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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

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INTRODUCED BY GREENLEAF, RAFFERTY, O'PAKE, COSTA, GORDNER,  
PIPPY, ORIE AND BOSCOLA, JANUARY 31, 2005

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REFERRED TO BANKING AND INSURANCE, JANUARY 31, 2005

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AN ACT

1 Authorizing privately established and operated health insurance  
2 purchasing cooperatives; and providing for the regulation of  
3 health insurance purchasing cooperatives by the Insurance  
4 Department.

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

9    Section 1.    Short title.

10        This act shall be known and may be cited as the Pennsylvania  
11 Health Insurance Purchasing Cooperative Act.

12    Section 2.    Statement of purpose.

13        The General Assembly recognizes that small employers are  
14 unable to negotiate health insurance benefits at the same cost  
15 as larger employers which makes it unaffordable for them to  
16 offer it to their employees. Therefore, the General Assembly  
17 seeks to increase the availability, accessibility and  
18 affordability of health insurance coverage by allowing small  
19 employers to join together through a health insurance purchasing  
20 cooperative so that they gain the same administrative  
21 efficiencies and purchasing strength as larger employers.

22    Section 3.    Definitions.

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

26        "Business plan."    The plan of operation of a health insurance  
27 purchasing cooperative.

28        "Commissioner."    The Insurance Commissioner of the  
29 Commonwealth.

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

1 "Dependent child." A natural or adopted child of an  
2 employee. The term includes a stepchild who resides in an  
3 employee's household if the employee has assumed the financial  
4 responsibility for the child and another parent is not legally  
5 responsible for support for and medical expenses of the child.

6 "Eligible dependent." A spouse of an employee and a  
7 dependent child who is under 19 years of age.

8 "Eligible employee." An employee or individual who is a  
9 full-time employee of an eligible employer and qualified to  
10 enroll in a health benefit plan offered through a health  
11 insurance purchasing cooperative or eligible dependent.

12 "Full-time." The status of working at least 30 hours per  
13 week for an eligible employer.

14 "Health insurance purchasing cooperative" or "cooperative."  
15 A group of small employers and eligible employees who join  
16 together to purchase health insurance or health care benefits.

17 "Insurer." An insurer, health maintenance organization,  
18 fraternal benefit society, hospital plan or health services plan  
19 corporation that offers basic small group insurance plans to  
20 small employers.

21 "Small employer." A person, firm, corporation, partnership  
22 or association that employed, on at least 50% of its working  
23 days during the preceding year, at least two but not more than  
24 50 employees.

#### 25 Section 4. Exemption.

26 A health insurance purchasing cooperative shall be exempt  
27 from any law in this Commonwealth relating to the establishment  
28 of groups for the purchase of insurance.

#### 29 Section 5. Department duties.

30 (a) General rules.--The department shall regulate the

1 establishment and conduct of health insurance purchasing  
2 cooperatives.

3 (b) Application procedure.--

4 (1) A health insurance purchasing cooperative may not  
5 operate in this Commonwealth without an approved business  
6 plan and without obtaining a license from the department.

7 (2) An application for a license must be completed and  
8 signed by an authorized representative of the cooperative  
9 sponsor and proposed health insurance purchasing cooperative  
10 administrator, if applicable. The completed application for a  
11 license must be verified and filed with the department.

12 (3) An application shall not be deemed to be filed until  
13 all information necessary to properly process the application  
14 has been received by the commissioner. Upon filing, the  
15 department shall make its determination concerning the  
16 application and shall provide notice of the determination to  
17 the cooperative.

18 (4) If the application is approved, a copy of the  
19 approved license shall be provided to the sponsor of the  
20 cooperative. The license shall serve as the cooperative's  
21 authorization to operate until the yearly renewal date.

22 (5) Any request for an amendment to the license shall be  
23 filed in the same manner as the application and approved by  
24 the commissioner before the change proposed by the amendment  
25 is effective.

26 (c) Application.--A health insurance purchasing cooperative  
27 applying for a license or a renewal of a license or operating in  
28 this Commonwealth shall file with the department all of the  
29 following information or documents:

30 (1) A business plan for approval by the commissioner.

1           (2) Quarterly financial statements and annual reports on  
2 forms approved by the commissioner. Financial statements and  
3 annual reports submitted shall provide evidence that allows  
4 the commissioner to ensure that the health insurance  
5 purchasing cooperative:

6           (i) Is operating in a fiscally sound fashion.

