal spending on Health Care in the Member State 66
during Federal fiscal year 2010. On or before the Effective 67
Date, each Member State shall determine the Member State Base 68
Funding Level for its State, and that number shall be binding 69
upon that Member State. The preliminary estimate of Member State 70
Base Funding Level for the State of Ohio is \$35,043,000,000. 71

"Member State Current Year Funding Level" means the Member 72
State Base Funding Level multiplied by the Member State Current 73

Year Population Adjustment Factor multiplied by the Current Year 74
Inflation Adjustment Factor. 75

"Member State Current Year Population Adjustment Factor" 76
means the average population of the Member State in the current 77
year less the average population of the Member State in Federal 78
fiscal year 2010, divided by the average population of the 79
Member State in Federal fiscal year 2010, plus 1. Average 80
population in a Member State shall be determined by the United 81
States Census Bureau. 82

"Current Year Inflation Adjustment Factor" means the Total 83
Gross Domestic Product Deflator in the current year divided by 84
the Total Gross Domestic Product Deflator in Federal fiscal year 85
2010. Total Gross Domestic Product Deflator shall be determined 86
by the Bureau of Economic Analysis of the United States 87
Department of Commerce. 88

Sec. 2. Pledge. The Member States shall take joint and 89
separate action to secure the consent of the United States 90
Congress to this Compact in order to return the authority to 91
regulate Health Care to the Member States consistent with the 92
goals and principles articulated in this Compact. The Member 93
States shall improve Health Care policy within their respective 94
jurisdictions and according to the judgment and discretion of 95
each Member State. 96

Sec. 3. Legislative Power. The legislatures of the Member 97
States have the primary responsibility to regulate Health Care 98
in their respective States. 99

Sec. 4. State Control. Each Member State, within its 100
State, may suspend by legislation the operation of all federal 101
laws, rules, regulations, and orders regarding Health Care that 102

are inconsistent with the laws and regulations adopted by the 103
Member State pursuant to this Compact. Federal and State laws, 104
rules, regulations, and orders regarding Health Care will remain 105
in effect unless a Member State expressly suspends them pursuant 106
to its authority under this Compact. For any federal law, rule, 107
regulation, or order that remains in effect in a Member State 108
after the Effective Date, that Member State shall be responsible 109
for the associated funding obligations in its State. 110

Sec. 5. Funding. 111

(a) Each Federal fiscal year, each Member State shall have 112
the right to Federal monies up to an amount equal to its Member 113
State Current Year Funding Level for that Federal fiscal year, 114
funded by Congress as mandatory spending and not subject to 115
annual appropriation, to support the exercise of Member State 116
authority under this Compact. This funding shall not be 117
conditional on any action of or regulation, policy, law, or rule 118
being adopted by the Member State. 119

(b) By the start of each Federal fiscal year, Congress 120
shall establish an initial Member State Current Year Funding 121
Level for each Member State, based upon reasonable estimates. 122
The final Member State Current Year Funding Level shall be 123
calculated, and funding shall be reconciled by the United States 124
Congress based upon information provided by each Member State 125
and audited by the United States Government Accountability 126
Office. 127

Sec. 6. Interstate Advisory Health Care Commission. 128

(a) The Interstate Advisory Health Care Commission is 129
established. The Commission consists of members appointed by 130
each Member State through a process to be determined by each 131

Member State. A Member State may not appoint more than two 132
members to the Commission and may withdraw membership from the 133
Commission at any time. Each Commission member is entitled to 134
one vote. The Commission shall not act unless a majority of the 135
members are present, and no action shall be binding unless 136
approved by a majority of the Commission's total membership. 137

(b) The Commission may elect from among its membership a 138
Chairperson. The Commission may adopt and publish bylaws and 139
policies that are not inconsistent with this Compact. The 140
Commission shall meet at least once a year, and may meet more 141
frequently. 142

(c) The Commission may study issues of Health Care 143
regulation that are of particular concern to the Member States. 144
The Commission may make non-binding recommendations to the 145
Member States. The legislatures of the Member States may 146
consider these recommendations in determining the appropriate 147
Health Care policies in their respective States. 148

(d) The Commission shall collect information and data to 149
assist the Member States in their regulation of Health Care, 150
including assessing the performance of various State Health Care 151
programs and compiling information on the prices of Health Care. 152
The Commission shall make this information and data available to 153
the legislatures of the Member States. Notwithstanding any other 154
provision in this Compact, no Member State shall disclose to the 155
Commission the health information of any individual, nor shall 156
the Commission disclose the health information of any 157
individual. 158

(e) The Commission shall be funded by the Member States as 159
agreed to by the Member States. The Commission shall have the 160
responsibilities and duties as may be conferred upon it by 161

subsequent action of the respective legislatures of the Member 162
States in accordance with the terms of this Compact. 163

(f) The Commission shall not take any action within a 164
Member State that contravenes any State law of that Member 165
State. 166

Sec. 7. Congressional Consent. This Compact shall be 167
effective on its adoption by at least two Member States and 168
consent of the United States Congress. This Compact shall be 169
effective unless the United States Congress, in consenting to 170
this Compact, alters the fundamental purposes of this Compact, 171
which are: 172

(a) To secure the right of the Member States to regulate 173
Health Care in their respective States pursuant to this Compact 174
and to suspend the operation of any conflicting federal laws, 175
rules, regulations, and orders within their States; and 176

(b) To secure Federal funding for Member States that 177
choose to invoke their authority under this Compact, as 178
prescribed by Section 5 above. 179

Sec. 8. Amendments. The Member States, by unanimous 180
agreement, may amend this Compact from time to time without the 181
prior consent or approval of Congress and any amendment shall be 182
effective unless, within one year, the Congress disapproves that 183
amendment. Any State may join this Compact after the date on 184
which Congress consents to the Compact by adoption into law 185
under its State Constitution. 186

Sec. 9. Withdrawal; Dissolution. Any Member State may 187
withdraw from this Compact by adopting a law to that effect, but 188
no such withdrawal shall take effect until six months after the 189
Governor of the withdrawing Member State has given notice of the 190

withdrawal to the other Member States. A withdrawing State shall 191
be liable for any obligations that it may have incurred prior to 192
the date on which its withdrawal becomes effective. This Compact 193
shall be dissolved upon the withdrawal of all but one of the 194
Member States. 195

Sec. 190.02. Not later than thirty days after "The Health 196
Care Compact" entered into under section 190.01 of the Revised 197
Code is ratified by the United States congress, the governor 198
shall appoint a member to the interstate advisory health care 199
commission created under the compact. The governor shall fill a 200
vacancy not later than thirty days after the vacancy occurs. 201