

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1623 Session of  
2015

---

INTRODUCED BY SCHEMEL, WARD, TURZAI, BLOOM, COX, CUTLER,  
DIAMOND, DUNBAR, DUSH, EVERETT, FEE, GABLER, GILLEN,  
GINGRICH, GREINER, GROVE, HELM, HENNESSEY, HICKERNELL,  
PHILLIPS-HILL, IRVIN, KAUFFMAN, KLUNK, KNOWLES, KRIEGER,  
MALONEY, MARSHALL, MCGINNIS, METCALFE, B. MILLER, NESBIT,  
OBERLANDER, PICKETT, PYLE, RADER, RAPP, ROAE, ROTHMAN,  
SANKEY, TALLMAN, TOPPER, ZIMMERMAN, BARRAR, YOUNGBLOOD AND  
M. K. KELLER, OCTOBER 15, 2015

---

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 15, 2015

---

AN ACT

1 Providing for prioritization of public funds to certain health  
2 care entities and for enforcement.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Whole Woman's  
7 Health Funding Priorities Act.

8 Section 2. Declaration of purpose.

9 The General Assembly finds and declares as follows:

10 (1) Limited Federal and State funds exist for family  
11 planning and preventive health services for women generally  
12 and for maternal and fetal patients in particular.

13 (2) Fiscal constraints mandate that the Commonwealth  
14 allocate available funds efficiently by ensuring the funds  
15 are distributed by priority to the most efficient point-of-

1 service health care providers.

2 (3) The Patient Protection and Affordable Care Act  
3 (Public Law 111-148, 124 Stat.119) requires all women's  
4 health services, including preventive care, cancer screenings  
5 and sexually transmitted infection screenings, to be covered  
6 as an essential health benefit.

7 (4) Public and private providers of primary and  
8 preventive care utilize public funds more effectively than  
9 providers of health care services that are specialized to  
10 particular medical services or discrete patient populations.

11 (5) It is the intent of the General Assembly through  
12 this act to prioritize the distribution and utilization of  
13 public funds for family planning, reproductive health care  
14 and maternal and fetal care to public and private primary and  
15 preventive care providers.

16 (6) Prioritization of public health care funding to  
17 primary and preventive care furthers sound health care  
18 policy.

19 (7) Individuals who have a primary care clinician are  
20 more likely to access health care services, leading to more  
21 favorable long-term outcomes.

22 (8) Health care costs are lowered when primary and  
23 preventive care is provided by primary care clinicians in a  
24 setting that addresses the whole person through counseling,  
25 screening and early detection of leading causes of morbidity  
26 and mortality, including diabetes, hypertension, obesity,  
27 cardiovascular and renal diseases and asthma.

28 (9) Integrated delivery of health services, including  
29 integration among preventive care, primary care, prenatal  
30 care, cancer screenings and other women's health issues, has

1       been repeatedly found to be the most superior model of care  
2       as well as the most cost-effective model.

3           (10) Less fragmented health care will reduce indirect  
4       costs, such as lost worker productivity and employer health  
5       care costs, and will result in individual citizens leading  
6       longer, healthier and happier lives.

7           (11) It is the public policy of this Commonwealth to  
8       ensure delivery of comprehensive preconception and prenatal  
9       care for maternal and fetal patients in order to reduce  
10      maternal and fetal morbidity and mortality.

11          (12) The United States Department of Health and Human  
12      Services Centers for Disease Control and Prevention states,  
13      "Comprehensive preconception and prenatal care includes  
14      encouraging women to stop smoking, refrain from using alcohol  
15      and other drugs, eat a healthy diet, take folic acid  
16      supplements, maintain a healthy weight, control high blood  
17      pressure and diabetes, and reduce exposure to workplace and  
18      environmental hazards."

19          (13) Moreover, the United States Department of Health  
20      and Human Services Centers for Disease Control and Prevention  
21      states, "In addition, screening and providing services to  
22      prevent intimate partner violence and infections (e.g., HIV,  
23      STI and viral hepatitis) help to improve the health of the  
24      mother and the baby."

25          (14) Delivery of these critical services is best  
26      accomplished through a single point-of-service provider, such  
27      as a primary care provider, and directed by a primary care  
28      clinician who has knowledge of the patient's medical history  
29      and personal, familial and environmental health factors,  
30      including through an integrated delivery model or patient-

1 centered model of care.

2 (15) Medical intervention models that emphasize the  
3 provision of services to discrete patient subpopulations,  
4 such as women of child-bearing age, to address discrete  
5 patient conditions or provide particular therapies, conflict  
6 with the utilization of public funding to maximize effective  
7 delivery of holistic prenatal and maternal health care.

