

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2041

Session of
2005

INTRODUCED BY NICKOL, BAKER, BELFANTI, BOYD, CALTAGIRONE,
CAPPELLI, CLYMER, CRAHALLA, CREIGHTON, CURRY, DALLY, DeLUCA,
FABRIZIO, FAIRCHILD, FLEAGLE, GEORGE, GILLESPIE, GINGRICH,
GODSHALL, GOOD, GRELL, GRUCELA, HERMAN, HESS, JOSEPHS,
KAUFFMAN, KILLION, LEACH, MACKERETH, MANDERINO, MANN,
MARKOSEK, MUSTIO, NAILOR, O'NEILL, REICHLEY, ROSS, RUBLEY,
SAYLOR, SHAPIRO, B. SMITH, SOLOBAY, STERN, E. Z. TAYLOR,
TIGUE, WANSACZ, WATSON, WILT, YOUNGBLOOD, YUDICHAK, HARPER,
M. KELLER, HARRIS, PICKETT, PAYNE, SONNEY, TURZAI,
BENNINGHOFF, PHILLIPS, REED, GERBER AND FRANKEL,
OCTOBER 17, 2005

SENATOR ARMSTRONG, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
DECEMBER 7, 2005

AN ACT

1 ~~Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An~~ <—
2 ~~act to consolidate, editorially revise, and codify the public~~
3 ~~welfare laws of the Commonwealth," further providing for the~~
4 ~~Health Care Provider Retention Program and for reporting.~~
5 AMENDING THE ACT OF MARCH 20, 2002 (P.L.154, NO.13), ENTITLED <—
6 "AN ACT REFORMING THE LAW ON MEDICAL PROFESSIONAL LIABILITY;
7 PROVIDING FOR PATIENT SAFETY AND REPORTING; ESTABLISHING THE
8 PATIENT SAFETY AUTHORITY AND THE PATIENT SAFETY TRUST FUND;
9 ABROGATING REGULATIONS; PROVIDING FOR MEDICAL PROFESSIONAL
10 LIABILITY INFORMED CONSENT, DAMAGES, EXPERT QUALIFICATIONS,
11 LIMITATIONS OF ACTIONS AND MEDICAL RECORDS; ESTABLISHING THE
12 INTERBRANCH COMMISSION ON VENUE; PROVIDING FOR MEDICAL
13 PROFESSIONAL LIABILITY INSURANCE; ESTABLISHING THE MEDICAL
14 CARE AVAILABILITY AND REDUCTION OF ERROR FUND; PROVIDING FOR
15 MEDICAL PROFESSIONAL LIABILITY CLAIMS; ESTABLISHING THE JOINT
16 UNDERWRITING ASSOCIATION; REGULATING MEDICAL PROFESSIONAL
17 LIABILITY INSURANCE; PROVIDING FOR MEDICAL LICENSURE
18 REGULATION; PROVIDING FOR ADMINISTRATION; IMPOSING PENALTIES;
19 AND MAKING REPEALS," FURTHER PROVIDING FOR THE PATIENT SAFETY
20 AUTHORITY; ESTABLISHING THE HEALTH CARE PROVIDER RETENTION
21 PROGRAM AND THE HEALTH CARE PROVIDER RETENTION ACCOUNT; AND
22 REPEALING PROVISIONS RELATING TO THE HEALTH CARE PROVIDER
23 RETENTION PROGRAM AND THE HEALTH CARE PROVIDER RETENTION

ACCOUNT IN THE PUBLIC WELFARE CODE.

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

~~Section 1. Section 1302 A of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, amended November 29, 2004 (P.L.1272, No.154), is amended to read:~~
~~Section 1302 A. Abatement program.~~

~~There is hereby established within the Insurance Department a program to be known as the Health Care Provider Retention Program. The Insurance Department, in conjunction with the department, shall administer the program. The program shall provide assistance in the form of assessment abatements to health care providers for calendar years 2003, 2004 [and], 2005, 2006 and 2007, except that licensed podiatrists shall not be eligible for calendar years 2003 and 2004.~~

~~Section 2. Section 1306 A of the act, added December 23, 2003 (P.L.237, No.44), is amended to read:~~
~~Section 1306 A. Reporting.~~

