

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 42 Session of 2011

INTRODUCED BY BAKER, CUTLER, MAJOR, STERN, AUMENT, BARRAR, BENNINGHOFF, BLOOM, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, DENLINGER, DUNBAR, EVERETT, GABLER, GEIST, GINGRICH, GRELL, GROVE, HAHN, HARHART, HARRIS, HELM, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M.K. KELLER, KILLION, KRIEGER, MARSICO, METCALFE, METZGAR, MICOZZIE, MILLER, MUSTIO, OBERLANDER, PERRY, PETRI, PICKETT, PYLE, RAPP, REESE, REICHLEY, ROAE, SAYLOR, SCAVELLO, SCHRODER, SIMMONS, SONNEY, STEVENSON, SWANGER, TOEPEL, VULAKOVICH, WATSON, TRUITT, QUINN, TALLMAN, LAWRENCE AND KNOWLES, JANUARY 19, 2011

REFERRED TO COMMITTEE ON HEALTH, JANUARY 19, 2011

AN ACT

1 Providing for the rights of individuals to purchase private  
 2 health care insurance; and prohibiting certain governmental  
 3 action.

4 The General Assembly of the Commonwealth of Pennsylvania  
 5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Freedom of  
 8 Choice in Health Care Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
 11 have the meanings given to them in this section unless the  
 12 context clearly indicates otherwise:

13 "Commonwealth agency." The Commonwealth, including the  
 14 Executive Department, Commonwealth departments and boards and

1 commissions; an independent administrative department, board and  
2 commission; or a public official thereof, acting under the color  
3 of State law.

4 "Direct purchase." Payment for lawful health care services  
5 without a public or private third party, not including an  
6 employer, paying for any portion of the service.

7 "Health care system." Any public or private entity whose  
8 function or purpose is the management of, processing of, or  
9 enrollment of individuals for or payment for, in full or in  
10 part, health care services, health care data or health care  
11 information for its participants.

12 "Penalties or fines." Any civil or criminal penalty or fine,  
13 tax, salary or wage withholding or surcharge, or any named fee  
14 with a similar effect established by law or rule by a  
15 government-established, government-created or government-  
16 controlled agency that is used to punish or discourage the  
17 exercise of rights protected under this section.

### 18 Section 3. Individual rights.

19 The people shall have the right to enter into private  
20 contracts with health care providers for health care services  
21 and to purchase private health care coverage. The legislature  
22 may not require any individual to participate in any health care  
23 system or plan, nor may it impose a penalty or fine, of any  
24 type, for choosing to obtain or decline health care coverage or  
25 for participation in any particular health care system or plan.

### 26 Section 4. Freedom of choice in health care.

27 (a) Prohibited actions.--To preserve the freedom of  
28 Pennsylvanians to provide for their health care:

29 (1) A law or rule shall not compel, through penalties  
30 and fines, directly or indirectly, any individual, employer

1 or health care provider to participate in any health care  
2 system.

3 (2) An individual or employer may pay directly for  
4 lawful health care services and shall not be required to pay  
5 penalties or fines for paying directly for lawful health care  
6 services. A health care provider may accept direct payment  
7 for lawful health care services and shall not be required to  
8 pay penalties or fines for accepting direct payment from a  
9 individual or employer for lawful health care services.

10 (b) Private health care insurance.--Subject to reasonable  
11 and necessary rules that do not substantially limit an  
12 individual's options, the purchase or sale of health insurance  
13 in private health care systems shall not be prohibited by rule  
14 or law.

15 (c) Interpretation.--This section does not affect:

16 (1) Which health care services a health care provider or  
17 hospital is required to perform or provide.

18 (2) Which health care services are permitted by law.

19 (3) The terms or conditions of any health care system to  
20 the extent that those terms and conditions do not have the  
21 effect of punishing an individual or employer for paying  
22 directly for lawful health care services or a health care  
23 provider or hospital for accepting direct payment from an  
24 individual or employer for lawful health care services.

25 Section 5. Participation in related laws.

26 Neither the Governor nor the Department of Health, the  
27 Department of Public Welfare or any other Commonwealth agency  
28 shall participate in the compliance with any Federal law,  
29 regulation or policy that would compromise the freedom of choice  
30 in health care of any resident of this Commonwealth.

1 Section 6. Effective date.

2 This act shall take effect immediately.