

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 550 Session of
2007

INTRODUCED BY D. WHITE, ERICKSON, RHOADES, ARMSTRONG, RAFFERTY,
ORIE, O'PAKE, VANCE, EARLL, STACK AND C. WILLIAMS,
MARCH 8, 2007

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 2007

AN ACT

~~Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An~~ <—
~~act relating to insurance; amending, revising, and~~
~~consolidating the law providing for the incorporation of~~
~~insurance companies, and the regulation, supervision, and~~
~~protection of home and foreign insurance companies, Lloyds~~
~~associations, reciprocal and inter insurance exchanges, and~~
~~fire insurance rating bureaus, and the regulation and~~
~~supervision of insurance carried by such companies,~~
~~associations, and exchanges, including insurance carried by~~
~~the State Workmen's Insurance Fund; providing penalties; and~~
~~repealing existing laws," further providing, in insurance~~
~~holding companies, for definitions, for acquisition of~~
~~control of or merger with domestic insurer and for~~
~~acquisitions involving insurers not otherwise covered; and~~
~~making an inconsistent repeal.~~

AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN <—
ACT RELATING TO INSURANCE; AMENDING, REVISING, AND
CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF
INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND
PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS
ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND
FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND
SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,
ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY
THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND
REPEALING EXISTING LAWS," PROVIDING, IN HEALTH AND ACCIDENT
INSURANCE, FOR AUTISM SPECTRUM DISORDERS COVERAGE AND FOR
TREATMENT OF AUTISM SPECTRUM DISORDERS; AND FURTHER PROVIDING
FOR PROCEDURES.

The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. The definitions of "insurer" and "person" in~~ <—
3 ~~section 1401 of the act of May 17, 1921 (P.L.682, No.284), known~~
4 ~~as The Insurance Company Law of 1921, amended December 20, 2000~~
5 ~~(P.L.967, No.132), are amended and the section is amended by~~
6 ~~adding a definition to read:~~

7 ~~Section 1401. Definitions. As used in this article, and for~~
8 ~~the purposes of this article only, the following words and~~
9 ~~phrases shall have the meanings given to them in this section:~~

10 * * *

11 ~~"Insurer." Any health maintenance organization, preferred~~
12 ~~provider organization, company, association [or], exchange,~~
13 ~~hospital plan corporation subject to 40 Pa.C.S. Ch. 61 (relating~~
14 ~~to hospital plan corporations) or professional health services~~
15 ~~plan corporation subject to 40 Pa.C.S. Ch. 63 (relating to~~
16 ~~professional health services plan corporations), authorized by~~
17 ~~the Insurance Commissioner to transact the business of insurance~~
18 ~~in this Commonwealth except that the term shall not include:~~

19 ~~(1) the Commonwealth or any agency or instrumentality~~
20 ~~thereof;~~

21 ~~(2) agencies, authorities or instrumentalities of the United~~
22 ~~States, its possessions and territories, the Commonwealth of~~
23 ~~Puerto Rico, the District of Columbia or a state or political~~
24 ~~subdivision; or~~

25 ~~(3) fraternal benefit societies[; or~~

26 ~~(4) nonprofit medical and hospital service associations].~~

27 * * *

28 ~~"Person." An individual, an insurer, a corporation, a~~
29 ~~partnership, a limited liability company, an association, a~~
30 ~~joint stock company, a trust, an unincorporated organization,~~

1 ~~any similar entity or any combination of the foregoing acting in~~
2 ~~concert. The term shall not include any joint venture~~
3 ~~partnership exclusively engaged in owning, managing, leasing or~~
4 ~~developing real or tangible personal property.~~

5 * * *

6 ~~"Shareholder." A record holder or record owner of shares of~~
7 ~~an insurer.~~

8 ~~(1) The term shall include all of the following:~~

9 ~~(i) A member of an insurer that is a domestic~~
10 ~~nonstock corporation under 15 Pa.C.S. Ch. 21 (relating to~~
11 ~~nonstock corporations) or a prior statute.~~

12 ~~(ii) A member, as defined in 15 Pa.C.S. § 5103~~
13 ~~(relating to definitions), of an insurer that is a~~
14 ~~domestic nonprofit corporation under 15 Pa.C.S. Ch. 51~~
15 ~~(relating to general provisions) or a prior statute.~~

16 ~~(iii) A subscriber of an insurer that is a domestic~~
17 ~~reciprocal exchange under Article X or a prior statute.~~

18 ~~(2) The term shall not include any subscriber, insured~~
19 ~~or customer of:~~

20 ~~(i) a hospital plan corporation subject to 40~~
21 ~~Pa.C.S. Ch. 61 (relating to hospital plan corporations);~~
22 ~~or~~

23 ~~(ii) a professional health service plan corporation~~
24 ~~subject to 40 Pa.C.S. Ch. 63 (relating to professional~~
25 ~~health services plan corporations).~~

26 * * *

27 ~~Section 2. Section 1402 of the act, amended or added~~
28 ~~December 18, 1992 (P.L.1519, No.178) and December 21, 1998~~
29 ~~(P.L.1108, No.150), is amended to read:~~

30 ~~Section 1402. Acquisition of Control of or Merger or~~

1 ~~Consolidation with Domestic Insurer.~~ (a) (1) No person other
2 than the issuer shall make a tender offer for or a request or
3 invitation for tenders of, or enter into any agreement to
4 exchange securities or seek to acquire or acquire in the open
5 market or otherwise, any voting security of a domestic insurer
6 if, after the consummation thereof, such person would directly
7 or indirectly or by conversion or by exercise of any right to
8 acquire, be in control of such insurer, and no person shall
9 enter into an agreement to merge or consolidate with or
10 otherwise to acquire control of a domestic insurer or any person
11 controlling a domestic insurer unless, at the time any such
12 offer, request or invitation is made or any such agreement is
13 entered into or prior to the acquisition of such securities if
14 no offer or agreement is involved, such person has filed with
15 the department and has sent to such insurer a statement
16 containing the information required by this section and such
17 offer, request, invitation, agreement or acquisition has been
18 approved by the department in the manner hereinafter prescribed.

