
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

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
JULY 1, 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," in preliminary provisions, further
12 providing for effect of act on existing laws; in life
13 insurance, further providing for additional investment
14 authority for subsidiaries; in casualty insurance, providing
15 for autism spectrum disorders coverage and for colorectal
16 cancer screenings coverage; in insurance holding companies,
17 further providing for definitions, for acquisition of control

1 of or merger with domestic insurer, for acquisitions
2 involving insurers not otherwise covered and for standards
3 and management of an insurer within a holding company system;
4 providing for committee review; establishing the Insurance
5 Restructuring Restricted Receipt Account; providing for
6 community health reinvestment; and making a related repeal.

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

9 Section 1. Section 108 of the act of May 17, 1921 (P.L.682,
10 No.284), known as The Insurance Company Law of 1921, is amended
11 to read:

12 Section 108. Effect of Act on Existing Laws.--The provisions
13 of this act, so far as they are the same as those of existing
14 laws, shall be construed as a continuation of such laws and not
15 as new enactments. The repeal by this act of any provision of
16 law shall not revive any law heretofore repealed or superseded,
17 nor shall such repeal affect any act done, liability incurred,
18 or any right accrued or vested, or any suit or prosecution
19 pending or to be instituted to enforce any right or penalty or
20 punish any offense under the authority of the repealed laws. The
21 provisions of this act shall not limit the jurisdiction and
22 authority of the Office of Attorney General, including, but not
23 limited to, the jurisdiction and authority granted pursuant to
24 the act of October 15, 1980 (P.L.950, No.164), known as the
25 "Commonwealth Attorneys Act."

26 Section 2. Section 405.2(c) of the act, amended December 21,
27 1995 (P.L.714, No.79), is amended to read:

28 Section 405.2. Additional Investment Authority for
29 Subsidiaries.--* * *

30 (c) (1) [At] Except as set forth in paragraph (1.1), at no
31 time shall a domestic life insurance company make an investment
32 in any subsidiary which will bring the aggregate value of its

1 investments, as determined for annual statement purposes but not
2 in excess of cost, in all subsidiaries under this subsection to
3 an amount in excess of ten per centum (10%) of its total
4 admitted assets as of the immediately preceding thirty-first day
5 of December. In determining the amount of investments of any
6 domestic life insurance company in subsidiaries for purposes of
7 this subsection, there shall be included investments made
8 directly by such insurance company and, if such investment is
9 made by another subsidiary, then to the extent that funds for
10 such investments are provided by the insurance company for such
11 purpose.

12 (1.1) A domestic life insurance company may increase the
13 aggregate value of its investments, as determined for annual
14 statement purposes, but not in excess of cost, in all
15 subsidiaries under this subsection to an amount in excess of ten
16 per centum (10%) but at no time in excess of fifteen per centum
17 (15%) of its total admitted assets as of the immediately
18 preceding thirty-first day of December if the increase has been
19 approved in writing by the Insurance Department prior to making
20 the investment. If the Insurance Department does not approve or
21 disapprove the increased investment within thirty (30) days of
22 receipt of a request for approval, the increased investment
23 shall be deemed approved. In determining the amount of
24 investments of any domestic life insurance company in
25 subsidiaries for purposes of this subsection, there shall be
26 included investments made directly by such insurance company
27 and, if such investment is made by another subsidiary, then to
28 the extent that funds for such investments are provided by the
29 insurance company for such purpose.

30 (2) The limitations set forth in [clause (1)] CLAUSES (1)

<—

1 AND (1.1) of this subsection shall not apply to investments in
2 any subsidiary which is:

3 (i) An insurance company or a health maintenance
4 organization holding a certificate of authority under the act of
5 December 29, 1972 (P.L.1701, No.364), known as the "Health
6 Maintenance Organization Act."

7 (ii) A holding company to the extent its business consists
8 of the holding of the stock of, or otherwise controlling, its
9 own subsidiaries.

10 (iii) A corporation whose business primarily consists of
11 direct or indirect ownership, operation or management of assets
12 authorized as investments pursuant to sections 404.1 and 406.

13 (iv) A company engaged in any combination of the activities
14 described in subclauses (i), (ii) and (iii) of this clause.

15 Investments made pursuant to subclause (i) shall not be
16 restricted in amount provided that after such investment, as
17 calculated for NAIC annual statement purposes, the insurer's
18 surplus will be reasonable in relation to the insurer's
19 outstanding liabilities and adequate to its financial needs.
20 Investments made pursuant to subclause (ii), or to the extent
21 applicable in this subclause, shall in addition not be subject
22 to any limitations on the amount of a domestic life insurance
23 company's assets provided for under any other provision of this
24 act and which might otherwise be applicable: Provided, however,
25 That such life insurance company's investments, to the extent
26 that such life insurance company provided the funds therefor, in
27 each of the subsidiaries of such holding company shall be
28 subject to the limitations, if any, applicable to such
29 investment as if the holding company's interest in each such
30 subsidiary were instead owned directly by the life insurance

1 company. Investments made pursuant to subclause (iii), or, to
2 the extent applicable, this clause, shall be counted in
3 determining the limitations contained in applicable subsections
4 of sections 404.2 and 406: Provided, however, That the value as
5 calculated for annual statement purposes, but not in excess of
6 the cost thereof, of such investment shall include only funds
7 provided by the insurance company therefor. Investments made in
8 other subsidiaries of such life insurance company by any
9 subsidiary described in subclauses (i), (ii), (iii) and this
10 subclause or by a person whose business primarily consists of
11 direct or indirect ownership, operation or management of real
12 property and interest therein under section 406 shall be deemed
13 investments made by the insurance company only to the extent the
14 funds for such investment were provided by such insurance
15 company.

16 * * *

17 Section 3. The act is amended by adding sections to read:

18 Section 635.2. Autism Spectrum Disorders Coverage.--(a) A
19 health insurance policy or government program covered under this
20 section shall provide to covered individuals or recipients under
21 twenty-one (21) years of age coverage for the diagnostic
22 assessment of autism spectrum disorders and for the treatment of
23 autism spectrum disorders.

24 (b) Coverage provided under this section by an insurer shall
25 be subject to a maximum benefit of thirty-six thousand dollars
26 (\$36,000) per year but shall not be subject to any limits on the
27 number of visits to an autism service provider for treatment of
28 autism spectrum disorders. After December 30, 2011, the
29 Insurance Commissioner shall, on or before April 1 of each
30 calendar year, publish in the Pennsylvania Bulletin an

1 adjustment to the maximum benefit equal to the change in the
2 United States Department of Labor Consumer Price Index for All
3 Urban Consumers (CPI-U) in the preceding year, and the published
4 adjusted maximum benefit shall be applicable to the following
5 calendar years to health insurance policies issued or renewed in
6 those calendar years. Payments made by an insurer on behalf of a
7 covered individual for treatment of a health condition unrelated
8 to or distinguishable from the individual's autism spectrum
9 disorder shall not be applied toward any maximum benefit
10 established under this subsection.

