

House Bill 461 (AS PASSED HOUSE AND SENATE)

By: Representatives Jasperse of the 12th, Meadows of the 5th, Bearden of the 68th, England of the 108th, Williams of the 4th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 adopt the Health Care Compact; to provide for related matters; to repeal conflicting laws; and
3 for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
7 a new chapter to read as follows:

8 style="text-align:center">"CHAPTER 48

9 31-48-1.

10 The Health Care Compact is entered into and enacted into law with all jurisdictions legally
11 joining therein, in the form substantially as follows:

12 style="text-align:center">"The Health Care Compact

13 WHEREAS, the separation of powers, both between the branches of the federal
14 government and between federal and state authority, is essential to the preservation of
15 individual liberty; and

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

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

22 WHEREAS, the Member States seek to increase individual liberty and control over
23 personal Health Care decisions, and believe the best method to achieve these ends is by
24 vesting regulatory authority over Health Care in the States; and

25 WHEREAS, by acting in concert, the Member States may express and inspire confidence
26 in the ability of each Member State to govern Health Care effectively; and

27 WHEREAS, the Member States recognize that consent of Congress may be more easily
28 secured if the Member States collectively seek consent through an interstate compact;

29 NOW THEREFORE, the Member States hereto resolve, and by the adoption into law
30 under their respective state constitutions of the present Health Care Compact, agree, as
31 follows:

32 Sec. 1. Definitions. As used in this Compact, unless the context clearly indicates
33 otherwise:

34 "Commission" means the Interstate Advisory Health Care Commission.

35 "Effective Date" means the date upon which this Compact shall become effective for
36 purposes of the operation of state and federal law in a Member State, which shall be the
37 latter of:

38 (a) The date upon which this Compact shall be adopted under the laws of the Member
39 State; or

40 (b) The date upon which this Compact receives the consent of Congress pursuant to
41 Article I, Section 10, of the United States Constitution, after at least two Member States
42 adopt this Compact.

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

45 (a) Preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care
46 and counseling, service, assessment, or procedure with respect to the physical or mental
47 condition or functional status of an individual or that affects the structure or function
48 of the body;

49 (b) Sale or dispensing of a drug, device, equipment, or other item in accordance with
50 a prescription; and

51 (c) An individual or group plan that provides, or pays the cost of, care, services, or
52 supplies related to the health of an individual,

53 except any care, services, supplies, or plans provided by the United States Department
54 of Defense and United States Department of Veterans Affairs, or provided to Native
55 Americans.

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

58 "Member State Base Funding Level" means a number equal to the total federal spending
59 on Health Care in the Member State during federal fiscal year 2010. On or before the
60 Effective Date, each Member State shall determine the Member State Base Funding
61 Level for its State, and that number shall be binding upon that Member State. The
62 preliminary estimate of the Member State Base Funding Level for the State of Georgia
63 is \$21,556,000,000.00.

64 "Member State Current Year Funding Level" means the Member State Base Funding
65 Level multiplied by the Member State Current Year Population Adjustment Factor
66 multiplied by the Current Year Inflation Adjustment Factor.

67 "Member State Current Year Population Adjustment Factor" means the average
68 population of the Member State in the current year less the average population of the
69 Member State in federal fiscal year 2010, divided by the average population of the
70 Member State in federal fiscal year 2010, plus 1. Average population in a Member State
71 shall be determined by the United States Census Bureau.

72 "Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product
73 Deflator in the current year divided by the Total Gross Domestic Product Deflator in
74 federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by
75 the Bureau of Economic Analysis of the United States Department of Commerce.

76 Sec. 2. Pledge. The Member States shall take joint and separate action to secure the
77 consent of the United States Congress to this Compact in order to return the authority to
78 regulate Health Care to the Member States consistent with the goals and principles
79 articulated in this Compact. The Member States shall improve Health Care policy within
80 their respective jurisdictions and according to the judgment and discretion of each
81 Member State.

82 Sec. 3. Legislative Power. The legislatures of the Member States have the primary
83 responsibility to regulate Health Care in their respective states.

84 Sec. 4. State Control. Each Member State, within its State, may suspend by legislation
85 the operation of all federal laws, rules, regulations, and orders regarding Health Care that
86 are inconsistent with the laws and regulations adopted by the Member State pursuant to
87 this Compact. Federal and state laws, rules, regulations, and orders regarding Health
88 Care will remain in effect unless a Member State expressly suspends them pursuant to its
89 authority under this Compact. For any federal law, rule, regulation, or order that remains
90 in effect in a Member State after the Effective Date, that Member State shall be
91 responsible for the associated funding obligations in its State.

92 Sec. 5. Funding.

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

99 (b) By the start of each federal fiscal year, Congress shall establish an initial Member
100 State Current Year Funding Level for each Member State based upon reasonable
101 estimates. The final Member State Current Year Funding Level shall be calculated and
102 funding shall be reconciled by the United States Congress based upon information
103 provided by each Member State and audited by the United States Government
104 Accountability Office.

105 Sec. 6. Interstate Advisory Health Care Commission.

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

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

117 (c) The Commission may study issues of Health Care regulation that are of particular
118 concern to the Member States. The Commission may make non-binding

119 recommendations to the Member States. The legislatures of the Member States may
120 consider these recommendations in determining the appropriate Health Care policies in
121 their respective states.

122 (d) The Commission shall collect information and data to assist the Member States in
123 their regulation of Health Care, including assessing the performance of various State
124 Health Care programs and compiling information on the prices of Health Care. The
125 Commission shall make this information and data available to the legislatures of the
126 Member States. Notwithstanding any other provision in this Compact, no Member State
127 shall disclose to the Commission the health information of any individual, nor shall the
128 Commission disclose the health information of any individual.

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

133 (f) The Commission shall not take any action within a Member State that contravenes
134 any State law of this Member State.

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

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

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

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

149 Sec. 9. Withdrawal; Dissolution. Any Member State may withdraw from this Compact
150 by adopting a law to that effect, but no such withdrawal shall take effect until six months
151 after the Governor of the withdrawing Member State has given notice of the withdrawal
152 to the other Member States. A withdrawing State shall be liable for any obligations that

153 it may have incurred prior to the date on which its withdrawal becomes effective. This
154 Compact shall be dissolved upon the withdrawal of all but one of the Member States."

155 **SECTION 2.**

156 All laws and parts of laws in conflict with this Act are repealed.