



Health Care Compact: The Latest Challenge to the Affordable Care Act

States' rights advocates are leading a new effort to sidestep the Affordable Care Act (ACA), this time using a legal contract among states. The interstate health care compact, like other tactics to derail the law – lawsuits, state legislation and ballot measures challenging the ACA – is gaining traction in a number of states. Proponents argue that it is a way to enable states to go their own way on health reform, without federal oversight, while still receiving federal funding. But it would strip Americans in compact states of the opportunities for quality, affordable health care that are guaranteed in the ACA.

What is the “health care compact”?

The health care compact is proposed legislation that commits states to work together to convince Congress to exempt them from all federal health laws and regulations, while providing them a lump sum each year to support health care services. The compact relies on a constitutional clause that allows states to work collectively toward a common goal to solve regional problems. This resonates with a group of voters who strongly maintain that the ACA is both unconstitutional and infringes upon states' rights. These compacts are being marketed as a tool to implement a more tailored form of health reform on a state level without federal interference.

The ACA itself allows states to implement their own version of health reform, with approval of the US Secretary of Health and Human Services, as long as they provide the same level of coverage and protections as the ACA for state residents. But that option is not available until 2017. The compact seeks to create an option now that would allow health care changes without federal oversight.

Where did the idea come from?

Interstate compacts are commonly used by states to address regional issues. For example, the Port Authority of New York and New Jersey is an interstate compact to facilitate trade and transportation.

To create a compact, at least two states must pass implementing legislation. Those compacts that interfere with federal authority require approval by Congress and the President through passage and signing of a federal resolution, order or law. The health care compact to sidestep the ACA was developed by the Tenth Amendment Center in Texas, a think tank that advocates for states' rights.

Other conservative think tanks (see [Texas Public Policy Foundation](#) and [Heritage Foundation](#)) are promoting the idea that the health care compact may not need Congressional approval or the

President's signature. However, other analysts ([Winkler](#)) say the health care compact legislation challenges federal authority and would require Congressional and Presidential approval. They also point to legal precedent supporting the need for federal approval. It appears likely that this issue could end up being decided in the courts.

What can advocates do?

Compacts are a threat to the Affordable Care Act and to the expanded access to quality, affordable care that it is already providing to many Americans. Compacts may also threaten other federal health programs. They are likely to perpetuate the extreme differences from state-to-state that currently exist in access to quality, affordable health care.

Advocates can educate the public about the threats posed by the compacts and about the benefits of the ACA. They can bring people helped by the ACA to testify at legislative hearings on the health care compact.

Talking points

Denounce the compacts

Compacts are another diversion from implementing the Affordable Care Act. They do not take the necessary steps to achieve coverage for all Americans. Compacts simply delay implementation and avoid meeting the needs of people who are uninsured or underinsured.

Health care compacts have the potential to leave many Americans without affordable, quality health care.

Pivot to the benefits of the ACA

Implementation of the ACA is the best path to secure health care for all Americans. It's time to move forward... our friends and families cannot afford to move back. Moving forward means:

- people with chronic diseases and pre-existing conditions can no longer be put back at the mercy of insurance companies.
- insurance companies will not be able to drop your coverage when you get sick or limit the care you receive.
- insurance companies will spend your premium dollars on care, not profits, and cracking down on excessive premium rate hikes.
- giving seniors the peace of mind that their prescription drug costs will be lower because they won't ever fall back into the Medicare prescription drug coverage gap, or "doughnut hole."
- small businesses can afford to offer their employees' health care and that there are tax breaks to make it possible.

Example: "[State House Passes Health Freedom Act](#)" from Chattanooga News

Which states are pursuing the compact?

Arizona, Colorado, Georgia, Missouri, Montana, North Dakota, Oklahoma, Tennessee and Texas

are among the states where health care compact legislation has been proposed. These efforts change daily. To track all state legislation that challenges and/or supports health care reform in your state, check the tracker produced by the [National Conference of State Legislators](#).

Resources:

[Health Care Compact Facebook page](#) (you can view legislative language on notes page)

[Issue Brief supporting Interstate Health Compacts](#)

[Ballotpedia](#)

[“State Compacts on Health Care Eyed as End Run Around Obama.”](#) *Washington Times*, 27 February, 2010