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HOUSE BILL NO. 264

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 17, consisting of a section numbered 32.1-370, relating to the establishment of the Interstate Health Care Compact.*

Patrons—Peace, O'Bannon and Ransone; Senator: Vogel

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 17, consisting of a section numbered 32.1-370, as follows:

CHAPTER 17.**INTERSTATE HEALTH CARE COMPACT.****§ 32.1-370. Interstate Health Care Compact.**

The Interstate Health Care Compact is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I.**Purpose.**

It is the purpose of this compact to (i) secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states and (ii) secure federal funding for member states that choose to invoke their authority under this compact.

Article II.**Definitions.**

As used in this compact, unless the context clearly requires a different meaning:

"Commission" means the Interstate Advisory Health Care Commission.

"Current year inflation adjustment factor" means the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal fiscal year 2010. Total gross domestic product deflator shall be determined by the Bureau of Economic Analysis of the U.S. Department of Commerce.

"Effective date" means the date upon which this compact shall become effective for purposes of the operation of state and federal law in a member state, which shall be the later of (i) the date upon which this compact shall be adopted under the laws of the member state or (ii) the date upon which this compact receives the consent of Congress pursuant to Article I, Section 10 of the United States Constitution, after at least two member states adopt this compact.

"Health care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to (i) preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, assessment, services, or procedures with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body; (ii) the sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and (iii) the provision of or payment of the costs of care, services, or supplies related to the health of an individual pursuant to an individual or group plan. However, for the purposes of this compact, "health care" shall not include care, services, supplies, or plans provided by the U.S. Department of Defense and U.S. Department of Veterans Affairs, or provided to Native Americans.

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

"Member state base funding level" means a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. On or before the effective date, each member state shall determine the member state base funding level for its state, and that number shall be binding upon that member state.

"Member state current year funding level" means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

"Member state current year population adjustment factor" means 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. Average population in a member state shall be determined by the U.S. Census Bureau.

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Article III.

Pledge; legislative authority; state control; Congressional consent; amendments; withdrawal and dissolution.

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

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

C. Each member state may, pursuant to this compact, suspend by legislation the operation within that state of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state. Federal and state laws, rules, regulations, and orders regarding health care shall remain in effect unless and until such time as a member state expressly suspends such laws, rules, regulations, and orders pursuant to its authority under this compact. A member state shall be responsible for the associated funding obligation in that state for any federal law, rule, regulation, or order that remains in effect in that member state after the effective date of this compact.

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

1. To secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

2. To secure federal funding for member states that choose to invoke their authority under this compact.

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

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

Article IV.

Funding.

A. Each federal fiscal year, each member state shall have the right to federal moneys 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 this compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

B. No later than the first day of each federal fiscal year, Congress shall establish an initial member state current year funding level for each member state based upon reasonable estimates. The final member state current year funding level shall be calculated and funding shall be reconciled by Congress based upon information provided by each member state and audited by the U.S. Government Accountability Office.

Article V.

Interstate Advisory Health Care Commission.

A. The Interstate Advisory Health Care Commission established pursuant to this compact shall consist of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the Commission and may withdraw membership from the Commission at any time. Each Commission member shall have one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the Commission's total majority.

B. The Commission may elect from among its membership a chairperson, and may adopt and publish bylaws and policies that are not inconsistent with this compact. The Commission shall meet at least one time each year, and may meet more frequently.

C. The Commission may study issues related to the regulation of health care that are of particular concern to the member states. The Commission may make nonbinding recommendations to the member states for consideration by the legislatures of the member states during determination of appropriate health care policies in those states.

D. The Commission shall collect information and data to assist the member states in their regulation

121 of health care, including assessing the performance of various state health care programs and compiling
122 information on the price of health care. The Commission shall make this information and data available
123 to the legislatures of the member states. Notwithstanding any other provision of this compact, no
124 member state shall disclose to the Commission the health information of any individual, nor shall the
125 Commission disclose the health information of any individual.

126 E. The Commission shall be funded by the member states as agreed to by the member states. The
127 Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action
128 of the legislatures of the member states in accordance with the terms of this compact.

129 F. The Commission shall not take any action within a member state that contravenes any state law
130 of the member state.