

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1284 Session of
2003

INTRODUCED BY McNAUGHTON, DALLY, DONATUCCI, HARHART, HENNESSEY,
HERMAN, LEACH, LEH, MARSICO, MICOZZIE, ROSS, RUBLEY, SATHER,
SHANER, T. STEVENSON, VANCE, GILLESPIE, MUNDY, WATSON AND
CRAHALLA, APRIL 30, 2003

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 6, 2003

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," further providing for medical
16 professional liability insurance.

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

19 Section 1. Section 732 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 732. Medical professional liability insurance.

23 (a) Insurance.--[The] Except as provided in subsection (d),

1 the joint underwriting association shall offer medical
2 professional liability insurance to health care providers and
3 professional corporations, professional associations and
4 partnerships which are entirely owned by health care providers
5 who cannot conveniently obtain medical professional liability
6 insurance through ordinary methods at rates not in excess of
7 those applicable to similarly situated health care providers,
8 professional corporations, professional associations or
9 partnerships.

10 (b) Requirements.--The joint underwriting association shall
11 ensure that the medical professional liability insurance it
12 offers does all of the following:

13 (1) [Is] Except as provided in subsection (d), is
14 conveniently and expeditiously available to all health care
15 providers required to be insured under section 711.

16 (2) Is subject only to the payment or provisions for
17 payment of the premium.

18 (3) Provides reasonable means for the health care
19 providers it insures to transfer to the ordinary insurance
20 market.

21 (4) Provides sufficient coverage for [a health care
22 provider] the health care providers it insures to satisfy its
23 insurance requirements under section 711 on reasonable and
24 not unfairly discriminatory terms.

25 (5) Permits [a health care provider] the health care
26 providers it insures to finance its premium or allows
27 installment payment of premiums subject to customary terms
28 and conditions.

29 (c) Claims-free credit.--The joint underwriting association
30 shall provide a discount of at least 15% on the applicable

1 premium to any FULL-TIME health care provider making application <—
2 for insurance if it can be demonstrated that the provider has a <—
3 claims free experience over the past five most recent years.
4 INSURANCE COVERING A PERIOD OF AT LEAST SIX MONTHS, IF IT CAN BE <—
5 DOCUMENTED THAT A HEALTH CARE PROVIDER HAS A CLAIMS-FREE
6 EXPERIENCE. THIS SUBSECTION SHALL EXPIRE TEN YEARS AFTER THE
7 EFFECTIVE DATE OF THIS SUBSECTION UNLESS MAINTAINING THE
8 DISCOUNT IS PROVEN TO BE ACTUARILY JUSTIFIED.

9 (d) Certain policies prohibited.--The joint underwriting
10 association shall not offer medical professional liability
11 insurance to any health care provider making application if any <—
12 of the following apply: WHO DISCLOSES ANY OF THE FOLLOWING: <—

13 (1) The HEALTH CARE provider's medical license has been <—
14 revoked in any state.

15 (2) The HEALTH CARE provider's license to dispense or <—
16 prescribe drugs or medication has been revoked in this
17 Commonwealth or any other state.

18 (3) The HEALTH CARE provider has had ~~five~~ THREE or more <—
19 medical liability claims in the past five most recent years
20 in which the judgment against the provider or settlement
21 entered was \$500,000 or more for each claim.

22 (4) The HEALTH CARE provider has been convicted, or <—
23 entered a plea of guilty or no contest for any of the
24 following offenses:

25 (i) A felony violation of the act of April 14, 1972
26 (P.L.233, No.64), known as The Controlled Substance,
27 Drug, Device and Cosmetic Act.

28 (ii) 18 Pa.C.S. Ch. 25 (relating to criminal
29 homicide).

30 (iii) 18 Pa.C.S. § 2702 (relating to aggravated

1 assault).

2 (iv) 18 Pa.C.S. § 2709.1 (relating to stalking).

3 (v) 18 Pa.C.S. Ch. 29 (relating to kidnapping).

4 (vi) 18 Pa.C.S. Ch. 31 (relating to sexual
5 offenses).

6 (vii) 18 Pa.C.S. § 3301 (relating to arson and
7 related offenses).

8 (viii) 18 Pa.C.S. § 3302 (relating to causing or
9 risking catastrophe).

10 (ix) 18 Pa.C.S. Ch. 35 (relating to burglary and
11 other criminal intrusion).

12 (x) 18 Pa.C.S. Ch. 37 (relating to robbery).

13 (xi) A felony violation under 18 Pa.C.S. Ch. 39
14 (relating to theft and related offenses).

15 (xii) 18 Pa.C.S. Ch. 59 (relating to public
16 indecenty).

17 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <—
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
19 SUBSECTION:

20 "CLAIMS-FREE EXPERIENCE." A DOCUMENTED PERIOD IN WHICH NO
21 CLAIMS HAVE BEEN MADE AGAINST A HEALTH CARE PROVIDER OVER THE
22 PAST FIVE MOST RECENT YEARS, AND THE HEALTH CARE PROVIDER HAS
23 HAD CONTINUOUS INSURANCE COVERAGE IN FORCE FOR THE FIVE YEARS
24 PRECEDING THE PROPOSED EFFECTIVE DATE OF INSURANCE COVERAGE.

25 "FULL TIME." A HEALTH CARE PROVIDER WORKING MORE THAN 25
26 HOURS PER WEEK.

27 Section 2. This act shall take effect ~~immediately~~ IN 60 <—
28 DAYS.