19 (2) For purposes of this section, a "domestic insurer" shall
20 include any person controlling a domestic insurer unless such
21 person as determined by the department is either directly or
22 through its affiliates primarily engaged in business other than
23 the business of insurance. Such person shall, however, file a
24 preacquisition notification with the department containing the
25 information set forth in section 1403(c)(2) thirty (30) days
26 prior to the proposed effective date of the acquisition. Failure
27 to file is subject to section 1403(c)(3). For purposes of this
28 section, "person" shall not include any securities broker
29 holding, in the usual and customary manner, less than twenty per
30 centum (20%) of the voting securities of an insurance company or

1 ~~of any person which controls an insurance company.~~

2 ~~(b) The statement to be filed with the department under this~~
3 ~~section shall be made under oath or affirmation and shall~~
4 ~~contain the following information:~~

5 ~~(1) The name and address of each person by whom or on whose~~
6 ~~behalf the merger, consolidation or other acquisition of control~~
7 ~~referred to in subsection (a) is to be effected, hereinafter~~
8 ~~called "acquiring party," and~~

9 ~~(i) if such person is an individual, his principal~~
10 ~~occupation and all offices and positions held during the past~~
11 ~~five (5) years, and any conviction of crimes other than minor~~
12 ~~traffic violations during the past ten (10) years; or~~

13 ~~(ii) if such person is not an individual, a report of the~~
14 ~~nature of its business operations during the past five (5) years~~
15 ~~or for such lesser period as the person and any predecessors~~
16 ~~thereof shall have been in existence; an informative description~~
17 ~~of the business intended to be done by the person and the~~
18 ~~person's subsidiaries; and a list of all individuals who are or~~
19 ~~who have been selected to become directors or executive officers~~
20 ~~of the person, or who perform or will perform functions~~
21 ~~appropriate to those positions. This list shall include for each~~
22 ~~individual the information required by subparagraph (i).~~

23 ~~(2) The source, nature and amount of the consideration used~~
24 ~~or to be used in effecting the merger, consolidation or other~~
25 ~~acquisition of control, a description of any transaction wherein~~
26 ~~funds were or are to be obtained for any such purpose, including~~
27 ~~any pledge of the insurer's stock or the stock of any of its~~
28 ~~subsidiaries or controlling affiliates, and the identity of~~
29 ~~persons furnishing such consideration, provided, however, that~~
30 ~~where a source of such consideration is a loan made in the~~

~~lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests.~~

~~(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.~~

~~(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person or to make any other material change in its business or corporate structure or management.~~

~~(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived.~~

~~(6) The amount of each class of any security referred to in subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.~~

~~(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the~~

~~giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.~~

~~(8) A description of the purchase of any security referred to in subsection (a) during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.~~

~~(9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.~~

~~(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in subsection (a) and, if distributed, of additional soliciting material relating thereto.~~

~~(11) The term of any agreement, contract or understanding made with or proposed to be made with any broker dealer as to solicitation of securities referred to in subsection (a) for tender and the amount of any fees, commissions or other compensation to be paid to broker dealers with regard thereto.~~

~~(12) Such additional information as the department may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.~~

~~(c) If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, syndicate or other group, the department may require that the~~

1 ~~information called for by subsection (b)(1) through (12) shall~~
2 ~~be given with respect to each partner of such partnership or~~
3 ~~limited partnership, each member of such syndicate or group and~~
4 ~~each person who controls such partner or member. If any such~~
5 ~~partner, member or person is a corporation or the person~~
6 ~~required to file the statement referred to in subsection (a) is~~
7 ~~a corporation, the department may require that the information~~
8 ~~called for by subsection (b)(1) through (12) shall be given with~~
9 ~~respect to such corporation, each officer and director of such~~
10 ~~corporation and each person who is directly or indirectly the~~
11 ~~beneficial owner of more than ten per centum (10%) of the~~
12 ~~outstanding voting securities of such corporation.~~

13 ~~(d) If any material change occurs in the facts set forth in~~
14 ~~the statement filed with the department and sent to such insurer~~
15 ~~pursuant to this section, an amendment setting forth such~~
16 ~~change, together with copies of all documents and other material~~
17 ~~relevant to such change, shall be filed with the department and~~
18 ~~sent to such insurer within two (2) business days after the~~
19 ~~person learns of such change.~~

20 ~~(e) If any offer, request, invitation, agreement or~~
21 ~~acquisition referred to in subsection (a) is proposed to be made~~
22 ~~by means of a registration statement under the Securities Act of~~
23 ~~1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.), or in circumstances~~
24 ~~requiring the disclosure of similar information under the~~
25 ~~Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a~~
26 ~~et seq.), or under a State law requiring similar registration or~~
27 ~~disclosure, the person required to file the statement referred~~
28 ~~to in subsection (a) may utilize such documents in furnishing~~
29 ~~the information called for by that statement.~~

30 ~~(f) (1) The department shall approve any merger.~~

~~consolidation or other acquisition of control referred to in subsection (a) unless it finds any of the following:~~

