

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~~

1 ~~freedoms guaranteed by their respective health care freedom laws (hereinafter "health-~~
2 ~~care freedom criminal laws");~~

3 ~~4. The party states find it necessary and deem it desirable for making effective their~~
4 ~~respective current or anticipated health care freedom criminal laws, as well as this~~
5 ~~agreement and compact, to prohibit any governmental agent from depriving any~~
6 ~~resident of any party state of the rights and freedoms guaranteed under the respective~~
7 ~~current or anticipated health care freedom laws.~~

8 ~~5. The party states find it necessary and deem it desirable for making effective their~~
9 ~~respective current or anticipated health care freedom criminal laws, as well as~~
10 ~~this agreement and compact, to prohibit any governmental agent from penalizing~~
11 ~~any resident of any party state for exercising the rights and freedoms guaranteed~~
12 ~~under the respective current or anticipated health care freedom laws.~~

13 ~~6. The party states find it necessary and deem it desirable for making effective their~~
14 ~~respective current or anticipated health care freedom criminal laws, as well as~~
15 ~~this agreement and compact, to cooperate with each other and to give each other~~
16 ~~mutual assistance in the prevention of crimes under the health care freedom~~
17 ~~criminal laws of any party state.~~

18 ~~7. The party states find it necessary and deem it desirable for making effective their~~
19 ~~respective current or anticipated health care freedom criminal laws, as well as~~
20 ~~this agreement and compact, to cooperate with each other and to give each other~~
21 ~~mutual assistance in the criminal prosecution of anyone who violates the health~~
22 ~~care freedom criminal laws of any party state.~~

23 Article II. Definitions

24 ~~As used in this compact:~~

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

26 ~~2. "Direct payment or pay directly" means payment for lawful health care services without~~
27 ~~a public or private third party, not including an employer, paying for any portion of the~~
28 ~~service.~~

29 ~~3. "Health care freedom criminal laws" means any state law that makes it a crime in that~~
30 ~~state for anyone to interfere with that state's residents' enjoyment of the freedoms~~
31 ~~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 ~~8. "Penalty" means any civil or criminal penalty or fine, tax, salary or wage withholding or~~
2 ~~surcharge, or any named fee with a similar effect established by law or rule by a~~
3 ~~government established, created, or controlled agency which is used to punish or~~
4 ~~discourage the exercise of rights protected under this section.~~

5 ~~9. "State" means a state of the United States.~~

6 Article III. Terms

7 ~~1. Notwithstanding any state or federal law to the contrary, each party state shall give full~~
8 ~~faith and credit to the health care freedom criminal laws and health care freedom laws~~
9 ~~of every party state.~~

10 ~~2. Notwithstanding any state or federal law to the contrary, no governmental agent shall~~
11 ~~deprive any resident of any party state of the rights and freedoms protected~~
12 ~~under the resident's respective state's health care freedom criminal laws and~~
13 ~~guaranteed by the respective state's health care freedom laws.~~

14 ~~3. Notwithstanding any state or federal law to the contrary, no governmental agent shall~~
15 ~~penalize any resident of any party state for exercising the rights and freedoms~~
16 ~~protected under the respective state's health care freedom criminal laws and~~
17 ~~guaranteed by the respective state's health care freedom laws.~~

18 ~~4. Notwithstanding any state or federal law to the contrary, the party states shall cooperate~~
19 ~~with each other and give each other mutual assistance in the prevention of~~
20 ~~crimes under the health care freedom criminal laws of any party state.~~

21 ~~5. Notwithstanding any state or federal law to the contrary, the party states shall cooperate~~
22 ~~with each other and give each other mutual assistance in the criminal prosecution~~
23 ~~of anyone who violates the health care freedom criminal laws of any party state.~~

24 Article IV. Enforcement

25 ~~1. Notwithstanding any state or federal law to the contrary, the chief law enforcement~~
26 ~~officer of each party state shall enforce this agreement and compact.~~

27 ~~2. Notwithstanding any state or federal law to the contrary, taxpaying residents of any party~~
28 ~~state shall have standing in the courts of any party state to compel the chief law~~
29 ~~enforcement officer of any party state to enforce this agreement and compact.~~

