

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1150 Session of  
2007

---

INTRODUCED BY D. O'BRIEN, DeWEESE, PALLONE, PHILLIPS, RAPP,  
SCAVELLO, STURLA, BAKER, BASTIAN, BOYD, BROOKS, CALTAGIRONE,  
CARROLL, CLYMER, COHEN, CONKLIN, DALEY, DALLY, DeLUCA,  
DePASQUALE, DONATUCCI, EVERETT, FREEMAN, GEIST, GEORGE,  
GIBBONS, GINGRICH, GOODMAN, GRUCELA, HALUSKA, HARKINS,  
HENNESSEY, HERSHEY, JAMES, JOSEPHS, KAUFFMAN, W. KELLER,  
KENNEY, KIRKLAND, KOTIK, KULA, LEACH, LENTZ, MAHONEY,  
MANDERINO, MANN, MARKOSEK, MARSHALL, McILHATTAN, MOYER, MURT,  
MUSTIO, McGEEHAN, MYERS, NAILOR, M. O'BRIEN, PASHINSKI,  
PAYNE, PETRONE, PRESTON, READSHAW, REICHLEY, ROSS, SCHRODER,  
SEIP, SHAPIRO, SHIMKUS, M. SMITH, SOLOBAY, SONNEY, STABACK,  
STEIL, SURRA, TANGRETTI, TRUE, VEREB, WATSON, J. WHITE,  
WOJNAROSKI, YUDICHAK, MACKERETH, MANTZ, BARRAR, HORNAMAN,  
CAUSER, WALKO, HELM, MELIO, DENLINGER, BRENNAN, RAMALEY,  
DiGIROLAMO, GERGELY, M. KELLER, FRANKEL, FABRIZIO,  
YOUNGBLOOD, REED, ROAE, CURRY, K SMITH, GALLOWAY, SIPTROTH,  
RUBLEY, SAMUELSON AND BOBACK, APRIL 30, 2007

---

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 28, 2008

---

AN ACT

1 ~~Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An~~ <—  
2 ~~act relating to insurance; amending, revising, and~~  
3 ~~consolidating the law providing for the incorporation of~~  
4 ~~insurance companies, and the regulation, supervision, and~~  
5 ~~protection of home and foreign insurance companies, Lloyds~~  
6 ~~associations, reciprocal and inter insurance exchanges, and~~  
7 ~~fire insurance rating bureaus, and the regulation and~~  
8 ~~supervision of insurance carried by such companies,~~  
9 ~~associations, and exchanges, including insurance carried by~~  
10 ~~the State Workmen's Insurance Fund; providing penalties; and~~  
11 ~~repealing existing laws," providing, in health and accident~~  
12 ~~insurance, for autism spectrum disorders coverage and for~~  
13 ~~treatment of autism spectrum disorders; and further providing~~  
14 ~~for quality health care procedures.~~  
15 AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN <—  
16 ACT RELATING TO INSURANCE; AMENDING, REVISING, AND

1 CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF  
2 INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND  
3 PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS  
4 ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND  
5 FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND  
6 SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,  
7 ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY  
8 THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND  
9 REPEALING EXISTING LAWS," IN PRELIMINARY PROVISIONS, FURTHER  
10 PROVIDING FOR EFFECT OF ACT ON EXISTING LAWS; IN LIFE  
11 INSURANCE, FURTHER PROVIDING FOR ADDITIONAL INVESTMENT  
12 AUTHORITY FOR SUBSIDIARIES; IN CASUALTY INSURANCE, PROVIDING  
13 FOR AUTISM SPECTRUM DISORDERS COVERAGE AND FOR COLORECTAL  
14 CANCER SCREENINGS COVERAGE; IN INSURANCE HOLDING COMPANIES,  
15 FURTHER PROVIDING FOR DEFINITIONS, FOR ACQUISITION OF CONTROL  
16 OF OR MERGER WITH DOMESTIC INSURER, FOR ACQUISITIONS  
17 INVOLVING INSURERS NOT OTHERWISE COVERED AND FOR STANDARDS  
18 AND MANAGEMENT OF AN INSURER WITHIN A HOLDING COMPANY SYSTEM;  
19 PROVIDING FOR COMMITTEE REVIEW; ESTABLISHING THE INSURANCE  
20 RESTRUCTURING RESTRICTED RECEIPT ACCOUNT; PROVIDING FOR  
21 COMMUNITY HEALTH REINVESTMENT; AND MAKING A RELATED REPEAL.

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

24 ~~Section 1. The act of May 17, 1921 (P.L.682, No.284), known~~ <—  
25 ~~as The Insurance Company Law of 1921, is amended by adding~~  
26 ~~sections to read:~~

27 ~~Section 635.2. Autism Spectrum Disorders Coverage. (a) A~~  
28 ~~health insurance policy or government program shall provide to~~  
29 ~~covered individuals or recipients under twenty one years of age~~  
30 ~~coverage for the diagnosis of autism spectrum disorders and for~~  
31 ~~the treatment of autism spectrum disorders. To the extent that~~  
32 ~~the diagnosis and treatment of autism spectrum disorders are not~~  
33 ~~already covered by the health insurance policy or government~~  
34 ~~program, coverage under this section shall be included in health~~  
35 ~~insurance policies and contracts under a government program~~  
36 ~~which are delivered, executed, issued, amended, adjusted or~~  
37 ~~renewed on or after one hundred eighty days from the effective~~  
38 ~~date of this section, except that the applicability of this~~  
39 ~~section to government programs shall be contingent upon Federal~~  
40 ~~approval if necessary.~~

1 ~~(b) Except for the Commonwealth's medical assistance program~~  
2 ~~established under the act of June 13, 1967 (P.L.31, No.21),~~  
3 ~~known as the "Public Welfare Code," and except for the~~  
4 ~~Children's Health Care Program established under this act,~~  
5 ~~coverage provided under this section shall be subject to a~~  
6 ~~maximum benefit of thirty six thousand dollars (\$36,000) per~~  
7 ~~year but shall not be subject to any limits on the number of~~  
8 ~~visits to an autism service provider. After December 30, 2009,~~  
9 ~~the Insurance Commissioner shall, on an annual basis, adjust the~~  
10 ~~maximum benefit for inflation using the Medical care component~~  
11 ~~of the United States Department of Labor Consumer Price Index~~  
12 ~~For All Urban Consumers (CPI U). The commissioner shall submit~~  
13 ~~the adjusted maximum benefit to the Legislative Reference Bureau~~  
14 ~~for publication annually in the Pennsylvania Bulletin no later~~  
15 ~~than April 1 of each calendar year, and the published adjusted~~  
16 ~~maximum benefit shall be applicable in the following calendar~~  
17 ~~year to health insurance policies and government programs~~  
18 ~~subject to this act. Payments made by an insurer on behalf of a~~  
19 ~~covered individual for any care, treatment, intervention,~~  
20 ~~service or item, the provision of which was for the treatment of~~  
21 ~~a health condition unrelated to the covered individual's autism~~  
22 ~~spectrum disorder, shall not be applied toward any maximum~~  
23 ~~benefit established under this subsection.~~

24 ~~(c) Coverage under this section shall be subject to~~  
25 ~~copayment, deductible and coinsurance provisions of a health~~  
26 ~~insurance policy or government program to the extent that other~~  
27 ~~medical services covered by the policy or government program are~~  
28 ~~subject to these provisions.~~

29 ~~(d) This section shall not be construed as limiting benefits~~  
30 ~~which are otherwise available to an individual under a health~~

1 ~~insurance policy.~~

2 ~~(c) This section shall not apply to the following types of~~  
3 ~~policies:~~

4 ~~(1) Accident only.~~

5 ~~(2) Limited benefit.~~

6 ~~(3) Credit.~~

7 ~~(4) Dental.~~

8 ~~(5) Vision.~~

9 ~~(6) Specified disease.~~

10 ~~(7) Medicare supplement.~~

11 ~~(8) CHAMPUS (Civilian Health and Medical Program of the~~  
12 ~~Uniformed Services) supplement.~~

13 ~~(9) Long term care or disability income.~~

14 ~~(10) Workers' compensation.~~

15 ~~(11) Automobile medical payment.~~

16 ~~(12) Hospital indemnity.~~

17 ~~(f) As used in this section:~~

18 ~~(1) "Applied behavioral analysis" means the design,~~  
19 ~~implementation and evaluation of environmental modifications,~~  
20 ~~using behavioral stimuli and consequences, to produce socially~~  
21 ~~significant improvement in human behavior, including the use of~~  
22 ~~direct observation, measurement and functional analysis of the~~  
23 ~~relations between environment and behavior.~~

24 ~~(2) "Autism service provider" means any person, entity or~~  
25 ~~group that provides treatment of autism spectrum disorders.~~

26 ~~(3) "Autism spectrum disorders" means any of the pervasive~~  
27 ~~developmental disorders as defined by the most recent edition of~~  
28 ~~the Diagnostic and Statistical Manual of Mental Disorders (DSM),~~  
29 ~~including autistic disorder, Asperger's disorder and pervasive~~  
30 ~~developmental disorder not otherwise specified.~~

1 ~~(4) "Diagnosis of autism spectrum disorders" means medically~~  
2 ~~necessary assessments, evaluations or tests in order to diagnose~~  
3 ~~whether an individual has an autism spectrum disorder.~~

4 ~~(5) "Evidenced based research" means research that applies~~  
5 ~~rigorous, systematic and objective procedures to obtain valid~~  
6 ~~knowledge relevant to autism spectrum disorders.~~

7 ~~(6) "Government program" means any of the following:~~

8 ~~(i) The Commonwealth's medical assistance program~~  
9 ~~established under the act of June 13, 1967 (P.L.31, No.21),~~  
10 ~~known as the "Public Welfare Code."~~

11 ~~(ii) The adult basic coverage insurance program established~~  
12 ~~under Chapter 13 of the act of June 26, 2001 (P.L.755, No.77),~~  
13 ~~known as the "Tobacco Settlement Act."~~

14 ~~(iii) The Children's Health Care Program established under~~  
15 ~~this act.~~

16 ~~(7) "Health insurance policy" means any group health,~~  
17 ~~sickness or accident policy or subscriber contract or~~  
18 ~~certificate issued by an insurance entity subject to one of the~~  
19 ~~following:~~

20 ~~(i) This act.~~

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

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

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

29 ~~(8) "Medically necessary" means any care, treatment,~~  
30 ~~intervention, service or item which is prescribed, provided or~~

1 ~~ordered by a licensed physician, licensed psychologist or~~  
2 ~~certified registered nurse practitioner in accordance with~~  
3 ~~accepted standards of practice and which will, or is reasonably~~  
4 ~~expected to, do any of the following:~~

5 ~~(i) Prevent the onset of an illness, condition, injury or~~  
6 ~~disability.~~

7 ~~(ii) Reduce or ameliorate the physical, mental or~~  
8 ~~developmental effects of an illness, condition, injury or~~  
9 ~~disability.~~

10 ~~(iii) Assist to achieve or maintain maximum functional~~  
11 ~~capacity in performing daily activities, taking into account~~  
12 ~~both the functional capacity of the recipient and those~~  
13 ~~functional capacities that are appropriate of recipients of the~~  
14 ~~same age.~~

15 ~~(9) "Pharmacy care" means medications prescribed by a~~  
16 ~~licensed physician or certified registered nurse practitioner~~  
17 ~~and any health related services deemed medically necessary to~~  
18 ~~determine the need or effectiveness of the medications.~~

19 ~~(10) "Psychiatric care" means direct or consultative~~  
20 ~~services provided by a psychiatrist licensed in the state in~~  
21 ~~which the psychiatrist practices.~~

22 ~~(11) "Psychological care" means direct or consultative~~  
23 ~~services provided by a psychologist licensed in the state in~~  
24 ~~which the psychologist practices.~~

25 ~~(12) "Rehabilitative care" means professional, counseling~~  
26 ~~and guidance services and treatment programs, including applied~~  
27 ~~behavioral analysis, which are necessary to develop, maintain~~  
28 ~~and restore, to the maximum extent practicable, the functioning~~  
29 ~~of an individual.~~

30 ~~(13) "Therapeutic care" means services provided by licensed~~

1 ~~or certified speech therapists, occupational therapists or~~  
2 ~~physical therapists.~~

3 ~~(14) "Treatment for autism spectrum disorders" shall include~~  
4 ~~the following care prescribed, provided or ordered for an~~  
5 ~~individual diagnosed with an autism spectrum disorder by a~~  
6 ~~licensed physician, licensed psychologist or certified~~  
7 ~~registered nurse practitioner if the care is determined to be~~  
8 ~~medically necessary:~~

9 ~~(i) Psychiatric care.~~

10 ~~(ii) Psychological care.~~

11 ~~(iii) Rehabilitative care.~~

12 ~~(iv) Therapeutic care.~~

13 ~~(v) Pharmacy care.~~

14 ~~(vi) Any care, treatment, intervention, service or item for~~  
15 ~~individuals with an autism spectrum disorder which is determined~~  
16 ~~by the Department of Public Welfare, based upon its review of~~  
17 ~~best practices or evidenced based research, to be medically~~  
18 ~~necessary and which is published in the Pennsylvania Bulletin.~~  
19 ~~Any such care, treatment, intervention, service or item which~~  
20 ~~was not previously covered shall be included in any health~~  
21 ~~insurance policy or contract under a government program~~  
22 ~~delivered, issued, executed or renewed on or after 120 days~~  
23 ~~following the date of its publication in the Pennsylvania~~  
24 ~~Bulletin.~~

25 ~~(g) The Department of Public Welfare shall promulgate~~  
26 ~~regulations establishing standards for qualified autism service~~  
27 ~~providers. For purposes of implementing this section, and~~  
28 ~~notwithstanding any other provision of law, the Secretary of~~  
29 ~~Public Welfare shall promulgate regulations pursuant to section~~  
30 ~~204(1)(iv) of the act of July 31, 1968 (P.L.769, No.240),~~

1 ~~referred to as the Commonwealth Documents Law, which shall, for~~  
2 ~~120 days from the effective date of this act, be exempt from all~~  
3 ~~of the following acts:~~

4 ~~(1) Section 205 of the Commonwealth Documents Law.~~

5 ~~(2) Section 204(b) of the act of October 15, 1980 (P.L.950,~~  
6 ~~No.164), known as the "Commonwealth Attorneys Act."~~

7 ~~(3) The act of June 25, 1982 (P.L.633, No.181), known as the~~  
8 ~~"Regulatory Review Act."~~

9 ~~Once the regulations are promulgated, payment for the treatment~~  
10 ~~of autism spectrum disorders covered under this section shall~~  
11 ~~only be made to autism service providers who meet the standards.~~

12 ~~Section 2116.1. Treatment of Autism Spectrum Disorders. (a)~~  
13 ~~Except for inpatient services, if an enrollee has obtained~~  
14 ~~authorization through utilization review from a managed care~~  
15 ~~plan, government program or a licensed insurer to receive any~~  
16 ~~care, treatment, intervention, service or item for an autism~~  
17 ~~spectrum disorder, the authorization shall be valid for twelve~~  
18 ~~months, unless the enrollee's primary care provider determines~~  
19 ~~that an earlier re-evaluation is necessary in order to~~  
20 ~~adequately address the clinical needs of the enrollee.~~

21 ~~(a.1) In applying subsection (a), if within the twelve month~~  
22 ~~period following the effective date of this section a health~~  
23 ~~insurance policy is delivered, issued, executed or renewed and~~  
24 ~~at the time of such delivery, issuance, execution or renewal an~~  
25 ~~enrollee is receiving any inpatient or outpatient care,~~  
26 ~~treatment, intervention, service or item for an autism spectrum~~  
27 ~~disorder pursuant to an authorization obtained from a government~~  
28 ~~program, and the care, treatment, intervention, service or item~~  
29 ~~is covered under the health insurance policy being delivered,~~  
30 ~~issued, executed or renewed, the authorization from the~~



