

Regular Session, 2014

HOUSE BILL NO. 1090

BY REPRESENTATIVE HOLLIS

HEALTH CARE: Provides relative to the Interstate Health Care Compact

1 AN ACT

2 To enact Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1300.381 through 1300.392, relative to the Interstate Health
4 Care Compact; to enact the "Interstate Health Care Compact"; to provide for
5 legislative findings; to provide necessary definitions; to require compact members
6 take action to obtain congressional consent to the compact; to provide that the
7 legislature is vested with the responsibility to regulate healthcare; to provide for
8 healthcare funding; to establish the Interstate Advisory Health Care Commission; to
9 provide for the commission's composition, powers, duties, and authority; to provide
10 for an effective date of the compact; to provide for amending the compact; to provide
11 for withdrawal from the compact; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of
14 1950, comprised of R.S. 40:1300.381 through 1300.392, is hereby enacted to read as
15 follows:

16 PART LXXV. INTERSTATE HEALTH CARE COMPACT

17 §1300.381. Short title

18 This Part shall be known and cited as the "Interstate Health Care Compact".

19 §1300.382. Legislative findings

20 The Legislature of Louisiana hereby finds all of the following:

1 (1) The separation of powers, both between the branches of the federal
2 government and between federal and state governments, is essential to the
3 preservation of individual liberty.

4 (2) The United States Constitution creates a federal government of limited
5 and enumerated powers and reserves to the states or to the people those powers not
6 granted to the federal government.

7 (3) The federal government has enacted many laws that have preempted state
8 laws with respect to health care and placed increasing strain on state budgets,
9 impairing other responsibilities such as education, infrastructure, and public safety.

10 (4) The member states seek to protect individual liberty and personal control
11 over healthcare decisions and believe the best method to achieve these ends is by
12 vesting regulatory authority over health care with the states.

13 (5) By acting in concert, the member states may express and inspire
14 confidence in the ability of each member state to govern health care effectively.

15 (6) The member states recognize that congressional consent may be more
16 easily secured if the member states collectively seek consent through an interstate
17 compact.

18 §1300.383. Interstate Health Care Compact

19 The Interstate Health Care Compact is hereby enacted into law and entered
20 into by the state of Louisiana with any other states legally joining the compact in a
21 form substantially similar to the form contained in this Part.

22 §1300.384. Definitions

23 As used in this Part:

24 (1) "Commission" means the Interstate Advisory Health Care Commission.

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

28 (a) The date upon which this compact shall be adopted under the laws of the
29 member state.

1 **(b) The date upon which this compact receives the consent of the United**
2 **States Congress pursuant to Article I, Section 10 of the United States Constitution,**
3 **after it is adopted by at least two member states.**

4 **(3) "Health care" means care, services, supplies, or plans related to the health**
5 **of an individual and includes but is not limited to all of the following:**

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

10 **(b) Sale or dispensing of a drug, device, equipment, or other item pursuant**
11 **to a prescription.**

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

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

18 **(5) "Member state base funding level" means a number equal to the total**
19 **federal spending on health care in the member state during federal fiscal year 2010.**
20 **On or before the effective date, each member state shall determine the member state**
21 **base funding level for its state, and that number shall be binding upon that member**
22 **state. The preliminary estimate of member state base funding level for the state of**
23 **Louisiana is fifteen billion nine hundred fifty-seven million dollars.**

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

27 **(7) "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 average**

1 population of the member state in federal fiscal year 2010, plus one. Average
2 population in a member state shall be determined by the United States Census
3 Bureau.

4 (8) "Current year inflation adjustment factor" means the total gross domestic
5 product deflator in the current year divided by the total gross domestic product
6 deflator in federal fiscal year 2010. The total gross domestic product deflator shall
7 be determined by the Bureau of Economic Analysis of the United States Department
8 of Commerce.

9 §1300.385. State action; congressional consent; healthcare policy

10 A. Member states shall take joint and separate action to secure congressional
11 consent to this compact in order to return the authority to regulate health care to the
12 member states consistent with the goals and principles articulated in this compact.

13 B. Member states shall improve healthcare policy within their respective
14 jurisdictions and according to the judgment and discretion of each member state.

