

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2088 Session of 2015

INTRODUCED BY OBERLANDER, D. COSTA, O'BRIEN, JAMES, MILLARD, ROZZI, MURT, V. BROWN, DONATUCCI, WATSON, LONGIETTI, READSHAW, MAHONEY AND BENNINGHOFF, MAY 23, 2016

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2016

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in public assistance,
4 ~~providing for compensable services and items; and abrogating~~ <--
5 ~~a related regulation.~~ <-- FURTHER PROVIDING FOR MEDICAL
6 ASSISTANCE PAYMENTS FOR INSTITUTIONAL CARE AND PROVIDING FOR
7 COMPREHENSIVE SERVICES AND ITEMS; IN CHILDREN AND YOUTH,
8 FURTHER PROVIDING FOR PROVIDER SUBMISSIONS; IN NURSING
9 FACILITY ASSESSMENTS, FURTHER PROVIDING FOR DEFINITIONS AND
10 FOR TIME PERIODS; IN INTERMEDIATE CARE FACILITIES FOR PERSONS
11 WITH AN INTELLECTUAL DISABILITY ASSESSMENTS, FURTHER
12 PROVIDING FOR DEFINITIONS AND FOR TIME PERIODS; IN HOSPITAL
13 ASSESSMENTS, FURTHER PROVIDING FOR DEFINITIONS AND FOR TIME
14 PERIOD; IN DEPARTMENTAL POWERS AND DUTIES AS TO LICENSING,
15 FURTHER PROVIDING FOR REGULATIONS; ESTABLISHING THE
16 PENNSYLVANIA EHEALTH PARTNERSHIP PROGRAM; PROVIDING FOR THE
17 PENNSYLVANIA EHEALTH PARTNERSHIP FUND; ABROGATING A RELATED
18 REGULATION; AND MAKING A RELATED REPEAL.

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

21 ~~Section 1. The act of June 13, 1967 (P.L.31, No.21), known~~ <--
22 ~~as the Human Services Code, is amended by adding a section to~~
23 ~~read:~~

24 SECTION 1. SECTION 443.1(7)(IV) OF THE ACT OF JUNE 13, 1967 <--
25 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE, AMENDED JULY

1 9, 2013 (P.L.369, NO.55), IS AMENDED TO READ:

2 SECTION 443.1. MEDICAL ASSISTANCE PAYMENTS FOR INSTITUTIONAL  
3 CARE.--THE FOLLOWING MEDICAL ASSISTANCE PAYMENTS SHALL BE MADE  
4 ON BEHALF OF ELIGIBLE PERSONS WHOSE INSTITUTIONAL CARE IS  
5 PRESCRIBED BY PHYSICIANS:

6 \* \* \*

7 (7) AFTER JUNE 30, 2007, PAYMENTS TO COUNTY AND NONPUBLIC  
8 NURSING FACILITIES ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AS  
9 PROVIDERS OF NURSING FACILITY SERVICES SHALL BE DETERMINED IN  
10 ACCORDANCE WITH THE METHODOLOGIES FOR ESTABLISHING PAYMENT RATES  
11 FOR COUNTY AND NONPUBLIC NURSING FACILITIES SPECIFIED IN THE  
12 DEPARTMENT'S REGULATIONS AND THE COMMONWEALTH'S APPROVED TITLE  
13 XIX STATE PLAN FOR NURSING FACILITY SERVICES IN EFFECT AFTER  
14 JUNE 30, 2007. THE FOLLOWING SHALL APPLY:

15 \* \* \*

16 (IV) SUBJECT TO FEDERAL APPROVAL OF SUCH AMENDMENTS AS MAY  
17 BE NECESSARY TO THE COMMONWEALTH'S APPROVED TITLE XIX STATE  
18 PLAN, FOR EACH FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2011,  
19 THE DEPARTMENT SHALL APPLY A REVENUE ADJUSTMENT NEUTRALITY  
20 FACTOR TO COUNTY AND NONPUBLIC NURSING FACILITY PAYMENT RATES SO  
21 THAT THE ESTIMATED STATEWIDE DAY-WEIGHTED AVERAGE PAYMENT RATE  
22 IN EFFECT FOR THAT FISCAL YEAR IS LIMITED TO THE AMOUNT  
23 PERMITTED BY THE FUNDS APPROPRIATED BY THE GENERAL APPROPRIATION  
24 ACT FOR THE FISCAL YEAR. THE REVENUE ADJUSTMENT NEUTRALITY  
25 FACTOR SHALL REMAIN IN EFFECT UNTIL THE SOONER OF JUNE 30,  
26 [2016] 2019, OR THE DATE ON WHICH A NEW RATE-SETTING METHODOLOGY  
27 FOR MEDICAL ASSISTANCE NURSING FACILITY SERVICES WHICH REPLACES  
28 THE RATE-SETTING METHODOLOGY CODIFIED IN 55 PA. CODE CHS. 1187  
29 (RELATING TO NURSING FACILITY SERVICES) AND 1189 (RELATING TO  
30 COUNTY NURSING FACILITY SERVICES) TAKES EFFECT.