~~1 government program shall remain valid for the remainder of the  
2 existing authorization period as to any managed care plan or  
3 private insurer and such authorization shall be honored by any  
4 managed care plan or private insurer providing coverage to the  
5 enrollee.~~

~~6 (b) If a health care provider provides care, treatments,  
7 interventions, services or items to an enrollee, the coverage of  
8 which is required under section 635.2 and the provider is  
9 enrolled in the Commonwealth's medical assistance program but is  
10 not a network provider with the enrollee's private insurance  
11 plan, the provider shall be reimbursed under the terms and  
12 conditions applicable to the plan's participating providers.  
13 This requirement shall not be subject to any time limitation or  
14 transition period, but shall otherwise be in accord with all  
15 terms applicable to nonparticipating providers under the managed  
16 care continuity of care provisions then in effect.~~

~~17 Section 2. Section 2121 of the act, added June 17, 1998  
18 (P.L.464, No.68), is amended to read:~~

~~19 Section 2121. Procedures. (a) A managed care plan shall  
20 establish a credentialing process to enroll qualified health  
21 care providers and create an adequate provider network. The  
22 process shall be approved by the department and shall include  
23 written criteria and procedures for initial enrollment, renewal,  
24 restrictions and termination of credentials for health care  
25 providers.~~

~~26 (b) [The] Except as provided under subsection (b.1), the  
27 department shall establish credentialing standards for managed  
28 care plans. The department may adopt nationally recognized  
29 accrediting standards to establish the credentialing standards  
30 for managed care plans.~~

1 ~~(b.1) Pursuant to section 635.2(g), the Department of Public~~  
2 ~~Welfare shall establish standards to be utilized by managed care~~  
3 ~~plans for the credentialing of health care providers providing~~  
4 ~~care, treatments, interventions, services or items to enrollees~~  
5 ~~for an autism spectrum disorder as defined under section 635.2.~~  
6 ~~In addition, the department may require that a managed care plan~~  
7 ~~grant credentials to any health care provider whom the~~  
8 ~~Department of Public Welfare determines meets or exceeds the~~  
9 ~~Department of Public Welfare's credentialing standards.~~

10 ~~(c) A managed care plan shall submit a report to the~~  
11 ~~department regarding its credentialing process at least every~~  
12 ~~two (2) years or as may otherwise be required by the department.~~

13 ~~(d) A managed care plan shall disclose relevant~~  
14 ~~credentialing criteria and procedures to health care providers~~  
15 ~~that apply to participate or that are participating in the~~  
16 ~~plan's provider network. A managed care plan shall also disclose~~  
17 ~~relevant credentialing criteria and procedures pursuant to a~~  
18 ~~court order or rule. Any individual providing information during~~  
19 ~~the credentialing process of a managed care plan shall have the~~  
20 ~~protections set forth in the act of July 20, 1974 (P.L.564,~~  
21 ~~No.193), known as the "Peer Review Protection Act."~~

22 ~~(e) No managed care plan shall exclude or terminate a health~~  
23 ~~care provider from participation in the plan due to any of the~~  
24 ~~following:~~

25 ~~(1) The health care provider engaged in any of the~~  
26 ~~activities set forth in section 2113(c).~~

27 ~~(2) The health care provider has a practice that includes a~~  
28 ~~substantial number of patients with expensive medical~~  
29 ~~conditions.~~

30 ~~(3) The health care provider objects to the provision of or~~

1 ~~refuses to provide a health care service on moral or religious~~  
2 ~~grounds.~~

3 ~~(f) If a managed care plan denies enrollment or renewal of~~  
4 ~~credentials to a health care provider, the managed care plan~~  
5 ~~shall provide the health care provider with written notice of~~  
6 ~~the decision. The notice shall include a clear rationale for the~~  
7 ~~decision.~~

8 ~~Section 3. This act shall take effect as follows:~~

9 ~~(1) The following provisions shall take effect in 90~~  
10 ~~days:~~

11 ~~(i) The addition of section 635.2(f) and (g) of the~~  
12 ~~act.~~

13 ~~(ii) The amendment of section 2121 of the act.~~

14 ~~(iii) This section.~~

15 ~~(2) The remainder of this act shall take effect in 210~~  
16 ~~days.~~

17 SECTION 1. SECTION 108 OF THE ACT OF MAY 17, 1921 (P.L.682, <—  
18 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED  
19 TO READ:

20 SECTION 108. EFFECT OF ACT ON EXISTING LAWS.--THE PROVISIONS  
21 OF THIS ACT, SO FAR AS THEY ARE THE SAME AS THOSE OF EXISTING  
22 LAWS, SHALL BE CONSTRUED AS A CONTINUATION OF SUCH LAWS AND NOT  
23 AS NEW ENACTMENTS. THE REPEAL BY THIS ACT OF ANY PROVISION OF  
24 LAW SHALL NOT REVIVE ANY LAW HERETOFORE REPEALED OR SUPERSEDED,  
25 NOR SHALL SUCH REPEAL AFFECT ANY ACT DONE, LIABILITY INCURRED,  
26 OR ANY RIGHT ACCRUED OR VESTED, OR ANY SUIT OR PROSECUTION  
27 PENDING OR TO BE INSTITUTED TO ENFORCE ANY RIGHT OR PENALTY OR  
28 PUNISH ANY OFFENSE UNDER THE AUTHORITY OF THE REPEALED LAWS. THE  
29 PROVISIONS OF THIS ACT SHALL NOT LIMIT THE JURISDICTION AND  
30 AUTHORITY OF THE OFFICE OF ATTORNEY GENERAL, INCLUDING, BUT NOT

1 LIMITED TO, THE JURISDICTION AND AUTHORITY GRANTED PURSUANT TO  
2 THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE  
3 "COMMONWEALTH ATTORNEYS ACT."

4 SECTION 2. SECTION 405.2(C) OF THE ACT, AMENDED DECEMBER 21,  
5 1995 (P.L.714, NO.79), IS AMENDED TO READ:

6 SECTION 405.2. ADDITIONAL INVESTMENT AUTHORITY FOR  
7 SUBSIDIARIES.--\* \* \*

8 (C) (1) [AT] EXCEPT AS SET FORTH IN PARAGRAPH (1.1), AT NO <—  
9 TIME SHALL A DOMESTIC LIFE INSURANCE COMPANY MAKE AN INVESTMENT  
10 IN ANY SUBSIDIARY WHICH WILL BRING THE AGGREGATE VALUE OF ITS  
11 INVESTMENTS, AS DETERMINED FOR ANNUAL STATEMENT PURPOSES BUT NOT  
12 IN EXCESS OF COST, IN ALL SUBSIDIARIES UNDER THIS SUBSECTION TO  
13 AN AMOUNT IN EXCESS OF ~~{TEN} FIFTEEN PER CENTUM [(10%)] (15%)~~ <—  
14 TEN PER CENTUM (10%) OF ITS TOTAL ADMITTED ASSETS AS OF THE <—  
15 IMMEDIATELY PRECEDING THIRTY-FIRST DAY OF DECEMBER. IN  
16 DETERMINING THE AMOUNT OF INVESTMENTS OF ANY DOMESTIC LIFE  
17 INSURANCE COMPANY IN SUBSIDIARIES FOR PURPOSES OF THIS  
18 SUBSECTION, THERE SHALL BE INCLUDED INVESTMENTS MADE DIRECTLY BY  
19 SUCH INSURANCE COMPANY AND, IF SUCH INVESTMENT IS MADE BY  
20 ANOTHER SUBSIDIARY, THEN TO THE EXTENT THAT FUNDS FOR SUCH  
21 INVESTMENTS ARE PROVIDED BY THE INSURANCE COMPANY FOR SUCH  
22 PURPOSE.

23 (1.1) A DOMESTIC LIFE INSURANCE COMPANY MAY INCREASE THE  
24 AGGREGATE VALUE OF ITS INVESTMENTS, AS DETERMINED FOR ANNUAL  
25 STATEMENT PURPOSES, BUT NOT IN EXCESS OF COST, IN ALL  
26 SUBSIDIARIES UNDER THIS SUBSECTION TO AN AMOUNT IN EXCESS OF TEN <—  
27 PER CENTUM (10%) BUT AT NO TIME IN EXCESS OF FIFTEEN PER CENTUM  
28 (15%) OF ITS TOTAL ADMITTED ASSETS AS OF THE IMMEDIATELY  
29 PRECEDING THIRTY-FIRST DAY OF DECEMBER IF THE INCREASE HAS BEEN  
30 APPROVED IN WRITING BY THE INSURANCE DEPARTMENT PRIOR TO MAKING

1 THE INVESTMENT. IF THE INSURANCE DEPARTMENT DOES NOT APPROVE OR  
2 DISAPPROVE THE INCREASED INVESTMENT WITHIN THIRTY (30) DAYS OF  
3 RECEIPT OF A REQUEST FOR APPROVAL, THE INCREASED INVESTMENT  
4 SHALL BE DEEMED APPROVED. IN DETERMINING THE AMOUNT OF  
5 INVESTMENTS OF ANY DOMESTIC LIFE INSURANCE COMPANY IN  
6 SUBSIDIARIES FOR PURPOSES OF THIS SUBSECTION, THERE SHALL BE  
7 INCLUDED INVESTMENTS MADE DIRECTLY BY SUCH INSURANCE COMPANY  
8 AND, IF SUCH INVESTMENT IS MADE BY ANOTHER SUBSIDIARY, THEN TO  
9 THE EXTENT THAT FUNDS FOR SUCH INVESTMENTS ARE PROVIDED BY THE  
10 INSURANCE COMPANY FOR SUCH PURPOSE.

11 (2) THE LIMITATIONS SET FORTH IN CLAUSE (1) OF THIS  
12 SUBSECTION SHALL NOT APPLY TO INVESTMENTS IN ANY SUBSIDIARY  
13 WHICH IS:

14 (I) AN INSURANCE COMPANY OR A HEALTH MAINTENANCE  
15 ORGANIZATION HOLDING A CERTIFICATE OF AUTHORITY UNDER THE ACT OF  
16 DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN AS THE "HEALTH  
17 MAINTENANCE ORGANIZATION ACT."

18 (II) A HOLDING COMPANY TO THE EXTENT ITS BUSINESS CONSISTS  
19 OF THE HOLDING OF THE STOCK OF, OR OTHERWISE CONTROLLING, ITS  
20 OWN SUBSIDIARIES.

21 (III) A CORPORATION WHOSE BUSINESS PRIMARILY CONSISTS OF  
22 DIRECT OR INDIRECT OWNERSHIP, OPERATION OR MANAGEMENT OF ASSETS  
23 AUTHORIZED AS INVESTMENTS PURSUANT TO SECTIONS 404.1 AND 406.

24 (IV) A COMPANY ENGAGED IN ANY COMBINATION OF THE ACTIVITIES  
25 DESCRIBED IN SUBCLAUSES (I), (II) AND (III) OF THIS CLAUSE.  
26 INVESTMENTS MADE PURSUANT TO SUBCLAUSE (I) SHALL NOT BE  
27 RESTRICTED IN AMOUNT PROVIDED THAT AFTER SUCH INVESTMENT, AS  
28 CALCULATED FOR NAIC ANNUAL STATEMENT PURPOSES, THE INSURER'S  
29 SURPLUS WILL BE REASONABLE IN RELATION TO THE INSURER'S  
30 OUTSTANDING LIABILITIES AND ADEQUATE TO ITS FINANCIAL NEEDS.

1 INVESTMENTS MADE PURSUANT TO SUBCLAUSE (II), OR TO THE EXTENT  
2 APPLICABLE IN THIS SUBCLAUSE, SHALL IN ADDITION NOT BE SUBJECT  
3 TO ANY LIMITATIONS ON THE AMOUNT OF A DOMESTIC LIFE INSURANCE  
4 COMPANY'S ASSETS PROVIDED FOR UNDER ANY OTHER PROVISION OF THIS  
5 ACT AND WHICH MIGHT OTHERWISE BE APPLICABLE: PROVIDED, HOWEVER,  
6 THAT SUCH LIFE INSURANCE COMPANY'S INVESTMENTS, TO THE EXTENT  
7 THAT SUCH LIFE INSURANCE COMPANY PROVIDED THE FUNDS THEREFOR, IN  
8 EACH OF THE SUBSIDIARIES OF SUCH HOLDING COMPANY SHALL BE  
9 SUBJECT TO THE LIMITATIONS, IF ANY, APPLICABLE TO SUCH  
10 INVESTMENT AS IF THE HOLDING COMPANY'S INTEREST IN EACH SUCH  
11 SUBSIDIARY WERE INSTEAD OWNED DIRECTLY BY THE LIFE INSURANCE  
12 COMPANY. INVESTMENTS MADE PURSUANT TO SUBCLAUSE (III), OR, TO  
13 THE EXTENT APPLICABLE, THIS CLAUSE, SHALL BE COUNTED IN  
14 DETERMINING THE LIMITATIONS CONTAINED IN APPLICABLE SUBSECTIONS  
15 OF SECTIONS 404.2 AND 406: PROVIDED, HOWEVER, THAT THE VALUE AS  
16 CALCULATED FOR ANNUAL STATEMENT PURPOSES, BUT NOT IN EXCESS OF  
17 THE COST THEREOF, OF SUCH INVESTMENT SHALL INCLUDE ONLY FUNDS  
18 PROVIDED BY THE INSURANCE COMPANY THEREFOR. INVESTMENTS MADE IN  
19 OTHER SUBSIDIARIES OF SUCH LIFE INSURANCE COMPANY BY ANY  
20 SUBSIDIARY DESCRIBED IN SUBCLAUSES (I), (II), (III) AND THIS  
21 SUBCLAUSE OR BY A PERSON WHOSE BUSINESS PRIMARILY CONSISTS OF  
22 DIRECT OR INDIRECT OWNERSHIP, OPERATION OR MANAGEMENT OF REAL  
23 PROPERTY AND INTEREST THEREIN UNDER SECTION 406 SHALL BE DEEMED  
24 INVESTMENTS MADE BY THE INSURANCE COMPANY ONLY TO THE EXTENT THE  
25 FUNDS FOR SUCH INVESTMENT WERE PROVIDED BY SUCH INSURANCE  
26 COMPANY.

27 \* \* \*

28 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

29 SECTION 635.2. AUTISM SPECTRUM DISORDERS COVERAGE.--(A) A  
30 HEALTH INSURANCE POLICY OR GOVERNMENT PROGRAM COVERED UNDER THIS

1 SECTION SHALL PROVIDE TO COVERED INDIVIDUALS OR RECIPIENTS UNDER  
2 TWENTY-ONE (21) YEARS OF AGE COVERAGE FOR THE DIAGNOSTIC  
3 ASSESSMENT OF AUTISM SPECTRUM DISORDERS AND FOR THE TREATMENT OF  
4 AUTISM SPECTRUM DISORDERS.

5 (B) COVERAGE PROVIDED UNDER THIS SECTION BY AN INSURER SHALL  
6 BE SUBJECT TO A MAXIMUM BENEFIT OF THIRTY-SIX THOUSAND DOLLARS  
7 (\$36,000) PER YEAR BUT SHALL NOT BE SUBJECT TO ANY LIMITS ON THE  
8 NUMBER OF VISITS TO AN AUTISM SERVICE PROVIDER FOR TREATMENT OF  
9 AUTISM SPECTRUM DISORDERS. AFTER DECEMBER 30, 2011, THE  
10 INSURANCE COMMISSIONER SHALL, ON OR BEFORE APRIL 1 OF EACH  
11 CALENDAR YEAR, PUBLISH IN THE PENNSYLVANIA BULLETIN AN  
12 ADJUSTMENT TO THE MAXIMUM BENEFIT EQUAL TO THE CHANGE IN THE  
13 UNITED STATES DEPARTMENT OF LABOR CONSUMER PRICE INDEX FOR ALL  
14 URBAN CONSUMERS (CPI-U) IN THE PRECEDING YEAR, AND THE PUBLISHED  
15 ADJUSTED MAXIMUM BENEFIT SHALL BE APPLICABLE TO THE FOLLOWING  
16 CALENDAR YEARS TO HEALTH INSURANCE POLICIES ISSUED OR RENEWED IN  
17 THOSE CALENDAR YEARS. PAYMENTS MADE BY AN INSURER ON BEHALF OF A  
18 COVERED INDIVIDUAL FOR TREATMENT OF A HEALTH CONDITION UNRELATED  
19 TO OR DISTINGUISHABLE FROM THE INDIVIDUAL'S AUTISM SPECTRUM  
20 DISORDER SHALL NOT BE APPLIED TOWARD ANY MAXIMUM BENEFIT  
21 ESTABLISHED UNDER THIS SUBSECTION.

