

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2019 Session of  
1999

INTRODUCED BY KENNEY, ADOLPH, O'BRIEN, OLIVER, ALLEN, ARMSTRONG, BAKER, BASTIAN, BATTISTO, BEBKO-JONES, BELARDI, BELFANTI, BIRMELIN, BISHOP, BLAUM, BOYES, BROWNE, BUNT, BUXTON, CALTAGIRONE, CAPPABIANCA, CARN, CAWLEY, CHADWICK, CIVERA, CLARK, CLYMER, L. I. COHEN, M. COHEN, CORNELL, COY, CURRY, DALEY, DeLUCA, DEMPSEY, DERMODY, DeWEESE, DiGIROLAMO, EVANS, FEESE, FICHTER, FORCIER, FRANKEL, FREEMAN, GEIST, GEORGE, GLADECK, GODSHALL, GRUCELA, HALUSKA, HENNESSEY, HERMAN, HORSEY, JAMES, JOSEPHS, KIRKLAND, LaGROTTA, LAUGHLIN, LAWLESS, LESCOVITZ, LEVDANSKY, MAITLAND, MANDERINO, MANN, MARKOSEK, MARSICO, MASLAND, McCALL, McGEEHAN, McNAUGHTON, MELIO, MICHLOVIC, S. MILLER, MUNDY, MYERS, NAILOR, NICKOL, ORIE, PETRONE, PHILLIPS, PISTELLA, PRESTON, RAMOS, RAYMOND, ROBINSON, ROEBUCK, ROONEY, ROSS, RUBLEY, SANTONI, SATHER, SAYLOR, SCHRODER, SHANER, B. SMITH, STABACK, STEELMAN, STERN, STETLER, STRITTMATTER, STURLA, SURRA, TANGRETTI, J. TAYLOR, THOMAS, TIGUE, TRAVAGLIO, TRELLO, TRICH, TRUE, TULLI, VAN HORNE, VEON, WALKO, WASHINGTON, WILLIAMS, WOGAN, WOJNAROSKI, YEWIC AND YOUNGBLOOD, OCTOBER 27, 1999

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
OCTOBER 27, 1999

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,

1 and commissions; and prescribing the manner in which the  
2 number and compensation of the deputies and all other  
3 assistants and employes of certain departments, boards and  
4 commissions shall be determined," providing for duties of the  
5 Bureau of Drug and Alcohol Programs; and making repeals.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. The act of April 9, 1929 (P.L.177, No.175), known  
9 as The Administrative Code of 1929, is amended by adding a  
10 section to read:

11 Section 2126. Duties of the Bureau of Drug and Alcohol  
12 Programs.--(a) The Bureau of Drug and Alcohol Programs in the  
13 Department of Health shall establish a grievance procedure to  
14 handle complaints and grievances regarding access to, denial of  
15 and the provision of drug and alcohol treatment services by  
16 health maintenance organizations, health insurers and health  
17 plans.

18 (b) Because of the physical and psychological nature of  
19 alcohol and drug abuse with the potential for accidents,  
20 impairment, withdrawal and danger to the public safety,  
21 complaints and grievances regarding alcohol and drug treatment  
22 shall follow a one-level, external grievance procedure and shall  
23 be resolved in thirty (30) days from submission of the  
24 complaint.

25 (c) Managed care entities handling drug and alcohol  
26 treatment or behavioral health authorizations, utilization and  
27 review, assessments or otherwise approving care or making  
28 clinical determinations shall routinely advise subscribers of  
29 the grievance procedure and how to initiate the procedure  
30 through written materials and at point of any denial or adverse  
31 treatment decision.

32 (d) At the point of an inquiry regarding corrective action

or a complaint or grievance regarding drug and alcohol treatment services, subscribers shall be advised of the one-step appeal procedure.