30 Article V. Compact Administrator and Interchange of Information

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

15 ~~Article VI. Entry Into Force and Withdrawal~~

- 16 ~~1. This compact is deemed accepted when at least two states deliver a notice of~~
17 ~~confirmation, which is duly executed by their respective authorized representatives,~~
18 ~~acknowledging complete agreement to the terms of this compact, to each other's~~
19 ~~governor, the office of the clerk of the United States house of representatives, the~~
20 ~~office of the secretary of the United States senate, the president of the United States~~
21 ~~senate, and the speaker of the United States house of representatives. Thereafter, the~~
22 ~~compact is deemed accepted by any state when a respective notice of confirmation,~~
23 ~~which is duly executed by the state's respective authorized representatives,~~
24 ~~acknowledging complete agreement to the terms of this compact, is delivered to each~~
25 ~~party state's compact administrator, the office of the clerk of the United States house~~
26 ~~of representatives, the office of the secretary of the United States senate, the~~
27 ~~president of the United States senate, and the speaker of the United States house of~~
28 ~~representatives. The form of the notice of confirmation must be in a form substantially~~
29 ~~equivalent to the following:~~

30 ~~"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.~~

20 **SECTION 1.**

21 **Interstate health care freedom compact.**

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

24 Interstate Health Care Freedom Compact

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

27 Article I. Findings and Declaration of Policy

- 28 1. 4 U.S.C. 112 gives congressional consent "to any two or more States to enter into
29 agreements or compacts for cooperative effort and mutual assistance in the
30 prevention of crime and in the enforcement of their respective criminal laws and

1 policies, and to establish such agencies, joint or otherwise, as they may deem
2 desirable for making effective such agreements and compacts".

3 2. Pursuant to their police powers to protect public health, safety, welfare, and morals,
4 the party states have enacted or anticipate enacting laws or constitutional provisions
5 to protect and guarantee their residents' rights and freedom to pay, or not to pay,
6 directly for health care services and to participate, or not to participate, in health plans
7 and health systems.

8 3. The party states have enacted or anticipate enacting laws that make it a crime in their
9 states for anyone to interfere with their residents' enjoyment of the rights and
10 freedoms guaranteed by their respective health care freedom laws.

11 4. The party states find it necessary and deem it desirable for making effective their
12 respective current or anticipated health care freedom criminal laws, as well as this
13 agreement and compact, to do the following:

14 a. Prohibit any governmental agent from depriving any resident of any party state of
15 the rights and freedoms guaranteed under their respective current or anticipated
16 health care freedom laws.

17 b. Prohibit any governmental agent from penalizing any resident of any party state
18 for exercising the rights and freedoms guaranteed under their respective current
19 or anticipated health care freedom laws.

20 c. Cooperate with each other and to give each other mutual assistance in the
21 prevention of crimes under the health care freedom criminal laws of any party
22 state.

23 d. Cooperate with each other and to give each other mutual assistance in the
24 criminal prosecution of anyone who violates the health care freedom criminal
25 laws of any party state.

26 Article II. Definitions

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

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

29 2. "Health care freedom criminal laws" means any state law that makes it a crime for
30 anyone to interfere with a resident's enjoyment of the freedoms protected and
31 guaranteed by the state's respective health care freedom laws.

1 3. "Health care freedom laws" means any state law or constitutional provision that
2 protects and guarantees a resident's freedom to pay or not to pay directly for lawful
3 health care services and to participate or not to participate in health care plans and
4 health care systems.

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

9 5. "Health care system" means any public or private entity whose function or purpose is
10 the management of, processing of, enrollment of individuals in health care plans or
11 payment for, in full or in part, health care services or health care data or health care
12 information for its participants.

13 6. "Lawful health care services" means any health-related service or treatment to the
14 extent that the service or treatment is permitted or not prohibited by law or regulation
15 and that may be provided by persons or businesses otherwise permitted to offer such
16 services.

17 7. "Pay directly" means payment for lawful health care services without a public or
18 private third party, not including an employer, paying for any portion of the service.

19 8. "Penalty" means any civil penalty, criminal fine, tax, salary or wage withholding or
20 surcharge or any named fee with a similar effect established by law or rule by a
21 government established, created or controlled agency that is used to punish or
22 discourage the exercise of rights protected under this state's health care freedom law.