11 (c) Coverage under this section shall be subject to
12 copayment, deductible and coinsurance provisions, and any other
13 general exclusions or limitations, of a health insurance policy
14 or government program to the same extent as other medical
15 services covered by the policy or program are subject to these
16 provisions.

17 (d) This section shall not be construed as limiting benefits
18 which are otherwise available to an individual under a health
19 insurance policy or government program.

20 (d.1) This section shall not be construed as requiring
21 coverage by insurers of any service based solely on its
22 inclusion in an individualized education program. Consistent
23 with Federal or State law and upon consent of the parent or
24 guardian of the covered individual, the treatment of autism
25 spectrum disorders may be coordinated with any service included
26 in an individualized education program. Coverage for the
27 treatment of autism spectrum disorders shall not be contingent
28 upon a coordination of services with an individualized education
29 program.

30 (e) (1) This section shall apply to any health insurance

1 policy offered, issued or renewed on or after July 1, 2009, in
2 this Commonwealth to groups of fifty-one (51) or more employees:
3 Provided, That this section shall not include the following
4 policies:

5 (i) Accident only.

6 (ii) Fixed indemnity.

7 (iii) Limited benefit.

8 (iv) Credit.

9 (v) Dental.

10 (vi) Vision.

11 (vii) Specified disease.

12 (viii) Medicare supplement.

13 (ix) CHAMPUS (Civilian Health and Medical Program of the
14 Uniformed Services) supplement.

15 (x) Long-term care or disability income.

16 (xi) Workers' compensation.

17 (xii) Automobile medical payment.

18 (2) This section shall apply to any contract executed on or
19 after July 1, 2009, by the adult Basic coverage insurance
20 program established under Chapter 13 of the act of June 26, 2001
21 (P.L.755, No.77), known as the "Tobacco Settlement Act," or by
22 the Children's Health Care Program established under this act,
23 or by any successor program of either of them.

24 (3) On January 1, 2011, insurers shall make a report to the
25 Insurance Department, in a form and manner as determined by the
26 department, to evaluate the implementation of this section.

27 (f) As used in this section:

28 (1) "Applied behavioral analysis" means the design,
29 implementation and evaluation of environmental modification <—
30 MODIFICATIONS, using behavioral stimuli and consequences, to <—

1 produce socially significant improvement in human behavior or to
2 prevent loss of attained skill or function, including the use of
3 direct observation, measurement and functional analysis of the
4 relations between environment and behavior.

5 (2) "Autism service provider" means any of the following:

6 (i) A person, entity or group providing treatment of autism
7 spectrum disorders, pursuant to a treatment plan, that is ←
8 licensed or certified in this Commonwealth.

9 (ii) Any person, entity or group providing treatment of
10 autism spectrum disorders, pursuant to a treatment plan, that is ←
11 enrolled in the Commonwealth's medical assistance program on or
12 before the effective date of this section.

13 (3) "Autism spectrum disorders" means any of the pervasive
14 developmental disorders defined by the most recent edition of
15 the Diagnostic and Statistical Manual of Mental Disorders (DSM),
16 or its successor, including autistic disorder, Asperger's
17 disorder and pervasive developmental disorder not otherwise
18 specified.

19 (4) "Behavior specialist" means an individual who designs,
20 implements or evaluates a behavior modification intervention
21 component of a treatment plan, including those based on applied
22 behavioral analysis, to produce socially significant
23 improvements in human behavior or to prevent loss of attained
24 skill or function, through skill acquisition and the reduction ←
25 of problematic behavior.

26 (5) "Diagnostic assessment of autism spectrum disorders"
27 means medically necessary assessments, evaluations or tests
28 performed by a licensed physician, licensed physician assistant,
29 licensed psychologist or certified registered nurse practitioner
30 to diagnose whether an individual has an autism spectrum

1 disorder.

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

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

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

9 (iii) The Children's Health Care Program established under
10 this act.

11 (7) "Health insurance policy" means any group health,
12 sickness or accident policy, or subscriber contract or
13 certificate offered, issued or renewed by an entity subject to
14 one of the following:

15 (i) This act.

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

18 (iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan
19 corporations) or 63 (relating to professional health service
20 plan corporations).

21 (8) "Insurer" means any entity offering a health insurance
22 policy as defined in this section.

23 (9) "Pharmacy care" means medications prescribed by a
24 licensed physician, licensed physician assistant or certified
25 registered nurse practitioner and any assessment, evaluation or
26 test prescribed or ordered by a licensed physician, licensed
27 physician assistant or certified registered nurse practitioner
28 to determine the need or effectiveness of such medications.

29 (10) "Psychiatric care" means direct or consultative
30 services provided by a physician who specializes in psychiatry.

1 (11) "Psychological care" means direct or consultative
2 services provided by a psychologist.

3 (12) "Rehabilitative care" means professional services and
4 treatment programs, including applied behavioral analysis,
5 provided by an autism service provider TO PRODUCE SOCIALLY ←
6 SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR OR TO PREVENT LOSS OF
7 ATTAINED SKILL OR FUNCTION.

8 (13) "Therapeutic care" means services provided by speech
9 language pathologists, occupational therapists or physical
10 therapists.

11 (14) "Treatment of autism spectrum ~~disorder~~ DISORDERS" shall ←
12 be identified in a treatment plan and shall include any of the
13 following medically necessary pharmacy care, psychiatric care,
14 psychological care, rehabilitative care and therapeutic care
15 that is:

16 (i) Prescribed, ordered or provided by a licensed physician,
17 licensed physician assistant, licensed psychologist, licensed
18 clinical social worker or certified registered nurse
19 practitioner.

20 (ii) Provided by an autism service provider.

21 (iii) Provided by a person, entity or group that works under
22 the direction of an autism service provider.

23 (15) "Treatment plan" means a plan for the treatment of
24 autism spectrum disorders developed by a licensed physician or
25 licensed psychologist pursuant to a comprehensive evaluation or
26 reevaluation performed in a manner consistent with the most
27 recent clinical report or recommendations of the American
28 Academy of Pediatrics.

29 (g) (1) The State Board of Medicine, in consultation with
30 the Department of Public Welfare, shall promulgate regulations

1 providing for the licensure or certification of behavior
2 specialists. Behavior specialists licensed or certified by the
3 State Board of Medicine shall be subject to all disciplinary
4 provisions applicable to medical doctors as set forth in the act
5 of December 20, 1985 (P.L.457, No.112), known as the "Medical
6 Practice Act of 1985." The State Board of Medicine may charge
7 reasonable fees as set by board regulation for licensure or
8 certificates or applications permitted by the "Medical Practice
9 Act of 1985."

