

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, SEPTEMBER 15, 2003

SESSION OF 2003

187TH OF THE GENERAL ASSEMBLY

No. 71

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.d.t.

THE SPEAKER (JOHN M. PERZEL)

PRESIDING

PRAYER

REV. BRUCE D. McINTOSH, Chaplain of the House of Representatives, offered the following prayer:

Thank you, Mr. Speaker.

Let us bow our heads, please.

Father, I do ask that You know what is going to take place in the proceedings today and any committee meetings following. You know what is on the hearts of each member here on the floor and what has been happening recently, what is going to be happening the rest of the week. We do not know exactly what is going to be happening, but You do. And with that divine knowledge, I ask for Your guidance for each person here. I ask for wisdom, reserve, and yet the boldness to stand for our convictions and to speak those things which are necessary for the respective districts which are represented and the people in those districts.

Whatever issues are on the agenda for today, Father, I ask that each person will have been prepared adequately, knowing exactly what needs to be hashed out and what goals need to be achieved. Beyond all that and above all that, Father, I ask that Your goals be achieved, because You know better than all of us.

I ask all of these things in Your name. Amen.

PLEDGE OF ALLEGIANCE

(The Hedge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, September 10, 2003, will be postponed until printed. The Chair hears no objection.

JOURNALS APPROVED

The SPEAKER. However, the Journals of Tuesday, June 10; Wednesday, June 11; and Thursday, June 12, 2003, are in print and, without objection, will be approved.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1973 By Representatives METCALFE, FORCIER, CAPPELLI, COLEMAN, CREIGHTON, DENLINGER, EGOLF, FAIRCHILD, GERGELY, GOOD, HALUSKA, HARRIS, HERSHEY, HORSEY, HUTCHINSON, LEH, S. MILLER, MUSTIO, PETRI, READSHAW, ROHRER, SAYLOR, SCRIMENTI, R. STEVENSON, T. STEVENSON, J. TAYLOR, THOMAS, TIGUE, TURZAI, YOUNGBLOOD and McGEEHAN

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for firearms not to be carried without a license and for licenses for firearms; and establishing the Firearms License Validation System.

Referred to Committee on JUDICIARY, September 11, 2003.

No. 1974 By Representatives ALLEN, MUNDY, WATSON, ARGALL, BARD, BEBKO-JONES, CAPPELLI, CORRIGAN, CRAHALLA, CREIGHTON, CURRY, DeLUCA, DeWEESE, FORCIER, FRANKEL, FREEMAN, GEIST, GILLESPIE, GINGRICH, GOODMAN, HARRIS, HENNESSEY, HESS, HORSEY, KELLER, LEACH, LEWIS, MARSICO, McNAUGHTON, S. MILLER, PAYNE, PERZEL, RAYMOND, SAINATO, E. Z. TAYLOR, TIGUE, VANCE, WASHINGTON, WEBER, WILT, YOUNGBLOOD, THOMAS and ARMSTRONG

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for violations of certain orders or agreements.

Referred to Committee on JUDICIARY, September 11, 2003.

No. 1975 By Representatives BAKER, WILT, STERN, BROWNE, CAPPELLI, CAUSER, CORRIGAN, CRUZ, DENLINGER, DeWEESE, GOODMAN, HALUSKA, HARRIS, JAMES, LAUGHLIN, LEACH, LEVDANSKY, TIGUE, WASHINGTON and YOUNGBLOOD

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for creditable nonschool service and creditable nonstate service for service performed as a crewleader with the Pennsylvania Conservation Corps.

Referred to Committee on FINANCE, September 11, 2003.

No. 1976 By Representatives HERMAN, GINGRICH, FREEMAN, McNAUGHTON, HANNA, PAYNE, CRAHALLA, DENLINGER, GEORGE, GOODMAN, HORSEY, KELLER, R. MILLER, PHILLIPS, SURRA, TIGUE, WASHINGTON and YOUNGBLOOD

An Act amending the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class County Assessment Law, further providing for enumeration of subjects of taxation.

Referred to Committee on LOCAL GOVERNMENT, September 11, 2003.

No. 1977 By Representatives PHILLIPS, JAMES, LEH, BARD, BELFANTI, BROWNE, CAPPELLI, CREIGHTON, DALEY, HENNESSEY, MAITLAND, McNAUGHTON, ROSS, SATHER and E. Z. TAYLOR

An Act providing for lyme and related tick-borne disease diagnosis and treatment, for denial, revocation or suspension of license or discipline of treating physicians and doctors of osteopathy and for professional misconduct proceedings.

Referred to Committee on HEALTH AND HUMAN SERVICES, September 11, 2003.

No. 1978 By Representatives PHILLIPS, ALLEN, HORSEY, BARD, BROWNE, DENLINGER, HARRIS, HESS, SCHRODER, E. Z. TAYLOR, TIGUE, TRUE and FAIRCHILD

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for neglect of care-dependent person.

Referred to Committee on JUDICIARY, September 11, 2003.

No. 1979 By Representatives GEORGE, BELFANTI, COHEN, CORRIGAN, DeWEESE, FABRIZIO, GRUCELA, HARHAI, JAMES, KIRKLAND, KOTIK, LAUGHLIN, LEDERER, LEVDANSKY, MARKOSEK, McILHATTAN, MELIO, PETRARCA, PISTELLA, READSHAW, ROONEY, SAINATO, SANTONI, SATHER, SCRIMENTI, SHANER, SOLOBAY, R. STEVENSON, THOMAS, TIGUE, WALKO, YOUNGBLOOD, DeLUCA, McCALL and D. EVANS

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for a tax credit for companies that create new jobs in manufactured products in this Commonwealth and for a low-interest loan program; and making an appropriation.

Referred to Committee on FINANCE, September 11, 2003.

No. 1980 By Representatives BLAUM, WALKO, LEDERER, CASORIO, McCALL, ROONEY, TRUE, READSHAW, McGEEHAN, SCHRODER, DeLUCA, GRUCELA, YOUNGBLOOD, JAMES, HARHAI, PAYNE, GABIG, SHANER, BELFANTI, BARD, HORSEY, TIGUE, HERSHEY, KELLER, REICHLEY and MELIO

An Act amending the act of May 26, 1988 (P.L.448, No.73), known as the College and University Security Information Act, further providing for crime statistics and security policies and procedures.

Referred to Committee on JUDICIARY, September 11, 2003.

No. 1981 By Representatives MUSTIO, WATSON, TURZAI, T. STEVENSON, BELFANTI, DENLINGER, HENNESSEY, HORSEY, MELIO, PAYNE, REICHLEY, WEBER, YOUNGBLOOD and WASHINGTON

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, providing for extension of existing license to cover additional area.

Referred to Committee on LIQUOR CONTROL, September 11, 2003.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 387 By Representatives STERN, FAIRCHILD, BOYD, CAPPELLI, SATHER, BARRAR, BAKER, CREIGHTON, ZUG, SAYLOR, TRUE, E. Z. TAYLOR, BALDWIN, ARGALL, REICHLEY, HUTCHINSON, DENLINGER, METCALFE, BENNINGHOFF, HASAY, GEIST, LAUGHLIN, HESS, ROHRER, S. MILLER, McNAUGHTON, EGOLF, CIVERA, HICKERNELL, FEESE, CAUSER, PICKETT, ARMSTRONG, LYNCH, KENNEY, O'NEILL, REED, MAITLAND, FLICK, SCAVELLO, CRAHALLA, BASTIAN, R. MILLER, HABAY, MCGILL, S. H. SMITH, TURZAI, DAILEY, T. STEVENSON, PAYNE, GABIG, CLYMER, MUSTIO, COLEMAN, HERSHEY, BUNT, PHILLIPS, R. STEVENSON, BIRMELIN, GODSHALL, FORCIER, ADOLPH, RAYMOND and SEMMEL

A Concurrent Resolution urging the Congress of the United States to limit the appellate jurisdiction of the Federal courts regarding the recitation of the Pledge of Allegiance in public schools.

Referred to Committee on JUDICIARY, September 11, 2003.

SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

SB 264, PN 281

Referred to Committee on TRANSPORTATION, September 11, 2003.

SB 584, PN 646

Referred to Committee on TRANSPORTATION, September 11, 2003.

BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.
Mr. S. SMITH. Mr. Speaker, I move that the following bill be taken from the table: HB 857.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL ON SECOND CONSIDERATION

The following bill, having been called up, was considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 857, PN 1010.

BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.
Mr. S. SMITH. Mr. Speaker, I move that the following bill be recommitted to the Committee on Appropriations: HB 857.

On the question,
Will the House agree to the motion?
Motion was agreed to.

COMMUNICATION FROM GOVERNOR

APPROVAL OF HOUSE BILL

The Speaker laid before the House a communication in writing from the office of His Excellency, the Governor of the Commonwealth, advising that the following House bill had been approved and signed by the Governor:

HB 276.

LEAVES OF ABSENCE

The SPEAKER. Are there any requests for leaves of absence?

The Chair recognizes the majority whip, who moves for a leave of absence for the following members: the gentlelady from Montgomery, Ms. WEBER; the gentlelady from Chester, Mrs. RUBLEY; the gentleman from Bucks, Mr. PETRI; the gentleman from Bucks, Mr. O'NEILL; the gentleman from Lehigh, Mr. REICHLEY; and the gentleman from Montgomery for the week, Mr. CORNELL. Without objection, the leaves of absence will be granted.

The Chair recognizes the minority whip, who moves for a leave of absence for the following members: the gentleman from Cambria, Mr. WOJNAROSKI, for the week; the gentleman from Washington, Mr. SOLOBAY, for the week; the gentleman from York, Mr. STETLER; and the gentleman from Northampton, Mr. ROONEY. Without objection, the leaves will be granted.

MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll. The members will proceed to vote.

The following roll call was recorded:

PRESENT—193

Adolph	Egolf	Leach	Ruffing
Allen	Evans, D.	Lederer	Sainato
Argall	Evans, J.	Leh	Samuelson
Armstrong	Fabrizio	Lescovitz	Santoni
Baker	Fairchild	Levdansky	Sather
Baldwin	Feese	Lewis	Saylor
Bard	Fichter	Lynch	Scavello
Barrar	Fleagle	Mackereth	Schroder
Bastian	Flick	Maher	Scrimenti
Bebko-Jones	Forcier	Maitland	Semmel
Belardi	Frankel	Major	Shaner
Belfanti	Freeman	Manderino	Smith, B.
Benninghoff	Gabig	Mann	Smith, S. H.
Biancucci	Gannon	Markosek	Staback
Birmelin	Geist	Marsico	Stairs
Bishop	George	McCall	Steil
Blaum	Gergely	McGeehan	Stern
Boyd	Gillespie	McGill	Stevenson, R.
Browne	Gingrich	McIlhattan	Stevenson, T.
Bunt	Godshall	McIlhinney	Sturla
Butkovitz	Good	McNaughton	Surra
Buxton	Goodman	Melio	Tangretti
Caltagirone	Gordner	Metcalfe	Taylor, E. Z.
Cappelli	Grucela	Micozzie	Taylor, J.
Casorio	Gruitza	Miller, R.	Thomas
Causer	Habay	Miller, S.	Tigue
Cawley	Haluska	Mundy	Travaglio
Civera	Hanna	Mustio	True
Clymer	Harhai	Myers	Turzai
Cohen	Harhart	Nailor	Vance
Coleman	Harper	Nickol	Veon
Corrigan	Harris	O'Brien	Vitali
Costa	Hasay	Oliver	Walko
Coy	Hennessey	Pallone	Wansacz
Crahalla	Herman	Payne	Washington
Creighton	Hershey	Petrarca	Waters
Cruz	Hess	Petrone	Watson
Curry	Hickernell	Phillips	Wheatley
Dailey	Horsey	Pickett	Williams
Daley	Hutchinson	Pistella	Wilt
Dally	James	Preston	Wright
DeLuca	Josephs	Raymond	Yewcic
Denlinger	Keller	Readshaw	Youngblood
Dermody	Kenney	Reed	Yudichak
DeWeese	Killion	Rieger	Zug
DiGirolamo	Kirkland	Roberts	
Diven	Kotik	Roebuck	
Donatucci	LaGrotta	Rohrer	Perzel,
Eachus	Laughlin	Ross	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—10

Cornell	Reichley	Solobay	Weber
O'Neill	Rooney	Stetler	Wojnaroski
Petri	Rubley		

LEAVES ADDED—5

Bard	Horsey	Taylor, E. Z.	Veon
Eachus			

LEAVES CANCELED—5

Bard Reichley Rubley Veon
Petri

GUESTS INTRODUCED

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Civera, for the purposes of a citation.

Before Mr. Civera does the introductions, the Chair would like to recognize the presence of the mayor of Upper Darby, Ray Shay, and his wife, Peg. Would they please rise and be recognized by the membership. Congratulations, and welcome.

**UPPER DARBY LITTLE LEAGUE
SOFTBALL TEAM PRESENTED**

Mr. CIVERA. Thank you, Mr. Speaker.

Today is a great privilege for me to come before the House to introduce the Upper Darby Little League girls, who have an outstanding record. I have the honor and the privilege of honoring a group of talented young athletes, whose drive, ambition, and persistence led them to the fifth place in the 2003 Little League Softball World Series.

Spending their summer on a road paved with victories, the Upper Darby Little League continued to shut out teams to obtain the District 19 title. Moving on to sectional play, they defeated Radnor to become Section 5 champs and advanced to the State tournament, for a nail-biting game against Milton to clinch the State title.

Off to Georgetown, Delaware, these athletes went, for an easy sweep of the regional championship and then on to, for the first time in the history of Upper Darby Little League, the Little League Softball World Series.

Now known as the East team, the team was off to Portland, Oregon, to compete in the Softball World Series, where they went on to defeat the international teams of Latin America and Canada and put up a good fight against the defending 2002 world champs from the Southwest. Unfortunately, home-field advantage gave the Oregon team the opportunity to defeat the East, but the girls rallied to win fifth place with the defeat of the Central team.

In addition to their winning streak, these talented young ladies and the pride of Delaware County made their professional debut on the ESPN sports network at Alpenrose Stadium, home of the 2003 Softball World Series. What an accomplishment to play against the world’s best softball teams and be recognized for their achievements on such a prominent television network.

Joining me here today at the front of the House are the captains of the Upper Darby Little League 11-to-12-year-old girls softball team, Ms. Kelly Fitzgerald and Ms. Adrienne Drummond, along with the winning team’s head coach, Eleanor Orsborn, and coaches John McNichol and John Lulias.

I am proud to publicly recognize these hardworking girls on the achievement they have made as a team both during the regular season play and throughout the championship victories by presenting them with a citation on behalf of the Commonwealth of Pennsylvania.

And I would like to read the citation, because it has the ladies’ names in it:

“WHEREAS, The House of Representatives...is always pleased to recognize the outstanding achievements realized by the youth of this nation in a spirit of personal sacrifice, commitment to a common goal and unity of purpose; and

“WHEREAS, The Upper Darby Little League 11-to-12-Year-Old Girls’ Softball Team is being honored upon winning fifth place in the 2003 Little League Softball World Series, which was held in Portland, Oregon; and

“WHEREAS, The team earned the opportunity to compete in the World Series by winning the District 19 title, the State Tournament and Regional Finals. Under the expert guidance of Coaches Eleanor Orsborn, Paul McNichol and John Lulias, the team is comprised of Alicia DeSanto, Adrienne Drummond, Kelly Fitzgerald, Alexandra Gannon, Juliette Lulias, Morgan McNichol, Emily Moran, Jen Nance, Colleen Orsborn, Natalie Parisi, Jillian Pickett, Courtney Spina and Nicki Spina.

“NOW THEREFORE, The House of Representatives of the Commonwealth of Pennsylvania...congratulates...” this fine team.

Good job, ladies. Ladies and gentlemen.

LEAVE OF ABSENCE

The SPEAKER. The Chair would return to leaves of absence and places the gentlelady from Montgomery, Ms. BARD, on a leave of absence for the remainder of the day. Without objection, the leave will be granted.

SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mrs. CRAHALLA called up **HR 386, PN 2576**, entitled:

A Resolution commending the reliability of PJM Interconnection during the August 14, 2003, electrical blackout in northeastern and northcentral United States and in the province of Ontario, Canada.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—192

Adolph	Evans, D.	Lederer	Ruffing
Allen	Evans, J.	Leh	Sainato
Argall	Fabrizio	Lescovitz	Samuelson
Armstrong	Fairchild	Levdansky	Santoni
Baker	Feese	Lewis	Sather
Baldwin	Fichter	Lynch	Saylor
Barrar	Fleagle	Mackereth	Scavello
Bastian	Flick	Maher	Schroder
Bebko-Jones	Forcier	Maitland	Scrimenti
Belardi	Frankel	Major	Semmel
Belfanti	Freeman	Manderino	Shaner
Benninghoff	Gabig	Mann	Smith, B.
Biancucci	Gannon	Markosek	Smith, S. H.
Birmelin	Geist	Marsico	Staback
Bishop	George	McCall	Stairs
Blaum	Gergely	McGeehan	Steil
Boyd	Gillespie	McGill	Stern
Browne	Gingrich	McIlhattan	Stevenson, R.
Bunt	Godshall	McIlhinney	Stevenson, T.
Butkovitz	Good	McNaughton	Sturla
Buxton	Goodman	Melio	Surra

Caltagirone	Gordner	Metcalfe	Tangretti
Cappelli	Grucela	Micozzie	Taylor, E. Z.
Casorio	Gruitza	Miller, R.	Taylor, J.
Causser	Habay	Miller, S.	Thomas
Cawley	Haluska	Mundy	Tigue
Civera	Hanna	Mustio	Travaglio
Clymer	Harhai	Myers	True
Cohen	Harhart	Nailor	Turzai
Coleman	Harper	Nickol	Vance
Corrigan	Harris	O'Brien	Veon
Costa	Hasay	Oliver	Vitali
Coy	Hennessey	Pallone	Walko
Crahalla	Herman	Payne	Wansacz
Creighton	Hershey	Petrarca	Washington
Cruz	Hess	Petrone	Waters
Curry	Hickernell	Phillips	Watson
Dailey	Horsey	Pickett	Wheatley
Daley	Hutchinson	Pistella	Williams
Dally	James	Preston	Wilt
DeLuca	Josephs	Raymond	Wright
Denlinger	Keller	Readshaw	Yewcic
Dermody	Kenney	Reed	Youngblood
DeWeese	Killion	Rieger	Yudichak
DiGirolamo	Kirkland	Roberts	Zug
Diven	Kotik	Roebuck	
Donatucci	LaGrotta	Rohrer	
Eachus	Laughlin	Ross	Perzel,
Egolf	Leach		Speaker

NAYS—0

NOT VOTING—0

EXCUSED—11

Bard	Petri	Rubley	Weber
Cornell	Reichley	Solobay	Wojnaroski
O'Neill	Rooney	Stetler	

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

LEAVE OF ABSENCE

The SPEAKER. The Chair will return to leaves of absence, and a leave of absence is requested for the gentlelady from Chester, Mrs. TAYLOR, for the remainder of the day. Without objection, the leave will be granted.

INTERGOVERNMENTAL AFFAIRS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Leh, for the purpose of an announcement.

Mr. LEH. Thank you, Mr. Speaker.

I would like to announce a meeting of the Intergovernmental Affairs Committee immediately at the call of the break in the rear of the House. This will be a very brief meeting just to rerefer a bill. I would appreciate all available members there.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Intergovernmental Affairs will meet in the rear of the House at the break.

VOTE CORRECTIONS

The SPEAKER. The Chair recognizes the gentleman, Mr. Birmelin.

Mr. BIRMELIN. Thank you, Mr. Speaker.

I would like to make a correction to the record, if I might.

The SPEAKER. The gentleman is in order and may proceed.

Mr. BIRMELIN. Last week on HB 774, PN 908, and amendment 2951 to that bill, I was recorded in both cases as having voted "yes." I would like the record to more accurately reflect that I would appreciate that changed to a "no" on both votes.

The SPEAKER. The Chair thanks the gentleman. The gentleman's remarks will be spread upon the record.

REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Civera, for the purpose of an announcement.

Mr. CIVERA. Thank you, Mr. Speaker.

There will be a Republican caucus in the majority caucus room immediately following the recess. We will probably caucus for approximately 1 hour. Thank you.

The SPEAKER. The Chair thanks the gentleman.

DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

The Democrats will caucus in the Democratic caucus room immediately upon the declaration of the recess and return whenever the Speaker calls for the return to the floor. Thank you.

VOTE CORRECTION

The SPEAKER. The Chair recognizes the gentleman, Mr. Armstrong, for the purpose of a correction of the record.

Mr. ARMSTRONG. Thank you, Mr. Speaker.

I would like the record to reflect a negative vote on HB 774, PN 2573, voted on September 9, 2003. Thank you.