(e) At the point of denial of requested drug and alcohol treatment, the entity, managed care entities, any entities responsible for assessing or approving drug and alcohol treatment delivery as well as drug and alcohol treatment programs shall readvise subscribers of the grievance procedure and how to initiate the process.

(f) Any time a health maintenance organization, health plan, third-party administrator, utilization review firm or behavioral health managed care company or managed care contractor denies access for a specific covered treatment or treatment modality or denies continuation of existing treatment or makes other adverse treatment decisions, that decision shall be provided in writing to the patient, the referral source and the drug and alcohol facility providing treatment and shall set forth the specific reasons for denial and the name of the individual making that decision.

(g) The consumer, facility or designee or a treatment program which is providing or has provided a service to a subscriber may initiate the grievance procedure.

(h) (1) The Bureau of Drug and Alcohol Programs shall establish a registry of drug and alcohol treatment clinicians working in drug and alcohol treatment facilities licensed by the Department of Health who are qualified to conduct grievance reviews.

(2) The minimum qualifications for a clinician on the registry are:

(i) A master's or bachelor's degree or certified addiction

1 counselor certificate.

2 (ii) Five years' experience in addiction treatment programs  
3 serving public and private clients. This experience shall  
4 include drug and alcohol clinical experience in both inpatient  
5 and outpatient treatment settings with demonstrated strength in  
6 client assessment.

7 (3) The registry shall consist of noncivil service  
8 positions.

9 (i) The grievance procedure shall include, at a minimum, the  
10 following elements:

11 (1) A requirement that a case assigned to a clinician or  
12 clinicians for review shall have all identifying matter, such as  
13 patient name, name of the treatment program and the managed care  
14 entity's name removed.

15 (2) A requirement that a clinician or clinicians shall not  
16 review a case where there is a conflict of interest.

17 (3) A procedure for efficient assignment of cases to  
18 clinicians for review.

19 (4) A requirement that all clinical reviews be conducted by  
20 registry clinicians using the Pennsylvania client placement  
21 criteria or criteria developed by the American Society of  
22 Addiction Medicine.

23 (5) A requirement that the clinician or clinicians assigned  
24 to a case shall report the results of their final determination  
25 to the Bureau of Drug and Alcohol Programs and to the effected  
26 parties to the case.

27 (6) A requirement that the parties to the case shall  
28 immediately comply with the determination of the clinician or  
29 clinicians.

30 (7) A requirement that the decision of the clinician or

1 clinicians shall be binding upon the parties to the case absent  
2 that such decision is a gross abuse of discretion.

3 (j) No subscriber of a health maintenance organization,  
4 health insurer or health plan shall be deprived of alcohol and  
5 other drug treatment or coverage due to identification of an  
6 alcohol and other drug problem that occurs as a result of  
7 contact with the legal or criminal justice system.

8 (k) Nothing in this section prohibits a licensed drug and  
9 alcohol treatment program from providing drug and alcohol  
10 addiction treatment while the grievance procedure is under way.  
11 Provision of such treatment does not guarantee payment for the  
12 service.

13 (l) The Bureau of Drug and Alcohol Programs shall compile,  
14 maintain and make available on an annual basis records on  
15 inquiries requiring corrective action, complaints and grievances  
16 regarding alcohol and drug treatment services by health plans.

17 (m) The Bureau of Drug and Alcohol Programs shall promulgate  
18 rules and regulations to implement this section.

19 (n) As used in this section the term, "managed care entity"  
20 means a health care system that integrates any financing and  
21 delivery of health care services. The term shall include, but  
22 not be limited to, an insurer, health maintenance organization,  
23 managed care firm or third-party administrator.

24 Section 2. (a) Section 14 of the act of December 29, 1972  
25 (P.L.1701, No.364), known as the Health Maintenance Organization  
26 Act, is repealed insofar as it is inconsistent with this act.

27 (b) All other acts and parts of acts are repealed insofar as  
28 they are inconsistent with this act.

29 Section 3. This act shall take effect in 60 days.