22 (C) COVERAGE UNDER THIS SECTION SHALL BE SUBJECT TO  
23 COPAYMENT, DEDUCTIBLE AND COINSURANCE PROVISIONS, AND ANY OTHER  
24 GENERAL EXCLUSIONS OR LIMITATIONS, OF A HEALTH INSURANCE POLICY  
25 OR GOVERNMENT PROGRAM TO THE SAME EXTENT AS OTHER MEDICAL  
26 SERVICES COVERED BY THE POLICY OR PROGRAM ARE SUBJECT TO THESE  
27 PROVISIONS.

28 (D) THIS SECTION SHALL NOT BE CONSTRUED AS LIMITING BENEFITS  
29 WHICH ARE OTHERWISE AVAILABLE TO AN INDIVIDUAL UNDER A HEALTH  
30 INSURANCE POLICY OR GOVERNMENT PROGRAM.

1        (D.1) THIS SECTION SHALL NOT BE CONSTRUED AS REQUIRING  
2 COVERAGE BY INSURERS OF ANY SERVICE BASED SOLELY ON ITS  
3 INCLUSION IN AN INDIVIDUALIZED EDUCATION PROGRAM. CONSISTENT  
4 WITH FEDERAL OR STATE LAW AND UPON CONSENT OF THE PARENT OR  
5 GUARDIAN OF THE COVERED INDIVIDUAL, THE TREATMENT OF AUTISM  
6 SPECTRUM DISORDERS MAY BE COORDINATED WITH ANY SERVICE INCLUDED  
7 IN AN INDIVIDUALIZED EDUCATION PROGRAM. COVERAGE FOR THE  
8 TREATMENT OF AUTISM SPECTRUM DISORDERS SHALL NOT BE CONTINGENT  
9 UPON A COORDINATION OF SERVICES WITH AN INDIVIDUALIZED EDUCATION  
10 PROGRAM.

11        (E) (1) THIS SECTION SHALL APPLY TO ANY HEALTH INSURANCE  
12 POLICY OFFERED, ISSUED OR RENEWED ON OR AFTER JULY 1, 2009, IN  
13 THIS COMMONWEALTH TO GROUPS OF FIFTY-ONE (51) OR MORE EMPLOYEES:  
14 PROVIDED, THAT THIS SECTION SHALL NOT INCLUDE THE FOLLOWING  
15 POLICIES:

16        (I) ACCIDENT ONLY.

17        (II) FIXED INDEMNITY.

18        (III) LIMITED BENEFIT.

19        (IV) CREDIT.

20        (V) DENTAL.

21        (VI) VISION.

22        (VII) SPECIFIED DISEASE.

23        (VIII) MEDICARE SUPPLEMENT.

24        (IX) CHAMPUS (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE  
25 UNIFORMED SERVICES) SUPPLEMENT.

26        (X) LONG-TERM CARE OR DISABILITY INCOME.

27        (XI) WORKERS' COMPENSATION.

28        (XII) AUTOMOBILE MEDICAL PAYMENT.

29        (2) THIS SECTION SHALL APPLY TO ANY CONTRACT EXECUTED ON OR  
30 AFTER JULY 1, 2009, BY THE ADULT BASIC COVERAGE INSURANCE



1 PROGRAM ESTABLISHED UNDER CHAPTER 13 OF THE ACT OF JUNE 26, 2001  
2 (P.L.755, NO.77), KNOWN AS THE "TOBACCO SETTLEMENT ACT," OR BY  
3 THE CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED UNDER THIS ACT,  
4 OR BY ANY SUCCESSOR PROGRAM OF EITHER OF THEM.

5 (3) ON JANUARY 1, 2011, INSURERS SHALL MAKE A REPORT TO THE  
6 INSURANCE DEPARTMENT, IN A FORM AND MANNER AS DETERMINED BY THE  
7 DEPARTMENT, TO EVALUATE THE IMPLEMENTATION OF THIS SECTION.

8 (F) AS USED IN THIS SECTION:

9 (1) "APPLIED BEHAVIORAL ANALYSIS" MEANS THE DESIGN,  
10 IMPLEMENTATION AND EVALUATION OF ENVIRONMENTAL MODIFICATION,  
11 USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO PRODUCE SOCIALLY  
12 SIGNIFICANT IMPROVEMENT IN HUMAN BEHAVIOR OR TO PREVENT LOSS OF ←  
13 ATTAINED SKILL OR FUNCTION, INCLUDING THE USE OF DIRECT  
14 OBSERVATION, MEASUREMENT AND FUNCTIONAL ANALYSIS OF THE  
15 RELATIONS BETWEEN ENVIRONMENT AND BEHAVIOR.

16 (2) "AUTISM SERVICE PROVIDER" MEANS ANY OF THE FOLLOWING:

17 (I) A PERSON, ENTITY OR GROUP PROVIDING TREATMENT OF AUTISM  
18 SPECTRUM DISORDERS PURSUANT TO A TREATMENT PLAN THAT IS LICENSED  
19 OR CERTIFIED IN THIS COMMONWEALTH.

20 (II) ANY PERSON, ENTITY OR GROUP PROVIDING TREATMENT OF  
21 AUTISM SPECTRUM DISORDERS PURSUANT TO A TREATMENT PLAN THAT IS  
22 ENROLLED IN THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM ON OR  
23 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

24 (3) "AUTISM SPECTRUM DISORDERS" MEANS ANY OF THE PERVASIVE  
25 DEVELOPMENTAL DISORDERS DEFINED BY THE MOST RECENT EDITION OF  
26 THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (DSM),  
27 OR ITS SUCCESSOR, INCLUDING AUTISTIC DISORDER, ASPERGER'S  
28 DISORDER AND PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE  
29 SPECIFIED.

30 (4) "BEHAVIOR SPECIALIST" MEANS AN INDIVIDUAL WHO DESIGNS,

1 IMPLEMENTS OR EVALUATES A BEHAVIOR MODIFICATION INTERVENTION  
2 COMPONENT OF A TREATMENT PLAN, INCLUDING THOSE BASED ON APPLIED  
3 BEHAVIORAL ANALYSIS, TO PRODUCE SOCIALLY SIGNIFICANT  
4 IMPROVEMENTS IN HUMAN BEHAVIOR OR TO PREVENT LOSS OF ATTAINED ←  
5 SKILL OR FUNCTION THROUGH SKILL ACQUISITION AND THE REDUCTION OF  
6 PROBLEMATIC BEHAVIOR.

7 (5) "DIAGNOSTIC ASSESSMENT OF AUTISM SPECTRUM DISORDERS"  
8 MEANS MEDICALLY NECESSARY ASSESSMENTS, EVALUATIONS OR TESTS  
9 PERFORMED BY A LICENSED PHYSICIAN, LICENSED PHYSICIAN ASSISTANT,  
10 LICENSED PSYCHOLOGIST OR CERTIFIED REGISTERED NURSE PRACTITIONER  
11 TO DIAGNOSE WHETHER AN INDIVIDUAL HAS AN AUTISM SPECTRUM  
12 DISORDER.

13 (6) "GOVERNMENT PROGRAM" MEANS ANY OF THE FOLLOWING:

14 (I) THE COMMONWEALTH'S MEDICAL ASSISTANCE PROGRAM  
15 ESTABLISHED UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21),  
16 KNOWN AS THE "PUBLIC WELFARE CODE."

17 (II) THE ADULT BASIC COVERAGE INSURANCE PROGRAM ESTABLISHED  
18 UNDER CHAPTER 13 OF THE ACT OF JUNE 26, 2001 (P.L.755, NO.77),  
19 KNOWN AS THE "TOBACCO SETTLEMENT ACT."

20 (III) THE CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED UNDER  
21 THIS ACT.

22 (7) "HEALTH INSURANCE POLICY" MEANS ANY GROUP HEALTH,  
23 SICKNESS OR ACCIDENT POLICY, OR SUBSCRIBER CONTRACT OR  
24 CERTIFICATE OFFERED, ISSUED OR RENEWED BY AN ENTITY SUBJECT TO  
25 ONE OF THE FOLLOWING:

26 (I) THIS ACT.

27 (II) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN  
28 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

29 (III) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN  
30 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICE

1 PLAN CORPORATIONS).

2 (8) "INSURER" MEANS ANY ENTITY OFFERING A HEALTH INSURANCE  
3 POLICY AS DEFINED IN THIS SECTION.

4 (9) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A  
5 LICENSED PHYSICIAN, LICENSED PHYSICIAN ASSISTANT OR CERTIFIED  
6 REGISTERED NURSE PRACTITIONER AND ANY ASSESSMENT, EVALUATION OR  
7 TEST PRESCRIBED OR ORDERED BY A LICENSED PHYSICIAN, LICENSED  
8 PHYSICIAN ASSISTANT OR CERTIFIED REGISTERED NURSE PRACTITIONER  
9 TO DETERMINE THE NEED OR EFFECTIVENESS OF SUCH MEDICATIONS.

10 (10) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE  
11 SERVICES PROVIDED BY A PHYSICIAN WHO SPECIALIZES IN PSYCHIATRY.

12 (11) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE  
13 SERVICES PROVIDED BY A PSYCHOLOGIST.

14 (12) "REHABILITATIVE CARE" MEANS PROFESSIONAL SERVICES AND  
15 TREATMENT PROGRAMS, INCLUDING APPLIED BEHAVIORAL ANALYSIS,  
16 PROVIDED BY AN AUTISM SERVICE PROVIDER.

17 (13) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY SPEECH  
18 LANGUAGE PATHOLOGISTS, OCCUPATIONAL THERAPISTS OR PHYSICAL  
19 THERAPISTS.

20 (14) "TREATMENT OF AUTISM SPECTRUM DISORDER" SHALL BE  
21 IDENTIFIED IN A TREATMENT PLAN AND SHALL INCLUDE ANY OF THE  
22 FOLLOWING MEDICALLY NECESSARY PHARMACY CARE, PSYCHIATRIC CARE,  
23 PSYCHOLOGICAL CARE, REHABILITATIVE CARE AND THERAPEUTIC CARE  
24 THAT IS:

25 (I) PRESCRIBED, ORDERED OR PROVIDED BY A LICENSED PHYSICIAN,  
26 LICENSED PHYSICIAN ASSISTANT, LICENSED PSYCHOLOGIST, LICENSED  
27 CLINICAL SOCIAL WORKER OR CERTIFIED REGISTERED NURSE  
28 PRACTITIONER.

29 (II) PROVIDED BY AN AUTISM SERVICE PROVIDER.

30 (III) PROVIDED BY A PERSON, ENTITY OR GROUP THAT WORKS UNDER

1 THE DIRECTION OF AN AUTISM SERVICE PROVIDER.

2 (15) "TREATMENT PLAN" MEANS A PLAN FOR THE TREATMENT OF  
3 AUTISM SPECTRUM DISORDERS DEVELOPED BY A LICENSED PHYSICIAN OR  
4 LICENSED PSYCHOLOGIST PURSUANT TO A COMPREHENSIVE EVALUATION OR  
5 REEVALUATION PERFORMED IN A MANNER CONSISTENT WITH THE MOST  
6 RECENT CLINICAL REPORT OR RECOMMENDATIONS OF THE AMERICAN  
7 ACADEMY OF PEDIATRICS.

8 (G) (1) THE STATE BOARD OF MEDICINE, IN CONSULTATION WITH  
9 THE DEPARTMENT OF PUBLIC WELFARE, SHALL PROMULGATE REGULATIONS  
10 PROVIDING FOR THE LICENSURE OR CERTIFICATION OF BEHAVIOR  
11 SPECIALISTS. BEHAVIOR SPECIALISTS LICENSED OR CERTIFIED BY THE  
12 STATE BOARD OF MEDICINE SHALL BE SUBJECT TO ALL DISCIPLINARY  
13 PROVISIONS APPLICABLE TO MEDICAL DOCTORS AS SET FORTH IN THE ACT  
14 OF DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE "MEDICAL  
15 PRACTICE ACT OF 1985." THE STATE BOARD OF MEDICINE MAY CHARGE  
16 REASONABLE FEES AS SET BY BOARD REGULATION FOR LICENSURE OR  
17 CERTIFICATES OR APPLICATIONS PERMITTED BY THE "MEDICAL PRACTICE  
18 ACT OF 1985."

19 (2) AN APPLICANT APPLYING FOR A LICENSE OR CERTIFICATE AS A  
20 BEHAVIOR SPECIALIST SHALL SUBMIT A WRITTEN APPLICATION ON FORMS  
21 PROVIDED BY THE STATE BOARD OF MEDICINE EVIDENCING AND INSURING  
22 TO THE SATISFACTION OF THE BOARD THAT THE APPLICANT:

23 (I) IS OF GOOD MORAL CHARACTER.

24 (II) HAS RECEIVED A MASTER'S OR HIGHER DEGREE FROM A BOARD-  
25 APPROVED, ACCREDITED COLLEGE OR UNIVERSITY, INCLUDING A MAJOR  
26 COURSE OF STUDY IN SCHOOL, CLINICAL OR COUNSELING PSYCHOLOGY,  
27 SPECIAL EDUCATION, SOCIAL WORK, SPEECH THERAPY, OCCUPATIONAL  
28 THERAPY OR ANOTHER RELATED FIELD.

29 (III) HAS AT LEAST ONE YEAR OF EXPERIENCE INVOLVING  
30 FUNCTIONAL BEHAVIOR ASSESSMENTS, INCLUDING THE DEVELOPMENT AND

1 IMPLEMENTATION OF BEHAVIORAL SUPPORTS OR TREATMENT PLANS.

2 (IV) HAS COMPLETED AT LEAST ONE THOUSAND (1,000) HOURS IN  
3 DIRECT CLINICAL EXPERIENCE WITH INDIVIDUALS WITH BEHAVIORAL  
4 CHALLENGES OR AT LEAST ONE THOUSAND (1,000) HOURS' EXPERIENCE IN  
5 A RELATED FIELD WITH INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS.

6 (V) HAS COMPLETED RELEVANT TRAINING PROGRAMS, INCLUDING  
7 PROFESSIONAL ETHICS, AUTISM-SPECIFIC TRAINING, ASSESSMENTS  
8 TRAINING, INSTRUCTIONAL STRATEGIES AND BEST PRACTICES, CRISIS  
9 INTERVENTION, COMORBIDITY AND MEDICATIONS, FAMILY COLLABORATION  
10 AND ADDRESSING SPECIFIC SKILL DEFICITS TRAINING.

11 (3) THE BOARD SHALL NOT ISSUE A LICENSE OR CERTIFICATE TO AN  
12 APPLICANT WHO HAS BEEN CONVICTED OF A FELONY UNDER THE ACT OF  
13 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE CONTROLLED  
14 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," OR IF AN OFFENSE  
15 UNDER THE LAWS OF ANOTHER JURISDICTION WHICH, IF COMMITTED IN  
16 THIS COMMONWEALTH, WOULD BE A FELONY UNDER "THE CONTROLLED  
17 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," UNLESS:

18 (I) AT LEAST TEN (10) YEARS HAVE ELAPSED FROM THE DATE OF  
19 CONVICTION.

