

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 8

Session of 2012

INTRODUCED BY FOLMER, SCARNATI, PILEGGI, FARNESE, M. WHITE, GORDNER, BOSCOLA, D. WHITE, VANCE, ERICKSON, TARTAGLIONE, BLAKE, STACK, BRUBAKER AND PIPPY, FEBRUARY 13, 2012

SENATOR FOLMER, COMMUNICATIONS AND TECHNOLOGY, AS AMENDED, APRIL 3, 2012

AN ACT

1 Establishing the Pennsylvania ~~Health Information~~ EHEALTH
2 Partnership Authority and the Pennsylvania ~~Health Information~~
3 EHEALTH Partnership ~~Account~~ FUND; providing for consent and
4 confidentiality of health information; and establishing civil
5 immunity under certain circumstances.



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

8 CHAPTER 1



9 PRELIMINARY PROVISIONS

10 ~~Section 101. Short title.~~

11 ~~This act shall be known and may be cited as the Pennsylvania~~
12 ~~Health Information Technology Act.~~

13 ~~Section 102. Definitions.~~

14 ~~The following words and phrases when used in this act shall~~
15 ~~have the meanings given to them in this section unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~"Account." The Pennsylvania Health Information Partnership~~
18 ~~Account.~~

1 ~~"Authority." The Pennsylvania Health Information Partnership~~
2 ~~Authority.~~

3 ~~"Board." The board of directors of the Pennsylvania Health~~
4 ~~Information Partnership Authority.~~

5 ~~"Electronic health record." A qualified electronic health~~
6 ~~record that is certified under section 3001(c)(5) of the Public~~
7 ~~Health Service Act (58 Stat. 682, 42 U.S.C. § 300jj 11(c)(5)) as~~
8 ~~meeting standards adopted under section 3004 of the Public~~
9 ~~Health Service Act (58 Stat. 682, 42 U.S.C. § 300jj 14) that are~~
10 ~~applicable to the type of record involved and used by a health~~
11 ~~care provider.~~

12 ~~"Health care provider." A person licensed by the~~
13 ~~Commonwealth to provide health care or professional clinical~~
14 ~~services.~~

15 ~~"Health information." Oral or recorded information in any~~
16 ~~form or medium that meets all of the following:~~

17 ~~(1) Is created or received by a health care provider,~~
18 ~~health care plan, employer, payer or public health authority.~~

19 ~~(2) Relates to:~~

20 ~~(i) the past, present or future physical or mental~~
21 ~~health condition of an individual and is provided to the~~
22 ~~individual; or~~

23 ~~(ii) the past, present or future payment for the~~
24 ~~provision of health care to an individual.~~

25 ~~"Health information exchange." The electronic movement of~~
26 ~~health information between various entities according to~~
27 ~~nationally recognized standards.~~

28 ~~"Health information technology." Hardware, software,~~
29 ~~integrated technologies or related licenses, intellectual~~
30 ~~property, upgrades or packaged solutions sold as services that~~

1 ~~are designed for or support the use by health care entities or~~
2 ~~patients for the electronic creation, maintenance, access or~~
3 ~~exchange of health information.~~

4 ~~"Interoperability." The ability for information technology~~
5 ~~systems to employ federally recognized standards to exchange~~
6 ~~data securely, accurately, effectively and in a manner that~~
7 ~~maintains and preserves the clinical purpose of the data.~~

8 ~~"Payer." An entity that contracts or offers to contract to~~
9 ~~provide, deliver, pay or reimburse any of the costs of health~~
10 ~~care services, including an employer, the Federal Government,~~
11 ~~the Commonwealth, a municipality, a labor union or an entity~~
12 ~~licensed under any of the following:~~

13 ~~(1) The act of May 17, 1921 (P.L.682, No.284), known as~~
14 ~~The Insurance Company Law of 1921.~~

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

17 ~~(3) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~
18 ~~corporations).~~

19 ~~(4) 40 Pa.C.S. Ch. 63 (relating to professional health~~
20 ~~services plan corporations).~~

21 ~~"Protected health information." Information under 45 CFR~~
22 ~~Pts. 160 (relating to general administrative requirements) and~~
23 ~~164 Subpts. A (relating to general provisions) and E (relating~~
24 ~~to privacy of individually identifiable health information).~~

25 ~~"Regional extension center." A grantee of the office of the~~
26 ~~National Coordinator for Health Information Technology meeting~~
27 ~~the requirements of section 3012(c) of the Public Health Service~~
28 ~~Act (58 Stat. 682, 42 U.S.C. § 300jj-32(c)).~~

29 ~~CHAPTER 3~~

30 ~~PENNSYLVANIA HEALTH INFORMATION PARTNERSHIP AUTHORITY~~

1 ~~Section 301. Scope of chapter.~~

2 ~~This chapter relates to the Pennsylvania Health Information-~~
3 ~~Partnership Authority.~~

4 ~~Section 302. Pennsylvania Health Information Partnership-~~
5 ~~Authority.~~

6 ~~(a) Establishment. There is hereby established a body~~
7 ~~corporate and politic to be known as the Pennsylvania Health~~
8 ~~Information Partnership Authority. The powers and duties of the~~
9 ~~authority shall be vested in and exercised by a board of~~
10 ~~directors.~~

11 ~~(b) Composition. The board of the authority shall consist~~
12 ~~of members, composed and appointed in accordance with the~~
13 ~~following:~~

14 ~~(1) The Secretary of Health or a designee who is an~~
15 ~~employee of the department.~~

16 ~~(2) The Secretary of Public Welfare or a designee who is~~
17 ~~an employee of the department.~~

18 ~~(3) Two representatives of the health care community~~
19 ~~focused on unserved and underserved rural and urban patient-~~
20 ~~populations, one of whom shall be appointed by the Minority~~
21 ~~Leader of the Senate from a list of two individuals submitted~~
22 ~~for consideration by a Statewide health education center and~~
23 ~~the other of whom shall be appointed by the Minority Leader~~
24 ~~of the House of Representatives from a list of two~~
25 ~~individuals submitted by a Statewide association of community~~
26 ~~health centers.~~

27 ~~(4) Five representatives of participating health-~~
28 ~~information exchange entities, one of whom shall be appointed~~
29 ~~by the Governor to represent the Commonwealth's internal~~
30 ~~agencies, one of whom shall be appointed by the President pro~~