RECESS

The SPEAKER. This House stands in recess until 2:30.

AFTER RECESS

The time of recess having expired, the House was called to order.

LEAVES OF ABSENCE

The SPEAKER. The minority whip asks for leaves of absence for the following members: the gentleman, Mr. EACHUS; the gentleman, Mr. VEON. Without objection, the leaves will be granted.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The gentlelady from Chester, Mrs. Rubley, will have her name added to the master roll.

BILL REPORTED AND REREFERRED TO COMMITTEE ON LOCAL GOVERNMENT**HB 1917, PN 2504**

By Rep. LEH

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, further providing for contents of subdivision and land development ordinance.

INTERGOVERNMENTAL AFFAIRS.

LEAVES OF ABSENCE CANCELED

The SPEAKER. The Chair notes the presence on the floor of the House of the gentleman, Mr. Reichley.

The Chair notes the presence on the floor of the House of the gentlelady from Montgomery, Ms. Bard.

LEAVE OF ABSENCE

The SPEAKER. Returning to leaves of absence, the gentleman from Philadelphia, Mr. HORSEY, there is a leave of absence requested. Without objection, that leave will be granted.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. For what purpose does the gentlelady rise?

Ms. YOUNGBLOOD. Mr. Speaker, a point of personal privilege, please.

The SPEAKER. The gentlelady is entitled to be heard. Please keep the noise level down. The lady may proceed.

Ms. YOUNGBLOOD. Mr. Speaker, it has been 441 days since I have had district office staff. It has been a total disservice to the constituents of the 198th Legislative District. Unfortunately, there is a rumor flying that I have been offered money to furnish my district office staff. No one has approached me from Democratic leadership to rectify this situation.

EDITORIAL SUBMITTED FOR THE RECORD

Ms. YOUNGBLOOD. In addition, I would like to enter into the record the editorial from August 20, 2003, the Carlisle Sentinel. It explains the disparity in treatment that I have been receiving and how also it has affected my constituency. Thank you.

The SPEAKER. The Chair thanks the gentlelady.

Ms. YOUNGBLOOD submitted an editorial for the Legislative Journal.

(For editorial, see Appendix.)

CALENDAR**BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 865, PN 1022**, entitled:

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, providing for coverage of treatment ordered by worksite-based employee assistance programs.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. LEWIS reoffered the following amendment No. **A2068**:

Amend Title, page 1, line 12, by removing the period after "programs" and inserting

; and mandating health insurance coverage for colorectal cancer screening.

Amend Sec. 1, page 1, lines 16 and 17, by striking out "a section" and inserting

sections

Amend Sec. 1, page 2, by inserting between lines 28 and 29

Section 635.2. Coverage for Colorectal Cancer Screening.—(a) Except to the extent already covered under another policy, all health insurance policies as defined in this section shall also provide coverage for colorectal cancer screening for covered individuals in accordance with the most recently published American Cancer Society guidelines for colorectal cancer screening and consistent with approved medical standards and practices.

(1) Coverage for nonsymptomatic covered individuals who are fifty (50) years of age or older shall include, but not be limited to:

(i) an annual fecal occult blood test;

(ii) a sigmoidoscopy or a test consistent with approved medical standards and practices to detect colon cancer, at least once every four (4) years.

(iii) A colonoscopy at least once every ten (10) years.

(2) Coverage for symptomatic covered individuals who are less than fifty (50) years of age shall include a colonoscopy, sigmoidoscopy or any combination of colorectal cancer screening tests at a frequency determined by a physician.

(b) The coverage required under this section shall be subject to annual deductibles, coinsurance and copayment requirements imposed by an entity subject to this section for similar coverages under the same health insurance policy or contract.

(c) For the purpose of this section:

(1) "Health insurance policy" means any individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:

(i) The act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

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

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

(iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(v) Medical assistance.

The term does not include the following types of supplemental insurance or any supplemental combination thereof: hospital indemnity, accident only, fixed indemnity, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers' compensation or

automobile medical payment insurance, or other limited supplemental benefit plan.

(2) "Colonoscopy" means an examination of the rectum and the entire colon using a lighted instrument called a colonoscope.

(3) "Colorectal cancer screening" means any of the following procedures that are furnished to an individual for the purpose of early detection of colorectal cancer:

(i) Screening fecal-occult blood test.

(ii) Screening flexible sigmoidoscopy.

(iii) Screening colonoscopy.

(iv) Screening barium enema.

(4) "Symptomatic person" means one of the following:

(i) an individual who experiences a change in bowel habits, rectal bleeding or persistent stomach cramps, weight loss, abdominal pain; or

(ii) an individual who poses a higher than average risk for colorectal cancer because he or she has had colorectal cancer or polyps, inflammatory bowel disease or an immediate family history of such conditions.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Lewis, for a brief explanation.

Mr. LEWIS. Thank you, Mr. Speaker.

We know this year in Pennsylvania there will be over 3,000 colon cancer deaths, and we know with early detection, there is a 95-percent survival rate with colon cancer, and we know 70 to 80 percent of insurance coverages in Pennsylvania cover colon cancer screening as described in amendment 2068, and we know our own health insurance coverage in this House matches amendment 2068.

Mr. Speaker, today we can work together to lower cancer deaths in Pennsylvania, and I urge this House to support amendment 2068.

The SPEAKER. The Chair thanks the gentleman.

On that question, the Chair recognizes the gentleman from Allegheny, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

I rise to support the Lewis amendment.

And let me say, I have been in support of this type of legislation for a long time but more so now than ever, because a very dear friend of the family is presently in the hospital right now, and because of the fact that she did not have the screening because her insurance company would not pay for it, she let it go, until finally, hearing all the publicity and her friends and my wife and other friends telling her that she should get it, she finally went out on her own. She was willing to pay for it. Unfortunately, they found a blockage that is cancerous.

The good news is the fact that she did not have to have a bag, but at the same token, today they are looking to see whether it spread to the lymph nodes. Had she had this screening and had the insurance companies paid for it, she probably would have gone sooner. Hopefully, with God's help, it did not spread, but if it did spread, can you imagine what the hospital bill would be to treat her over the year to try to make her whole again?

So this is a commonsense amendment. It is something that we can save lives with. It is something that we should be doing, and certainly, I understand about mandates, but sometimes mandates play a very important part in saving costs in the outer years, and a lot of times we look at the short end of it instead of looking what it is going to cost us in the long run.

I could tell you, if she would have had this done earlier, she would have probably not had the cancer in her right now, and the insurance company would have saved a lot of money, because if it has spread to the lymph nodes, it is going to cost them a tremendous amount of money, which is very foolish.

So I would hope everybody in this House would support the Lewis amendment. Not only will it save lives; it will save money in the long run.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair returns to leaves of absence and recognizes on the floor of the House the gentleman from Beaver, Mr. Veon. His name will be placed upon the roll.

CONSIDERATION OF HB 865 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman, Mr. Lewis, indicates that he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VITALI. Thank you, Mr. Speaker.

I am generally all for amendments like this, and I certainly understand their value, but my concern is the additional cost to a health-care policy because of this mandated coverage. Do you have any statistics, A, on the additional cost; B, whether those costs will perhaps cause some people to go uncovered because of the increased cost; or perhaps, C, because companies are required to carry this coverage in order to save costs might not cover something else? I am just really trying to get the complete fiscal picture here.

Mr. LEWIS. Mr. Speaker, this is not an unfunded mandate. In fact, it is the direct opposite. In Pennsylvania 70 to 85 percent—

Mr. VITALI. I am not suggesting it is; I am not suggesting it is.

Mr. LEWIS. But 75 to 85 percent of the insurance policies in Pennsylvania already match amendment 2068. They already have the coverage. All we are doing with this amendment is codifying an existing practice and setting the minimum playing field.

Mr. Speaker, I do not know how you estimate the cost in Delaware County when 177 people died from colon cancer. How do you estimate that cost to Delaware County?

Mr. VITALI. Okay. Let me just rephrase that question.

Again, I salute you for the good work you are doing. I am just trying to make a rational decision.

If you require policies to carry this additional coverage, it is going to be an extra cost because more subscribers are going to have to have this service paid for. Do you know what that cost will be per policy?

Mr. LEWIS. Mr. Speaker, we know that 70 to 85 percent of the insurance coverages already provide this service, so there is no cost. It is already being provided. All we are doing with this

amendment is setting the minimum standard to this cancer screening question.

Mr. VITALI. Not to be argumentative, but clearly, you are going through this exercise to get companies to do certain things they are not doing now. Is that safe to say?

Mr. LEWIS. No. Mr. Speaker, we are codifying the minimum playing field so all health insurance coverages match a minimum standard.

Mr. VITALI. Well, would you agree that because of your amendment, if it is enacted into law, more colorectal screening tests will have to be conducted?

Mr. LEWIS. I am sorry, Mr. Speaker; I did not hear the question.

Mr. VITALI. Well, would you agree that if your amendment becomes law, more colorectal screening tests will have to be conducted?

Mr. LEWIS. Mr. Speaker, there is no evidence to support that.

Mr. VITALI. Well, let me back up a bit. Why are you doing this?

Mr. LEWIS. We are doing it to set the minimum playing field for colon cancer screening in Pennsylvania health insurance coverages. Mr. Speaker, we hope that all men and women above 50 years old go out and exercise the right to get a colonoscopy so that they can get the benefit of the 95-percent survival rate of colon cancer. We hope that this increases the coverage.

Mr. VITALI. Okay. I do not want to beat this to death, but are you suggesting that your amendment is not going to require any more colorectal screening tests than are being done today?

Mr. LEWIS. Mr. Speaker, this could be a new benefit for maybe 5 to 15 percent of the insurance coverages in Pennsylvania, but we believe the majority of the coverages, up to 95 percent, already cover this. It is codifying the minimum standards.

Mr. VITALI. Okay. Now, with regard to that 15 percent, is there a cost associated with this?

Mr. LEWIS. Mr. Speaker, the cost of the questioner's mandate is de minimis compared to the cost of treating colon cancer in Pennsylvania.

Mr. VITALI. Well, let us set aside the cost of treating aside. Do you know what the additional cost of covering these tests would be as a result of your amendment?

Mr. LEWIS. Mr. Speaker, I do not have that information available.

Mr. VITALI. Any information on how this might make the policy of health insurance generally more expensive?

Mr. LEWIS. Mr. Speaker, our goal with this legislation is to help address 177 colon cancer deaths in Delaware County; to try and somehow, somehow, reduce that number, because when you have a test, a colonoscopy with early detection has a 95-percent survival rate with colon cancer.

Mr. VITALI. And I am totally on board with that goal. All I am trying to say is, all I am trying to get at is, are there unintended consequences? Is having this mandate going to make the policy more expensive so less people have insurance generally or some other coverage is not there?

Mr. Speaker – Madam Speaker – I really have concluded my questioning, and I have no further questions.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Monroe County, Mr. Scavello, on the amendment.

Mr. SCAVELLO. Thank you, Madam Speaker.

I rise in support of A2068. We keep talking about dollars here and what it is going to cost, but we are not talking about the lives it is going to save. You know, we do not know exactly what the costs are here, but look at the lives that we are going to save with this amendment.

Please vote “yes.”

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-184

Adolph	Evans, D.	Lederer	Ruffing
Allen	Evans, J.	Leh	Sainato
Argall	Fabrizio	Lescovitz	Samuelson
Armstrong	Fairchild	Levdansky	Santoni
Baker	Feese	Lewis	Sather
Baldwin	Fichter	Lynch	Saylor
Bard	Fleagle	Mackereth	Scavello
Barrar	Flick	Maher	Schroder
Bastian	Frankel	Maitland	Scrimenti
Bebko-Jones	Freeman	Major	Semmel
Belardi	Gabig	Manderino	Shaner
Belfanti	Gannon	Mann	Smith, B.
Benninghoff	Geist	Markosek	Smith, S. H.
Bianucci	George	Marsico	Staback
Birmelin	Gergely	McCall	Stairs
Bishop	Gillespie	McGeehan	Stern
Blaum	Gingrich	McGill	Stevenson, R.
Boyd	Godshall	McIlhattan	Stevenson, T.
Browne	Good	McIlhinney	Sturla
Bunt	Goodman	McNaughton	Surra
Butkovitz	Gordner	Melio	Tangretti
Buxton	Grucela	Micozzie	Taylor, J.
Caltagirone	Gruitza	Miller, S.	Thomas
Cappelli	Habay	Mundy	Tigue
Casorio	Haluska	Mustio	Travaglio
Causar	Hanna	Myers	True
Cawley	Harhai	Nailor	Turzai
Civera	Harhart	O'Brien	Vance
Clymer	Harper	Oliver	Veon
Cohen	Harris	Pallone	Vitali
Coleman	Hasay	Payne	Walko
Corrigan	Hennessey	Petrarca	Wansacz
Costa	Herman	Petrone	Washington
Coy	Hershey	Phillips	Waters
Creighton	Hess	Pickett	Watson
Cruz	Hickernell	Pistella	Wheatley
Curry	Hutchinson	Preston	Williams
Dailey	James	Raymond	Wilt
Daley	Josephs	Readshaw	Wright
Dally	Keller	Reed	Yewcic
DeLuca	Kenney	Reichley	Youngblood
Denlinger	Killion	Rieger	Yudichak
Dermody	Kirkland	Roberts	Zug
DeWeese	Kotik	Roebuck	
DiGirolo	LaGrotta	Ross	
Diven	Laughlin	Rubley	Perzel,
Donatucci	Leach		Speaker

NAYS—8

Crahalla	Forcier	Miller, R.	Rohrer
Egolf	Metcalfe	Nickol	Steil

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. TAYLOR offered the following amendment No. A3111:

Amend Title, page 1, line 12, by removing the period after “programs” and inserting

and for certain prescription drug coverage.

Amend Sec. 1, page 1, lines 16 and 17, by striking out “a section” and inserting

sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18

Section 635.2. Prescription Drug Coverage.—(a) No health insurance policy which covers prescription drug benefits shall be issued, amended, delivered, or renewed in this Commonwealth if the plan limits or excludes coverage for a drug on the basis that the drug is prescribed for a use that is different from the use for which that drug has been approved for marketing by the FDA, provided that all of the following conditions have been met:

(1) The drug is approved by the FDA for at least one condition and is therefore not experimental or investigational.

(2) The drug is prescribed by a participating licensed health care professional for the treatment of a life-threatening condition or a chronic and seriously debilitating condition.

(3) The drug has been recognized as effective for treatment of that condition by one of the following:

(i) The American Hospital Formulary Service Drug Information.

(ii) The American Medical Association Drug Evaluations.

(iii) The United States Pharmacopoeia Drug Information, Volume 1, “Drug Information for the Health Care Professional.”

(iv) The New England Journal of Medicine.

(v) The Journal of the American Medical Association.

(vi) The National Journals of the American Medical Specialty Academies.

(b) Nothing in this section shall be construed to prohibit the use of a formulary, copayment, technology assessment panel, prior authorization procedures, or similar mechanism as a means for appropriately controlling utilization of a drug prescribed for a use different from the use for which the drug has been approved for marketing by the FDA.

(c) Nothing in this section shall be construed to require:

(1) coverage of a new drug or biological product not otherwise approved for a use by the FDA;

(2) coverage of a disease or condition that is not a covered condition under the policy, subscriber contract or certificate;

(3) aggregate payments in excess of the amounts required to be paid under the policy, subscriber contract or certificate;

(4) modification of any coinsurance or copayment requirements used to manage a formulary; or

(5) coverage for FDA-approved drugs excluded from an enrollee’s formulary coverage, except as such drugs may be available through any prior authorization procedures.

(d) As used in this section:

(1) “Life-threatening” means either or both of the following:

(i) diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted; or

(ii) diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(2) “Chronic and seriously debilitating” means diseases or conditions that require ongoing treatment to maintain remission or prevent deterioration and cause significant long-term morbidity.

(3) “Health insurance policy” means any individual or group health, sickness or accident insurance policy, subscriber contract or certificate issued by any entity subject to:

(i) this act;

(ii) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations);

(iii) 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); or

(iv) the act of December 29, 1972 (P.L.1701, No.364), known as the “Health Maintenance Organization Act.”

(4) “FDA” means the Food and Drug Administration of the United States Department of Health and Human Services.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Philadelphia, Mr. Taylor.

Mr. TAYLOR. Thank you, Madam Speaker.

Madam Speaker, this is the off-label-bill amendment. This off-label legislation has been around for three legislative sessions, and it actually requires that no insurance company can deny coverage for a drug that is proven to be beneficial for other forms of treatment, particularly in the area of cancer, that has not been approved by the FDA (Food and Drug Administration).

It is really a notion that has been approved by other States. We do not believe that there will be significant costs to insurance companies, because they admit that they actually do provide the coverage, but, Madam Speaker, what we want to make sure that everyone understands is that they usually have to go through an appeal process that we are trying to avoid. We do not want a cancer patient going through a 6month appeal process – and they have little time to do that – for a drug that they know will be beneficial.

I ask for your support of this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—187

Adolph	Evans, J.	Leh	Ruffing
Allen	Fabrizio	Lescovitz	Sainato
Argall	Fairchild	Levdansky	Samuelson
Armstrong	Feese	Lewis	Santoni
Baker	Fichter	Lynch	Sather
Baldwin	Fleagle	Mackereth	Saylor
Bard	Flick	Maher	Scavello
Barrar	Frankel	Maitland	Schroder
Bastian	Freeman	Major	Scrimenti

Bebko-Jones	Gabig	Manderino	Semmel
Belardi	Gannon	Mann	Shaner
Belfanti	Geist	Markosek	Smith, B.
Bianucci	George	Marsico	Smith, S. H.
Birmelin	Gergely	McCall	Staback
Bishop	Gillespie	McGeehan	Stairs
Blaum	Gingrich	McGill	Steil
Boyd	Godshall	McIlhattan	Stern
Browne	Good	McIlhinney	Stevenson, R.
Bunt	Goodman	McNaughton	Stevenson, T.
Butkovitz	Gordner	Melio	Sturla
Buxton	Grucela	Micozzie	Surra
Caltagirone	Gruitza	Miller, R.	Tangretti
Cappelli	Habay	Miller, S.	Taylor, J.
Casorio	Haluska	Mundy	Thomas
Causer	Hanna	Mustio	Tigue
Cawley	Harhai	Myers	Travaglio
Civera	Harhart	Nailor	True
Clymer	Harper	O'Brien	Turzai
Cohen	Harris	Oliver	Vance
Coleman	Hasay	Pallone	Veon
Corrigan	Hennessey	Payne	Vitali
Costa	Herman	Petrarca	Walko
Coy	Hershey	Petrone	Wansacz
Crahalla	Hess	Phillips	Washington
Creighton	Hickernell	Pickett	Waters
Cruz	Hutchinson	Pistella	Watson
Curry	James	Preston	Wheatley
Dailey	Josephs	Raymond	Williams
Daley	Keller	Readshaw	Wilt
Dally	Kenney	Reed	Wright
DeLuca	Killion	Reichley	Yewcic
Denlinger	Kirkland	Rieger	Youngblood
Dermody	Kotik	Roberts	Yudichak
DeWeese	LaGrotta	Roebuck	Zug
DiGirolamo	Laughlin	Rohrer	
Diven	Leach	Ross	Perzel,
Donatucci	Lederer	Rubley	Speaker
Evans, D.			

NAYS—5

Benninghoff	Forcier	Metcalf	Nickol
Egolf			

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. **GEORGE** offered the following amendment No. **A3170**:

Amend Title, page 1, line 11, by inserting after "for" waiver of certain moratoria and for

Amend Sec. 1, page 1, lines 16 and 17, by striking out "a section" and inserting sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18
Section 110. Waiver of Moratorium of New Health Benefits Mandates.—Any moratorium imposed by this act on new health benefits mandates may be waived by a ruling from the Secretary of Health that a proposed new benefit mandate would provide a significant public health benefit for the citizens of this Commonwealth. The secretary shall publish the ruling in the Pennsylvania Bulletin and the date of the waiver shall be the date of such publication.

On the question,
Will the House agree to the amendment?

AMENDMENT WITHDRAWN TEMPORARILY

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Madam Speaker, this amendment is constructed so that if an amendment that has been listed would be offered and accepted, then this amendment would be entirely germane.

I have another one that, with your permission, we could run immediately.

The SPEAKER pro tempore. Do you want to withdraw that amendment temporarily and offer another?

Mr. GEORGE. We will pass over it at this time.

The SPEAKER pro tempore. And do you have another amendment that you wish to offer?