7           (ii) Is not a risk-bearing entity.

8           (iii) Has sound financial controls and money  
9 management.

10          (iv) Has procedures in place to prevent  
11 mismanagement or misappropriation of funds either through  
12 neglect or malfeasance.

13          (3) Reports of any proposed changes in policy or  
14 operations that constitute material changes in the business  
15 plan that was the basis of licensure or a renewal of  
16 licensure.

17          (4) Any other information deemed relevant by the  
18 commissioner.

19          (d) License revocation.--Failure to provide requested  
20 information shall be a basis for denial, suspension or  
21 revocation of a license issued under this act.

22          (e) Audits.--Financial and performance audits or  
23 examinations of the health insurance purchasing cooperative  
24 shall be conducted on a regular basis by the commissioner.  
25 Failure by a cooperative to meet minimum standards in a  
26 financial or performance audit or examination shall be the basis  
27 for license denial, suspension or revocation or other action to  
28 protect consumers. The commissioner may impose conditions on  
29 licensure, including, but not limited to, the removal and  
30 replacement of managerial or marketing staff or contractors to

1 remedy compliance or performance problems.

2 (f) Compliance with business plan.--Failure of a health  
3 insurance purchasing cooperative to comply with the business  
4 plan approved by the commissioner may constitute a basis for  
5 suspension or revocation of the cooperative's license.

6 Section 6. Business plan.

7 A health insurance purchasing cooperative shall not receive a  
8 license unless the business plan of the cooperative has been  
9 reviewed and approved by the commissioner. The business plan  
10 submitted for approval shall include the following information:

11 (1) The steps the sponsor of the cooperative plans to  
12 take to advance cost control and quality improvement and to  
13 improve access to health insurance or health care services.  
14 The business plan shall demonstrate that the cooperative will  
15 reduce cost, improve quality and improve access to health  
16 insurance or health care services.

17 (2) The scope of cooperative services that will be  
18 offered in the service territory and the resources and  
19 expertise that will be used by the sponsor of the cooperative  
20 to implement and administer the plan.

21 (3) The corporate charter, bylaws and other business  
22 operation documents of the cooperative. As a condition of  
23 licensure, the cooperative must demonstrate to the  
24 satisfaction of the commissioner that its corporate  
25 governance makes it an appropriate and effective  
26 representative of the buyers' interests within the service  
27 territory. A cooperative shall, whenever feasible, contract  
28 with multiple, unaffiliated insurers to offer health benefit  
29 plans and other insurance to its members. A cooperative may  
30 selectively contract with insurers based on the quality and

1 cost-effectiveness of services and other factors deemed to be  
2 relevant by the cooperative.

3 (4) A list of officers and directors of the cooperative  
4 and of the contract administrator, if one is employed, and  
5 personal biographical information or firm descriptions for  
6 each person named. The officers, directors or contract  
7 administrator of a cooperative may not have a prior record of  
8 administrative, civil or criminal violation within any  
9 financial service industry. The personal biographical  
10 information and firm descriptions submitted shall demonstrate  
11 by clear and convincing evidence that the persons involved in  
12 the cooperative have the expertise, experience and character  
13 to effectively and professionally represent buyers in a  
14 fiduciary capacity.

15 (5) Information concerning procedures for accounting,  
16 deposit, collection, handling and transfer of moneys. Because  
17 the cooperative may handle payments or accounting, the  
18 cooperative shall demonstrate the presence of adequate  
19 financial controls to the satisfaction of the commissioner as  
20 a condition of licensure. Failure to have adequate controls  
21 or to follow approved procedures may constitute a basis for  
22 denial, suspension or revocation of licensure.

23 (6) The market segments and participants to which the  
24 cooperative will be marketing. The cooperative shall  
25 demonstrate to the satisfaction of the commissioner that the  
26 cooperative will extend health insurance purchasing services  
27 to a group of buyers not currently served by a cooperative.  
28 Failure to achieve this result may constitute a basis for  
29 denial of an application to renew a license.

30 (7) Any other information required by the commissioner

1 to verify that the cooperative is qualified to operate in  
2 this Commonwealth.