~~(i) After the change of control, the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.~~

~~(ii) The effect of the merger, consolidation or other acquisition of control would be to substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein. In applying the competitive standard in this subparagraph:~~

~~(A) the informational requirements of section 1403(c)(2) and the standards of section 1403(d)(2) shall apply;~~

~~(B) the merger, consolidation or other acquisition shall not be disapproved if the department finds that any of the situations meeting the criteria provided by section 1403(d)(3) exist; and~~

~~(C) the department may condition the approval of the merger, consolidation or other acquisition on the removal of the basis of disapproval within a specified period of time.~~

~~(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders.~~

~~(iv) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest.~~

~~(v) The competence, experience and integrity of those~~

~~persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger, consolidation or other acquisition of control.~~

~~(vi) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.~~

~~(vii) The merger, consolidation or other acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII A.~~

~~(2) If the merger, consolidation or other acquisition of control is approved, the department shall so notify the person filing the statement and the insurer [whose stock] that is proposed to be acquired, and such a determination is hereafter referred to as an approving determination. Notice shall also be given by the department of any determination which is not an approving determination. If an approving determination is made by the department and not otherwise, the proposed offer and acquisition may thereafter be made and consummated on the terms and conditions and in the manner described in the statement and subject to such conditions as may be prescribed by the department as hereinafter provided. An approving determination by the department shall be deemed to extend to offers or acquisitions made pursuant thereto within one year following the date of determination. The department may, as a condition of its approving determination, require the inclusion in any offer of provisions requiring the offer to remain open a specified minimum length of time, permitting withdrawal of shares deposited prior to the time the offeror becomes bound to consummate the acquisition and requiring pro rata acceptance of any shares deposited pursuant to the offer. The department shall~~

1 ~~hold a hearing before making the determination required by this~~
2 ~~subsection if, within ten (10) days following the filing with~~
3 ~~the department of the statement, written request for the holding~~
4 ~~of such hearing is made either by the person proposing to make~~
5 ~~the acquisition, by the insurer [whose stock] that is proposed~~
6 ~~to be acquired or, if [such] the issuer of stock proposed to be~~
7 ~~acquired is not an insurer, by the [insurance company] insurer~~
8 ~~controlled by such issuer. Otherwise, the department shall~~
9 ~~determine in its discretion whether such a hearing shall be~~
10 ~~held. Thirty (30) days' notice of any such hearing shall be~~
11 ~~given to the person proposing to make the acquisition, to the~~
12 ~~issuer whose stock is proposed to be acquired and, if such~~
13 ~~issuer is not an insurer, to the insurance company controlled by~~
14 ~~such issuer. Notice of any such hearing shall also be given to~~
15 ~~such other persons, if any, as the department may determine.~~

16 ~~(3) The department may retain at the acquiring person's~~
17 ~~expense any attorneys, actuaries, accountants and other experts~~
18 ~~not otherwise a part of the department's staff as may be~~
19 ~~reasonably necessary to assist the department in reviewing the~~
20 ~~proposed acquisition of control.~~

21 ~~(g) The provisions of this section shall not apply to any~~
22 ~~offer, request, invitation, agreement or acquisition which the~~
23 ~~department by order shall exempt therefrom as:~~

24 ~~(1) not having been made or entered into for the purpose and~~
25 ~~not having the effect of changing or influencing the control of~~
26 ~~a domestic insurer; or~~

27 ~~(2) as otherwise not comprehended within the purposes of~~
28 ~~this section.~~

29 ~~(h) The following shall constitute a violation of this~~
30 ~~section:~~

1 ~~(1) the failure to file any statement, amendment or other~~
2 ~~material required to be filed pursuant to subsection (a) or (b);~~

3 ~~(2) the effectuation or any attempt to effectuate an~~
4 ~~acquisition of control of or merger or consolidation with a~~
5 ~~domestic insurer unless the department has given its approval~~
6 ~~thereto; or~~

7 ~~(3) a violation of section 819 A.~~

8 ~~Section 3. Section 1403(a), (b) and (d), added December 18,~~
9 ~~1992 (P.L.1519, No.178), are amended to read:~~

10 ~~Section 1403. Acquisitions Involving Insurers not Otherwise~~
11 ~~Covered. (a) As used in this section the following words and~~
12 ~~phrases shall have the meanings given to them in this~~
13 ~~subsection:~~

14 ~~"Acquisition." Any agreement, arrangement or activity the~~
15 ~~consummation of which results in a person acquiring, directly or~~
16 ~~indirectly, the control of another person and includes, but is~~
17 ~~not limited to, the acquisition of voting securities, the~~
18 ~~acquisition of assets, bulk reinsurance [and], mergers and~~
19 ~~consolidations.~~

20 ~~"Involved insurer." Includes an insurer which either~~
21 ~~acquires or is acquired, is affiliated with an acquirer or~~
22 ~~acquired or is the result of a merger or consolidation.~~

23 ~~(b) (1) Except as exempted in paragraph (2), this section~~
24 ~~applies to any acquisition in which there is a change in control~~
25 ~~of an insurer authorized to do business in this Commonwealth.~~

26 ~~(2) This section shall not apply to any of the following:~~

27 ~~(i) An acquisition subject to approval or disapproval by the~~
28 ~~department pursuant to section 1402.~~

29 ~~(ii) A purchase of securities solely for investment purposes~~
30 ~~so long as such securities are not used by voting or otherwise~~