23 9. "State" means a state of the United States.

24 Article III. Terms

25 Notwithstanding any state or federal law to the contrary:

26 1. Each party state shall give full faith and credit to the health care freedom criminal laws
27 and health care freedom laws of every party state.

28 2. A governmental agent shall not deprive residents of party states of the rights and
29 freedoms protected under their respective states' health care freedom criminal laws
30 and guaranteed by their respective states' health care freedom laws.

1 3. Governmental agents shall not penalize residents of party states for exercising the
2 rights and freedoms protected under their respective states' health care freedom
3 criminal laws and guaranteed by their respective states' health care freedom laws.

4 4. The party states shall cooperate with each other and give each other mutual
5 assistance in the prevention of crimes under the health care freedom criminal laws of
6 any party state.

7 5. The party states shall cooperate with each other and give each other mutual
8 assistance in the criminal prosecution of any person who violates the health care
9 freedom criminal laws of any party state.

10 Article IV. Enforcement

11 Notwithstanding any state or federal law to the contrary:

12 1. The chief law enforcement officer of each party state shall enforce this agreement and
13 compact.

14 2. A taxpaying resident of any party state has standing in the courts of any party state to
15 require the chief law enforcement officer of any party state to enforce this agreement
16 and compact.

17 Article V. Compact Administrator and Interchange of Information

18 1. The governor of each party state, or the governor's designee, is the compact
19 administrator. The compact administrator shall:

20 a. Maintain an accurate list of all party states.

21 b. Consistent with subsections 3 and 4, transmit in a timely fashion to other party
22 states citations of all current health care freedom laws and current health care
23 freedom criminal laws of the compact administrator's respective state.

24 c. Receive and maintain a complete list of the health care freedom laws and health
25 care freedom criminal laws of each party state.

26 d. Formulate all necessary and proper procedures to effectuate this compact.

27 e. Delegate needed tasks to other state agencies.

28 2. The compact administrator of each party state shall furnish to the compact
29 administrator of each party state any information or documents that are reasonably
30 necessary to facilitate the administration of this compact.

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

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

15 Article VI. Entry Into Effect and Withdrawal

16 1. This compact is deemed accepted when at least two states deliver a notice of
17 confirmation, which is duly executed by their respective authorized representative and
18 which acknowledges complete agreement to the terms of this compact, to each other's
19 governor, the office of the clerk of the United States house of representatives, the
20 office of the secretary of the United States senate, the president of the United States
21 senate, and the speaker of the United States house of representatives. Thereafter, the
22 compact is deemed accepted by any state when a respective notice of confirmation,
23 which is duly executed by the state's respective authorized representative and which
24 acknowledges complete agreement to the terms of this compact, is delivered to each
25 party state's compact administrator, the office of the clerk of the United States house
26 of representatives, the office of the secretary of the United States senate, the
27 president of the United States senate, and the speaker of the United States house of
28 representatives.

29 2. Four years after this compact first becomes effective, any party state may withdraw
30 from this compact by enacting a joint resolution declaring such withdrawal and
31 delivering notice of the withdrawal to each other party state. A withdrawal does not

1 affect the validity or applicability of the compact to states remaining party to the
2 compact.

3 Article VII. Construction and Severability

4 1. This compact shall be liberally construed so as to effectuate its purposes.

5 2. This compact is not intended to:

6 a. Affect which health care services a health care provider or hospital is required to
7 perform or provide under state or federal law.

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

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

14 4. If any phrase, clause, sentence, or provision of this compact is declared in a final
15 judgment by a court of competent jurisdiction to be contrary to the Constitution of the
16 United States or is otherwise held invalid, the validity of the remainder of this compact
17 shall not be affected.

18 5. If the applicability of any phrase, clause, sentence, or provision of this compact to any
19 government, agency, person, or circumstance is declared in a final judgment by a
20 court of competent jurisdiction to be contrary to the Constitution of the United States or
21 is otherwise held invalid, the validity of the remainder of this compact and the
22 applicability of the remainder of this compact to any government, agency, person, or
23 circumstance shall not be affected.

24 6. If this compact is held to be contrary to the constitution of any party state, the compact
25 shall remain in full force and effect as to the remaining party states and in full force
26 and effect as to the affected party state as to all severable matters.