Mr. GEORGE. 3171.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. **GEORGE** offered the following amendment No. **A3171**:

Amend Sec. 1, page 1, lines 16 and 17, by striking out "a section" and inserting sections

Amend Sec. 1, page 2, by inserting between lines 28 and 29
Section 1013-A. Pretermination Extension.—An employe who receives group health care benefits and who receives a termination notice of their group health care benefits because his employer has failed to submit proper documentation of group members shall be given an extension of ten business days to have his employer or the person who contracts for the group health care benefits submit the requested documentation. If the employer or the person who contracts for group health care benefits submits the requested documentation within this period, the policy may not be terminated.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. George.

Mr. GEORGE. I thank the lady.

Madam Speaker, just a couple of weeks ago, I got a call from a small municipality that has a dozen of its employees covered under an insurance plan. They were told it was a renewal. They were told to send in information. They sent it in by fax. The insurance company claimed they did not get it, and they canceled them, and what happens, Madam Speaker, is, whenever they are canceled, the individual members of that policy, the employees, can buy it on their own at an exceptional

increase in cost or they attempt to get it from another insurance carrier, if it is a prior debilitation that cannot be covered by the new company, and what this does is put a moratorium on 10 days, if in fact there is something that falls through the loop, before they can cancel the company. That is all it does.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS-191

Adolph	Evans, D.	Lederer	Rubley
Allen	Evans, J.	Leh	Ruffing
Argall	Fabrizio	Lescovitz	Sainato
Armstrong	Fairchild	Levdansky	Samuelson
Baker	Feese	Lewis	Santoni
Baldwin	Fichter	Lynch	Sather
Bard	Fleagle	Mackereth	Saylor
Barrar	Flick	Maher	Scavello
Bastian	Forcier	Maitland	Schroder
Bebko-Jones	Frankel	Major	Scrimenti
Belardi	Freeman	Manderino	Semmel
Belfanti	Gabig	Mann	Shaner
Benninghoff	Gannon	Markosek	Smith, B.
Bianucci	Geist	Marsico	Smith, S. H.
Birmelin	George	McCall	Staback
Bishop	Gergely	McGeehan	Stairs
Blaum	Gillespie	McGill	Steil
Boyd	Gingrich	McIlhattan	Stern
Browne	Godshall	McNaughton	Stevenson, R.
Bunt	Good	Melio	Stevenson, T.
Butkovitz	Goodman	Metcalfe	Surla
Buxton	Gordner	Micozzie	Surra
Caltagirone	Grucela	Miller, R.	Tangretti
Cappelli	Gruitzza	Miller, S.	Taylor, J.
Casorio	Habay	Mundy	Thomas
Causar	Haluska	Mustio	Tigue
Cawley	Hanna	Myers	Travaglio
Civera	Harhai	Nailor	True
Clymer	Harhart	Nickol	Turzai
Cohen	Harper	O'Brien	Vance
Coleman	Harris	Oliver	Veon
Corrigan	Hasay	Pallone	Vitali
Costa	Hennessey	Payne	Walko
Coy	Herman	Petrarca	Wansacz
Crahalla	Hershey	Petrone	Washington
Creighton	Hess	Phillips	Waters
Cruz	Hickernell	Pickett	Watson
Curry	Hutchinson	Pistella	Wheatley
Dailey	James	Preston	Williams
Daley	Josephs	Raymond	Wilt
Dally	Keller	Readshaw	Wright
DeLuca	Kenny	Reed	Yewcic
Denlinger	Killion	Reichley	Youngblood
Dermody	Kirkland	Rieger	Yudichak
DeWeese	Kotik	Roberts	Zug
DiGirolamo	LaGrotta	Roebuck	
Diven	Laughlin	Rohrer	Perzel,
Donatucci	Leach	Ross	Speaker
Egolf			

NAYS-0

NOT VOTING-1

McIlhinney

EXCUSED-11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. DeLUCA offered the following amendment No. A3233:

Amend Title, page 1, line 11, by inserting after "providing" for cranial hair vacuum prostheses coverage standards for health insurance policies and Amend Sec. 1, page 1, lines 16 and 17, by striking out "a section" and inserting sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18

Section 635.2. Cranial Hair Vacuum Prostheses Insurance Coverage.-(a) A health insurance policy shall provide that the health insurance benefits applicable under the policy include coverage for the cost of a medically necessary cranial hair vacuum prosthesis when prescribed by a physician for a person who sustains hair loss as a result of alopecia totalis or alopecia universalis.

(b) If a health insurance policy provides coverage or benefits to a resident of this Commonwealth, it shall be deemed to be delivered in this Commonwealth within the meaning of this section, regardless of whether the insurer issuing or delivering the policy is located within or outside this Commonwealth.

(c) Benefits for cranial hair vacuum prostheses shall be subject to any annual deductible, copayment and coinsurance provisions of a health insurance policy to the extent that other medical services covered by the policy are subject to those provisions. A benefit limit of one thousand five hundred dollars once every three years shall apply to cranial hair vacuum prostheses covered under this section.

(d) This section shall apply to any health insurance policy offered, issued or renewed on or after the effective date of this section in this Commonwealth: Provided, That this section shall not include the following policies: accident only, fixed indemnity, limited benefit, credit, dental, vision, specified disease, Medicare supplement, CHAMPUS (Civilian Health and Medical Program for the Uniformed Services) supplement, long-term care, disability income, workers' compensation or automobile medical payment.

(e) As used in this section:

(1) "Alopecia totalis" means an autoimmune disease resulting in complete scalp hair loss.

(2) "Alopecia universalis" means an autoimmune disease resulting in complete body hair loss.

(3) "Cranial hair vacuum prosthesis" means a custom designed system utilizing specialized materials to replace hair loss due to alopecia totalis or alopecia universalis.

(4) "Health insurance policy" means any group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to one (1) of the following:

(i) This act.

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

(iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(5) "Insurer" means an entity that issues a health insurance policy.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. DeLuca.

Mr. DeLUCA. Thank you, Madam Speaker.

Madam Speaker, this is an amendment— Well, it is a bill that passed the House last session, and it pertains to alopecia areata, and as my good friend from the other side, the majority chairman, can attest to, we had hearings on this, and we know how devastating this illness is for a lot of young people who have this disease.

This pertains to a hair prosthesis, and it does not mean a wig, so let me just clarify that. It is a hair prosthesis that has to be medically ordered by a doctor.

Now, this scalp prosthesis assists with the emotional, devastating aspects of hair loss, and it serves as a medical purpose in regulating body temperature and protecting sensitive skin from the ultraviolet rays.

Last year we had the top of the gallery loaded with people who were affected, young people, and the fact is that at our committee hearing, one of the young girls who was 16 years old had the courage to take—

The SPEAKER pro tempore. Would the gentleman cease for just a moment.

Could we have order in the House, please. This is an important subject, and we cannot even hear what the gentleman is saying here. Could we please have quiet in the hall.

The gentleman may proceed.

Mr. DeLUCA. Thank you, Madam Speaker.

Last year at our committee hearing, we had this young 16-year-old girl who has gone through life since birth who had the courage to take off her hair prosthesis at our committee meeting, and there was not a dry tear in that committee.

This is something that these individuals need for a quality-of-life issue. At one time the insurance carriers used to cover this hair prosthesis, and then they decided that there was a way for them to get away from it by calling it cosmetic. Now, any one of these individuals – and I am sure my good friend on the other side, the majority chairman of the Insurance Committee, Nick Micozzie, will attest to – certainly would not, after the testimony, would not consider this a cosmetic piece.

This is a quality-of-life piece. I have been fighting for this for many years. It really does not affect a lot of individuals out there. I think that we are talking about 10,000 Pennsylvanians, and when you take the individuals who are the males out of the equation, you are probably talking about maybe 5,000 to 6,000 individuals who suffer from this genetic illness.

I would hope that this House would again, once again, approve this amendment so that we can give these individuals the quality of life they deserve in going out into society and becoming individuals who are able to function again. A lot of these individuals have to see psychiatrists and psychologists because of the fact they cannot cope with this illness, because they want to look natural, and the only way they can look natural is getting these hair prostheses made by special individuals who specialize in this type of prosthesis.

So I would hope that we would see fit to vote this amendment.

Thank you, Madam Speaker.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—127

Adolph	Diven	Lederer	Samuelson
Allen	Donatucci	Lescovitz	Santoni
Argall	Evans, D.	Levdansky	Scavello
Baldwin	Evans, J.	Lewis	Scrimenti
Barrar	Fabrizio	Lynch	Shaner
Bebko-Jones	Feese	Maitland	Smith, S. H.
Belardi	Fichter	Manderino	Staback
Belfanti	Flick	Mann	Stairs
Bianucci	Frankel	Markosek	Sturla
Bishop	Freeman	McCall	Surra
Blaum	Gabig	McGeehan	Tangretti
Browne	Gannon	McGill	Taylor, J.
Bunt	George	McNaughton	Thomas
Butkovitz	Gergely	Melio	Tigue
Buxton	Godshall	Micozzie	Travaglio
Caltagirone	Goodman	Mundy	Vance
Casorio	Grucela	Myers	Veon
Cawley	Gruitza	O'Brien	Vitali
Civera	Haluska	Oliver	Walko
Cohen	Hanna	Pallone	Wansacz
Coleman	Harhai	Payne	Washington
Corrigan	Harper	Petrarca	Waters
Costa	Hershey	Petrone	Wheatley
Coy	James	Pistella	Williams
Creighton	Josephs	Preston	Wright
Cruz	Keller	Raymond	Yewcic
Curry	Kenney	Readshaw	Youngblood
Daley	Kirkland	Reichley	Yudichak
Dally	Kotik	Rieger	Zug
DeLuca	LaGrotta	Roberts	
Dermody	Laughlin	Roebuck	Perzel,
DeWeese	Leach	Sainato	Speaker
DiGirolamo			

NAYS—64

Armstrong	Forcier	Leh	Ross
Baker	Geist	Mackereth	Rubley
Bard	Gillespie	Maher	Ruffing
Bastian	Gingrich	Major	Sather
Benninghoff	Good	Marsico	Saylor
Birmelin	Gordner	McIlhattan	Schroder
Boyd	Habay	Metcalfe	Semmel
Cappelli	Harhart	Miller, R.	Smith, B.
Causer	Harris	Miller, S.	Steil
Clymer	Hasay	Mustio	Stern
Crahalla	Hennessey	Nailor	Stevenson, R.
Dailey	Herman	Nickol	Stevenson, T.
Denlinger	Hess	Phillips	True
Egolf	Hickernell	Pickett	Turzai
Fairchild	Hutchinson	Reed	Watson
Fleagle	Killion	Rohrer	Wilt

NOT VOTING—1

McIlhinney

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Ms. **BEBKO-JONES** offered the following amendment No. **A3352**:

Amend Title, page 1, line 11, by inserting after “providing” for coverage for cervical cancer screenings and

Amend Sec. 1, page 1, lines 16 and 17, by striking out “a section” and inserting sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18

Section 635.2. Coverage for Cervical Cancer Screening.—(a) A health insurance policy which is delivered, issued for delivery, renewed, extended or modified in this Commonwealth by a health care insurer shall provide that the health insurance benefits applicable under the policy include coverage for periodic health maintenance to include:

(1) Annual gynecological examination, including a pelvic examination and clinical breast examination.

(2) An examination and laboratory test used to screen for the early detection of cervical cancer such as the pap smear, liquid-based cytology, colposcopy, speculscopy, human papilloma virus (HPV) test or any other cervical cancer screening test approved by the United States Food and Drug Administration, annually or more frequently if recommended by a physician.

(b) The coverage required under this section shall be subject to annual deductibles, coinsurance and copayment requirements imposed by an entity subject to this section for similar coverages under the same health insurance policy or contract.

(c) If a health insurance policy provides coverage or benefits to a resident of this Commonwealth, it shall be deemed to be delivered in this Commonwealth within the meaning of this section, regardless of whether the health care insurer issuing or delivering the policy is located within or outside of this Commonwealth.

(d) This section shall apply to all insurance policies, subscriber contracts and group insurance certificates issued under any group master policy delivered or issued for delivery on or after the effective date of this section. This section shall also apply to all renewals of contracts on any renewal date which is on or after the effective date of this section.

(e) For the purpose of this section:

“Health insurance policy” means any individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:

(1) This act.

(2) The act of December 29, 1972 (P.L.1701, No.364), known as the “Health Maintenance Organization Act.”

(3) The act of May 18, 1976 (P.L.123, No.54), known as the “Individual Accident and Sickness Insurance Minimum Standards Act.”

(4) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(5) Medical assistance.

The term does not include the following types of supplemental insurance or any supplemental combination thereof: hospital indemnity, accident only, fixed indemnity, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers’ compensation or automobile medical payment insurance, or other limited supplemental benefit plan.

Amend Sec. 2, page 2, line 29, by striking out all of said line and inserting

Section 2. (a) The act of April 22, 1994 (P.L.136, No.20), known as the Women’s Preventative Health Services Act, is repealed.

(b) All acts and parts of acts are repealed insofar

On the question,

Will the House agree to the amendment?

The **SPEAKER** pro tempore. On that question, the Chair recognizes the lady, Ms. **Bebko-Jones**.

Ms. **BEBKO-JONES**. Thank you, Madam Speaker.

Madam Speaker, amendment A3352 simply is amending the Insurance Company Law of 1921. What this amendment simply does, Madam Speaker, is to provide health insurance that already exists by the health insurance benefits that are applicable under different preexisting preventative measures – for example, pelvic examinations and clinical breast examination, early detection of cervical cancer, such as Pap smears and any other cervical cancer screening tests that your physician would feel deemed necessary.

I believe that this amendment would be accepted by all insurance providers simply because early detection is going to cost that provider less money than it would if that particular insured developed the cancer and needed more treatment.

I would appreciate a “yes” vote from my colleagues on both sides of the aisle for this amendment.

Thank you, Madam Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-186

Adolph	Evans, J.	Leh	Ruffing
Allen	Fabrizio	Lescovitz	Sainato
Argall	Fairchild	Levdansky	Samuelson
Armstrong	Feese	Lewis	Santoni
Baker	Fichter	Lynch	Sather
Baldwin	Fleagle	Mackereth	Saylor
Bard	Flick	Maher	Scavello
Barrar	Frankel	Maitland	Schroder
Bastian	Freeman	Major	Scrimenti
Bebko-Jones	Gabig	Manderino	Semmel
Belardi	Gannon	Mann	Shaner
Belfanti	Geist	Markosek	Smith, B.
Bianucci	George	Marsico	Smith, S. H.
Bishop	Gergely	McCall	Staback
Blaum	Gillespie	McGeehan	Stairs
Boyd	Gingrich	McGill	Steil
Browne	Godshall	McIlhattan	Stern
Bunt	Good	McIlhinney	Stevenson, R.
Butkovitz	Goodman	McNaughton	Stevenson, T.
Buxton	Gordner	Melio	Sturla
Caltagirone	Grucela	Micozzie	Surra
Cappelli	Gruitza	Miller, R.	Tangretti
Casorio	Habay	Miller, S.	Taylor, J.
Causser	Haluska	Mundy	Thomas
Cawley	Hanna	Mustio	Tigue
Civera	Harhai	Myers	Travaglio
Clymer	Harhart	Nailor	True
Cohen	Harper	O’Brien	Turzai
Coleman	Harris	Oliver	Vance
Corrigan	Hasay	Pallone	Veon
Costa	Hennessey	Payne	Vitali
Coy	Herman	Petrarca	Walko
Crahalla	Hershey	Petrone	Wansacz

Creighton	Hess	Phillips	Washington
Cruz	Hickernell	Pickett	Waters
Curry	Hutchinson	Pistella	Watson
Dailey	James	Preston	Wheatley
Daley	Josephs	Raymond	Williams
Dally	Keller	Readshaw	Wilt
DeLuca	Kenney	Reed	Wright
Denlinger	Killion	Reichley	Yewcic
Dermody	Kirkland	Rieger	Youngblood
DeWeese	Kotik	Roberts	Yudichak
DiGiroloamo	LaGrotta	Roebuck	Zug
Diven	Laughlin	Rohrer	
Donatucci	Leach	Ross	Perzel,
Evans, D.	Lederer	Rublely	Speaker

NAYS—6

Benninghoff	Egolf	Metcalf	Nickol
Birmelin	Forcier		

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. **TANGRETTI** offered the following amendment No. **A3353**:

Amend Title, page 1, line 11, by inserting after “for” notification of clinical trial insurance coverage and for

Amend Sec. 1, page 1, lines 16 and 17, by striking out “a section” and inserting sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18

Section 631.1. Notification of Clinical Trial Coverage.—(a) An insurer shall notify an insured of clinical trial services that qualify for coverage under the insured’s health insurance policy.

(b) (1) The term “insurer” when used in this section means any entity that issues an individual or group health insurance policy.

(2) The term “health insurance policy” when used in this section means any individual or group health insurance policy, subscriber contract, certificate or plan which provides medical or health care coverage by any health care facility or licensed health care provider which is offered by or is governed under this act or any of the following:

(i) Subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the “Public Welfare Code.”

(ii) The act of December 29, 1972 (P.L.1701, No.364), known as the “Health Maintenance Organization Act.”

(iii) The act of May 18, 1976 (P.L.123, No.54), known as the “Individual Accident and Sickness Insurance Minimum Standards Act.”

(iv) A nonprofit corporation subject to 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations) and 63 (relating to professional health services plan corporations).

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Tangretti.

Mr. TANGRETTI. Thank you, Madam Speaker.

Madam Speaker, I think it is incumbent upon insurance companies to inform the insured of any clinical trials that they might cover for individuals who have specific kinds of medical problems and cannot get the kind of treatment they need under normal circumstances, and this amendment mandates that. And the reason for that is, in Westmoreland County we have an individual who went through this, a certain type of multiple myeloma cancer that required a very difficult type of bone marrow transplant that her insurance company said was experimental, and through a series of various investigative Internet research that she did on her own, she was able to determine that various research hospitals across the country were doing these experimental bone marrow transplants and that she might be a candidate, but her insurance company kept telling her she was not covered for that. Well, it turns out, after a loss of many months, which she could not afford, given her medical condition, they did cover certain clinical trials of certain research hospitals, and so she did have the transplant, and the insurance company did pay for it.

But why would she have to go through that when in fact they knew up front that that in fact was the possibility that they could do it? I am not going to make an accusation of why they did that; I am just curious of why they did that. Maybe it was bureaucratic bungling. Maybe it was misinformation by a staff person. But the fact of the matter was, they knew what operation she needed and did not tell her that they could in fact do it in Houston at the Anderson Cancer Institute.

I think that is wrong, and I think this amendment will force insurance companies, if they are underwriting clinical trials, to inform their insureds that in fact they do that, and I ask for an affirmative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Westmoreland, Mr. Stairs, on the amendment.

Mr. STAIRS. Thank you, Madam Speaker.

I join my colleague from Westmoreland County in supporting this amendment. I recall very vividly what Representative Tangretti is talking about, where we had a person who was in a very serious health condition and was turned down, and we intervened and were able to resolve it for her, but you know, it really was not necessary for us to do that, but we had to under the circumstances. But if we can pass this amendment and this becomes a law, maybe future people with these circumstances, during times of duress and stress and certainly dire physical conditions, would not have to go through the trauma that this lady did.

So let us support this amendment and help people down the road.

Thank you, Madam Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-186

Adolph	Egolf	Leach	Ruffing
Allen	Evans, D.	Lederer	Sainato
Argall	Evans, J.	Leh	Samuelson
Armstrong	Fabrizio	Lescovitz	Santoni
Baker	Fairchild	Levdansky	Sather
Baldwin	Feese	Lewis	Saylor
Bard	Fichter	Lynch	Scavello
Barrar	Fleagle	Maher	Schroder
Bastian	Flick	Maitland	Scrimenti
Bebko-Jones	Frankel	Major	Semmel
Belardi	Freeman	Manderino	Shaner
Belfanti	Gabig	Mann	Smith, B.
Biancucci	Gannon	Markosek	Smith, S. H.
Birmelin	Geist	Marsico	Staback
Bishop	George	McCall	Stairs
Blaum	Gergely	McGeehan	Steil
Boyd	Gillespie	McGill	Stern
Browne	Gingrich	McIlhattan	Stevenson, R.
Bunt	Godshall	McNaughton	Stevenson, T.
Butkovitz	Good	Melio	Sturla
Buxton	Goodman	Micozzie	Surra
Caltagirone	Gordner	Miller, R.	Tangretti
Cappelli	Grucela	Miller, S.	Taylor, J.
Casorio	Gruitza	Mundy	Thomas
Causar	Habay	Mustio	Tigue
Cawley	Haluska	Myers	Travaglio
Civera	Hanna	Nailor	True
Clymer	Harhai	O'Brien	Turzai
Cohen	Harhart	Oliver	Vance
Coleman	Harper	Pallone	Veon
Corrigan	Harris	Payne	Vitali
Costa	Hasay	Petrarca	Walko
Coy	Hennessey	Petrone	Wansacz
Crahalla	Herman	Phillips	Washington
Creighton	Hershey	Pickett	Waters
Cruz	Hess	Pistella	Watson
Curry	Hickernell	Preston	Wheatley
Dailey	Hutchinson	Raymond	Williams
Daley	James	Readshaw	Wilt
Dally	Josephs	Reed	Wright
DeLuca	Keller	Reichley	Yewcic
Denlinger	Kenney	Rieger	Youngblood
Dermody	Killion	Roberts	Yudichak
DeWeese	Kirkland	Roebuck	Zug
DiGirolamo	Kotik	Rohrer	
Diven	LaGrotta	Ross	Perzel,
Donatucci	Laughlin	Rubley	Speaker

NAYS-5

Benninghoff	Mackereth	Metcalfe	Nickol
Forcier			

NOT VOTING-1

McIlhinney

EXCUSED-11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. TANGRETTI offered the following amendment No. A3354:

Amend Title, page 1, line 11, by inserting after "laws," requiring prior approval for policy and rate changes under certain circumstances; and

Amend Sec. 1, page 1, lines 16 and 17, by striking out "a section" and inserting sections

Amend Sec. 1, page 1, by inserting between lines 17 and 18

Section 358. Prior Approval for Policy and Rate Changes.—(a) All individual and commercial rate changes and policy forms for medical professional liability insurance for a health care provider shall require prior approval by the Insurance Department. Notwithstanding any other provision of law, the Insurance Commissioner may, at the commissioner's discretion, direct the Insurance Department to hold an informational hearing on a rate change, if the rate increase exceeds ten per centum (10%) and such a hearing is requested by an insured or the representative of an insured.

