



# Health Care Compact Background Article

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By Shonda Werry

## Part I: Talking Points

- The Health Care Compact is an interstate compact. Interstate compacts are Constitutionally-approved mechanism for states to cooperate together.
- There are more than 200 interstate compacts in effect today.
- The Health Care Compact enables states to use their federal health care dollars on health care programs that they design and that are uniquely adapted for the individual and unique needs of the state.
- Under the current system, states are forced to follow one-size-fits all health care policies designed by the federal government.
- The new health care law, “ObamaCare,” forces states to expand their Medicaid programs up to 138% of the Federal Poverty Level, which in some states will increase Medicaid eligibility by 25%. The result will be an unsustainable burden on states.
- States are usually better equipped to address their own needs, rather than relying on the federal government to solve their problems.
- The Health Care Compact places the health care decision-making authority at the state level, rather than at the federal level.
- The Health Care Compact helps to scale back the growth of the federal government.

## **PART II: Brief Overview of the Problem (the “current system”)**

In March of 2010, the Democratic-controlled House and Senate passed the Patient Protection and Affordable Care Act, which is commonly referred to as “ObamaCare.” This new law is an aggressive expansion of the federal government’s decision-making authority and it bestows new, unprecedented authority and decision-making power to Congress and to federal bureaucracies.

Under the current system, Medicaid and Medicare are administered as joint projects between the state and the federal government. For most states, Medicaid occupies 22% of the state budget. States are compelled to follow rigid, inflexible federal standards, which is why most states are going broke because of their Medicaid programs.

The new health care law further exacerbates states’ budget problems by giving them even less flexibility and forcing them to expand their Medicaid programs and administer expensive programs designed by the federal government.

## **PART III: The Health Care Compact as a Solution**

A possible solution to the current health care crisis has been making headway in 2011. The Health Care Compact (HCC), which is an interstate compact, has already passed in four states – Georgia, Oklahoma, Missouri, Texas - and has been introduced in several other states.

The Health Care Compact allows states to join together in the form of a contractual agreement (which is what an interstate compact is). The member states agree to administer all of their own health care programs. The Health Care Compact is a way of transferring health care decision-making authority from the federal government to the states.

In contrast to the new health care law (ObamaCare), the Health Care Compact is not about “policy.” Instead, the HCC is concerned with “governance reform” and changing the paradigm of “who decides.” Supporters of the Health Care Compact understand that the Constitution provides specific limitations on the power and authority of the federal government, and they hope to restore a Constitutionally-limited federal government through the use of compacts.

## PART IV: Background Articles and Resources on the Health Care Compact

# THE DAILY CALLER

## Health Care Compact would free states from IPAB

By [Eric O'Keefe](#) 10:19 AM 08/05/2011

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Are you in favor of allowing a committee of unaccountable and unelected bureaucrats to dictate the personal health care decisions of millions of American seniors?

In an Orwellian twist, the most powerful committee created by the recent health care law is called the “Independent Payment Advisory Board” (IPAB). The board is independent all right — independent of accountability. But it is certainly *not* “advisory.” All decisions are final and they carry the force of law, unless Congress is able to mount an override.

Last week, Congress held several hearings about IPAB and its controversial authorities. IPAB will be responsible for cutting payment rates for doctors and for determining which Medicare treatments are too wasteful or expensive. Because of its broad authority and its lack of accountability to voters, IPAB has begun to receive a great deal of public and political scrutiny.

IPAB will consist of 15 unelected bureaucrats, all appointed by the president. These appointments do not require Senate confirmation. Once the commission forms, it will begin making recommendations to “reduce the per capita rate of growth in Medicare spending.” According to the new health care law, these recommendations from IPAB will automatically become law, unless Congress overrides the recommendation with a three-fifths majority in both the House and the Senate.

The commission will have a profound impact on the U.S. health care system, and seniors in particular. Surveys of doctors reveal that many physicians already limit the number of Medicare patients they will see because of the low reimbursement rates. IPAB’s future cuts may make it difficult for seniors with Medicare to find a doctor.

One of the primary reasons for IPAB opposition is its lack of accountability and transparency. The board's unelected officials will be given broad discretion to make cuts for physician reimbursements and use "comparative-effectiveness research" to determine which drugs should be funded. As is true of all unelected bureaucrats, the IPAB commissioners will never have to give an accounting of their decisions to the voters.

As the federal government has expanded and amassed new powers, a growing number of state officials and voters have sought solutions at the state level. In the area of health care policy, more states are searching for solutions that meet their own unique needs, rather than relying on one-size-fits-all programs designed in Washington, D.C. Last year, a grassroots coalition formed to shift health care decision-making authority from Washington, D.C. to the states. The coalition, known as the Health Care Compact Alliance, supports an interstate compact as a device that allows states to regain control of health care decisions.

The Health Care Compact would empower states to create their own Medicare and Medicaid programs, free from the arbitrary decisions of unelected bureaucrats in Washington, D.C., including those on the powerful IPAB commission. States participating in the Health Care Compact will be given the authority to design their own health care programs, but will continue to receive their portion of federal health care dollars.

The Health Care Compact is already law in Georgia, Oklahoma, Missouri and Texas, and has been introduced in state legislatures in Ohio, Michigan, Tennessee, Colorado, South Carolina and Louisiana. Once Congress approves the compact, it will carry the full force of federal law and will trump the federal Health and Human Services regulations, as well as the recommendations of IPAB. States that choose to participate in the Health Care Compact will be given autonomy over health care policy.

Empowering unaccountable and unelected officials with expansive authority to legislate — as IPAB does — moves us away from self-governance. The Health Care Compact, on the other hand, will yield greater transparency and accountability by returning decision-making authority to elected officials in the states, and to the people they represent.

