

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1269**

Citations Affected: IC 12-16.5.

Synopsis: Health care compact. Conference committee report for EHB 1269. Establishes the health care compact. Requires the securing of the consent of the United States Congress. Specifies that the state legislature of each member state has the primary responsibility to regulate health care in the member state's jurisdiction. Allows the governor to enter into the compact on behalf of the state only after: (1) the budget committee reviews the compact and an implementation plan developed by the budget agency; (2) the budget agency prepares an implementation plan showing how Indiana will provide access to health care under the compact; and (3) the budget agency presents the plan to the health finance commission. Specifies that Indiana's participation in the compact does not include the administration of the federal Medicare program unless the General Assembly takes action that specifically authorizes the inclusion of Medicare in the compact. Allows member states of the compact to suspend all federal laws, regulations, and orders concerning health care that are inconsistent with the laws and regulations adopted by the member state under the compact, to the extent allowed under the Constitution of the United States and the constitution of the member state. Creates the interstate advisory health care commission consisting of individuals from member states. **(This conference committee report: (1) removes language exempting Medicare in the definition of "health care"; and (2) adds language specifying that Indiana's participation in the compact does not include the administration of the federal Medicare program unless the General Assembly takes action that specifically authorizes the inclusion of Medicare in the compact.)**

Effective: July 1, 2012.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1269 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Between the title and the enacting clause, begin a new paragraph
- 2 and insert:
- 3 *"Whereas, the separation of powers, both between the branches of*
- 4 *the federal government and between federal and state authority, is*
- 5 *essential to the preservation of individual liberty;*
- 6 *Whereas, the United States Constitution creates a federal*
- 7 *government of limited and enumerated powers, and reserves to the*
- 8 *states or to the people those powers not granted to the federal*
- 9 *government;*
- 10 *Whereas, the federal government has enacted many laws that have*
- 11 *preempted state laws with respect to health care, and placed*
- 12 *increasing strain on state budgets, impairing other responsibilities*
- 13 *such as education, infrastructure, and public safety;*
- 14 *Whereas, the member states seek to protect individual liberty and*
- 15 *personal control over health care decisions, and believe the best*
- 16 *method to achieve these ends is by vesting regulatory authority over*
- 17 *health care in the states;*
- 18 *Whereas, by acting in concert, the member states may express and*
- 19 *inspire confidence in the ability of each member state to govern health*
- 20 *care effectively; and*
- 21 *Whereas, the member states recognize that consent of Congress*
- 22 *may be more easily secured if the member states collectively seek*

1 *consent through an interstate compact: Therefore,".*

2 Delete everything after the enacting clause and insert the following:

3 SECTION 1. IC 12-16.5 IS ADDED TO THE INDIANA CODE AS
4 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
5 2012]:

6 **ARTICLE 16.5. THE HEALTH CARE COMPACT**

7 **Chapter 1. Definitions**

8 **Sec. 1.** As used in this article, "commission" refers to the
9 interstate advisory health care commission established by
10 IC 12-16.5-4-1.

11 **Sec. 2.** As used in this article, "compact" refers to the health
12 care compact entered into under this article.

13 **Sec. 3.** As used in this article, "current year inflation adjustment
14 factor" means the total gross domestic product deflator, as
15 determined by the United States Department of Commerce's
16 Bureau of Economic Analysis, in the current year divided by the
17 total gross domestic product deflator in federal fiscal year 2010.

18 **Sec. 4. (a)** As used in this article, "health care" means care,
19 services, supplies, or plans related to the health of an individual,
20 including the following:

21 (1) Preventative, diagnostic, therapeutic, rehabilitative,
22 maintenance, and palliative care, including counseling,
23 service, assessment, or procedure concerning the physical or
24 mental condition or functional status of an individual or that
25 affects the structure or function of the body.

26 (2) Sale or dispensing of a drug, device, equipment, or other
27 item under a prescription.