20 (II) THE APPLICANT SATISFACTORILY DEMONSTRATES TO THE BOARD  
21 THAT HE HAS MADE SIGNIFICANT PROGRESS IN PERSONAL REHABILITATION  
22 SINCE THE CONVICTION SUCH THAT LICENSURE OF THE APPLICANT SHOULD  
23 NOT BE EXPECTED TO CREATE A SUBSTANTIAL RISK OF HARM TO THE  
24 HEALTH AND SAFETY OF HIS PATIENTS OR THE PUBLIC OR A SUBSTANTIAL  
25 RISK OF FURTHER CRIMINAL VIOLATIONS.

26 (III) THE APPLICANT OTHERWISE SATISFIES THE QUALIFICATIONS  
27 CONTAINED IN OR AUTHORIZED BY THIS SECTION.

28 AS USED IN THIS PARAGRAPH, THE TERM "CONVICTED" SHALL INCLUDE A  
29 JUDGMENT, AN ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE.

30 (H) AN INSURER SHALL BE REQUIRED TO CONTRACT WITH AND TO

1 ACCEPT AS A PARTICIPATING PROVIDER ANY AUTISM SERVICE PROVIDER  
2 WITHIN ITS SERVICE AREA AND ENROLLED IN THE COMMONWEALTH'S  
3 MEDICAL ASSISTANCE PROGRAM WHO AGREES TO ACCEPT THE PAYMENT  
4 LEVELS, TERMS AND CONDITIONS APPLICABLE TO THE INSURER'S OTHER  
5 PARTICIPATING PROVIDERS FOR SUCH SERVICE.

6 (I) AN INSURER MAY REVIEW A TREATMENT PLAN FOR TREATMENT OF  
7 AUTISM SPECTRUM DISORDERS ONCE EVERY SIX (6) MONTHS, SUBJECT TO  
8 ITS UTILIZATION REVIEW REQUIREMENTS, INCLUDING CASE MANAGEMENT,  
9 CONCURRENT REVIEW AND OTHER MANAGED CARE PROVISIONS. A MORE OR  
10 LESS FREQUENT REVIEW CAN BE AGREED UPON BY THE INSURER AND THE  
11 LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST DEVELOPING THE  
12 TREATMENT PLAN.

13 (J) THE RESULTS OF A DIAGNOSTIC ASSESSMENT OF AUTISM  
14 SPECTRUM DISORDER SHALL BE VALID FOR A PERIOD OF TWELVE (12)  
15 MONTHS, UNLESS A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST  
16 DETERMINES AN EARLIER ASSESSMENT IS NECESSARY.

17 (K) (1) UPON DENIAL OR PARTIAL DENIAL BY AN INSURER OF A ←  
18 CLAIM FOR DIAGNOSTIC ASSESSMENT OF AUTISM SPECTRUM DISORDERS OR  
19 A CLAIM FOR TREATMENT OF AUTISM SPECTRUM DISORDERS, A COVERED  
20 INDIVIDUAL OR AN AUTHORIZED REPRESENTATIVE SHALL BE ENTITLED TO  
21 AN EXPEDITED INTERNAL REVIEW PROCESS PURSUANT TO THE PROCEDURES  
22 SET FORTH IN ARTICLE XXI, FOLLOWED BY AN EXPEDITED INDEPENDENT  
23 EXTERNAL REVIEW PROCESS ESTABLISHED AND ADMINISTERED BY THE  
24 INSURANCE DEPARTMENT.

25 (2) AN INSURER OR COVERED INDIVIDUAL OR AN AUTHORIZED  
26 REPRESENTATIVE MAY APPEAL TO A COURT OF COMPETENT JURISDICTION  
27 AN ORDER OF AN EXPEDITED INDEPENDENT EXTERNAL REVIEW  
28 DISAPPROVING A DENIAL OR PARTIAL DENIAL. PENDING A RULING OF  
29 SUCH COURT, THE INSURER SHALL PAY FOR THOSE SERVICES, IF ANY,  
30 THAT HAVE BEEN AUTHORIZED UNTIL SUCH RULING.

1       (3) THE INSURANCE COMMISSIONER MAY PROMULGATE RULES AND  
2 REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO IMPLEMENT AND  
3 ADMINISTER THIS SUBSECTION.

4       ~~(K)~~ (L) FOR PURPOSES OF THIS SECTION, THE TERM "AUTISM       <—  
5 SERVICE PROVIDER" SHALL INCLUDE ANY BEHAVIOR SPECIALIST IN THIS  
6 COMMONWEALTH PROVIDING TREATMENT OF AUTISM SPECTRUM DISORDERS  
7 PURSUANT TO A TREATMENT PLAN UNTIL ONE (1) YEAR FROM THE TIME  
8 THAT SUCH REGULATIONS UNDER SUBSECTION (G) ARE PROMULGATED OR       <—  
9 UNTIL THREE (3) YEARS FROM THE EFFECTIVE DATE OF THIS SECTION,  
10 WHICHEVER IS LATER.

11       SECTION 635.3. COVERAGE FOR COLORECTAL CANCER SCREENING.--

12 (A) EXCEPT TO THE EXTENT ALREADY COVERED UNDER ANOTHER POLICY,  
13 ALL HEALTH INSURANCE POLICIES AS DEFINED IN THIS SECTION SHALL  
14 ALSO PROVIDE COVERAGE FOR COLORECTAL CANCER SCREENING FOR  
15 COVERED INDIVIDUALS IN ACCORDANCE WITH ~~THE MOST RECENTLY~~       <—  
16 PUBLISHED AMERICAN CANCER SOCIETY GUIDELINES FOR COLORECTAL  
17 CANCER SCREENING PUBLISHED AS OF JANUARY 1, 2008, AND CONSISTENT       <—  
18 WITH APPROVED MEDICAL STANDARDS AND PRACTICES.

19       (1) COVERAGE FOR NONSYMPTOMATIC COVERED INDIVIDUALS WHO ARE  
20 FIFTY (50) YEARS OF AGE OR OLDER SHALL INCLUDE, BUT NOT BE  
21 LIMITED TO:

22       (I) AN ANNUAL FECAL OCCULT BLOOD TEST.

23       (II) A SIGMOIDOSCOPY, A SCREENING BARIUM ENEMA OR A TEST  
24 CONSISTENT WITH APPROVED MEDICAL STANDARDS AND PRACTICES TO  
25 DETECT COLON CANCER, AT LEAST ONCE EVERY FIVE (5) YEARS.

26       (III) A COLONOSCOPY AT LEAST ONCE EVERY TEN (10) YEARS.

27       (2) COVERAGE FOR SYMPTOMATIC COVERED INDIVIDUALS SHALL  
28 INCLUDE A COLONOSCOPY, SIGMOIDOSCOPY OR ANY COMBINATION OF  
29 COLORECTAL CANCER SCREENING TESTS AT A FREQUENCY DETERMINED BY A  
30 TREATING PHYSICIAN.

1       (3) COVERAGE FOR NONSYMPTOMATIC COVERED INDIVIDUALS WHO ARE  
2 AT HIGH OR INCREASED RISK FOR COLORECTAL CANCER WHO ARE UNDER  
3 FIFTY (50) YEARS OF AGE SHALL INCLUDE A COLONOSCOPY OR ANY  
4 COMBINATION OF COLORECTAL CANCER SCREENING TESTS IN ACCORDANCE  
5 WITH THE MOST RECENTLY PUBLISHED AMERICAN CANCER SOCIETY <—  
6 GUIDELINES ON SCREENING FOR COLORECTAL CANCER PUBLISHED AS OF <—  
7 JANUARY 1, 2008.

8       (B) THE COVERAGE REQUIRED UNDER THIS SECTION SHALL BE  
9 SUBJECT TO ANNUAL DEDUCTIBLES, COINSURANCE AND COPAYMENT  
10 REQUIREMENTS IMPOSED BY AN ENTITY SUBJECT TO THIS SECTION FOR  
11 SIMILAR COVERAGES UNDER THE SAME HEALTH INSURANCE POLICY OR  
12 CONTRACT.

13       (C) FOR THE PURPOSE OF THIS SECTION:

14       (1) "HEALTH INSURANCE POLICY" MEANS ANY INDIVIDUAL OR GROUP <—  
15 HEALTH, SICKNESS OR ACCIDENT POLICY OR SUBSCRIBER CONTRACT OR  
16 CERTIFICATE OFFERED TO GROUPS OF FIFTY-ONE (51) OR MORE EMPLOYEES <—  
17 ISSUED BY AN ENTITY SUBJECT TO ANY ONE OF THE FOLLOWING:

18       (I) THIS ACT.

19       (II) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN  
20 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

21       ~~(III) THE ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS THE~~ <—  
22 ~~"INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS~~  
23 ~~ACT."~~

24       ~~(IV) (III) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN~~ <—  
25 ~~CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES~~  
26 ~~PLAN CORPORATIONS).~~

27       ~~(V) MEDICAL ASSISTANCE.~~ <—

28 THE TERM DOES NOT INCLUDE ACCIDENT ONLY, FIXED INDEMNITY,  
29 LIMITED BENEFIT, CREDIT, DENTAL, VISION, SPECIFIED DISEASE,  
30 MEDICARE SUPPLEMENT, CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE



1 UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT, LONG-TERM CARE OR  
2 DISABILITY INCOME, WORKERS' COMPENSATION OR AUTOMOBILE MEDICAL  
3 PAYMENT INSURANCE.

4 (2) "COLONOSCOPY" MEANS AN EXAMINATION OF THE RECTUM AND THE  
5 ENTIRE COLON USING A LIGHTED INSTRUMENT CALLED A COLONOSCOPE.

6 (3) "COLORECTAL CANCER SCREENING" MEANS ANY OF THE FOLLOWING  
7 PROCEDURES THAT ARE FURNISHED TO AN INDIVIDUAL FOR THE PURPOSE  
8 OF EARLY DETECTION OF COLORECTAL CANCER:

9 (I) SCREENING FECAL-OCCULT BLOOD OR FECAL IMMUNOCHEMICAL  
10 TEST.

11 (II) SCREENING FLEXIBLE SIGMOIDOSCOPY.

12 (III) SCREENING COLONOSCOPY.

13 (IV) SCREENING BARIUM ENEMA.

14 (V) SCREENING TEST CONSISTENT WITH APPROVED MEDICAL  
15 STANDARDS AND PRACTICES TO DETECT COLON CANCER.

16 (4) "NONSYMPTOMATIC PERSON AT HIGH OR INCREASED RISK" MEANS  
17 AN INDIVIDUAL WHO POSES A HIGHER THAN AVERAGE RISK FOR  
18 COLORECTAL CANCER ACCORDING TO THE MOST RECENTLY PUBLISHED <—  
19 AMERICAN CANCER SOCIETY GUIDELINES ON SCREENING FOR COLORECTAL <—  
20 CANCER AS OF JANUARY 1, 2008.

21 (5) "SYMPTOMATIC PERSON" MEANS AN INDIVIDUAL WHO EXPERIENCES  
22 A CHANGE IN BOWEL HABITS, RECTAL BLEEDING OR PERSISTENT STOMACH  
23 CRAMPS, WEIGHT LOSS OR ABDOMINAL PAIN.

24 SECTION 4. THE INTRODUCTORY PARAGRAPH AND THE DEFINITIONS OF  
25 "INSURER" AND "PERSON" IN SECTION 1401 OF THE ACT, AMENDED  
26 DECEMBER 20, 2000 (P.L.967, NO.132), ARE AMENDED AND THE SECTION  
27 IS AMENDED BY ADDING A DEFINITION TO READ:

28 SECTION 1401. DEFINITIONS.--AS USED IN THIS ARTICLE, AND FOR  
29 THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING WORDS AND  
30 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION:

1 \* \* \*

2 "INSURER." ANY HEALTH MAINTENANCE ORGANIZATION, PREFERRED  
3 PROVIDER ORGANIZATION, COMPANY, ASSOCIATION [OR], EXCHANGE,  
4 HOSPITAL PLAN CORPORATION AS DEFINED IN AND SUBJECT TO 40  
5 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN CORPORATIONS) OR  
6 PROFESSIONAL HEALTH SERVICES PLAN CORPORATION SUBJECT TO 40  
7 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN  
8 CORPORATIONS), AUTHORIZED BY THE INSURANCE COMMISSIONER TO  
9 TRANSACT THE BUSINESS OF INSURANCE IN THIS COMMONWEALTH EXCEPT  
10 THAT THE TERM SHALL NOT INCLUDE:

11 (1) THE COMMONWEALTH OR ANY AGENCY OR INSTRUMENTALITY  
12 THEREOF;

13 (2) AGENCIES, AUTHORITIES OR INSTRUMENTALITIES OF THE UNITED  
14 STATES, ITS POSSESSIONS AND TERRITORIES, THE COMMONWEALTH OF  
15 PUERTO RICO, THE DISTRICT OF COLUMBIA OR A STATE OR POLITICAL  
16 SUBDIVISION; OR

17 (3) FRATERNAL BENEFIT SOCIETIES[; OR

18 (4) NONPROFIT MEDICAL AND HOSPITAL SERVICE ASSOCIATIONS].

19 \* \* \*

20 "PERSON." AN INDIVIDUAL, AN INSURER, A CORPORATION, A  
21 PARTNERSHIP, A LIMITED LIABILITY COMPANY, AN ASSOCIATION, A  
22 JOINT STOCK COMPANY, A TRUST, AN UNINCORPORATED ORGANIZATION,  
23 ANY SIMILAR ENTITY OR ANY COMBINATION OF THE FOREGOING ACTING IN  
24 CONCERT. THE TERM SHALL NOT INCLUDE ANY JOINT VENTURE  
25 PARTNERSHIP EXCLUSIVELY ENGAGED IN OWNING, MANAGING, LEASING OR  
26 DEVELOPING REAL OR TANGIBLE PERSONAL PROPERTY.

27 \* \* \*

28 "SHAREHOLDER." A RECORD HOLDER OR RECORD OWNER OF SHARES OF  
29 AN INSURER.

30 (1) THE TERM SHALL INCLUDE ALL OF THE FOLLOWING:

1        (I) A MEMBER OF AN INSURER THAT IS A DOMESTIC NONSTOCK  
2 CORPORATION UNDER 15 PA.C.S. CH. 21 (RELATING TO NONSTOCK  
3 CORPORATIONS) OR A PRIOR STATUTE.

4        (II) A MEMBER, AS DEFINED IN 15 PA.C.S. § 5103 (RELATING TO  
5 DEFINITIONS), OF AN INSURER THAT IS A DOMESTIC NONPROFIT  
6 CORPORATION UNDER 15 PA.C.S. CH. 51 (RELATING TO GENERAL  
7 PROVISIONS) OR A PRIOR STATUTE.

8        (III) A SUBSCRIBER OF AN INSURER THAT IS A DOMESTIC  
9 RECIPROCAL EXCHANGE UNDER ARTICLE X OR A PRIOR STATUTE.

10       (2) THE TERM SHALL NOT INCLUDE ANY SUBSCRIBER, INSURED OR  
11 CUSTOMER OF:

12       (I) A HOSPITAL PLAN CORPORATION SUBJECT TO 40 PA.C.S. CH. 61  
13 (RELATING TO HOSPITAL PLAN CORPORATIONS); OR

14       (II) A PROFESSIONAL HEALTH SERVICE PLAN CORPORATION SUBJECT  
15 TO 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH SERVICES  
16 PLAN CORPORATIONS).