1 ~~to cause or attempt to cause the substantial lessening of~~
2 ~~competition in any insurance market in this Commonwealth. If a~~
3 ~~purchase of securities results in a presumption of control as~~
4 ~~described in the definition of "control" in section [1301] 1401,~~
5 ~~it is not solely for investment purposes unless the insurance~~
6 ~~department of the insurer's state of domicile accepts a~~
7 ~~disclaimer of control or affirmatively finds that control does~~
8 ~~not exist and such disclaimer action or affirmative finding is~~
9 ~~communicated by the domiciliary insurance department to the~~
10 ~~Insurance Department of the Commonwealth.~~

11 ~~(iii) The acquisition of a person by another person when~~
12 ~~both persons are neither directly nor through affiliates~~
13 ~~primarily engaged in the business of insurance, if~~
14 ~~preacquisition notification is filed with the department in~~
15 ~~accordance with subsection (c)(2) thirty (30) days prior to the~~
16 ~~proposed effective date of the acquisition. However, such~~
17 ~~preacquisition notification is not required for exclusion from~~
18 ~~this section if the acquisition would otherwise be excluded from~~
19 ~~this section by this paragraph.~~

20 ~~(iv) The acquisition of already affiliated persons.~~

21 ~~(v) An acquisition if, as an immediate result of the~~
22 ~~acquisition:~~

23 ~~(A) in no market would the combined market share of the~~
24 ~~involved insurers exceed five per centum (5%) of the total~~
25 ~~market;~~

26 ~~(B) there would be no increase in any market share; or~~

27 ~~(C) in no market would:~~

28 ~~(I) the combined market share of the involved insurers~~
29 ~~exceeds twelve per centum (12%) of the total market; and~~

30 ~~(II) the market share increases by more than two per centum~~

1 ~~(2%) of the total market.~~

2 ~~For the purpose of this subparagraph, a market means direct~~
3 ~~written insurance premium in this Commonwealth for a line of~~
4 ~~business as contained in the annual statement required to be~~
5 ~~filed by insurers licensed to do business in this Commonwealth.~~

6 ~~(vi) An acquisition for which a preacquisition notification~~
7 ~~would be required pursuant to this section due solely to the~~
8 ~~resulting effect on the ocean marine insurance line of business.~~

9 ~~(vii) An acquisition of an insurer whose domiciliary~~
10 ~~insurance department affirmatively finds that such insurer is in~~
11 ~~failing condition; there is a lack of feasible alternative to~~
12 ~~improving such condition; the public benefits of improving such~~
13 ~~insurer's condition through the acquisition exceed the public~~
14 ~~benefits that would arise from not lessening competition; and~~
15 ~~such findings are communicated by the domiciliary insurance~~
16 ~~department to the Insurance Department of the Commonwealth.~~

17 ~~(3) Sections 1409(b) and (c) and 1411 shall not apply to~~
18 ~~acquisitions provided for in this subsection.~~

19 ~~* * *~~

20 ~~(d) (1) The department may enter an order under subsection~~
21 ~~(e)(1) with respect to an acquisition if there is substantial~~
22 ~~evidence that the effect of the acquisition may be substantially~~
23 ~~to lessen competition in any line of insurance in this~~
24 ~~Commonwealth or tend to create a monopoly therein or if the~~
25 ~~insurer fails to file adequate information in compliance with~~
26 ~~subsection (c).~~

27 ~~(2) In determining whether a proposed acquisition would~~
28 ~~violate the competitive standard of paragraph (1), the~~
29 ~~department shall consider the following:~~

30 ~~(i) Any acquisition covered under subsection (b) involving~~

~~two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards as follows:~~

~~(A) if the market is highly concentrated and the involved insurers possess the following shares of the market:~~

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

~~(B) if the market is not highly concentrated and the involved insurers possess the following shares of the market:~~

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more.

~~A highly concentrated market is one in which the share of the four largest insurers is seventy five per centum (75%) or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in paragraph (1). For the purpose of this subparagraph, the insurer with the largest share of the market shall be deemed to be insurer A.~~

~~(ii) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven per centum (7%) or more of the market over a period of time extending from any base year five (5) to ten (10) years prior to the acquisition up to the~~

~~time of the acquisition. Any acquisition [or merger], merger or consolidation covered under subsection (b) involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in paragraph (1) if:~~

~~(A) there is a significant trend toward increased concentration in the market;~~

~~(B) one of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and~~

~~(C) another involved insurer's market is two per centum (2%) or more.~~

~~(iii) For the purposes of this paragraph:~~

~~(A) The term "insurer" includes any company or group of companies under common management, ownership or control.~~

~~(B) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the department shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the NAIC and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this Commonwealth and the relevant geographical market is assumed to be this Commonwealth.~~

~~(C) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.~~

~~(iv) Even though an acquisition is not prima facie violative of the competitive standard under subparagraphs (i) and (ii),~~

1 ~~the department may establish the requisite anticompetitive~~
2 ~~effect based upon other substantial evidence. Even though an~~
3 ~~acquisition is prima facie violative of the competitive standard~~
4 ~~under subparagraphs (i) and (ii), a party may establish the~~
5 ~~absence of the requisite anticompetitive effect based upon other~~
6 ~~substantial evidence. Relevant factors in making a determination~~
7 ~~under this paragraph include, but are not limited to, the~~
8 ~~following: market shares, volatility of ranking of market~~
9 ~~leaders, number of competitors, concentration, trend of~~
10 ~~concentration in the industry and ease of entry and exit into~~
11 ~~the market.~~