28 (3) An individual or group health plan that provides or pays
29 the costs of care, services, or supplies related to the health of
30 an individual.

31 (b) The term does not include care, services, supplies, or plans
32 provided:

33 (1) by the United States Department of Defense;

34 (2) by the United States Department of Veterans Affairs; or

35 (3) to Native Americans.

36 **Sec. 5.** As used in this article, "member state" means a state that
37 has adopted the health care compact law.

38 **Sec. 6.** As used in this article, "member state base funding level"
39 means a number determined by the member state to be equal to the
40 total federal spending on health care in the member state during
41 federal fiscal year 2010 and is set forth in IC 12-16.5-3-4.

42 **Sec. 7.** As used in this article, "member state current year
43 funding level" means the member state base funding level
44 multiplied by the member state current year population
45 adjustment factor multiplied by the current year inflation
46 adjustment factor.

47 **Sec. 8.** As used in this article, "member state current year
48 population adjustment factor" means the average population of the
49 member state in the current year, as determined by the United
50 States Census Bureau, less the average population of the member
51 state in federal fiscal year 2010, divided by the average population

1 of the member state in federal fiscal year 2010 plus one (1).

2 **Chapter 2. Applicability**

3 **Sec. 1. This article is effective upon the following:**

4 (1) The adoption of the compact by at least two (2) member
5 states.

6 (2) The consent of the federal United States Congress without
7 changes by Congress to the following fundamental purposes
8 of the compact:

9 (A) To secure the right of the member states to regulate
10 health care in the member state's jurisdiction under the
11 compact and to suspend the operation of any conflicting
12 federal laws, rules, regulations, and orders within the
13 member state.

14 (B) To secure federal funding for member states that
15 choose to invoke the member state's authority under the
16 compact, as set forth in IC 12-16.5-3.

17 **Chapter 3. Health Care Compact**

18 **Sec. 1. (a) The governor may enter into the compact on behalf
19 of the state with any other state only after the following occur:**

20 (1) The budget committee reviews the compact and any plan
21 developed under subdivision (2).

22 (2) The budget agency prepares a plan showing how Indiana
23 will provide access to health care for Indiana residents under
24 the compact.

25 (3) The budget agency presents the plan described in
26 subdivision (2) to the health finance commission established
27 by IC 2-5-23-3.

28 (b) The member states shall take joint and separate action to
29 secure the consent of the United States Congress for the compact
30 in order to return the authority to regulate health care to the
31 member states that is consistent with the goals and principles
32 articulated in the compact.

33 (c) The member states shall improve health care policy within
34 the states' jurisdictions and according to the judgment and
35 discretion of each member state.

36 **Sec. 2. The state legislature of each member state has the
37 primary responsibility to regulate health care in the member
38 state's jurisdiction.**

39 **Sec. 3. (a) Each member state, for the member state's
40 jurisdiction, may, to the extent allowed under the Constitution of
41 the United States and the constitution of the member state, suspend
42 by legislation federal laws, regulations, and orders concerning
43 health care that are inconsistent with the laws and regulations
44 adopted by the member state under the compact.**

45 (b) Any federal or state law, regulation, or order concerning
46 health care will remain in effect unless a member state expressly
47 suspends the law, regulation, or order under the member state's
48 authority under the compact.

49 (c) The member state shall be responsible for implementing any
50 federal law, rule, regulation, or order described in this section that
51 remains in effect in the member state.