17       \* \* \*

18       SECTION 5. SECTION 1402 OF THE ACT, AMENDED OR ADDED  
19 DECEMBER 18, 1992 (P.L.1519, NO.178) AND DECEMBER 21, 1998  
20 (P.L.1108, NO.150), IS AMENDED TO READ:

21       SECTION 1402. ACQUISITION OF CONTROL OF OR MERGER OR  
22 CONSOLIDATION WITH DOMESTIC INSURER.--(A) (1) NO PERSON OTHER  
23 THAN THE ISSUER SHALL MAKE A TENDER OFFER FOR OR A REQUEST OR  
24 INVITATION FOR TENDERS OF, OR ENTER INTO ANY AGREEMENT TO  
25 EXCHANGE SECURITIES OR SEEK TO ACQUIRE OR ACQUIRE IN THE OPEN  
26 MARKET OR OTHERWISE, ANY VOTING SECURITY OF A DOMESTIC INSURER  
27 IF, AFTER THE CONSUMMATION THEREOF, SUCH PERSON WOULD DIRECTLY  
28 OR INDIRECTLY OR BY CONVERSION OR BY EXERCISE OF ANY RIGHT TO  
29 ACQUIRE, BE IN CONTROL OF SUCH INSURER, AND NO PERSON SHALL  
30 ENTER INTO AN AGREEMENT TO MERGE OR CONSOLIDATE WITH OR

1 OTHERWISE TO ACQUIRE CONTROL OF A DOMESTIC INSURER OR ANY PERSON  
2 CONTROLLING A DOMESTIC INSURER UNLESS, AT THE TIME ANY SUCH  
3 OFFER, REQUEST OR INVITATION IS MADE OR ANY SUCH AGREEMENT IS  
4 ENTERED INTO OR PRIOR TO THE ACQUISITION OF SUCH SECURITIES IF  
5 NO OFFER OR AGREEMENT IS INVOLVED, SUCH PERSON HAS FILED WITH  
6 THE DEPARTMENT AND HAS SENT TO SUCH INSURER A STATEMENT  
7 CONTAINING THE INFORMATION REQUIRED BY THIS SECTION AND SUCH  
8 OFFER, REQUEST, INVITATION, AGREEMENT OR ACQUISITION HAS BEEN  
9 APPROVED BY THE DEPARTMENT IN THE MANNER HEREINAFTER PRESCRIBED.

10 (2) FOR PURPOSES OF THIS SECTION, A "DOMESTIC INSURER" SHALL  
11 INCLUDE ANY PERSON CONTROLLING A DOMESTIC INSURER UNLESS SUCH  
12 PERSON AS DETERMINED BY THE DEPARTMENT IS EITHER DIRECTLY OR  
13 THROUGH ITS AFFILIATES PRIMARILY ENGAGED IN BUSINESS OTHER THAN  
14 THE BUSINESS OF INSURANCE. SUCH PERSON SHALL, HOWEVER, FILE A  
15 PREACQUISITION NOTIFICATION WITH THE DEPARTMENT CONTAINING THE  
16 INFORMATION SET FORTH IN SECTION 1403(C)(2) THIRTY (30) DAYS  
17 PRIOR TO THE PROPOSED EFFECTIVE DATE OF THE ACQUISITION. FAILURE  
18 TO FILE IS SUBJECT TO SECTION 1403(E)(3). FOR PURPOSES OF THIS  
19 SECTION, "PERSON" SHALL NOT INCLUDE ANY SECURITIES BROKER  
20 HOLDING, IN THE USUAL AND CUSTOMARY MANNER, LESS THAN TWENTY PER  
21 CENTUM (20%) OF THE VOTING SECURITIES OF AN INSURANCE COMPANY OR  
22 OF ANY PERSON WHICH CONTROLS AN INSURANCE COMPANY.

23 (B) THE STATEMENT TO BE FILED WITH THE DEPARTMENT UNDER THIS  
24 SECTION SHALL BE MADE UNDER OATH OR AFFIRMATION AND SHALL  
25 CONTAIN THE FOLLOWING INFORMATION:

26 (1) THE NAME AND ADDRESS OF EACH PERSON BY WHOM OR ON WHOSE  
27 BEHALF THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF CONTROL  
28 REFERRED TO IN SUBSECTION (A) IS TO BE EFFECTED, HEREINAFTER  
29 CALLED "ACQUIRING PARTY," AND

30 (I) IF SUCH PERSON IS AN INDIVIDUAL, HIS PRINCIPAL

1 OCCUPATION AND ALL OFFICES AND POSITIONS HELD DURING THE PAST  
2 FIVE (5) YEARS, AND ANY CONVICTION OF CRIMES OTHER THAN MINOR  
3 TRAFFIC VIOLATIONS DURING THE PAST TEN (10) YEARS; OR

4 (II) IF SUCH PERSON IS NOT AN INDIVIDUAL, A REPORT OF THE  
5 NATURE OF ITS BUSINESS OPERATIONS DURING THE PAST FIVE (5) YEARS  
6 OR FOR SUCH LESSER PERIOD AS THE PERSON AND ANY PREDECESSORS  
7 THEREOF SHALL HAVE BEEN IN EXISTENCE; AN INFORMATIVE DESCRIPTION  
8 OF THE BUSINESS INTENDED TO BE DONE BY THE PERSON AND THE  
9 PERSON'S SUBSIDIARIES; AND A LIST OF ALL INDIVIDUALS WHO ARE OR  
10 WHO HAVE BEEN SELECTED TO BECOME DIRECTORS OR EXECUTIVE OFFICERS  
11 OF THE PERSON, OR WHO PERFORM OR WILL PERFORM FUNCTIONS  
12 APPROPRIATE TO THOSE POSITIONS. THIS LIST SHALL INCLUDE FOR EACH  
13 INDIVIDUAL THE INFORMATION REQUIRED BY SUBPARAGRAPH (I).

14 (2) THE SOURCE, NATURE AND AMOUNT OF THE CONSIDERATION USED  
15 OR TO BE USED IN EFFECTING THE MERGER, CONSOLIDATION OR OTHER  
16 ACQUISITION OF CONTROL, A DESCRIPTION OF ANY TRANSACTION WHEREIN  
17 FUNDS WERE OR ARE TO BE OBTAINED FOR ANY SUCH PURPOSE, INCLUDING  
18 ANY PLEDGE OF THE INSURER'S STOCK OR THE STOCK OF ANY OF ITS  
19 SUBSIDIARIES OR CONTROLLING AFFILIATES, AND THE IDENTITY OF  
20 PERSONS FURNISHING SUCH CONSIDERATION, PROVIDED, HOWEVER, THAT  
21 WHERE A SOURCE OF SUCH CONSIDERATION IS A LOAN MADE IN THE  
22 LENDER'S ORDINARY COURSE OF BUSINESS, THE IDENTITY OF THE LENDER  
23 SHALL REMAIN CONFIDENTIAL IF THE PERSON FILING SUCH STATEMENT SO  
24 REQUESTS.

25 (3) FULLY AUDITED FINANCIAL INFORMATION AS TO THE EARNINGS  
26 AND FINANCIAL CONDITION OF EACH ACQUIRING PARTY FOR THE  
27 PRECEDING FIVE (5) FISCAL YEARS OF EACH SUCH ACQUIRING PARTY, OR  
28 FOR SUCH LESSER PERIOD AS SUCH ACQUIRING PARTY AND ANY  
29 PREDECESSORS THEREOF SHALL HAVE BEEN IN EXISTENCE, AND SIMILAR  
30 UNAUDITED INFORMATION AS OF A DATE NOT EARLIER THAN NINETY (90)

1 DAYS PRIOR TO THE FILING OF THE STATEMENT.

2 (4) ANY PLANS OR PROPOSALS WHICH EACH ACQUIRING PARTY MAY  
3 HAVE TO LIQUIDATE SUCH INSURER, TO SELL ITS ASSETS OR MERGE OR  
4 CONSOLIDATE IT WITH ANY PERSON OR TO MAKE ANY OTHER MATERIAL  
5 CHANGE IN ITS BUSINESS OR CORPORATE STRUCTURE OR MANAGEMENT.

6 (5) THE NUMBER OF SHARES OF ANY SECURITY REFERRED TO IN  
7 SUBSECTION (A) WHICH EACH ACQUIRING PARTY PROPOSES TO ACQUIRE,  
8 AND THE TERMS OF THE OFFER, REQUEST, INVITATION, AGREEMENT OR  
9 ACQUISITION REFERRED TO IN SUBSECTION (A), AND A STATEMENT AS TO  
10 THE METHOD BY WHICH THE FAIRNESS OF THE PROPOSAL WAS ARRIVED.

11 (6) THE AMOUNT OF EACH CLASS OF ANY SECURITY REFERRED TO IN  
12 SUBSECTION (A) WHICH IS BENEFICIALLY OWNED OR CONCERNING WHICH  
13 THERE IS A RIGHT TO ACQUIRE BENEFICIAL OWNERSHIP BY EACH  
14 ACQUIRING PARTY.

15 (7) A FULL DESCRIPTION OF ANY CONTRACTS, ARRANGEMENTS OR  
16 UNDERSTANDINGS WITH RESPECT TO ANY SECURITY REFERRED TO IN  
17 SUBSECTION (A) IN WHICH ANY ACQUIRING PARTY IS INVOLVED,  
18 INCLUDING, BUT NOT LIMITED TO, TRANSFER OF ANY OF THE  
19 SECURITIES, JOINT VENTURES, LOAN OR OPTION ARRANGEMENTS, PUTS OR  
20 CALLS, GUARANTEES OF LOANS, GUARANTEES AGAINST LOSS OR  
21 GUARANTEES OF PROFITS, DIVISION OF LOSSES OR PROFITS, OR THE  
22 GIVING OR WITHHOLDING OF PROXIES. SUCH DESCRIPTION SHALL  
23 IDENTIFY THE PERSONS WITH WHOM SUCH CONTRACTS, ARRANGEMENTS OR  
24 UNDERSTANDINGS HAVE BEEN ENTERED INTO.

25 (8) A DESCRIPTION OF THE PURCHASE OF ANY SECURITY REFERRED  
26 TO IN SUBSECTION (A) DURING THE TWELVE CALENDAR MONTHS PRECEDING  
27 THE FILING OF THE STATEMENT, BY ANY ACQUIRING PARTY, INCLUDING  
28 THE DATES OF PURCHASE, NAMES OF THE PURCHASERS AND CONSIDERATION  
29 PAID OR AGREED TO BE PAID THEREFOR.

30 (9) A DESCRIPTION OF ANY RECOMMENDATIONS TO PURCHASE ANY

1 SECURITY REFERRED TO IN SUBSECTION (A) MADE DURING THE TWELVE  
2 CALENDAR MONTHS PRECEDING THE FILING OF THE STATEMENT, BY ANY  
3 ACQUIRING PARTY, OR BY ANYONE BASED UPON INTERVIEWS OR AT THE  
4 SUGGESTION OF SUCH ACQUIRING PARTY.

5 (10) COPIES OF ALL TENDER OFFERS FOR, REQUESTS OR  
6 INVITATIONS FOR TENDERS OF, EXCHANGE OFFERS FOR AND AGREEMENTS  
7 TO ACQUIRE OR EXCHANGE ANY SECURITIES REFERRED TO IN SUBSECTION  
8 (A) AND, IF DISTRIBUTED, OF ADDITIONAL SOLICITING MATERIAL  
9 RELATING THERETO.

10 (11) THE TERM OF ANY AGREEMENT, CONTRACT OR UNDERSTANDING  
11 MADE WITH OR PROPOSED TO BE MADE WITH ANY BROKER-DEALER AS TO  
12 SOLICITATION OF SECURITIES REFERRED TO IN SUBSECTION (A) FOR  
13 TENDER AND THE AMOUNT OF ANY FEES, COMMISSIONS OR OTHER  
14 COMPENSATION TO BE PAID TO BROKER-DEALERS WITH REGARD THERETO.

15 (12) SUCH ADDITIONAL INFORMATION AS THE DEPARTMENT MAY BY  
16 RULE OR REGULATION PRESCRIBE AS NECESSARY OR APPROPRIATE FOR THE  
17 PROTECTION OF POLICYHOLDERS OF THE INSURER OR IN THE PUBLIC  
18 INTEREST.

19 (C) IF THE PERSON REQUIRED TO FILE THE STATEMENT REFERRED TO  
20 IN SUBSECTION (A) IS A PARTNERSHIP, LIMITED PARTNERSHIP,  
21 SYNDICATE OR OTHER GROUP, THE DEPARTMENT MAY REQUIRE THAT THE  
22 INFORMATION CALLED FOR BY SUBSECTION (B)(1) THROUGH (12) SHALL  
23 BE GIVEN WITH RESPECT TO EACH PARTNER OF SUCH PARTNERSHIP OR  
24 LIMITED PARTNERSHIP, EACH MEMBER OF SUCH SYNDICATE OR GROUP AND  
25 EACH PERSON WHO CONTROLS SUCH PARTNER OR MEMBER. IF ANY SUCH  
26 PARTNER, MEMBER OR PERSON IS A CORPORATION OR THE PERSON  
27 REQUIRED TO FILE THE STATEMENT REFERRED TO IN SUBSECTION (A) IS  
28 A CORPORATION, THE DEPARTMENT MAY REQUIRE THAT THE INFORMATION  
29 CALLED FOR BY SUBSECTION (B)(1) THROUGH (12) SHALL BE GIVEN WITH  
30 RESPECT TO SUCH CORPORATION, EACH OFFICER AND DIRECTOR OF SUCH

1 CORPORATION AND EACH PERSON WHO IS DIRECTLY OR INDIRECTLY THE  
2 BENEFICIAL OWNER OF MORE THAN TEN PER CENTUM (10%) OF THE  
3 OUTSTANDING VOTING SECURITIES OF SUCH CORPORATION.

4 (D) IF ANY MATERIAL CHANGE OCCURS IN THE FACTS SET FORTH IN  
5 THE STATEMENT FILED WITH THE DEPARTMENT AND SENT TO SUCH INSURER  
6 PURSUANT TO THIS SECTION, AN AMENDMENT SETTING FORTH SUCH  
7 CHANGE, TOGETHER WITH COPIES OF ALL DOCUMENTS AND OTHER MATERIAL  
8 RELEVANT TO SUCH CHANGE, SHALL BE FILED WITH THE DEPARTMENT AND  
9 SENT TO SUCH INSURER WITHIN TWO (2) BUSINESS DAYS AFTER THE  
10 PERSON LEARNS OF SUCH CHANGE.

11 (E) IF ANY OFFER, REQUEST, INVITATION, AGREEMENT OR  
12 ACQUISITION REFERRED TO IN SUBSECTION (A) IS PROPOSED TO BE MADE  
13 BY MEANS OF A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF  
14 1933 (48 STAT. 74, 15 U.S.C. § 77A ET SEQ.), OR IN CIRCUMSTANCES  
15 REQUIRING THE DISCLOSURE OF SIMILAR INFORMATION UNDER THE  
16 SECURITIES EXCHANGE ACT OF 1934 (48 STAT. 881, 15 U.S.C. § 78A  
17 ET SEQ.), OR UNDER A STATE LAW REQUIRING SIMILAR REGISTRATION OR  
18 DISCLOSURE, THE PERSON REQUIRED TO FILE THE STATEMENT REFERRED  
19 TO IN SUBSECTION (A) MAY UTILIZE SUCH DOCUMENTS IN FURNISHING  
20 THE INFORMATION CALLED FOR BY THAT STATEMENT.

21 (F) (1) THE DEPARTMENT SHALL APPROVE ANY MERGER,  
22 CONSOLIDATION OR OTHER ACQUISITION OF CONTROL REFERRED TO IN  
23 SUBSECTION (A) UNLESS IT FINDS ANY OF THE FOLLOWING:

24 (I) AFTER THE [CHANGE] MERGER, CONSOLIDATION OR OTHER  
25 ACQUISITION OF CONTROL, THE DOMESTIC INSURER REFERRED TO IN  
26 SUBSECTION (A) WOULD NOT BE ABLE TO SATISFY THE REQUIREMENTS FOR  
27 THE ISSUANCE OF A LICENSE TO WRITE THE LINE OR LINES OF  
28 INSURANCE FOR WHICH IT IS PRESENTLY LICENSED.

