

HOUSE BILL NO. 312

INTRODUCED BY C. SMITH

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING AN INTERSTATE HEALTH CARE FREEDOM COMPACT; DIRECTING THE GOVERNOR TO JOIN THE COMPACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Interstate health care freedom compact.** This state enacts into law and enters into the interstate health care freedom compact with all states that enact the compact in the form substantially contained in [section 3].

NEW SECTION. **Section 2. Authority to join interstate health care freedom compact.** The governor of the state of Montana is authorized and directed to enter into the interstate health care freedom compact provided for in [sections 1 through 3] on behalf of the state with any state that has lawfully joined in the compact in the form substantially contained in [section 3].

NEW SECTION. **Section 3. Text of compact.** The interstate health care freedom compact referred to in [sections 1 and 2] reads as follows:

ARTICLE 1

FINDINGS AND DECLARATION OF POLICY

(1) 4 U.S.C. 112 gives congressional consent "to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts".

(2) Pursuant to their police powers to protect public health, safety, welfare, and morals, the party states have enacted or anticipate enacting laws or constitutional provisions to protect and guarantee their residents' rights and freedom to pay directly or not to pay directly for health care services and to participate or not to participate in health care plans and health care systems.



1 (3) The party states have enacted or anticipate enacting laws that make it a crime in their states for
2 anyone to interfere with their residents' enjoyment of the rights and freedoms guaranteed by their respective
3 health care freedom laws.

4 (4) The party states find it necessary and consider it desirable for making effective their respective current
5 or anticipated health care freedom criminal laws, as well as this agreement and compact, to do the following:

6 (a) prohibit any governmental agent from depriving a resident of any party state of the rights and
7 freedoms guaranteed under the state's respective current or anticipated health care freedom laws;

8 (b) prohibit any governmental agent from penalizing a resident of any party state for exercising the rights
9 and freedoms guaranteed under the state's respective current or anticipated health care freedom laws;

10 (c) cooperate with each other and give each other mutual assistance in the prevention of crimes under
11 the health care freedom criminal laws of any party state; and

12 (d) cooperate with each other and give each other mutual assistance in the criminal prosecution of any
13 person who violates the health care freedom criminal laws of any party state.

14 ARTICLE II

15 DEFINITIONS

16 As used in this compact, unless the context clearly indicates otherwise:

17 (1) "Health care freedom criminal laws" means any state laws that make it a crime for anyone to interfere
18 with a resident's enjoyment of the freedoms protected and guaranteed by the state's respective health care
19 freedom laws.

20 (2) "Health care freedom laws" means any state laws or constitutional provisions that protect and
21 guarantee a resident's freedom to pay directly or not to pay directly for lawful health care services and to
22 participate or not to participate in health care plans and health care systems.

23 (3) "Health care plan" means any legally binding arrangement under which at least one person or entity
24 promises and undertakes, in exchange for consideration or a set or assessed amount of money, to make a
25 payment to another party or a third party if a specified event occurs involving the provision of health care services.

26 (4) "Health care system" means any public or private entity whose function or purpose is the
27 management, processing, or enrollment of individuals in health care plans or payment for, in full or in part, health
28 care services, health care data, or health care information for its participants.

29 (5) "Lawful health care services" means any health-related services or treatment to the extent that the
30 services or treatment is permitted or not prohibited by law or regulation and is provided by persons or businesses

1 otherwise permitted to offer such services.

2 (6) "Pay directly" means payment for lawful health care services without a public or private third party,
3 not including an employer, paying for any portion of the service.

4 (7) "State" means a state of the United States.

5 ARTICLE III

6 TERMS

7 Notwithstanding any state or federal law to the contrary:

8 (1) each party state shall give full faith and credit to the health care freedom criminal laws and health care
9 freedom laws of every party state;

10 (2) a governmental agent may not deprive a resident of a party state of the rights and freedoms protected
11 under the respective state's health care freedom criminal laws and guaranteed by the respective state's health
12 care freedom laws;

13 (3) a governmental agent may not penalize a resident of a party state for exercising the rights and
14 freedoms protected under the respective state's health care freedom criminal laws and guaranteed by the
15 respective state's health care freedom laws;

16 (4) the party states shall cooperate with each other and give each other mutual assistance in the
17 prevention of crimes under the health care freedom criminal laws of any party state; and

18 (5) the party states shall cooperate with each other and give each other mutual assistance in the criminal
19 prosecution of any person who violates the health care freedom criminal laws of any party state.