(b) Proposed rate changes for medical professional liability insurance policies filed by medical professional liability insurers who are among the top ten (10) insurers, as measured by direct written premium of professional liability in this Commonwealth with a market share of ten per centum (10%) or more for health care providers, shall be published in advance of approval in the Pennsylvania Bulletin.

(c) (1) Prior to approving any rate change request, the Insurance Commissioner may review changes in a medical professional liability insurer's underwriting principles, claims data, including direct premiums written, direct losses paid and incurred losses.

(2) The Insurance Commissioner may not approve manuals of rates that include schedule rating plans where the credits and debits deviate from the base rate by more than twenty-five per centum (25%).

(d) The rate for a health care provider shall be reduced by a medical professional liability insurer when a medical professional liability action is terminated without payment of a medical professional liability claim on behalf of the health care provider, if the medical professional liability insurer imposed a rate increase because the medical professional liability claim was made.

(e) (1) The term "birth center" when used in this section means an entity licensed as a birth center under the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(2) The term "health care business or practice" when used in this section means the number of patients to whom health care services are rendered by a health care provider within an annual period.

(3) The term "health care provider" when used in this section means a participating health care provider or nonparticipating health care provider.

(4) The term "hospital" when used in this section means an entity licensed as a hospital under the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," or the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(5) The term "medical professional liability action" when used in this section means any proceeding in which a medical professional liability claim is asserted, including an action in a court of law or an arbitration proceeding.

(6) The term "medical professional liability claim" when used in this section means any claim seeking the recovery of damages or loss from a health care provider arising out of any tort or breach of contract causing injury or death resulting from the furnishing of health care services which were or should have been provided.

(7) The term "medical professional liability insurance" when used in this section means insurance against liability on the part of a health care provider arising out of any tort or breach of contract causing injury or death resulting from the furnishing of medical services which were or should have been provided.

(8) The term "nonparticipating health care provider" when used in this section means a primary health care center or a person, including a corporation, university or other educational institution

licensed or approved by the Commonwealth to provide health care or professional medical services as a physician, a certified nurse midwife, a podiatrist, hospital, nursing home, birth center and, except as to section 711(a) of the act of March 20, 2002 (P.L.154, No.13), known as the “Medical Care Availability and Reduction of Error (Mcare) Act,” an officer, employe or agent of any of them acting in the course and scope of employment, that conducts twenty per centum (20%) or less of its health care business or practice within this Commonwealth.

(9) The term “nursing home” when used in this section means an entity licensed as a nursing home under the act of July 19, 1979 (P.L.130, No.48), known as the “Health Care Facilities Act.”

(10) The term “participating health care provider” when used in this section means a primary health care center or a person, including a corporation, university or other educational institution licensed or approved by the Commonwealth to provide health care or professional medical services as a physician, a certified nurse midwife, a podiatrist, hospital, nursing home, birth center and, except as to section 711(a) of the act of March 20, 2002 (P.L.154, No.13), known as the “Medical Care Availability and Reduction of Error (Mcare) Act,” an officer, employe or agent of any of them acting in the course and scope of employment that conducts more than twenty per centum (20%) of its health care business or practice within this Commonwealth or a nonparticipating health care provider who chooses to participate in the Medical Care Availability and Reduction of Error (Mcare) Fund.

(11) The term “patient” when used in this section means a natural person who receives or should have received health care from a health care provider.

(12) The term “primary health center” when used in this section means a community-based nonprofit corporation meeting standards prescribed by the Department of Health which provides preventive, diagnostic, therapeutic and basic emergency health care by licensed practitioners who are employes of the corporation or under contract to the corporation.

On the question,
Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Tangretti.

Mr. TANGRETTI. Thank you, Madam Speaker.

Madam Speaker, Governor Rendell earlier this summer presented his medical malpractice reform package, and included within that is the amendment that I am offering.

I think we all, to a large extent, assumed that our Insurance Department had the ability and exercised that ability to look at medical malpractice rates as they were proposed by medical malpractice insurance companies and made a decision on whether in fact they were allowed to charge those rates. Well, I am here to tell you – and we all found out after the fact – that is not the case; they do not do that.

This would require that the department approve individual commercial rate changes in policy forms. It would require that they publish those rate changes in the Bulletin and that the Commissioner can mandate hearings about those rates, and it would require that medical malpractice insurance companies must open their books, show us their data, their claims, underwritings, premiums written, losses paid, losses incurred. And it also would mandate that any premium that is raised as a result of a claim filed must be reduced if that claim is not paid.

These are all commonsense approaches of what government is supposed to do relative to insurance companies and how they charge premiums, and we have all dealt with this issue over the last 2 years, if not longer. I believe this amendment will go a long way in reining in some of the insurance company abuses

relative to malpractice premiums for our doctors and hospitals, and I would urge an affirmative vote.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS-174

Adolph	Evans, J.	Leach	Ruffing
Allen	Fabrizio	Lederer	Sainato
Argall	Fairchild	Lescovitz	Samuelson
Armstrong	Feese	Levdansky	Santoni
Baker	Fichter	Lewis	Sather
Baldwin	Fleagle	Lynch	Saylor
Bard	Flick	Mackereth	Scavello
Barrar	Frankel	Maher	Schroder
Bastian	Freeman	Maitland	Scrimenti
Bebko-Jones	Gabig	Major	Semmel
Belardi	Gannon	Manderino	Shaner
Belfanti	Geist	Mann	Smith, B.
Bianucci	George	Markosek	Smith, S. H.
Bishop	Gergely	Marsico	Staback
Blaum	Gillespie	McCall	Stairs
Browne	Gingrich	McGeehan	Stern
Bunt	Good	McGill	Stevenson, R.
Butkovitz	Goodman	McIlhattan	Stevenson, T.
Buxton	Gordner	McIlhinney	Sturla
Caltagirone	Grucela	Melio	Surra
Cappelli	Gruitza	Micozzie	Tangretti
Casorio	Habay	Miller, S.	Taylor, J.
Causser	Haluska	Mundy	Thomas
Cawley	Hanna	Myers	Tigue
Civera	Harhai	Nailor	Travaglio
Clymer	Harhart	O'Brien	True
Cohen	Harper	Oliver	Vance
Corrigan	Harris	Pallone	Veon
Costa	Hasay	Payne	Vitali
Coy	Hennessey	Petrarca	Walko
Crahalla	Herman	Petrone	Wansacz
Cruz	Hershey	Phillips	Washington
Curry	Hess	Pickett	Waters
Dailey	Hickernell	Pistella	Watson
Daley	Hutchinson	Preston	Wheatley
Dally	James	Raymond	Williams
DeLuca	Josephs	Readshaw	Wright
Denlinger	Keller	Reed	Yewcic
Dermody	Kenney	Reichley	Youngblood
DeWeese	Killion	Rieger	Yudichak
DiGirolo	Kirkland	Roberts	Zug
Diven	Kotik	Roebuck	
Donatucci	LaGrotta	Ross	Perzel,
Evans, D.	Laughlin	Rubley	Speaker

NAYS-18

Benninghoff	Egolf	Metcalfe	Rohrer
Birmelin	Forcier	Miller, R.	Steil
Boyd	Godshall	Mustio	Turzai
Coleman	Leh	Nickol	Wilt
Creighton	McNaughton		

NOT VOTING-0

EXCUSED-11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Ms. MUNDY offered the following amendment No. A3404:

Amend Title, page 1, line 12, by removing the period after "programs" and inserting

; and defining "medical necessity" for purposes of quality health care accountability and protection.

Amend Bill, page 2, by inserting between lines 28 and 29

Section 2. Section 2102 of the act is amended by adding a definition to read:

Section 2102. Definitions.—As used in this article, the following words and phrases shall have the meanings given to them in this section:

* * *

"Medical necessity." Clinical determinations to establish a service or benefit which will or is reasonably expected to:

(1) prevent the onset of an illness, condition or disability;

(2) reduce or ameliorate the physical, mental, behavioral or developmental effects of any illness, condition, injury or disability; or

(3) assist the individual to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and those functional capacities appropriate for individuals of the same age.

* * *

Section 3. The addition of the definition of "medical necessity" in section 2102 of the act shall apply retroactively to January 1, 2003.

Amend Sec. 2, page 2, line 29, by striking out "2" and inserting 4

Amend Sec. 2, page 2, line 30, by striking out "this" and inserting

the addition of section 609-A of the

Amend Sec. 3, page 3, line 1, by striking out all of said line and inserting

Section 5. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of the definition of "medical necessity" in section 2102 of the act.

(ii) Section 3 of this act.

(iii) This section.

(2) The remainder of this act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the lady, Ms. Mundy.

Ms. MUNDY. Thank you, Madam Speaker.

This amendment puts in law a statewide definition for "medical necessity." Currently each individual insurance company has its own definition for "medical necessity." These definitions are vague and arbitrary, and they allow insurance companies on any given day, for any given treatment or procedure, to deny coverage, even though that coverage may be outlined in the person's policy.

I do not believe that is fair. I do not believe that insurance companies should be deciding what is medically necessary;

I think doctors should be deciding that. And I think we need to put in law a statewide definition that all insurance companies must abide by.

And just for your information, I did not pull this definition out of the air. This definition is the HealthChoices definition that covers people on welfare. I figure if it is good enough for folks on welfare, it should be good enough for the paying customers.

I would really appreciate your support of this amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—162

Adolph	Feese	Leh	Samuelson
Allen	Fichter	Lescovitz	Santoni
Argall	Fleagle	Levdansk	Sather
Armstrong	Flick	Lewis	Scavello
Baker	Frankel	Lynch	Schroder
Bard	Freeman	Maher	Scrimenti
Barrar	Gannon	Maitland	Semmel
Bebko-Jones	Geist	Major	Shaner
Belardi	George	Manderino	Smith, B.
Belfanti	Gergely	Mann	Smith, S. H.
Bianucci	Gingrich	Markosek	Staback
Bishop	Godshall	Marsico	Stairs
Blaum	Good	McCall	Steil
Browne	Goodman	McGeehan	Stern
Bunt	Gordner	McGill	Stevenson, R.
Butkovitz	Grucela	McIlhattan	Stevenson, T.
Buxton	Gruitza	McIlhinney	Sturla
Caltagirone	Habay	Melio	Surra
Cappelli	Haluska	Miller, S.	Tangretti
Casorio	Hanna	Mundy	Taylor, J.
Causar	Harhai	Myers	Thomas
Cawley	Harhart	O'Brien	Tigue
Civera	Harper	Oliver	Travaglio
Clymer	Harris	Pallone	Veon
Cohen	Hasay	Payne	Vitali
Corrigan	Hennessey	Petrarca	Walko
Costa	Herman	Petrone	Wansacz
Coy	Hershey	Phillips	Washington
Cruz	Hess	Pickett	Waters
Curry	Hutchinson	Pistella	Watson
Daley	James	Preston	Wheatley
Dally	Josephs	Raymond	Williams
DeLuca	Keller	Readshaw	Wilt
Dermody	Kenney	Reed	Wright
DeWeese	Killion	Reichley	Yewcic
DiGirolamo	Kirkland	Rieger	Youngblood
Diven	Kotik	Roberts	Yudichak
Donatucci	LaGrotta	Roebuck	Zug
Evans, D.	Laughlin	Rubley	
Evans, J.	Leach	Ruffing	Perzel,
Fabrizio	Lederer	Sainato	Speaker

NAYS—30

Baldwin	Dailey	Mackereth	Nickol
Bastian	Denlinger	McNaughton	Rohrer
Benninghoff	Egolf	Metcalfe	Ross
Birmelin	Fairchild	Micozzie	Saylor
Boyd	Forcier	Miller, R.	True
Coleman	Gabig	Mustio	Turzai
Crahalla	Gillespie	Nailor	Vance
Creighton	Hickernell		

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

AMENDMENT A2068 RECONSIDERED

The SPEAKER pro tempore. The Chair is in receipt of a reconsideration motion filed by Representative Feese. He moves that the vote by which amendment No. 2068 passed to HB 865, PN 1022, on the 15th day of September be reconsidered.

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—192

Adolph	Evans, D.	Leh	Rubley
Allen	Evans, J.	Lescovitz	Ruffing
Argall	Fabrizio	Levdansky	Sainato
Armstrong	Fairchild	Lewis	Samuelson
Baker	Feese	Lynch	Santoni
Baldwin	Fichter	Mackereth	Sather
Bard	Fleagle	Maher	Saylor
Barrar	Flick	Maitland	Scavello
Bastian	Forcier	Major	Schroder
Bebko-Jones	Frankel	Manderino	Scrimenti
Belardi	Freeman	Mann	Semmel
Belfanti	Gabig	Markosek	Shaner
Benninghoff	Gannon	Marsico	Smith, B.
Bianucci	Geist	McCall	Smith, S. H.
Birmelin	George	McGeehan	Staback
Bishop	Gergely	McGill	Stairs
Blaum	Gillespie	McIlhattan	Steil
Boyd	Gingrich	McIlhinney	Stern
Browne	Godshall	McNaughton	Stevenson, R.
Bunt	Good	Melio	Stevenson, T.
Butkovitz	Goodman	Metcalfe	Sturla
Buxton	Gordner	Micozzie	Surra
Caltagirone	Grucela	Miller, R.	Tangretti
Cappelli	Gruitza	Miller, S.	Taylor, J.
Casorio	Habay	Mundy	Thomas
Causar	Haluska	Mustio	Tigue
Cawley	Hanna	Myers	Travaglio
Civera	Harhai	Nailor	True
Clymer	Harhart	Nickol	Turzai
Cohen	Harper	O'Brien	Vance
Coleman	Harris	Oliver	Veon
Corrigan	Hasay	Pallone	Vitali
Costa	Hennessey	Payne	Walko
Coy	Herman	Petrarca	Wansacz
Crahalla	Hershey	Petrone	Washington
Creighton	Hess	Phillips	Waters
Cruz	Hickernell	Pickett	Watson
Curry	Hutchinson	Pistella	Wheatley
Dailey	James	Preston	Williams

Daley	Josephs	Raymond	Wilt
Dally	Keller	Readshaw	Wright
DeLuca	Kenney	Reed	Yewcic
Denlinger	Killion	Reichley	Youngblood
Demody	Kirkland	Rieger	Yudichak
DeWeese	Kotik	Roberts	Zug
DiGirolamo	LaGrotta	Roebuck	
Diven	Laughlin	Rohrer	
Donatucci	Leach	Ross	Perzel, Speaker
Egolf	Lederer		

NAYS—0

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the amendment?

The clerk read the following amendment No. **A2068**:

Amend Title, page 1, line 12, by removing the period after “programs” and inserting

; and mandating health insurance coverage for colorectal cancer screening.

Amend Sec. 1, page 1, lines 16 and 17, by striking out “a section” and inserting sections

Amend Sec. 1, page 2, by inserting between lines 28 and 29

Section 635.2. Coverage for Colorectal Cancer Screening.—(a)

Except to the extent already covered under another policy, all health insurance policies as defined in this section shall also provide coverage for colorectal cancer screening for covered individuals in accordance with the most recently published American Cancer Society guidelines for colorectal cancer screening and consistent with approved medical standards and practices.

(1) Coverage for nonsymptomatic covered individuals who are fifty (50) years of age or older shall include, but not be limited to:

(i) an annual fecal occult blood test;

(ii) a sigmoidoscopy or a test consistent with approved medical standards and practices to detect colon cancer, at least once every four (4) years.

(iii) A colonoscopy at least once every ten (10) years.

(2) Coverage for symptomatic covered individuals who are less than fifty (50) years of age shall include a colonoscopy, sigmoidoscopy or any combination of colorectal cancer screening tests at a frequency determined by a physician.

(b) The coverage required under this section shall be subject to annual deductibles, coinsurance and copayment requirements imposed by an entity subject to this section for similar coverages under the same health insurance policy or contract.

(c) For the purpose of this section:

(1) “Health insurance policy” means any individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:

(i) The act of May 17, 1921 (P.L.682, No.284), known as “The Insurance Company Law of 1921.”

(ii) The act of December 29, 1972 (P.L.1701, No.364), known as the “Health Maintenance Organization Act.”

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

(iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(v) Medical assistance.
The term does not include the following types of supplemental insurance or any supplemental combination thereof: hospital indemnity, accident only, fixed indemnity, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers' compensation or automobile medical payment insurance, or other limited supplemental benefit plan.

(2) "Colonoscopy" means an examination of the rectum and the entire colon using a lighted instrument called a colonoscope.

(3) "Colorectal cancer screening" means any of the following procedures that are furnished to an individual for the purpose of early detection of colorectal cancer:

(i) Screening fecal-occult blood test.

(ii) Screening flexible sigmoidoscopy.

(iii) Screening colonoscopy.

(iv) Screening barium enema.