8 Section 3. Definitions.

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

12 "Abortion." The use of any means to terminate the clinically  
13 diagnosable pregnancy of a woman with knowledge that the  
14 termination by those means will cause, with reasonable  
15 likelihood, the death of the unborn child. The term does not  
16 include birth control devices, oral contraceptives used to  
17 inhibit or prevent ovulation, conception or the implantation of  
18 a fertilized ovum in the uterus or the use of any means to  
19 increase the probability of a live birth, to preserve the life  
20 or health of the child after a live birth, to terminate an  
21 ectopic pregnancy or to remove a dead fetus.

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

23 "Federally qualified abortion." An abortion qualified for  
24 Federal matching funds under the Medicaid program.

25 "Federally qualified health center." An entity as defined  
26 under section 1905(1)(2)(B) of the Social Security Act (49 Stat.  
27 620, 42 U.S.C. § 1396d(1)(2)(B)) that is eligible to receive  
28 Federal funds.

29 "Hospital." A primary or tertiary care facility licensed  
30 under State law.

1 "Public funds." State funds from whatever source, including  
2 without limitation, State general revenue funds, State special  
3 account and limited purpose grants or loans and Federal funds  
4 provided under Title X of the Public Health Service Act (58  
5 Stat. 682, 42 U.S.C. § 300 et seq.) and Titles IV, V and XX of  
6 the Social Security Act (49 Stat. 620, 42 U.S.C. § 300 et seq.  
7 and § 701 et seq.).

8 "Rural health clinic." A health care provider that is  
9 eligible to receive Federal funds as defined in section 1861(aa)  
10 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395x  
11 (aa)(2)).

12 Section 4. Prioritization of public funds to health care  
13 entities.

14 (a) General rule.--Subject to any applicable requirements of  
15 Federal statutes, rules, regulations or guidelines:

16 (1) Any expenditures or grants of public funds for  
17 family planning services by the Commonwealth by and through  
18 the department shall be made in the following order of  
19 priority:

20 (i) To public entities.

21 (ii) To nonpublic hospitals and federally qualified  
22 health centers.

23 (iii) To rural health clinics.

24 (iv) To State health centers.

25 (v) To nonpublic health providers that have as their  
26 primary purpose the provision of the primary health care  
27 services enumerated under section 254b(a)(1) of the  
28 Public Health Service Act (58 Stat. 68, 42 U.S.C. §  
29 254b(a)(1)).

30 (2) The department may not enter into a contract with or

1 make a grant to any entity that performs abortions that are  
2 not federally qualified abortions or maintains or operates a  
3 facility where such abortions are performed, except as  
4 required by Federal law when the services are provided under  
5 Medicaid and by a qualified provider approved by the Centers  
6 for Medicaid and Medicare services.

7 (b) Construction.--Nothing in this section shall be  
8 construed to apply to the receipt or administration of public  
9 funds pursuant to Title XIX of the Social Security Act (49 Stat.  
10 620, 42 U.S.C. § 1396 et seq.).

11 Section 5. Enforcement.

12 (a) Attorney General.--The Attorney General may bring an  
13 action in law or equity to enforce the provisions of this act  
14 and relief shall be available in appropriate circumstances,  
15 including, but not limited to, recoupment and declaratory and  
16 injunctive relief, including, but not limited to, suspension or  
17 debarment.

18 (b) Standing.--Any entity eligible for the receipt of public  
19 funds shall possess standing to bring any action that the  
20 Attorney General has authority to bring under the provisions of  
21 subsection (a), provided, however, if an expenditure or grant of  
22 public funds made in violation of this act results in the  
23 reduction of public funds and a court awards monetary relief,  
24 the amount recovered shall be deposited into one or more  
25 accounts maintained by the Commonwealth for public funds.

26 (c) Attorney fees and costs.--In an action brought under  
27 this section, a prevailing plaintiff shall be entitled to an  
28 award of reasonable attorney fees and costs.

29 Section 6. Right of intervention.

30 The General Assembly, through one or more members duly

1 appointed by resolution of their respective chamber, may  
2 intervene as a matter of right in any case in which the  
3 constitutionality of this act is challenged.

4 Section 7. Severability.

5 It is the intent of the General Assembly that every provision  
6 of this act shall operate with equal force and shall be  
7 severable one from the other and that in the event that any  
8 provision of this act is held invalid or unenforceable by a  
9 court of competent jurisdiction, that provision shall be  
10 accordingly deemed severable and the remaining provisions deemed  
11 fully enforceable.

12 Section 8. Effect on appropriations.

13 Any encumbrance of public funds made by the department in  
14 derogation of the provisions of section 4 shall be null and void  
15 as of the effective date of this section, and the funds so  
16 encumbered shall be reallocated to eligible entities.

17 Section 9. Effective date.

18 This act shall take effect in 60 days.