15 §1300.386. Legislature; regulation of health care

16 The legislature of each member state has the primary responsibility to
17 regulate health care in its state.

18 §1300.387. State action; suspension of federal laws and rules

19 A. Each member state, within its jurisdiction, may enact legislation to
20 suspend the operation of all federal laws, rules, regulations, and orders regarding
21 health care that are inconsistent with the laws, rules, regulations, and orders adopted
22 by the member state pursuant to this compact.

23 B.(1) Federal and state laws, rules, regulations, and orders regarding health
24 care shall remain in effect unless a member state expressly suspends them pursuant
25 to its authority under this compact.

26 (2) For any federal law, rule, regulation, or order that remains in effect in a
27 member state after the effective date, that member state shall be responsible for the
28 associated funding obligations in its state.

1 §1300.388. Healthcare funding

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

8 B. By the start of each federal fiscal year, congress shall establish an initial
9 member state current year funding level for each member state, based upon
10 reasonable estimates. The final member state current year funding level shall be
11 calculated and funding shall be reconciled by congress based upon information
12 provided by each member state and audited by the United States Government
13 Accountability Office.

14 §1300.389. Interstate Advisory Health Care Commission

15 A.(1) The Interstate Advisory Health Care Commission is established.

16 (2) The commission consists of members appointed by each member state
17 through a process to be determined by each member state. A member state may not
18 appoint more than two members to the commission and may withdraw membership
19 from the commission at any time.

20 (3) Each commission member is entitled to one vote. The commission shall
21 not act unless a majority of the members are present, and no action shall be binding
22 unless approved by a majority of the commission's total membership.

23 B.(1) The commission may elect from among its membership a chairman.

24 (2) The commission may adopt and publish bylaws and policies that are not
25 inconsistent with this compact.

26 (3) The commission shall meet at least once a year and may meet more
27 frequently.

28 C. The commission may study issues of healthcare regulation that are of
29 particular concern to the member states. The commission may make nonbinding

1 recommendations to the member states. The legislatures of the member states may
2 consider these recommendations in determining the appropriate healthcare policies
3 in their respective states.

4 D. The commission shall collect information and data to assist the member
5 states in their regulation of health care, including assessing the performance of
6 various state healthcare programs and compiling information on the prices of health
7 care. The commission shall make this information and data available to the
8 legislatures of the member states. Notwithstanding any other provision in this
9 compact, no member state shall disclose to the commission the health information
10 of any individual, nor shall the commission disclose the health information of any
11 individual.

12 E.(1) The commission shall be funded by the member states as agreed to by
13 the member states.

14 (2) The commission shall have the responsibilities and duties as may be
15 conferred upon it by subsequent action of the respective legislatures of the member
16 states in accordance with the terms of this compact.

17 F. The commission shall not take any action within a member state that
18 contravenes any state law of that member state.

19 §1300.390. Effective date

20 A. This compact shall be effective on its adoption by at least two member
21 states and congressional consent.

22 B. This compact shall be effective unless the United States Congress, in
23 consenting to it, alters its fundamental purposes, which are to do all of the following:

24 (1) Secure the right of the member states to regulate health care in their
25 respective states pursuant to this compact and to suspend the operation of any
26 conflicting federal laws, rules, regulations, and orders within their states.

27 (2) Secure federal funding for member states that choose to invoke their
28 authority under this compact.

1 §1300.391. Amendments to compact

2 A. Member states, by unanimous agreement, may amend this compact from
3 time to time without prior congressional consent or approval and any amendment
4 shall be effective unless, within one year, congress disapproves that amendment.

5 B. Any state may join this compact after the date by adoption into law under
6 its state constitution.

7 §1300.392. Withdrawal from compact; dissolution

8 A. A member state may withdraw from this compact by adopting a law to
9 that effect, but no such withdrawal shall take effect until six months after the
10 withdrawing member state has given notice of the withdrawal to the other member
11 states.

12 B. A withdrawing state shall be liable for any obligations that it may have
13 incurred prior to the date on which its withdrawal becomes effective.

14 C. This compact shall be dissolved upon the withdrawal of all but one of the
15 member states.

16 Section 2. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hollis

HB No. 1090

Abstract: Provides for participation in the Interstate Health Care Compact.

Proposed law may be cited as the "Interstate Health Care Compact".

Proposed law provides for legislative findings.

Proposed law enacts the Interstate Health Care Compact and provides that the compact is entered into by the state of La. with any other states legally joining the compact in a form substantially similar to the form contained in proposed law.