12 ~~(3) An order may not be entered under subsection (c)(1) if:~~

13 ~~(i) the acquisition will yield substantial economies of~~
14 ~~scale or economies in resource utilization that cannot be~~
15 ~~feasibly achieved in any other way, and the public benefits~~
16 ~~which would arise from such economies exceed the public benefits~~
17 ~~which would arise from not lessening competition; or~~

18 ~~(ii) the acquisition will substantially increase the~~
19 ~~availability of insurance, and the public benefits of such~~
20 ~~increase exceed the public benefits which would arise from not~~
21 ~~lessening competition.~~

22 ~~* * *~~

23 ~~Section 4. The act of December 19, 1990 (P.L.834, No.198),~~
24 ~~known as the GAA Amendments Act of 1990, is repealed insofar as~~
25 ~~it is inconsistent with this act.~~

26 ~~Section 5. This act shall not apply to any merger,~~
27 ~~consolidation or other acquisition of control made or~~
28 ~~consummated prior to January 1, 2007, and, if required,~~
29 ~~following the issuance of an approving determination.~~

30 ~~Section 6. This act shall take effect immediately.~~

SECTION 1. THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN
AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED BY ADDING
SECTIONS TO READ:

SECTION 635.2. AUTISM SPECTRUM DISORDERS COVERAGE.--(A) A
HEALTH INSURANCE POLICY OR GOVERNMENT PROGRAM SHALL PROVIDE TO
COVERED INDIVIDUALS OR RECIPIENTS UNDER TWENTY-ONE YEARS OF AGE
COVERAGE FOR THE DIAGNOSIS OF AUTISM SPECTRUM DISORDERS AND FOR
THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

(B) EXCEPT FOR THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM
ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21),
KNOWN AS THE "PUBLIC WELFARE CODE," AND EXCEPT FOR THE
CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED UNDER THIS ACT,
COVERAGE PROVIDED UNDER THIS SECTION SHALL BE SUBJECT TO A
MAXIMUM BENEFIT OF THIRTY-SIX THOUSAND DOLLARS (\$36,000) PER
YEAR BUT SHALL NOT BE SUBJECT TO ANY LIMITS ON THE NUMBER OF
VISITS TO AN AUTISM SERVICE PROVIDER. AFTER DECEMBER 30, 2009,
THE INSURANCE COMMISSIONER SHALL, ON AN ANNUAL BASIS, ADJUST THE
MAXIMUM BENEFIT FOR INFLATION USING THE MEDICAL PRICE INDEX
(MPI) COMPONENT OF THE DEPARTMENT OF LABOR CONSUMER PRICE INDEX
(CPI). THE COMMISSIONER SHALL SUBMIT THE ADJUSTED MAXIMUM
BENEFIT TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION
ANNUALLY IN THE PENNSYLVANIA BULLETIN NO LATER THAN APRIL 1 OF
EACH CALENDAR YEAR, AND THE PUBLISHED ADJUSTED MAXIMUM BENEFIT
SHALL BE APPLICABLE IN THE FOLLOWING CALENDAR YEAR TO HEALTH
INSURANCE POLICIES AND GOVERNMENT PROGRAMS SUBJECT TO THIS ACT.
PAYMENTS MADE BY AN INSURER ON BEHALF OF A COVERED INDIVIDUAL
FOR ANY CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM, THE
PROVISION OF WHICH WAS FOR THE TREATMENT OF A HEALTH CONDITION
UNRELATED TO THE COVERED INDIVIDUAL'S AUTISM SPECTRUM DISORDER,
SHALL NOT BE APPLIED TOWARD ANY MAXIMUM BENEFIT ESTABLISHED

1 UNDER THIS SUBSECTION.

2 (C) COVERAGE UNDER THIS SECTION SHALL BE SUBJECT TO
3 COPAYMENT, DEDUCTIBLE AND COINSURANCE PROVISIONS OF A HEALTH
4 INSURANCE POLICY OR GOVERNMENT PROGRAM TO THE EXTENT THAT OTHER
5 MEDICAL SERVICES COVERED BY THE POLICY OR GOVERNMENT PROGRAM ARE
6 SUBJECT TO THESE PROVISIONS.

7 (D) THIS SECTION SHALL NOT BE CONSTRUED AS LIMITING BENEFITS
8 WHICH ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER A HEALTH
9 INSURANCE POLICY.

10 (E) THIS SECTION SHALL NOT APPLY TO THE FOLLOWING TYPES OF
11 POLICIES:

12 (1) ACCIDENT ONLY.

13 (2) LIMITED BENEFIT.

14 (3) CREDIT.

15 (4) DENTAL.

16 (5) VISION.

17 (6) SPECIFIED DISEASE.

18 (7) MEDICARE SUPPLEMENT.

19 (8) CHAMPUS (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
20 UNIFORMED SERVICES) SUPPLEMENT.

21 (9) LONG-TERM CARE OR DISABILITY INCOME.

22 (10) WORKERS' COMPENSATION.

23 (11) AUTOMOBILE MEDICAL PAYMENT.

24 (12) HOSPITAL INDEMNITY.

25 (F) AS USED IN THIS SECTION:

26 (1) "APPLIED BEHAVIORAL ANALYSIS" MEANS THE DESIGN,
27 IMPLEMENTATION AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS,
28 USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO PRODUCE SOCIALLY
29 SIGNIFICANT IMPROVEMENT IN HUMAN BEHAVIOR, INCLUDING THE USE OF
30 DIRECT OBSERVATION, MEASUREMENT AND FUNCTIONAL ANALYSIS OF THE

1 RELATIONS BETWEEN ENVIRONMENT AND BEHAVIOR.

2 (2) "AUTISM SERVICE PROVIDER" MEANS ANY PERSON OR GROUP THAT
3 PROVIDES TREATMENT OF AUTISM SPECTRUM DISORDERS.