1 \* \* \*

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

3 Section 443.12. Compensable Services and Items.--

4 Notwithstanding any other provision of law, an anti-obesity drug  
5 approved by the Food and Drug Administration of the Department  
6 of Health and Human Services of the United States shall be  
7 considered a compensable item under the medical assistance  
8 program.

9 SECTION 3. SECTION 704.3(A) OF THE ACT, AMENDED DECEMBER 28, <--  
10 2015 (P.L.500, NO.92), IS AMENDED TO READ:

11 SECTION 704.3. PROVIDER SUBMISSIONS.--(A) FOR FISCAL YEARS  
12 2013-2014[, 2014-2015 AND 2015-2016] THROUGH 2016-2017, A  
13 PROVIDER SHALL SUBMIT DOCUMENTATION OF ITS COSTS OF PROVIDING  
14 SERVICES; AND THE DEPARTMENT SHALL USE SUCH DOCUMENTATION, TO  
15 THE EXTENT NECESSARY, TO SUPPORT THE DEPARTMENT'S CLAIM FOR  
16 FEDERAL FUNDING AND FOR STATE REIMBURSEMENT FOR ALLOWABLE DIRECT  
17 AND INDIRECT COSTS INCURRED IN THE PROVISION OF OUT-OF-HOME  
18 PLACEMENT SERVICES.

19 \* \* \*

20 SECTION 4. THE DEFINITION OF "MEDICAL ASSISTANCE PROVIDER"  
21 IN SECTION 801-A OF THE ACT, AMENDED JUNE 30, 2007 (P.L.49,  
22 NO.16), IS AMENDED TO READ:

23 SECTION 801-A. DEFINITIONS.--AS USED IN THIS ARTICLE--

24 \* \* \*

25 "MEDICAL ASSISTANCE PROVIDER" MEANS A PERSON OR ENTITY  
26 ENROLLED BY THE DEPARTMENT OF [PUBLIC WELFARE] HUMAN SERVICES AS  
27 A PROVIDER OF SERVICES IN THE MEDICAL ASSISTANCE PROGRAM.

28 \* \* \*

29 SECTION 5. SECTION 815-A OF THE ACT, AMENDED JUNE 30, 2012  
30 (P.L.668, NO.80), IS AMENDED TO READ:

1 SECTION 815-A. TIME PERIODS.--THE ASSESSMENT AUTHORIZED IN  
2 THIS ARTICLE SHALL NOT BE IMPOSED PRIOR TO JULY 1, 2003, OR  
3 AFTER JUNE 30, [2016] 2019.

4 SECTION 6. THE DEFINITIONS OF "DEPARTMENT," "MEDICAL  
5 ASSISTANCE PROGRAM" OR "PROGRAM" AND "SECRETARY" IN SECTION 801-  
6 C OF THE ACT, AMENDED JULY 9, 2013 (P.L.369, NO.55), ARE AMENDED  
7 TO READ:

8 SECTION 801-C. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 \* \* \*

13 "DEPARTMENT." THE DEPARTMENT OF [PUBLIC WELFARE] HUMAN  
14 SERVICES OF THE COMMONWEALTH.

15 \* \* \*

16 "MEDICAL ASSISTANCE PROGRAM" OR "PROGRAM." THE MEDICAL  
17 ASSISTANCE PROGRAM AS ADMINISTERED BY THE DEPARTMENT OF [PUBLIC  
18 WELFARE] HUMAN SERVICES.

19 "SECRETARY." THE SECRETARY OF [PUBLIC WELFARE] HUMAN  
20 SERVICES OF THE COMMONWEALTH.

