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Backers of health care compacts praise local control as Texas measure moves through Senate

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By Mark Lisher



Rep. Lois Kolkhorst found the quiet after the vote oddly deflating.

Kolkhorst, R-Brenham, had come to believe her bill was not just important for Texas, but a "save your country issue." The House had passed her [HB5](#) by a vote of 104-41, and while the split was along party lines, six Democrats had joined the majority.

What's more, Kolkhorst, chairman of the House Public Health Committee, had put Texas in a position to join Georgia as only the second state to agree to engage in an interstate health care compact, something never undertaken before. With Senate passage of the comparable [SB25](#) by [Sen. Jane Nelson](#), R-Flower Mound, and a signature from the governor, Texas would take its place at the front on a battle line to wrest control of health care for its citizens from the federal government. The agreement between states would put Texas on the way to receiving its federal health care funding as a block grant, with the state to decide the details.

Where, then, were all the front-page stories, the Capitol buzz, the start of a statewide political discussion? As proud of her work as she is, Kolkhorst says it might be the quietest major piece of legislation she has introduced in her 10 years in the House.

"I'd be lying if I told you I wasn't a little surprised," Kolkhorst says, a few days after the April 21 vote. "I was quiet about this, too, at first, and that was part of the problem. This is a big deal in Texas and everywhere else. A chance to bring government closer to the people, to make it better and more responsive."

Kolkhorst isn't alone in her feeling of dissonance. Last month [Louisiana joined Texas and 11 other states](#) considering entering into a health care compact. The news went unnoted by any of the major news outlets in the state.

Indeed, health care compacts appear to becoming a nationwide movement. Georgia has signed the bill into law. Arizona Gov. Jan Brewer has vetoed a similar bill after the House and Senate passed it. Houses in Missouri and Montana and the Senate in Oklahoma have passed health care compact bills. But all have received scant mainstream attention.

KOLKHORST

Why, then, should voters, taxpayers and citizens care about the future of health care compacts in Texas or anywhere else? What brings a normally measured state representative from Brenham to use life-and-death language to describe what is at stake with compacts?

The answer, to Leo Linbeck III, a Houston businessman and one of the founders of the national [Health Care Compact Alliance](#), is as simple as it is profound. The right to decide on health care should be brought as close to the people who pay for it as possible.

"Congress takes it for granted that they should decide," Linbeck says. "We don't think that's right. I think people instinctively know the decisions are being made in the wrong place."

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The health care compact movement grew out of the passage of President Obama's [Patient Protection and Affordable Care Act](#).

Conservative scholars point to the [10th section of Article 1 of the United States Constitution](#). With the consent of Congress, states may and do enter into compacts with one another.

In [their report](#) for the conservative Texas Public Policy Foundation, former Texas solicitor general and U.S. Senate candidate Ted Cruz, and Mario Loyola, could find no reason why states couldn't agree to treat health care as another form of commerce. They placed health care compacts at the head of a list of goals for a broad-based effort by the states to take back authority from the federal government.

From the report:

"We propose an interstate compact to create an alternative state-based regulation of health care. The compact would provide that member States are free to choose their preferred model for health care policy; that they may opt out of Obamacare entirely; that they may choose to receive federal Medicaid funds as block grants without strings attached; and would otherwise accommodate maximum state flexibility."

The inexorable growth of Medicare and [Medicaid](#) and the [new state burdens heaped on health care](#) by the Affordable Care Act made it clear to people like Linbeck that the only way to reform health care was to remove the federal government from the equation.

"It can't be solved on that scale," Linbeck says. "There's no precedent for it in human history. Approaching the problem the same way it has been approached the past 40 years will probably result in the same mess."

Kolkhorst says the states can control health care for their individual populations more efficiently and less expensively. The idea ought to make bipartisan sense, but she says she understood that a majority of Democrats in the House stood by a Democratic president for a health care bill they support.

Texas Watchdog contacted the two Democratic members of the House Select Committee on Sovereignty, the committee appointed to oversee the health care compact and other state's rights legislation. Neither Rep. [Trey Martinez Fischer](#), D-San Antonio, the vice-chairman of the committee, nor [Rep. Senfronia Thompson](#), D-Houston, both of whom voted against HB 5, returned messages left with their staffs.

Rep. [Garnet Coleman](#), D-Houston, an unwavering opponent who spoke out against the bill prior to the vote, says he is certain the federal government's response to a challenge to its authority will be a reduction in federal health care funding. Both the people who need Medicare and Medicaid protection and state governments trying to pay for it will be hurt, he says.

"When block grants are done, even with an increase for inflation, it's not an increase for medical inflation," Coleman, a member of Kolkhorst's Public Health Committee, said. "Medical inflation is double regular inflation."

COLEMAN

Balkanization of health care

Opponents have been dismissive of health care compacts because of its novel and untested use of the Constitution, said [Nick Dranias](#), director of the Center for Constitutional Government at the conservative Goldwater Institute in Phoenix. Some have labeled the vote like that in the Texas House as symbolic, assuming a U.S. Senate controlled by Democrats and a Democratic president would not consent to a state health care compact, he says.

As momentum builds for a health care compact, opposition has begun to mass. The [AARP](#), which worked closely on the Affordable Care Act, will have a lot to say about severing what has been a reliable federal lifeline, Linbeck says.

"We've seen opposition start to emerge from people who feed at the trough in the current system," he says. "They (AARP) got a billion-dollar payoff with Obamacare. They have a huge financial interest."

That is "a ridiculous statement. ... We would gladly forego every dime of revenue for a health care system that works for everyone," Shelley Courington, a spokesperson for AARP in Tennessee, says.

AARP is skeptical that states can act together to create a system better than the one coordinated by the federal government, Courington says.

Courington can imagine a balkanized tangle of bureaucracies, with patients getting lost in the

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"That's a little bit overwhelming to think about," Courington says. "They're saying, 'We'll do a better job.' That's a little hard to swallow, too. What if you go on vacation to Las Vegas and get sick if you are covered by another state's plan? There are just a lot of questions here."

Big insurance companies, doctors and hospitals, some of whom bridle under the current system, will also resist the uncertainty of increased state control, Dranias says.

Critics looking at the climb from the vantage of a single state, Georgia, are skeptical that enough states will join to create a critical mass to force Congress to seriously consider a compact, Dranias says.

And that is too bad, he says, because a long view is the more reliable one for health care compacts. The Senate and the presidency may change as soon as 2012. The Supreme Court may rule against the states in their health care act suit, making the compacts avenue even more important.

"To be blunt, if Texas passes this and there are only two states, I still see this as pretty powerful stuff," Dranias says. "Here you have states trying something completely untested, demonstrating the political will to wrest control of health care from the federal government. I'm thrilled."

Kolkhorst says she isn't even sure the states will finally agree to a health care compact. Should the movement to state control continue, however, Kolkhorst says she is certain Congress will act before it has to.

"Oh, they will do something. History has shown that Congress always acts before the states rise up completely," Kolkhorst says. "They don't want to lose control altogether. I see it as a responsibility to have a health care system in this country that works."

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Editor's note: Texas Watchdog in 2008 recieved generous start-up funding from the Chicago-based Sam Adams alliance, whose chairman and CEO is Eric O'Keefe. O'Keefe is also chairman of the Health Care Compact Alliance.

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