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## Why Health Care Compact could be solution to Medicaid crisis

By [Eric O'Keefe](#) 5:31 PM 06/16/2011

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This past week, 29 governors signed a joint letter to Sen. Orrin Hatch and Rep. Fred Upton, requesting flexibility for their states' Medicaid programs. Medicaid is a federal-state partnership program that is jointly funded by federal and state tax dollars. However, because the federal government establishes most of the standards and rules for the program, states are denied the necessary flexibility to create programs that best meet the needs of their residents.

As states struggle to balance budgets, many are reviewing soaring Medicaid spending for potential savings. Medicaid accounts for an average of 22% of state budgets. The health care law commonly referred to as "Obamacare" will exacerbate the state budget crisis by forcing states to raise their Medicaid eligibility from 100% to 138% of the federal poverty level. In some states this Medicaid expansion will result in half a million additional Medicaid recipients. With states facing huge budget deficits as a result of the new federal health care law, some have begun eyeing other areas for cuts, including education, transportation, and infrastructure.

The governors who wrote to Congress seeking flexibility recognize the fiscal strain the federal government is forcing on their states with these new regulations and requirements. They also understand that one-size-fits-all programs designed in Washington, D.C. are inferior to programs that states can design for their own residents.

Under the current system, states are forced to comply with standards and regulations dictated by the federal government. But each state faces unique health care challenges. For example, states with a large number of retirees like Florida have a higher Medicare enrollment than other states. States like Mississippi and Tennessee have higher Medicaid populations and require additional programs for young families below the federal poverty level. The rigid and uniform standards that originate in Washington, D.C. don't address the diverse needs of the states.

The issue raised by these governors is not about health care policy. It's about governance. It's not about who is covered. It's about who decides. The Health Care Compact is an interstate compact that addresses the governance of health care by restoring control of and funding for health care to states. It

enables each participating state to use its health care funds in any manner it deems appropriate, without federal mandates. As states seek creative fiscal solutions, the Health Care Compact represents a viable way for state legislatures and governors to take charge of their budgets and health care policies. Under the Health Care Compact, one member state may choose to emphasize programs for children and uninsured families, while another state may choose to enhance its programs for senior citizens or adjust its Medicare reimbursement rates. The Health Care Compact empowers states to use their own discretion to address their unique needs.

The legislatures in Georgia and Oklahoma have already passed the Health Care Compact, and the governors in those two states have signed the Health Care Compact into law. Other states, including Missouri, Texas, Tennessee, Arizona, Montana, and Colorado have seen one or both houses of the legislature approve the Compact.

The Health Care Compact, once approved by Congress, will have the full force of federal law and will trump other federal health care laws. Once it becomes law, the Compact will grant each member state the decision-making authority over its federal health care dollars, free from federal regulatory burdens.

As more governors recognize the negative impact of the federal government's heavy-handed involvement in health care decisions, we can expect even more interest in the Health Care Compact as a realistic and creative solution to restore governance to the states.

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# LEO LINBECK III & ERIC O'KEEFE

Available here: <http://www.nationalreview.com/author/261757/latest>

## Real Health-Care Reform

We don't need top-down, centralized health-care reform; we need governance reform.

President Obama announced this week his support for legislation that would give states more flexibility in meeting the objectives of his signature health-care reform. He said that this change would give states freedom to innovate and act as "laboratories of our democracy."

This use of states as "laboratories" makes sense to anyone who has considered the massive challenge of reforming health care in America. Centralized control of an industry that affects all 309 million Americans, has revenues of over \$2.3 trillion annually, and employs more than 14 million people is not possible. Given the tremendous diversity of our population, any one-size-fits-all approach is destined to fail.

In many areas, states can be more effective regulators than the federal government. Which transportation system works more efficiently — your state highway system or Amtrak? Would your state university get better results if it were run by the Department of Education? Who is more responsive — your local sheriff's office or the TSA crew at the airport? Which has shown itself to be better at managing risk — life-insurance companies (which are regulated by the states) or Wall Street?

Furthermore, state officials serve smaller areas, live in the areas they serve, and are more accountable to their citizens than their counterparts in Washington, D.C. Constituents feel they have stronger connections and more influence with state and local officials than they do with their representatives in Congress.

In order to effect real change, the president should support the idea of states' assuming the primary authority and responsibility for health care. In other words, he should support the Health Care Compact.

A growing number of states are uniting around the Health Care Compact, which would give states both the primary responsibility for health-care regulation and full control over federal taxes spent on health care within their borders.

The Health Care Compact is a governance reform, not a health-care-policy reform. It would change who decides health-care policy, not who or what is covered. The Health Care Compact is needed because no centrally planned, top-down reform can fix health care throughout the United States. Instead, each state should craft its health-care policies to fit its specific needs. Some states may choose a single-payer system, while others may opt for a health-savings-account system with subsidies for seniors and low-income residents. Under the Health Care Compact, each state decides which plan is best for its citizens.

Citizens and state legislators in more than eleven states are working to get the Health Care Compact passed by their legislatures, and the compact is being actively discussed in at least 25 other states.

The interstate compact is not a radical idea. Compacts are simply voluntary agreements between two or more states, and when consented to by Congress, they have the force of federal law. Compacts have been used throughout America's history, even before we adopted the Constitution. Authority for compacts was established in the Constitution (Article I, Section 10), and more than 200 such agreements have been developed.

President Obama's decision to ease the opt-out requirements is a small step in the right direction, but it falls far short of restoring citizen control over health care, and fiscal sanity to Washington. The Health Care Compact offers a choice to the president and Congress. They can continue their partisan bickering over federal health-care reform, or they can embrace an approach that is more likely to succeed, one that brings control closer to the people by putting states in charge of health-care dollars and policies.

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