21 \* \* \*

22 SECTION 7. SECTION 811-C(B) OF THE ACT, AMENDED JULY 9, 2013  
23 (P.L.369, NO.55), IS AMENDED TO READ:

24 SECTION 811-C. TIME PERIODS.

25 \* \* \*

26 (B) CESSATION.--THE ASSESSMENT AUTHORIZED UNDER THIS ARTICLE  
27 SHALL CEASE JUNE 30, [2016] 2019, OR EARLIER, IF REQUIRED BY  
28 LAW.

29 SECTION 8. THE DEFINITIONS OF "GENERAL ACUTE CARE HOSPITAL"  
30 AND "HIGH VOLUME MEDICAID HOSPITAL" IN SECTION 801-E OF THE ACT,

1 REENACTED OCTOBER 22, 2010 (P.L.829, NO.84), ARE AMENDED TO  
2 READ:

3 SECTION 801-E. DEFINITIONS.

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

7 \* \* \*

8 "GENERAL ACUTE CARE HOSPITAL." A HOSPITAL OTHER THAN A  
9 HOSPITAL THAT THE SECRETARY OF [PUBLIC WELFARE] HUMAN SERVICES  
10 HAS DETERMINED MEETS ONE OF THE FOLLOWING:

11 (1) IS EXCLUDED UNDER 42 CFR 412.23(A), (B), (D), (E) AND  
12 (F) (RELATING TO EXCLUDED HOSPITALS: CLASSIFICATIONS) AS OF  
13 MARCH 20, 2008, FROM REIMBURSEMENT OF CERTAIN FEDERAL FUNDS  
14 UNDER THE PROSPECTIVE PAYMENT SYSTEM DESCRIBED BY 42 CFR 412  
15 (RELATING TO PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL  
16 SERVICES).

17 (2) IS A FEDERAL VETERANS' AFFAIRS HOSPITAL.

18 (3) IS A HIGH VOLUME MEDICAID HOSPITAL.

19 (4) PROVIDES CARE, INCLUDING INPATIENT HOSPITAL SERVICES, TO  
20 ALL PATIENTS FREE OF CHARGE.

21 (5) A FREE-STANDING ACUTE CARE HOSPITAL ORGANIZED PRIMARILY  
22 FOR THE TREATMENT OF AND RESEARCH ON CANCER AND IS AN EXEMPT  
23 HOSPITAL UNDER SECTION 801-G.

24 "HIGH VOLUME MEDICAID HOSPITAL." A HOSPITAL THAT THE  
25 SECRETARY OF [PUBLIC WELFARE] HUMAN SERVICES HAS DETERMINED  
26 MEETS ALL OF THE FOLLOWING:

27 (1) IS A NONPROFIT HOSPITAL SUBSIDIARY OF A STATE-RELATED  
28 INSTITUTION AS THAT TERM IS DEFINED IN 62 PA.C.S. § 103  
29 (RELATING TO DEFINITIONS); AND

30 (2) PROVIDES MORE THAN 90,000 DAYS OF CARE TO MEDICAL

1 ASSISTANCE PATIENTS ANNUALLY.

2 \* \* \*

3 SECTION 9. SECTION 808-E(A) OF THE ACT, AMENDED JULY 9, 2013  
4 (P.L.369, NO.55), IS AMENDED TO READ:

5 SECTION 808-E. TIME PERIOD.

6 (A) CESSATION.--THE ASSESSMENT AUTHORIZED UNDER THIS ARTICLE  
7 SHALL CEASE JUNE 30, [2016] 2019.

8 \* \* \*

9 SECTION 10. SECTION 1021(C) OF THE ACT, AMENDED JULY 25,  
10 2007 (P.L.402, NO.56), IS AMENDED TO READ:

11 SECTION 1021. REGULATIONS.--\* \* \*

12 [(C) THE DEPARTMENT SHALL HAVE ENFORCEMENT AND LICENSURE  
13 STAFF DEDICATED SOLELY TO ASSISTED LIVING RESIDENCES. ALL  
14 INSPECTIONS OF RESIDENCES DUALY LICENSED AS ASSISTED LIVING  
15 RESIDENCES AND PERSONAL CARE HOMES SHALL BE CONDUCTED BY A TEAM  
16 OF SURVEYORS COMPRISED OF BOTH PERSONAL CARE HOME AND ASSISTED  
17 LIVING RESIDENCE SURVEYORS.]

