



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Abby McMahon

### **H.B. 85\***

132nd General Assembly

(As Reported by H. Federalism and Interstate Relations)

**Reps.** Retherford, Dean, Thompson, Becker, Hood, Blessing, LaTourette, Butler, Perales, Conditt, Koehler, Vitale, Roegner, Young, Henne, Romanchuk

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### **BILL SUMMARY**

- Adopts "The Health Care Compact," which permits Ohio to become a member state and, along with other member states, enact the Compact.
- Provides the legislature of a member state with the primary responsibility to regulate health care.
- Authorizes a member state to suspend the operation of any federal law, rule, regulation, or order regarding health care that is inconsistent with laws and regulations adopted under the Compact.
- Provides a member state with federal money up to an amount equal to the member state's current year funding level for that federal fiscal year.
- Establishes the Interstate Advisory Health Care Commission, which consists of members appointed by each member state.
- Specifies that the Compact is effective upon its adoption by at least two member states and consent of Congress.

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\* This analysis was prepared before the report of the House Federalism and Interstate Relations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### The Health Care Compact

#### Purpose of the Compact

The bill adopts "The Health Care Compact" and makes Ohio a member state, along with any other state that has legally joined the Compact. The Compact's purpose is to allow a state who wants to protect individual liberty and personal control over its "health care" (see "**Definitions**," below) decisions to authorize its legislature with that regulatory responsibility. Any regulation by the member states will be done with the goal to improve health policy in their respective jurisdictions. The Compact is effective upon its adoption by at least two member states and the consent of Congress.

#### State control

A member state may suspend, through legislation, the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the state. Federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to the Compact. For any federal law, rule, regulation, or order that remains in effect in a member state after the "effective date" (see "**Definitions**," below), that member state is responsible for the associated funding obligations of its state.

#### Funding

A member state is entitled to federal money from Congress each federal fiscal year,<sup>1</sup> as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under the Compact. The money a member state is entitled to each fiscal year will be up to an amount equal to its member state current year funding level (see "**Definitions**," below) for that fiscal year. Congress will establish an initial member state current year funding level, based upon reasonable estimates, for each member state by the start of each fiscal year. The final member state current year funding level will be calculated and funding reconciled by Congress based on information provided by each member state and audited by the U.S. Government Accountability Office.

#### Amendments and withdrawal

The member states may amend the Compact, by unanimous agreement at any time. An amendment is effective unless Congress disapproves of the amendment within

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<sup>1</sup> A federal fiscal year begins on October 1 and ends on September 30. 2 U.S.C. 602.



one year. Any member state may withdraw from the Compact by enacting a law stating the withdrawal. The withdrawal is effective six months after the Governor of the state withdrawing gives notice of withdrawal to the other member states.

### **Interstate Advisory Health Care Commission**

The bill establishes the Interstate Advisory Health Care Commission. The Commission's purpose is to study health care issues of particular concern to member states and make recommendations. The Commission will also collect information and data to assist member states with health care regulation, specifically through assessing the performance of various state health care programs and compiling information on the prices of health care. The Commission is funded by the member states as agreed to by the member states.

The Commission will consist of members appointed by each member state through a process determined by that member state. In Ohio, the Governor will appoint members to the Commission not later than 30 days after the Compact is entered into and ratified by Congress. A member state may not appoint more than two members and may withdraw membership at any time. The Commission may also adopt and publish bylaws and policies. The Commission can only act if a majority of the members are present and cannot take any action within a member state that contradicts a state law of that member state.

### **Definitions**

Under the bill:

"**Health care**" means care, services, supplies, or plans related to the health of an individual, including:

- Preventative, 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;
- Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and
- 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. Department of Defense and U.S. Department of Veteran Affairs, or provided to Native Americans.



**"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 Base Funding Level"** means a number equal to the total federal spending on health care in the member state during the federal fiscal year 2010. On or before the "effective date," each member must determine the Member State Base Funding Level for its state, and that number is binding upon that member state. The preliminary estimate of Member State Base Funding Level for Ohio is \$35,043,000,000.

**"Member State Current Year Population Adjustment Factor"** means that 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 1. Average population in a member state is determined by the U.S. Census Bureau.

**"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 is determined by the Bureau of Economic Analysis of the U.S. Department of Commerce.

**"Effective date"** means the date upon which this Compact becomes effective for purposes of the operation of state and federal law in a member state, which is the later of:

(a) The date upon which this Compact is adopted under the laws of the member state; and

(b) The date upon which this Compact receives the consent of Congress pursuant to Article 1, Section 10, of the U.S. Constitution, after at least two member states adopt this Compact.<sup>2</sup>

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## HISTORY

ACTION	DATE
Introduced	02-22-17
Reported, H. Federalism & Interstate Relations	---

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<sup>2</sup> R.C. 190.01 and 190.02.