10 (2) An applicant applying for a license or certificate as a
11 behavior specialist shall submit a written application on forms
12 provided by the State Board of Medicine evidencing and insuring
13 to the satisfaction of the board that the applicant:

14 (i) Is of good moral character.

15 (ii) Has received a master's or higher degree from a board-
16 approved, accredited college or university, including a major
17 course of study in school, clinical or counseling psychology,
18 special education, social work, speech therapy, occupational
19 therapy or another related field.

20 (iii) Has at least one year of experience involving
21 functional behavior assessments, including the development and
22 implementation of behavioral supports or treatment plans.

23 (iv) Has completed at least one thousand (1,000) hours in
24 direct clinical experience with individuals with behavioral
25 challenges or at least one thousand (1,000) hours' experience in
26 a related field with individuals with autism spectrum disorders.

27 (v) Has completed relevant training programs, including
28 professional ethics, autism-specific training, assessments
29 training, instructional strategies and best practices, crisis
30 intervention, comorbidity and medications, family collaboration

1 and addressing specific skill deficits training.

2 (3) The board shall not issue a license or certificate to an
3 applicant who has been convicted of a felony under the act of
4 April 14, 1972 (P.L.233, No.64), known as "The Controlled
5 Substance, Drug, Device and Cosmetic Act," or if an offense
6 under the laws of another jurisdiction which, if committed in
7 this Commonwealth, would be a felony under "The Controlled
8 Substance, Drug, Device and Cosmetic Act," unless:

9 (i) At least ten (10) years have elapsed from the date of
10 conviction.

11 (ii) The applicant satisfactorily demonstrates to the board
12 that he has made significant progress in personal rehabilitation
13 since the conviction such that licensure of the applicant should
14 not be expected to create a substantial risk of harm to the
15 health and safety of his patients or the public or a substantial
16 risk of further criminal violations.

17 (iii) The applicant otherwise satisfies the qualifications
18 contained in or authorized by this section.

19 As used in this paragraph, the term "convicted" shall include a
20 judgment, an admission of guilt or a plea of nolo contendere.

21 (h) An insurer shall be required to contract with and to
22 accept as a participating provider any autism service provider
23 within its service area and enrolled in the Commonwealth's
24 medical assistance program who agrees to accept the payment
25 levels, terms and conditions applicable to the insurer's other
26 participating providers for such service.

27 (i) An insurer may review a treatment plan for treatment of
28 autism spectrum disorders once every six (6) months, subject to
29 its utilization review requirements, including case management,
30 concurrent review and other managed care provisions. A more or

1 less frequent review can be agreed upon by the insurer and the
2 licensed physician or licensed psychologist developing the
3 treatment plan.

4 (j) The FOR PURPOSES OF THIS SECTION, THE results of a <—
5 diagnostic assessment of autism spectrum disorder shall be valid
6 for a period of NOT LESS THAN twelve (12) months, unless a <—
7 licensed physician or licensed psychologist determines an
8 earlier assessment is necessary.

9 (k) (1) Upon denial or partial denial by an insurer of a
10 claim for diagnostic assessment of autism spectrum disorders or
11 a claim for treatment of autism spectrum disorders, a covered
12 individual or an authorized representative shall be entitled to
13 an expedited internal review process pursuant to the procedures
14 set forth in Article XXI, followed by an expedited independent
15 external review process established and administered by the
16 Insurance Department.

17 (2) An insurer or covered individual or an authorized
18 representative may appeal to a court of competent jurisdiction
19 an order of an expedited independent external review
20 disapproving a denial or partial denial. Pending a ruling of
21 such court, the insurer shall pay for those services, if any,
22 that have been authorized OR ORDERED until such ruling. <—

23 (3) The Insurance Commissioner may promulgate rules and
24 regulations as may be necessary or appropriate to implement and
25 administer this subsection.

26 (l) For purposes of this section, the term "autism service
27 provider" shall include any behavior specialist in this
28 Commonwealth providing treatment of autism spectrum disorders
29 pursuant to a treatment plan until one (1) year from the time
30 that regulations under subsection (g) are promulgated or until

1 three (3) years from the effective date of this section,
2 whichever is later.

3 Section 635.3. Coverage for Colorectal Cancer Screening.--

4 (a) Except to the extent already covered under another policy,
5 all health insurance policies as defined in this section shall
6 also provide coverage for colorectal cancer screening for
7 covered individuals in accordance with American Cancer Society
8 guidelines for colorectal cancer screening published as of
9 January 1, 2008, and consistent with approved medical standards
10 and practices.

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

14 (i) An annual fecal occult blood test.

15 (ii) A sigmoidoscopy, a screening barium enema or a test
16 consistent with approved medical standards and practices to
17 detect colon cancer, at least once every five (5) years.

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

19 (2) Coverage for symptomatic covered individuals shall
20 include a colonoscopy, sigmoidoscopy or any combination of
21 colorectal cancer screening tests at a frequency determined by a
22 treating physician.

23 (3) Coverage for nonsymptomatic covered individuals who are
24 at high or increased risk for colorectal cancer who are under
25 fifty (50) years of age shall include a colonoscopy or any
26 combination of colorectal cancer screening tests in accordance
27 with the American Cancer Society guidelines on screening for
28 colorectal cancer published as of January 1, 2008.

29 (b) The coverage required under this section shall be
30 subject to annual deductibles, coinsurance and copayment

1 requirements imposed by an entity subject to this section for
2 similar coverages under the same health insurance policy or
3 contract.

4 (c) For the purpose of this section:

5 (1) "Health insurance policy" means any group health,
6 sickness or accident policy or subscriber contract or
7 certificate offered to groups of fifty-one (51) or more employes
8 issued by an entity subject to any one of the following:

9 (i) This act.

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

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

15 The term does not include accident only, fixed indemnity,
16 limited benefit, credit, dental, vision, specified disease,
17 Medicare supplement, Civilian Health and Medical Program of the
18 Uniformed Services (CHAMPUS) supplement, long-term care or
19 disability income, workers' compensation or automobile medical
20 payment insurance.

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

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

26 (i) Screening fecal-occult blood or fecal immunochemical
27 test.

28 (ii) Screening flexible sigmoidoscopy.

29 (iii) Screening colonoscopy.

30 (iv) Screening barium enema.

1 (v) Screening test consistent with approved medical
2 standards and practices to detect colon cancer.

3 (4) "Nonsymptomatic person at high or increased risk" means
4 an individual who poses a higher than average risk for
5 colorectal cancer according to the American Cancer Society
6 guidelines on screening for colorectal cancer as of January 1,
7 2008.

8 (5) "Symptomatic person" means an individual who experiences
9 a change in bowel habits, rectal bleeding or persistent stomach
10 cramps, weight loss or abdominal pain.