18 \* \* \*

19 SECTION 11. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

20 ARTICLE XIV-C

21 PENNSYLVANIA EHEALTH PARTNERSHIP PROGRAM

22 SECTION 1401-C. DEFINITIONS.

23 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
24 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
25 CONTEXT CLEARLY INDICATES OTHERWISE:

26 "BOARD." THE PENNSYLVANIA EHEALTH PARTNERSHIP ADVISORY  
27 BOARD.

28 "DEPARTMENT." THE DEPARTMENT OF HUMAN SERVICES OF THE  
29 COMMONWEALTH.

30 "ELECTRONIC HEALTH RECORD." AN ELECTRONIC RECORD OF HEALTH-

1 RELATED INFORMATION RELATING TO AN INDIVIDUAL THAT IS CREATED,  
2 GATHERED, MANAGED AND CONSULTED BY HEALTH CARE PROVIDERS OR  
3 PAYERS.

4 "FUND." THE PENNSYLVANIA EHEALTH PARTNERSHIP FUND.

5 "HEALTH CARE PROVIDER." A PERSON LICENSED BY THE  
6 COMMONWEALTH TO PROVIDE HEALTH CARE OR PROFESSIONAL CLINICAL  
7 SERVICES. THE TERM INCLUDES:

8 (1) A "HEALTH CARE PRACTITIONER" AS DEFINED IN SECTION  
9 103 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS  
10 THE HEALTH CARE FACILITIES ACT.

11 (2) A "HEALTH CARE PROVIDER" AS DEFINED IN SECTION 103  
12 OF THE HEALTH CARE FACILITIES ACT.

13 (3) A PUBLIC HEALTH AUTHORITY.

14 (4) A PHARMACY.

15 (5) A LABORATORY.

16 (6) A PERSON THAT PROVIDES ITEMS OR SERVICES DESCRIBED  
17 IN SECTION 1861(S) OF THE SOCIAL SECURITY ACT (49 STAT. 620,  
18 42 U.S.C. § 1395X(S)).

19 (7) A "PROVIDER OF SERVICES" AS DEFINED IN SECTION  
20 1861(U) OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. §  
21 1395X(U)).

22 "HEALTH INFORMATION." INFORMATION, WHETHER ORAL OR RECORDED,  
23 IN ANY FORM OR MEDIUM, THAT IS CREATED OR RECEIVED BY A HEALTH  
24 CARE PROVIDER RELATING TO THE FOLLOWING:

25 (1) THE PAST, PRESENT OR FUTURE PHYSICAL OR MENTAL  
26 HEALTH OR MEDICAL CONDITION OF AN INDIVIDUAL.

27 (2) THE PAST, PRESENT OR FUTURE PAYMENT, TREATMENT OR  
28 OPERATIONS FOR THE PROVISION OF HEALTH CARE TO AN INDIVIDUAL.

29 "HEALTH INFORMATION EXCHANGE." A STATEWIDE INTEROPERABLE  
30 SYSTEM ESTABLISHED UNDER THIS ARTICLE THAT ELECTRONICALLY MOVES

1 AND EXCHANGES HEALTH INFORMATION BETWEEN APPROVED PARTICIPATING  
2 HEALTH CARE PROVIDERS OR HEALTH INFORMATION ORGANIZATIONS IN A  
3 MANNER THAT ENSURES THE SECURE EXCHANGE OF HEALTH INFORMATION TO  
4 PROVIDE CARE TO PATIENTS.

5 "HEALTH INFORMATION ORGANIZATION." AN INFORMATION TECHNOLOGY  
6 INFRASTRUCTURE WITH AN INTEROPERABLE SYSTEM THAT IS ESTABLISHED  
7 BY A HEALTH CARE PROVIDER OR PAYER OR THAT CONNECTS  
8 PARTICIPATING HEALTH CARE PROVIDERS OR PAYERS TO ENSURE THE  
9 SECURE DIGITAL EXCHANGE OF HEALTH INFORMATION AMONG PARTICIPANTS  
10 ENGAGED IN THE CARE OF THE PATIENT.

11 "HEALTH INFORMATION TECHNOLOGY." HARDWARE, SOFTWARE,  
12 INTEGRATED TECHNOLOGIES OR RELATED LICENSES, INTELLECTUAL  
13 PROPERTY, UPGRADES OR PACKAGED SOLUTIONS SOLD AS SERVICES THAT  
14 ARE DESIGNED FOR OR SUPPORT THE USE BY HEALTH CARE ENTITIES OR  
15 PATIENTS FOR THE ELECTRONIC CREATION, MAINTENANCE, ACCESS OR  
16 EXCHANGE OF HEALTH INFORMATION.