Proposed law provides that the "effective date" upon which the compact shall become effective for purposes of the operation of state and federal law in a member state, shall be the later of either of the following:

- (1) The date upon which the compact shall be adopted under the laws of the member state.
- (2) The date upon which the compact receives the consent of the U.S. Congress pursuant to Art. I, §10 of the U.S. Constitution, after it is adopted by at least two member states.

Proposed law defines "health care" as care, services, supplies, or plans related to the health of an individual and includes but is not limited to all of the following:

- (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body.
- (2) Sale or dispensing of a drug, device, equipment, or other item pursuant to a prescription.
- (3) An individual or group plan that provides, or pays the cost of care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the U.S. Dept. of Defense and U.S. Dept. of Veteran Affairs or provided to Native Americans.

Proposed law defines "member state base funding level" as a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. Proposed law requires, on or before the effective date, each member state to determine the member state base funding level for its state, and that number shall be binding upon that member state. Proposed law provides that the preliminary estimate of member state base funding level for La. is \$15,957,000,000.

Proposed law defines "member state current year funding level" as the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

Proposed law defines "member state current year population adjustment factor" as the average population of the member state in the current year less the average population of the member state in federal fiscal year 2010, divided by the average population of the member state in federal fiscal year 2010, plus one. Proposed law provides that the average population in a member state shall be determined by the U.S. Census Bureau.

Proposed law defines "current year inflation adjustment factor" as the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal fiscal year 2010. Proposed law provides that the total gross domestic product deflator shall be determined by the Bureau of Economic Analysis of the U.S. Dept. of Commerce.

Proposed law requires member states to take joint and separate action to secure congressional consent to the compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in the compact.

Proposed law provides the legislature of each member state has the primary responsibility to regulate health care in their state and that member states shall improve healthcare policy within their respective jurisdictions and according to the judgment and discretion of each member state.

Proposed law authorizes each member state, within its jurisdiction, to enact legislation to suspend the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws, rules, regulations, and orders adopted by the member state pursuant to the compact.

Proposed law requires federal and state laws, rules, regulations, and orders regarding health care to remain in effect unless a member state expressly suspends them pursuant to its authority under the compact. Proposed law further requires a member state, for any federal law, rule, regulation, or order that remains in effect in a member state after the effective date of the compact, to be responsible for the associated funding obligations in its state.

Proposed law authorizes each member state, each federal fiscal year, to have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under the compact. Proposed law prohibits the funding from being conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

Proposed law requires congress, by the start of each federal fiscal year, to establish an initial member state current year funding level for each member state, based upon reasonable estimates. Proposed law further requires the final member state current year funding level to be calculated, and funding to be reconciled by congress based upon information provided by each member state and audited by the U.S. Government Accountability Office.

Proposed law establishes the Interstate Advisory Health Care Commission and provides for the membership, voting, officers, and meetings of the commission.

Proposed law authorizes the commission to study issues of healthcare regulation that are of particular concern to the member states and make nonbinding recommendations to the member states.

Proposed law requires the commission to collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state healthcare programs and compiling information on the prices of health care. Proposed law further requires the commission to make the information and data available to the legislatures of the member states.

Proposed law provides that the commission shall be funded by the member states as agreed to by the member states and shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the member states in accordance with the terms of the compact. Proposed law prohibits the commission from taking any action within a member state that contravenes any state law of that member state.

Proposed law provides that the compact shall be effective on its adoption by at least two member states and congressional consent unless the U.S. Congress, in consenting to it, alters its fundamental purposes, which are to do all of the following:

- (1) Secure the right of the member states to regulate health care in their respective states pursuant to the compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states.
- (2) Secure federal funding for member states that choose to invoke their authority under the compact.

Proposed law authorizes member states, by unanimous agreement, to amend the compact from time to time without prior congressional consent or approval and provides that any amendment shall be effective unless, within one year, congress disapproves that amendment.

Proposed law provides that any state may join the compact after the date by adoption into law under its state constitution.

Proposed law authorizes a member state to withdraw from the compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the withdrawing member state has given notice of the withdrawal to the other member states.

Proposed law provides that a withdrawing state shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective.

Proposed law provides that the compact shall be dissolved upon the withdrawal of all but one of the member states.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1300.381-1300.392)