11 Section 4. The introductory paragraph and the definitions of
12 "insurer" and "person" in section 1401 of the act, amended
13 December 20, 2000 (P.L.967, No.132), are amended and the section
14 is amended by adding a definition to read:

15 Section 1401. Definitions.--As used in this article, and for
16 the purposes of this article only, the following words and
17 phrases shall have the meanings given to them in this section:

18 * * *

19 "Insurer." Any health maintenance organization, preferred
20 provider organization, company, association [or], exchange,
21 hospital plan corporation as defined in and subject to 40
22 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or
23 professional health services plan corporation subject to 40
24 Pa.C.S. Ch. 63 (relating to professional health services plan
25 corporations), authorized by the Insurance Commissioner to
26 transact the business of insurance in this Commonwealth except
27 that the term shall not include:

28 (1) the Commonwealth or any agency or instrumentality
29 thereof;

30 (2) agencies, authorities or instrumentalities of the United

1 States, its possessions and territories, the Commonwealth of
2 Puerto Rico, the District of Columbia or a state or political
3 subdivision; or

4 (3) fraternal benefit societies[; or

5 (4) nonprofit medical and hospital service associations].

6 * * *

7 "Person." An individual, an insurer, a corporation, a
8 partnership, a limited liability company, an association, a
9 joint stock company, a trust, an unincorporated organization,
10 any similar entity or any combination of the foregoing acting in
11 concert. The term shall not include any joint venture
12 partnership exclusively engaged in owning, managing, leasing or
13 developing real or tangible personal property.

14 * * *

15 "Shareholder." A record holder or record owner of shares of
16 an insurer.

17 (1) The term shall include all of the following:

18 (i) A member of an insurer that is a domestic nonstock
19 corporation under 15 Pa.C.S. Ch. 21 (relating to nonstock
20 corporations) or a prior statute.

21 (ii) A member, as defined in 15 Pa.C.S. § 5103 (relating to
22 definitions), of an insurer that is a domestic nonprofit
23 corporation under 15 Pa.C.S. Ch. 51 (relating to general
24 provisions) or a prior statute.

25 (iii) A subscriber of an insurer that is a domestic
26 reciprocal exchange under Article X or a prior statute.

27 (2) The term shall not include any subscriber, insured or
28 customer of:

29 (i) a hospital plan corporation subject to 40 Pa.C.S. Ch. 61
30 (relating to hospital plan corporations); or

1 (ii) a professional health service plan corporation subject
2 to 40 Pa.C.S. Ch. 63 (relating to professional health services
3 plan corporations).

4 * * *

5 Section 5. Section 1402 of the act, amended or added
6 December 18, 1992 (P.L.1519, No.178) and December 21, 1998
7 (P.L.1108, No.150), is amended to read:

8 Section 1402. Acquisition of Control of or Merger or
9 Consolidation with Domestic Insurer.--(a) (1) No person other
10 than the issuer shall make a tender offer for or a request or
11 invitation for tenders of, or enter into any agreement to
12 exchange securities or seek to acquire or acquire in the open
13 market or otherwise, any voting security of a domestic insurer
14 if, after the consummation thereof, such person would directly
15 or indirectly or by conversion or by exercise of any right to
16 acquire, be in control of such insurer, and no person shall
17 enter into an agreement to merge or consolidate with or
18 otherwise to acquire control of a domestic insurer or any person
19 controlling a domestic insurer unless, at the time any such
20 offer, request or invitation is made or any such agreement is
21 entered into or prior to the acquisition of such securities if
22 no offer or agreement is involved, such person has filed with
23 the department and has sent to such insurer a statement
24 containing the information required by this section and such
25 offer, request, invitation, agreement or acquisition has been
26 approved by the department in the manner hereinafter prescribed.

27 (2) For purposes of this section, a "domestic insurer" shall
28 include any person controlling a domestic insurer unless such
29 person as determined by the department is either directly or
30 through its affiliates primarily engaged in business other than

1 the business of insurance. Such person shall, however, file a
2 preacquisition notification with the department containing the
3 information set forth in section 1403(c)(2) thirty (30) days
4 prior to the proposed effective date of the acquisition. Failure
5 to file is subject to section 1403(e)(3). For purposes of this
6 section, "person" shall not include any securities broker
7 holding, in the usual and customary manner, less than twenty per
8 centum (20%) of the voting securities of an insurance company or
9 of any person which controls an insurance company.

10 (b) The statement to be filed with the department under this
11 section shall be made under oath or affirmation and shall
12 contain the following information:

13 (1) The name and address of each person by whom or on whose
14 behalf the merger, consolidation or other acquisition of control
15 referred to in subsection (a) is to be effected, hereinafter
16 called "acquiring party," and

17 (i) if such person is an individual, his principal
18 occupation and all offices and positions held during the past
19 five (5) years, and any conviction of crimes other than minor
20 traffic violations during the past ten (10) years; or

21 (ii) if such person is not an individual, a report of the
22 nature of its business operations during the past five (5) years
23 or for such lesser period as the person and any predecessors
24 thereof shall have been in existence; an informative description
25 of the business intended to be done by the person and the
26 person's subsidiaries; and a list of all individuals who are or
27 who have been selected to become directors or executive officers
28 of the person, or who perform or will perform functions
29 appropriate to those positions. This list shall include for each
30 individual the information required by subparagraph (i).

1 (2) The source, nature and amount of the consideration used
2 or to be used in effecting the merger, consolidation or other
3 acquisition of control, a description of any transaction wherein
4 funds were or are to be obtained for any such purpose, including
5 any pledge of the insurer's stock or the stock of any of its
6 subsidiaries or controlling affiliates, and the identity of
7 persons furnishing such consideration, provided, however, that
8 where a source of such consideration is a loan made in the
9 lender's ordinary course of business, the identity of the lender
10 shall remain confidential if the person filing such statement so
11 requests.

12 (3) Fully audited financial information as to the earnings
13 and financial condition of each acquiring party for the
14 preceding five (5) fiscal years of each such acquiring party, or
15 for such lesser period as such acquiring party and any
16 predecessors thereof shall have been in existence, and similar
17 unaudited information as of a date not earlier than ninety (90)
18 days prior to the filing of the statement.

19 (4) Any plans or proposals which each acquiring party may
20 have to liquidate such insurer, to sell its assets or merge or
21 consolidate it with any person or to make any other material
22 change in its business or corporate structure or management.

23 (5) The number of shares of any security referred to in
24 subsection (a) which each acquiring party proposes to acquire,
25 and the terms of the offer, request, invitation, agreement or
26 acquisition referred to in subsection (a), and a statement as to
27 the method by which the fairness of the proposal was arrived.

28 (6) The amount of each class of any security referred to in
29 subsection (a) which is beneficially owned or concerning which
30 there is a right to acquire beneficial ownership by each

1 acquiring party.