1 ~~tempore of the Senate, one of whom shall be appointed by the~~
2 ~~Minority Leader of the Senate, one of whom shall be appointed~~
3 ~~by the Speaker of the House of Representatives and one of~~
4 ~~whom shall be appointed by the Minority Leader of the House~~
5 ~~of Representatives, who shall serve terms coterminous with~~
6 ~~their respective appointing authorities.~~

7 ~~(5) Two physicians who are residents of this~~
8 ~~Commonwealth selected from a list of four individuals~~
9 ~~submitted by the Pennsylvania Medical Society and the~~
10 ~~Pennsylvania Osteopathic Medical Association, one of whom~~
11 ~~shall be appointed by the President pro tempore of the Senate~~
12 ~~and the other of whom shall be appointed by the Speaker of~~
13 ~~the House of Representatives, who shall serve terms~~
14 ~~coterminous with their respective appointing authorities.~~

15 ~~(6) Two hospital representatives who are residents of~~
16 ~~this Commonwealth selected from a list of four individuals~~
17 ~~submitted by the Hospital and Healthsystem Association of~~
18 ~~Pennsylvania, one of whom shall be appointed by the President~~
19 ~~pro tempore of the Senate, and the other of whom shall be~~
20 ~~appointed by the Speaker of the House of Representatives, who~~
21 ~~shall serve terms coterminous with their respective appointed~~
22 ~~appointing authorities.~~

23 ~~(7) One representative of the Blue Cross and Blue Shield~~
24 ~~Plans in Pennsylvania who shall be appointed by the Governor~~
25 ~~and serve an initial term of three years.~~

26 ~~(8) One representative of a licensed insurer other than~~
27 ~~a Blue Cross or Blue Shield Plan selected from a list of two~~
28 ~~individuals submitted by a Statewide insurance federation who~~
29 ~~shall be appointed by the Governor and serve an initial term~~
30 ~~of two years.~~

1 ~~(9) Two representatives of consumers who are not~~
2 ~~primarily involved in the provision of health care or health~~
3 ~~care insurance who shall be appointed by the Governor and~~
4 ~~serve an initial term of three years.~~

5 ~~(10) One representative of an assisted living residence,~~
6 ~~personal care home, long term care nursing facility or~~
7 ~~continuing care facility who shall be appointed by the~~
8 ~~Governor.~~

9 ~~(11) A resident of this Commonwealth who has expertise~~
10 ~~in health care or health care information technology who~~
11 ~~shall be appointed by the Governor.~~

12 ~~(c) Terms. With the exception of subsection (b) (1), (2),~~
13 ~~(3) and (4), members of the board shall serve for terms of three~~
14 ~~years after completion of the initial terms designated in~~
15 ~~subsection (b) and shall not be eligible to serve more than two~~
16 ~~full consecutive terms.~~

17 ~~(d) Quorum. A majority of the members of the board shall~~
18 ~~constitute a quorum. Notwithstanding any other provision of law,~~
19 ~~action may be taken by the board at a meeting upon a vote of the~~
20 ~~majority of its members present in person or through the use of~~
21 ~~amplified telephonic equipment if authorized by the bylaws of~~
22 ~~the board.~~

23 ~~(e) Meetings. The board shall meet at the call of the~~
24 ~~chairperson or as may be provided in the bylaws of the board.~~
25 ~~The board shall hold meetings at least quarterly, which shall be~~
26 ~~subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to~~
27 ~~open meetings). Meetings of the board may be held anywhere~~
28 ~~within this Commonwealth.~~

29 ~~(f) Chairperson. The Governor shall appoint a chairman from~~
30 ~~among the authority members.~~

1 ~~(g) Formation. The authority shall be formed within 90 days~~
2 ~~of the effective date of this section.~~

3 ~~(h) Initial appointment and vacancy. Appointing authorities~~
4 ~~shall appoint initial members to the board within 60 days of the~~
5 ~~effective date of this section. If a vacancy occurs on the~~
6 ~~board, the appointing authority shall appoint a successor member~~
7 ~~within 60 days of the vacancy.~~

8 ~~Section 303. Powers and duties.~~

9 ~~(a) General rule. The board shall:~~

10 ~~(1) Adopt bylaws necessary to carry out the provisions~~
11 ~~of this chapter.~~

12 ~~(2) Establish a system to provide for the exchange of~~
13 ~~health care information.~~

14 ~~(3) Make, execute and deliver contracts, grants and~~
15 ~~other instruments.~~

16 ~~(4) Apply for, solicit, receive, establish priorities~~
17 ~~for, allocate, disburse, contract for, administer and spend~~
18 ~~funds made available to the board from a source consistent~~
19 ~~with the purposes of this chapter.~~

20 ~~(5) Apply for and accept grants to carry out the purpose~~
21 ~~of the authority that includes administering grants and loans~~
22 ~~in accordance with the terms of the funding award.~~

23 ~~(6) Accept funds from outside sources, both public and~~
24 ~~private, consistent with Federal and State law.~~

25 ~~(7) Develop and maintain a directory of provider contact~~
26 ~~information to enable providers to share health information.~~

27 ~~(8) Certify regional health information networks to~~
28 ~~ensure compliance with national standards.~~

29 ~~(9) Assure that security standards and procedures to~~
30 ~~protect confidentiality of health information are adopted and~~

1 ~~properly implemented.~~

2 ~~(10) Identify and adopt transaction, subscription and~~
3 ~~other fees or donations to cover costs associated with~~
4 ~~implementation and operation of the exchange or for other~~
5 ~~services provided by the authority. Receipt of services~~
6 ~~provided by or through the authority may be conditioned on~~
7 ~~payment of fees. Participation in the exchange by any health~~
8 ~~care provider, payer, consumer or any other person is~~
9 ~~voluntary.~~

10 ~~(11) Create advisory groups with diverse membership~~
11 ~~representing interested and affected groups and individuals,~~
12 ~~including representatives of the following:~~

13 ~~(i) Health care practitioners.~~

14 ~~(ii) Health care insurers and managed care~~
15 ~~organizations.~~

16 ~~(iii) Health care information systems.~~

17 ~~(iv) Hospitals and health systems.~~

18 ~~(v) Laboratory services.~~

19 ~~(vi) Pharmacies.~~

20 ~~(vii) Radiological services.~~

21 ~~(viii) Nursing homes.~~

22 ~~(ix) Community based health care clinics.~~

23 ~~(x) Employers.~~

24 ~~(xi) Consumers.~~

25 ~~(12) Develop and conduct public information programs to~~
26 ~~educate and inform consumers and patients on health~~
27 ~~information.~~