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

21 "PARTICIPANT." A PERSON OR ENTITY WHICH HAS BEEN APPROVED BY  
22 THE DEPARTMENT TO SEND AND RECEIVE HEALTH INFORMATION USING THE  
23 HEALTH INFORMATION EXCHANGE.

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           "SECRETARY." THE SECRETARY OF HUMAN SERVICES OF THE  
8           COMMONWEALTH.

9           SECTION 1402-C. PENNSYLVANIA EHEALTH PARTNERSHIP PROGRAM.

10           THERE IS HEREBY ESTABLISHED THE PENNSYLVANIA EHEALTH  
11           PARTNERSHIP PROGRAM WITHIN THE DEPARTMENT.

12           SECTION 1403-C. POWERS AND DUTIES

13           THE DEPARTMENT'S POWERS AND DUTIES INCLUDE THE FOLLOWING:

14           (1) DEVELOP, ESTABLISH AND MAINTAIN A HEALTH INFORMATION  
15           EXCHANGE THAT COMPLIES WITH FEDERAL AND STATE LAW AND THAT:

16                   (I) PROMOTES EFFICIENT AND EFFECTIVE COMMUNICATION  
17                   AMONG MULTIPLE HEALTH CARE PROVIDERS, PAYERS AND  
18                   PARTICIPANTS.

19                   (II) CREATES EFFICIENCIES AND PROMOTES ACCURACY IN  
20                   THE DELIVERY OF HEALTH CARE.

21                   (III) SUPPORTS THE ABILITY TO IMPROVE COMMUNITY  
22                   HEALTH STATUS.

23           (2) DETERMINE CRITERIA FOR ORGANIZATIONS AND INDIVIDUALS  
24           TO BECOME AND REMAIN PARTICIPANTS IN THE HEALTH INFORMATION  
25           EXCHANGE, INCLUDING CRITERIA FOR ORGANIZATIONS AND  
26           INDIVIDUALS TO BE SUSPENDED AND DISENGAGED AS PARTICIPANTS IN  
27           THE HEALTH INFORMATION EXCHANGE.

28           (3) DEVELOP AND MAINTAIN A DIRECTORY OF HEALTH CARE  
29           PROVIDER'S CONTACT INFORMATION TO ENABLE PARTICIPANTS TO  
30           SHARE HEALTH INFORMATION ELECTRONICALLY.

1           (4) DEVELOP AND MAINTAIN STANDARDS TO ENSURE  
2 INTEROPERABILITY.

3           (5) ESTABLISH AND COLLECT FEES. FEES MAY INCLUDE  
4 TRANSACTION FEES, SUBSCRIPTION FEES OR OTHER FEES OR  
5 DONATIONS, TO COVER COSTS OF IMPLEMENTATION AND OPERATION OF  
6 THE HEALTH INFORMATION EXCHANGE OR FOR OTHER SERVICES  
7 PROVIDED UNDER THIS ARTICLE. RECEIPT OF SERVICES PROVIDED BY  
8 OR THROUGH THE DEPARTMENT MAY BE CONDITIONED ON PAYMENT OF  
9 FEES. PARTICIPATION IN THE HEALTH INFORMATION EXCHANGE BY ANY  
10 HEALTH CARE PROVIDER, PAYER, CONSUMER OR ANY OTHER PERSON IS  
11 VOLUNTARY.

12           (6) ESTABLISH AN ADVISORY BOARD UNDER SECTION 1404-C  
13 WITH A DIVERSE MEMBERSHIP REPRESENTING INTERESTED AND  
14 AFFECTED GROUPS AND INDIVIDUALS.

15           (7) DEVELOP AND CONDUCT PUBLIC INFORMATION PROGRAMS TO  
16 EDUCATE AND INFORM CONSUMERS AND PATIENTS ABOUT HEALTH  
17 INFORMATION.

18           (8) SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE  
19 PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE  
20 HOUSE OF REPRESENTATIVES FOR DISTRIBUTION TO APPROPRIATE  
21 LEGISLATIVE COMMITTEES ON THE ACTIVITIES OF THE PROGRAM FOR  
22 THE YEAR, INCLUDING A SUMMARY OF THE RECEIPTS AND  
23 EXPENDITURES, A LIST OF CONTRACTS AND A SUMMARY OF ANY  
24 REPORTABLE SECURITY BREACHES THAT OCCURRED AND CORRECTIVE  
25 ACTIONS THAT WERE TAKEN.