2 (7) A full description of any contracts, arrangements or
3 understandings with respect to any security referred to in
4 subsection (a) in which any acquiring party is involved,
5 including, but not limited to, transfer of any of the
6 securities, joint ventures, loan or option arrangements, puts or
7 calls, guarantees of loans, guarantees against loss or
8 guarantees of profits, division of losses or profits, or the
9 giving or withholding of proxies. Such description shall
10 identify the persons with whom such contracts, arrangements or
11 understandings have been entered into.

12 (8) A description of the purchase of any security referred
13 to in subsection (a) during the twelve calendar months preceding
14 the filing of the statement, by any acquiring party, including
15 the dates of purchase, names of the purchasers and consideration
16 paid or agreed to be paid therefor.

17 (9) A description of any recommendations to purchase any
18 security referred to in subsection (a) made during the twelve
19 calendar months preceding the filing of the statement, by any
20 acquiring party, or by anyone based upon interviews or at the
21 suggestion of such acquiring party.

22 (10) Copies of all tender offers for, requests or
23 invitations for tenders of, exchange offers for and agreements
24 to acquire or exchange any securities referred to in subsection
25 (a) and, if distributed, of additional soliciting material
26 relating thereto.

27 (11) The term of any agreement, contract or understanding
28 made with or proposed to be made with any broker-dealer as to
29 solicitation of securities referred to in subsection (a) for
30 tender and the amount of any fees, commissions or other

1 compensation to be paid to broker-dealers with regard thereto.

2 (12) Such additional information as the department may by
3 rule or regulation prescribe as necessary or appropriate for the
4 protection of policyholders of the insurer or in the public
5 interest.

6 (c) If the person required to file the statement referred to
7 in subsection (a) is a partnership, limited partnership,
8 syndicate or other group, the department may require that the
9 information called for by subsection (b)(1) through (12) shall
10 be given with respect to each partner of such partnership or
11 limited partnership, each member of such syndicate or group and
12 each person who controls such partner or member. If any such
13 partner, member or person is a corporation or the person
14 required to file the statement referred to in subsection (a) is
15 a corporation, the department may require that the information
16 called for by subsection (b)(1) through (12) shall be given with
17 respect to such corporation, each officer and director of such
18 corporation and each person who is directly or indirectly the
19 beneficial owner of more than ten per centum (10%) of the
20 outstanding voting securities of such corporation.

21 (d) If any material change occurs in the facts set forth in
22 the statement filed with the department and sent to such insurer
23 pursuant to this section, an amendment setting forth such
24 change, together with copies of all documents and other material
25 relevant to such change, shall be filed with the department and
26 sent to such insurer within two (2) business days after the
27 person learns of such change.

28 (e) If any offer, request, invitation, agreement or
29 acquisition referred to in subsection (a) is proposed to be made
30 by means of a registration statement under the Securities Act of

1 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.), or in circumstances
2 requiring the disclosure of similar information under the
3 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a
4 et seq.), or under a State law requiring similar registration or
5 disclosure, the person required to file the statement referred
6 to in subsection (a) may utilize such documents in furnishing
7 the information called for by that statement.

8 (f) (1) The department shall approve any merger,
9 consolidation or other acquisition of control referred to in
10 subsection (a) unless it finds any of the following:

11 (i) After the [change] merger, consolidation or other
12 acquisition of control, the domestic insurer referred to in
13 subsection (a) would not be able to satisfy the requirements for
14 the issuance of a license to write the line or lines of
15 insurance for which it is presently licensed.

16 (ii) The effect of the merger, consolidation or other
17 acquisition of control would be to substantially lessen
18 competition in insurance in this Commonwealth or tend to create
19 a monopoly therein. In applying the competitive standard in this
20 subparagraph:

21 (A) the informational requirements of section 1403(c)(2) and
22 the standards of section 1403(d)(2) shall apply;

23 (B) the merger, consolidation or other acquisition of
24 control shall not be disapproved if the department finds that
25 any of the situations meeting the criteria provided by section
26 1403(d)(3) exist; and

27 (C) the department may condition the approval of the merger,
28 consolidation or other acquisition of control on the removal of
29 the basis of disapproval within a specified period of time.

30 (iii) The financial condition of any acquiring party is such

1 as might jeopardize the financial stability of the insurer or
2 prejudice the interest of its policyholders.

3 (iv) The plans or proposals which the acquiring party has to
4 liquidate the insurer, sell its assets or consolidate or merge
5 it with any person, or to make any other material change in its
6 business or corporate structure or management, are unfair and
7 unreasonable [to policyholders of the insurer and not in the
8 public interest.] and fail to confer benefit on policyholders of
9 the insurer and are not in the public interest.

10 (v) The competence, experience and integrity of those
11 persons who would control the operation of the insurer are such
12 that it would not be in the interest of policyholders of the
13 insurer and of the public to permit the merger, consolidation or
14 other acquisition of control.

15 (vi) The [acquisition] merger, consolidation or other
16 acquisition of control is likely to be hazardous or prejudicial
17 to the insurance buying public.

18 (vii) The merger, consolidation or other acquisition of
19 control is not in compliance with the laws of this Commonwealth,
20 including Article VIII-A.

21 (2) If the merger, consolidation or other acquisition of
22 control is approved, the department shall so notify the person
23 filing the statement and the insurer [whose stock] that is
24 proposed to be acquired, and such a determination is hereafter
25 referred to as an approving determination. Notice shall also be
26 given by the department of any determination which is not an
27 approving determination. If an approving determination is made
28 by the department and not otherwise, the proposed offer and
29 acquisition may thereafter be made and consummated on the terms
30 and conditions and in the manner described in the statement and

1 subject to such conditions as may be prescribed by the
2 department as hereinafter provided. An approving determination
3 by the department shall be deemed to extend to offers or
4 acquisitions made pursuant thereto within one year following the
5 date of determination. The department may, as a condition of its
6 approving determination, require the inclusion in any offer of
7 provisions requiring the offer to remain open a specified
8 minimum length of time, permitting withdrawal of shares
9 deposited prior to the time the offeror becomes bound to
10 consummate the acquisition and requiring pro rata acceptance of
11 any shares deposited pursuant to the offer. The department shall
12 hold a hearing before making the determination required by this
13 subsection if, within ten (10) days following the filing with
14 the department of the statement, written request for the holding
15 of such hearing is made either by the person proposing to make
16 the acquisition, by the insurer [whose stock] that is proposed
17 to be acquired or, if [such] the issuer of stock proposed to be
18 acquired is not an insurer, by the [insurance company] insurer
19 controlled by such issuer. Otherwise, the department shall
20 determine in its discretion whether such a hearing shall be
21 held. Thirty (30) days' notice of any such hearing shall be
22 given to the person proposing to make the acquisition, to the
23 issuer whose stock is proposed to be acquired and, if such
24 issuer is not an insurer, to the insurance company controlled by
25 such issuer. Notice of any such hearing shall also be given to
26 such other persons, if any, as the department may determine.

