
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2405 Session of
2012

INTRODUCED BY METCALFE, RAPP, AUMENT, BARRAR, BEAR, BLOOM, BOYD,
BROOKS, CAUSER, COX, CREIGHTON, CUTLER, DENLINGER, DUNBAR,
ELLIS, FLECK, GILLEN, HARRIS, HESS, HICKERNELL, HUTCHINSON,
KAUFFMAN, KNOWLES, KRIEGER, MALONEY, METZGAR, MOUL, REESE,
ROAE, ROCK, SACCONI, SONNEY, STERN, SWANGER AND TALLMAN,
MAY 23, 2012

REFERRED TO COMMITTEE ON RULES, MAY 23, 2012

AN ACT

1 Providing for prioritization of public funds to certain health
2 care entities and for enforcement.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Whole Woman's
7 Health Funding Priorities Act.

8 Section 2. Definitions.

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

12 "Abortion." The use of any means to terminate the clinically
13 diagnosable pregnancy of a woman with knowledge that the
14 termination by those means will cause, with reasonable
15 likelihood, the death of the unborn child. The term does not
16 include birth control devices, oral contraceptives used to

1 inhibit or prevent ovulation, conception or the implantation of
2 a fertilized ovum in the uterus or the use of any means to
3 increase the probability of a live birth, to preserve the life
4 or health of the child after a live birth, to terminate an
5 ectopic pregnancy or to remove a dead fetus.

6 "Department." Department of Health of the Commonwealth.

7 "Federally qualified abortion." An abortion qualified for
8 Federal reimbursement under the Medicaid program.

9 "Federally qualified health center." A health care provider
10 that is eligible for Federal funding under 42 U.S.C. § 1396d(1)
11 (2)(B) of the Social Security Act.

12 "Hospital." A primary or tertiary care facility licensed
13 under State law.

14 "Public funds." State funds from whatever source, including
15 without limitation, State general revenue funds, State special
16 account and limited purpose grants or loans and Federal funds
17 provided under Title X of the Public Health Service Act (42
18 U.S.C. § 300 et seq.) and Title V (42 U.S.C. 701 et seq.), Title
19 XIX (42 U.S.C. § 1396 et seq.) and Title XX (42 U.S.C. § 1397 et
20 seq.) of the Social Security Act.

21 "Rural health clinic." A health care provider that is
22 eligible for Federal funding under 42 U.S.C. § 1395x(aa)(2) of
23 the Social Security Act.

24 Section 3. Prioritization of public funds to health care
25 entities.

26 Subject to any applicable requirements of Federal statutes,
27 rules, regulations or guidelines:

28 (1) Any expenditures or grants of public funds for
29 family planning services by the Commonwealth by and through
30 the department shall be made in the following order of

1 priority:

2 (i) To public entities.

3 (ii) To nonpublic hospitals and federally qualified
4 health centers.

5 (iii) To rural health clinics.

6 (iv) To nonpublic health providers that have as
7 their primary purpose the provision of the primary health
8 care services enumerated in 42 U.S.C. § 254b(a) (1).

9 (2) The department may not enter into a contract with or
10 make a grant to any entity that performs nonfederally
11 qualified abortions or maintains or operates a facility where
12 nonfederally qualified abortions are performed.

13 Section 4. Enforcement.

14 (a) Attorney General.--The Attorney General may bring an
15 action in law or equity to enforce the provisions of this act
16 and relief shall be available in appropriate circumstances,
17 including, but not limited to, recoupment and declaratory and
18 injunctive relief, including, but not limited to, suspension or
19 debarment.

20 (b) Standing.--Any entity eligible for the receipt of public
21 funds, shall possess standing to bring any action that the
22 Attorney General has authority to bring under the provisions of
23 subsection (a), provided, however, that an expenditure or grant
24 of public funds made in violation of this act that results in
25 the reduction of public funds and any award of monetary relief
26 shall be made to an appropriate public officer for deposit into
27 one or more accounts maintained by the Commonwealth for public
28 funds.

29 (c) Attorney fees and costs.--In an action brought under
30 this section, a prevailing plaintiff shall be entitled to an

1 award of reasonable attorney fees and costs.

2 Section 5. Right of intervention.

3 The General Assembly, through one or more members duly
4 appointed by resolution of their respective chamber, may
5 intervene as a matter of right in any case in which the
6 constitutionality of this act is challenged.

7 Section 6. Severability.

8 It is the intent of the General Assembly that every provision
9 of this act shall operate with equal force and shall be
10 severable one from the other and that in the event that any
11 provision of this act is held invalid or unenforceable by a
12 court of competent jurisdiction, that provision shall be
13 accordingly deemed severable and the remaining provisions deemed
14 fully enforceable.

15 Section 7. Effect on appropriations.

16 Any appropriation of public funds made by the department in
17 derogation of the provisions of section 3 shall be null and void
18 as of the effective date hereof, and the funds allocated
19 pursuant to the appropriation shall be reallocated to eligible
20 entities.

21 Section 8. Effective date.

22 This act shall take effect in 60 days.