28 ~~(13) Submit an annual report to the Governor, the~~
29 ~~President pro tempore of the Senate and the Speaker of the~~
30 ~~House of Representatives for distribution to appropriate~~

1 ~~legislative committees on the activities of the authority for~~
2 ~~the year, including a summary of the receipts and~~
3 ~~expenditures, a list of contracts and a summary of any~~
4 ~~security breaches that occurred and corrective actions that~~
5 ~~were taken.~~

6 ~~(b) Audit.~~

7 ~~(1) The accounts and books of the authority shall be~~
8 ~~examined and audited annually by an independent certified~~
9 ~~public accounting firm. The audit shall be public~~
10 ~~information.~~

11 ~~(2) The authority shall, by December 31 of each year,~~
12 ~~file a copy of the audit required under paragraph (1) with~~
13 ~~the Secretary of the Senate and the Chief Clerk of the House~~
14 ~~of Representatives.~~

15 ~~(c) Publication. The authority shall submit annually to the~~
16 ~~Legislative Reference Bureau a concise financial statement for~~
17 ~~publication in the Pennsylvania Bulletin.~~

18 ~~(d) Cooperation. Executive agencies shall cooperate with~~
19 ~~and provide assistance to the authority without financial~~
20 ~~reimbursement. The Governor shall assign staff who shall be~~
21 ~~responsible for the day to day operations of the authority.~~

22 ~~(e) Existence and dissolution. The authority shall expire~~
23 ~~December 31, 2018.~~

24 ~~(f) Independent agency. The authority shall be considered~~
25 ~~an independent agency.~~

26 ~~CHAPTER 5~~

27 ~~PENNSYLVANIA HEALTH INFORMATION PARTNERSHIP ACCOUNT~~

28 ~~Section 501. Establishment.~~

29 ~~There is established a separate account in the State Treasury~~
30 ~~to be known as the Pennsylvania Health Information Partnership~~

1 ~~Account. The account shall be administered by the authority.~~

2 ~~Section 502. Funds.~~

3 ~~All moneys deposited into the account shall be held in trust~~
4 ~~and shall not be considered general revenue of the Commonwealth~~
5 ~~but shall be used only to effectuate the purposes of this act as~~
6 ~~determined by the authority. All interest earned from the~~
7 ~~investment or deposit of moneys accumulated in the account shall~~
8 ~~be deposited in the account for the same use.~~

9 ~~Section 503. Dissolution.~~

10 ~~In the event that the account is discontinued or the~~
11 ~~authority is dissolved by operation of law, any balance~~
12 ~~remaining in the account, after deducting administrative costs~~
13 ~~of liquidation or subscription fees paid by participating users~~
14 ~~of the network, shall be returned to the General Fund.~~

15 ~~CHAPTER 7~~

16 ~~CONSENT AND CONFIDENTIALITY OF HEALTH INFORMATION~~

17 ~~Section 701. Consent and confidentiality of health information.~~

18 ~~(a) Consent. Nothing in this act shall be construed to~~
19 ~~prohibit a provider from obtaining a patient's health~~
20 ~~information from another provider without the patient's consent~~
21 ~~if the health information is needed to provide health care~~
22 ~~services to the patient, subject to the following:~~

23 ~~(1) A provider shall not disclose information in excess~~
24 ~~of the information reasonably required for the purpose for~~
25 ~~which it is disclosed.~~

26 ~~(2) A patient, or in the case of a minor, the minor's~~
27 ~~parent or guardian, may deny release of the patient's health~~
28 ~~information.~~

29 ~~(3) It shall be presumed that the patient does not~~
30 ~~consent to the release of any information relating to HIV~~

~~1 status or alcohol or drug abuse treatment unless the patient
2 executes a release of such information, which release relates
3 only to that information.~~

~~4 (b) Notice of patient's right to deny release of health
5 information. The authority shall promulgate a form of notice of
6 a patient's right to deny release of health information under
7 subsection (a). The notice shall include, at a minimum and in
8 plain language, the following information:~~

~~9 (1) Definition of a health information exchange.~~

~~10 (2) Explanation of the benefits of participation in a
11 health information exchange.~~

~~12 (3) Explanation of the patient's right to deny release
13 of health information to the health information exchange.~~

~~14 (c) Notice to parents. Upon implementation of this act, a
15 patient shall be provided by the patient's provider with notice
16 of a patient's right to deny release of health information. The
17 notice shall be signed, dated and witnessed by the patient, or
18 the patient's representative, should the patient choose to
19 execute a denial of release. Copies of the executed form shall
20 be kept by the provider and delivered to the patient within five
21 business days of the provider's receipt of the executed form.~~

~~22 (d) Disclosure.—~~

~~23 (1) Except as provided under paragraph (2), the
24 authority shall not disclose without prior written patient
25 consent any health information, including, but not limited
26 to, HIV status or alcohol or drug abuse treatment or any
27 personally identifying information that the authority or its
28 agents or contractors retain, or to which the authority or
29 its agents or contractors have access or any other records
30 maintained or accessible by the authority under this act, to~~

1 ~~any person who is not an authorized employee, agent or~~
2 ~~contractor of the authority.~~

3 ~~(2) Paragraph (1) shall not apply to a disclosure~~
4 ~~permitted for exchange with a user authorized by the~~
5 ~~authority, which user has executed a data use and reciprocal~~
6 ~~sharing agreement or if the disclosure is necessary to carry~~
7 ~~out the purposes of this act.~~

8 ~~(e) Burden of proof. Information in the health information~~
9 ~~exchange shall not be subject to section 708 of the act of~~
10 ~~February 14, 2008 (P.L. 6, No. 3), known as the Right to Know Law.~~

11 ~~CHAPTER 9~~

12 ~~MISCELLANEOUS PROVISIONS~~

13 ~~Section 901. Immunity from civil liability.~~

14 ~~A provider and the employees, agents and representatives of a~~
15 ~~provider are immune from civil liability for libel or slander~~
16 ~~arising from information or entries made in health information~~
17 ~~and for the transfer of information to another provider, if the~~
18 ~~health information, transfer of health information or entries~~
19 ~~are made in good faith and without malice.~~

20 ~~Section 902. Effective date.~~

21 ~~This act shall take effect immediately.~~

22 ~~CHAPTER 1~~ ←

23 ~~PRELIMINARY PROVISIONS~~

24 ~~SECTION 101. SHORT TITLE.~~

25 ~~THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PENNSYLVANIA~~
26 ~~EHEALTH INFORMATION TECHNOLOGY ACT.~~

27 ~~SECTION 102. DEFINITIONS.~~

28 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL~~
29 ~~HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~
30 ~~CONTEXT CLEARLY INDICATES OTHERWISE:~~

1 "AUTHORITY." THE PENNSYLVANIA EHEALTH PARTNERSHIP AUTHORITY.