(4) "Symptomatic person" means one of the following:

(i) an individual who experiences a change in bowel habits, rectal bleeding or persistent stomach cramps, weight loss, abdominal pain; or

(ii) an individual who poses a higher than average risk for colorectal cancer because he or she has had colorectal cancer or polyps, inflammatory bowel disease or an immediate family history of such conditions.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-187

Adolph	Evans, D.	Lederer	Rubley
Allen	Evans, J.	Leh	Ruffing
Argall	Fabrizio	Lescovitz	Sainato
Armstrong	Fairchild	Levdansky	Samuelson
Baker	Feese	Lewis	Santoni
Baldwin	Fichter	Lynch	Sather
Bard	Fleagle	Mackereth	Saylor
Barrar	Flick	Maher	Scavello
Bastian	Frankel	Maitland	Schroder
Bebko-Jones	Freeman	Major	Scrimenti
Belardi	Gabig	Manderino	Semmel
Belfanti	Gannon	Mann	Shaner
Benninghoff	Geist	Markosek	Smith, B.
Biancucci	George	Marsico	Smith, S. H.
Birmelin	Gergely	McCall	Staback
Bishop	Gillespie	McGeehan	Stairs
Blaum	Gingrich	McGill	Stern
Boyd	Godshall	McIlhattan	Stevenson, R.
Browne	Good	McIlhinney	Stevenson, T.
Bunt	Goodman	McNaughton	Sturla
Butkovitz	Gordner	Melio	Surra
Buxton	Grucela	Micozzie	Tangretti
Caltagirone	Gruitza	Miller, R.	Taylor, J.
Cappelli	Habay	Miller, S.	Thomas
Casorio	Haluska	Mundy	Tigue
Causer	Hanna	Mustio	Travaglio
Cawley	Harhai	Myers	True
Civera	Harhart	Nailor	Turzai
Clymer	Harper	O'Brien	Vance
Cohen	Harris	Oliver	Veon
Coleman	Hasay	Pallone	Vitali
Corrigan	Hennessey	Payne	Walko

Costa	Herman	Petrarca	Wansacz
Coy	Hershey	Petrone	Washington
Crahalla	Hess	Phillips	Waters
Creighton	Hickernell	Pickett	Watson
Cruz	Hutchinson	Pistella	Wheatley
Curry	James	Preston	Williams
Daley	Josephs	Raymond	Wilt
Dally	Keller	Readshaw	Wright
DeLuca	Kenney	Reed	Yewcic
Denlinger	Killion	Reichley	Youngblood
Dermody	Kirkland	Rieger	Yudichak
DeWeese	Kotik	Roberts	Zug
DiGirolo	LaGrotta	Roebuck	
Diven	Laughlin	Rohrer	Perzel,
	Leach	Ross	Speaker
Donatucci			

NAYS-5

Egolf	Metcalfe	Nickol	Steil
Forcier			

NOT VOTING-0

EXCUSED-11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

AMENDMENT A3352 RECONSIDERED

The SPEAKER pro tempore. The Chair is also in receipt of another reconsideration motion filed by Representative Feese, who moves that the vote by which amendment No. 3352 passed to HB 865, PN 1022, on the 15th day of September be reconsidered.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS-192

Adolph	Evans, D.	Leh	Rubley
Allen	Evans, J.	Lescovitz	Ruffing
Argall	Fabrizio	Levdansky	Sainato
Armstrong	Fairchild	Lewis	Samuelson
Baker	Feese	Lynch	Santoni
Baldwin	Fichter	Mackereth	Sather
Bard	Fleagle	Maher	Saylor
Barrar	Flick	Maitland	Scavello
Bastian	Forcier	Major	Schroder
Bebko-Jones	Frankel	Manderino	Scrimenti
Belardi	Freeman	Mann	Semmel
Belfanti	Gabig	Markosek	Shaner
Benninghoff	Gannon	Marsico	Smith, B.
Biancucci	Geist	McCall	Smith, S. H.
Birmelin	George	McGeehan	Staback

Bishop	Gergely	McGill	Stairs
Blaum	Gillespie	McIlhattan	Steil
Boyd	Gingrich	McIlhinney	Stern
Browne	Godshall	McNaughton	Stevenson, R.
Bunt	Good	Melio	Stevenson, T.
Butkovitz	Goodman	Metcalfe	Sturla
Buxton	Gordner	Micozzie	Surra
Caltagirone	Grucela	Miller, R.	Tangretti
Cappelli	Gruitza	Miller, S.	Taylor, J.
Casorio	Habay	Mundy	Thomas
Causer	Haluska	Mustio	Tigue
Cawley	Hanna	Myers	Travaglio
Civera	Harhai	Nailor	True
Clymer	Harhart	Nickol	Turzai
Cohen	Harper	O'Brien	Vance
Coleman	Harris	Oliver	Veon
Corrigan	Hasay	Pallone	Vitali
Costa	Hennessey	Payne	Walko
Coy	Herman	Petrarca	Wansacz
Crahalla	Hershey	Petrone	Washington
Creighton	Hess	Phillips	Waters
Cruz	Hickernell	Pickett	Watson
Curry	Hutchinson	Pistella	Wheatley
Dailey	James	Preston	Williams
Daley	Josephs	Raymond	Wilt
Dally	Keller	Readshaw	Wright
DeLuca	Kenney	Reed	Yewcic
Denlinger	Killion	Reichley	Youngblood
Dermody	Kirkland	Rieger	Yudichak
DeWeese	Kotik	Roberts	Zug
DiGirolamo	LaGrotta	Roebuck	
Diven	Laughlin	Rohrer	
Donatucci	Leach	Ross	Perzel,
Egolf	Lederer		Speaker

NAYS—0

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnarowski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the amendment?

The clerk read the following amendment No. **A3352**:

Amend Title, page 1, line 11, by inserting after "providing"
for coverage for cervical cancer screenings and
Amend Sec. 1, page 1, lines 16 and 17, by striking out
"a section" and inserting
sections
Amend Sec. 1, page 1, by inserting between lines 17 and 18
Section 635.2. Coverage for Cervical Cancer Screening.—(a)
A health insurance policy which is delivered, issued for delivery,
renewed, extended or modified in this Commonwealth by a health care
insurer shall provide that the health insurance benefits applicable under
the policy include coverage for periodic health maintenance to include:
(1) Annual gynecological examination, including a pelvic
examination and clinical breast examination.
(2) An examination and laboratory test used to screen for the
early detection of cervical cancer such as the pap smear, liquid-based
cytology, colposcopy, speculscopy, human papilloma virus (HPV) test
or any other cervical cancer screening test approved by the

United States Food and Drug Administration, annually or more
frequently if recommended by a physician.

(b) The coverage required under this section shall be subject to
annual deductibles, coinsurance and copayment requirements imposed
by an entity subject to this section for similar coverages under the same
health insurance policy or contract.

(c) If a health insurance policy provides coverage or benefits to a
resident of this Commonwealth, it shall be deemed to be delivered in
this Commonwealth within the meaning of this section, regardless of
whether the health care insurer issuing or delivering the policy is
located within or outside of this Commonwealth.

(d) This section shall apply to all insurance policies, subscriber
contracts and group insurance certificates issued under any group
master policy delivered or issued for delivery on or after the effective
date of this section. This section shall also apply to all renewals of
contracts on any renewal date which is on or after the effective date of
this section.

(e) For the purpose of this section:

"Health insurance policy" means any individual or group health,
sickness or accident policy or subscriber contract or certificate issued
by an entity subject to any one of the following:

(1) This act.

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

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

(4) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or
63 (relating to professional health services plan corporations).

(5) Medical assistance.

The term does not include the following types of supplemental
insurance or any supplemental combination thereof: hospital
indemnity, accident only, fixed indemnity, credit, dental, vision,
specified disease, Medicare supplement, Civilian Health and
Medical Program of the Uniformed Services (CHAMPUS) supplement,
long-term care or disability income, workers' compensation or
automobile medical payment insurance, or other limited supplemental
benefit plan.

Amend Sec. 2, page 2, line 29, by striking out all of said line and
inserting

Section 2. (a) The act of April 22, 1994 (P.L.136, No.20),
known as the Women's Preventative Health Services Act, is repealed.

(b) All acts and parts of acts are repealed insofar

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—187

Adolph	Evans, D.	Lederer	Rubley
Allen	Evans, J.	Leh	Ruffing
Argall	Fabrizio	Lescovitz	Sainato
Armstrong	Fairchild	Levdansky	Samuelson
Baker	Feese	Lewis	Santoni
Baldwin	Fichter	Lynch	Sather
Bard	Fleagle	Mackereth	Saylor
Barrar	Flick	Maher	Scavello
Bastian	Frankel	Maitland	Schroder
Bebko-Jones	Freeman	Major	Scrimiento
Belardi	Gabig	Manderino	Semmel
Belfanti	Gannon	Mann	Shaner
Benninghoff	Geist	Markosek	Smith, B.
Biancucci	George	Marsico	Smith, S. H.
Birmelin	Gergely	McCall	Staback
Bishop	Gillespie	McGeehan	Stairs
Blaum	Gingrich	McGill	Steil
Boyd	Godshall	McIlhattan	Stern
Browne	Good	McIlhinney	Stevenson, R.

Bunt	Goodman	McNaughton	Stevenson, T.
Butkovitz	Gordner	Melio	Sturla
Buxton	Grucela	Micozzie	Surra
Caltagirone	Gruitza	Miller, R.	Tangretti
Cappelli	Habay	Miller, S.	Thomas
Casorio	Haluska	Mundy	Tigue
Causer	Hanna	Mustio	Travaglio
Cawley	Harhai	Myers	True
Civera	Harhart	Nailor	Turzai
Clymer	Harper	O'Brien	Vance
Cohen	Harris	Oliver	Veon
Coleman	Hasay	Pallone	Vitali
Corrigan	Hennessey	Payne	Walko
Costa	Herman	Petrarca	Wansacz
Coy	Hershey	Petrone	Washington
Crahalla	Hess	Phillips	Waters
Creighton	Hickernell	Pickett	Watson
Cruz	Hutchinson	Pistella	Wheatley
Curry	James	Preston	Williams
Dailey	Josephs	Raymond	Wilt
Daley	Keller	Readshaw	Wright
Dally	Kenney	Reed	Yewcic
DeLuca	Killion	Reichley	Youngblood
Denlinger	Kirkland	Rieger	Yudichak
Dermody	Kotik	Roberts	Zug
DeWeese	LaGrotta	Roebuck	
DiGirolo	Laughlin	Rohrer	Perzel,
Diven	Leach	Ross	Speaker
Donatucci			

NAYS—4

Egolf	Forcier	Metcalfe	Nickol
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NOT VOTING—1

Taylor, J.

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

RULES SUSPENDED

The SPEAKER pro tempore. The Chair recognizes the gentleman from York-Adams, Mr. Nickol.

Mr. NICKOL. Madam Speaker, I move that the rules of the House be suspended in order to offer amendment 3399.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—191

Adolph	Evans, D.	Lederer	Rubly
Allen	Evans, J.	Leh	Ruffing

Argall	Fabrizio	Lescovitz	Sainato
Armstrong	Fairchild	Levdansky	Samuelson
Baker	Feese	Lewis	Santoni
Baldwin	Fichter	Lynch	Sather
Bard	Fleagle	Mackereth	Saylor
Barrar	Flick	Maher	Scavello
Bastian	Forcier	Maitland	Schroder
Bebko-Jones	Frankel	Major	Scrimenti
Belardi	Freeman	Manderino	Semmel
Belfanti	Gabig	Mann	Shaner
Benninghoff	Gannon	Markosek	Smith, B.
Biancucci	Geist	Marsico	Smith, S. H.
Birmelin	George	McCall	Staback
Bishop	Gergely	McGeehan	Stairs
Blaum	Gillespie	McGill	Steil
Boyd	Gingrich	McIlhattan	Stern
Browne	Godshall	McIlhinney	Stevenson, R.
Bunt	Good	McNaughton	Stevenson, T.
Butkovitz	Goodman	Melio	Sturla
Buxton	Gordner	Metcalfe	Surra
Caltagirone	Grucela	Micozzie	Tangretti
Cappelli	Gruitza	Miller, R.	Taylor, J.
Casorio	Habay	Miller, S.	Thomas
Causer	Haluska	Mundy	Tigue
Cawley	Hanna	Mustio	Travaglio
Civera	Harhai	Myers	True
Clymer	Harhart	Nailor	Turzai
Cohen	Harper	Nickol	Vance
Coleman	Harris	O'Brien	Veon
Corrigan	Hasay	Oliver	Vitali
Costa	Hennessey	Pallone	Walko
Coy	Herman	Payne	Wansacz
Crahalla	Hershey	Petrarca	Washington
Creighton	Hess	Petrone	Waters
Cruz	Hickernell	Phillips	Watson
Curry	Hutchinson	Pickett	Wheatley
Dailey	James	Pistella	Williams
Daley	Josephs	Preston	Wilt
Dally	Keller	Raymond	Wright
DeLuca	Kenney	Readshaw	Yewcic
Denlinger	Killion	Reed	Youngblood
Dermody	Kirkland	Reichley	Yudichak
DeWeese	Kotik	Rieger	Zug
DiGirolo	LaGrotta	Roberts	
Diven	Laughlin	Roebuck	Perzel,
Donatucci	Leach	Ross	Speaker
Egolf			

NAYS—1

Rohrer

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. NICKOL offered the following amendment No. A3399:

Amend Title, page 1, line 12, by removing the period after “programs” and inserting

and for a mandated benefit moratorium.

Amend Bill, page 2, by inserting between lines 28 and 29

Section 2. The act is amended by adding an article to read:

ARTICLE XXV

MANDATED BENEFIT MORATORIUM

Section 2501. Scope.

This article relates to a mandated benefit moratorium.

Section 2502. Definitions.

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

“Health insurance policy.” An individual or group health, sickness or accident policy, subscriber contract or certificate issued by an entity subject to any of the following:

(1) This act.

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

(3) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

“Insurer.” A foreign or domestic entity that issues a health insurance policy in this Commonwealth.

“Mandated benefit.” A benefit or coverage that is required by law to be offered or provided by a health insurer and that includes any of the following:

(1) Coverage and/or reimbursement for specific health care services, treatments or practices.

(2) The offering and/or reimbursement of specific health care services, treatments or practices.

Section 2503. Mandated benefit moratorium.

(a) General rule.—Notwithstanding any other provision of law to the contrary, pending submission to the General Assembly of the study required by section 2504, a moratorium is hereby established during which the General Assembly shall not enact any new or expanded health insurance policy mandated benefit.

(b) Construction.—Nothing in this article shall be construed to:

(1) Prohibit an employer or insurer from electing to provide new or expanded coverage under a health insurance policy.

(2) Prohibit changes in any coverage requirements to comply with Federal law.

Section 2504. Study of existing mandated benefits.

The Legislative Budget and Finance Committee shall study the issue of health insurance policy mandated benefits and the cost to employers and individuals of health insurance policy mandates. In conducting the study, the Legislative Budget and Finance Committee shall consider cost-benefit analyses to determine the cost-effectiveness of mandated benefits. At a minimum, the committee shall inquire into and make recommendations with respect to:

(1) Each and every federally mandated and State-mandated health benefit placed upon insurers in Pennsylvania since 1985.

(2) The impact of each such mandated health benefit on the premiums for health insurance policy coverage in this Commonwealth.

(3) The social, financial and medical efficacy of each such mandated health benefit.

The committee shall submit a final report with recommendations to the General Assembly no later than December 31, 2005, and shall publish notice of the final report in the Pennsylvania Bulletin within 30 days of the submission of the final report.

Amend Bill, page 2, lines 29 and 30, by striking out all of said lines and inserting

Section 3. All acts and parts of acts are repealed insofar as they are inconsistent with the addition of section 609-A of the act.

Section 4. The moratorium established under Article XXV of the act shall not apply to any health insurance policy mandated benefit added by this act.

Amend Sec. 3, page 3, line 1, by striking out “3” and inserting
5

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Nickol.

Mr. NICKOL. Thank you, Madam Speaker.

I am offering an amendment that will direct the Legislative Budget and Finance Committee to study the issue of existing health insurance policy mandated benefits and their cost and benefit to employers and individuals. The amendment will not affect any of the mandates that were added to the bill today, but it would establish a moratorium on any future mandates until this committee completes its study.

HB 865 is a good example of the problem I am trying to address. The bill amends the Insurance Company Law of 1921. In recent years it has become almost nearly impossible to move any bill amending this law without attracting a host of amendments mandating additional benefits for health insurance policies issued in this Commonwealth.

All you have to do is look at the amendments filed to this bill today, amendments that mandate insurance companies provide a new or increased level of benefits – everything from wigs to annual stool sample testing – and if past voting precedence is any indication, these amendments and all future amendments will normally be approved with scarcely a negative vote. In fact, a whole cottage industry seems to have sprung up in recent years with sophisticated campaigns to influence us to support many of these mandates.

But do we as legislators really have any idea at all the cost of the mandates that we are passing on to others? The cost does not show up in the fiscal notes issued by the House Appropriations Committee because the State does not pay for them. Do these mandates come without a cost? Definitely not. There is no free ride. So who does pay for them? Well, it is people like my daughter. Her husband was recently laid off. Along with his paycheck, he lost health insurance coverage. She has recently returned to college after starting a family, works part time on weekends to help make ends meet, and during the week cares for her kids, 1 1/2, 3, and 6 years old. She works part time. She does not have any coverage through her employer. This family, now dependent on unemployment compensation until my son-in-law finds a new job, now has to pay nearly \$1,000 a month for their health insurance coverage through COBRA (Consolidated Omnibus Budget Reconciliation Act). Guess what? It is young families like this that will have to pay out of pocket for any increased costs that we just imposed today.

Mandating additional benefits may seem painless to State employees like you and me since taxpayers pay for our health insurance coverage, but any additional cost is unaffordable for a young family like my daughter’s who must pay for their coverage out of pocket. I fear they would simply go without insurance like many other families, young and old, in their situation.

It is also small employers and their workers who will pay the cost. I had a small employer from Hanover that recently contacted me. They make architectural woodwork. The cost of their group plan just increased 36 percent from \$220,000 a year to \$300,000. They say they can no longer afford to provide the coverage for their workers.

The uncomfortable options faced by employers like this, those who truly want to provide health insurance coverage, include such steps as reducing policy limits, increasing copayments, dropping prescription drug coverage, or charging employees for a share of the cost of coverage. So guess who gets hurt? It is not always the employers who have to pay for the increased costs we impose here today. When they get to the point they can no longer afford the coverage, an employer usually shifts the cost to their employees or drops coverage altogether. When a small employer is already getting socked with a 36-percent increase in cost, every dollar we add is a burden.

What I am suggesting here today is nothing novel. Other States have imposed moratoriums while studying the cost of their existing mandates. I understand this was done in North Carolina, South Carolina, New York, Louisiana, and elsewhere.

A recent study by Kaiser Family Foundation and the Health Research and Education Trust found that health-care premiums for families in employer-sponsored plans soared 13.9 percent in 2003, the third straight year of double-digit growth and the biggest spike since 1990. Average annual family premiums for those of us who do not have to pay them for ourselves now run \$9,068 a year.

Families are increasingly paying a portion of these premiums, and other surveys, including one conducted by the SMC Business Councils, say health insurance costs are affecting hiring and layoff decisions by employers.

I feel it is time for us to pause, study the cost effectiveness of the existing mandates before we move forward in considering adding more.

Unfortunately, few families or small employers in Pennsylvania can afford to pay the cost of additional mandates. As well meaning as they might be, we are contributing to the fact that health insurance is virtually unaffordable for many Pennsylvanians less fortunate than us.

I urge members to support my amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Would the gentleman, Mr. Nickol, come to the podium, please.

The Chair recognizes the gentleman, Mr. Thomas, from Philadelphia, on the amendment.

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, I rise to support the Nickol amendment, but I do not want the author to be confused, and I am extremely thankful that the author is offering his amendment following our affirmative vote on the need for coverage in situations involving cervical cancer screening, colorectal cancer, and other areas.

Madam Speaker, yes, there have been a number of mandates, but, Madam Speaker, those mandates are long overdue. We have people literally dying, dying in Pennsylvania because they do not have access to care, especially when they are confronted with these difficult medical issues like cervical cancer, breast cancer. Breast cancer is hitting people all across

Pennsylvania, and for us to tolerate an employer-assisted program or an HMO (health maintenance organization) or a PPO (preferred provider organization) to continue to deny access to treatment, to deny access to some of these trials out there, and to deny access to research and development, Madam Speaker, because they cost too much is an area that I ask that we not tread upon.

So, Madam Speaker, I want to thank Representative Nickol for the amendment, but I want us to not use this amendment to avoid an obligation that we have, and that obligation is that as long as there is one Pennsylvanian that is without access to quality health care because of a limited employer-assisted program or because of an HMO or because of a preferred provider organization that does not believe they should provide this benefit or believe that this benefit is too expensive, Madam Speaker, I do not want to see us go there.

So I hope the Representative will use his influence to make sure that the Budget and Finance Committee moves expeditiously to provide some clarity on existing benefits, but let us not use this as a door to close, to close a door on our responsibility to make sure that certain benefits are available to people, especially when you look at the data around breast cancer, when you look at the growing number of problems around cervical cancer, and when you look at some of the issues that only our modern technology has been able to bring us face to face with.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Butkovitz, on the amendment.

Mr. BUTKOVITZ. Madam Speaker, would the maker of the amendment stand for interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. BUTKOVITZ. I just wanted to ask whether you have a legal opinion on the procedure that is followed here, which is to enact a law that would prohibit in the future passage of other laws on the same subject.

Mr. NICKOL. Madam Speaker, I have not requested any legal opinions on this amendment.

Mr. BUTKOVITZ. I would just ask if you are familiar with the principles of the Statutory Construction Act, which provides a number of procedures for interpreting, when there is a conflict between laws, what takes precedence. Included within that is that where there is a conflict between a law that is passed earlier and one that is passed later, that the later one is interpreted as nullifying the earlier one, and would that not have the effect of nullifying what you are trying to do in this law? For example, could the legislature next week not pass a new law expanding benefits and, under the analysis of the Statutory Construction Act, simply be viewed as repealing this law?

Mr. NICKOL. Madam Speaker, the gentleman is essentially correct. We can do almost anything here by a majority vote. It would be possible next week, if this were enacted this week, to pass another mandate and exempt it from the provisions of this section of law in the Insurance Company Law.

Mr. BUTKOVITZ. Madam Speaker, that is not precisely my question. I understand we could repeal any law at any time, but without even addressing the specific provisions of this bill but by simply enacting a new mandate under the principles

established in the Statutory Construction Act, would not the effect of this law simply be ignored and nullified?

Mr. NICKOL. Madam Speaker, I imagine that would be up to the courts to decide.

Mr. BUTKOVITZ. Okay.

Madam Speaker, my position would be that the way this language is drafted, regardless of the content of what is trying to be accomplished, that this is not artfully drafted in a way that would accomplish the objective that the gentleman seeks to accomplish— I am sorry; may I speak?

The SPEAKER pro tempore. You may proceed.

Mr. BUTKOVITZ. All right.

