

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2779 Session of 2020

INTRODUCED BY QUINN, THOMAS, HEFFLEY, STRUZZI, BERNSTINE, SCHWEYER, SCHLOSSBERG, GROVE, RYAN, SCHLEGEL CULVER, BARRAR, MENTZER, MIZGORSKI, SAYLOR, HILL-EVANS, GREEN, JONES, STAATS AND BOBACK, AUGUST 18, 2020

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 16, 2020

AN ACT

1 Providing for retaining health care innovations during the
2 COVID-19 pandemic and imposing duties on the Joint State
3 Government Commission.

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 Retaining
8 Health Care Innovations Act.

9 Section 2. Purposes.

10 This act provides legal authority for administrative
11 flexibilities to continue despite the termination or expiration
12 of the COVID-19 disaster declaration and requires the
13 development of recommendations to retain innovations adopted
14 during the COVID-19 pandemic.

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Administrative flexibilities." As follows:

3 (1) Executive orders, proclamations or regulations  
4 issued, amended or rescinded under the COVID-19 disaster  
5 declaration as authorized by 35 Pa.C.S. § 7301(b) (relating  
6 to general authority of Governor).

7 (2) The term includes changes to policies, procedures  
8 and practices adopted by State administrative agencies to  
9 assist health care facilities, FEDERALLY QUALIFIED HEALTH <--  
10 CENTERS, RURAL HEALTH CLINICS, health care practitioners and  
11 health care providers in responding to the COVID-19 pandemic.

12 "Commission." The Joint State Government Commission.

13 "COVID-19." The coronavirus disease 2019, an infectious  
14 disease caused by severe acute respiratory syndrome coronavirus  
15 2 that was first identified during December 2019 in Wuhan,  
16 China.

17 "COVID-19 disaster declaration." The proclamation of  
18 disaster emergency issued by the Governor on March 6, 2020,  
19 published at 50 Pa.B. 1644 (March 21, 2020), and renewed on ~~June~~ <--  
20 ~~3~~7 AUGUST 29, 2020, and any renewal of the state of disaster <--  
21 emergency, to address COVID-19, in accordance with 35 Pa.C.S. §  
22 7301(c).

23 "Extension period." The ~~one-year~~ 90-DAY period from the date <--  
24 of the termination or expiration of the COVID-19 disaster  
25 declaration during which administrative flexibilities provided  
26 to health care facilities and health care practitioners remain  
27 in force.

28 "FEDERALLY QUALIFIED HEALTH CENTER." A HEALTH CENTER AS <--  
29 DEFINED IN SECTION 1861(AA) (4) OF THE SOCIAL SECURITY ACT (49  
30 STAT. 620, 42 U.S.C. § 1395X(AA) (4)).

1 "Health care facility." As defined in section 103 OR 802.1 <--  
2 of the act of July 19, 1979 (P.L.130, No.48), known as the  
3 Health Care Facilities Act.

4 "Health care practitioner." As defined in section 103 of the  
5 Health Care Facilities Act.

6 "Health care provider." As defined in section 103 of the  
7 Health Care Facilities Act.

8 "RURAL HEALTH CLINIC." A CLINIC AS DEFINED IN SECTION <--  
9 1861(AA) (2) OF THE SOCIAL SECURITY ACT.  
10 Section 4. Administrative flexibilities.

11 (a) Authorization.--Administrative flexibilities provided to  
12 a health care facility, FEDERALLY QUALIFIED HEALTH CENTER, RURAL <--  
13 HEALTH CLINIC, health care practitioner or a health care  
14 provider and adopted under the authority of the COVID-19  
15 disaster declaration shall be extended through the extension  
16 period ~~or until the Joint State Government Commission issues a~~ <--  
17 ~~report in accordance with section 6, whichever is later.~~

18 (b) Emergency operations plan.--A health care facility may  
19 take advantage of administrative flexibilities during the  
20 extension period even if the emergency operations plan of the  
21 health care facility is closed.

22 Section 5. Advisory committee.

23 In developing the report under section 6, the commission  
24 shall establish an advisory committee comprised of, but not  
25 limited to, the following individuals:

26 (1) A representative recommended by the Department of  
27 Health.

28 (2) A representative recommended by the Department of  
29 Human Services.

30 (3) A representative recommended by the Bureau of

1 Professional and Occupational Affairs of the Department of  
2 State.

3 (4) A representative recommended by the Hospital and  
4 Healthsystem Association of Pennsylvania.

5 (5) A representative recommended by the Pennsylvania  
6 Medical Society.

7 (6) A representative recommended by the Rehabilitation  
8 and Community Providers Association.

9 (7) A representative recommended by the Pennsylvania  
10 State Nurses Association.

11 (8) A representative recommended by LeadingAge PA.