27 (3) The department may retain at the acquiring person's
28 expense any attorneys, actuaries, accountants and other experts
29 not otherwise a part of the department's staff as may be
30 reasonably necessary to assist the department in reviewing the

1 proposed acquisition of control.

2 (g) The provisions of this section shall not apply to any
3 offer, request, invitation, agreement or acquisition which the
4 department by order shall exempt therefrom as:

5 (1) not having been made or entered into for the purpose and
6 not having the effect of changing or influencing the control of
7 a domestic insurer; or

8 (2) as otherwise not comprehended within the purposes of
9 this section.

10 (h) The following shall constitute a violation of this
11 section:

12 (1) the failure to file any statement, amendment or other
13 material required to be filed pursuant to subsection (a) or (b);

14 (2) the effectuation or any attempt to effectuate an
15 acquisition of control of or merger or consolidation with a
16 domestic insurer unless the department has given its approval
17 thereto; or

18 (3) a violation of section 819-A.

19 (i) The department shall, within seventy-two hours of
20 receiving a statement filed under this section, provide
21 notification to the Office of Attorney General that the filing
22 was received.

23 (j) As used in this section, the term "annual statement"
24 shall mean the annual report of the financial condition required
25 to be filed under 40 Pa.C.S. § 6331 (relating to reports and
26 examinations).

27 Section 6. Section 1403(a), (b) and (d), added December 18,
28 1992 (P.L.1519, No.178), are amended to read:

29 Section 1403. Acquisitions Involving Insurers not Otherwise
30 Covered.--(a) As used in this section the following words and

1 phrases shall have the meanings given to them in this
2 subsection:

3 "Acquisition." Any agreement, arrangement or activity the
4 consummation of which results in a person acquiring, directly or
5 indirectly, the control of another person and includes, but is
6 not limited to, the acquisition of voting securities, the
7 acquisition of assets, bulk reinsurance [and], mergers and
8 consolidations.

9 "Involved insurer." Includes an insurer which either
10 acquires or is acquired, is affiliated with an acquirer or
11 acquired or is the result of a merger or consolidation.

12 (b) (1) Except as exempted in paragraph (2), this section
13 applies to any acquisition in which there is a change in control
14 of an insurer authorized to do business in this Commonwealth.

15 (2) This section shall not apply to any of the following:

16 (i) An acquisition subject to approval or disapproval by the
17 department pursuant to section 1402.

18 (ii) A purchase of securities solely for investment purposes
19 so long as such securities are not used by voting or otherwise
20 to cause or attempt to cause the substantial lessening of
21 competition in any insurance market in this Commonwealth. If a
22 purchase of securities results in a presumption of control as
23 described in the definition of "control" in section [1301] 1401,
24 it is not solely for investment purposes unless the insurance
25 department of the insurer's state of domicile accepts a
26 disclaimer of control or affirmatively finds that control does
27 not exist and such disclaimer action or affirmative finding is
28 communicated by the domiciliary insurance department to the
29 Insurance Department of the Commonwealth.

30 (iii) The acquisition of a person by another person when

1 both persons are neither directly nor through affiliates
2 primarily engaged in the business of insurance, if
3 preacquisition notification is filed with the department in
4 accordance with subsection (c)(2) thirty (30) days prior to the
5 proposed effective date of the acquisition. However, such
6 preacquisition notification is not required for exclusion from
7 this section if the acquisition would otherwise be excluded from
8 this section by this paragraph.

9 (iv) The acquisition of already affiliated persons.

10 (v) An acquisition if, as an immediate result of the
11 acquisition:

12 (A) in no market would the combined market share of the
13 involved insurers exceed five per centum (5%) of the total
14 market;

15 (B) there would be no increase in any market share; or

16 (C) in no market would:

17 (I) the combined market share of the involved insurers
18 exceeds twelve per centum (12%) of the total market; and

19 (II) the market share increases by more than two per centum
20 (2%) of the total market.

21 For the purpose of this subparagraph, a market means direct
22 written insurance premium in this Commonwealth for a line of
23 business as contained in the annual statement required to be
24 filed by insurers licensed to do business in this Commonwealth.

25 (vi) An acquisition for which a preacquisition notification
26 would be required pursuant to this section due solely to the
27 resulting effect on the ocean marine insurance line of business.

28 (vii) An acquisition of an insurer whose domiciliary
29 insurance department affirmatively finds that such insurer is in
30 failing condition; there is a lack of feasible alternative to

1 improving such condition; the public benefits of improving such
2 insurer's condition through the acquisition exceed the public
3 benefits that would arise from not lessening competition; and
4 such findings are communicated by the domiciliary insurance
5 department to the Insurance Department of the Commonwealth.

6 (3) Sections 1409(b) and (c) and 1411 shall not apply to
7 acquisitions provided for in this subsection.

8 * * *

9 (d) (1) The department may enter an order under subsection
10 (e)(1) with respect to an acquisition if there is substantial
11 evidence that the effect of the acquisition may be substantially
12 to lessen competition in any line of insurance in this
13 Commonwealth or tend to create a monopoly therein or if the
14 insurer fails to file adequate information in compliance with
15 subsection (c).

16 (2) In determining whether a proposed acquisition would
17 violate the competitive standard of paragraph (1), the
18 department shall consider the following:

19 (i) Any acquisition covered under subsection (b) involving
20 two or more insurers competing in the same market is prima facie
21 evidence of violation of the competitive standards as follows:

22 (A) if the market is highly concentrated and the involved
23 insurers possess the following shares of the market:

24	Insurer A	Insurer B
25	4%	4% or more
26	10%	2% or more
27	15%	1% or more; or

28 (B) if the market is not highly concentrated and the
29 involved insurers possess the following shares of the market:

30	Insurer A	Insurer B
----	-----------	-----------

1	5%	5% or more
2	10%	4% or more
3	15%	3% or more
4	19%	1% or more.

5 A highly concentrated market is one in which the share of the
6 four largest insurers is seventy-five per centum (75%) or more
7 of the market. Percentages not shown in the tables are
8 interpolated proportionately to the percentages that are shown.
9 If more than two insurers are involved, exceeding the total of
10 the two columns in the table is prima facie evidence of
11 violation of the competitive standard in paragraph (1). For the
12 purpose of this subparagraph, the insurer with the largest share
13 of the market shall be deemed to be insurer A.

