



FLOOR AMENDMENT NO. _____

BY: Jim Kelly

1 Amend S.B. No. 8 on third reading by adding the following
2 appropriately numbered ARTICLE to the bill and renumbering the
3 subsequent ARTICLES of the bill accordingly:

4 ARTICLE ____ INTERSTATE HEALTH CARE COMPACT

5 SECTION ____ .01. Title 15, Insurance Code, is amended by
6 adding Chapter 5002 to read as follows:

7 CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT

8 Sec. 5002.001. EXECUTION OF COMPACT. This state enacts
9 the Interstate Health Care Compact and enters into the compact
10 with all other states legally joining in the compact in
11 substantially the following form:

12 Whereas, the separation of powers, both between the branches of
13 the Federal government and between Federal and State authority,
14 is essential to the preservation of individual liberty;

15
16 Whereas, the Constitution creates a Federal government of
17 limited and enumerated powers, and reserves to the States or to
18 the people those powers not granted to the Federal government;

19
20 Whereas, the Federal government has enacted many laws that have
21 preempted State laws with respect to Health Care, and placed
22 increasing strain on State budgets, impairing other
23 responsibilities such as education, infrastructure, and public
24 safety;

25
26 Whereas, the Member States seek to protect individual liberty
27 and personal control over Health Care decisions, and believe the
28 best method to achieve these ends is by vesting regulatory
29 authority over Health Care in the States;

1
2 Whereas, by acting in concert, the Member States may express and
3 inspire confidence in the ability of each Member State to govern
4 Health Care effectively; and

5
6 Whereas, the Member States recognize that consent of Congress
7 may be more easily secured if the Member States collectively
8 seek consent through an interstate compact;

9
10 NOW THEREFORE, the Member States hereto resolve, and by the
11 adoption into law under their respective State Constitutions of
12 this Health Care Compact, agree, as follows:

13
14 Sec. 1. Definitions. As used in this Compact, unless the
15 context clearly indicates otherwise:

16
17 "Commission" means the Interstate Advisory Health Care
18 Commission.

19
20 "Effective Date" means the date upon which this Compact shall
21 become effective for purposes of the operation of State and
22 Federal law in a Member State, which shall be the later of:

23
24 a) the date upon which this Compact shall be
25 adopted under the laws of the Member State, and

26
27 b) the date upon which this Compact receives the
28 consent of Congress pursuant to Article I, Section 10,
29 of the United States Constitution, after at least two

1 Member States adopt this Compact.

2
3 "Health Care" means care, services, supplies, or plans related
4 to the health of an individual and includes but is not limited
5 to:

6
7 (a) preventive, diagnostic, therapeutic, rehabilitative,
8 maintenance, or palliative care and counseling, service,
9 assessment, or procedure with respect to the physical or mental
10 condition or functional status of an individual or that affects
11 the structure or function of the body, and

12
13 (b) sale or dispensing of a drug, device, equipment, or other
14 item in accordance with a prescription, and

15
16 (c) an individual or group plan that provides, or pays the cost
17 of, care, services, or supplies related to the health of an
18 individual, except any care, services, supplies, or plans
19 provided by the United States Department of Defense and United
20 States Department of Veteran Affairs, or provided to Native
21 Americans.

22
23 "Member State" means a State that is signatory to this Compact
24 and has adopted it under the laws of that State.

25
26 "Member State Base Funding Level" means a number equal to the
27 total Federal spending on Health Care in the Member State during
28 Federal fiscal year 2010. On or before the Effective Date, each
29 Member State shall determine the Member State Base Funding Level

1 for its State, and that number shall be binding upon that Member
2 State.

3
4 "Member State Current Year Funding Level" means the Member State
5 Base Funding Level multiplied by the Member State Current Year
6 Population Adjustment Factor multiplied by the Current Year
7 Inflation Adjustment Factor.

8
9 "Member State Current Year Population Adjustment Factor" means
10 the average population of the Member State in the current year
11 less the average population of the Member State in Federal
12 fiscal year 2010, divided by the average population of the
13 Member State in Federal fiscal year 2010, plus 1. Average
14 population in a Member State shall be determined by the United
15 States Census Bureau.

16
17 "Current Year Inflation Adjustment Factor" means the Total Gross
18 Domestic Product Deflator in the current year divided by the
19 Total Gross Domestic Product Deflator in Federal fiscal year
20 2010. Total Gross Domestic Product Deflator shall be determined
21 by the Bureau of Economic Analysis of the United States
22 Department of Commerce.

23
24 Sec. 2. Pledge. The Member States shall take joint and
25 separate action to secure the consent of the United States
26 Congress to this Compact in order to return the authority to
27 regulate Health Care to the Member States consistent with the
28 goals and principles articulated in this Compact. The Member
29 States shall improve Health Care policy within their respective

1 jurisdictions and according to the judgment and discretion of
2 each Member State.

3
4 Sec. 3. Legislative Power. The legislatures of the Member
5 States have the primary responsibility to regulate Health Care
6 in their respective States.