3 Section 7. Membership.

4 (a) No capital stock.--A health insurance purchasing  
5 cooperative shall be organized on a membership basis with no  
6 capital stock.

7 (b) Voluntary.--Membership in a health insurance purchasing  
8 cooperative shall be voluntary.

9 (c) Eligibility.--A health insurance purchasing cooperative  
10 shall accept for membership in the cooperative any small  
11 employers and eligible employees or dependents which agree to  
12 pay the membership fee and any premium for coverage through the  
13 cooperative and which abide by the bylaws and rules of the  
14 cooperative.

15 (d) Additional membership.--A health insurance purchasing  
16 cooperative may, at its option, accept for membership in the  
17 cooperative any otherwise eligible employer that does not  
18 qualify as a small employer because it employed more than 50  
19 eligible employees during 50% or more of its working days during  
20 the previous calendar quarter.

21 (e) Sole proprietor.--A health insurance purchasing  
22 cooperative may, at its option, accept for membership in the  
23 cooperative any otherwise eligible employer that does not  
24 qualify as a small employer because it is an individual or sole  
25 proprietor. If a cooperative chooses to accept such employers,  
26 the cooperative may not discriminate in the acceptance process  
27 based on health status.

28 Section 8. Health care benefits.

29 (a) Benefit plans.--A health insurance purchasing  
30 cooperative shall provide to its members clear, standardized

1 information on each health care benefit plan or other coverage  
2 offered by insurers through the cooperative to its members,  
3 including information on price, enrollee costs, quality, patient  
4 satisfaction, enrollment and enrollee responsibility and  
5 obligations and shall provide health benefit plan and other  
6 insurance comparison sheets as may be required by the  
7 department.

8 (b) Discrimination.--A health insurance purchasing  
9 cooperative may not:

10 (1) Vary conditions of eligibility, including premium  
11 rates and membership fees, for any employer meeting the  
12 membership requirements of the cooperative.

13 (2) Vary conditions of eligibility for any eligible  
14 employee to qualify for a health benefit plan offered by the  
15 cooperative to eligible employers and their employees.

16 (c) Open enrollment.--A health insurance purchasing  
17 cooperative shall provide for an annual open enrollment period  
18 of 30 calendar days during which members of the cooperative may  
19 change the coverage option in which members are enrolled. A  
20 cooperative shall, whenever feasible, contract with multiple,  
21 unaffiliated insurers to offer health benefit plans and other  
22 insurance to its members. A cooperative may selectively contract  
23 with insurers based on quality and cost-effectiveness of  
24 services and other factors deemed to be relevant by the  
25 cooperative.

26 (d) Waiver of State mandates.--A health insurance purchasing  
27 cooperative may provide a health benefit plan in whole or in  
28 part that does not offer or provide State-mandated health  
29 benefits. A cooperative that offers a health benefit plan  
30 without such mandates must also offer at least one benefit plan

1 that includes coverage for all State-mandated health benefits.

2 (e) Notice requirements.--In each sale of a health benefit  
3 plan to a proposed eligible employer through a health insurance  
4 purchasing cooperative in which the cooperative offers an option  
5 to an eligible employer to obtain a health benefit plan that,  
6 either in whole or in part, does not provide State-mandated  
7 health benefits, the cooperative, after the employer has  
8 selected its health benefit plan, shall provide to each eligible  
9 employee of the employer a written notice, in a form and manner  
10 prescribed by rule or regulation promulgated by the  
11 commissioner, that one or more mandated benefits are not  
12 included in the health benefit plan.

13 (f) Licensed insurers.--A health benefit plan offered  
14 through a health insurance purchasing cooperative shall be  
15 underwritten by an insurer that is licensed or otherwise  
16 regulated under State law and meets all applicable State  
17 standards relating to consumer protection, including, but not  
18 limited to, State solvency and market conduct.

19 Section 9. Insurance risk.

20 A health insurance purchasing cooperative shall not bear  
21 insurance risk. The cooperative shall facilitate the purchase of  
22 insurance and health care services.

23 Section 10. Disclosure and confidentiality.

24 (a) General rule.--A health insurance purchasing cooperative  
25 may elect to preclude a participant who leaves the cooperative  
26 from returning to the cooperative to purchase health insurance  
27 or health care benefits for a period of time. This subsection  
28 shall not be construed to authorize discrimination against high-  
29 risk participants.

