

**As Reported by the House Federalism and Interstate Relations Committee**

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**H. B. No. 85**

**Representative Retherford**

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

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**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