~~(a) Reports. By May 15, 2004, the Insurance Department shall submit a report to the Governor, the chairperson and the minority chairperson of the Banking and Insurance Committee of the Senate and the chairperson and the minority chairperson of the Insurance Committee of the House of Representatives regarding the program. The Insurance Department shall submit a second report by May 15, 2006. The [report] reports shall include all of the following:~~

~~(1) The number of health care providers who applied for abatement under the program.~~

~~(2) The number of health care providers granted 100% abatement under the program.~~

~~(3) The number of health care providers granted 50% abatement under the program.~~

~~(4) Based upon available information, the number of health care providers who have left this Commonwealth after receiving abatement under the program.~~

~~(5) The number of and reason for any unapproved applications.~~

~~(6) Any other information relevant to assessing the success of the program.~~

~~(b) Exception. A report shall not release information which could reasonably be expected to reveal the individual identity of a health care provider.~~

~~Section 3. Section 1310 A of the act, amended November 29, 2004 (P.L.1272, No.154), is amended to read:~~

~~Section 1310 A. Expiration.~~

~~The Health Care Provider Retention Program established under this article shall expire December 31, [2006] 2008.~~

~~Section 4. This act shall take effect in 60 days.~~

SECTION 1. SECTION 303(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, IS AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

SECTION 303. ESTABLISHMENT OF PATIENT SAFETY AUTHORITY.

(A) ESTABLISHMENT.--THERE IS ESTABLISHED A BODY CORPORATE AND POLITIC TO BE KNOWN AS THE PATIENT SAFETY AUTHORITY, WHICH SHALL BE AN INDEPENDENT AGENCY. THE POWERS AND DUTIES OF THE AUTHORITY SHALL BE VESTED IN AND EXERCISED BY A BOARD OF DIRECTORS, WHICH SHALL HAVE THE SOLE POWER UNDER SECTION 304(A) TO EMPLOY STAFF, INCLUDING AN EXECUTIVE DIRECTOR, LEGAL COUNSEL, CONSULTANTS OR ANY OTHER STAFF DEEMED NECESSARY BY THE

1 AUTHORITY.

2 * * *

3 (H) FOR PURPOSES OF SECTION 924 OF THE PUBLIC HEALTH SERVICE
4 ACT (58 STAT. 682, 42 U.S.C. § 299B-24), THE PATIENT SAFETY
5 AUTHORITY IS THE SOLE PUBLIC ENTITY ELIGIBLE TO BE CERTIFIED AS
6 A PATIENT SAFETY ORGANIZATION AS DEFINED IN SECTION 921(4) OF
7 THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. § 299B-21(4)) FOR THE
8 PURPOSE OF CONDUCTING PATIENT SAFETY ACTIVITIES AS DEFINED IN
9 SECTION 921(5) OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. §
10 299B-21(5)).

11 SECTION 2. THE ACT IS AMENDED BY ADDING A CHAPTER TO READ:

12 CHAPTER 11

13 HEALTH CARE PROVIDER RETENTION PROGRAM

14 SECTION 1101. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "ACCOUNT." THE HEALTH CARE PROVIDER RETENTION ACCOUNT
19 ESTABLISHED IN SECTION 1112.

20 "APPLICANT." A HEALTH CARE PROVIDER WHO RESIDES IN OR
21 PRACTICES IN THIS COMMONWEALTH AND WHO APPLIES FOR AN ABATEMENT
22 UNDER SECTION 1104.

23 "ASSESSMENT." THE ASSESSMENT IMPOSED UNDER SECTION 712(D).

24 "EMERGENCY PHYSICIAN." A PHYSICIAN WHO IS CERTIFIED BY THE
25 AMERICAN BOARD OF EMERGENCY MEDICINE OR BY THE AMERICAN
26 OSTEOPATHIC BOARD OF EMERGENCY MEDICINE AND WHO IS EITHER
27 EMPLOYED FULL TIME BY A TRAUMA CENTER OR IS WORKING UNDER AN
28 EXCLUSIVE CONTRACT WITH A TRAUMA CENTER.