4 (3) "AUTISM SPECTRUM DISORDERS" MEANS ANY OF THE PERVASIVE
5 DEVELOPMENTAL DISORDERS AS DEFINED BY THE MOST RECENT EDITION OF
6 THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM),
7 INCLUDING AUTISTIC DISORDER, ASPERGER'S DISORDER AND PERVASIVE
8 DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED.

9 (4) "DIAGNOSIS OF AUTISM SPECTRUM DISORDERS" MEANS MEDICALLY
10 NECESSARY ASSESSMENTS, EVALUATIONS OR TESTS IN ORDER TO DIAGNOSE
11 WHETHER AN INDIVIDUAL HAS AN AUTISM SPECTRUM DISORDER.

12 (5) "EVIDENCED-BASED RESEARCH" MEANS RESEARCH THAT APPLIES
13 RIGOROUS, SYSTEMATIC AND OBJECTIVE PROCEDURES TO OBTAIN VALID
14 KNOWLEDGE RELEVANT TO AUTISM SPECTRUM DISORDERS.

15 (6) "GOVERNMENT PROGRAM" MEANS ANY OF THE FOLLOWING:

16 (I) THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM
17 ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21),
18 KNOWN AS THE "PUBLIC WELFARE CODE."

19 (II) THE ADULT BASIC COVERAGE INSURANCE PROGRAM ESTABLISHED
20 UNDER CHAPTER 13 OF THE ACT OF JUNE 26, 2001 (P.L.755, NO.77),
21 KNOWN AS THE "TOBACCO SETTLEMENT ACT."

22 (III) THE CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED UNDER
23 THIS ACT.

24 (7) "HEALTH INSURANCE POLICY" MEANS ANY GROUP HEALTH,
25 SICKNESS OR ACCIDENT POLICY OR SUBSCRIBER CONTRACT OR
26 CERTIFICATE ISSUED BY AN INSURANCE ENTITY SUBJECT TO ONE OF THE
27 FOLLOWING:

28 (I) THIS ACT.

29 (II) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN
30 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

1 (III) THE ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS THE
2 "INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS
3 ACT."

4 (IV) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
5 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
6 PLAN CORPORATIONS).

7 (8) "MEDICALLY NECESSARY" MEANS ANY CARE, TREATMENT,
8 INTERVENTION, SERVICE OR ITEM WHICH WILL, OR IS REASONABLY
9 EXPECTED TO, DO ANY OF THE FOLLOWING:

10 (I) PREVENT THE ONSET OF AN ILLNESS, CONDITION, INJURY OR
11 DISABILITY.

12 (II) REDUCE OR AMELIORATE THE PHYSICAL, MENTAL OR
13 DEVELOPMENTAL EFFECTS OF AN ILLNESS, CONDITION, INJURY OR
14 DISABILITY.

15 (III) ASSIST TO ACHIEVE OR MAINTAIN MAXIMUM FUNCTIONAL
16 CAPACITY IN PERFORMING DAILY ACTIVITIES, TAKING INTO ACCOUNT
17 BOTH THE FUNCTIONAL CAPACITY OF THE RECIPIENT AND THOSE
18 FUNCTIONAL CAPACITIES THAT ARE APPROPRIATE OF RECIPIENTS OF THE
19 SAME AGE.

20 (9) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A
21 LICENSED PHYSICIAN OR CERTIFIED NURSE PRACTITIONER AND ANY
22 EVALUATIONS OR TESTS DEEMED MEDICALLY NECESSARY TO DETERMINE THE
23 NEED OR EFFECTIVENESS OF THE MEDICATIONS.

24 (10) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE
25 SERVICES PROVIDED BY A PSYCHIATRIST LICENSED IN THE STATE IN
26 WHICH THE PSYCHIATRIST PRACTICES.

27 (11) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE
28 SERVICES PROVIDED BY A LICENSED PSYCHOLOGIST IN THE STATE IN
29 WHICH THE PSYCHOLOGIST PRACTICES.

30 (12) "REHABILITATIVE CARE" MEANS PROFESSIONAL, COUNSELING

1 AND GUIDANCE SERVICES AND TREATMENT PROGRAMS, INCLUDING APPLIED
2 BEHAVIORAL ANALYSIS, WHICH ARE NECESSARY TO DEVELOP, MAINTAIN
3 AND RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING
4 OF AN INDIVIDUAL.

5 (13) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY LICENSED
6 OR CERTIFIED SPEECH THERAPISTS, OCCUPATIONAL THERAPISTS OR
7 PHYSICAL THERAPISTS.

8 (14) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE
9 THE FOLLOWING CARE PRESCRIBED, PROVIDED OR ORDERED FOR AN
10 INDIVIDUAL DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER BY A
11 LICENSED PHYSICIAN OR PSYCHOLOGIST IF THE CARE IS DETERMINED TO
12 BE MEDICALLY NECESSARY:

13 (I) PSYCHIATRIC CARE.

14 (II) PSYCHOLOGICAL CARE.

15 (III) REHABILITATIVE CARE.

16 (IV) THERAPEUTIC CARE.

17 (V) PHARMACY CARE.