2 "BOARD." THE BOARD OF DIRECTORS OF THE PENNSYLVANIA EHEALTH
3 PARTNERSHIP AUTHORITY.

4 "ELECTRONIC HEALTH RECORD." AN ELECTRONIC RECORD OF HEALTH-
5 RELATED INFORMATION RELATING TO AN INDIVIDUAL THAT IS CREATED,
6 GATHERED, MANAGED AND CONSULTED BY AUTHORIZED HEALTH CARE
7 PROVIDERS.

8 "FUND." THE PENNSYLVANIA EHEALTH PARTNERSHIP FUND.

9 "HEALTH CARE PROVIDER." A PROVIDER OF SERVICES AS DEFINED
10 UNDER SECTION 1861(U) OF THE SOCIAL SECURITY ACT (49 STAT. 620,
11 42 U.S.C. § 301 ET SEQ.), A PROVIDER OF MEDICAL OR HEALTH
12 SERVICES AS DEFINED UNDER SECTION 1861(S) OF THE SOCIAL SECURITY
13 ACT (42 U.S.C. § 301 ET SEQ.) AND ANY OTHER PERSON OR
14 ORGANIZATION WHO FURNISHES, BILLS OR IS PAID FOR HEALTH CARE IN
15 THE NORMAL COURSE OF BUSINESS AND IS LICENSED BY THE
16 COMMONWEALTH TO PROVIDE HEALTH CARE OR PROFESSIONAL CLINICAL
17 SERVICES.

18 "HEALTH INFORMATION." ANY INFORMATION, WHETHER ORAL OR
19 RECORDED, IN ANY FORM OR MEDIUM THAT IS CREATED OR RECEIVED BY A
20 HEALTH CARE PROVIDER, HEALTH PLAN, PUBLIC HEALTH AUTHORITY,
21 EMPLOYER, LIFE INSURER, SCHOOL OR UNIVERSITY OR HEALTH CARE
22 CLEARING HOUSE AND RELATES TO ANY OF THE FOLLOWING:

23 (1) THE PAST, PRESENT OR FUTURE PHYSICAL OR MENTAL
24 HEALTH CONDITION OF AN INDIVIDUAL.

25 (2) THE PAST, PRESENT OR FUTURE PAYMENT FOR THE
26 PROVISION OF HEALTH CARE TO AN INDIVIDUAL AS DEFINED UNDER
27 SECTION 1171(4) OF THE HEALTH INSURANCE PORTABILITY AND
28 ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191, 110 STAT.
29 1936).

30 "HEALTH INFORMATION EXCHANGE." THE ELECTRONIC MOVEMENT OF

1 HEALTH INFORMATION AMONG HEALTH INFORMATION EXCHANGE SYSTEMS
2 ACCORDING TO FEDERAL LAWS AND STANDARDS.

3 "HEALTH INFORMATION EXCHANGE SYSTEMS." AN INFORMATION
4 TECHNOLOGY INFRASTRUCTURE WITH AN INTEROPERABLE SYSTEM THAT
5 CONNECTS HEALTH CARE PROVIDERS TO ENSURE THE SECURE DIGITAL
6 EXCHANGE OF HEALTH INFORMATION AMONG APPROVED PARTICIPANTS WHO
7 ARE ENGAGED IN THE CARE OF A PATIENT.

8 "HEALTH INFORMATION TECHNOLOGY." HARDWARE, SOFTWARE,
9 INTEGRATED TECHNOLOGIES OR RELATED LICENSES, INTELLECTUAL
10 PROPERTY, UPGRADES OR PACKAGED SOLUTIONS SOLD AS SERVICES THAT
11 ARE DESIGNED FOR OR SUPPORT THE USE BY HEALTH CARE ENTITIES OR
12 PATIENTS FOR THE ELECTRONIC CREATION, MAINTENANCE, ACCESS OR
13 EXCHANGE OF HEALTH INFORMATION AS DEFINED UNDER SECTION 3000(5)
14 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (PUBLIC
15 LAW 111-5, 123 STAT. 115).

16 "INTEROPERABILITY." THE ABILITY OF DIFFERENT OPERATING AND
17 SOFTWARE SYSTEMS TO EMPLOY FEDERALLY RECOGNIZED STANDARDS TO
18 EXCHANGE DATA SECURELY, ACCURATELY, EFFECTIVELY AND IN A MANNER
19 THAT MAINTAINS AND PRESERVES THE CLINICAL PURPOSE OF THE DATA.

20 "PARTICIPANT." A PERSON OR ENTITY WHICH HAS BEEN APPROVED BY
21 THE PENNSYLVANIA EHEALTH PARTNERSHIP AUTHORITY TO SEND AND
22 RECEIVE INFORMATION USING THE HEALTH INFORMATION EXCHANGE
23 SYSTEM.

24 "PAYER." AN ENTITY THAT CONTRACTS OR OFFERS TO CONTRACT TO
25 PROVIDE, DELIVER, PAY OR REIMBURSE ANY OF THE COSTS OF HEALTH
26 CARE SERVICES, INCLUDING AN EMPLOYER, A HEALTH CARE PLAN, THE
27 FEDERAL GOVERNMENT, THE COMMONWEALTH, A MUNICIPALITY, A LABOR
28 UNION OR AN ENTITY LICENSED UNDER ANY OF THE FOLLOWING:

29 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS
30 THE INSURANCE COMPANY LAW OF 1921.

1 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),
2 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

3 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
4 CORPORATIONS).

5 (4) 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH
6 SERVICES PLAN CORPORATIONS).

7 "PROTECTED HEALTH INFORMATION." PERSONALLY IDENTIFYING
8 HEALTH INFORMATION THAT IS ANY OF THE FOLLOWING:

9 (1) TRANSMITTED OR MAINTAINED BY ELECTRONIC OR OTHER
10 FORM OF MEDIUM.

11 (2) MAINTAINED IN ELECTRONIC MEDIA.