26           (9) DEVELOP AND MAINTAIN:

27           (I) A REGISTRY OF PATIENTS CHOOSING TO OPT OUT OF  
28 THE HEALTH INFORMATION EXCHANGE; AND

29           (II) PROCEDURES TO RE-ENROLL INTO THE HEALTH  
30 INFORMATION EXCHANGE.

1           (10) PROMULGATE REGULATIONS, AS NECESSARY, TO IMPLEMENT  
2           AND ADMINISTER THIS ARTICLE.

3           (11) PERFORM ALL OTHER ACTIVITIES IN FURTHERANCE OF THE  
4           PURPOSES OF THIS ARTICLE.

5 SECTION 1404-C. PENNSYLVANIA EHEALTH PARTNERSHIP ADVISORY BOARD.

6           (A) ESTABLISHMENT.--THE PENNSYLVANIA EHEALTH PARTNERSHIP  
7           ADVISORY BOARD IS ESTABLISHED WITHIN THE DEPARTMENT AS AN  
8           ADVISORY BOARD.

9           (B) COMPOSITION.--THE BOARD SHALL CONSIST OF 16 MEMBERS, WHO  
10           MUST BE RESIDENTS OF THIS COMMONWEALTH, WITH TWO ADDITIONAL, EX  
11           OFFICIO NONVOTING MEMBERS SELECTED BY MEMBERS OF THE BOARD,  
12           COMPOSED AND APPOINTED AS FOLLOWS:

13           (1) THE SECRETARY OR A DESIGNEE, WHO SHALL BE AN  
14           EMPLOYEE OF THE DEPARTMENT IN WRITING PRIOR TO SERVICE.

15           (2) THE SECRETARY OF HEALTH OR A DESIGNEE, WHO SHALL BE  
16           AN EMPLOYEE OF THE DEPARTMENT OF HEALTH DESIGNATED IN WRITING  
17           PRIOR TO SERVICE.

18           (3) THE INSURANCE COMMISSIONER OR A DESIGNEE, WHO SHALL  
19           BE AN EMPLOYEE OF THE INSURANCE DEPARTMENT DESIGNATED IN  
20           WRITING PRIOR TO SERVICE.

21           (4) ONE REPRESENTATIVE OF THE HEALTH CARE COMMUNITY  
22           FOCUSED ON AN UNSERVED OR UNDERSERVED RURAL OR URBAN PATIENT  
23           POPULATION, WHO SHALL BE APPOINTED BY THE SECRETARY FROM A  
24           LIST OF INDIVIDUALS SUBMITTED FOR CONSIDERATION BY BOTH THE  
25           PENNSYLVANIA AREA HEALTH EDUCATION CENTER AND THE  
26           PENNSYLVANIA ASSOCIATION OF COMMUNITY HEALTH CENTERS.

27           (5) ONE PHYSICIAN OR NURSE APPOINTED BY THE SECRETARY  
28           FROM LISTS OF INDIVIDUALS SUBMITTED BY THE PENNSYLVANIA  
29           MEDICAL SOCIETY, THE PENNSYLVANIA OSTEOPATHIC MEDICAL  
30           ASSOCIATION, THE PENNSYLVANIA ACADEMY OF FAMILY PHYSICIANS

1 AND THE PENNSYLVANIA STATE NURSES ASSOCIATION. AT LEAST ONE  
2 NAME ON EACH LIST SHALL INCLUDE AN INDIVIDUAL RESIDING IN AN  
3 UNSERVED OR UNDERSERVED RURAL PATIENT POPULATION AREA AND AN  
4 INDIVIDUAL IN AN UNSERVED OR UNDERSERVED URBAN PATIENT  
5 POPULATION AREA.

6 (6) ONE HOSPITAL REPRESENTATIVE APPOINTED BY THE  
7 SECRETARY FROM A LIST OF INDIVIDUALS SUBMITTED BY THE  
8 HOSPITAL AND HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA. AT  
9 LEAST ONE NAME ON THIS LIST SHALL INCLUDE AN INDIVIDUAL  
10 RESIDING IN AN UNSERVED OR UNDERSERVED RURAL OR URBAN PATIENT  
11 POPULATION AREA.

12 (7) ONE INSURANCE REPRESENTATIVE APPOINTED BY THE  
13 SECRETARY FROM LISTS OF INDIVIDUALS SUBMITTED BY THE BLUE  
14 CROSS AND BLUE SHIELD PLANS AND THE INSURANCE FEDERATION OF  
15 PENNSYLVANIA.