18 (VI) ANY CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM FOR
19 INDIVIDUALS WITH AN AUTISM SPECTRUM DISORDER WHICH IS DETERMINED
20 BY THE DEPARTMENT OF PUBLIC WELFARE, BASED UPON ITS REVIEW OF
21 BEST PRACTICES OR EVIDENCED-BASED RESEARCH, TO BE MEDICALLY
22 NECESSARY AND WHICH IS PUBLISHED IN THE PENNSYLVANIA BULLETIN.
23 ANY SUCH CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM WHICH
24 WAS NOT PREVIOUSLY COVERED SHALL BE INCLUDED IN ANY HEALTH
25 INSURANCE POLICY OR CONTRACT UNDER A GOVERNMENT PROGRAM
26 DELIVERED, ISSUED, EXECUTED OR RENEWED ON OR AFTER 120 DAYS
27 FOLLOWING THE DATE OF ITS PUBLICATION IN THE PENNSYLVANIA
28 BULLETIN.

29 (G) THE DEPARTMENT OF PUBLIC WELFARE SHALL PROMULGATE
30 REGULATIONS ESTABLISHING STANDARDS FOR QUALIFIED PROVIDERS OF

1 AUTISM SERVICES. FOR PURPOSES OF IMPLEMENTING THIS SECTION, AND
2 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SECRETARY OF PUBLIC
3 WELFARE SHALL PROMULGATE REGULATIONS PURSUANT TO SECTION
4 204(L)(IV) OF THE ACT OF JULY 31, 1968 (P.L.769, NO.240),
5 REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW, WHICH SHALL, FOR
6 120 DAYS FROM THE EFFECTIVE DATE OF THIS ACT, BE EXEMPT FROM ALL
7 THE FOLLOWING ACTS:

8 (1) SECTION 205 OF THE COMMONWEALTH DOCUMENTS LAW.

9 (2) SECTION 204(B) OF THE ACT OF OCTOBER 15, 1980 (P.L.950,
10 NO.164), KNOWN AS THE "COMMONWEALTH ATTORNEYS ACT."

11 (3) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE
12 "REGULATORY REVIEW ACT."

13 ONCE THE REGULATIONS ARE PROMULGATED, PAYMENT FOR THE TREATMENT
14 OF AUTISM SPECTRUM DISORDERS COVERED UNDER THIS SECTION SHALL
15 ONLY BE MADE TO AUTISM SERVICE PROVIDERS WHO MEET THE STANDARDS.

16 (H) TO THE EXTENT THAT THE DIAGNOSIS AND TREATMENT OF AUTISM
17 SPECTRUM DISORDERS ARE NOT ALREADY COVERED BY THE HEALTH
18 INSURANCE POLICY OR GOVERNMENT PROGRAM, COVERAGE UNDER THIS
19 SECTION SHALL BE INCLUDED IN HEALTH INSURANCE CONTRACTS AND
20 CONTRACTS UNDER A GOVERNMENT PROGRAM WHICH ARE DELIVERED,
21 EXECUTED, ISSUED, AMENDED, ADJUSTED OR RENEWED ON OR AFTER SIXTY
22 DAYS FROM THE EFFECTIVE DATE OF THIS SECTION, EXCEPT THAT THE
23 APPLICABILITY OF THIS SECTION TO GOVERNMENT PROGRAMS SHALL BE
24 CONTINGENT UPON FEDERAL APPROVAL IF NECESSARY.

25 SECTION 2116.1. TREATMENT OF AUTISM SPECTRUM DISORDERS.--(A)
26 EXCEPT FOR GOVERNMENT PROGRAMS, IF AN ENROLLEE HAS OBTAINED A
27 REFERRAL OR OTHER AUTHORIZATION THROUGH UTILIZATION REVIEW FROM
28 A MANAGED CARE PLAN OR A LICENSED INSURER TO RECEIVE ANY CARE,
29 TREATMENT, INTERVENTION, SERVICE OR ITEM FOR AN AUTISM SPECTRUM
30 DISORDER FROM A HEALTH CARE PROVIDER OR SPECIALIST, THE REFERRAL

1 OR OTHER AUTHORIZATION SHALL CONSTITUTE A STANDING REFERRAL FOR
2 ANY SUBSEQUENT CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM
3 PROVIDED BY ANY HEALTH CARE PROVIDER OR SPECIALIST UNTIL THE
4 CARE, TREATMENT, INTERVENTION, SERVICE OR ITEM FOR WHICH THE
5 REFERRAL OR AUTHORIZATION WAS APPROVED HAS REACHED ITS
6 CONCLUSION.

7 (B) IF A HEALTH CARE PROVIDER PROVIDES CARE, TREATMENTS,
8 INTERVENTIONS, SERVICES OR ITEMS TO AN ENROLLEE, THE COVERAGE OF
9 WHICH IS REQUIRED UNDER SECTION 635.2 AND THE PROVIDER IS
10 ENROLLED IN THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM BUT IS
11 NOT A NETWORK PROVIDER WITH THE ENROLLEE'S PRIVATE INSURANCE
12 PLAN, THE PROVIDER SHALL BE REIMBURSED UNDER THE TERMS AND
13 CONDITIONS APPLICABLE TO THE PLAN'S PARTICIPATING PROVIDERS.
14 THIS REQUIREMENT SHALL NOT BE SUBJECT TO ANY TIME LIMITATION OR
15 TRANSITION PERIOD, BUT SHALL OTHERWISE BE IN ACCORD WITH ALL
16 TERMS APPLICABLE TO NONPARTICIPATING PROVIDERS UNDER THE MANAGED
17 CARE CONTINUITY OF CARE PROVISIONS THEN IN EFFECT.