29 "HEALTH CARE PROVIDER." AN INDIVIDUAL WHO IS ALL OF THE
30 FOLLOWING:

1 (1) A PHYSICIAN, LICENSED PODIATRIST OR CERTIFIED NURSE
2 MIDWIFE.

3 (2) A PARTICIPATING HEALTH CARE PROVIDER AS DEFINED IN
4 SECTION 702.

5 "LICENSING BOARD." ANY OF THE FOLLOWING, AS APPROPRIATE TO
6 THE LICENSEE:

7 (1) STATE BOARD OF MEDICINE.

8 (2) STATE BOARD OF OSTEOPATHIC MEDICINE.

9 (3) STATE BOARD OF PODIATRY.

10 "PROGRAM." THE HEALTH CARE PROVIDER RETENTION PROGRAM
11 ESTABLISHED IN SECTION 1102.

12 "TRAUMA CENTER." A HOSPITAL ACCREDITED BY THE PENNSYLVANIA
13 TRAUMA SYSTEMS FOUNDATION AS A LEVEL I, LEVEL II OR LEVEL III
14 TRAUMA CENTER.

15 SECTION 1102. ABATEMENT PROGRAM.

16 THERE IS HEREBY ESTABLISHED WITHIN THE INSURANCE DEPARTMENT A
17 PROGRAM TO BE KNOWN AS THE HEALTH CARE PROVIDER RETENTION
18 PROGRAM. THE INSURANCE DEPARTMENT, IN CONJUNCTION WITH THE
19 DEPARTMENT OF PUBLIC WELFARE, SHALL ADMINISTER THE PROGRAM. THE
20 PROGRAM SHALL PROVIDE ASSISTANCE IN THE FORM OF ASSESSMENT
21 ABATEMENTS TO HEALTH CARE PROVIDERS FOR CALENDAR YEARS 2003,
22 2004, 2005 AND 2006, EXCEPT THAT LICENSED PODIATRISTS SHALL NOT
23 BE ELIGIBLE FOR CALENDAR YEARS 2003 AND 2004.

24 SECTION 1103. ELIGIBILITY.

25 A HEALTH CARE PROVIDER SHALL NOT BE ELIGIBLE FOR ASSESSMENT
26 ABATEMENT UNDER THE PROGRAM IF ANY OF THE FOLLOWING APPLY:

27 (1) THE HEALTH CARE PROVIDER'S LICENSE HAS BEEN REVOKED
28 IN ANY STATE WITHIN THE TEN MOST RECENT YEARS OR A HEALTH
29 CARE PROVIDER HAS A LICENSE REVOKED DURING A YEAR IN WHICH AN
30 ABATEMENT WAS RECEIVED.

1 (2) THE HEALTH CARE PROVIDER'S ABILITY, IF ANY, TO
2 DISPENSE OR PRESCRIBE DRUGS OR MEDICATION HAS BEEN REVOKED IN
3 THIS COMMONWEALTH OR ANY OTHER STATE WITHIN THE TEN MOST
4 RECENT YEARS.

5 (3) THE HEALTH CARE PROVIDER HAS HAD THREE OR MORE
6 MEDICAL LIABILITY CLAIMS IN THE PAST FIVE MOST RECENT YEARS
7 IN WHICH A JUDGMENT WAS ENTERED AGAINST THE HEALTH CARE
8 PROVIDER OR A SETTLEMENT WAS PAID ON BEHALF OF THE HEALTH
9 CARE PROVIDER, IN AN AMOUNT EQUAL TO OR EXCEEDING \$500,000
10 PER CLAIM.

11 (4) THE HEALTH CARE PROVIDER HAS BEEN CONVICTED OF OR
12 HAS ENTERED A PLEA OF GUILTY OR NO CONTEST TO AN OFFENSE
13 WHICH IS REQUIRED TO BE REPORTED UNDER SECTION 903(3) OR (4)
14 WITHIN THE TEN MOST RECENT YEARS.

15 (5) THE HEALTH CARE PROVIDER HAS AN UNPAID SURCHARGE OR
16 ASSESSMENT UNDER THIS ACT.
17 SECTION 1104. PROCEDURE.

