

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 this
10 agreement and compact, to prohibit any governmental agent from penalizing any
11 resident of any party state for exercising the rights and freedoms guaranteed under
12 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 this
15 agreement and compact, to cooperate with each other and to give each other mutual
16 assistance in the prevention of crimes under the health care freedom criminal laws of
17 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 this
20 agreement and compact, to cooperate with each other and to give each other mutual
21 assistance in the criminal prosecution of anyone who violates the health care freedom
22 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 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.

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:

"Notice of Confirmation

- 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.