18 SECTION 2. SECTION 2121 OF THE ACT, ADDED JUNE 17, 1998
19 (P.L.464, NO.68), IS AMENDED TO READ:

20 SECTION 2121. PROCEDURES.--(A) A MANAGED CARE PLAN SHALL
21 ESTABLISH A CREDENTIALING PROCESS TO ENROLL QUALIFIED HEALTH
22 CARE PROVIDERS AND CREATE AN ADEQUATE PROVIDER NETWORK. THE
23 PROCESS SHALL BE APPROVED BY THE DEPARTMENT AND SHALL INCLUDE
24 WRITTEN CRITERIA AND PROCEDURES FOR INITIAL ENROLLMENT, RENEWAL,
25 RESTRICTIONS AND TERMINATION OF CREDENTIALS FOR HEALTH CARE
26 PROVIDERS.

27 (B) [THE] EXCEPT AS PROVIDED UNDER SUBSECTION (B.1), THE
28 DEPARTMENT SHALL ESTABLISH CREDENTIALING STANDARDS FOR MANAGED
29 CARE PLANS. THE DEPARTMENT MAY ADOPT NATIONALLY RECOGNIZED
30 ACCREDITING STANDARDS TO ESTABLISH THE CREDENTIALING STANDARDS

FOR MANAGED CARE PLANS.

(B.1) PURSUANT TO SECTION 635.2(G), THE DEPARTMENT OF PUBLIC WELFARE SHALL ESTABLISH STANDARDS TO BE UTILIZED BY MANAGED CARE PLANS FOR THE CREDENTIALING OF HEALTH CARE PROVIDERS PROVIDING CARE, TREATMENTS, INTERVENTIONS, SERVICES OR ITEMS TO ENROLLEES FOR AN AUTISM SPECTRUM DISORDER AS DEFINED UNDER SECTION 635.2. IN ADDITION, THE DEPARTMENT MAY REQUIRE THAT A MANAGED CARE PLAN GRANT CREDENTIALS TO ANY HEALTH CARE PROVIDER WHOM THE DEPARTMENT OF PUBLIC WELFARE DETERMINES MEETS OR EXCEEDS THE DEPARTMENT OF PUBLIC WELFARE'S CREDENTIALING STANDARDS.

(B.2) WITH RESPECT TO AUTISM SERVICE PROVIDERS, A MANAGED CARE PLAN OR LICENSED INSURER SHALL INFORM CREDENTIALING APPLICANTS OF A DECISION WITHIN NINETY DAYS AFTER THE COMPLETE APPLICATION HAS BEEN SUBMITTED TO THE MANAGED CARE PLAN OR INSURER. A MANAGED CARE PLAN OR INSURER SHALL NOT REQUIRE A HEALTH CARE PROVIDER TO SUBMIT AN APPLICATION FOR CREDENTIALING AS A RESULT OF A CHANGE OF EMPLOYERS IF THE PROVIDER'S NEW EMPLOYER IS IN THE MANAGED CARE PLAN'S SERVICE AREA OR NETWORK.

(C) A MANAGED CARE PLAN SHALL SUBMIT A REPORT TO THE DEPARTMENT REGARDING ITS CREDENTIALING PROCESS AT LEAST EVERY TWO (2) YEARS OR AS MAY OTHERWISE BE REQUIRED BY THE DEPARTMENT.

(D) A MANAGED CARE PLAN SHALL DISCLOSE RELEVANT CREDENTIALING CRITERIA AND PROCEDURES TO HEALTH CARE PROVIDERS THAT APPLY TO PARTICIPATE OR THAT ARE PARTICIPATING IN THE PLAN'S PROVIDER NETWORK. A MANAGED CARE PLAN SHALL ALSO DISCLOSE RELEVANT CREDENTIALING CRITERIA AND PROCEDURES PURSUANT TO A COURT ORDER OR RULE. ANY INDIVIDUAL PROVIDING INFORMATION DURING THE CREDENTIALING PROCESS OF A MANAGED CARE PLAN SHALL HAVE THE PROTECTIONS SET FORTH IN THE ACT OF JULY 20, 1974 (P.L.564, NO.193), KNOWN AS THE "PEER REVIEW PROTECTION ACT."

1 (E) NO MANAGED CARE PLAN SHALL EXCLUDE OR TERMINATE A HEALTH
2 CARE PROVIDER FROM PARTICIPATION IN THE PLAN DUE TO ANY OF THE
3 FOLLOWING:

4 (1) THE HEALTH CARE PROVIDER ENGAGED IN ANY OF THE
5 ACTIVITIES SET FORTH IN SECTION 2113(C).

6 (2) THE HEALTH CARE PROVIDER HAS A PRACTICE THAT INCLUDES A
7 SUBSTANTIAL NUMBER OF PATIENTS WITH EXPENSIVE MEDICAL
8 CONDITIONS.

9 (3) THE HEALTH CARE PROVIDER OBJECTS TO THE PROVISION OF OR
10 REFUSES TO PROVIDE A HEALTH CARE SERVICE ON MORAL OR RELIGIOUS
11 GROUNDS.

12 (F) IF A MANAGED CARE PLAN DENIES ENROLLMENT OR RENEWAL OF
13 CREDENTIALS TO A HEALTH CARE PROVIDER, THE MANAGED CARE PLAN
14 SHALL PROVIDE THE HEALTH CARE PROVIDER WITH WRITTEN NOTICE OF
15 THE DECISION. THE NOTICE SHALL INCLUDE A CLEAR RATIONALE FOR THE
16 DECISION.

17 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.