

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2053

Session of
2009

INTRODUCED BY BAKER, CUTLER, WATSON, CLYMER, BARRAR,
BENNINGHOFF, BOYD, CAUSER, CREIGHTON, EVERETT, GABLER, GEIST,
GINGRICH, GRELL, GROVE, HESS, HUTCHINSON, KAUFFMAN,
M. KELLER, KRIEGER, MAHER, MAJOR, MARSHALL, METZGAR, MILLER,
MOUL, MURT, PICKETT, QUINN, RAPP, ROCK, ROHRER, SAYLOR,
STERN, STEVENSON, SWANGER, TALLMAN, TRUE, SCHRODER, COX,
CHRISTIANA, BROOKS, KNOWLES, REICHLEY, J. EVANS, VULAKOVICH,
ROAE, KILLION, REESE, ELLIS AND METCALFE, OCTOBER 21, 2009

REFERRED TO COMMITTEE ON INSURANCE, OCTOBER 21, 2009

AN ACT

1 Providing for the rights of individuals to purchase private
2 health care insurance; and prohibiting certain governmental
3 action.

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 Freedom of
8 Choice in Health Care Act.

9 Section 2. Definitions.

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

13 "Commonwealth agency." The Commonwealth, including the
14 Executive Department, Commonwealth departments and boards and
15 commissions; an independent administrative department, board and

1 commission; or a public official thereof, acting under the color
2 of State law.

3 "Direct purchase." Payment for lawful health care services
4 without a public or private third party, not including an
5 employer, paying for any portion of the service.

6 "Health care system." Any public or private entity whose
7 function or purpose is the management of, processing of, or
8 enrollment of individuals for or payment for, in full or in
9 part, health care services, health care data or health care
10 information for its participants.

11 "Penalties or fines." Any civil or criminal penalty or fine,
12 tax, salary or wage withholding or surcharge, or any named fee
13 with a similar effect established by law or rule by a
14 government-established, government-created or government-
15 controlled agency that is used to punish or discourage the
16 exercise of rights protected under this section.

17 Section 3. Individual rights.

18 The people shall have the right to enter into private
19 contracts with health care providers for health care services
20 and to purchase private health care coverage. The legislature
21 may not require any individual to participate in any health care
22 system or plan, nor may it impose a penalty or fine, of any
23 type, for choosing to obtain or decline health care coverage or
24 for participation in any particular health care system or plan.

25 Section 4. Freedom of choice in health care.

26 (a) Prohibited actions.--To preserve the freedom of
27 Pennsylvanians to provide for their health care:

28 (1) A law or rule shall not compel, through penalties
29 and fines, directly or indirectly, any individual, employer
30 or health care provider to participate in any health care

1 system.

2 (2) An individual or employer may pay directly for
3 lawful health care services and shall not be required to pay
4 penalties or fines for paying directly for lawful health care
5 services. A health care provider may accept direct payment
6 for lawful health care services and shall not be required to
7 pay penalties or fines for accepting direct payment from a
8 individual or employer for lawful health care services.

9 (b) Private health care insurance.--Subject to reasonable
10 and necessary rules that do not substantially limit an
11 individual's options, the purchase or sale of health insurance
12 in private health care systems shall not be prohibited by rule
13 or law.

14 (c) Interpretation.--This section does not affect:

15 (1) Which health care services a health care provider or
16 hospital is required to perform or provide.

17 (2) Which health care services are permitted by law.

18 (3) The terms or conditions of any health care system to
19 the extent that those terms and conditions do not have the
20 effect of punishing an individual or employer for paying
21 directly for lawful health care services or a health care
22 provider or hospital for accepting direct payment from an
23 individual or employer for lawful health care services.

24 Section 5. Participation in related laws.

25 Neither the Governor nor the Department of Health, the
26 Department of Public Welfare or any other Commonwealth agency
27 shall participate in the compliance with any Federal law,
28 regulation or policy that would compromise the freedom of choice
29 in health care of any resident of this Commonwealth.

30 Section 6. Effective date.

1 This act shall take effect immediately.