

The Health Care Compact

1 *Whereas*, the separation of powers, both between the branches of the Federal government
2 and between Federal and State authority, is essential to the preservation of individual
3 liberty;

4 *Whereas*, the Constitution creates a Federal government of limited and enumerated
5 powers, and reserves to the States or to the people those powers not granted to the
6 Federal government;

7 *Whereas*, the Federal government has enacted many laws that have preempted State
8 laws with respect to Health Care, and placed increasing strain on State budgets, impairing
9 other responsibilities such as education, infrastructure, and public safety;

10 *Whereas*, the Member States seek to protect individual liberty and personal control over
11 Health Care decisions, and believe the best method to achieve these ends is by vesting
12 regulatory authority over Health Care in the States;

13 *Whereas*, by acting in concert, the Member States may express and inspire confidence in
14 the ability of each Member State to govern Health Care effectively; and

15 *Whereas*, the Member States recognize that consent of Congress may be more easily
16 secured if the Member States collectively seek consent through an interstate compact;

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

19 Sec. 1. **Definitions.** As used in this Compact, unless the context clearly indicates
20 otherwise:

21 “Commission” means the Interstate Advisory Health Care Commission.

22 “Effective Date” means the date upon which this Compact shall become effective for
23 purposes of the operation of State and Federal law in a Member State, which shall be the
24 later of:

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

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

30 “Health Care” means care, services, supplies, or plans related to the health of an individual
31 and includes but is not limited to:

32 (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and
33 counseling, service, assessment, or procedure with respect to the physical or mental
34 condition or functional status of an individual or that affects the structure or function of the
35 body, and

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- 1 (b) sale or dispensing of a drug, device, equipment, or other item in accordance with a
2 prescription, and
- 3 (c) an individual or group plan that provides, or pays the cost of, care, services, or supplies
4 related to the health of an individual,
- 5 except any care, services, supplies, or plans provided by the United States Department of
6 Defense and United States Department of Veteran Affairs, or provided to Native
7 Americans.
- 8 “Member State” means a State that is signatory to this Compact and has adopted it under
9 the laws of that State.
- 10 “Member State Base Funding Level” means a number equal to the total Federal spending
11 on Health Care in the Member State during Federal fiscal year 2010. On or before the
12 Effective Date, each Member State shall determine the Member State Base Funding Level
13 for its State, and that number shall be binding upon that Member State. The preliminary
14 estimate of Member State Base Funding Level for the State of [STATE NAME] is
15 [ESTIMATE FROM TABLE].
- 16 “Member State Current Year Funding Level” means the Member State Base Funding Level
17 multiplied by the Member State Current Year Population Adjustment Factor multiplied by
18 the Current Year Inflation Adjustment Factor.
- 19 “Member State Current Year Population Adjustment Factor” means the average population
20 of the Member State in the current year less the average population of the Member State
21 in Federal fiscal year 2010, divided by the average population of the Member State in
22 Federal fiscal year 2010, plus 1. Average population in a Member State shall be
23 determined by the United States Census Bureau.
- 24 “Current Year Inflation Adjustment Factor” means the Total Gross Domestic Product
25 Deflator in the current year divided by the Total Gross Domestic Product Deflator in
26 Federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by
27 the Bureau of Economic Analysis of the United States Department of Commerce.
- 28 Sec. 2. **Pledge.** The Member States shall take joint and separate action to secure the
29 consent of the United States Congress to this Compact in order to return the authority to
30 regulate Health Care to the Member States consistent with the goals and principles
31 articulated in this Compact. The Member States shall improve Health Care policy within
32 their respective jurisdictions and according to the judgment and discretion of each Member
33 States.
- 34 Sec. 3. **Legislative Power.** The legislatures of the Member States have the primary
35 responsibility to regulate Health Care in their respective States.

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

9 Sec. 5. **Funding.**

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

16 (b) By the start of each Federal fiscal year, Congress shall establish an initial Member
17 State Current Year Funding Level for each Member State, based upon reasonable
18 estimates. The final Member State Current Year Funding Level shall be calculated, and
19 funding shall be reconciled by the United States Congress based upon information
20 provided by each Member State and audited by the United States Government
21 Accountability Office.

