

1 S.149

2 Introduced by Senators Pollina, Benning, and McCormack

3 Referred to Committee on

4 Date:

5 Subject: Health; Health Care Compact

6 Statement of purpose of bill as introduced: This bill proposes to enact the
7 interstate Health Care Compact in Vermont.

8 An act relating to the interstate Health Care Compact

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 18 V.S.A. chapter 78 is added to read:

11 CHAPTER 78. INTERSTATE HEALTH CARE COMPACT

12 § 3701. PREAMBLE

13 Whereas, the separation of powers, both between the branches of the federal
14 government and between federal and state authority, is essential to the
15 preservation of individual liberty; and

16 Whereas, the Constitution creates a federal government of limited and
17 enumerated powers, and reserves to the states or to the people those powers not
18 granted to the federal government; and

19 Whereas, the federal government has enacted many laws that have
20 preempted state laws with respect to health care, and placed increasing strain

1 on state budgets, impairing other responsibilities such as education,
2 infrastructure, and public safety; and

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

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

9 Whereas, the member states recognize that consent of Congress may be
10 more easily secured if the member states collectively seek consent through an
11 interstate compact

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

15 § 3702. DEFINITIONS

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

17 (1) “Commission” means the Interstate Advisory Health Care
18 Commission.

19 (2) “Current year inflation adjustment factor” means the total gross
20 domestic product deflator in the current year divided by the total gross
21 domestic product deflator in federal fiscal year 2010. Total gross domestic

1 product deflator shall be determined by the Bureau of Economic Analysis of
2 the U.S. Department of Commerce.

3 (3) “Effective date” means the date upon which this compact shall
4 become effective for purposes of the operation of state and federal law in a
5 member state, which shall be the later of:

6 (A) the date on which this compact is adopted under the laws of the
7 member state; or

8 (B) the date on which this compact receives the consent of Congress
9 pursuant to Article I, Section 10 of the U.S. Constitution, after at least two
10 member states adopt this compact.

11 (4) “Health care” means care, services, supplies, or plans related to the
12 health of an individual and includes:

13 (A) preventive, diagnostic, therapeutic, rehabilitative, maintenance,
14 or palliative care and counseling, service, assessment, or procedure with
15 respect to the physical or mental condition or functional status of an individual
16 or that affects the structure or function of the body;

17 (B) sale or dispensing of a drug, device, equipment, or other item in
18 accordance with a prescription; and

19 (C) an individual or group plan that provides, or pays the cost of,
20 care, services, or supplies related to the health of any individual, except any

1 care, services, supplies, or plans provided by the U.S. Department of Defense
2 or the U.S. Department of Veterans Affairs or provided to Native Americans.

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

5 (6) "Member state base funding level" means a number equal to the total
6 federal spending on health care in the member state during federal fiscal year
7 2010. On or before the effective date, each member state shall determine the
8 member state base funding level for its state, and that number shall be binding
9 on that member state. The preliminary estimate of member state base funding
10 level for the State of Vermont is \$2,278,724,000.00.

11 (7) "Member state current year funding level" means the member state
12 base funding level multiplied by the member state current year population
13 adjustment factor multiplied by the current year inflation adjustment factor.

14 (8) "Member state current year population adjustment factor" means the
15 average population of the member state in the current year less the average
16 population of the member state in federal fiscal year 2010, divided by the
17 average population of the member state in federal fiscal year 2010, plus one.
18 Average population in a member state shall be determined by the U.S. Census
19 Bureau.

1 § 3703. PLEDGE

2 The member states shall take joint and separate action to secure the consent
3 of the U.S. Congress to this compact in order to return the authority to regulate
4 health care to the member states consistent with the goals and principles
5 articulated in this compact. The member states shall improve health care
6 policy within their respective jurisdictions and according to the judgment and
7 discretion of each member state.

8 § 3704. LEGISLATIVE POWER

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

11 § 3705. STATE CONTROL

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

1 § 3706. FUNDING

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

9 (b) By the start of each federal fiscal year, Congress shall establish an
10 initial member state current year funding level for each member state, based on
11 reasonable estimates. The final member state current year funding level shall
12 be calculated, and funding shall be reconciled by the U.S. Congress based on
13 information provided by each member state and audited by the U.S.
14 Government Accountability Office.

15 § 3707. INTERSTATE ADVISORY HEALTH CARE COMMISSION

16 (a) The Interstate Advisory Health Care Commission is established. The
17 Commission shall consist of members appointed by each member state through
18 a process to be determined by each member state. A member state may not
19 appoint more than two members to the Commission and may withdraw
20 membership from the Commission at any time. Each Commission member is
21 entitled to one vote. The Commission shall not act unless a majority of the

1 members are present, and no action shall be binding unless approved by a
2 majority of the Commission's total membership.

3 (b) The Commission may elect from among its membership a chairperson.
4 The Commission shall meet at least once a year, and may meet more
5 frequently.

6 (c) The Commission may study issues of health care regulation that are of
7 particular concern to the member states. The Commission may make
8 nonbinding recommendations to the member states. The legislatures of the
9 member states may consider these recommendations in determining the
10 appropriate health care policies in their respective states.

11 (d) The Commission shall collect information and data to assist the
12 member states in their regulation of health care, including assessing the
13 performance of various state health care programs and compiling information
14 on the prices of health care. The Commission shall make this information and
15 data available to the legislatures of the member states. Notwithstanding any
16 other provision of this compact, no member state shall disclose to the
17 Commission the health information of any individual, nor shall the
18 Commission disclose the health information of any individual.

19 (e) The Commission shall be funded by the member states as agreed to by
20 the member states. The Commission shall have the responsibilities and duties

1 as may be conferred upon it by subsequent action of the respective legislatures
2 of 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 § 3708. CONGRESSIONAL CONSENT

6 This compact shall be effective upon its adoption by at least two member
7 states and consent of the U.S. Congress. The compact shall be effective unless
8 the U.S. Congress, in consenting to this compact, alters the fundamental
9 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
13 states; and

14 (2) to secure federal funding for member states that choose to invoke
15 their authority under this compact, as prescribed by section 3706 of this title.

16 § 3709. AMENDMENTS

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

1 on which Congress consents to the compact by adoption into law under its state
2 constitution.

3 § 3710. WITHDRAWAL; DISSOLUTION

4 Any member state may withdraw from this compact by adopting a law to
5 that effect, but no such withdrawal shall take effect until six months after the
6 governor of the withdrawing member state has given notice of the withdrawal
7 to the other member states. A withdrawing state shall be liable for any
8 obligation that it may have incurred prior to the date on which its withdrawal
9 became effective. This compact shall be dissolved upon the withdrawal of all
10 but one of the member states.

11 Sec. 2. APPOINTMENT TO INTERSTATE ADVISORY HEALTH CARE
12 COMMISSION

13 Not later than 30 days after the Health Care Compact entered into under
14 18 V.S.A. chapter 78 is ratified by the U.S. Congress, the Governor shall
15 appoint a member to the Interstate Advisory Health Care Commission created
16 under the Compact. The Governor shall fill a vacancy not later than 30 days
17 after the vacancy occurs.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on the later of:

20 (1) the date of passage; or

1 (2) the date on which the interstate Health Care Compact receives the
2 consent of Congress pursuant to Article I, Section 10 of the U.S. Constitution,
3 provided at least two other states have already adopted the Compact.