18 (A) APPLICATION.--A HEALTH CARE PROVIDER MAY APPLY TO THE
19 INSURANCE DEPARTMENT FOR AN ABATEMENT OF THE ASSESSMENT IMPOSED
20 FOR THE PREVIOUS CALENDAR YEAR SPECIFIED ON THE APPLICATION. THE
21 APPLICATION MUST BE SUBMITTED BY THE SECOND MONDAY OF FEBRUARY
22 OF THE CALENDAR YEAR SPECIFIED ON THE APPLICATION AND SHALL BE
23 ON THE FORM REQUIRED BY THE INSURANCE DEPARTMENT. THE DEPARTMENT
24 SHALL REQUIRE THAT THE APPLICATION CONTAIN ALL OF THE FOLLOWING
25 SUPPORTING INFORMATION:

26 (1) A STATEMENT OF THE APPLICANT'S FIELD OF PRACTICE,
27 INCLUDING ANY SPECIALTY.

28 (2) EXCEPT FOR PHYSICIANS ENROLLED IN AN APPROVED
29 RESIDENCY OR FELLOWSHIP PROGRAM, A SIGNED CERTIFICATE OF
30 RETENTION.

1 (3) A SIGNED CERTIFICATION THAT THE HEALTH CARE PROVIDER
2 IS AN ELIGIBLE APPLICANT UNDER SECTION 1103 FOR THE PROGRAM.

3 (4) SUCH OTHER INFORMATION AS THE INSURANCE DEPARTMENT
4 MAY REQUIRE.

5 (A.1) ELECTRONICALLY FILED APPLICATION.--A HOSPITAL MAY
6 SUBMIT AN ELECTRONIC APPLICATION ON BEHALF OF ALL HEALTH CARE
7 PROVIDERS WHEN THE HOSPITAL IS RESPONSIBLE FOR PAYMENT OF THE
8 HEALTH CARE PROVIDER'S ASSESSMENT UNDER THIS ACT AND THE
9 HOSPITAL HAS RECEIVED PRIOR WRITTEN APPROVAL FROM THE INSURANCE
10 DEPARTMENT.

11 (B) REVIEW.--UPON RECEIPT OF A COMPLETED APPLICATION, THE
12 INSURANCE DEPARTMENT SHALL REVIEW THE APPLICANT'S INFORMATION
13 AND GRANT THE APPLICABLE ABATEMENT OF THE ASSESSMENT FOR THE
14 PREVIOUS CALENDAR YEAR SPECIFIED ON THE APPLICATION IN
15 ACCORDANCE WITH ALL OF THE FOLLOWING:

16 (1) THE INSURANCE DEPARTMENT SHALL NOTIFY THE DEPARTMENT
17 OF PUBLIC WELFARE THAT THE APPLICANT HAS SELF-CERTIFIED AS
18 ELIGIBLE FOR A 100% ABATEMENT OF THE IMPOSED ASSESSMENT IF
19 THE HEALTH CARE PROVIDER WAS ASSESSED UNDER SECTION 712(D)
20 AS:

21 (I) A PHYSICIAN WHO IS ASSESSED AS A MEMBER OF ONE
22 OF THE FOUR HIGHEST RATE CLASSES OF THE PREVAILING
23 PRIMARY PREMIUM;

24 (II) AN EMERGENCY PHYSICIAN;

25 (III) A PHYSICIAN WHO ROUTINELY PROVIDES OBSTETRICAL
26 SERVICES IN RURAL AREAS AS DESIGNATED BY THE INSURANCE
27 DEPARTMENT; OR

28 (IV) A CERTIFIED NURSE MIDWIFE.

29 (2) THE INSURANCE DEPARTMENT SHALL NOTIFY THE DEPARTMENT
30 OF PUBLIC WELFARE THAT THE APPLICANT HAS SELF-CERTIFIED AS

1 ELIGIBLE FOR A 50% ABATEMENT OF THE IMPOSED ASSESSMENT IF THE
2 HEALTH CARE PROVIDER WAS ASSESSED UNDER SECTION 712(D) AS A
3 PHYSICIAN BUT DOES NOT QUALIFY FOR AN ABATEMENT UNDER
4 PARAGRAPH (1).

