

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1291

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to authorize the governor to enter the state in the interstate health care freedom compact.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.**

**Interstate health care freedom compact.**

The governor shall enter the interstate health care freedom compact on behalf of the state in a form substantially as follows:

Interstate Health Care Freedom Compact

The party states agree to the following articles of the interstate health care freedom compact.

Article I. Findings and Declaration of Policy

1. 4 U.S.C. 112 gives congressional consent "to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts".
2. Pursuant to their police powers to protect public health, safety, welfare, and morals, the party states have enacted or anticipate enacting laws or constitutional provisions to protect and guarantee their residents' rights and freedom to pay, or not to pay, directly for health care services and to participate, or not to participate, in health plans and health systems.
3. The party states have enacted or anticipate enacting laws that make it a crime in their states for anyone to interfere with their residents' enjoyment of the rights and freedoms guaranteed by their respective health care freedom laws.
4. The party states find it necessary and deem it desirable for making effective their respective current or anticipated health care freedom criminal laws, as well as this agreement and compact, to do the following:
  - a. Prohibit any governmental agent from depriving any resident of any party state of the rights and freedoms guaranteed under their respective current or anticipated health care freedom laws.
  - b. Prohibit any governmental agent from penalizing any resident of any party state for exercising the rights and freedoms guaranteed under their respective current or anticipated health care freedom laws.

- c. Cooperate with each other and to give each other mutual assistance in the prevention of crimes under the health care freedom criminal laws of any party state.
- d. Cooperate with each other and to give each other mutual assistance in the criminal prosecution of anyone who violates the health care freedom criminal laws of any party state.

## Article II. Definitions

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

- 1. "Compel" includes legal mandates, penalties, or fines.
- 2. "Health care freedom criminal laws" means any state law that makes it a crime for anyone to interfere with a resident's enjoyment of the freedoms protected and guaranteed by the state's respective health care freedom laws.
- 3. "Health care freedom laws" means any state law or constitutional provision that protects and guarantees a resident's freedom to pay or not to pay directly for lawful health care services and to participate or not to participate in health care plans and health care systems.
- 4. "Health care plan" means any legally binding arrangement under which at least one person or entity promises and undertakes, in exchange for consideration of a set or assessed amount of money, to make a payment to another party or a third party if a specified event occurs involving the provision of health care services.
- 5. "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals in health care plans or payment for, in full or in part, health care services or health care data or health care information for its participants.
- 6. "Lawful health care services" means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation and that may be provided by persons or businesses otherwise permitted to offer such services.
- 7. "Pay directly" means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.
- 8. "Penalty" means any civil penalty, criminal fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this state's health care freedom law.
- 9. "State" means a state of the United States.

## Article III. Terms

Notwithstanding any state or federal law to the contrary:

1. Each party state shall give full faith and credit to the health care freedom criminal laws and health care freedom laws of every party state.
2. A governmental agent shall not deprive residents of party states of the rights and freedoms protected under their respective states' health care freedom criminal laws and guaranteed by their respective states' health care freedom laws.
3. Governmental agents shall not penalize residents of party states for exercising the rights and freedoms protected under their respective states' health care freedom criminal laws and guaranteed by their respective states' health care freedom laws.
4. The party states shall cooperate with each other and give each other mutual assistance in the prevention of crimes under the health care freedom criminal laws of any party state.
5. The party states shall cooperate with each other and give each other mutual assistance in the criminal prosecution of any person who violates the health care freedom criminal laws of any party state.

#### Article IV. Enforcement

Notwithstanding any state or federal law to the contrary:

1. The chief law enforcement officer of each party state shall enforce this agreement and compact.
2. A taxpaying resident of any party state has standing in the courts of any party state to require the chief law enforcement officer of any party state to enforce this agreement and compact.

#### Article V. Compact Administrator and Interchange of Information

1. The governor of each party state, or the governor's designee, is the compact administrator. The compact administrator shall:
  - a. Maintain an accurate list of all party states.
  - b. Consistent with subsections 3 and 4, transmit in a timely fashion to other party states citations of all current health care freedom laws and current health care freedom criminal laws of the compact administrator's respective state.
  - c. Receive and maintain a complete list of the health care freedom laws and health care freedom criminal laws of each party state.
  - d. Formulate all necessary and proper procedures to effectuate this compact.
  - e. Delegate needed tasks to other state agencies.
2. The compact administrator of each party state shall furnish to the compact administrator of each party state any information or documents that are reasonably necessary to facilitate the administration of this compact.

3. Within ten days after executing this agreement and compact, and thereafter on the close of each of their respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate citation of each of their current health care freedom laws, which shall be deemed within the subject matter of this agreement and compact, unless the compact administrator of one or more party states gives specific notice in writing to all other party states within sixty days of such notice that it objects to the inclusion of such law or laws in this agreement and compact.
4. Within ten days after executing this agreement and compact, and thereafter on the close of each of their respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate citation of each of their current health care freedom criminal laws, which shall be deemed within the subject matter of this agreement and compact, unless the compact administrator of one or more party states gives specific notice in writing to all other party states within sixty days of such notice that it objects to the inclusion of such law or laws in this agreement and compact.

#### Article VI. Entry Into Effect and Withdrawal

1. This compact is deemed accepted when at least two states deliver a notice of confirmation, which is duly executed by their respective authorized representative and which acknowledges complete agreement to the terms of this compact, to each other's governor, the office of the clerk of the United States house of representatives, the office of the secretary of the United States senate, the president of the United States senate, and the speaker of the United States house of representatives. Thereafter, the compact is deemed accepted by any state when a respective notice of confirmation, which is duly executed by the state's respective authorized representative and which acknowledges complete agreement to the terms of this compact, is delivered to each party state's compact administrator, the office of the clerk of the United States house of representatives, the office of the secretary of the United States senate, the president of the United States senate, and the speaker of the United States house of representatives.
2. Four years after this compact first becomes effective, any party state may withdraw from this compact by enacting a joint resolution declaring such withdrawal and delivering notice of the withdrawal to each other party state. A withdrawal does not affect the validity or applicability of the compact to states remaining party to the compact.

#### Article VII. Construction and Severability

1. This compact shall be liberally construed so as to effectuate its purposes.
2. This compact is not intended to:
  - a. Affect which health care services a health care provider or hospital is required to perform or provide under state or federal law.
  - b. Affect which health care services are permitted by state or federal law.

3. This compact is intended to operate as the law of the nation with respect to the party states under 4 U.S.C. 112, to supersede any inconsistent state and federal law, and to establish vested rights in favor of residents of the party states in the enjoyment of the rights and freedoms protected by the respective health care freedom criminal laws and guaranteed by the respective health care freedom laws.
4. If any phrase, clause, sentence, or provision of this compact is declared in a final judgment by a court of competent jurisdiction to be contrary to the Constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact shall not be affected.
5. If the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is declared in a final judgment by a court of competent jurisdiction to be contrary to the Constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person, or circumstance shall not be affected.
6. If this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the affected party state as to all severable matters."

Renumber accordingly