7
8 Sec. 4. State Control. Each Member State, within its State,
9 may suspend by legislation the operation of all federal laws,
10 rules, regulations, and orders regarding Health Care that are
11 inconsistent with the laws and regulations adopted by the Member
12 State pursuant to this Compact. Federal and State laws, rules,
13 regulations, and orders regarding Health Care will remain in
14 effect unless a Member State expressly suspends them pursuant to
15 its authority under this Compact. For any federal law, rule,
16 regulation, or order that remains in effect in a Member State
17 after the Effective Date, that Member State shall be responsible
18 for the associated funding obligations in its State.

19
20 Sec. 5. Funding.

21
22 (a) Each Federal fiscal year, each Member State shall have the
23 right to Federal monies up to an amount equal to its Member
24 State Current Year Funding Level for that Federal fiscal year,
25 funded by Congress as mandatory spending and not subject to
26 annual appropriation, to support the exercise of Member State
27 authority under this Compact. This funding shall not be
28 conditional on any action of or regulation, policy, law, or rule
29 being adopted by the Member State.

1
2 (b) By the start of each Federal fiscal year, Congress shall
3 establish an initial Member State Current Year Funding Level for
4 each Member State, based upon reasonable estimates. The final
5 Member State Current Year Funding Level shall be calculated, and
6 funding shall be reconciled by the United States Congress based
7 upon information provided by each Member State and audited by
8 the United States Government Accountability Office.
9

10 Sec. 6. Interstate Advisory Health Care Commission.
11

12 (a) The Interstate Advisory Health Care Commission is
13 established. The Commission consists of members appointed by
14 each Member State through a process to be determined by each
15 Member State. A Member State may not appoint more than two
16 members to the Commission and may withdraw membership from the
17 Commission at any time. Each Commission member is entitled to
18 one vote. The Commission shall not act unless a majority of the
19 members are present, and no action shall be binding unless
20 approved by a majority of the Commission's total membership.
21

22 (b) The Commission may elect from among its membership a
23 Chairperson. The Commission may adopt and publish bylaws and
24 policies that are not inconsistent with this Compact. The
25 Commission shall meet at least once a year, and may meet more
26 frequently.
27

28 (c) The Commission may study issues of Health Care regulation
29 that are of particular concern to the Member States. The

1 Commission may make non-binding recommendations to the Member
2 States. The legislatures of the Member States may consider these
3 recommendations in determining the appropriate Health Care
4 policies in their respective States.

5
6 (d) The Commission shall collect information and data to assist
7 the Member States in their regulation of Health Care, including
8 assessing the performance of various State Health Care programs
9 and compiling information on the prices of Health Care. The
10 Commission shall make this information and data available to the
11 legislatures of the Member States. Notwithstanding any other
12 provision in this Compact, no Member State shall disclose to the
13 Commission the health information of any individual, nor shall
14 the Commission disclose the health information of any
15 individual.

16
17 (e) The Commission shall be funded by the Member States as
18 agreed to by the Member States. The Commission shall have the
19 responsibilities and duties as may be conferred upon it by
20 subsequent action of the respective legislatures of the Member
21 States in accordance with the terms of this Compact.

22
23 (f) The Commission shall not take any action within a Member
24 State that contravenes any State law of that Member State.

25
26 Sec. 7. Congressional Consent. This Compact shall be effective
27 on its adoption by at least two Member States and consent of the
28 United States Congress. This Compact shall be effective unless
29 the United States Congress, in consenting to this Compact,

1 alters the fundamental purposes of this Compact, which are:

2
3 (a) To secure the right of the Member States to regulate Health
4 Care in their respective States pursuant to this Compact and to
5 suspend the operation of any conflicting federal laws, rules,
6 regulations, and orders within their States; and

7
8 (b) To secure Federal funding for Member States that choose to
9 invoke their authority under this Compact, as prescribed by
10 Section 5 above.

11
12 Sec. 8. Amendments. The Member States, by unanimous agreement,
13 may amend this Compact from time to time without the prior
14 consent or approval of Congress and any amendment shall be
15 effective unless, within one year, the Congress disapproves that
16 amendment. Any State may join this Compact after the date on
17 which Congress consents to the Compact by adoption into law
18 under its State Constitution.

19
20 Sec. 9. Withdrawal; Dissolution. Any Member State may withdraw
21 from this Compact by adopting a law to that effect, but no such
22 withdrawal shall take effect until six months after the Governor
23 of the withdrawing Member State has given notice of the
24 withdrawal to the other Member States. A withdrawing State shall
25 be liable for any obligations that it may have incurred prior to
26 the date on which its withdrawal becomes effective. This Compact
27 shall be dissolved upon the withdrawal of all but one of the
28 Member States.

29 SECTION ____ .02. This article takes effect immediately if

1 the Act receives a vote of two-thirds of all the members elected
2 to each house, as provided by Section 39, Article III, Texas
3 Constitution. If this Act does not receive the vote necessary
4 for immediate effect, this article takes effect September 1,
5 2011.