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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2884 Session of  
2022

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INTRODUCED BY FRANKEL, SANCHEZ, LEE, FREEMAN, ISAACSON,  
A. DAVIS, DELLOSO, CIRESI AND DALEY, OCTOBER 24, 2022

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REFERRED TO COMMITTEE ON INSURANCE, OCTOBER 24, 2022

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AN ACT

1 Requiring physician practices operating as part of an integrated  
2 delivery network to meet certain requirements to ensure  
3 patient access and consumer choice; and imposing powers and  
4 duties on the Insurance Department.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Patient  
9 Access and Consumer Choice Act.

10 Section 2. Legislative findings.

11 The General Assembly finds and declares as follows:

12 (1) Beginning in the 1990s, a new trend in hospital  
13 mergers and consolidations began and public sources currently  
14 estimate that there have been more than 300 such hospital  
15 mergers since 2007.

16 (2) These hospitals consolidate and merge by either  
17 affiliating with other independent hospitals or purchasing  
18 independent physician practices.

19 (3) Hospital and physician consolidation has the

1 potential to increase the cost of health care to consumers by  
2 limiting competition and thereby giving hospitals and  
3 physician practices greater negotiating strength resulting in  
4 higher prices for patients and little incentive to improve  
5 the quality of care delivered.

6 (4) Research conducted by government agencies, academics  
7 and others conclude that increasing provider consolidation  
8 has the potential to increase health care costs.

9 (5) The Commonwealth has a duty to protect consumer  
10 interests.

11 (6) Hospitals and physician practices that also operate  
12 as an integrated delivery network are able to exert  
13 additional market dominance as they can set rates for both  
14 payment and reimbursement.

15 (7) To ensure that physician practices operating as part  
16 of an integrated delivery network are not permitted to use  
17 their market dominance to exert undue pressure on health  
18 insurance providers or to restrict a patient's access,  
19 mandatory contracting requirements must be imposed requiring  
20 that all physician practices operating as part of an  
21 integrated delivery network contract with any willing health  
22 insurance provider.

### 23 Section 3. Definitions.

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

27 "Default provider agreement." An agreement between a  
28 hospital-owned physician practice that is part of an integrated  
29 delivery network and a willing health insurance carrier to  
30 provide health care services, which agreement is imposed upon

1 the parties if the parties fail to enter into a mutually  
2 agreeable provider contract within the time frames established  
3 by this act.

4 "Department." The Insurance Department of the Commonwealth.

5 "Health care services." A medical-surgical, hospital,  
6 facility or ancillary service provided to an individual.

7 "Health insurance." A health insurance policy, subscriber  
8 contract, certificate or policy that provides health or sickness  
9 and accident coverage offered by a health insurance carrier and  
10 which is subject to review by the department under the  
11 provisions of the act of December 18, 1996 (P.L.1066, No.159),  
12 known as the Accident and Health Filing Reform Act. The term  
13 does not include any of the following:

14 (1) An accident-only policy.

15 (2) A credit-only policy.

16 (3) A long-term care or disability income policy.

17 (4) A specified disease policy.

18 (5) A Medicare supplement policy.

19 (6) A Civilian Health and Medical Program of the  
20 Uniformed Services (CHAMPUS) supplement policy.

21 (7) A dental-only policy, other than a qualified dental  
22 policy.

23 (8) A vision-only policy.

24 (9) A workers' compensation policy.

25 (10) An automobile medical payment policy under 75  
26 Pa.C.S. (relating to vehicles).

27 (11) Any other similar policies providing for limited  
28 benefits.

29 "Health insurance carrier." An entity licensed in this  
30 Commonwealth to issue health insurance, subscriber contracts,

1 certifications or plans that provide medical or health care  
2 coverage by a health care facility or licensed health care  
3 provider that is offered or governed under this act or any of  
4 the following:

5 (1) The act of December 29, 1972 (P.L.1701, No.364),  
6 known as the Health Maintenance Organization Act.

7 (2) The act of May 18, 1976 (P.L.123, No.54), known as  
8 the Individual Accident and Sickness Insurance Minimum  
9 Standards Act.

10 (3) 40 Pa.C.S. Chs. 61 (relating to hospital plan  
11 corporations) and 63 (relating to professional health  
12 services plan corporations).

13 "Hospital-owned physician practice." A physician practice  
14 that meets both of the following:

15 (1) Provides health care services or other professional  
16 medical services to an individual.

17 (2) Is any of the following:

18 (i) Owned or operated by a hospital.

19 (ii) Under joint control of a hospital.

20 (iii) A subsidiary of a hospital.

21 "Integrated delivery network." One or more entities with  
22 common ownership, operation or control, which include both of  
23 the following:

24 (1) One or more hospitals, one or more physician  
25 practices or one or more health care providers offering  
26 health care services.

27 (2) One or more entities operating as a health insurance  
28 carrier offering health insurance, administering health  
29 benefits, operating a health maintenance organization or  
30 offering other health care benefits and coverage to employers

1 or individuals in this Commonwealth.

2 "Provider contract." A written agreement meeting both of the  
3 following:

4 (1) Is for the payment or reimbursement of health care  
5 services provided to an individual by a hospital-owned  
6 physician practice that is part of an integrated delivery  
7 network or any other entity directly or indirectly owned,  
8 operated or controlled by or otherwise affiliated with the  
9 integrated delivery network.