Regardless of the difference on content that is the subject of this debate, in light of the rules laid out in the Statutory Construction Act, this would not accomplish the objective that the maker of the amendment is trying to accomplish. There would be no change in the General Assembly's ability to continue to enact these mandates while this bill was on the books. If anything, it would simply add another layer of confusion and create more litigation, and I would suggest that it either be reconsidered or redrafted so that it could address that problem or that it be rejected in its current form.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Northampton, Mr. Samuelson, on the amendment.

Mr. SAMUELSON. Thank you, Madam Speaker.

I respectfully rise to oppose the Nickol amendment.

This amendment has some parts with merit. The study by the Legislative Budget and Finance Committee of insurance requirements, insurance mandates, is a very worthy idea, but to tie that study to a moratorium for a period of 2 years 3 months and 15 days— The language of the amendment said that this study would not be done until a deadline of December 31, 2005. Well, today in this afternoon's legislative session we have addressed cancer screenings for colorectal cancer, cervical cancer, and many other areas, but you know what? The field of medicine is not a static field. There are advances being made in medicine every day. If we were to not be allowed to address those medical advances in the insurance law of Pennsylvania for 2 years 3 months and 15 days, one has to ask the question, what if another procedure is developed in the future – next week or next month – and we adhere to the language of the Nickol amendment? We would not be allowed to address the insurance law of Pennsylvania. We could see the promised land of that future treatment, but we would be in the wilderness for 2 years 3 months and 15 days.

How would you feel if your family member could be treated by a procedure that is developed in the future that this legislature does not want to address for 2 years 3 months and 15 days? Let us look back to the 1950s. What if Jonas Salk in Pittsburgh, Pennsylvania, who developed the polio vaccine, what if he had to wait for 2 years 3 months and 15 days to share the results of his wonderful research, his lifesaving research? What if one of our best and brightest students in Pennsylvania this afternoon develops a cure for cancer and a treatment that can effectively cure cancer? Are we going to say as a legislature that we will not address that, will not address our insurance law until December 31 of 2005?

So I respectfully say that the study that is proposed by Representative Nickol in his amendment is a good idea, but let us not tie that study to a moratorium. I respectfully ask for a “no” vote on the Nickol amendment as it is currently drafted.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, from Allegheny County, Mr. DeLuca, on the amendment.

Mr. DeLUCA. Thank you, Madam Speaker.

Madam Speaker, I rise to oppose the Nickol amendment. What I was going to say, a lot of it has been said by the previous speaker, but let me just add this to it: You know, today we passed 15 amendments, and I am sure all the green lights on there were supportive of these amendments. Now, because we passed them in this House does not mean that the other body is going to pass it. So let us not kid ourselves.

If we would pass the Nickol amendment, we would not be able to pass any one of those 15 amendments till 2005. So I want you to think about that when you vote either way on this amendment, that you certainly supported the 15 amendments we had today for a cause, a cause that they were going to help people save lives. The rest should have voted “no.”

Technology is changing every day, and we cannot afford to put a moratorium on something that could change tomorrow. There might be a breakthrough tomorrow and the insurance companies, because of the almighty dollar, will not want to cover it, but it could be somebody in my family, it could be one of your loved ones in your family, and would you be able to look yourself in the face and say, boy, I wish I could have done that?

It is the same way when we talk about mental health parity. Everybody is against it because it would cost a slight – I think it was 10 cents, I think the study showed. But do you know how many young people out there are committing suicide because they cannot get help? What cost do we put on their lives, not only on their lives but the devastation on their parents and their grandparents and their siblings?

You know, sometimes we look at the money factor, and I know that is something we should look at, and we talk about people who do not have health care. Well, they do not have health care right now, but fortunately, every one of us here has health care. So we need to protect the people when there is a breakthrough to make sure that these things are taken care of.

Now, we have two great committees. We have the Health Care Cost Containment Council that does terrific work for us and the Legislative Budget and Finance Committee. Now, if we really want to send it to be studied, we could send it to either one of those committees and let them come back and give us a report, but it certainly would not take them to the end of 2005 to make that type of judgment, and then when they come back with their recommendation, it is either up to us to vote it up or down; it is either up to the majority chairman to let the bill out of committee; it is either up to the majority party whether they want to run the amendments.

So let us defeat this amendment. Certainly it has a lot of good points to it. We should study everything, but we should not put a moratorium on till 2005.

I ask for a “no” vote on this Nickol amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Philadelphia, Mr. Cohen, on the amendment.

Mr. COHEN. Madam Speaker, I strongly agree with Representative DeLuca's conclusion. We ought to study everything, but we ought not to impose moratoriums on ourselves. We ought not to pretend we are imposing moratoriums on ourselves. We ought not to try to set a policy judgment that nothing can happen until the Legislative Budget and Finance Committee completes this study. Of course, we in the legislature overrule the Budget and Finance Committee. We are capable of acting. Let us not try to create the impression that we are not capable of acting. Let us defeat this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Turzai, on the amendment. The gentleman waives off.

The Chair recognizes the gentleman from Delaware County, Mr. Micozzie, on the amendment.

Mr. MICOZZIE. Thank you, Madam Speaker.

Madam Speaker, I conducted six informational meetings with small business, Farm Bureau people, construction industry, and many other small business people. Their cry is that insurance costs are driving them out of business. They asked if we could do something to try to find out what the costs are and to do something about the high cost of insurance.

There is one thing you have to remember: Insurance companies, it does not cost insurance companies to take care of a mandate. Each and every one of us or each policyholder, when there is a mandate – and mandates increase costs – those policyholders, small businesses, pay the freight.

One of the problems we have in the legislature is that whenever we have an insurance law bill that comes to the floor and a mandate is attached to that bill as an amendment, to vote against it is like voting against motherhood, because the consequences of voting against a mandate that is emotional, the next election the other side, whatever side would do it, would put out a brochure that you are against cancer and you are against all the other things that a mandate does.

All this bill does is try to make us aware, each and every one of us, aware of what we are doing when we vote for a mandate. Mandates are killing the small business industry. It is hurting the very people that we want to help, the people who have insurance. Their policies are going to continue to increase unless we get a handle on these mandates.

So I ask for a positive vote on Representative Nickol's amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Clearfield County, Mr. George, on the amendment.

Mr. GEORGE. Thank you, Madam Speaker.

Madam Speaker, I do not intend to stand here and either criticize or challenge either the integrity or the heartfelt compassion that any legislator has for his constituency. I will not do that, but what I am concerned about is the previous speaker said we equate health care with cost, and why should we not? Somebody has to bear the cost.

I am most grateful of the businesses in Pennsylvania that provide health care for their employees and their families. The only thing that I can find, and it is not a study; that does not

trouble me, but it is the length of time that they were given to complete this study.

Now, I have before me a release from Penn State, and it said the Penn State College of Medicine has identified compounds that could wipe out an enzyme responsible for tumor growth. Imagine, today we find out there has been a new finding that could keep our constituents, even our family members, alive.

So looking at a study about cost is one thing, but giving them the opportunity to take their good old time, and so if it is found that the FDA advises that a drug can be used—Madam Speaker, maybe they do not care about what we are talking about, if you would.

Madam Speaker, maybe this body does not know of anybody that is sick or does not know of anyone who does not have the ability to care for himself or his family, but there are many of us that do know, and I am trying to put a point across that I think will make as much sense as anything that has been said this far.

So rather than worry about the amendment, I suggest that the previous speaker said he does not like a mandate, but the amendment provides a mandate. The amendment says that we cannot take a responsible action until that date to be able to say to the insurance provider there is a new medicine out and it will take care of this tumor growth and so we want a bill to force you to do that, but we will not be able to do that.

So what I do with this amendment, I ask that we allow the Secretary of Health, whenever it is brought to his or her attention, to have that prerogative, to have that responsibility on that one item that is brought before us, that we can take it up and place it into law, that that medicine can be provided to those of our constituents that it will help immediately, and I ask you to defeat this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Northumberland, Mr. Belfanti, on the amendment.

Mr. BELFANTI. Thank you, Madam Speaker.

It was not my intention to rise on this particular amendment, although it was my intention to vote against it. After listening to some of the previous speakers, I felt obliged to stand, and I will not belabor the issue.

However, I sincerely believe that it is very arguable that mandatory screenings, mandatory screenings that are mandated by this chamber and the Senate to the insurance industry, drive insurance rates higher. I personally believe and I think statistical data nationwide supports that claim. Undetected cancers, undetected cancers that require full-blown treatment, surgery, chemotherapy, radiation treatment, medications for the rest of one's life if they are a survivor of that surgery – those kinds of procedures are what drive hospital costs and insurance premiums up, not that screening that detects that type of cancer early enough that it can be treated simply by a couple of chemo treatments or sometimes simply medications.

The biggest part of my difficulty with this amendment, the Nickol amendment, is the moratorium, the 3-year moratorium. I might have opted to vote “no” and sat in my seat had it not been for that particular clause, and many of the speakers before me spoke about the devastating effects that could occur over this 3-year period of time with the innovation of new drugs and procedures. So for that reason, that main reason, I am standing about it.

Mandatory screenings, Madam Speaker, save millions and millions and millions of dollars for the insurance industry, but it

is tough to prove a negative. Once you have uncovered or discovered cancer and it is treated rapidly and the person goes into remission, the savings, because of that individual not having to go and receive full-blown coverage and medication for life, et cetera, are tough to put a number on. It is very difficult to prove a negative.

The other thing, Madam Speaker, one of the things that should have been contained in the Nickol amendment would have been a requirement by this chamber and the Senate to send a bill with a proviso in it that mandates the Pennsylvania insurance industry open up their books and explain to us how they can be sitting on billions of dollars in what they call loss reserves. They move billions of dollars over from their asset column to their liability column in their books. That, Madam Speaker, is something we ought to be looking at.

For them to have the highest surpluses of any State in all 50 States and continually come back and ask our small business people and our employees who are paying copays for 14- and 15- and 20-percent increases year after year, that, Madam Speaker, is what we ought to be looking at for the next 3 years, not a moratorium on health-care screening for colon cancer and cervical cancer and breast cancer.

Finally, Madam Speaker, I would just like to make this a bit more personal. I was elected in 1980, and there are still many members in this chamber who were here in 1980 or who were elected with me, and some of you may recall a very healthy and vibrant ex-police officer from the city of Philadelphia, Alphonso Deal, who was one of the preeminent speakers on the floor of this House his freshman year. He was knowledgeable; he was healthy; he was statuesque, and, Madam Speaker, one day he walked in and informed us in our caucus that it was discovered that he had colon cancer, and shortly thereafter, Madam Speaker, we broke for a 10- or 11-week summer recess. Madam Speaker, I cannot tell you, but those of you who were here at the time could not believe when they wheeled Mr. Deal back on to this floor some 3 months after he told us it was discovered he had colon cancer. The man was in a wheelchair; he had lost 60 pounds; his hair had turned from jet black to bright gray; he was totally devastated and wiped out, and a few months after that he passed away.

Madam Speaker, that illustration points out the need for early screening, early detection, and a 3-year moratorium would be a devastating blow to the people who have cancer now and those of you and those in your families who next week or next month or next year may develop cancer and find out that their coverage does not allow them to go in for a screening or even have a routine annual physical that includes certain types of screening for certain types of cancer.

I believe the gentleman, Mr. Nickol, has the small business community in mind and I believe his intentions are worthy, but that 3-year moratorium, along with the other problems that we have in this State with our insurance companies running herd over the general public need addressing long before we impose a 3-year moratorium on mandates on simple screenings that save countless lives and millions and millions of dollars.

Again, I am going to end with my opening statement. In my opinion, it is arguable at best that these mandated screenings cost more than people who are found to have cancer undetected and have to go through a full-blown operation, surgical procedure, and all of the subsequent treatments.

I urge a "no" vote on the Nickol amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York County, Mr. Nickol, on the amendment for the second time.

Mr. NICKOL. Thank you, Madam Speaker.

I would like to clarify several points that were raised in debate, misapprehensions or misunderstandings about the amendment I am offering.

The first one deals with the deadline. We have a member from Bethlehem who computed that 2 years 3 months and 15 days this moratorium would be in effect. That is not quite true. The moratorium is only in place until the study is completed. If it is completed in 2 months, it is a 2-month moratorium. I felt a need, though, to establish some drop-dead date in the future. So the moratorium will only exist as long as it takes the Legislative Budget and Finance Committee to do the study. It is not a moratorium until 2005 necessarily, unless it takes that committee that long. I thought we just deserved some protection, so there is a drop-dead date at the end.

Also, there are a lot of misconceptions with regard to what this amendment would prevent, that somehow I am going to stop health care in its tracks from this day forward, and that if there is a tremendous breakthrough to cure cancer, that we will not be able to give it to the citizens of Pennsylvania due to Steve Nickol and his amendment. That cannot be further from the truth.

I do not recall us ever sitting here in my 12 years in Harrisburg and approving prescription drug by prescription drug for coverage, and I do not recall us sitting here and approving item by item all the modern surgical advances that have occurred during that period of time. The fact of the matter is these things are already covered through the definition of "medical necessity" in every health insurance policy issued in this Commonwealth. These things would not be prevented. That is a total red herring. I am only talking about those types of mandates that we are imposing today, for example, and we have done in the past. I believe there are about 40 mandates on the books in Pennsylvania.

So, I mean, I stand here somewhat chagrined with some of the comments, because this amendment has been portrayed either as doing nothing, due to the Statutory Construction Act, or just totally destroying health care in the Commonwealth. I do not feel either is the truth. Even if this amendment runs afoul of the Statutory Construction Act and it does not serve to block future mandates, it does provide for a meaningful and necessary study of the cost and effectiveness of the existing mandates. Why should we not know what we have already cost the people who pay for health insurance in this State so we know how to proceed in the future?

And again, with regard to stopping health care, I mean, we are just not going to be doing this. This is a short-term time; it is a breather. It is like if you live in an area with uncontrolled growth where a municipality would like to stop that growth to catch their breath to get their laws on the books and give special consideration to how to grow properly in the future, it is much similar to that.

I think we need a breather in these health-care mandates. The cost of health insurance, I keep hearing from my constituents, individuals who pay the policy themselves and small businesses who pay for these policies, that they need a breather; they need us to help them control the cost of health insurance. The problem is, if we do not get a handle on

health insurance costs, we are going to have fewer and fewer Pennsylvanians who have the luxury of health insurance.

I urge members to vote for my amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-88

Adolph	Evans, J.	Hutchinson	Reed
Allen	Fairchild	Killion	Reichley
Argall	Fichter	Leh	Rohrer
Armstrong	Flick	Lynch	Ross
Baker	Forcier	Mackereth	Sather
Baldwin	Gabig	Maher	Saylor
Bard	Gannon	Maitland	Schroder
Bastian	Geist	Major	Semmel
Benninghoff	Gillespie	Marsico	Smith, S. H.
Birmelin	Gingrich	McIlhattan	Stairs
Boyd	Godshall	McIlhinney	Steil
Browne	Good	McNaughton	Stern
Cappelli	Gordner	Metcalfe	Stevenson, R.
Causar	Habay	Micozzie	Stevenson, T.
Civera	Harhart	Miller, R.	True
Clymer	Harper	Mustio	Turzai
Coleman	Harris	Nailor	Vance
Crahalla	Hasay	Nickol	Vitali
Dailey	Hennessey	Payne	Watson
Dally	Hershey	Phillips	Wilt
Denlinger	Hess	Pickett	Wright
Egolf	Hickernell	Raymond	Zug

NAYS-104

Barrar	Evans, D.	Lewis	Santoni
Bebko-Jones	Fabrizio	Manderino	Scavello
Belardi	Feese	Mann	Scrimenti
Belfanti	Fleagle	Markosek	Shaner
Biancucci	Frankel	McCall	Smith, B.
Bishop	Freeman	McGeehan	Staback
Blaum	George	McGill	Sturla
Bunt	Gergely	Melio	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Grucela	Mundy	Taylor, J.
Caltagirone	Gruitza	Myers	Thomas
Casorio	Haluska	O'Brien	Tigue
Cawley	Hanna	Oliver	Travaglio
Cohen	Harhai	Pallone	Veon
Corrigan	Herman	Petrarca	Walko
Costa	James	Petrone	Wansacz
Coy	Josephs	Pistella	Washington
Creighton	Keller	Preston	Waters
Cruz	Kenny	Readshaw	Wheatley
Curry	Kirkland	Rieger	Williams
Daley	Kotik	Roberts	Yewcic
DeLuca	LaGrotta	Roebuck	Youngblood
Dermody	Laughlin	Rubley	Yudichak
DeWeese	Leach	Ruffing	
DiGirolamo	Lederer	Sainato	
Diven	Lescovitz	Samuelson	Perzel,
Donatucci	Levdansky		Speaker

NOT VOTING-0

EXCUSED-11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsley	Rooney	Taylor, E. Z.	

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

AMENDMENT A3404 RECONSIDERED

The SPEAKER pro tempore. The Chair is in receipt of a reconsideration motion by Representative Reichley, who moves that the vote by which amendment No. 3404 passed to HB 865, PN 1022, on the 15th day of September 2003 be reconsidered.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS-186

Adolph	Evans, J.	Lederer	Ross
Allen	Fabrizio	Leh	Rubley
Argall	Fairchild	Lescovitz	Ruffing
Armstrong	Feese	Levdansky	Sainato
Baker	Fichter	Lewis	Samuelson
Baldwin	Fleagle	Lynch	Santoni
Bard	Flick	Mackereth	Sather
Barrar	Forcier	Maher	Saylor
Bastian	Frankel	Maitland	Scavello
Bebko-Jones	Freeman	Major	Schroder
Belardi	Gabig	Manderino	Scrimenti
Belfanti	Gannon	Mann	Semmel
Benninghoff	Geist	Markosek	Shaner
Biancucci	George	Marsico	Smith, B.
Birmelin	Gergely	McCall	Smith, S. H.
Bishop	Gillespie	McGeehan	Stairs
Boyd	Gingrich	McGill	Steil
Browne	Godshall	McIlhattan	Stern
Bunt	Good	McIlhinney	Stevenson, R.
Butkovitz	Goodman	McNaughton	Stevenson, T.
Buxton	Gordner	Melio	Surra
Caltagirone	Grucela	Metcalfe	Tangretti
Cappelli	Gruitza	Micozzie	Taylor, J.
Casorio	Habay	Miller, R.	Thomas
Causar	Haluska	Miller, S.	Tigue
Civera	Hanna	Mustio	Travaglio
Clymer	Harhai	Myers	True
Cohen	Harhart	Nailor	Turzai
Coleman	Harper	Nickol	Vance
Corrigan	Harris	O'Brien	Veon
Costa	Hasay	Oliver	Vitali
Crahalla	Hennessey	Pallone	Walko
Creighton	Herman	Payne	Wansacz
Cruz	Hershey	Petrarca	Washington
Curry	Hess	Petrone	Waters
Dailey	Hickernell	Phillips	Watson
Daley	Hutchinson	Pickett	Wheatley
Dally	James	Pistella	Williams
DeLuca	Josephs	Preston	Wilt
Denlinger	Keller	Raymond	Wright
Dermody	Kenny	Readshaw	Yewcic
DeWeese	Killion	Reed	Youngblood
DiGirolamo	Kirkland	Reichley	Yudichak
Diven	Kotik	Rieger	Zug
Donatucci	LaGrotta	Roberts	
Egolf	Laughlin	Roebuck	Perzel,
Evans, D.	Leach	Rohrer	Speaker

NAYS—6

Blaum	Coy	Staback	Sturla
Cawley	Mundy		

NOT VOTING—0

EXCUSED—11

Cornell	O'Neill	Solobay	Weber
Eachus	Petri	Stetler	Wojnaroski
Horsey	Rooney	Taylor, E. Z.	

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the amendment?

The clerk read the following amendment No. **A3404**:

Amend Title, page 1, line 12, by removing the period after “programs” and inserting

; and defining “medical necessity” for purposes of quality health care accountability and protection.

Amend Bill, page 2, by inserting between lines 28 and 29

Section 2. Section 2102 of the act is amended by adding a definition to read:

Section 2102. Definitions.—As used in this article, the following words and phrases shall have the meanings given to them in this section:

* * *

“Medical necessity.” Clinical determinations to establish a service or benefit which will or is reasonably expected to:

- (1) prevent the onset of an illness, condition or disability;
- (2) reduce or ameliorate the physical, mental, behavioral or developmental effects of any illness, condition, injury or disability; or
- (3) assist the individual to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and those functional capacities appropriate for individuals of the same age.

* * *

Section 3. The addition of the definition of “medical necessity” in section 2102 of the act shall apply retroactively to January 1, 2003.

Amend Sec. 2, page 2, line 29, by striking out “2” and inserting
4

Amend Sec. 2, page 2, line 30, by striking out “this” and inserting

the addition of section 609-A of the

Amend Sec. 3, page 3, line 1, by striking out all of said line and inserting

Section 5. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

- (i) The addition of the definition of “medical necessity” in section 2102 of the act.
- (ii) Section 3 of this act.
- (iii) This section.