14 (ii) There is a significant trend toward increased
15 concentration when the aggregate market share of any grouping of
16 the largest insurers in the market, from the two largest to the
17 eight largest, has increased by seven per centum (7%) or more of
18 the market over a period of time extending from any base year
19 five (5) to ten (10) years prior to the acquisition up to the
20 time of the acquisition. Any acquisition [or merger], merger or
21 consolidation covered under subsection (b) involving two or more
22 insurers competing in the same market is prima facie evidence of
23 violation of the competitive standard in paragraph (1) if:

24 (A) there is a significant trend toward increased
25 concentration in the market;

26 (B) one of the insurers involved is one of the insurers in a
27 grouping of such large insurers showing the requisite increase
28 in the market share; and

29 (C) another involved insurer's market is two per centum (2%)
30 or more.

1 (iii) For the purposes of this paragraph:

2 (A) The term "insurer" includes any company or group of
3 companies under common management, ownership or control.

4 (B) The term "market" means the relevant product and
5 geographical markets. In determining the relevant product and
6 geographical markets, the department shall give due
7 consideration to, among other things, the definitions or
8 guidelines, if any, promulgated by the NAIC and to information,
9 if any, submitted by parties to the acquisition. In the absence
10 of sufficient information to the contrary, the relevant product
11 market is assumed to be the direct written insurance premium for
12 a line of business, such line being that used in the annual
13 statement required to be filed by insurers doing business in
14 this Commonwealth and the relevant geographical market is
15 assumed to be this Commonwealth.

16 (C) The burden of showing prima facie evidence of violation
17 of the competitive standard rests upon the commissioner.

18 (iv) Even though an acquisition is not prima facie violative
19 of the competitive standard under subparagraphs (i) and (ii),
20 the department may establish the requisite anticompetitive
21 effect based upon other substantial evidence. Even though an
22 acquisition is prima facie violative of the competitive standard
23 under subparagraphs (i) and (ii), a party may establish the
24 absence of the requisite anticompetitive effect based upon other
25 substantial evidence. Relevant factors in making a determination
26 under this paragraph include, but are not limited to, the
27 following: market shares, volatility of ranking of market
28 leaders, number of competitors, concentration, trend of
29 concentration in the industry and ease of entry and exit into
30 the market.

1 (3) An order may not be entered under subsection (e)(1) if:
2 (i) the acquisition will yield substantial economies of
3 scale or economies in resource utilization that cannot be
4 feasibly achieved in any other way, and the public benefits
5 which would arise from such economies exceed the public benefits
6 which would arise from not lessening competition; or
7 (ii) the acquisition will substantially increase the
8 availability of insurance, and the public benefits of such
9 increase exceed the public benefits which would arise from not
10 lessening competition.

11 * * *

12 Section 7. The act is amended by adding sections to read:

13 Section 1403.1. Committee Review.--(a) The Banking and
14 Insurance Committee of the Senate and the Insurance Committee of
15 the House of Representatives may review an application or
16 statement submitted by a hospital plan corporation or
17 professional health services plan corporation seeking the
18 approval of a merger, consolidation or other acquisition of
19 control of a hospital plan corporation or professional health
20 services plan corporation under this act.

21 (b) The Banking and Insurance Committee of the Senate and
22 the Insurance Committee of the House of Representatives shall
23 have the following powers and duties:

24 (1) To convene the committee for purposes of reviewing an
25 application for approval of a merger, consolidation or other
26 acquisition of control under this section.

27 (2) To receive and review all filings submitted to the
28 department relating to the merger, consolidation or other
29 acquisition of control and all accompanying data and other
30 information. This paragraph shall not apply to information

1 deemed confidential or proprietary by the department.

2 (3) To consult experts, hold hearings and obtain additional
3 information relating to the merger, consolidation or other
4 acquisition of control.

5 (4) To develop written comments and recommendations on the
6 merger, consolidation or acquisition of control and submit them
7 to the department within forty-five (45) days of the close of
8 the public comment period established under this paragraph,
9 developed by the department on the merger, consolidation or
10 other acquisition of control. The department shall publish the
11 date of the close of the public comment period in the
12 Pennsylvania Bulletin prior to final closure of the public
13 comment period. The department may issue a final order and
14 determination on or after one hundred five (105) days following
15 the public comment period.

16 (c) The commissioner, the department and its attorneys and
17 experts, including experts employed or retained by the
18 department, shall be available to provide testimony to each
19 committee relating to the merger, consolidation or other
20 acquisition of control. Nothing in this act shall affect any
21 privileges or immunities of the department or its attorneys,
22 experts or consultants. The department or its attorneys, experts
23 or consultants shall not be required to appear before either
24 committee within thirty (30) days following the department's
25 issuance of a final order and determination.

26 (d) The department shall provide a detailed written response
27 to each comment and recommendation submitted by the Banking and
28 Insurance Committee of the Senate or the Insurance Committee of
29 the House of Representatives in its final order. The order and
30 determination shall not be issued before sixty (60) days have

1 elapsed following receipt of the comments and recommendations
2 under subsection (b)(4).

3 (e) If no comments and recommendations are received under
4 subsection (b)(4), the department may issue a final order and
5 determination on or after one hundred five (105) days following
6 the close of the public comment period.

7 Section 1403.2. Insurance Restructuring Restricted Receipt
8 Account.--(a) There is established in the State Treasury a
9 restricted receipt account to be known as the Insurance
10 Restructuring Restricted Receipt Account. Interest earned on
11 money in the account shall be deposited into the account.

12 (b) All net economic benefits, including proceeds, savings,
13 funds or moneys derived from and any agreement related to or
14 from the merger, consolidation or other acquisition of control
15 of a hospital plan corporation or professional health services
16 plan corporation which are to be paid to the Commonwealth or a
17 Commonwealth program shall be deposited into the account for
18 purposes as determined by the General Assembly.

19 (c) No contract or written agreement between a hospital plan
20 corporation or professional health services plan corporation and
21 the Commonwealth or any other entity relating to the
22 disbursement or spending of money in the account may be entered
23 into until moneys that may exist or are to be derived from any
24 contract or written agreement for deposit into the account are
25 appropriated by the General Assembly.

26 (d) No moneys or funds may be transferred or paid from the
27 account unless appropriated by the General Assembly.

28 Section 8. Section 1405(c) of the act, amended February 17,
29 1994 (P.L.92, No.9), is amended to read:

30 Section 1405. Standards and Management of an Insurer within

1 a Holding Company System.--* * *

2 (c) (1) Notwithstanding the control of a domestic insurer
3 by any person, the officers and directors of the insurer shall
4 not thereby be relieved of any obligation or liability to which
5 they would otherwise be subject by law, and the insurer shall be
6 managed so as to assure its separate operating identity
7 consistent with this article.

8 (2) Nothing herein shall preclude a domestic insurer from
9 having or sharing a common management or cooperative or joint
10 use of personnel, property or services with one or more other
11 persons under arrangements meeting the standards of subsection
12 (a)(1).