12 (9) A representative recommended by the Pennsylvania  
13 Health Care Association.

14 (10) A representative recommended by the Pennsylvania  
15 Association of Community Health Centers.

16 (11) A representative recommended by the Pennsylvania  
17 Psychiatric Society.

18 (12) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA <--  
19 HEALTH LAW PROJECT.

20 (13) AN INDIVIDUAL WITH A PHYSICAL DISABILITY WHO  
21 PROVIDES SUPPORT THROUGH THE CENTER FOR INDEPENDENT LIVING.

22 (14) A REPRESENTATIVE RECOMMENDED BY THE SERVICE  
23 EMPLOYEES INTERNATIONAL UNION HEALTHCARE PENNSYLVANIA.

24 (15) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA  
25 ASSOCIATION OF STAFF NURSES AND ALLIED PROFESSIONALS.

26 (16) A REPRESENTATIVE RECOMMENDED BY THE NURSES OF  
27 PENNSYLVANIA.

28 (17) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA  
29 ASSOCIATION OF MANAGED CARE ORGANIZATIONS.

30 (18) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA

1 COALITION OF AFFILIATED HEALTHCARE AND LIVING COMMUNITIES.

2 (19) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA  
3 HOME CARE ASSOCIATION.

4 (20) A REPRESENTATIVE RECOMMENDED BY THE COALITION FOR  
5 THE COMMONHEALTH.

6 (21) A REPRESENTATIVE RECOMMENDED BY THE PENNSYLVANIA  
7 MENTAL HEALTH CONSUMERS' ASSOCIATION.

8 (22) A REPRESENTATIVE RECOMMENDED BY A BEHAVIORAL HEALTH  
9 ADVOCATE ORGANIZATION.

10 (23) A REPRESENTATIVE RECOMMENDED BY THE NATIONAL  
11 ALLIANCE FOR MENTAL ILLNESS KEYSTONE PENNSYLVANIA.

12 ~~(12)~~ (24) Any other representatives from other <--  
13 organizations that are deemed appropriate by the commission.

14 Section 6. Report.

15 (a) Duty of commission.--The commission shall perform an  
16 analysis of the administrative flexibilities described in  
17 section 4 and issue a report to the General Assembly ~~at least~~ <--  
18 ~~180 days prior to the expiration of the extension period.~~

19 (b) Contents of report.--The report under this section  
20 shall, at a minimum:

21 (1) Describe the administrative flexibilities granted  
22 under the COVID-19 disaster declaration.

23 (2) Describe the impact of each administrative  
24 flexibility on patient access and quality of care.

25 (3) Describe the financial impact of each administrative  
26 flexibility on both the Commonwealth and the health care  
27 facilities, health care practitioners and health care  
28 providers affected by the waivers.

29 (4) Include recommendations to the General Assembly on  
30 whether the administrative flexibilities should be

1 maintained.

2 Section 7. Limitations.

3 Nothing in this act shall require the Commonwealth to  
4 maintain administrative flexibilities that would violate Federal  
5 law or disqualify the Commonwealth from receiving Federal  
6 matching funds for Medicaid services.

7 SECTION 8. CONSTRUCTION.

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8 NOTHING IN THIS ACT SHALL BE CONSTRUED TO PROHIBIT A STATE  
9 ADMINISTRATIVE AGENCY FROM ENDING ANY WAIVER OR SUSPENSION OF  
10 REGULATIONS DEEMED TO BE NO LONGER NECESSARY DURING THE PERIOD  
11 OF THE COVID-19 DISASTER DECLARATION.

12 SECTION 9. APPLICABILITY.

13 THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO ADMINISTRATIVE  
14 FLEXIBILITIES NO LONGER IN EFFECT ON THE DATE THE COVID-19  
15 DISASTER DECLARATION EXPIRES OR IS TERMINATED BY EXECUTIVE  
16 ORDER, PROCLAMATION OR OPERATION OF LAW. IF A STATE  
17 ADMINISTRATIVE AGENCY HAS SUBMITTED A PUBLIC NOTICE TO THE  
18 LEGISLATION REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA  
19 BULLETIN THAT PROVIDES FOR THE EXPIRATION OR TERMINATION DATE OF  
20 AN ADMINISTRATIVE FLEXIBILITY BEFORE THE EXPIRATION OR  
21 TERMINATION OF THE COVID-19 DISASTER DECLARATION, THE  
22 ADMINISTRATIVE FLEXIBILITY SHALL BE DEEMED EXPIRED OR TERMINATED  
23 FOR PURPOSES OF THIS ACT BEFORE THE END OF THE COVID-19 DISASTER  
24 DECLARATION.

25 Section & 10. Effective date.

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26 This act shall take effect immediately.