5 (C) REFUND.--IF A HEALTH CARE PROVIDER PAID THE ASSESSMENT
6 FOR THE CALENDAR YEAR PRIOR TO APPLYING FOR AN ABATEMENT UNDER
7 SUBSECTION (A), THE HEALTH CARE PROVIDER MAY, IN ADDITION TO THE
8 COMPLETED APPLICATION REQUIRED BY SUBSECTION (A), SUBMIT A
9 REQUEST FOR A REFUND. THE REQUEST SHALL BE SUBMITTED ON THE FORM
10 REQUIRED BY THE INSURANCE DEPARTMENT. IF THE INSURANCE
11 DEPARTMENT GRANTS THE HEALTH CARE PROVIDER AN ABATEMENT OF THE
12 ASSESSMENT FOR THE CALENDAR YEAR IN ACCORDANCE WITH SUBSECTION
13 (B), THE INSURANCE DEPARTMENT SHALL EITHER REFUND TO THE HEALTH
14 CARE PROVIDER THE PORTION OF THE ASSESSMENT WHICH WAS ABATED OR
15 ISSUE A CREDIT TO THE HEALTH CARE PROVIDER'S PROFESSIONAL
16 LIABILITY INSURER.

17 SECTION 1105. CERTIFICATE OF RETENTION.

18 (A) CERTIFICATE.--THE INSURANCE DEPARTMENT SHALL PREPARE A
19 CERTIFICATE OF RETENTION FORM. THE FORM SHALL REQUIRE A HEALTH
20 CARE PROVIDER SEEKING AN ABATEMENT UNDER THE PROGRAM TO ATTEST
21 THAT THE HEALTH CARE PROVIDER WILL CONTINUE TO PROVIDE HEALTH
22 CARE SERVICES IN THIS COMMONWEALTH FOR AT LEAST ONE FULL
23 CALENDAR YEAR FOLLOWING THE YEAR FOR WHICH AN ABATEMENT WAS
24 RECEIVED PURSUANT TO THIS CHAPTER.

25 (A.1) HOSPITAL RESPONSIBILITY.--WHEN A HOSPITAL HAS
26 SUBMITTED AN APPLICATION ON BEHALF OF A HEALTH CARE PROVIDER,
27 THE HOSPITAL SHALL BE RESPONSIBLE FOR ENSURING COMPLIANCE WITH
28 THE CERTIFICATE OF RETENTION AND SHALL INDEMNIFY THE HEALTH CARE
29 PROVIDER RETENTION ACCOUNT FOR EACH HEALTH CARE PROVIDER WHO
30 FAILS TO CONTINUE TO PROVIDE MEDICAL SERVICES WITHIN THIS

1 COMMONWEALTH FOR THE YEAR FOLLOWING RECEIPT OF THE ABATEMENT.

2 (B) REPAYMENT.--

3 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), IF A HEALTH
4 CARE PROVIDER RECEIVES AN ABATEMENT BUT, PRIOR TO THE END OF
5 THE RETENTION PERIOD, CEASES PROVIDING HEALTH CARE SERVICES
6 IN THIS COMMONWEALTH, THE HEALTH CARE PROVIDER SHALL REPAY TO
7 THE COMMONWEALTH 100% OF THE ABATEMENT RECEIVED PLUS
8 ADMINISTRATIVE AND LEGAL COSTS, IF APPLICABLE. A HEALTH CARE
9 PROVIDER, SUBJECT TO THIS PARAGRAPH, SHALL PROVIDE WRITTEN
10 NOTICE TO THE INSURANCE DEPARTMENT WITHIN 60 DAYS OF THE DATE
11 OF CESSATION OF HEALTH CARE SERVICES.

12 (2) PARAGRAPH (1) SHALL NOT APPLY TO A HEALTH CARE
13 PROVIDER WHO IS ANY OF THE FOLLOWING:

14 (I) A HEALTH CARE PROVIDER WHO IS ENROLLED IN AN
15 APPROVED RESIDENCY OR FELLOWSHIP PROGRAM.