22 Sec. 6. **Interstate Advisory Health Care Commission.**

23 (a) The Interstate Advisory Health Care Commission is established. The Commission
24 consists of members appointed by each Member State through a process to be
25 determined by each Member State. A Member State may not appoint more than two
26 members to the Commission and may withdraw membership from the Commission at any
27 time. Each Commission member is entitled to one vote. The Commission shall not act
28 unless a majority of the members are present, and no action shall be binding unless
29 approved by a majority of the Commission's total membership.

30 (b) The Commission may elect from among its membership a Chairperson. The
31 Commission may adopt and publish bylaws and policies that are not inconsistent with this
32 Compact. The Commission shall meet at least once a year, and may meet more
33 frequently.

34 (c) The Commission may study issues of Health Care regulation that are of particular
35 concern to the Member States. The Commission may make non-binding recommendations
36 to the Member States. The legislatures of the Member States may consider these
37 recommendations in determining the appropriate Health Care policies in their respective
38 States.

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

8 (e) The Commission shall be funded by the Member States as agreed to by the Member
9 States. The Commission shall have the responsibilities and duties as may be conferred
10 upon it by subsequent action of the respective legislatures of the Member States in
11 accordance with the terms of this Compact.

12 (f) The Commission shall not take any action within a Member State that contravenes any
13 State law of that Member State.

14 Sec. 7. **Congressional Consent.** This Compact shall be effective on its adoption by at
15 least two Member States and consent of the United States Congress. This Compact shall
16 be effective unless the United States Congress, in consenting to this Compact, alters the
17 fundamental purposes of this Compact, which are:

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

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

23 Sec. 8. **Amendments.** The Member States, by unanimous agreement, may amend this
24 Compact from time to time without the prior consent or approval of Congress and any
25 amendment shall be effective unless, within one year, the Congress disapproves that
26 amendment. Any State may join this Compact after the date on which Congress consents
27 to the Compact by adoption into law under its State Constitution.

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

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- 1 The following table lists estimated Member State Base Funding Level for each State:

STATE	MEMBER STATE BASE FUNDING LEVEL	STATE	MEMBER STATE BASE FUNDING LEVEL
Alabama	\$13,880,000,000	Montana	\$2,330,000,000
Alaska	\$1,438,000,000	Nebraska	\$4,144,000,000
Arizona	\$16,266,000,000	Nevada	\$3,991,000,000
Arkansas	\$8,727,000,000	New Hampshire	\$2,920,000,000
California	\$109,102,000,000	New Jersey	\$25,579,000,000
Colorado	\$8,907,000,000	New Mexico	\$6,010,000,000
Connecticut	\$12,174,000,000	New York	\$78,319,000,000
Delaware	\$2,336,000,000	North Carolina	\$24,644,000,000
Florida	\$58,876,000,000	North Dakota	\$1,657,000,000
Georgia	\$21,556,000,000	Ohio	\$35,043,000,000
Hawaii	\$3,081,000,000	Oklahoma	\$10,344,000,000
Idaho	\$2,988,000,000	Oregon	\$9,149,000,000
Illinois	\$40,048,000,000	Pennsylvania	\$47,448,000,000
Indiana	\$16,785,000,000	Rhode Island	\$4,316,000,000
Iowa	\$8,453,000,000	South Carolina	\$11,144,000,000
Kansas	\$6,985,000,000	South Dakota	\$1,922,000,000
Kentucky	\$13,836,000,000	Tennessee	\$21,840,000,000
Louisiana	\$15,957,000,000	Texas	\$60,434,000,000
Maine	\$3,540,000,000	Utah	\$4,102,000,000
Maryland	\$13,994,000,000	Vermont	\$1,966,000,000
Massachusetts	\$29,085,000,000	Virginia	\$15,301,000,000
Michigan	\$29,466,000,000	Washington	\$15,497,000,000
Minnesota	\$13,348,000,000	West Virginia	\$6,372,000,000
Mississippi	\$9,648,000,000	Wisconsin	\$21,888,000,000
Missouri	\$18,669,000,000	Wyoming	\$1,104,000,000

- 2 This table is not intended to be included in the compact language itself, but rather as a
 3 reference for each State to include in the definition of Member State Base Funding Level.