29 (II) THE EFFECT OF THE MERGER, CONSOLIDATION OR OTHER  
30 ACQUISITION OF CONTROL WOULD BE TO SUBSTANTIALLY LESSEN



1 COMPETITION IN INSURANCE IN THIS COMMONWEALTH OR TEND TO CREATE  
2 A MONOPOLY THEREIN. IN APPLYING THE COMPETITIVE STANDARD IN THIS  
3 SUBPARAGRAPH:

4 (A) THE INFORMATIONAL REQUIREMENTS OF SECTION 1403(C)(2) AND  
5 THE STANDARDS OF SECTION 1403(D)(2) SHALL APPLY;

6 (B) THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF  
7 CONTROL SHALL NOT BE DISAPPROVED IF THE DEPARTMENT FINDS THAT  
8 ANY OF THE SITUATIONS MEETING THE CRITERIA PROVIDED BY SECTION  
9 1403(D)(3) EXIST; AND

10 (C) THE DEPARTMENT MAY CONDITION THE APPROVAL OF THE MERGER,  
11 CONSOLIDATION OR OTHER ACQUISITION OF CONTROL ON THE REMOVAL OF  
12 THE BASIS OF DISAPPROVAL WITHIN A SPECIFIED PERIOD OF TIME.

13 (III) THE FINANCIAL CONDITION OF ANY ACQUIRING PARTY IS SUCH  
14 AS MIGHT JEOPARDIZE THE FINANCIAL STABILITY OF THE INSURER OR  
15 PREJUDICE THE INTEREST OF ITS POLICYHOLDERS.

16 (IV) THE PLANS OR PROPOSALS WHICH THE ACQUIRING PARTY HAS TO  
17 LIQUIDATE THE INSURER, SELL ITS ASSETS OR CONSOLIDATE OR MERGE  
18 IT WITH ANY PERSON, OR TO MAKE ANY OTHER MATERIAL CHANGE IN ITS  
19 BUSINESS OR CORPORATE STRUCTURE OR MANAGEMENT, ARE UNFAIR AND  
20 UNREASONABLE [TO POLICYHOLDERS OF THE INSURER AND NOT IN THE <—  
21 PUBLIC INTEREST.] AND FAIL TO CONFER BENEFIT ON POLICYHOLDERS OF <—  
22 THE INSURER AND ARE NOT IN THE PUBLIC INTEREST.

23 (V) THE COMPETENCE, EXPERIENCE AND INTEGRITY OF THOSE  
24 PERSONS WHO WOULD CONTROL THE OPERATION OF THE INSURER ARE SUCH  
25 THAT IT WOULD NOT BE IN THE INTEREST OF POLICYHOLDERS OF THE  
26 INSURER AND OF THE PUBLIC TO PERMIT THE MERGER, CONSOLIDATION OR  
27 OTHER ACQUISITION OF CONTROL.

28 (VI) THE [ACQUISITION] MERGER, CONSOLIDATION OR OTHER  
29 ACQUISITION OF CONTROL IS LIKELY TO BE HAZARDOUS OR PREJUDICIAL  
30 TO THE INSURANCE BUYING PUBLIC.

1 (VII) THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF  
2 CONTROL IS NOT IN COMPLIANCE WITH THE LAWS OF THIS COMMONWEALTH,  
3 INCLUDING ARTICLE VIII-A.

4 (2) IF THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF  
5 CONTROL IS APPROVED, THE DEPARTMENT SHALL SO NOTIFY THE PERSON  
6 FILING THE STATEMENT AND THE INSURER [WHOSE STOCK] THAT IS  
7 PROPOSED TO BE ACQUIRED, AND SUCH A DETERMINATION IS HEREAFTER  
8 REFERRED TO AS AN APPROVING DETERMINATION. NOTICE SHALL ALSO BE  
9 GIVEN BY THE DEPARTMENT OF ANY DETERMINATION WHICH IS NOT AN  
10 APPROVING DETERMINATION. IF AN APPROVING DETERMINATION IS MADE  
11 BY THE DEPARTMENT AND NOT OTHERWISE, THE PROPOSED OFFER AND  
12 ACQUISITION MAY THEREAFTER BE MADE AND CONSUMMATED ON THE TERMS  
13 AND CONDITIONS AND IN THE MANNER DESCRIBED IN THE STATEMENT AND  
14 SUBJECT TO SUCH CONDITIONS AS MAY BE PRESCRIBED BY THE  
15 DEPARTMENT AS HEREINAFTER PROVIDED. AN APPROVING DETERMINATION  
16 BY THE DEPARTMENT SHALL BE DEEMED TO EXTEND TO OFFERS OR  
17 ACQUISITIONS MADE PURSUANT THERETO WITHIN ONE YEAR FOLLOWING THE  
18 DATE OF DETERMINATION. THE DEPARTMENT MAY, AS A CONDITION OF ITS  
19 APPROVING DETERMINATION, REQUIRE THE INCLUSION IN ANY OFFER OF  
20 PROVISIONS REQUIRING THE OFFER TO REMAIN OPEN A SPECIFIED  
21 MINIMUM LENGTH OF TIME, PERMITTING WITHDRAWAL OF SHARES  
22 DEPOSITED PRIOR TO THE TIME THE OFFEROR BECOMES BOUND TO  
23 CONSUMMATE THE ACQUISITION AND REQUIRING PRO RATA ACCEPTANCE OF  
24 ANY SHARES DEPOSITED PURSUANT TO THE OFFER. THE DEPARTMENT SHALL  
25 HOLD A HEARING BEFORE MAKING THE DETERMINATION REQUIRED BY THIS  
26 SUBSECTION IF, WITHIN TEN (10) DAYS FOLLOWING THE FILING WITH  
27 THE DEPARTMENT OF THE STATEMENT, WRITTEN REQUEST FOR THE HOLDING  
28 OF SUCH HEARING IS MADE EITHER BY THE PERSON PROPOSING TO MAKE  
29 THE ACQUISITION, BY THE INSURER [WHOSE STOCK] THAT IS PROPOSED  
30 TO BE ACQUIRED OR, IF [SUCH] THE ISSUER OF STOCK PROPOSED TO BE

1 ACQUIRED IS NOT AN INSURER, BY THE [INSURANCE COMPANY] INSURER  
2 CONTROLLED BY SUCH ISSUER. OTHERWISE, THE DEPARTMENT SHALL  
3 DETERMINE IN ITS DISCRETION WHETHER SUCH A HEARING SHALL BE  
4 HELD. THIRTY (30) DAYS' NOTICE OF ANY SUCH HEARING SHALL BE  
5 GIVEN TO THE PERSON PROPOSING TO MAKE THE ACQUISITION, TO THE  
6 ISSUER WHOSE STOCK IS PROPOSED TO BE ACQUIRED AND, IF SUCH  
7 ISSUER IS NOT AN INSURER, TO THE INSURANCE COMPANY CONTROLLED BY  
8 SUCH ISSUER. NOTICE OF ANY SUCH HEARING SHALL ALSO BE GIVEN TO  
9 SUCH OTHER PERSONS, IF ANY, AS THE DEPARTMENT MAY DETERMINE.

10 (3) THE DEPARTMENT MAY RETAIN AT THE ACQUIRING PERSON'S  
11 EXPENSE ANY ATTORNEYS, ACTUARIES, ACCOUNTANTS AND OTHER EXPERTS  
12 NOT OTHERWISE A PART OF THE DEPARTMENT'S STAFF AS MAY BE  
13 REASONABLY NECESSARY TO ASSIST THE DEPARTMENT IN REVIEWING THE  
14 PROPOSED ACQUISITION OF CONTROL.

15 (G) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY  
16 OFFER, REQUEST, INVITATION, AGREEMENT OR ACQUISITION WHICH THE  
17 DEPARTMENT BY ORDER SHALL EXEMPT THEREFROM AS:

18 (1) NOT HAVING BEEN MADE OR ENTERED INTO FOR THE PURPOSE AND  
19 NOT HAVING THE EFFECT OF CHANGING OR INFLUENCING THE CONTROL OF  
20 A DOMESTIC INSURER; OR

21 (2) AS OTHERWISE NOT COMPREHENDED WITHIN THE PURPOSES OF  
22 THIS SECTION.

23 (H) THE FOLLOWING SHALL CONSTITUTE A VIOLATION OF THIS  
24 SECTION:

25 (1) THE FAILURE TO FILE ANY STATEMENT, AMENDMENT OR OTHER  
26 MATERIAL REQUIRED TO BE FILED PURSUANT TO SUBSECTION (A) OR (B);

27 (2) THE EFFECTUATION OR ANY ATTEMPT TO EFFECTUATE AN  
28 ACQUISITION OF CONTROL OF OR MERGER OR CONSOLIDATION WITH A  
29 DOMESTIC INSURER UNLESS THE DEPARTMENT HAS GIVEN ITS APPROVAL  
30 THERETO; OR

1 (3) A VIOLATION OF SECTION 819-A.

2 (I) THE DEPARTMENT SHALL, WITHIN SEVENTY-TWO HOURS OF  
3 RECEIVING A STATEMENT FILED UNDER THIS SECTION, PROVIDE  
4 NOTIFICATION TO THE OFFICE OF ATTORNEY GENERAL THAT THE FILING  
5 WAS RECEIVED.

6 (J) AS USED IN THIS SECTION, THE TERM "ANNUAL STATEMENT"  
7 SHALL MEAN THE ANNUAL REPORT OF THE FINANCIAL CONDITION REQUIRED  
8 TO BE FILED UNDER 40 PA.C.S. § 6331 (RELATING TO REPORTS AND  
9 EXAMINATIONS).

10 SECTION 6. SECTION 1403(A), (B) AND (D), ADDED DECEMBER 18,  
11 1992 (P.L.1519, NO.178), ARE AMENDED TO READ:

12 SECTION 1403. ACQUISITIONS INVOLVING INSURERS NOT OTHERWISE  
13 COVERED.--(A) AS USED IN THIS SECTION THE FOLLOWING WORDS AND  
14 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
15 SUBSECTION:

16 "ACQUISITION." ANY AGREEMENT, ARRANGEMENT OR ACTIVITY THE  
17 CONSUMMATION OF WHICH RESULTS IN A PERSON ACQUIRING, DIRECTLY OR  
18 INDIRECTLY, THE CONTROL OF ANOTHER PERSON AND INCLUDES, BUT IS  
19 NOT LIMITED TO, THE ACQUISITION OF VOTING SECURITIES, THE  
20 ACQUISITION OF ASSETS, BULK REINSURANCE [AND], MERGERS AND  
21 CONSOLIDATIONS.

22 "INVOLVED INSURER." INCLUDES AN INSURER WHICH EITHER  
23 ACQUIRES OR IS ACQUIRED, IS AFFILIATED WITH AN ACQUIRER OR  
24 ACQUIRED OR IS THE RESULT OF A MERGER OR CONSOLIDATION.

25 (B) (1) EXCEPT AS EXEMPTED IN PARAGRAPH (2), THIS SECTION  
26 APPLIES TO ANY ACQUISITION IN WHICH THERE IS A CHANGE IN CONTROL  
27 OF AN INSURER AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH.

28 (2) THIS SECTION SHALL NOT APPLY TO ANY OF THE FOLLOWING:

29 (I) AN ACQUISITION SUBJECT TO APPROVAL OR DISAPPROVAL BY THE  
30 DEPARTMENT PURSUANT TO SECTION 1402.

1 (II) A PURCHASE OF SECURITIES SOLELY FOR INVESTMENT PURPOSES  
2 SO LONG AS SUCH SECURITIES ARE NOT USED BY VOTING OR OTHERWISE  
3 TO CAUSE OR ATTEMPT TO CAUSE THE SUBSTANTIAL LESSENING OF  
4 COMPETITION IN ANY INSURANCE MARKET IN THIS COMMONWEALTH. IF A  
5 PURCHASE OF SECURITIES RESULTS IN A PRESUMPTION OF CONTROL AS  
6 DESCRIBED IN THE DEFINITION OF "CONTROL" IN SECTION [1301] 1401,  
7 IT IS NOT SOLELY FOR INVESTMENT PURPOSES UNLESS THE INSURANCE  
8 DEPARTMENT OF THE INSURER'S STATE OF DOMICILE ACCEPTS A  
9 DISCLAIMER OF CONTROL OR AFFIRMATIVELY FINDS THAT CONTROL DOES  
10 NOT EXIST AND SUCH DISCLAIMER ACTION OR AFFIRMATIVE FINDING IS  
11 COMMUNICATED BY THE DOMICILIARY INSURANCE DEPARTMENT TO THE  
12 INSURANCE DEPARTMENT OF THE COMMONWEALTH.

13 (III) THE ACQUISITION OF A PERSON BY ANOTHER PERSON WHEN  
14 BOTH PERSONS ARE NEITHER DIRECTLY NOR THROUGH AFFILIATES  
15 PRIMARILY ENGAGED IN THE BUSINESS OF INSURANCE, IF  
16 PREACQUISITION NOTIFICATION IS FILED WITH THE DEPARTMENT IN  
17 ACCORDANCE WITH SUBSECTION (C)(2) THIRTY (30) DAYS PRIOR TO THE  
18 PROPOSED EFFECTIVE DATE OF THE ACQUISITION. HOWEVER, SUCH  
19 PREACQUISITION NOTIFICATION IS NOT REQUIRED FOR EXCLUSION FROM  
20 THIS SECTION IF THE ACQUISITION WOULD OTHERWISE BE EXCLUDED FROM  
21 THIS SECTION BY THIS PARAGRAPH.

22 (IV) THE ACQUISITION OF ALREADY AFFILIATED PERSONS.

23 (V) AN ACQUISITION IF, AS AN IMMEDIATE RESULT OF THE  
24 ACQUISITION:

25 (A) IN NO MARKET WOULD THE COMBINED MARKET SHARE OF THE  
26 INVOLVED INSURERS EXCEED FIVE PER CENTUM (5%) OF THE TOTAL  
27 MARKET;

28 (B) THERE WOULD BE NO INCREASE IN ANY MARKET SHARE; OR

29 (C) IN NO MARKET WOULD:

30 (I) THE COMBINED MARKET SHARE OF THE INVOLVED INSURERS

1 EXCEEDS TWELVE PER CENTUM (12%) OF THE TOTAL MARKET; AND

2 (II) THE MARKET SHARE INCREASES BY MORE THAN TWO PER CENTUM  
3 (2%) OF THE TOTAL MARKET.

4 FOR THE PURPOSE OF THIS SUBPARAGRAPH, A MARKET MEANS DIRECT  
5 WRITTEN INSURANCE PREMIUM IN THIS COMMONWEALTH FOR A LINE OF  
6 BUSINESS AS CONTAINED IN THE ANNUAL STATEMENT REQUIRED TO BE  
7 FILED BY INSURERS LICENSED TO DO BUSINESS IN THIS COMMONWEALTH.

8 (VI) AN ACQUISITION FOR WHICH A PREACQUISITION NOTIFICATION  
9 WOULD BE REQUIRED PURSUANT TO THIS SECTION DUE SOLELY TO THE  
10 RESULTING EFFECT ON THE OCEAN MARINE INSURANCE LINE OF BUSINESS.

11 (VII) AN ACQUISITION OF AN INSURER WHOSE DOMICILIARY  
12 INSURANCE DEPARTMENT AFFIRMATIVELY FINDS THAT SUCH INSURER IS IN  
13 FAILING CONDITION; THERE IS A LACK OF FEASIBLE ALTERNATIVE TO  
14 IMPROVING SUCH CONDITION; THE PUBLIC BENEFITS OF IMPROVING SUCH  
15 INSURER'S CONDITION THROUGH THE ACQUISITION EXCEED THE PUBLIC  
16 BENEFITS THAT WOULD ARISE FROM NOT LESSENING COMPETITION; AND  
17 SUCH FINDINGS ARE COMMUNICATED BY THE DOMICILIARY INSURANCE  
18 DEPARTMENT TO THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

19 (3) SECTIONS 1409(B) AND (C) AND 1411 SHALL NOT APPLY TO  
20 ACQUISITIONS PROVIDED FOR IN THIS SUBSECTION.