30 (b) Access to information.--

1           (1) Except as provided in paragraph (2), and subject to  
2 review and approval by the commissioner, a health insurance  
3 purchasing cooperative may restrict access to information in  
4 its possession that is essential to the operation of the  
5 cooperative.

6           (2) Restriction of access to information shall be  
7 allowed for the following reasons:

8               (i) To induce voluntary participation in the  
9 cooperative.

10              (ii) To protect the privacy of participants.

11              (iii) To protect the negotiating strategy of the  
12 cooperative from disclosure to contractors or  
13 competitors.

14              (iv) To protect proprietary information in like  
15 circumstances as those that are applicable to insurers.

16 Section 11. Merger and consolidation.

17       (a) Legal entity.--A health insurance purchasing cooperative  
18 shall be a legal entity that operates on behalf of its sponsor  
19 or participants.

20       (b) Disclosure.--A health insurance purchasing cooperative  
21 shall disclose its total administrative cost in its annual  
22 report to the commissioner in the same manner and on the same  
23 basis as insurers.

24       (c) Prior approval.--A change in control, a merger or an  
25 acquisition of a health insurance purchasing cooperative is  
26 subject to the prior review and approval of the commissioner on  
27 the same terms as a change in control, a merger or an  
28 acquisition of a Pennsylvania domestic insurance company.

29 Section 12. Conflict of interest.

30       (a) Sponsors.--Health care providers or insurers that offer

1 competing products within the same service territory may not  
2 participate in a health insurance purchasing cooperative as  
3 sponsors.

4 (b) Affiliations.--A sponsor of a health insurance  
5 purchasing cooperative may not be an employee of, be affiliated  
6 with or be a subsidiary of a health care provider or insurer  
7 that offers competing products within the same service  
8 territory.

9 Section 13. Grounds for denial, nonrenewal, suspension or  
10 revocation.

11 The following grounds constitute a basis for denial,  
12 nonrenewal, suspension or revocation of an application or  
13 existing license, following notice and an opportunity for  
14 hearing:

15 (1) Failure to comply with any provisions of this act or  
16 rules or regulations adopted pursuant to this act.

17 (2) Failure to disclose preexisting oral or written  
18 agreement during the cooperative application process.

19 (3) Failure to fairly offer, market and sell all of the  
20 health benefit plan designs offered through a cooperative  
21 that are sold or offered to small employers to all  
22 participants.

23 (4) Failure to comply with a lawful order of the  
24 commissioner.

25 (5) Committing an unfair or deceptive act or practice as  
26 defined under section 5 of the act of July 22, 1974 (P.L.589,  
27 No.205), known as the Unfair Insurance Practices Act.

28 (6) Filing any necessary form with the department which  
29 contains fraudulent information or omission.

30 (7) Misappropriating, converting, illegally withholding

1 or refusing to pay over on proper demand any moneys that  
2 belong to a person or health care insurer or any organized  
3 delivery system or to which the cooperative is otherwise not  
4 entitled and that have been entrusted to the cooperative in  
5 its fiduciary capacity.

6 Section 14. Hearing and appeal.

7 Prior to denying an application for a license or an  
8 application for renewal of a license or suspending or revoking a  
9 license issued under this act, a license holder shall be  
10 provided with written notice of the commissioner's decision and  
11 provided an opportunity for a hearing and a right to appeal.

12 Section 15. Solvency.

13 If a health insurance purchasing cooperative becomes  
14 insolvent, the commissioner shall maintain jurisdiction of the  
15 cooperative for the purposes of protecting the interests of the  
16 health insurance purchasing cooperative's participants and  
17 health insurance carriers and health benefit plans.

18 Section 16. Annual report.

19 The commissioner shall submit an annual report to the General  
20 Assembly no later than February 1 of each year. The report shall  
21 include a description of the operations of all health insurance  
22 purchasing cooperatives and a review of the success of  
23 cooperatives in improving the quality, access or affordability  
24 of health insurance. The commissioner may require cooperatives  
25 to provide information in a uniform format for use in preparing  
26 this report and for other public purposes.

27 Section 17. Rules and regulations.

28 The commissioner may promulgate any rules or regulations  
29 necessary to implement the provisions of this act.

30 Section 18. Effective date.

1        This act shall take effect in 60 days.