20 ARTICLE IV

21 ENFORCEMENT

22 Notwithstanding any state or federal law to the contrary:

23 (1) the chief law enforcement officer of each party state shall enforce this agreement and compact; and

24 (2) a taxpaying resident of any party state has standing in the courts of any party state to require the chief
25 law enforcement officer of any party state to enforce this agreement and compact.

26 ARTICLE V

27 COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

28 (1) The governor of each party state or the governor's designee is the compact administrator. The
29 compact administrator shall:

30 (a) maintain an accurate list of all party states;



1 (b) consistent with subsections (3) and (4), transmit in a timely fashion to other party states citations of
2 all current health care freedom laws and current health care freedom criminal laws of the compact administrator's
3 state;

4 (c) receive and maintain a complete listing of the health care freedom laws and health care freedom
5 criminal laws of each party state;

6 (d) formulate all necessary and proper procedures to effectuate this compact; and

7 (e) delegate needed tasks to other state agencies.

8 (2) The compact administrator of each party state shall furnish to the compact administrator of each party
9 state any information or documents that are reasonably necessary to facilitate the administration of this compact.

10 (3) Within 10 days of executing this agreement and compact and upon the close of each of their
11 respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate
12 citation of each of their current health care freedom laws considered to be within the subject matter of this
13 agreement and compact, unless the compact administrator of one or more party states gives specific notice in
14 writing to all other party states within 60 days of the notice that the party state objects to the inclusion of a law
15 or laws in this agreement and compact.

16 (4) Within 10 days of executing this agreement and compact and upon the close of each of their
17 respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate
18 citation of each of their current health care freedom criminal laws considered to be within the subject matter of
19 this agreement and compact, unless the compact administrator of one or more party states gives specific notice
20 in writing to all other party states within 60 days of the notice that the party state objects to the inclusion of a law
21 or laws in this agreement and compact.

22 ARTICLE VI

23 ENTRY INTO EFFECT AND WITHDRAWAL

24 (1) This compact is considered accepted when at least two states deliver a notice of confirmation that
25 is duly executed by their respective authorized representatives and that acknowledges complete agreement to
26 the terms of this compact to each other's governor, the office of the clerk of the United States house of
27 representatives, the office of the secretary of the United States senate, the president of the United States senate,
28 and the speaker of the United States house of representatives. After the initial acceptance by at least two states,
29 the compact is considered accepted by any state when a respective notice of confirmation that is duly executed
30 by the state's respective authorized representative and that acknowledges complete agreement to the terms of

1 this compact is delivered to each party state's compact administrator, the office of the clerk of the United States
 2 house of representatives, the office of the secretary of the United States senate, the president of the United
 3 States senate, and the speaker of the United States house of representatives.

4 (2) Four years after this compact first becomes effective, any party state may withdraw from the compact
 5 by enacting a joint resolution declaring the withdrawal and delivering notice of the withdrawal to each party state.
 6 No withdrawal shall affect the validity or applicability of the compact to states remaining party to the compact.

7 ARTICLE VII

8 CONSTRUCTION AND SEVERABILITY

9 (1) This compact shall be liberally construed in order to effectuate its purposes.

10 (2) This compact is not intended to affect which health care services:

11 (a) a health care provider or hospital is required to perform or provide under state or federal law; or

12 (b) are permitted by state or federal law.

13 (3) This compact is intended to operate as the law of the nation with respect to the party states under 4
 14 U.S.C. 112, to supersede any inconsistent state or federal law, and to establish vested rights in favor of residents
 15 of the party states in the enjoyment of the rights and freedoms protected by their respective health care freedom
 16 criminal laws and guaranteed by their respective health care freedom laws.

17 (4) If any phrase, clause, sentence, or provision of this compact is declared in a final judgment by a court
 18 of competent jurisdiction to be contrary to the constitution of the United States or is otherwise held invalid, the
 19 validity of the remainder of this compact is not affected.

20 (5) If the applicability of any phrase, clause, sentence, or provision of this compact to any government,
 21 agency, person, or circumstance is declared in a final judgment by a court of competent jurisdiction to be contrary
 22 to the constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact
 23 and the applicability of the remainder of this compact to any government, agency, person, or circumstance is not
 24 affected.

25 (6) If this compact is held contrary to the constitution of any party state, the compact shall remain in full
 26 force and effect as to the remaining party states, and all severable matters remain in full force and effect in the
 27 affected party state.

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 29 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified
 30 as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 through 3].

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2 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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