21 \* \* \*

22 (D) (1) THE DEPARTMENT MAY ENTER AN ORDER UNDER SUBSECTION  
23 (E)(1) WITH RESPECT TO AN ACQUISITION IF THERE IS SUBSTANTIAL  
24 EVIDENCE THAT THE EFFECT OF THE ACQUISITION MAY BE SUBSTANTIALLY  
25 TO LESSEN COMPETITION IN ANY LINE OF INSURANCE IN THIS  
26 COMMONWEALTH OR TEND TO CREATE A MONOPOLY THEREIN OR IF THE  
27 INSURER FAILS TO FILE ADEQUATE INFORMATION IN COMPLIANCE WITH  
28 SUBSECTION (C).

29 (2) IN DETERMINING WHETHER A PROPOSED ACQUISITION WOULD  
30 VIOLATE THE COMPETITIVE STANDARD OF PARAGRAPH (1), THE

1 DEPARTMENT SHALL CONSIDER THE FOLLOWING:

2 (I) ANY ACQUISITION COVERED UNDER SUBSECTION (B) INVOLVING  
3 TWO OR MORE INSURERS COMPETING IN THE SAME MARKET IS PRIMA FACIE  
4 EVIDENCE OF VIOLATION OF THE COMPETITIVE STANDARDS AS FOLLOWS:

5 (A) IF THE MARKET IS HIGHLY CONCENTRATED AND THE INVOLVED  
6 INSURERS POSSESS THE FOLLOWING SHARES OF THE MARKET:

7	INSURER A	INSURER B
8	4%	4% OR MORE
9	10%	2% OR MORE
10	15%	1% OR MORE; OR

11 (B) IF THE MARKET IS NOT HIGHLY CONCENTRATED AND THE  
12 INVOLVED INSURERS POSSESS THE FOLLOWING SHARES OF THE MARKET:

13	INSURER A	INSURER B
14	5%	5% OR MORE
15	10%	4% OR MORE
16	15%	3% OR MORE
17	19%	1% OR MORE.

18 A HIGHLY CONCENTRATED MARKET IS ONE IN WHICH THE SHARE OF THE  
19 FOUR LARGEST INSURERS IS SEVENTY-FIVE PER CENTUM (75%) OR MORE  
20 OF THE MARKET. PERCENTAGES NOT SHOWN IN THE TABLES ARE  
21 INTERPOLATED PROPORTIONATELY TO THE PERCENTAGES THAT ARE SHOWN.  
22 IF MORE THAN TWO INSURERS ARE INVOLVED, EXCEEDING THE TOTAL OF  
23 THE TWO COLUMNS IN THE TABLE IS PRIMA FACIE EVIDENCE OF  
24 VIOLATION OF THE COMPETITIVE STANDARD IN PARAGRAPH (1). FOR THE  
25 PURPOSE OF THIS SUBPARAGRAPH, THE INSURER WITH THE LARGEST SHARE  
26 OF THE MARKET SHALL BE DEEMED TO BE INSURER A.

27 (II) THERE IS A SIGNIFICANT TREND TOWARD INCREASED  
28 CONCENTRATION WHEN THE AGGREGATE MARKET SHARE OF ANY GROUPING OF  
29 THE LARGEST INSURERS IN THE MARKET, FROM THE TWO LARGEST TO THE  
30 EIGHT LARGEST, HAS INCREASED BY SEVEN PER CENTUM (7%) OR MORE OF

1 THE MARKET OVER A PERIOD OF TIME EXTENDING FROM ANY BASE YEAR  
2 FIVE (5) TO TEN (10) YEARS PRIOR TO THE ACQUISITION UP TO THE  
3 TIME OF THE ACQUISITION. ANY ACQUISITION [OR MERGER], MERGER OR  
4 CONSOLIDATION COVERED UNDER SUBSECTION (B) INVOLVING TWO OR MORE  
5 INSURERS COMPETING IN THE SAME MARKET IS PRIMA FACIE EVIDENCE OF  
6 VIOLATION OF THE COMPETITIVE STANDARD IN PARAGRAPH (1) IF:

7 (A) THERE IS A SIGNIFICANT TREND TOWARD INCREASED  
8 CONCENTRATION IN THE MARKET;

9 (B) ONE OF THE INSURERS INVOLVED IS ONE OF THE INSURERS IN A  
10 GROUPING OF SUCH LARGE INSURERS SHOWING THE REQUISITE INCREASE  
11 IN THE MARKET SHARE; AND

12 (C) ANOTHER INVOLVED INSURER'S MARKET IS TWO PER CENTUM (2%)  
13 OR MORE.

14 (III) FOR THE PURPOSES OF THIS PARAGRAPH:

15 (A) THE TERM "INSURER" INCLUDES ANY COMPANY OR GROUP OF  
16 COMPANIES UNDER COMMON MANAGEMENT, OWNERSHIP OR CONTROL.

17 (B) THE TERM "MARKET" MEANS THE RELEVANT PRODUCT AND  
18 GEOGRAPHICAL MARKETS. IN DETERMINING THE RELEVANT PRODUCT AND  
19 GEOGRAPHICAL MARKETS, THE DEPARTMENT SHALL GIVE DUE  
20 CONSIDERATION TO, AMONG OTHER THINGS, THE DEFINITIONS OR  
21 GUIDELINES, IF ANY, PROMULGATED BY THE NAIC AND TO INFORMATION,  
22 IF ANY, SUBMITTED BY PARTIES TO THE ACQUISITION. IN THE ABSENCE  
23 OF SUFFICIENT INFORMATION TO THE CONTRARY, THE RELEVANT PRODUCT  
24 MARKET IS ASSUMED TO BE THE DIRECT WRITTEN INSURANCE PREMIUM FOR  
25 A LINE OF BUSINESS, SUCH LINE BEING THAT USED IN THE ANNUAL  
26 STATEMENT REQUIRED TO BE FILED BY INSURERS DOING BUSINESS IN  
27 THIS COMMONWEALTH AND THE RELEVANT GEOGRAPHICAL MARKET IS  
28 ASSUMED TO BE THIS COMMONWEALTH.

29 (C) THE BURDEN OF SHOWING PRIMA FACIE EVIDENCE OF VIOLATION  
30 OF THE COMPETITIVE STANDARD RESTS UPON THE COMMISSIONER.



1 (IV) EVEN THOUGH AN ACQUISITION IS NOT PRIMA FACIE VIOLATIVE  
2 OF THE COMPETITIVE STANDARD UNDER SUBPARAGRAPHS (I) AND (II),  
3 THE DEPARTMENT MAY ESTABLISH THE REQUISITE ANTICOMPETITIVE  
4 EFFECT BASED UPON OTHER SUBSTANTIAL EVIDENCE. EVEN THOUGH AN  
5 ACQUISITION IS PRIMA FACIE VIOLATIVE OF THE COMPETITIVE STANDARD  
6 UNDER SUBPARAGRAPHS (I) AND (II), A PARTY MAY ESTABLISH THE  
7 ABSENCE OF THE REQUISITE ANTICOMPETITIVE EFFECT BASED UPON OTHER  
8 SUBSTANTIAL EVIDENCE. RELEVANT FACTORS IN MAKING A DETERMINATION  
9 UNDER THIS PARAGRAPH INCLUDE, BUT ARE NOT LIMITED TO, THE  
10 FOLLOWING: MARKET SHARES, VOLATILITY OF RANKING OF MARKET  
11 LEADERS, NUMBER OF COMPETITORS, CONCENTRATION, TREND OF  
12 CONCENTRATION IN THE INDUSTRY AND EASE OF ENTRY AND EXIT INTO  
13 THE MARKET.

14 (3) AN ORDER MAY NOT BE ENTERED UNDER SUBSECTION (E)(1) IF:

15 (I) THE ACQUISITION WILL YIELD SUBSTANTIAL ECONOMIES OF  
16 SCALE OR ECONOMIES IN RESOURCE UTILIZATION THAT CANNOT BE  
17 FEASIBLY ACHIEVED IN ANY OTHER WAY, AND THE PUBLIC BENEFITS  
18 WHICH WOULD ARISE FROM SUCH ECONOMIES EXCEED THE PUBLIC BENEFITS  
19 WHICH WOULD ARISE FROM NOT LESSENING COMPETITION; OR

20 (II) THE ACQUISITION WILL SUBSTANTIALLY INCREASE THE  
21 AVAILABILITY OF INSURANCE, AND THE PUBLIC BENEFITS OF SUCH  
22 INCREASE EXCEED THE PUBLIC BENEFITS WHICH WOULD ARISE FROM NOT  
23 LESSENING COMPETITION.

24 \* \* \*

25 SECTION 7. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

26 SECTION 1403.1. COMMITTEE REVIEW.--(A) THE BANKING AND  
27 INSURANCE COMMITTEE OF THE SENATE AND THE INSURANCE COMMITTEE OF  
28 THE HOUSE OF REPRESENTATIVES MAY REVIEW AN APPLICATION OR  
29 STATEMENT SUBMITTED BY A HOSPITAL PLAN CORPORATION OR  
30 PROFESSIONAL HEALTH SERVICES PLAN CORPORATION SEEKING THE

1 APPROVAL OF A MERGER, CONSOLIDATION OR OTHER ACQUISITION OF  
2 CONTROL OF A HOSPITAL PLAN CORPORATION OR PROFESSIONAL HEALTH  
3 SERVICES PLAN CORPORATION UNDER THIS ACT.

4 (B) THE BANKING AND INSURANCE COMMITTEE OF THE SENATE AND  
5 THE INSURANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES SHALL  
6 HAVE THE FOLLOWING POWERS AND DUTIES:

7 (1) TO CONVENE THE COMMITTEE FOR PURPOSES OF REVIEWING AN  
8 APPLICATION FOR APPROVAL OF A MERGER, CONSOLIDATION OR OTHER  
9 ACQUISITION OF CONTROL UNDER THIS SECTION.

10 (2) TO RECEIVE AND REVIEW ALL FILINGS SUBMITTED TO THE  
11 DEPARTMENT RELATING TO THE MERGER, CONSOLIDATION OR OTHER  
12 ACQUISITION OF CONTROL AND ALL ACCOMPANYING DATA AND OTHER  
13 INFORMATION. THIS PARAGRAPH SHALL NOT APPLY TO INFORMATION  
14 DEEMED CONFIDENTIAL OR PROPRIETARY BY THE DEPARTMENT.

15 (3) TO CONSULT EXPERTS, HOLD HEARINGS AND OBTAIN ADDITIONAL  
16 INFORMATION RELATING TO THE MERGER, CONSOLIDATION OR OTHER  
17 ACQUISITION OF CONTROL.

18 (4) TO DEVELOP WRITTEN COMMENTS AND RECOMMENDATIONS ON THE  
19 MERGER, CONSOLIDATION OR ACQUISITION OF CONTROL AND SUBMIT THEM  
20 TO THE DEPARTMENT WITHIN FORTY-FIVE (45) DAYS OF THE CLOSE OF  
21 THE PUBLIC COMMENT PERIOD ESTABLISHED UNDER THIS PARAGRAPH,  
22 DEVELOPED BY THE DEPARTMENT ON THE MERGER, CONSOLIDATION OR  
23 OTHER ACQUISITION OF CONTROL. THE DEPARTMENT SHALL PUBLISH THE  
24 DATE OF THE CLOSE OF THE PUBLIC COMMENT PERIOD IN THE  
25 PENNSYLVANIA BULLETIN PRIOR TO FINAL CLOSURE OF THE RECORD <—  
26 PUBLIC COMMENT PERIOD. THE DEPARTMENT MAY ISSUE A FINAL ORDER <—  
27 AND DETERMINATION ON OR AFTER ONE HUNDRED FIVE (105) DAYS  
28 FOLLOWING THE PUBLIC COMMENT PERIOD.

29 (C) THE COMMISSIONER, THE DEPARTMENT AND ITS ATTORNEYS AND  
30 EXPERTS, INCLUDING EXPERTS EMPLOYED OR RETAINED BY THE

1 DEPARTMENT, SHALL BE AVAILABLE TO PROVIDE TESTIMONY TO EACH  
2 COMMITTEE RELATING TO THE MERGER, CONSOLIDATION OR OTHER  
3 ACQUISITION OF CONTROL. NOTHING IN THIS ACT SHALL AFFECT ANY  
4 PRIVILEGES OR IMMUNITIES OF THE DEPARTMENT OR ITS ATTORNEYS,  
5 EXPERTS OR CONSULTANTS. THE DEPARTMENT OR ITS ATTORNEYS, EXPERTS  
6 OR CONSULTANTS SHALL NOT BE REQUIRED TO APPEAR BEFORE EITHER  
7 COMMITTEE WITHIN THIRTY (30) DAYS FOLLOWING THE DEPARTMENT'S  
8 ISSUANCE OF A FINAL ORDER AND DETERMINATION.

9 (D) THE DEPARTMENT SHALL PROVIDE A DETAILED WRITTEN RESPONSE  
10 TO EACH COMMENT AND RECOMMENDATION SUBMITTED BY THE BANKING AND  
11 INSURANCE COMMITTEE OF THE SENATE OR THE INSURANCE COMMITTEE OF  
12 THE HOUSE OF REPRESENTATIVES IN ITS FINAL ORDER. THE ORDER AND  
13 DETERMINATION SHALL NOT BE ISSUED BEFORE SIXTY (60) DAYS HAVE  
14 ELAPSED FOLLOWING RECEIPT OF THE COMMENTS AND RECOMMENDATIONS  
15 UNDER SUBSECTION (B)(4).

16 ~~(E) IN ORDER TO APPROVE A MERGER, CONSOLIDATION OR OTHER~~ <—  
17 ~~ACQUISITION OF CONTROL OF A HOSPITAL PLAN CORPORATION OR~~  
18 ~~PROFESSIONAL HEALTH SERVICE PLAN CORPORATION, THE ORDER AND~~  
19 ~~DETERMINATION OF THE DEPARTMENT MUST FIND THAT POLICYHOLDERS AND~~  
20 ~~CERTIFICATE HOLDERS AND SUBSCRIBERS SHALL RECEIVE A SUSTAINED~~  
21 ~~BENEFIT FROM THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF~~  
22 ~~CONTROL. IF NO COMMENTS AND RECOMMENDATIONS ARE RECEIVED UNDER~~  
23 ~~SUBSECTION (B)(4), THE DEPARTMENT MAY ISSUE A FINAL ORDER AND~~  
24 ~~DETERMINATION ON OR AFTER ONE HUNDRED FIVE (105) DAYS FOLLOWING~~  
25 ~~THE CLOSE OF THE PUBLIC COMMENT PERIOD.~~

26 SECTION 1403.2. INSURANCE RESTRUCTURING RESTRICTED RECEIPT  
27 ACCOUNT.--(A) THERE IS ESTABLISHED IN THE STATE TREASURY A  
28 RESTRICTED RECEIPT ACCOUNT TO BE KNOWN AS THE INSURANCE  
29 RESTRUCTURING RESTRICTED RECEIPT ACCOUNT. INTEREST EARNED ON  
30 MONEY IN THE ACCOUNT SHALL BE DEPOSITED INTO THE ACCOUNT.

1        (B) ALL NET ECONOMIC BENEFITS, INCLUDING PROCEEDS, SAVINGS,  
2 FUNDS OR MONEYS DIRECTLY DERIVED FROM AND PAID TO THE        <—  
3 COMMONWEALTH OR A COMMONWEALTH PROGRAM AND ANY AGREEMENT RELATED        <—  
4 TO OR FROM THE MERGER, CONSOLIDATION OR OTHER ACQUISITION OF  
5 CONTROL OF A HOSPITAL PLAN CORPORATION OR PROFESSIONAL HEALTH  
6 SERVICES PLAN CORPORATION SHALL BE DEPOSITED INTO THE ACCOUNT        <—  
7 FOR PURPOSES AS DETERMINED BY THE GENERAL ASSEMBLY. WHICH ARE TO        <—  
8 BE PAID TO THE COMMONWEALTH OR A COMMONWEALTH PROGRAM SHALL BE        <—  
9 DEPOSITED INTO THE ACCOUNT FOR PURPOSES AS DETERMINED BY THE  
10 GENERAL ASSEMBLY.