16 (8) ONE REPRESENTATIVE OF AN ASSISTED LIVING RESIDENCE,  
17 PERSONAL CARE HOME, LONG-TERM CARE NURSING FACILITY,  
18 CONTINUING CARE FACILITY OR BEHAVIORAL OR MENTAL HEALTH  
19 FACILITY WHO SHALL BE APPOINTED BY THE SECRETARY.

20 (9) TWO CONSUMER REPRESENTATIVES APPOINTED BY THE  
21 SECRETARY WHO ARE NOT PRIMARILY INVOLVED IN PROVIDING HEALTH  
22 CARE OR HEALTH CARE INSURANCE. AT LEAST ONE OF THESE  
23 INDIVIDUALS SHALL HAVE EXPERTISE IN HEALTH CARE OR HEALTH  
24 CARE INFORMATION TECHNOLOGY OR THE LABORATORY INDUSTRY.

25 (10) THREE REPRESENTATIVES FROM ESTABLISHED HEALTH  
26 INFORMATION ORGANIZATIONS APPOINTED BY THE PRESIDENT PRO  
27 TEMPORE OF THE SENATE, IN CONSULTATION WITH THE MAJORITY  
28 LEADER AND THE MINORITY LEADER OF THE SENATE, EACH OF WHOM  
29 SHALL RECOMMEND ONE PERSON. AT LEAST ONE OF THESE  
30 REPRESENTATIVES SHALL BE FROM THE PRIVATE INFORMATION

1 TECHNOLOGY SECTOR WITH KNOWLEDGE ABOUT SECURITY ISSUES.

2 (11) THREE REPRESENTATIVES FROM ESTABLISHED HEALTH  
3 INFORMATION ORGANIZATIONS APPOINTED BY THE SPEAKER OF THE  
4 HOUSE OF REPRESENTATIVES, IN CONSULTATION WITH THE MAJORITY  
5 LEADER AND THE MINORITY LEADER OF THE HOUSE OF  
6 REPRESENTATIVES, EACH OF WHOM SHALL RECOMMEND ONE PERSON. AT  
7 LEAST ONE OF THESE REPRESENTATIVES SHALL BE FROM THE PRIVATE  
8 INFORMATION TECHNOLOGY SECTOR WITH KNOWLEDGE ABOUT SECURITY  
9 ISSUES.

10 (C) EX OFFICIO MEMBERS.--THE SECRETARY OF HEALTH, THE  
11 INSURANCE COMMISSIONER, OR THEIR DESIGNEES, SHALL SERVE ON THE  
12 BOARD AS NONVOTING EX OFFICIO MEMBERS OF THE BOARD.

13 (D) TERMS.--EXCEPT A MEMBER AS SPECIFIED IN SUBSECTION (B)  
14 (1), (2) OR (3), A MEMBER OF THE BOARD SHALL SERVE FOR A TERM OF  
15 THREE YEARS AFTER COMPLETION OF THE INITIAL TERMS DESIGNATED IN  
16 SUBSECTION (H) AND MAY NOT BE ELIGIBLE TO SERVE MORE THAN TWO  
17 FULL CONSECUTIVE THREE-YEAR TERMS. A MEMBER SHALL REMAIN ON THE  
18 BOARD UNTIL THE MEMBER'S REPLACEMENT IS APPOINTED.

19 (E) QUORUM.--A MAJORITY OF THE APPOINTED MEMBERS OF THE  
20 BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY  
21 BUSINESS. AN ACT BY A MAJORITY OF THE MEMBERS PRESENT AT A  
22 MEETING AT WHICH THERE IS A QUORUM SHALL BE DEEMED TO BE THAT OF  
23 THE BOARD.

24 (F) MEETINGS.--THE BOARD SHALL HOLD MEETINGS AT LEAST  
25 QUARTERLY AND MAY PROVIDE FOR SPECIAL MEETINGS AS THE BOARD  
26 DEEMS NECESSARY. THE MEETINGS SHALL BE SUBJECT TO THE  
27 REQUIREMENTS OF 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).  
28 MEETINGS OF THE BOARD MAY BE HELD ANYWHERE WITHIN THIS  
29 COMMONWEALTH.