(2) The remainder of this act shall take effect in 60 days.

On the question recurring,
Will the House agree to the amendment?

(Members proceeded to vote.)

VOTE STRICKEN

The SPEAKER pro tempore. Please strike that vote.

On the amendment, the Chair recognizes the gentleman from Lehigh, Mr. Reichley.

Mr. REICHLEY. Thank you, Madam Speaker.

Would the maker of the amendment please rise for interrogation?

The SPEAKER pro tempore. The lady agrees. You may proceed.

Mr. REICHLEY. Thank you, Madam Speaker.

Madam Speaker, I may have missed on your original discussion of the amendment, is it correct that the change in the definition of “medical necessity” under the language of the amendment would have a retroactive effect to January 1 of this year?

Ms. MUNDY. I am not aware that it would have a retroactive effect.

Mr. REICHLEY. Does not the language of the amendment in section—

Ms. MUNDY. Excuse me. What is it in the amendment that makes you think that it would have a retroactive effect?

Mr. REICHLEY. The statement that the definition of “medical necessity” has a retroactive effect to January 1 of 2003.

Ms. MUNDY. Madam Speaker, can you point to the lines in the amendment that you are talking about, because my amendment, as I have it in front of me, says, “This act shall take effect as follows:...The following provisions shall take effect immediately:...The addition of the definition of ‘medical necessity’ in section 2102 of the act....Section 3 of this act....This section....The remainder of this act shall take effect in 60 days.”

Mr. REICHLEY. May I speak, Madam Speaker?

I would refer you to lines 25 through 27, which states, “The addition” – I am sorry; I cannot read that far – “The addition of the definition of ‘medical necessity’ in section 2102...shall apply retroactively to January 1, 2003.”

Ms. MUNDY. Madam Speaker, I am afraid I cannot respond to your question intelligently. It looks like a drafting error, but section 5 appears to— Madam Speaker, I am told that section 2102 is already part of the law. It is not underlined. It is existing law. It is not part of my amendment.

Mr. REICHLEY. Madam Speaker, does the maker of the amendment agree that this interpretation would still affect the definition of the applicability of this definition retroactive to January 1, 2003—

Ms. MUNDY. My amendment—

Mr. REICHLEY. —thereby creating a situation where an insurer has denied a procedure as not being medically necessary and now would have to retract that statement?

Ms. MUNDY. My understanding of my amendment is that it only – only the sections underlined change existing law. The part you are referring to is existing law and is not changed by my amendment. So I have never heard of amendments being retroactive unless you say they are, and certainly this amendment does not say that it is retroactive.

Mr. REICHLEY. Well, would the existing law have preceded or been since January 1, 2003?

Ms. MUNDY. Existing law is in effect right now, and my amendment will not change existing law until and unless it passes the House, the Senate, and is signed by the Governor.

Excuse me one minute. Maybe I can give you a better answer.

Madam Speaker, I stand by what I said as far as I know. I cannot address this issue any further. I am not aware that this would make any section of existing law retroactive.

PARLIAMENTARY INQUIRY

Mr. REICHLEY. Well, Madam Speaker, as a point of parliamentary procedure, I would refer this to the Parliamentarian to be able to advise the Chair as to whether the amendment as it is written has the effect as described by the maker of the amendment or whether it would have a retroactive effect.

The SPEAKER pro tempore. Would the lady, Ms. Mundy, and the gentleman, Mr. Reichley, please come to the podium.

The House will be at ease for a moment.

(Conference held at Speaker's podium.)

The SPEAKER pro tempore. The Chair recognizes the lady, Ms. Mundy, on the amendment.

Ms. MUNDY. Thank you, Madam Speaker.

We have checked with the Legislative Reference Bureau, and I am not a lawyer and I do not really understand the explanation. It sounds silly to me, the explanation, but apparently this would be retroactive, and that was never my intent that companies would have to undo decisions they have already made.

AMENDMENT WITHDRAWN

Ms. MUNDY. So I am withdrawing the amendment at this point in time until I can straighten this out and get the appropriate language in an amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady.

LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The Chair returns to leaves of absence and notices the presence on the floor of the gentleman, Mr. Petri.

CONSIDERATION OF HB 865 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration as amended?

MOTION TO SUSPEND RULES

The SPEAKER pro tempore. The Chair recognizes the lady, Ms. Bard.

Ms. BARD. Madam Speaker, I move that the rules of the House be suspended in order to offer amendment No. 3430.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. This motion can be debated only by the leaders.

On the motion to suspend, the Chair recognizes the gentleman from Greene County, Mr. DeWeese.

Mr. DeWEESE. Thank you very much, Madam Speaker.

I would vigorously oppose this effort.

Not too long ago we took the amount of insurance that would be required from our physicians from \$1.2 million to \$1 million. Now the gentlelady is attempting to take it down again on a day when the debate is certainly not upon medical malpractice. This is, I believe, an inopportune time to inject this kind of measure into the debate. We are not talking about this. It is not a mainstream issue today. I think this whole endeavor is more suffused with eastern Pennsylvania congressional campaign politics than it is with public policy.

I think that people who are potentially injured or aggrieved by the tort system could suffer. This is not the right time; this is not the right place; this is not the right venue. We have taken steps in the direction that the gentlelady has requested earlier in the year.

Again, if my constituents or your constituents are injured or hurt by malpractice, by bad medical practice, the amount of insurance that they have now, the doctors have now, is less than what it was just a few months ago. To take it and knock it down again, to knock it down again without any debate today, to suspend the rules, to do it higgledy-piggledy, flimflam, 100 miles an hour, this is not the right day, this is not the right place, and anybody who has constituents who could possibly be aggrieved by the malpractice system, I believe, would ask that the rules not be suspended, that we do not treat this issue cavalierly, automatically, and quickly.

I would ask for a "no" vote, a "no" vote, and I believe that many people, many people, both in labor unions and the trial bar and among our constituents at large, would ask for a "no" vote.

Thank you very much, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

This is only debatable by the leaders.

The gentleman, Mr. Smith, defers to the lady, Ms. Bard.

Ms. BARD. Thank you, Madam Speaker.

The SPEAKER pro tempore. Would the lady cease just one moment.

It is not on the system yet because it is a motion to suspend. It is exactly the same amendment as it was before, 3144, except on page 7, section (m) is deleted.

For what purpose does the gentleman, Mr. Thomas, rise?

Mr. THOMAS. Point of clarification. I do not want to debate it. I just want a clarification.

On the machine it is amendment 3144, it is 3430 on the board, and I just want to know what is right and what is wrong.

The SPEAKER pro tempore. 3430 is just now on the system.

Mr. THOMAS. Okay. So I should disregard 3144?

The SPEAKER pro tempore. Yes, sir, you can now.

Mr. THOMAS. Thank you.

The SPEAKER pro tempore. The Chair recognizes the lady from Montgomery County, Ms. Bard, on suspension.

Ms. BARD. Thank you very much, Madam Speaker.

The suspension motion is necessitated by the fact that the reference to the cigarette tax has been totally removed from the legislation. There is no longer any reference to any cigarette tax in the legislation. Only several lines of the legislation have been altered in that manner in terms of deleting that section.

Therefore, this legislation has certainly been reviewed in both caucuses. There has been plenty of opportunity. The amendment was filed some months ago, and certainly there has been plenty of opportunity for people to study the meaning of this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. Those voting to suspend the rules will vote “aye”; those wishing to not suspend the rules will vote “nay.”

On the question recurring,
Will the House agree to the motion?

The following roll call was recorded:

YEAS-107

Adolph	Feese	Leh	Reichley
Allen	Fichter	Lewis	Rohrer
Argall	Fleagle	Lynch	Ross
Armstrong	Flick	Mackereth	Rubley
Baker	Forcier	Maher	Sather
Baldwin	Gabig	Maitland	Saylor
Bard	Gannon	Major	Scavello
Barrar	Geist	Marsico	Schroder
Bastian	Gillespie	McGill	Semmel
Benninghoff	Gingrich	McIlhattan	Smith, B.
Birmelin	Godshall	McIlhinney	Smith, S. H.
Boyd	Good	McNaughton	Steil
Browne	Gordner	Metcalfe	Stern
Bunt	Habay	Micozzie	Stevenson, R.
Cappelli	Harhart	Miller, R.	Stevenson, T.
Causer	Harper	Miller, S.	Taylor, J.
Civera	Harris	Mustio	True
Clymer	Hasay	Nailor	Turzai
Coleman	Hennessey	Nickol	Vance
Crahalla	Herman	O'Brien	Watson
Creighton	Hershey	Payne	Wilt
Dailey	Hess	Petrarca	Wright
Dally	Hickernell	Petri	Youngblood
Denlinger	Hutchinson	Phillips	Zug
DiGirolamo	Kenney	Pickett	
Egolf	Killion	Raymond	Perzel,
Evans, J.	Leach	Reed	Speaker
Fairchild			

NAYS-85

Bebko-Jones	Donatucci	Lescovitz	Samuelson
Belardi	Evans, D.	Levdansky	Santoni
Belfanti	Fabrizio	Manderino	Scrimenti
Bianucci	Frankel	Mann	Shaner
Bishop	Freeman	Markosek	Staback
Blaum	George	McCall	Sturla
Butkovitz	Gergely	McGeehan	Surra
Buxton	Goodman	Melio	Tangretti
Caltagirone	Grucela	Mundy	Thomas
Casorio	Gruitza	Myers	Tigue
Cawley	Haluska	Oliver	Travaglio
Cohen	Hanna	Pallone	Veon
Corrigan	Harhai	Petrone	Vitali
Costa	James	Pistella	Walko
Coy	Josephs	Preston	Wansacz
Cruz	Keller	Readshaw	Washington
Curry	Kirkland	Rieger	Waters

Daley	Kotik	Roberts	Wheatley
DeLuca	LaGrotta	Roebuck	Williams
Dermody	Laughlin	Ruffing	Yewcic
DeWeese	Lederer	Sainato	Yudichak
Diven			

NOT VOTING-1

Stairs

EXCUSED-10

Cornell	O'Neill	Stetler	Weber
Eachus	Rooney	Taylor, E. Z.	Wojnaroski
Horsey	Solobay		

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?
Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

For what reason does the lady, Ms. Bard, rise?
Ms. BARD. Madam Speaker, I would like to call up the prior amendment then.

DECISION OF CHAIR RESCINDED

The SPEAKER pro tempore. Without objection, the Chair rescinds its announcement that the bill is on final passage.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Ms. BARD offered the following amendment No. **A3144**:

Amend Title, page 1, line 11, by inserting after “providing”
for medical liability insurance and
Amend Title, page 1, line 12, by removing the period after
“programs” and inserting
; and making repeats.
Amend Bill, page 2, lines 29 and 30, by striking out all of said
lines and inserting
Section 2. The act is amended by adding an article to read:
ARTICLE XXV
MEDICAL LIABILITY INSURANCE
SUBARTICLE A
PRELIMINARY PROVISIONS

Section 2501. Scope.
This article relates to medical professional liability insurance.
Section 2502. Definitions.
The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:
“Basic insurance coverage.” The limits of medical professional liability insurance required under section 2511(d).

“Claims made.” Medical professional liability insurance that insures those claims made or reported during a period which is insured and excludes coverage for a claim reported subsequent to the period even if the claim resulted from an occurrence during the period which was insured.

“Claims period.” The period from September 1 to the following August 31.

“Deficit.” A joint underwriting association loss which exceeds the sum of earned premiums collected by the joint underwriting association and investment income.

“Department.” The Insurance Department of the Commonwealth.

“Fund.” The Medical Care Availability and Reduction of Error (Mcare) Fund established in section 2512.

“Fund coverage limits.” The coverage provided by the Medical Care Availability and Reduction of Error Fund under section 2512.

“Government.” The Government of the United States, any state, any political subdivision of a state, any instrumentality of one or more states or any agency, subdivision or department of any such government, including any corporation or other association organized by a government for the execution of a government program and subject to control by a government or any corporation or agency established under an interstate compact or international treaty.

“Health care business or practice.” The number of patients to whom health care services are rendered by a health care provider within an annual period.

“Health care provider.” A participating health care provider or nonparticipating health care provider.

“Joint underwriting association.” The Pennsylvania Professional Liability Joint Underwriting Association established in section 2531.

“Joint underwriting association loss.” The sum of the administrative expenses, taxes, losses, loss adjustment expenses, unearned premiums and reserves, including reserves for losses incurred and losses incurred but not reported, of the joint underwriting association.

“Licensure authority.” The State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Podiatry, the Department of Public Welfare and the Department of Health.

“Medical professional liability insurance.” Insurance against liability on the part of a health care provider arising out of any tort or breach of contract causing injury or death resulting from the furnishing of medical services which were or should have been provided.

“Nonparticipating health care provider.” A “health care provider” as defined in section 103 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, that conducts 20% or less of its health care business or practice within this Commonwealth.

“Participating health care provider.” A “health care provider” as defined in section 103 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, that conducts more than 20% of its health care business or practice within this Commonwealth or a nonparticipating health care provider who chooses to participate in the fund.

“Prevailing primary premium.” The schedule of occurrence rates approved by the commissioner for the joint underwriting association.

SUBARTICLE B

FUND

Section 2511. Medical professional liability insurance.

(a) Requirement.—A health care provider providing health care services in this Commonwealth shall:

(1) purchase medical professional liability insurance from an insurer which is licensed or approved by the department; or

(2) provide self-insurance.

(b) Proof of insurance.—A health care provider required by subsection (a) to purchase medical professional liability insurance or

provide self-insurance shall submit proof of insurance or self-insurance to the department within 60 days of the policy being issued.

(c) Failure to provide proof of insurance.—If a health care provider fails to submit the proof of insurance or self-insurance required by subsection (b), the department shall, after providing the health care provider with notice, notify the health care provider’s licensing authority. A health care provider’s license shall be suspended or revoked by its licensure board or agency if the health care provider fails to comply with any of the provisions of this article.

(d) Basic coverage limits.—A health care provider shall insure or self-insure medical professional liability in accordance with the following:

(1) For policies issued or renewed in the calendar year 2002, the basic insurance coverage shall be:

(i) \$500,000 per occurrence or claim and \$1,500,000 per annual aggregate for a health care provider who conducts more than 50% of its health care business or practice within this Commonwealth and that is not a hospital.

(ii) \$500,000 per occurrence or claim and \$1,500,000 per annual aggregate for a health care provider who conducts 50% or less of its health care business or practice within this Commonwealth.

(iii) \$500,000 per occurrence or claim and \$2,500,000 per annual aggregate for a hospital.

(1.1) For policies issued or renewed in the calendar year 2003, the basic insurance coverage shall be:

(i) \$500,000 per occurrence or claim and \$1,500,000 per annual aggregate for a participating health care provider that is not a hospital.

(ii) \$1,000,000 per occurrence or claim and \$3,000,000 per annual aggregate for a nonparticipating health care provider.

(iii) \$500,000 per occurrence or claim and \$1,250,000 per annual aggregate for a hospital.

(2) For policies issued or renewed in the calendar years 2004 and thereafter the basic insurance coverage shall be:

(i) \$500,000 per occurrence or claim and \$1,500,000 per annual aggregate for a participating health care provider that is not a hospital.

(ii) \$500,000 per occurrence or claim and \$1,500,000 per annual aggregate for a nonparticipating health care provider.

(iii) \$500,000 per occurrence or claim and \$2,500,000 per annual aggregate for a hospital.

(e) Fund participation.—A participating health care provider shall be required to participate in the fund.

(f) Self-insurance.—

(1) If a health care provider self-insures its medical professional liability, the health care provider shall submit its self-insurance plan, such additional information as the department may require and the examination fee to the department for approval.

(2) The department shall approve the plan if it determines that the plan constitutes protection equivalent to the insurance required of a health care provider under subsection (d).

(g) Basic insurance liability.—

(1) An insurer providing medical professional liability insurance shall not be liable for payment of a claim against a health care provider for any loss or damages awarded in a medical professional liability action in excess of the basic insurance coverage required by subsection (d) unless the health care provider’s medical professional liability insurance policy or self-insurance plan provides for a higher limit.

(2) If a claim exceeds the limits of a participating health care provider’s basic insurance coverage or self-insurance plan, the fund shall be responsible for payment of the claim

against the participating health care provider up to the fund liability limits.

(h) Excess insurance.—

(1) No insurer providing medical professional liability insurance with liability limits in excess of the fund's liability limits to a participating health care provider shall be liable for payment of a claim against the participating health care provider for a loss or damages in a medical professional liability action except the losses and damages in excess of the fund coverage limits.

(2) No insurer providing medical professional liability insurance with liability limits in excess of the fund's liability limits to a participating health care provider shall be liable for any loss resulting from the insolvency or dissolution of the fund.

(i) Governmental entities.—A governmental entity may satisfy its obligations under this article, as well as the obligations of its employees to the extent of their employment, by either purchasing medical professional liability insurance or assuming an obligation as a self-insurer, and paying the assessments under this article.

(j) Exemptions.—The following participating health care providers shall be exempt from this article:

(1) A physician who exclusively practices the specialty of forensic pathology.

(2) A participating health care provider who is a member of the Pennsylvania military forces while in the performance of the member's assigned duty in the Pennsylvania military forces under orders.

(3) A retired licensed participating health care provider who provides care only to the provider or the provider's immediate family members.

Section 2512. Medical Care Availability and Reduction of Error Fund.

(a) Establishment.—There is hereby established within the State Treasury a special fund to be known as the Medical Care Availability and Reduction of Error Fund. Money in the fund shall be used to pay claims against participating health care providers for losses or damages awarded in medical professional liability actions against them in excess of the basic insurance coverage required by section 2511(d), liabilities transferred in accordance with subsection (b) and for the administration of the fund.

(b) Transfer of assets and liabilities.—

(1) (i) The money in the Medical Professional Liability Catastrophe Loss Fund established under section 701(d) of the former act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, is transferred to the fund.

(ii) The rights of the Medical Professional Liability Catastrophe Loss Fund established under section 701(d) of the former Health Care Services Malpractice Act are transferred to and assumed by the fund.

(2) The liabilities and obligations of the Medical Professional Liability Catastrophe Loss Fund established under section 701(d) of the former Health Care Services Malpractice Act are transferred to and assumed by the fund.

(c) Fund liability limits.—

(1) For calendar year 2002, the limit of liability of the fund created in section 701(d) of the former Health Care Services Malpractice Act for each health care provider that conducts more than 50% of its health care business or practice within this Commonwealth and for each hospital shall be \$700,000 for each occurrence and \$2,100,000 per annual aggregate.

(2) For calendar year 2003, the limit of liability of the fund shall be \$500,000 for each occurrence and \$1,500,000 per annual aggregate.

(c.1) Coverage elimination.—The commissioner shall eliminate the liability coverage provided by the fund to health care providers as defined in section 2502 no later than December 31, 2003. Upon this

action by the commissioner, the limit of liability of the fund shall thereafter be zero for any claims that occur after December 31, 2003.

(e) Discount on surcharges and assessments.—

(1) For calendar year 2002, the department shall discount the aggregate surcharge imposed under section 701(e)(1) of the Health Care Services Malpractice Act by 5% of the aggregate surcharge imposed under that section for calendar year 2001 in accordance with the following:

(i) Fifty percent of the aggregate discount shall be granted equally to hospitals and to participating health care providers that were surcharged as members of one of the four highest rate classes of the prevailing primary premium.

(ii) Notwithstanding subparagraph (i), 50% of the aggregate discount shall be granted equally to all participating health care providers.

(iii) The department shall issue a credit to a participating health care provider who, prior to March 20, 2002, has paid the surcharge imposed under section 701(e)(1) of the former Health Care Services Malpractice Act for calendar year 2002.

(f) Updated rates.—The joint underwriting association shall file updated rates for all health care providers with the commissioner by May 1 of each year. The department shall review and may adjust the prevailing primary premium in line with any applicable changes which have been approved by the commissioner.

(g) Additional adjustments of the prevailing primary premium.—The department shall adjust the applicable prevailing primary premium of each participating health care provider in accordance with the following:

(1) The applicable prevailing primary premium of a participating health care provider which is not a hospital may be adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency of claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods and shall be in accordance with the following:

(i) If three claims have been paid during the past five most recent claims periods by the fund, a 10% increase shall be charged.

(ii) If four or more claims have been paid during the past five most recent claims periods by the fund, a 20% increase shall be charged.

(2) The applicable prevailing primary premium of a participating health care provider which is not a hospital and which has not had an adjustment under paragraph (1) may be adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the severity of at least two claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods.

(3) The applicable prevailing primary premium of a participating health care provider not engaged in direct clinical practice on a full-time basis may be adjusted through a decrease in the individual participating health care provider's prevailing primary premium not to exceed 10%. Any adjustment shall be based upon the lower risk associated with the less-than-full-time direct clinical practice.