12 CHAPTER 3

13 PENNSYLVANIA EHEALTH

14 PARTNERSHIP AUTHORITY

15 SECTION 301. SCOPE OF CHAPTER.

16 THIS CHAPTER RELATES TO THE PENNSYLVANIA EHEALTH PARTNERSHIP
17 AUTHORITY.

18 SECTION 302. PENNSYLVANIA EHEALTH PARTNERSHIP AUTHORITY.

19 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A BODY
20 CORPORATE AND POLITIC TO BE KNOWN AS THE PENNSYLVANIA EHEALTH
21 PARTNERSHIP AUTHORITY, WHICH SHALL BE AN INDEPENDENT AGENCY OF
22 THE COMMONWEALTH. THE POWERS AND DUTIES OF THE AUTHORITY SHALL
23 BE VESTED IN AND EXERCISED BY A BOARD OF DIRECTORS.

24 (B) COMPOSITION.--THE BOARD SHALL CONSIST OF 15 MEMBERS,
25 WITH TWO ADDITIONAL, EX OFFICIO NONVOTING MEMBERS SELECTED BY
26 MEMBERS OF THE ADVISORY COUNCIL, COMPOSED AND APPOINTED AS
27 FOLLOWS:

28 (1) THE SECRETARY OF HEALTH OR A DESIGNEE, WHO SHALL BE
29 AN EMPLOYEE OF THE DEPARTMENT OF HEALTH DESIGNATED IN WRITING
30 PRIOR TO SERVICE.

1 (2) THE SECRETARY OF PUBLIC WELFARE OR A DESIGNEE, WHO
2 SHALL BE AN EMPLOYEE OF THE DEPARTMENT OF PUBLIC WELFARE
3 DESIGNATED IN WRITING PRIOR TO SERVICE.

4 (3) ONE REPRESENTATIVE OF THE HEALTH CARE COMMUNITY
5 FOCUSED ON AN UNSERVED OR UNDERSERVED RURAL OR URBAN PATIENT
6 POPULATION, WHO SHALL BE APPOINTED BY THE GOVERNOR FROM A
7 LIST OF INDIVIDUALS SUBMITTED FOR CONSIDERATION BY BOTH THE
8 PENNSYLVANIA AREA HEALTH EDUCATION CENTER AND THE ASSOCIATION
9 OF COMMUNITY HEALTH CENTERS.

10 (4) ONE PHYSICIAN OR NURSE WHO IS A RESIDENT OF THIS
11 COMMONWEALTH APPOINTED BY THE GOVERNOR FROM LISTS OF
12 INDIVIDUALS SUBMITTED BY THE PENNSYLVANIA MEDICAL SOCIETY,
13 THE PENNSYLVANIA OSTEOPATHIC MEDICAL ASSOCIATION, THE
14 PENNSYLVANIA ACADEMY OF FAMILY PHYSICIANS AND THE
15 PENNSYLVANIA STATE NURSES ASSOCIATION. AT LEAST ONE NAME ON
16 EACH LIST SHALL INCLUDE AN INDIVIDUAL RESIDING IN AN UNSERVED
17 OR UNDERSERVED RURAL PATIENT POPULATION AREA AND AN
18 INDIVIDUAL IN AN UNSERVED OR UNDERSERVED URBAN PATIENT
19 POPULATION AREA.

20 (5) ONE HOSPITAL REPRESENTATIVE WHO IS A RESIDENT OF
21 THIS COMMONWEALTH APPOINTED BY THE GOVERNOR FROM A LIST OF
22 INDIVIDUALS SUBMITTED BY THE HOSPITAL AND HEALTHSYSTEM
23 ASSOCIATION OF PENNSYLVANIA. AT LEAST ONE NAME ON THIS LIST
24 SHALL INCLUDE AN INDIVIDUAL RESIDING IN AN UNSERVED OR
25 UNDERSERVED RURAL OR URBAN PATIENT POPULATION AREA.

26 (6) ONE INSURANCE REPRESENTATIVE WHO IS A RESIDENT OF
27 THIS COMMONWEALTH APPOINTED BY THE GOVERNOR FROM LISTS OF
28 INDIVIDUALS SUBMITTED BY THE BLUE CROSS AND BLUE SHIELD PLANS
29 AND THE INSURANCE FEDERATION OF PENNSYLVANIA.

30 (7) ONE REPRESENTATIVE OF AN ASSISTED LIVING RESIDENCE,

1 PERSONAL CARE HOME, LONG-TERM CARE NURSING FACILITY OR
2 CONTINUING CARE FACILITY WHO SHALL BE APPOINTED BY THE
3 GOVERNOR.

4 (8) TWO REPRESENTATIVES OF THIS COMMONWEALTH'S CONSUMERS
5 APPOINTED BY THE GOVERNOR WHO ARE NOT PRIMARILY INVOLVED IN
6 PROVIDING HEALTH CARE OR HEALTH CARE INSURANCE. AT LEAST ONE
7 OF THESE INDIVIDUALS SHALL HAVE EXPERTISE IN HEALTH CARE OR
8 HEALTH CARE INFORMATION TECHNOLOGY OR THE LABORATORY
9 INDUSTRY.

10 (9) THREE REPRESENTATIVES FROM ESTABLISHED HEALTH
11 INFORMATION EXCHANGE SYSTEMS APPOINTED BY THE PRESIDENT PRO
12 TEMPORE OF THE SENATE, IN CONSULTATION WITH THE MAJORITY
13 LEADER AND THE MINORITY LEADER OF THE SENATE, EACH OF WHOM
14 SHALL RECOMMEND ONE PERSON. AT LEAST ONE OF THESE
15 REPRESENTATIVES SHALL BE FROM THE PRIVATE INFORMATION
16 TECHNOLOGY SECTOR WITH KNOWLEDGE ABOUT SECURITY ISSUES.

17 (10) THREE REPRESENTATIVES FROM ESTABLISHED HEALTH
18 INFORMATION EXCHANGE SYSTEMS APPOINTED BY THE SPEAKER OF THE
19 HOUSE OF REPRESENTATIVES, IN CONSULTATION WITH THE MAJORITY
20 LEADER AND THE MINORITY LEADER OF THE HOUSE OF
21 REPRESENTATIVES, EACH OF WHOM SHALL RECOMMEND ONE PERSON. AT
22 LEAST ONE OF THESE REPRESENTATIVES SHALL BE FROM THE PRIVATE
23 INFORMATION TECHNOLOGY SECTOR WITH KNOWLEDGE ABOUT SECURITY
24 ISSUES.

