
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2210

Session of
1995

INTRODUCED BY ADOLPH, MICOZZIE, COLAFELLA, FLEAGLE, COLAIZZO,
DRUCE, WALKO, GLADECK, MASLAND, FAJT, MARSICO, FEESE,
D. W. SNYDER, SEMMEL, CORNELL, STABACK, TIGUE, GODSHALL,
CLYMER, CLARK, DENT, BAKER, LaGROTTA, GRUPPO, M. N. WRIGHT,
BROWN, VANCE, MAJOR, CAPPABIANCA, CIVERA, BATTISTO, SANTONI,
GANNON, RUBLEY, PHILLIPS, GORDNER, LEVDANSKY, PETTIT, BARD,
McCALL, SCHRODER, STISH, KREBS, CONTI, CHADWICK, HALUSKA,
MICHLOVIC, DiGIROLAMO, LEH, SAYLOR, NICKOL, PLATTS, O'BRIEN,
S. H. SMITH, TULLI, SHANER, ITKIN, MERRY, TRELLO, FARMER,
ALLEN, KING, TANGRETTI, ZUG, FARGO, HENNESSEY, STURLA,
YOUNGBLOOD, SERAFINI, BROWNE, BOSCOLA, RAYMOND, ROONEY,
MELIO, E. Z. TAYLOR, KAISER, DURHAM AND BOYES,
NOVEMBER 14, 1995

SENATOR HOLL, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
NOVEMBER 13, 1996

AN ACT

1 Amending the act of October 15, 1975 (P.L.390, No.111), entitled
2 "An act relating to medical and health related malpractice
3 insurance, prescribing the powers and duties of the Insurance
4 Department; providing for a joint underwriting plan; the
5 Arbitration Panels for Health Care, compulsory screening of
6 claims; collateral sources requirement; limitation on
7 contingent fee compensation; establishing a Catastrophe Loss
8 Fund; and prescribing penalties," further providing for
9 liability insurance and the Medical Professional Liability
10 Catastrophe Loss Fund.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 701(e) of the act of October 15, 1975
14 (P.L.390, No.111), known as the Health Care Services Malpractice
15 Act, amended October 15, 1980 (P.L.971, No.165), is amended to

1 read:

2 Section 701. Professional Liability Insurance and Fund.--* *

3 *

4 (e) (1) The fund shall be funded by the levying of an
5 annual surcharge on or after January 1 of every year on all
6 health care providers entitled to participate in the fund. The
7 surcharge shall be determined by the director appointed pursuant
8 to section 702 and subject to the prior approval of the
9 commissioner. The surcharge shall be based on the cost to each
10 health care provider for maintenance of professional liability
11 insurance and shall be the appropriate percentage thereof,
12 necessary to produce an amount sufficient to reimburse the fund
13 for the payment of all claims paid and expenses incurred during
14 the preceding calendar year and to provide an amount necessary
15 to maintain an additional \$15,000,000.

16 (2) Health care providers having approved self-insurance
17 plans shall be surcharged an amount equal to the surcharge
18 imposed on a health care provider of like class, size, risk and
19 kind as determined by the director. The fund and all income from
20 the fund shall be held in trust, deposited in a segregated
21 account, invested and reinvested by the director, and shall not
22 become a part of the General Fund of the Commonwealth. All
23 claims shall be computed on August 31, 1981 for all claims which
24 become final between January 1, 1981 and August 31, 1981 and
25 annually thereafter on August 31 for all claims which became
26 final between that date and September 1 of the preceding year.
27 All such claims shall be paid on or before December 31 following
28 the August 31 by which they became final, as provided above. All
29 claims which become final between January 1, 1980 and the
30 effective date of this amendatory act shall be computed on the

1 effective date of this amendatory act and shall be paid on or
2 before December 31, 1980.

3 (3) Notwithstanding the above provisions relating to an
4 annual surcharge, the commissioner shall have the authority,
5 during September 1981 and during September of each year
6 thereafter, if the fund would be exhausted by the payment in
7 full of all claims which have become final and the expenses of
8 the office of the director, to determine and levy an emergency
9 surcharge on all health care providers then entitled to
10 participate in the fund. Such emergency surcharge shall be the
11 appropriate percentage of the cost to each health care provider
12 for maintenance of professional liability insurance necessary to
13 produce an amount sufficient to allow the fund to pay in full
14 all claims determined to be final as of August 31, 1981 and
15 August 31 of each year thereafter and the expenses of the office
16 of the director, as of December 31, 1980 and December 31 of each
17 year thereafter.

18 (4) The annual and emergency surcharges on health care
19 providers and any income realized by investment or reinvestment
20 shall constitute the sole and exclusive sources of funding for
21 the fund. No claims or expenses against the fund shall be deemed
22 to constitute a debt of the Commonwealth or a charge against the
23 General Fund of the Commonwealth. The director shall issue rules
24 and regulations consistent with this section regarding the
25 establishment and operation of the fund including all procedures
26 and the levying, payment and collection of the surcharges except
27 that the commissioner shall issue rules and regulations
28 regarding the imposition of the emergency surcharge. A fee shall
29 be charged by the director to all self-insurers for examination
30 and approval of their plans.

1 (5) A health care provider may elect to pay the annual
2 surcharge in equal installments, not exceeding four, if the
3 health care provider informs the primary carrier of the option
4 to pay in installments and the entire annual surcharge is
5 collected and remitted to the fund by December 10, with four
6 equal installments commencing 60 days from the date of policy
7 inception or renewal with payment due each 60 days thereafter
8 until the full remittance is paid. This paragraph shall expire
9 January 1, 1997 JANUARY 1, 1998. <—

10 * * *

11 Section 2. The addition of section 701(e)(5) of the act
12 shall apply to surcharges for ~~1996~~ 1997. <—

13 Section 3. This act shall take effect immediately.