AN ACT

Providing for informed consent for vaccinations and for penalties.

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

Section 1. Short title.

This act shall be known and may be cited as the Informed Consent Protection Act.

Section 2. Definitions.

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

"Department." The Department of Health of the Commonwealth.

"Emergency medical services provider." As defined in 35 Pa.C.S. § 8103 (relating to definitions).

"Health care facility." As defined in section 402 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

"Health care practitioner." As defined in section 103 of the
act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Informed consent." The right of all people to be fully informed about the risks and benefits of a medical intervention and free to make a voluntary decision on that intervention without being coerced, threatened or punished for the decision.

"License." A health care practitioner license issued by the Department of State or a health care facility license issued by the Department of Health.

Section 3. Vaccine nondiscrimination.

(a) Prohibition against discrimination.--A health care practitioner or a health care facility may not discriminate against a patient or parent or guardian of a patient based solely upon a patient or parent or guardian of a patient choosing to delay or decline a vaccination. Exercising the right to informed consent by delaying or declining vaccinations under this act may not be the reason for a patient or family member of a patient to be dismissed from a practice or lose medical privileges or benefits.

(b) Prohibition against harassment.--A health care practitioner or health care facility shall not harass, coerce, scold or threaten a patient or parent or guardian of a patient for exercising the right to delay or decline a vaccination under this act.

(c) Health insurer.--An insurer issuing any type of insurance policy shall not deny coverage, increase a premium or otherwise discriminate against an insured or applicant for insurance based on the individual's choice to delay or decline a vaccination for the individual or the individual's child.

Section 4. Prohibited activities.
(a) Limitation on payments.--A health care practitioner shall not accept a monetary payment in the form of a bonus or other incentive from an insurance company or pharmaceutical company for patient vaccination.

(b) Requiring a waiver prohibited.--A health care practitioner shall not require a patient or parent or guardian of a patient to sign a liability waiver as a condition to receive medical care in the event the patient or parent or guardian of a patient chooses to delay or decline a vaccination.

(c) Investigations by child protective services.--Child protective services shall not initiate an investigation against a parent or guardian for the sole reason of a parent or guardian choosing to delay or decline a vaccination for a child of the parent or guardian under this act.

(d) Health care providers.--An insurer shall not deny a health care practitioner's participation in an insurance plan or decrease the practitioner's reimbursements through fines or financial penalties due to low patient vaccination rates or due to a practitioner's decision not to vaccinate a patient.

Section 5. Penalty.

For violations under sections 3 and 4, the appropriate board or the department may:

(1) for a first violation, levy a fine in the amount of $1,000; or

(2) for a second or subsequent violation, refuse, revoke or suspend the license of a health care practitioner or health care facility.

Section 6. Rights of patients.

(a) Summary of rights.--The department shall publish on the department's publicly accessible Internet website a summary of
the rights of a patient or parents or guardians of a patient under section 3, in any format the health care provider or health care facility chooses.

(b) Complaints.--A health care provider and health care facility, if requested, shall inform patients of the address and telephone number of each State agency responsible for responding to patient complaints about a health care provider or health care facility's alleged noncompliance with this act.

(c) Procedure for providing information on patient rights.--A health care provider or facility shall adopt policies and procedures to ensure that a patient and the parent or guardian of a patient are provided the opportunity during the course of admission to receive information regarding the rights contained in section 3 and how to file complaints with the facility and appropriate State agency.

(d) Fines.--The following shall apply:

(1) The department may levy the following fines for a violation under this act:

   (i) Not more than $5,000 for an unintentional violation.

   (ii) Not more than $25,000 for an intentional violation, with each intentional violation constituting a separate violation subject to a separate fine.

(2) The appropriate regulatory board or, if no board exists, the department may impose an administrative fine against a health care practitioner for failing to make available to patients a summary of their rights under section 3 and the following shall apply:

   (i) A health care provider's first violation under this paragraph shall be subject to corrective action and
shall not be subject to an administrative fine if the
violation was unintentional.

(ii) The appropriate licensing board or the
department may levy a fine of not more than $100 for a
second or subsequent unintentional violation under this
paragraph.

(iii) The appropriate licensing board or the
department may levy a fine of not more than $500 for an
intentional violation under this paragraph, with each
intentional violation constituting a separate violation
subject to a separate fine.

(e) Determination of fine.--In determining the amount of
fine to be levied under subsection (d), the following factors
shall be considered:

(1) The scope and severity of the violation, including
the number of patients or parents or guardians of patients
found not to have received notice of a patient's rights under
section 3, and whether the failure to provide the information
to patients was willful.

(2) Actions taken by the health care provider or health
care facility to correct violations or to remedy complaints.

(3) Any previous violations under this act by a health
care provider or health care facility.

Section 7. Effective date.

This act shall take effect immediately.