25 (C) TERMS.--EXCEPT A MEMBER AS SPECIFIED IN SUBSECTION (B)
26 (1) OR (2), A MEMBER OF THE BOARD SHALL SERVE FOR A TERM OF
27 THREE YEARS AFTER COMPLETION OF THE INITIAL TERMS DESIGNATED IN
28 SUBSECTION (G) AND MAY NOT BE ELIGIBLE TO SERVE MORE THAN TWO
29 FULL CONSECUTIVE THREE-YEAR TERMS. A MEMBER SHALL REMAIN ON THE
30 BOARD UNTIL THE MEMBER'S REPLACEMENT IS APPOINTED AND,

1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, ALL TERMS END
2 AT THE EXPIRATION OF THE AUTHORITY.

3 (D) QUORUM.--A MAJORITY OF THE APPOINTED MEMBERS OF THE
4 BOARD SHALL CONSTITUTE A QUORUM. ACTION MAY BE TAKEN BY THE
5 BOARD AT A MEETING UPON A VOTE OF A QUORUM OF ITS MEMBERS
6 PRESENT IN PERSON OR THROUGH ELECTRONIC MEANS IF AUTHORIZED BY
7 THE BYLAWS OF THE BOARD.

8 (E) MEETINGS.--THE BOARD SHALL MEET AT THE CALL OF THE
9 CHAIRPERSON OR AS MAY BE PROVIDED IN THE BYLAWS OF THE BOARD.
10 THE BOARD SHALL HOLD MEETINGS AT LEAST QUARTERLY, WHICH SHALL BE
11 SUBJECT TO THE REQUIREMENTS OF 65 PA.C.S. CH. 7 (RELATING TO
12 OPEN MEETINGS). MEETINGS OF THE BOARD MAY BE HELD ANYWHERE
13 WITHIN THIS COMMONWEALTH.

14 (F) CHAIRPERSON.--THE GOVERNOR SHALL APPOINT A CHAIRPERSON
15 FROM AMONG THE AUTHORITY MEMBERS.

16 (G) INITIAL APPOINTMENT AND VACANCY.--

17 (1) A MEMBER APPOINTED UNDER SUBSECTION (B) (3), (4) OR
18 (5) SHALL BE APPOINTED TO AN INITIAL TERM OF TWO YEARS WITH
19 THE OPTION FOR REAPPOINTMENT TO TWO ADDITIONAL THREE-YEAR
20 TERMS.

21 (2) A MEMBER APPOINTED UNDER SUBSECTION (B) (6) OR (7)
22 SHALL BE APPOINTED TO AN INITIAL TERM OF ONE YEAR WITH THE
23 OPTION FOR REAPPOINTMENT TO TWO ADDITIONAL THREE-YEAR TERMS.

24 (3) A MEMBER APPOINTED UNDER SUBSECTION (B) (8) SHALL BE
25 APPOINTED TO AN INITIAL TERM OF THREE YEARS WITH THE OPTION
26 FOR REAPPOINTMENT TO ONE ADDITIONAL THREE-YEAR TERM.

27 (4) A MEMBER APPOINTED UNDER SUBSECTION (B) (9) OR (10)
28 SHALL BE APPOINTED TO AN INITIAL TERM THAT COINCIDES WITH THE
29 APPOINTING MEMBERS' TERMS WITH THE OPTION FOR REAPPOINTMENT
30 TO TWO ADDITIONAL THREE-YEAR TERMS.

1 (H) FORMATION.--THE BOARD SHALL BE FORMED WITHIN 90 DAYS OF
2 THE EFFECTIVE DATE OF THIS ACT.

3 SECTION 303. POWERS AND DUTIES.

4 (A) GENERAL RULE.--THE BOARD SHALL:

5 (1) ADOPT BYLAWS NECESSARY TO CARRY OUT THE PROVISIONS
6 OF THIS ACT, TO OPERATE, DEVELOP AND MAINTAIN THE HEALTH
7 INFORMATION EXCHANGE SYSTEM IN COMPLIANCE WITH FEDERAL AND
8 STATE LAW AND TO DEVELOP POLICIES AND PROCEDURES TO GOVERN
9 THE EXCHANGE OF HEALTH CARE INFORMATION.

10 (2) ESTABLISH A SYSTEM TO PROVIDE FOR THE EXCHANGE OF
11 ELECTRONIC HEALTH INFORMATION THAT:

12 (I) PROMOTES EFFICIENT AND EFFECTIVE COMMUNICATION
13 AMONG MULTIPLE HEALTH CARE PROVIDERS, INCLUDING
14 HOSPITALS, PHYSICIANS, PAYERS, EMPLOYERS, PHARMACIES,
15 LABORATORIES AND OTHER HEALTH CARE ENTITIES AND
16 PRACTITIONERS.

17 (II) CREATES EFFICIENCIES IN THE DELIVERY OF HEALTH
18 CARE.

19 (III) SUPPORTS THE ABILITY TO IMPROVE COMMUNITY
20 HEALTH STATUS.

21 (3) EMPLOY INDIVIDUALS AS NECESSARY TO CARRY OUT THE
22 PURPOSES OF THIS ACT. INDIVIDUALS EMPLOYED BY THE AUTHORITY
23 SHALL BE CONSIDERED EMPLOYEES OF THE COMMONWEALTH FOR THE
24 PURPOSES OF 71 PA.C.S. PT. XXV (RELATING TO RETIREMENT FOR
25 STATE EMPLOYEES AND OFFICERS).

26 (4) ESTABLISH ALL OF THE FOLLOWING:

27 (I) RULES, RESPONSIBILITIES AND OBLIGATIONS FOR
28 ORGANIZATIONS AND INDIVIDUALS TO BECOME AND REMAIN
29 PARTICIPANTS.

30 (II) POLICIES AND PROCEDURES FOR ORGANIZATIONS AND

1 INDIVIDUALS TO BE SUSPENDED AND DISENGAGED AS
2 PARTICIPANTS.

3 (5) MAKE, EXECUTE AND DELIVER CONTRACTS, GRANTS AND
4 OTHER INSTRUMENTS.

5 (6) APPLY FOR, SOLICIT, RECEIVE, ESTABLISH PRIORITIES
6 FOR, ALLOCATE, DISBURSE, CONTRACT FOR, ADMINISTER AND EXPEND
7 FUNDS CONSISTENT WITH THE PURPOSES OF THIS ACT.