1 **Sec. 4. (a) Each member state for each federal fiscal year shall**
2 **have the right to federal monies in an amount up to the member**
3 **state current year funding level for the current year, funded by the**
4 **federal government as mandatory spending and that is not subject**
5 **to annual appropriation, to support the exercise of the member**
6 **state authority under the compact. The funding may not be**
7 **conditional on any action of or regulation, policy, law, or rule that**
8 **is being adopted by the member state and that is allowed under the**
9 **Constitution of the United States and the constitution of the**
10 **member state.**

11 **(b) By the start of each federal fiscal year, the federal United**
12 **States Congress shall establish an initial member state current year**
13 **funding level for each member state. The initial member state**
14 **current year funding level must be based on a reasonable estimate.**
15 **The final member state current year funding level shall be**
16 **calculated and funding shall be reconciled by the federal United**
17 **States Congress based on information provided by each member**
18 **state and audited by the United States Government Accountability**
19 **Office.**

20 **Sec. 5. The member states may fund the commission in a**
21 **manner agreed upon by the member states.**

22 **Sec. 6. The member states may, by unanimous agreement,**
23 **amend the compact without the prior consent or approval of the**
24 **federal United States Congress, to the extent the amendment is**
25 **allowed under the Constitution of the United States and the**
26 **constitutions of the member states. Any amendment shall be**
27 **effective unless, not later than one (1) year from the approval of**
28 **the amendment, the federal United States Congress disapproves of**
29 **the amendment.**

30 **Sec. 7. Any state may join the compact after the date of consent**
31 **of the compact by the federal United States Congress if the state**
32 **adopts the compact into law.**

33 **Sec. 8. (a) A member state may withdraw from the compact by**
34 **doing the following:**

35 **(1) The member state's governor notifies other member states**
36 **of the intent to withdraw from the compact at least six (6)**
37 **months before the withdrawal may occur.**

38 **(2) The member state's legislature adopts legislation to**
39 **withdraw from the compact.**

40 **(b) A member state withdrawing from the compact is liable for**
41 **any obligations that the withdrawing state may have incurred**
42 **prior to the date of which the withdrawal is effective.**

43 **Sec. 9. The compact shall be dissolved upon the withdrawal**
44 **from the compact of all but one (1) member state.**

45 **Chapter 4. Interstate Advisory Health Care Commission**

46 **Sec. 1. (a) The interstate advisory health care commission is**
47 **established.**

48 **(b) The commission consists of members appointed by each**
49 **member state in a manner determined by each member state. A**
50 **member state may not appoint more than two (2) members to the**
51 **commission and may withdraw membership from the commission**

1 at any time.

2 (c) Each commission member is entitled to one (1) vote. The
3 commission may not act unless a majority of the members are
4 present, and an action is not binding unless approved by a majority
5 of the commission's total membership.

6 Sec. 2. (a) The commission may do the following:

- 7 (1) Elect a chairperson from the commission's membership.
8 (2) Adopt and publish bylaws and policies that are consistent
9 with the compact.
10 (3) Study issues of health care regulation that are of concern
11 to the member states.
12 (4) Make non-binding recommendations to the member states,
13 of which the state legislatures of the member states may
14 consider in determining appropriate health care policies for
15 the member state.

16 (b) The commission shall do the following:

- 17 (1) Meet at least one (1) time per calendar year.
18 (2) Collect information and data to assist member states in the
19 regulation of health care, including assessing the performance
20 of state health care programs and compiling information on
21 the prices of health care.

22 (c) The commission shall make the information collected under
23 this section available to the legislatures of member states.

24 (d) Legislatures of the member states may confer additional
25 responsibilities and duties on the commission through legislative
26 action in accordance with the terms of the compact.

27 (e) The commission may not take any action within a member
28 state.

29 Sec. 3. A member state may not disclose personal health
30 information of an individual to the commission. The commission
31 may not disclose the personal health information of an individual.

32 Chapter 5. Participation in Compact

33 Sec. 1. Indiana's participation in the compact does not include
34 the administration of Medicare (42 U.S.C. 1395 et seq.) unless the
35 General Assembly takes action that specifically authorizes
36 inclusion of the Medicare program in the compact.

(Reference is to EHB 1269 as reprinted printer's error February 29,
2012.)

Conference Committee Report
on
Engrossed House Bill 1269

Signed by:

Representative Brown T
Chairperson

Senator Young R Michael

Representative Neese

Senator Miller

House Conferees

Senate Conferees