13 (3) (i) Not less than one-third of the directors of a
14 domestic insurer [and not less than one-third of the members of
15 each committee of the board of directors of any domestic
16 insurer] shall be persons who are not officers or employes of
17 such insurer or of any entity controlling, controlled by or
18 under common control with such insurer and who are not
19 beneficial owners of a controlling interest in the voting stock
20 of such insurer or any such entity. At least one such person
21 must be included in any quorum for the transaction of business
22 at any meeting of the board of directors [or any committee
23 thereof].

24 (ii) Not less than one-third of the members of each
25 committee of the board of directors of any domestic insurer
26 shall be persons who are not officers or employes of such
27 insurer or of any entity controlling, controlled by or under
28 common control with such insurer. At least one such person must
29 be included in any quorum for the transaction of business at any
30 meeting of each committee.

1 (4) The board of directors of a domestic insurer shall
2 establish [one or more committees] a committee comprised solely
3 of directors who are not officers or employes of the insurer or
4 of any entity controlling, controlled by or under common control
5 with the insurer and who are not beneficial owners of a
6 controlling interest in the voting stock of the insurer or any
7 such entity. The committee [or committees] shall have
8 responsibility for recommending the selection of independent
9 certified public accountants[,] and reviewing the insurer's
10 financial condition, the scope and results of the independent
11 audit and any internal audit[, nominating candidates for
12 director for election by shareholders or policyholders,
13 evaluating the performance of officers deemed to be principal
14 officers of the insurer and recommending to the board of
15 directors the selection and compensation of the principal
16 officers]. The committee may also have the responsibilities
17 described in paragraph (4.1) if one or more committees described
18 in paragraph (4.1) are not separately established.

19 (4.1) The board of directors of a domestic insurer shall
20 establish one or more committees comprised solely of directors
21 who are not officers or employes of the insurer or of any entity
22 controlling, controlled by or under common control with the
23 insurer. The committee or committees shall have responsibility
24 for recommending candidates to be nominated by the board of
25 directors, in addition to any other nominations by voting
26 shareholders or policyholders, for election as directors by
27 voting shareholders or policyholders, evaluating the performance
28 of officers deemed to be principal officers of the insurer and
29 recommending to the board of directors the selection and
30 compensation of the principal officers.

1 (5) The provisions of paragraphs (3) [and], (4) and (4.1)
2 shall not apply to a domestic insurer if the person controlling
3 such insurer is an insurer or [a publicly held corporation]
4 another business entity having a board of directors and
5 committees thereof which already meet the requirements of
6 paragraphs (3) [and (4)], (4) and (4.1).

7 * * *

8 Section 9. The act is amended by adding an article to read:

9 ARTICLE XXV

10 COMMUNITY HEALTH REINVESTMENT

11 Section 2501. Definitions.

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

15 "Community health reinvestment activity." Community health
16 services and projects that improve health care or make health
17 care more accessible. The term includes funding, subsidization
18 or provision of the following:

19 (1) Health care coverage for persons who are determined
20 by recognized standards as determined by the Insurance
21 Department to be unable to pay for coverage.

22 (2) Health care services for persons who are determined
23 by recognized standards to be uninsured and unable to pay for
24 services.

25 (3) Programs for the prevention and treatment of disease
26 or injury, including mental retardation, mental disorders,
27 mental health counseling or the promotion of health or
28 wellness.

29 The term shall not include expenditures for advertising, public
30 relations, sponsorships, bad debt, administrative costs

1 associated with State health care programs, programs provided as
2 an employee benefit, use of facilities for meetings held by
3 community groups or expenses for in-service training, continuing
4 education, orientation or mentoring of employees.

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

6 "Plan." A hospital plan corporation as defined in 40 Pa.C.S.
7 Ch. 61 (relating to hospital plan corporations) or professional
8 health services plan corporation as defined in 40 Pa.C.S. Ch. 63
9 (relating to professional health services plan corporations).
10 Section 2502. Duties of plan and department.

11 (a) Plan duties.--A plan shall have the following duties:

12 (1) To submit a proposal to the department on or before
13 March 30 of each year setting forth the manner in which the
14 plan will provide proposed community health reinvestment
15 activities conducted or provided by the plan during the next
16 fiscal year.

17 (2) To annually provide to the department, the Banking
18 and Insurance Committee of the Senate and the Insurance
19 Committee of the House of Representatives the name and
20 address of each officer, director or employee who serves on
21 the board of directors of a hospital or other health care
22 facility as defined in section 802.1 of the act of July 19,
23 1979 (P.L.130, No.48), known as the Health Care Facilities
24 Act, or on the board of an entity that owns, operates or
25 manages a hospital or other health care facility. This
26 paragraph shall apply to a nonprofit or for-profit subsidiary
27 or affiliate of a hospital plan corporation or professional
28 health services plan corporation. The information shall be
29 submitted by January 31 for the immediately preceding year.

30 (b) Department duties.--The department shall have the

1 following duties:

2 (1) To develop a form which shall be used by each plan
3 for the submission of the proposal under subsection (a)(1).
4 The form shall require the itemization of individual
5 community health reinvestment activities and the cost of each
6 activity under the Agreement on Community Health Reinvestment
7 entered into February 2, 2005, by the Insurance Department
8 and Capital Blue Cross, Highmark, Inc., the Hospital Service
9 Association of Northeastern Pennsylvania and Independence
10 Blue Cross and published at 35 Pa.B. 4155 or any successor or
11 other agreements. The proposal shall be on a form published
12 by the department in the Pennsylvania Bulletin.

13 (2) To approve or disapprove the expenditures in the
14 proposal submitted under subsection (a)(1).

15 Section 2503. Public record.

16 All proposals submitted under section 2502 shall be public
17 records.

18 Section 2504. Regulations.

19 The department may promulgate regulations as necessary for
20 the administration of this article.

21 Section 10. Repeals are as follows:

22 (1) The General Assembly declares the repeal under
23 paragraph (2) is necessary to effectuate the addition of
24 section 1403.2 of the act.

25 (2) Section 1716.1-E of the act of April 9, 1929
26 (P.L.343, No.176), known as The Fiscal Code, is repealed.

27 (3) The act of December 19, 1990 (P.L.834, No.198),
28 known as the GAA Amendments Act of 1990, is repealed insofar
29 as it is inconsistent with this act.

30 Section 11. This act shall not apply to any merger,

1 consolidation or other acquisition of control completed or
2 consummated prior to the effective date of this section and, if
3 required, following the issuance of an approving determination.

4 Section 12. This act shall apply to any application,
5 statement or other plan or proposal relating to a merger,
6 consolidation or other acquisition of control filed with the
7 Insurance Department on or after January 1, 2007.

8 Section 13. This act shall take effect as follows:

9 (1) The amendment or addition of sections 405.2(c),
10 635.3 and 1405(c) of the act shall take effect in 60 days.

11 (2) The remainder of this act shall take effect
12 immediately.