

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1396

5 By: Representative D. Meeks
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE HEALTH CARE COMPACT; TO
9 SECURE THE CONSENT OF THE UNITED STATE CONGRESS TO
10 RETURN THE AUTHORITY TO REGULATE HEALTH CARE TO THE
11 MEMBER STATES OF THE COMPACT; TO ESTABLISH THE
12 INTERSTATE ADVISORY HEALTH CARE COMMISSION; AND FOR
13 OTHER PURPOSES.
14

Subtitle

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16 TO ESTABLISH THE HEALTH CARE COMPACT.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 20, Chapter 1, is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 3 – Health Care Compact
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26 20-1-301. Text of the Compact.

27 The Health Care Compact is enacted into law and entered into with all
28 other jurisdictions legally joining in the compact in the form substantially
29 as follows:
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31 WHEREAS, the separation of powers, both between the branches of the
32 federal government and between federal and state authority, is essential to
33 the preservation of individual liberty; and
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35 WHEREAS, the United States Constitution creates a federal government of
36 limited and enumerated powers, and reserves to the states or to the people



1 those powers not granted to the federal government; and

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

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

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

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 17 WHEREAS, the member states recognize that consent of Congress may be
 18 more easily secured if the member states collectively seek consent through an
 19 interstate compact; and

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 21 NOW THEREFORE, the member states hereto resolve, and by the adoption
 22 into law under their respective state constitutions of this health care
 23 compact, agree, as follows:

24
 25 SECTION 1. Definitions.

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

28 (a) "Commission" means the Interstate Advisory Health Care Commission.

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

32 (1) The date upon which this compact shall be adopted under the
 33 laws of the member state.

34 (2) The date upon which this compact receives the consent of
 35 Congress pursuant to Article I, Section 10, of the United States
 36 Constitution, after at least two member states adopt this compact.

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

3 (1) Preventive, diagnostic, therapeutic, rehabilitative,
4 maintenance, or palliative care and counseling, service, assessment, or
5 procedure with respect to the physical or mental condition or functional
6 status of an individual or that affects the structure or function of the
7 body.

8 (2) Sale or dispensing of a drug, device, equipment, or other
9 item in accordance with a prescription.

10 (3) An individual or group plan that provides, or pays the cost
11 of, care, services, or supplies related to the health of an individual.
12 Except any care, services, supplies, or plans provided by the United States
13 Department of Defense and United States Department of Veteran Affairs, or
14 provided to Native Americans.

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

17 (e) "Member state base funding level" means a number equal to the
18 total federal spending on health care in the member state during federal
19 fiscal year 2010. On or before the effective date, each member state shall
20 determine the member state base funding level for its state, and that number
21 shall be binding upon that member state. The preliminary estimate of member
22 state base funding level for the State of Arkansas is eight billion seven
23 hundred twenty-seven million dollars (\$8,727,000,000).

24 (f) "Member state current year funding level" means the member state
25 base funding level multiplied by the member state current year population
26 adjustment factor multiplied by the current year inflation adjustment factor.

27 (g) "Member state current year population adjustment factor" means the
28 average population of the member state in the current year less the average
29 population of the member state in federal fiscal year 2010, divided by the
30 average population of the member state in federal fiscal year 2010, plus 1.
31 Average population in a member state shall be determined by the United States
32 Census Bureau.

33 (h) "Current year inflation adjustment factor" means the total gross
34 domestic product deflator in the current year divided by the total gross
35 domestic product deflator in federal fiscal year 2010. Total gross domestic
36 product deflator shall be determined by the Bureau of Economic Analysis of

1 the United States Department of Commerce.

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3 SECTION 2. Pledge.

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

10
11 SECTION 3. Legislative Power.

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

14
15 SECTION 4. State control.

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

25
26 SECTION 5. Funding.

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

34 (b) By the start of each federal fiscal year, Congress shall establish
35 an initial member state current year funding level for each member state,
36 based upon reasonable estimates. The final member state current year funding

1 level shall be calculated, and funding shall be reconciled by the United
2 States Congress based upon information provided by each member state and
3 audited by the United States Government Accountability Office.

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5 SECTION 6. Interstate Advisory Health Care Commission.

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

14 (b) The commission may elect from among its membership a chair. The
15 commission may adopt and publish bylaws and policies that are not
16 inconsistent with this compact. The commission shall meet at least once a
17 year, and may meet more frequently.

18 (c) The commission may study issues of health care regulation that are
19 of particular concern to the member states. The commission may make
20 nonbinding recommendations to the member states. The legislatures of the
21 member states may consider these recommendations in determining the
22 appropriate health care policies in their respective states.

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

31 (e) The commission shall be funded by the member states as agreed to
32 by the member states. The commission shall have the responsibilities and
33 duties as may be conferred upon it by subsequent action of the respective
34 legislatures of the member states in accordance with the terms of this
35 compact.

36 (f) The commission may not take any action within a member state that

1 contravenes any state law of that member state.

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3 SECTION 7. Congressional consent.

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

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

12 (b) To secure federal funding for member states that choose to invoke
13 their authority under this compact, as prescribed by Section 5.

14
15 SECTION 8. Amendments.

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

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23 SECTION 9. Withdrawal; dissolution.

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

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32 SECTION 10. This act shall become effective on the first day of the
33 third month following its passage and approval by the Governor, or its
34 otherwise becoming law.