11        (C) NO CONTRACT OR WRITTEN AGREEMENT BETWEEN A HOSPITAL PLAN  
12 CORPORATION OR PROFESSIONAL HEALTH SERVICES PLAN CORPORATION AND  
13 THE COMMONWEALTH OR ANY OTHER ENTITY RELATING TO THE  
14 DISBURSEMENT OR SPENDING OF MONEY IN THE ACCOUNT MAY BE ENTERED  
15 INTO UNTIL MONEYS IN THAT MAY EXIST OR ARE TO BE DERIVED FROM        <—  
16 ANY CONTRACT OR WRITTEN AGREEMENT FOR DEPOSIT INTO THE ACCOUNT  
17 ARE APPROPRIATED BY THE GENERAL ASSEMBLY.

18        (D) NO MONEYS OR FUNDS MAY BE TRANSFERRED OR PAID FROM THE  
19 ACCOUNT UNLESS APPROPRIATED BY THE GENERAL ASSEMBLY.

20        SECTION 8. SECTION 1405(C) OF THE ACT, AMENDED FEBRUARY 17,  
21 1994 (P.L.92, NO.9), IS AMENDED TO READ:

22        SECTION 1405. STANDARDS AND MANAGEMENT OF AN INSURER WITHIN  
23 A HOLDING COMPANY SYSTEM.--\* \* \*

24        (C) (1) NOTWITHSTANDING THE CONTROL OF A DOMESTIC INSURER  
25 BY ANY PERSON, THE OFFICERS AND DIRECTORS OF THE INSURER SHALL  
26 NOT THEREBY BE RELIEVED OF ANY OBLIGATION OR LIABILITY TO WHICH  
27 THEY WOULD OTHERWISE BE SUBJECT BY LAW, AND THE INSURER SHALL BE  
28 MANAGED SO AS TO ASSURE ITS SEPARATE OPERATING IDENTITY  
29 CONSISTENT WITH THIS ARTICLE.

30        (2) NOTHING HEREIN SHALL PRECLUDE A DOMESTIC INSURER FROM

1 HAVING OR SHARING A COMMON MANAGEMENT OR COOPERATIVE OR JOINT  
2 USE OF PERSONNEL, PROPERTY OR SERVICES WITH ONE OR MORE OTHER  
3 PERSONS UNDER ARRANGEMENTS MEETING THE STANDARDS OF SUBSECTION  
4 (A)(1).

5 (3) (I) NOT LESS THAN ONE-THIRD OF THE DIRECTORS OF A  
6 DOMESTIC INSURER [AND NOT LESS THAN ONE-THIRD OF THE MEMBERS OF  
7 EACH COMMITTEE OF THE BOARD OF DIRECTORS OF ANY DOMESTIC  
8 INSURER] SHALL BE PERSONS WHO ARE NOT OFFICERS OR EMPLOYES OF  
9 SUCH INSURER OR OF ANY ENTITY CONTROLLING, CONTROLLED BY OR  
10 UNDER COMMON CONTROL WITH SUCH INSURER AND WHO ARE NOT  
11 BENEFICIAL OWNERS OF A CONTROLLING INTEREST IN THE VOTING STOCK  
12 OF SUCH INSURER OR ANY SUCH ENTITY. AT LEAST ONE SUCH PERSON  
13 MUST BE INCLUDED IN ANY QUORUM FOR THE TRANSACTION OF BUSINESS  
14 AT ANY MEETING OF THE BOARD OF DIRECTORS [OR ANY COMMITTEE  
15 THEREOF].

16 (II) NOT LESS THAN ONE-THIRD OF THE MEMBERS OF EACH  
17 COMMITTEE OF THE BOARD OF DIRECTORS OF ANY DOMESTIC INSURER  
18 SHALL BE PERSONS WHO ARE NOT OFFICERS OR EMPLOYES OF SUCH  
19 INSURER OR OF ANY ENTITY CONTROLLING, CONTROLLED BY OR UNDER  
20 COMMON CONTROL WITH SUCH INSURER. AT LEAST ONE SUCH PERSON MUST  
21 BE INCLUDED IN ANY QUORUM FOR THE TRANSACTION OF BUSINESS AT ANY  
22 MEETING OF EACH COMMITTEE.

23 (4) THE BOARD OF DIRECTORS OF A DOMESTIC INSURER SHALL  
24 ESTABLISH [ONE OR MORE COMMITTEES] A COMMITTEE COMPRISED SOLELY  
25 OF DIRECTORS WHO ARE NOT OFFICERS OR EMPLOYES OF THE INSURER OR  
26 OF ANY ENTITY CONTROLLING, CONTROLLED BY OR UNDER COMMON CONTROL  
27 WITH THE INSURER AND WHO ARE NOT BENEFICIAL OWNERS OF A  
28 CONTROLLING INTEREST IN THE VOTING STOCK OF THE INSURER OR ANY  
29 SUCH ENTITY. THE COMMITTEE [OR COMMITTEES] SHALL HAVE  
30 RESPONSIBILITY FOR RECOMMENDING THE SELECTION OF INDEPENDENT

1 CERTIFIED PUBLIC ACCOUNTANTS[, ] AND REVIEWING THE INSURER'S  
2 FINANCIAL CONDITION, THE SCOPE AND RESULTS OF THE INDEPENDENT  
3 AUDIT AND ANY INTERNAL AUDIT[, NOMINATING CANDIDATES FOR  
4 DIRECTOR FOR ELECTION BY SHAREHOLDERS OR POLICYHOLDERS,  
5 EVALUATING THE PERFORMANCE OF OFFICERS DEEMED TO BE PRINCIPAL  
6 OFFICERS OF THE INSURER AND RECOMMENDING TO THE BOARD OF  
7 DIRECTORS THE SELECTION AND COMPENSATION OF THE PRINCIPAL  
8 OFFICERS]. THE COMMITTEE MAY ALSO HAVE THE RESPONSIBILITIES  
9 DESCRIBED IN PARAGRAPH (4.1) IF ONE OR MORE COMMITTEES DESCRIBED  
10 IN PARAGRAPH (4.1) ARE NOT SEPARATELY ESTABLISHED.

11 (4.1) THE BOARD OF DIRECTORS OF A DOMESTIC INSURER SHALL  
12 ESTABLISH ONE OR MORE COMMITTEES COMPRISED SOLELY OF DIRECTORS  
13 WHO ARE NOT OFFICERS OR EMPLOYES OF THE INSURER OR OF ANY ENTITY  
14 CONTROLLING, CONTROLLED BY OR UNDER COMMON CONTROL WITH THE  
15 INSURER. THE COMMITTEE OR COMMITTEES SHALL HAVE RESPONSIBILITY  
16 FOR RECOMMENDING CANDIDATES TO BE NOMINATED BY THE BOARD OF  
17 DIRECTORS, IN ADDITION TO ANY OTHER NOMINATIONS BY VOTING  
18 SHAREHOLDERS OR POLICYHOLDERS, FOR ELECTION AS DIRECTORS BY  
19 VOTING SHAREHOLDERS OR POLICYHOLDERS, EVALUATING THE PERFORMANCE  
20 OF OFFICERS DEEMED TO BE PRINCIPAL OFFICERS OF THE INSURER AND  
21 RECOMMENDING TO THE BOARD OF DIRECTORS THE SELECTION AND  
22 COMPENSATION OF THE PRINCIPAL OFFICERS.

23 (5) THE PROVISIONS OF PARAGRAPHS (3) [AND], (4) AND (4.1)  
24 SHALL NOT APPLY TO A DOMESTIC INSURER IF THE PERSON CONTROLLING  
25 SUCH INSURER IS AN INSURER OR [A PUBLICLY HELD CORPORATION]  
26 ANOTHER BUSINESS ENTITY HAVING A BOARD OF DIRECTORS AND  
27 COMMITTEES THEREOF WHICH ALREADY MEET THE REQUIREMENTS OF  
28 PARAGRAPHS (3) [AND (4)], (4) AND (4.1).

29 \* \* \*

30 SECTION 9. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

1 ARTICLE XXV

2 COMMUNITY HEALTH REINVESTMENT

3 SECTION 2501. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
5 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 "COMMUNITY HEALTH REINVESTMENT ACTIVITY." COMMUNITY HEALTH  
8 SERVICES AND PROJECTS THAT IMPROVE HEALTH CARE OR MAKE HEALTH  
9 CARE MORE ACCESSIBLE. THE TERM INCLUDES FUNDING, SUBSIDIZATION  
10 OR PROVISION OF THE FOLLOWING:

11 (1) HEALTH CARE COVERAGE FOR PERSONS WHO ARE DETERMINED  
12 BY RECOGNIZED STANDARDS AS DETERMINED BY THE INSURANCE  
13 DEPARTMENT TO BE UNABLE TO PAY FOR COVERAGE.

14 (2) HEALTH CARE SERVICES FOR PERSONS WHO ARE DETERMINED  
15 BY RECOGNIZED STANDARDS TO BE UNINSURED AND UNABLE TO PAY FOR  
16 SERVICES.

17 (3) PROGRAMS FOR THE PREVENTION AND TREATMENT OF DISEASE  
18 OR INJURY, INCLUDING MENTAL RETARDATION, MENTAL DISORDERS,  
19 MENTAL HEALTH COUNSELING OR THE PROMOTION OF HEALTH OR  
20 WELLNESS.

21 THE TERM SHALL NOT INCLUDE EXPENDITURES FOR ADVERTISING, PUBLIC  
22 RELATIONS, SPONSORSHIPS, BAD DEBT, ~~THE COST OF ADMINISTERING~~ <—  
23 ADMINISTRATIVE COSTS ASSOCIATED WITH STATE HEALTH CARE PROGRAMS, <—  
24 PROGRAMS PROVIDED AS AN EMPLOYEE BENEFIT, USE OF FACILITIES FOR  
25 MEETINGS HELD BY COMMUNITY GROUPS OR EXPENSES FOR IN-SERVICE  
26 TRAINING, CONTINUING EDUCATION, ORIENTATION OR MENTORING OF  
27 EMPLOYEES.

28 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

29 "PLAN." A HOSPITAL PLAN CORPORATION AS DEFINED IN 40 PA.C.S.  
30 CH. 61 (RELATING TO HOSPITAL PLAN CORPORATIONS) OR PROFESSIONAL

1 HEALTH SERVICES PLAN CORPORATION AS DEFINED IN 40 PA.C.S. CH. 63  
2 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).  
3 SECTION 2502. DUTIES OF PLAN AND DEPARTMENT.

4 (A) PLAN DUTIES.--A PLAN SHALL HAVE THE FOLLOWING DUTIES:

5 (1) TO SUBMIT A PROPOSAL TO THE DEPARTMENT ON OR BEFORE  
6 MARCH 30 OF EACH YEAR SETTING FORTH THE MANNER IN WHICH THE  
7 PLAN WILL PROVIDE PROPOSED COMMUNITY HEALTH REINVESTMENT  
8 ACTIVITIES CONDUCTED OR PROVIDED BY THE PLAN DURING THE NEXT  
9 FISCAL YEAR.

10 (2) TO ANNUALLY PROVIDE TO THE DEPARTMENT, THE BANKING  
11 AND INSURANCE COMMITTEE OF THE SENATE AND THE INSURANCE  
12 COMMITTEE OF THE HOUSE OF REPRESENTATIVES THE NAME AND  
13 ADDRESS OF EACH OFFICER, DIRECTOR OR EMPLOYEE WHO SERVES ON  
14 THE BOARD OF DIRECTORS OF A HOSPITAL OR OTHER HEALTH CARE  
15 FACILITY AS DEFINED IN SECTION 802.1 OF THE ACT OF JULY 19,  
16 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE FACILITIES  
17 ACT, OR ON THE BOARD OF AN ENTITY THAT OWNS, OPERATES OR  
18 MANAGES A HOSPITAL OR OTHER HEALTH CARE FACILITY. THIS  
19 PARAGRAPH SHALL APPLY TO A NONPROFIT OR FOR-PROFIT SUBSIDIARY  
20 OR AFFILIATE OF A HOSPITAL PLAN CORPORATION OR PROFESSIONAL  
21 HEALTH SERVICES PLAN CORPORATION. THE INFORMATION SHALL BE  
22 SUBMITTED BY JANUARY 31 FOR THE IMMEDIATELY PRECEDING YEAR.

23 (B) DEPARTMENT DUTIES.--THE DEPARTMENT SHALL HAVE THE  
24 FOLLOWING DUTIES:

25 (1) TO DEVELOP A FORM WHICH SHALL BE USED BY EACH PLAN  
26 FOR THE SUBMISSION OF THE PROPOSAL UNDER SUBSECTION (A)(1).  
27 THE FORM SHALL REQUIRE THE ITEMIZATION OF INDIVIDUAL  
28 COMMUNITY HEALTH REINVESTMENT ACTIVITIES AND THE COST OF EACH  
29 ACTIVITY UNDER THE AGREEMENT ON COMMUNITY HEALTH REINVESTMENT <—  
30 ENTERED INTO FEBRUARY 2, 2005, BY THE INSURANCE DEPARTMENT



1 AND CAPITAL BLUE CROSS, HIGHMARK, INC., THE HOSPITAL SERVICE  
2 ASSOCIATION OF NORTHEASTERN PENNSYLVANIA AND INDEPENDENCE  
3 BLUE CROSS AND PUBLISHED AT 35 PA.B. 4155 OR ANY SUCCESSOR OR  
4 OTHER AGREEMENTS. THE PROPOSAL SHALL BE ON A FORM PUBLISHED  
5 BY THE DEPARTMENT IN THE PENNSYLVANIA BULLETIN.

6 (2) TO APPROVE OR DISAPPROVE THE EXPENDITURES IN THE  
7 PROPOSAL SUBMITTED UNDER SUBSECTION (A)(1).

8 SECTION 2503. PUBLIC RECORD.

9 ALL PROPOSALS SUBMITTED UNDER SECTION 2502 SHALL BE PUBLIC  
10 RECORDS.

11 SECTION 2504. REGULATIONS.

12 THE DEPARTMENT MAY PROMULGATE REGULATIONS AS NECESSARY FOR  
13 THE ADMINISTRATION OF THIS ARTICLE.

14 SECTION 10. REPEALS ARE AS FOLLOWS:

15 (1) THE GENERAL ASSEMBLY DECLARES THE REPEAL UNDER  
16 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF  
17 SECTION 1403.2 OF THE ACT.

18 (2) SECTION 1716.1-E OF THE ACT OF APRIL 9, 1929  
19 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, IS REPEALED.

20 (3) THE ACT OF DECEMBER 19, 1990 (P.L.834, NO.198),  
21 KNOWN AS THE GAA AMENDMENTS ACT OF 1990, IS REPEALED INSOFAR  
22 AS IT IS INCONSISTENT WITH THIS ACT.

23 SECTION 11. THIS ACT SHALL NOT APPLY TO ANY MERGER,  
24 CONSOLIDATION OR OTHER ACQUISITION OF CONTROL COMPLETED OR  
25 CONSUMMATED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION AND, IF  
26 REQUIRED, FOLLOWING THE ISSUANCE OF AN APPROVING DETERMINATION.

27 SECTION 12. THIS ACT SHALL APPLY TO ANY APPLICATION,  
28 STATEMENT OR OTHER PLAN OR PROPOSAL RELATING TO A MERGER,  
29 CONSOLIDATION OR OTHER ACQUISITION OF CONTROL FILED WITH THE  
30 INSURANCE DEPARTMENT ON OR AFTER JANUARY 1, 2007.

1 SECTION 13. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

2 (1) THE AMENDMENT OR ADDITION OF SECTIONS 405.2(C),  
3 635.3 AND 1405(C) OF THE ACT SHALL TAKE EFFECT IN 60 DAYS.

4 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
5 IMMEDIATELY.