

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1291

Introduced by

Representatives Kasper, Headland, Thoreson, Weiler

Senators Klein, Wardner

1 A BILL for an Act to authorize the governor to enter the state in the interstate health care
2 freedom compact.

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

4 **SECTION 1.**

5 **Interstate health care freedom compact.**

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

8 Interstate Health Care Freedom Compact

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

11 Article I. Findings and Declaration of Policy

- 12 1. 4 U.S.C. 112 gives congressional consent "to any two or more States to enter into
13 agreements or compacts for cooperative effort and mutual assistance in the
14 prevention of crime and in the enforcement of their respective criminal laws and
15 policies, and to establish such agencies, joint or otherwise, as they may deem
16 desirable for making effective such agreements and compacts."
- 17 2. Pursuant to their police powers to protect public health, safety, welfare, and morals,
18 the party states have enacted or anticipate enacting laws or constitutional provisions
19 to protect and guarantee their residents' rights and freedom to pay, or not to pay,
20 directly for health care services and to participate, or not to participate, in health plans
21 and health systems (hereinafter "health care freedom laws").
- 22 3. The party states have enacted or anticipate enacting laws that make it a crime in their
23 states for anyone to interfere with their residents' enjoyment of the rights and

freedoms guaranteed by their respective health care freedom laws (hereinafter "health care freedom criminal 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 prohibit any governmental agent from depriving any resident of any party state of the rights and freedoms guaranteed under the respective current or anticipated health care freedom laws.

5. 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 prohibit any governmental agent from penalizing any resident of any party state for exercising the rights and freedoms guaranteed under the respective current or anticipated health care freedom laws.

6. 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 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.

7. 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 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:

1. "Compel" includes legal mandates, penalties, or fines.

2. "Direct payment or 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.

3. "Health care freedom criminal laws" means any state law that makes it a crime in that state for anyone to interfere with that state's residents' enjoyment of the freedoms protected and guaranteed by that state's respective health care freedom laws. Within

1 ten days of executing this agreement and compact, and thereafter upon the close of
2 each succeeding legislative session of a party state, that party state shall notify every
3 other party state in writing and by appropriate citation of the party state's current
4 health care freedom criminal laws, which shall be deemed within the subject matter of
5 this agreement and compact unless the compact administrator of one or more party
6 states gives specific notice in writing to the compact administrators of all other party
7 states within sixty days thereafter that the compact administrator objects to the
8 inclusion of such law or laws in this agreement and compact.

9 4. "Health care freedom laws" means any state law or constitutional provision that
10 protects and guarantees a resident's freedom to pay, or not to pay, directly for lawful
11 health care services and to participate, or not to participate, in health care plans and
12 health care systems. Within ten days of executing this agreement and compact, and
13 thereafter upon the close of each succeeding legislative session of a party state, that
14 party state shall notify every other party state in writing and by appropriate citation of
15 the party state's current health care freedom laws, which shall be deemed within the
16 subject matter of this agreement and compact unless the compact administrator of one
17 or more party states gives specific notice in writing to the compact administrators of all
18 other party states within sixty days thereafter that the compact administrator objects to
19 the inclusion of such law or laws in this agreement and compact.

20 5. "Health plan" means any legally binding arrangement under which at least one person
21 promises and undertakes, in exchange for consideration of a set or assessed amount
22 of money, to make a payment to either another party or to a third party, if a specified
23 event occurs involving the provision of health care services.

24 6. "Health system" means any public or private entity whose function or purpose is the
25 management of, processing of, enrollment of individuals in health plans, and/or for or
26 payment for, in full or in part, health care services or health care data or health care
27 information for its participants.

28 7. "Lawful health care services" means any health-related service or treatment to the
29 extent that the service or treatment is permitted or not prohibited by law or regulation
30 that may be provided by persons otherwise permitted to offer such services.

1. The governor of each party state, or the governor's designee, is the "compact administrator" of this compact for the governor's state. The compact administrator shall:
 - a. Maintain an accurate list of all party states;
 - b. Transmit in a timely fashion to other party states, as provided herein, citations of all current health care freedom laws and current health care freedom criminal law of the compact administrator's respective state;
 - c. Receive and maintain a complete listing 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; and
 - e. Delegate, as appropriate, needed tasks to other state agencies.
2. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information or documents reasonably necessary to facilitate the enforcement and administration of this compact.

Article VI. Entry Into Force 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 representatives, acknowledging 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 representatives, acknowledging 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. The form of the notice of confirmation must be in a form substantially equivalent to the following:

"Notice of Confirmation

1 **WHEREAS**, the Interstate Health Care Freedom Compact was formed to provide means
2 through which the signing jurisdictions may participate in a reciprocal agreement to effectuate
3 the stated policies and purposes of the compact;

4 **WHEREAS**, authority for the state of _____ to enter the compact is contained in:
5 _____ (P.L. or statute); and

6 **WHEREAS**, the compact will serve to mutually benefit the residents, businesses, and the
7 operation of government in the party jurisdictions;

8 **NOW, THEREFORE**, in consideration of the mutual and reciprocal benefits to flow
9 therefrom, and pursuant to the authority in: _____ (statutory cite of
10 authority) the "Interstate Health Care Freedom Compact" is hereby confirmed; and

11 **FURTHER PROVIDED**, that this jurisdiction agrees to comply with the terms and provisions
12 of the compact; and

13 **FURTHER PROVIDED**, that the effective date of entry for this jurisdiction into the compact
14 is/was _____, 20__ ; and

15 Authority for administration of this compact within this jurisdiction is vested in the office of
16 the governor of each signing state, unless a different administrator is designated by the
17 governor.

18 DATED: _____, 20__

19 For the state of _____

20 NAME _____

21 TITLE _____

22 SIGNATURE _____ "

- 23 2. Four years after this compact first becomes effective, any party state may withdraw
24 from this compact by enacting a joint resolution declaring such withdrawal and
25 delivering notice of the same to each other party state. No withdrawal may affect the
26 validity or applicability of the compact to states remaining party to the compact.

27 Article VII. Construction and Severability

- 28 1. This compact must be liberally construed so as to effectuate the purposes thereof.

- 29 2. This compact is not intended to:

- 30 a. Affect which health care services a health care provider or hospital is required to
31 perform or provide under state or federal law; nor

1 b. Affect which health care services are permitted by state or federal law.

2 3. This compact is intended to operate as the law of the nation with respect to the party
3 states under 4 U.S.C. 112, to supersede any inconsistent state and federal law, and to
4 establish vested rights in favor of residents of the party states in the enjoyment of the
5 rights and freedoms protected by the respective health care freedom criminal laws and
6 guaranteed by the respective health care freedom laws.

7 4. If any phrase, clause, sentence, or provision of this compact is declared in a final
8 judgment by a court of competent jurisdiction to be contrary to the Constitution of the
9 United States or otherwise held invalid, it must be severed from this compact, and the
10 validity of the remainder of this compact is not affected thereby.

11 5. If the applicability of any phrase, clause, sentence, or provision of this compact to any
12 government, agency, person, or circumstance is declared in a final judgment by a
13 court of competent jurisdiction to be contrary to the Constitution of the United States or
14 otherwise held invalid, it must be severed from this compact, and the validity of the
15 remainder of this compact and the applicability thereof to any government, agency,
16 person, or circumstance is not affected thereby.

17 6. If this compact is held contrary to the constitution of any party state thereto, the
18 compact must remain in full force and effect as to remaining party states and in full
19 force and effect as to the state affected as to all severable matters.