

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 913 Session of 2011

INTRODUCED BY MICOZZIE, DeLUCA, GROVE, FABRIZIO, BENNINGHOFF,
CALTAGIRONE, GEIST, GINGRICH, HORNAMAN, KORTZ, MILNE, MUNDY,
READSHAW, STURLA AND VULAKOVICH, MARCH 3, 2011

REFERRED TO COMMITTEE ON INSURANCE, MARCH 3, 2011

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," in insurance, further providing for the
16 Medical Care Availability and Reduction of Error Fund.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 712(d) of the act of March 20, 2002
20 (P.L.154, No.13), known as the Medical Care Availability and
21 Reduction of Error (Mcare) Act, is amended to read:
22 Section 712. Medical Care Availability and Reduction of Error
23 Fund.

24 * * *

1 (d) Assessments.--

2 (1) For calendar year 2003 [and for each year
3 thereafter] through 2011, the fund shall be funded by an
4 assessment on each participating health care provider.
5 Assessments shall be levied by the department on or after
6 January 1 of each year. The assessment shall be based on the
7 prevailing primary premium for each participating health care
8 provider and shall, in the aggregate, produce an amount
9 sufficient to do all of the following:

10 (i) Reimburse the fund for the payment of reported
11 claims which became final during the preceding claims
12 period.

13 (ii) Pay expenses of the fund incurred during the
14 preceding claims period.

15 (iii) Pay principal and interest on moneys
16 transferred into the fund in accordance with section
17 713(c).

18 (iv) Provide a reserve that shall be 10% of the sum
19 of subparagraphs (i), (ii) and (iii).

20 (1.1) For calendar year 2012 and each year thereafter,
21 the fund shall be funded by an annual assessment on each
22 participating health care provider. Assessments shall be
23 levied by the department after December 31. The assessment
24 shall be based on the prevailing primary premium for each
25 participating health care provider and shall, in the
26 aggregate, produce an amount equal to the sum of the
27 following amounts minus the projected fund balance at the
28 close of the calendar year preceding the assessment year:

29 (i) The reported claims which became final during
30 the preceding claims period.

1 (ii) The expenses of the fund incurred during the
2 preceding claims period.

3 (iii) The outstanding principal and interest on
4 moneys transferred into the fund under section 713(c).

5 (iv) Ten percent of the sum of subparagraphs (i),
6 (ii) and (iii).

7 (1.2) Paragraph (1.1) is not intended to validate or
8 refute any position advanced by a party in proceedings
9 challenging any assessment prior to the effective date of
10 this paragraph. The outcome of those proceedings shall be
11 based upon the statutory language in effect on the day before
12 the effective date of this paragraph.

13 (2) The department shall notify all basic insurance
14 coverage insurers and self-insured participating health care
15 providers of the assessment by November 1 for the succeeding
16 calendar year.

17 (3) Any appeal of the assessment shall be filed with the
18 department.

19 * * *

20 Section 2. This act shall take effect in 60 days.