8 (7) APPLY FOR, ACCEPT AND ADMINISTER GRANTS AND LOANS TO
9 CARRY OUT THE PURPOSE OF THE AUTHORITY.

10 (8) ACCEPT FUNDS FROM BOTH PUBLIC AND PRIVATE SOURCES,
11 CONSISTENT WITH FEDERAL AND STATE LAW.

12 (9) DEVELOP AND MAINTAIN A DIRECTORY OF HEALTH CARE
13 PROVIDER'S CONTACT INFORMATION TO ENABLE PARTICIPANTS TO
14 SHARE HEALTH INFORMATION ELECTRONICALLY.

15 (10) DEVELOP CRITERIA FOR INTEROPERABILITY AND APPROVE
16 PARTICIPANTS IN THE HEALTH INFORMATION EXCHANGE.

17 (11) ASSURE THAT SECURITY STANDARDS AND PROCEDURES TO
18 PROTECT CONFIDENTIALITY OF ELECTRONIC HEALTH RECORDS ARE
19 ADOPTED AND PROPERLY IMPLEMENTED.

20 (12) ESTABLISH AND COLLECT FEES ADOPTED BY THE
21 AUTHORITY. FEES MAY INCLUDE TRANSACTION FEES, SUBSCRIPTION
22 FEES OR OTHER FEES OR DONATIONS, TO COVER COSTS OF
23 IMPLEMENTATION AND OPERATION OF THE EXCHANGE OR FOR OTHER
24 SERVICES PROVIDED BY THE AUTHORITY. RECEIPT OF SERVICES
25 PROVIDED BY OR THROUGH THE AUTHORITY MAY BE CONDITIONED ON
26 PAYMENT OF FEES. PARTICIPATION IN THE EXCHANGE BY ANY HEALTH
27 CARE PROVIDER, PAYER, CONSUMER OR ANY OTHER PERSON IS
28 VOLUNTARY.

29 (13) ESTABLISH ADVISORY GROUPS WITH A DIVERSE MEMBERSHIP
30 REPRESENTING INTERESTED AND AFFECTED GROUPS AND INDIVIDUALS,

1 TWO OF WHICH SHALL BE SELECTED BY OTHER MEMBERS OF THE GROUP
2 TO SERVE AS NONVOTING MEMBERS OF THE BOARD OR THE AUTHORITY.

3 (14) DEVELOP AND CONDUCT PUBLIC INFORMATION PROGRAMS TO
4 EDUCATE AND INFORM CONSUMERS AND PATIENTS ABOUT HEALTH
5 INFORMATION.

6 (15) SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE
7 PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE
8 HOUSE OF REPRESENTATIVES FOR DISTRIBUTION TO APPROPRIATE
9 LEGISLATIVE COMMITTEES ON THE ACTIVITIES OF THE AUTHORITY FOR
10 THE YEAR, INCLUDING A SUMMARY OF THE RECEIPTS AND
11 EXPENDITURES, A LIST OF CONTRACTS AND A SUMMARY OF ANY
12 REPORTABLE SECURITY BREACHES THAT OCCURRED AND CORRECTIVE
13 ACTIONS THAT WERE TAKEN.

14 (16) WORK WITH THE FEDERAL GOVERNMENT AND OTHER
15 GOVERNMENTAL ENTITIES TO ACHIEVE INTEROPERABILITY.

16 (17) PERFORM ALL OTHER ACTIVITIES IN FURTHERANCE OF THE
17 PURPOSES OF THIS ACT.

18 (B) AUDIT.--

19 (1) THE ACCOUNTS AND BOOKS OF THE AUTHORITY SHALL BE
20 EXAMINED AND AUDITED ANNUALLY BY AN INDEPENDENT CERTIFIED
21 PUBLIC ACCOUNTING FIRM. THE AUDIT SHALL BE PUBLIC
22 INFORMATION.

23 (2) THE AUTHORITY SHALL, BY DECEMBER 31 OF EACH YEAR,
24 FILE A COPY OF THE AUDIT OF THE PRECEDING COMMONWEALTH FISCAL
25 YEAR REQUIRED UNDER PARAGRAPH (1) WITH THE SECRETARY OF THE
26 SENATE AND THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES.

27 (C) PUBLICATION.--THE AUTHORITY SHALL ANNUALLY SUBMIT A
28 FINANCIAL STATEMENT TO THE LEGISLATIVE REFERENCE BUREAU FOR
29 PUBLICATION IN THE PENNSYLVANIA BULLETIN.

30 (D) EXPIRATION.--THE AUTHORITY SHALL EXPIRE FIVE YEARS AFTER

1 THE EFFECTIVE DATE OF THIS CHAPTER. ONE YEAR PRIOR TO THE
2 EXPIRATION, THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL
3 EVALUATE THE MANAGEMENT, VIABILITY AND PERFORMANCE OF THE HEALTH
4 INFORMATION EXCHANGE AND SHALL PROVIDE A REPORT TO THE
5 COMMUNICATIONS AND TECHNOLOGY COMMITTEE OF THE SENATE AND THE
6 HEALTH COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HUMAN
7 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT
8 SHALL INCLUDE RECOMMENDATIONS AS TO REAUTHORIZATION OF THE
9 AUTHORITY, DISSOLUTION OF THE AUTHORITY OR ASSUMPTION OF THE
10 AUTHORITY'S RESPONSIBILITIES AND ASSETS BY ANOTHER ENTITY.

11 CHAPTER 5

12 PENNSYLVANIA EHEALTH PARTNERSHIP FUND

13 SECTION 501. ESTABLISHMENT.

14 THERE IS ESTABLISHED A SEPARATE FUND IN THE STATE TREASURY TO
15 BE KNOWN AS THE PENNSYLVANIA EHEALTH PARTNERSHIP FUND. THE FUND
16 SHALL BE ADMINISTERED BY THE AUTHORITY.

17 SECTION 502. FUNDS.

18 ALL MONEYS DEPOSITED INTO THE FUND SHALL BE HELD FOR THE
19 PURPOSES OF THE AUTHORITY AND MAY NOT BE CONSIDERED A PART OF
20 THE GENERAL FUND, BUT SHALL BE USED ONLY TO EFFECTUATE THE
21 PURPOSES OF THIS ACT AS DETERMINED BY THE AUTHORITY. ALL
22 INTEREST EARNED FROM THE INVESTMENT OR DEPOSIT OF MONEYS
23 ACCUMULATED IN THE FUND SHALL BE DEPOSITED IN THE ACCOUNT FOR
24 THE SAME USE.