16 (II) A HEALTH CARE PROVIDER WHO DIES PRIOR TO THE
17 END OF THE RETENTION PERIOD.

18 (III) A HEALTH CARE PROVIDER WHO IS DISABLED AND
19 UNABLE TO PRACTICE PRIOR TO THE END OF THE RETENTION
20 PERIOD.

21 (IV) A HEALTH CARE PROVIDER WHO IS CALLED TO ACTIVE
22 MILITARY DUTY PRIOR TO THE END OF THE RETENTION PERIOD.

23 (V) A HEALTH CARE PROVIDER WHO RETIRES AND WHO IS AT
24 LEAST 70 YEARS OF AGE PRIOR TO THE END OF THE RETENTION
25 PERIOD.

26 (C) TAX.--AN AMOUNT OWED THE COMMONWEALTH UNDER SUBSECTION
27 (B) SHALL BE CONSIDERED A TAX UNDER SECTION 1401 OF THE ACT OF
28 APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE. THE
29 DEPARTMENT OF REVENUE SHALL PROVIDE ASSISTANCE TO THE INSURANCE
30 DEPARTMENT IN ANY COLLECTION EFFORT. ANY AMOUNT COLLECTED UNDER

1 THIS CHAPTER, INCLUDING ADMINISTRATIVE AND LEGAL COSTS, SHALL BE
2 DEPOSITED INTO THE HEALTH CARE PROVIDER RETENTION ACCOUNT.

3 (D) FAILURE TO PAY.--THE INSURANCE DEPARTMENT SHALL NOTIFY
4 THE APPROPRIATE LICENSING BOARD OF ANY FAILURE TO PAY AN AMOUNT
5 REQUIRED OF A LICENSEE UNDER THIS SECTION. UPON SUCH
6 NOTIFICATION, THE LICENSING BOARD SHALL SUSPEND OR REVOKE THE
7 LICENSE OF THE LICENSEE.

8 SECTION 1106. REPORTING.

9 (A) REPORT.--BY MAY 15 OF 2004 AND 2006, THE INSURANCE
10 DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR, THE
11 CHAIRPERSON AND THE MINORITY CHAIRPERSON OF THE BANKING AND
12 INSURANCE COMMITTEE OF THE SENATE AND THE CHAIRPERSON AND THE
13 MINORITY CHAIRPERSON OF THE INSURANCE COMMITTEE OF THE HOUSE OF
14 REPRESENTATIVES REGARDING THE PROGRAM. THE REPORT SHALL INCLUDE
15 ALL OF THE FOLLOWING:

16 (1) THE NUMBER OF HEALTH CARE PROVIDERS WHO APPLIED FOR
17 ABATEMENT UNDER THE PROGRAM.

18 (2) THE NUMBER OF HEALTH CARE PROVIDERS GRANTED 100%
19 ABATEMENT UNDER THE PROGRAM.

20 (3) THE NUMBER OF HEALTH CARE PROVIDERS GRANTED 50%
21 ABATEMENT UNDER THE PROGRAM.

22 (4) BASED UPON AVAILABLE INFORMATION, THE NUMBER OF
23 HEALTH CARE PROVIDERS WHO HAVE LEFT THIS COMMONWEALTH AFTER
24 RECEIVING ABATEMENT UNDER THE PROGRAM.

25 (5) THE NUMBER OF AND REASON FOR ANY UNAPPROVED
26 APPLICATIONS.

27 (6) ANY OTHER INFORMATION RELEVANT TO ASSESSING THE
28 SUCCESS OF THE PROGRAM.

29 (B) EXCEPTION.--THE REPORT SHALL NOT RELEASE INFORMATION
30 WHICH COULD REASONABLY BE EXPECTED TO REVEAL THE INDIVIDUAL

1 IDENTITY OF A HEALTH CARE PROVIDER.

2 SECTION 1107. COOPERATION.

3 NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL DEPARTMENTS
4 UNDER THE JURISDICTION OF THE GOVERNOR SHALL COOPERATE WITH THE
5 INSURANCE DEPARTMENT IN ITS ADMINISTRATION OF THE PROGRAM.