10 (2) Is between both of the following:

11 (i) A hospital-owned physician practice that is part  
12 of an integrated delivery network or an entity directly  
13 or indirectly owned, operated or controlled by or  
14 otherwise affiliated with an integrated delivery network.

15 (ii) A health insurance carrier.

16 Section 4. Responsibilities.

17 (a) General rule.--A hospital-owned physician practice that  
18 is part of an integrated delivery network shall comply with the  
19 following responsibilities:

20 (1) Assure availability and accessibility of adequate  
21 health care services to members of a health insurance carrier  
22 which allows access to quality care and continuity of health  
23 care services.

24 (2) Not engage in either of the following:

25 (i) Place restrictive covenants in its employment  
26 contracts that restrain an individual from engaging in  
27 the individual's lawful profession.

28 (ii) Limit or restrict a consumer's access to care  
29 or limit or restrict a consumer's access to continuity of  
30 care solely on the basis of the consumer's health

1 insurance carrier.

2 (3) Enter into a provider contract with a health  
3 insurance carrier that is willing to enter into a provider  
4 contract for health care services.

5 (b) Effect of failure to maintain or enter into mutually  
6 agreeable provider contract.--The following shall apply:

7 (1) Failure of a hospital-owned physician practice that  
8 is part of an integrated delivery network and the willing  
9 health insurance carrier to maintain a mutually agreeable  
10 provider contract shall result in the parties entering into a  
11 default provider agreement for health care services while  
12 they submit to mandatory binding arbitration. The default  
13 provider agreement shall set forth payment terms, while all  
14 other contractual terms of the previously executed contract  
15 shall remain in effect until the arbitration process is  
16 completed. The arbitrator shall set all terms of the new  
17 provider contract.

18 (2) Failure of a newly affiliated hospital-owned  
19 physician practice that is part of an existing integrated  
20 delivery network or failure of a hospital-owned physician  
21 practice that is part of newly formed integrated delivery  
22 network and a willing health insurance carrier to enter into  
23 a mutually agreeable provider contract within 90 days of  
24 affiliation or formation shall result in the parties entering  
25 into immediate mandatory binding arbitration. The arbitrator  
26 shall set all terms of the new provider contract.

27 (c) Arbitration.--The following shall apply to arbitration  
28 required under subsection (b) (2):

29 (1) A mutually agreeable arbitrator shall be chosen by  
30 the parties from the American Arbitration Association's

1 national health care panel of arbitrators experienced in  
2 handling payor-provider disputes.

3 (2) All costs associated with the arbitration shall be  
4 split equally between the parties.

5 (3) The arbitrator shall conduct the arbitration  
6 pursuant to the American Arbitration Association's health  
7 care payor provider rules.

8 (4) Contract terms and conditions shall be established  
9 as follows:

10 (i) Each party shall submit best and final contract  
11 terms to the arbitrator.

12 (ii) The arbitrator may request the production of  
13 documents, data and other information.

14 (iii) Payment terms and all other contractual  
15 provisions shall be set by the arbitrator.

16 (d) Term of default provider agreement.--The default  
17 provider agreement shall last until the arbitration process  
18 between the hospital-owned physician practice that is part of an  
19 integrated delivery network and a willing health insurance  
20 carrier is completed.

21 (e) Payment under default provider agreement.--The  
22 reimbursement rate that a health insurance carrier is required  
23 to pay shall be an amount equal to the greatest of the following  
24 three possible amounts:

25 (1) The amount negotiated with in-network providers for  
26 the same services.

27 (2) The amount calculated by the same method the health  
28 insurance carrier generally uses to determine payments for  
29 out-of-network services, such as the usual, customary and  
30 reasonable charge.

1           (3) The amount that would be paid under Medicare for the  
2 same services.

3           (f) Prohibition.--A hospital-owned physician practice is  
4 prohibited from incorporating a termination provision within a  
5 provider contract with a health insurance carrier that allows  
6 for termination for anything other than willful breach.

7           (g) Copies of contracts.--Copies of all provider contracts  
8 between a hospital-owned physician practice that is part of an  
9 integrated delivery network and any health insurance carrier  
10 shall be provided to the department.

11 Section 5. Confidentiality.

12           The following confidentiality provisions shall apply:

13           (1) Provider contracts, documents, materials or  
14 information received by the department from a hospital-owned  
15 physician practice for the purpose of compliance with this  
16 act and regulations developed pursuant to this act shall be  
17 confidential.

18           (2) The department may use the information obtained  
19 under this act for the sole purpose of compliance with this  
20 act.

21           (3) Provider contracts, documents, materials or  
22 information made confidential under this act shall not be  
23 subject to requests under the act of February 14, 2008  
24 (P.L.6, No.3), known as the Right-to-Know Law.

25 Section 6. Enforcement.

26           (a) General rule.--The department shall ensure compliance  
27 with this act and shall investigate potential violations of this  
28 act based upon information received from health insurance  
29 carriers, hospital-owned physician practices, enrollees and  
30 other sources.



1 (b) Regulations.--The department shall promulgate  
2 regulations as may be necessary to carry out the provisions of  
3 this act.

4 Section 7. Civil penalties.

5 The department may impose a civil penalty of not more than  
6 \$25,000 per day, not to exceed \$1,000,000 per calendar year, on  
7 a hospital-owned physician practice that is part of an  
8 integrated delivery network for a violation of this act.

9 Section 8. Effective date.

10 This act shall take effect in 90 days.