25 CHAPTER 7

26 CONSENT AND CONFIDENTIALITY

27 OF HEALTH INFORMATION

28 SECTION 701. CONSENT AND CONFIDENTIALITY OF HEALTH INFORMATION.

29 (A) CONSTRUCTION.--NOTHING IN THIS ACT SHALL BE CONSTRUED TO
30 PROHIBIT A HEALTH CARE PROVIDER FROM OBTAINING AND STORING A

1 PATIENT'S MEDICAL RECORDS IN ELECTRONIC FORM OR EXCHANGING
2 HEALTH INFORMATION WITH ANOTHER PROVIDER IN ACCORDANCE WITH
3 FEDERAL OR STATE LAW.

4 (B) CONSENT.--THE AUTHORITY SHALL PROMULGATE A CONSENT FORM
5 INCLUDING NOTICE OF A PATIENT'S RIGHT TO DECLINE TO ALLOW
6 EXCHANGE OF THE PATIENT'S ELECTRONIC HEALTH INFORMATION IN THE
7 HEALTH INFORMATION EXCHANGE SYSTEM. THE NOTICE SHALL INCLUDE, AT
8 A MINIMUM AND IN PLAIN LANGUAGE, THE FOLLOWING INFORMATION:

9 (1) DEFINITION OF A HEALTH INFORMATION EXCHANGE.

10 (2) EXPLANATION OF THE BENEFITS OF PARTICIPATION IN THE
11 HEALTH INFORMATION EXCHANGE SYSTEM.

12 (3) EXPLANATION OF THE LIMITS OF THE PATIENT'S RIGHT TO
13 DECLINE THE RELEASE OR EXCHANGE OF THE PATIENT'S ELECTRONIC
14 HEALTH INFORMATION WITH THE HEALTH INFORMATION EXCHANGE
15 SYSTEM TO THE HEALTH INFORMATION EXCHANGE.

16 (4) EXPLANATION OF THE MANNER IN WHICH THE ELECTRONIC
17 HEALTH INFORMATION EXCHANGE SYSTEM WILL ADDRESS PRIVACY
18 ISSUES AND, WHERE PRACTICABLE, AN OPPORTUNITY TO CONSENT TO
19 EXCHANGE OF THAT HEALTH INFORMATION ON THE ELECTRONIC HEALTH
20 INFORMATION EXCHANGE SYSTEM.

21 (C) NOTICE TO PATIENTS.--UPON IMPLEMENTATION OF THE NOTICE
22 OF A PATIENT'S RIGHT TO DECLINE, A PATIENT SHALL BE PROVIDED
23 WITH THE FORM BY A HEALTH CARE PROVIDER. IF A PATIENT CHOOSES TO
24 EXECUTE A DENIAL OF RELEASE, THE NOTICE SHALL BE SIGNED, DATED
25 AND WITNESSED BY THE PATIENT, OR THE PATIENT'S REPRESENTATIVE.
26 COPIES OF THE EXECUTED FORM SHALL BE KEPT BY THE PROVIDER AND
27 DELIVERED TO THE PATIENT WITHIN FIVE BUSINESS DAYS OF THE
28 PROVIDER'S RECEIPT OF THE EXECUTED FORM.

29 (D) DISCLOSURE.--

30 (1) THE AUTHORITY SHALL RETAIN ONLY THE PERSONALLY

1 IDENTIFYING INFORMATION NECESSARY FOR THE OPERATION OF THE
2 HEALTH EXCHANGE INFORMATION SYSTEM. THE AUTHORITY MAY NOT
3 DISCLOSE, WITHOUT PRIOR WRITTEN PATIENT CONSENT, ANY
4 PERSONALLY IDENTIFYING HEALTH INFORMATION THAT THE AUTHORITY
5 OR ITS AGENTS OR CONTRACTORS RETAIN, OR TO WHICH THE
6 AUTHORITY OR ITS AGENTS OR CONTRACTORS HAVE ACCESS OR ANY
7 OTHER ELECTRONIC HEALTH RECORDS MAINTAINED OR ACCESSIBLE BY
8 THE AUTHORITY UNDER THIS ACT, TO ANY PERSON WHO IS NOT AN
9 AUTHORIZED EMPLOYEE, AGENT OR CONTRACTOR OF THE AUTHORITY,
10 EXCEPT AS REQUIRED BY LAW.

11 (2) DISCLOSURES PERMITTED BY AND BETWEEN PARTICIPANTS IN
12 THE HEALTH INFORMATION EXCHANGE SYSTEM MAY NOT BE CONSIDERED
13 DISCLOSURES MADE BY THE AUTHORITY.

14 (E) CONSTRUCTION.--NOTHING IN THIS ACT MAY BE CONSTRUED TO
15 ALTER A PROPRIETARY INTEREST HELD BY ANY PARTICIPANT IN ANY
16 RECORD, DATA OR INFORMATION RELEASED, ACCEPTED OR EXCHANGED IN
17 THE HEALTH INFORMATION EXCHANGE SYSTEM, EXCEPT INsofar AS THE
18 PAPERWORK APPROVED BY THE AUTHORITY MAY REQUIRE PARTICIPANTS TO
19 LICENSE THOSE INTERESTS BY CONTRACT IN ORDER TO ALLOW FOR THE
20 FREE FLOW OF INFORMATION.

21 CHAPTER 40

22 MISCELLANEOUS PROVISIONS

23 SECTION 4001. NONAPPLICABILITY.

24 (1) NOTHING IN THIS ACT SHALL CONSTITUTE A WAIVER OF
25 SOVEREIGN IMMUNITY.

26 (2) THE AUTHORITY SHALL BE SUBJECT TO THE ACT OF
27 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW
28 LAW. HEALTH INFORMATION OR PERSONALLY IDENTIFYING INFORMATION
29 SHALL NOT BE CONSIDERED A PUBLIC RECORD FOR PURPOSES OF THE
30 RIGHT-TO-KNOW LAW.

1 (3) THE AUTHORITY MAY NOT BE SUBJECT TO LEGAL PROCESS
2 RELATED TO LAWSUITS TO WHICH THE AUTHORITY IS NOT A PARTY.
3 SECTION 4002. EFFECTIVE DATE.
4 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.