6 SECTION 1108. CONFIDENTIALITY.

7 ANY INFORMATION SUBMITTED BY AN APPLICANT TO THE INSURANCE
8 DEPARTMENT UNDER THIS CHAPTER SHALL BE CONFIDENTIAL BY LAW AND
9 PRIVILEGED AND SHALL NOT BE DEEMED A PUBLIC RECORD UNDER THE ACT
10 OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-
11 KNOW LAW, EXCEPT THAT THE INSURANCE DEPARTMENT MAY RELEASE
12 INFORMATION NECESSARY AND PROPER FOR ADMINISTRATION AND
13 PROCESSING OF SPECIFIC APPLICATIONS OR CERTIFICATES OF
14 RETENTION.

15 SECTION 1109. VIOLATIONS.

16 THE FOLLOWING SHALL APPLY:

17 (1) ANY PERSON WHO WILLFULLY SUBMITS FALSE OR FRAUDULENT
18 INFORMATION UNDER SECTION 1104 COMMITS A VIOLATION OF 18
19 PA.C.S. § 4904 (RELATING TO UNSWORN FALSIFICATION TO
20 AUTHORITIES) AND SHALL, UPON CONVICTION, BE SUBJECT TO
21 PUNISHMENT AS PROVIDED BY LAW. ANY PENALTY IMPOSED FOR
22 VIOLATING 18 PA.C.S. § 4904 SHALL BE IN ADDITION TO ANY
23 PENALTY IMPOSED IN ACCORDANCE WITH THIS CHAPTER.

24 (2) ANY PERSON WHO WILLFULLY DIVULGES OR MAKES KNOWN
25 INDIVIDUAL SPECIFIC INFORMATION SUBMITTED UNDER THIS CHAPTER,
26 PERMITS INDIVIDUAL SPECIFIC INFORMATION TO BE SEEN OR
27 EXAMINED BY ANY PERSON OR PRINTS, PUBLISHES OR MAKES KNOWN IN
28 ANY MANNER INDIVIDUAL SPECIFIC INFORMATION COMMITS A
29 MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION,
30 BE SENTENCED TO PAY A FINE NOT EXCEEDING \$2,500 AND THE COSTS

1 OF PROSECUTION OR TO UNDERGO IMPRISONMENT FOR NOT MORE THAN
2 ONE YEAR, OR BOTH.

3 SECTION 1110. REFUNDS OR CREDITS.

4 THE INSURANCE DEPARTMENT SHALL EITHER ISSUE REFUNDS OR
5 CREDITS FOR MONEYS DUE HEALTH CARE PROVIDERS UNDER THIS CHAPTER.

6 SECTION 1111. PRACTICE CLARIFICATION.

7 NOTWITHSTANDING ANY OTHER ACT TO THE CONTRARY, HEALTH CARE
8 PROVIDERS THAT CONDUCT LESS THAN 50% OF THEIR HEALTH CARE
9 BUSINESS OR PRACTICE WITHIN THIS COMMONWEALTH SHALL INSURE THEIR
10 PROFESSIONAL LIABILITY CONSISTENT WITH THE LIMITS ESTABLISHED
11 UNDER SECTION 711.

12 SECTION 1112. HEALTH CARE PROVIDER RETENTION ACCOUNT.

13 (A) FUND ESTABLISHED.--THERE IS ESTABLISHED WITHIN THE
14 GENERAL FUND A SPECIAL ACCOUNT TO BE KNOWN AS THE HEALTH CARE
15 PROVIDER RETENTION ACCOUNT. FUNDS IN THE ACCOUNT SHALL BE
16 SUBJECT TO AN ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO
17 THE DEPARTMENT OF PUBLIC WELFARE. THE DEPARTMENT OF PUBLIC
18 WELFARE SHALL ADMINISTER FUNDS APPROPRIATED UNDER THIS SECTION
19 CONSISTENT WITH ITS DUTIES UNDER SECTION 201(1) OF THE ACT OF
20 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

21 (B) TRANSFERS FROM MCARE FUND.--BY DECEMBER 31 OF EACH YEAR,
22 THE SECRETARY OF THE BUDGET MAY TRANSFER FROM THE MEDICAL CARE
23 AVAILABILITY AND REDUCTION OF ERROR (MCARE) FUND ESTABLISHED IN
24 SECTION 712(A) TO THE ACCOUNT AN AMOUNT EQUAL TO THE DIFFERENCE
25 BETWEEN THE AMOUNT DEPOSITED UNDER SECTION 712(M) AND THE AMOUNT
26 GRANTED AS DISCOUNTS UNDER SECTION 712(E)(2) FOR THAT CALENDAR
27 YEAR.