(4) The applicable prevailing primary premium of a hospital may be adjusted through an increase or decrease in the individual hospital's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency and severity of claims paid by the fund on behalf of other hospitals of similar class, size, risk and kind within the same defined region during the past five most recent claims periods.

(h) Self-insured health care providers.—A participating health care provider that has an approved self-insurance plan shall be assessed an amount equal to the assessment imposed on a participating health care provider of like class, size, risk and kind as determined by the department.

(i) Change in basic insurance coverage.—If a participating health care provider changes the term of its medical professional liability insurance coverage, the assessment shall be calculated on an annual basis and shall reflect the assessment percentages in effect for the period over which the policies are in effect.

(j) Payment of claims.—Claims which became final during the preceding claims period shall be paid on or before December 31 following the August 31 on which they became final.

(k) Termination.—Upon satisfaction of all liabilities of the fund, the fund shall terminate. Any balance remaining in the fund upon such termination shall be returned by the department to the participating health care providers who participated in the fund in proportion to their assessments in the preceding calendar year.

(l) Sole and exclusive source of funding.—Except as provided in subsection (m), the surcharges imposed under former section 701(e)(1) of the Health Care Services Malpractice Act and assessments on participating health care providers and any income realized by investment or reinvestment shall constitute the sole and exclusive sources of funding for the fund. Nothing in this subsection shall prohibit the fund from accepting contributions from nongovernmental sources. A claim against or a liability of the fund shall not be deemed to constitute a debt or liability of the Commonwealth or a charge against the General Fund.

(m) Supplemental funding.—Revenue collected under section 1206 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in excess of 5¢ per cigarette shall be deposited in the fund. These funds shall be used to reduce surcharges and assessments for calendar year 2003 and thereafter. This subsection shall expire when the fund terminates under subsection (k).

(n) Waiver of right to consent to settlement.—A participating health care provider may maintain the right to consent to a settlement in a basic insurance coverage policy for medical professional liability insurance upon the payment of an additional premium amount. Section 2513. Administration of fund.

(a) General rule.—The fund shall be administered by the department. The department shall contract with an entity or entities for the administration of claims against the fund in accordance with 62 Pa.C.S. (relating to procurement), and, to the fullest extent practicable, the department shall contract with entities that:

(1) Are not writing, underwriting or brokering medical professional liability insurance for participating health care providers; however, the department may contract with a subsidiary or affiliate of any writer, underwriter or broker of medical professional liability insurance.

(2) Are not trade organizations or associations representing the interests of participating health care providers in this Commonwealth.

(3) Have demonstrable knowledge of and experience in the handling and adjusting of professional liability or other catastrophic claims.

(4) Have developed, instituted and utilized best practice standards and systems for the handling and adjusting of professional liability or other catastrophic claims.

(5) Have demonstrable knowledge of and experience with the professional liability marketplace and the judicial systems of this Commonwealth.

(b) Reinsurance.—The department may purchase, on behalf of and in the name of the fund, as much insurance or reinsurance as is necessary to preserve the fund or retire the liabilities of the fund.

(c) Transfers.—The Governor may transfer to the fund from the Catastrophic Loss Benefits Continuation Fund, or such other funds as may be appropriate, such money as is necessary in order to pay the liabilities of the fund until sufficient revenues are realized by the fund.

Any transfer made under this subsection shall be repaid with interest pursuant to section 2 of the act of August 22, 1961 (P.L.1049, No.479), entitled “An act authorizing the State Treasurer under certain conditions to transfer sums of money between the General Fund and certain funds and subsequent transfers of equal sums between such funds, and making appropriations necessary to effect such transfers.”

(d) Confidentiality.—Information provided to the department or maintained by the department regarding a claim or adjustments to an individual participating health care provider’s assessment shall be confidential, notwithstanding the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or 65 Pa.C.S. Ch. 7 (relating to open meetings).

Section 2514. Medical professional liability claims.

(a) Notification.—A basic coverage insurer or self-insured participating health care provider shall promptly notify the department in writing of any medical professional liability claim.

(b) Failure to notify.—If a basic coverage insurer or self-insured participating health care provider fails to notify the department as required under subsection (a) and the department has been prejudiced by the failure of notice, the insurer or provider shall be solely responsible for the payment of the entire award or verdict that results from the medical professional liability claim.

(c) Defense.—A basic coverage insurer or self-insured participating health care provider shall provide a defense to a medical professional liability claim, including a defense of any potential liability of the fund, except as provided for in section 2515. The department may join in the defense and be represented by counsel.

(d) Responsibilities.—In accordance with section 2513, the department may defend, litigate, settle or compromise any medical professional liability claim payable by the fund.

(e) Releases.—In the event that a basic coverage insurer or self-insured participating health care provider enters into a settlement with a claimant to the full extent of its liability as provided in this article, it may obtain a release from the claimant to the extent of its payment, which payment shall have no effect upon any claim against the fund or its duty to continue the defense of the claim.

(f) Adjustment.—The department may adjust claims.

(g) Mediation.—Upon the request of a party to a medical professional liability claim within the fund coverage limits, the department may provide for a mediator in instances where multiple carriers disagree on the disposition or settlement of a case. Upon the consent of all parties, the mediation shall be binding. Proceedings conducted and information provided in accordance with this section shall be confidential and shall not be considered public information subject to disclosure under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or 65 Pa.C.S. Ch. 7 (relating to open meetings).

(h) Delay damages and postjudgment interest.—Delay damages and postjudgment interest applicable to the fund’s liability on a medical professional liability claim shall be paid by the fund and shall not be charged against the participating health care provider’s annual aggregate limits. The basic coverage insurer or self-insured participating health care provider shall be responsible for its proportionate share of delay damages and postjudgment interest.

Section 2515. Extended claims.

(a) General rule.—If a medical professional liability claim against a health care provider who was required to participate in the Medical Professional Liability Catastrophe Loss Fund under former section 701(d) of the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, is made more than four years after the breach of contract or tort occurred and if the claim is filed within the applicable statute of limitations and statute of repose, the claim shall be defended by the department if the department received a written request for indemnity and defense within 180 days of the date on which notice of the claim is first given to the participating health care provider or its insurer. Where multiple treatments or consultations took place less than four years before the date on which the health care provider or its insurer received notice of

the claim, the claim shall be deemed for purposes of this section to have occurred less than four years prior to the date of notice and shall be defended by the insurer in accordance with this article.

(b) Payment.—If a health care provider is found liable for a claim defended by the department in accordance with subsection (a), the claim shall be paid by the fund. The limit of liability of the fund for a claim defended by the department under subsection (a) shall be \$1,000,000 per occurrence.

(c) Concealment.—If a claim is defended by the department under subsection (a) or paid under subsection (b) and the claim is made after four years because of the willful concealment by the health care provider or its insurer, the fund shall have the right to full indemnity, including the department's defense costs, from the health care provider or its insurer.

(d) Extended coverage required.—Notwithstanding subsections (a), (b) and (c), all medical professional liability insurance policies issued on or after January 1, 2006, shall provide indemnity and defense for claims asserted against a health care provider for a breach of contract or tort which occurs four or more years after the breach of contract or tort occurred and after December 31, 2005.

Section 2516. Podiatrist liability.

By March 20, 2004, the department shall calculate the amount necessary to arrange for the separate retirement of the fund's liabilities associated with podiatrists. Any arrangement shall be on terms and conditions proportionate to the individual liability of the class of health care provider. The arrangement may result in assessments for podiatrists different from the assessments for other health care providers. Upon satisfaction of the arrangement, podiatrists shall not be required to contribute to or be entitled to participate in the fund. In cases where the class rejects an arrangement, the department shall present to the provider class new term arrangements at least once in every two-year period. All costs and expenses associated with the completion and implementation of the arrangement shall be paid by podiatrists and may be charged in the form of an addition to the assessment.

SUBARTICLE C

JOINT UNDERWRITING ASSOCIATION

Section 2531. Joint underwriting association.

(a) Establishment.—There is established a nonprofit joint underwriting association to be known as the Pennsylvania Professional Liability Joint Underwriting Association. The joint underwriting association shall consist of all insurers authorized to write insurance in accordance with section 202(c)(4) and (11) and shall be supervised by the department. The powers and duties of the joint underwriting association shall be vested in and exercised by a board of directors.

(b) Duties.—The joint underwriting association shall do all of the following:

(1) Submit a plan of operation to the commissioner for approval.

(2) Submit rates and any rate modification to the department for approval in accordance with the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act.

(3) Offer medical professional liability insurance to health care providers in accordance with section 2532.

(4) File with the department the information required in section 2512.

(c) Liabilities.—A claim against or a liability of the joint underwriting association shall not be deemed to constitute a debt or liability of the Commonwealth or a charge against the General Fund.

Section 2532. Medical professional liability insurance.

(a) Insurance.—The joint underwriting association shall offer medical professional liability insurance to health care providers and professional corporations, professional associations and partnerships which are entirely owned by health care providers who cannot conveniently obtain medical professional liability insurance through ordinary methods at rates not in excess of those applicable to similarly

situated health care providers, professional corporations, professional associations or partnerships.

(b) Requirements.—The joint underwriting association shall ensure that the medical professional liability insurance it offers does all of the following:

(1) Is conveniently and expeditiously available to all health care providers required to be insured under section 2511.

(2) Is subject only to the payment or provisions for payment of the premium.

(3) Provides reasonable means for the health care providers it insures to transfer to the ordinary insurance market.

(4) Provides sufficient coverage for a health care provider to satisfy its insurance requirements under section 2511 on reasonable and not unfairly discriminatory terms.

(5) Permits a health care provider to finance its premium or allows installment payment of premiums subject to customary terms and conditions.

Section 2533. Deficit.

(a) Filing.—In the event the joint underwriting association experiences a deficit in any calendar year, the board of directors shall file with the commissioner the deficit.

(b) Approval.—Within 30 days of receipt of the filing, the commissioner shall approve or deny the filing. If approved, the joint underwriting association is authorized to borrow funds sufficient to satisfy the deficit.

(c) Rate filing.—Within 30 days of receiving approval of its filing in accordance with subsection (b), the joint underwriting association shall file a rate filing with the department. The commissioner shall approve the filing if the premiums generate sufficient income for the joint underwriting association to avoid a deficit during the following 12 months and to repay principal and interest on the money borrowed in accordance with subsection (b).

SUBARTICLE D

REGULATION OF MEDICAL PROFESSIONAL LIABILITY INSURANCE

Section 2541. Approval.

In order for an insurer to issue a policy of medical professional liability insurance to a health care provider or to a professional corporation, professional association or partnership which is entirely owned by health care providers, the insurer must be authorized to write medical professional liability insurance in accordance with the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

Section 2542. Approval of policies on "claims made" basis.

The commissioner shall not approve a medical professional liability insurance policy written on a "claims made" basis by any insurer doing business in this Commonwealth unless the insurer shall guarantee to the commissioner the continued availability of suitable liability protection for a health care provider subsequent to the discontinuance of professional practice by the health care provider or the termination of the insurance policy by the insurer or the health care provider for so long as there is a reasonable probability of a claim for injury for which the health care provider may be held liable.

Section 2543. Reports to commissioner and claims information.

(a) Duty to report.—By October 15 of each year, basic insurance coverage insurers and self-insured participating health care providers shall report to the department the claims information specified in subsection (b).

(b) Department report.—Sixty days after the end of each calendar year, the department shall prepare a report. The report shall contain the total amount of claims paid and expenses incurred during the preceding calendar year, the total amount of reserve set aside for future claims, the date and place in which each claim arose, the amounts paid, if any, and the disposition of each claim, judgment of court, settlement or otherwise. For final claims at the end of any calendar year, the report shall include details by basic insurance coverage insurers and self-insured participating health care providers of the amount of

assessment collected, the number of reimbursements paid and the amount of reimbursements paid.

(c) Submission of report.—A copy of the report prepared pursuant to this section shall be submitted to the chairman and minority chairman of the Banking and Insurance Committee of the Senate and the chairman and minority chairman of the Insurance Committee of the House of Representatives.

Section 2544. Professional corporations, professional associations and partnerships.

A professional corporation, professional association or partnership which is entirely owned by health care providers and which elects to purchase basic insurance coverage in accordance with section 2511 from the joint underwriting association or from an insurer licensed or approved by the department shall be required to participate in the fund and, upon payment of the assessment required by section 2512, be entitled to coverage from the fund.

Section 2545. Actuarial data.

No later than April 1, 2005, each insurer providing medical professional liability insurance in this Commonwealth shall file loss data as required by the commissioner. For failure to comply, the commissioner shall impose an administrative penalty of \$1,000 for every day that this data is not provided in accordance with this section.

Section 2546. Mandatory reporting.

(a) General provisions.—Each medical professional liability insurer and each self-insured health care provider, including the fund established by this article, which makes payment in settlement or in partial settlement of or in satisfaction of a judgment in a medical professional liability action or claim shall provide to the appropriate licensure board a true and correct copy of the report required to be filed with the Federal Government by section 421 of the Health Care Quality Improvement Act of 1986 (Public Law 99-660, 42 U.S.C. § 11131). The copy of the report required by this section shall be filed simultaneously with the report required by section 421 of the Health Care Quality Improvement Act of 1986. The department shall monitor and enforce compliance with this section. The Bureau of Professional and Occupational Affairs and the licensure boards shall have access to information pertaining to compliance.

(b) Immunity.—A medical professional liability insurer or person who reports under subsection (a) in good faith and without malice shall be immune from civil or criminal liability arising from the report.

(c) Public information.—Information received under this section shall not be considered public information for the purposes of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or 65 Pa.C.S. Ch. 7 (relating to open meetings) until used in a formal disciplinary proceeding.

Section 2547. Cancellation of insurance policy.

A termination of a medical professional liability insurance policy by cancellation, except for suspension or revocation of the insured's license or for reason of nonpayment of premium, is not effective against the insured unless notice of cancellation was given within 60 days after the issuance of the policy to the insured, and no cancellation shall take effect unless a written notice stating the reasons for the cancellation and the date and time upon which the termination becomes effective has been received by the commissioner. Mailing of the notice to the commissioner at the commissioner's principal office address shall constitute notice to the commissioner.

Section 2548. Regulations.

The commissioner may promulgate regulations to implement and administer this article.

Section 3. Repeals are as follows:

(1) Chapter 7 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is repealed.

(2) All acts and parts of acts are repealed insofar as they are inconsistent with the addition of section 609-A of the act. Amend Sec. 3, page 3, line 1, by striking out "3" and inserting

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the lady from Montgomery County, Ms. Bard.

Ms. BARD. Thank you, Madam Speaker.

This amendment addresses the medical liability crisis, which is closing Pennsylvania's trauma centers and depriving our citizens of quality lifesaving health care. This crisis is more than a brain drain. Pennsylvania's health-care infrastructure, an entire economic sector, is collapsing with an average of one doctor per day leaving the Commonwealth.

This amendment reforms insurance mandates for Pennsylvania doctors and also retires the Mcare (Medical Care Availability and Reduction of Error) Fund. This legislation is an important step in relieving the overwhelming insurance burdens which are chasing our doctors out of business and keeping new doctors from starting business in Pennsylvania.

Madam Speaker, last year at yearend when the only trauma center in Montgomery County closed for 13 days, then Governor-elect Rendell accepted my invitation to meet with the hospital doctors and administrators. Ultimately, the Governor's intervention enabled the reopening of the trauma center. We are fast approaching another yearend crisis, when your child or mine could be in a car accident and the trauma center where that child needs lifesaving care is closed. This is not an issue that has just arisen. This is an issue that has been with us for years now. This is an issue that we cannot put off any longer.

It is time to take a vote. Although this legislation does not provide for the cigarette tax in no way, it only states that if there were ever a cigarette tax increase, anything above the current level would be applied to this fund. This legislation in no way is a vote for any tax increase. This legislation simply references that if there ever is a tax increase on cigarettes, that that tax increase would be allocated for this purpose.

Thank you very much, Madam Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Mr. Sturla, on the amendment.

Mr. STURLA. Madam Speaker, a point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his point.

Mr. STURLA. It has always been my understanding that you could not encumber future possible taxes or future things that might happen, that we cannot do legislation that is structured that way. Is that correct?

The SPEAKER pro tempore. That does appear to be a problem.

Mr. STURLA. Thank you, Madam Speaker.

Madam Speaker, does that mean that this amendment is out of order?

The SPEAKER pro tempore. At this point there is no basis for the Chair to rule it out of order.

Mr. STURLA. But does it require a motion?

The SPEAKER pro tempore. Would the gentleman, Mr. Sturla, come to the podium, please.

(Conference held at Speaker’s podium.)

The SPEAKER pro tempore. Does anyone else wish to be recognized on this amendment?

PARLIAMENTARY INQUIRY

Mr. DeWEESE. Madam Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. With all due respect, what is the status of the debate from the Chair’s perspective and the Parliamentarian’s perspective, because some of us are momentarily vexed as to whether we are discussing a parliamentary issue or the substance of the amendment.

The SPEAKER pro tempore. We are discussing the substance of the amendment.

Does the gentleman, Mr. DeWeese, wish to be recognized?

Mr. DeWEESE. Yes, ma’am.

I would move that this is out of order and for the reasons that were implied by the Chair, the reasons that were stated by the gentleman from Lancaster and at least mildly embraced, inferred, by the lady at the dais.

So I would so move that this amendment is out of order.

The SPEAKER pro tempore. The gentleman, Mr. DeWeese, would have to state a reason that this is out of order. Would you please come to the podium, sir.

(Conference held at Speaker’s podium.)

AMENDMENT WITHDRAWN

The SPEAKER pro tempore. The lady, Ms. Bard, requests that the amendment be withdrawn.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—187

Adolph	Evans, J.	Leh	Ruffing
Allen	Fabrizio	Lescovitz	Sainato
Argall	Fairchild	Levdansky	Samuelson
Armstrong	Feese	Lewis	Santoni
Baker	Fichter	Lynch	Sather
Baldwin	Fleagle	Mackereth	Saylor
Bard	Flick	Maher	Scavello
Barrar	Frankel	Maitland	Schroder
Bastian	Freeman	Major	Scrimenti
Bebko-Jones	Gabig	Manderino	Semmel
Belardi	Gannon	Mann	Shaner
Belfanti	Geist	Markosek	Smith, B.
Benninghoff	George	Marsico	Smith, S. H.

Bianucci	Gergely	McCall	Staback
Birmelin	Gillespie	McGeehan	Stairs
Bishop	Gingrich	McGill	Steil
Blaum	Godshall	McIlhattan	Stern
Browne	Good	McIlhinney	Stevenson, R.
Bunt	Goodman	McNaughton	Stevenson, T.
Butkovitz	Gordner	Melio	Sturla
Buxton	Grucela	Micozzie	Surra
Caltagirone	Gruitza	Miller, R.	Tangretti
Cappelli	Habay	Miller, S.	Taylor, J.
Casorio	Haluska	Mundy	Thomas
Causser	Hanna	Mustio	Tigue
Cawley	Harhai	Myers	Travaglio
Civera	Harhart	Nailor	True
Clymer	Harper	O’Brien	Turzai
Cohen	Harris	Oliver	Vance
Coleman	Hasay	Pallone	Veon
Corrigan	Hennessey	Payne	Vitali
Costa	Herman	Petrarca	Walko
Coy	Hershey	Petri	Wansacz
Crahalla	Hess	Petrone	Washington
Creighton	Hickernell	Phillips	Waters
Cruz	Hutchinson	Pickett	Watson
Curry	James	Pistella	Wheatley
Dailey	Josephs	Preston	Williams
Daley	Keller	Raymond	Wilt
Dally	Kenney	Readshaw	Wright
DeLuca	Killion	Reed	Yewcic
Denlinger	Kirkland	Reichley	Youngblood
Demody	Kotik	Rieger	Yudichak
DeWeese	LaGrotta	Roberts	Zug
DiGirolamo	Laughlin	Roebuck	
Diven	Leach	Ross	Perzel,
Donatucci	Lederer	Rubley	Speaker
Evans, D.			

NAYS—6

Boyd	Forcier	Nickol	Rohrer
Egolf	Metcalfe		

NOT VOTING—0

EXCUSED—10

Cornell	O’Neill	Stetler	Weber
Eachus	Rooney	Taylor, E. Z.	Wojnaroski
Horsey	Solobay		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER pro tempore. There are no further votes. Are there any announcements?

DEMOCRATIC CAUCUS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, there will be a meeting of the House Democratic Caucus tomorrow at 10 a.m. At 10 a.m. tomorrow morning we will have a very important caucus meeting. You will be given more information about this by e-mail. I strongly urge the attendance of all members.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Goodman, from Schuylkill County.

Mr. GOODMAN. Madam Speaker, I move that this House do now adjourn until Tuesday, September 16, 2003, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:49 p.m., e.d.t., the House adjourned.