28 (C) TRANSFERS FROM ACCOUNT.--THE SECRETARY OF THE BUDGET MAY
29 ANNUALLY TRANSFER FROM THE ACCOUNT TO THE MEDICAL CARE
30 AVAILABILITY AND REDUCTION OF ERROR (MCARE) FUND, AN AMOUNT UP

1 TO THE AGGREGATE AMOUNT OF ABATEMENTS GRANTED BY THE INSURANCE
2 DEPARTMENT UNDER SECTION 1104(B).

3 (D) OTHER DEPOSITS.--THE DEPARTMENT OF PUBLIC WELFARE MAY
4 DEPOSIT ANY OTHER FUNDS RECEIVED BY THE DEPARTMENT WHICH IT
5 DEEMS APPROPRIATE IN THE ACCOUNT.

6 (E) ADMINISTRATION ASSISTANCE.--THE INSURANCE DEPARTMENT
7 SHALL PROVIDE ASSISTANCE TO THE DEPARTMENT OF PUBLIC WELFARE IN
8 ADMINISTERING THE ACCOUNT.

9 SECTION 1113. PENALTIES.

10 THE PENALTIES IMPOSED UNDER THIS CHAPTER OR ANY OTHER
11 APPLICABLE ACT SHALL BE CUMULATIVE.

12 SECTION 1114. RULES AND REGULATIONS.

13 THE INSURANCE DEPARTMENT SHALL PROMULGATE RULES AND
14 REGULATIONS AS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS
15 CHAPTER.

16 SECTION 1115. EXPIRATION.

17 THE HEALTH CARE PROVIDER RETENTION PROGRAM ESTABLISHED UNDER
18 THIS CHAPTER SHALL EXPIRE DECEMBER 31, 2007.

19 SECTION 3. THE ADDITION OF CHAPTER 11 OF THE ACT IS A
20 CONTINUATION OF SECTION 443.7 AND ARTICLE XIII-A OF THE ACT OF
21 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE.
22 ALL ACTIVITIES INITIATED UNDER SECTION 443.7 OR ARTICLE XIII-A
23 OF THE PUBLIC WELFARE CODE SHALL CONTINUE AND REMAIN IN FULL
24 FORCE AND EFFECT AND MAY BE COMPLETED UNDER CHAPTER 11 OF THE
25 ACT. REGULATIONS, RULES AND DECISIONS WHICH WERE MADE UNDER
26 SECTION 443.7 OR ARTICLE XIII-A OF THE PUBLIC WELFARE CODE AND
27 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF THE ADDITION OF
28 CHAPTER 11 OF THE ACT SHALL REMAIN IN FULL FORCE AND EFFECT
29 UNTIL REVOKED, VACATED OR MODIFIED UNDER CHAPTER 11 OF THE ACT.
30 CONTRACTS AND OBLIGATIONS ENTERED INTO UNDER SECTION 443.7 OR

1 ARTICLE XIII-A OF THE PUBLIC WELFARE CODE ARE NOT AFFECTED NOR
2 IMPAIRED BY THE REPEAL OF SECTION 443.7 AND ARTICLE XIII-A OF
3 THE PUBLIC WELFARE CODE.

4 SECTION 4. (A) THE GENERAL ASSEMBLY DECLARES THAT THE
5 REPEALS UNDER SUBSECTION (B) ARE NECESSARY TO EFFECTUATE THE
6 ADDITION OF CHAPTER 11 OF THE ACT.

7 (B) SECTION 443.7 AND ARTICLE XIII-A OF THE ACT OF JUNE 13,
8 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE, ARE
9 REPEALED.

10 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.