30 (G) CHAIRPERSON.--THE SECRETARY SHALL APPOINT A CHAIRPERSON

1 OF THE BOARD. THE MEMBERS OF THE BOARD SHALL ANNUALLY ELECT, BY  
2 A MAJORITY VOTE OF THE MEMBERS, A VICE CHAIRPERSON FROM AMONG  
3 THE MEMBERS OF THE BOARD.

4 (H) INITIAL APPOINTMENT AND VACANCY.--

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

9 (2) A MEMBER APPOINTED UNDER SUBSECTION (B) (7) OR (8)  
10 SHALL BE APPOINTED TO AN INITIAL TERM OF ONE YEAR WITH THE  
11 OPTION FOR REAPPOINTMENT TO TWO ADDITIONAL THREE-YEAR TERMS.

12 (3) A MEMBER APPOINTED UNDER SUBSECTION (B) (9) SHALL BE  
13 APPOINTED TO AN INITIAL TERM OF THREE YEARS WITH THE OPTION  
14 FOR REAPPOINTMENT TO ONE ADDITIONAL THREE-YEAR TERM.

15 (4) A MEMBER APPOINTED UNDER SUBSECTION (B) (10) OR (11)  
16 SHALL BE APPOINTED TO AN INITIAL TERM THAT COINCIDES WITH THE  
17 APPOINTING MEMBERS' TERMS WITH THE OPTION FOR REAPPOINTMENT  
18 TO TWO ADDITIONAL THREE-YEAR TERMS.

19 (I) FORMATION.--THE BOARD SHALL BE FORMED WITHIN 90 DAYS OF  
20 THE EFFECTIVE DATE OF THIS ARTICLE.

21 (J) REIMBURSEMENT.--THE MEMBERS OF THE BOARD MAY NOT RECEIVE  
22 A SALARY OR PER DIEM ALLOWANCE FOR SERVING AS MEMBERS OF THE  
23 BOARD BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES  
24 INCURRED IN THE PERFORMANCE OF THE MEMBERS' DUTIES.

25 SECTION 1405-C. ESTABLISHMENT OF FUND.

26 THE PENNSYLVANIA EHEALTH PARTNERSHIP FUND, ESTABLISHED UNDER  
27 SECTION 501 OF THE ACT OF JULY 5, 2012 (P.L.1042, NO.121), KNOWN  
28 AS THE PENNSYLVANIA EHEALTH INFORMATION TECHNOLOGY ACT, IS  
29 CONTINUED.

30 SECTION 1406-C. FUNDS.

1 ALL MONEY DEPOSITED INTO THE FUND SHALL BE HELD FOR THE  
2 PURPOSES UNDER THIS ARTICLE AND MAY NOT BE CONSIDERED A PART OF  
3 THE GENERAL FUND BUT SHALL BE USED ONLY TO EFFECTUATE THE  
4 PURPOSES OF THIS ARTICLE AS DETERMINED BY THE DEPARTMENT. ALL  
5 INTEREST EARNED FROM THE INVESTMENT OR DEPOSIT OF MONEY  
6 ACCUMULATED IN THE FUND SHALL BE DEPOSITED IN THE FUND FOR THE  
7 SAME USE.

8 SECTION 1407-C. CONSENT AND CONFIDENTIALITY OF HEALTH  
9 INFORMATION.

10 (A) CONSTRUCTION.--

11 (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO  
12 PROHIBIT A HEALTH CARE PROVIDER OR PAYER FROM OBTAINING AND  
13 STORING A PATIENT'S HEALTH RECORDS IN ELECTRONIC FORM OR  
14 EXCHANGING HEALTH INFORMATION WITH ANOTHER HEALTH CARE  
15 PROVIDER OR PAYER IN ACCORDANCE WITH FEDERAL LAW OR STATE LAW  
16 OTHER THAN THIS ARTICLE.

17 (2) NOTHING IN THIS ARTICLE SHALL SUPERSEDE OR LIMIT ANY  
18 OTHER LAW WHICH REQUIRES ADDITIONAL CONSENT TO THE RELEASE OF  
19 HEALTH INFORMATION OR OTHERWISE ESTABLISHES GREATER  
20 RESTRICTIONS OR LIMITATIONS ON THE RELEASE OF HEALTH  
21 INFORMATION.

22 (B) CONSENT.--THE DEPARTMENT SHALL PUBLISH A CONSENT FORM  
23 INCLUDING NOTICE OF A PATIENT'S ABILITY TO DECLINE TO ALLOW  
24 EXCHANGE OF THE PATIENT'S ELECTRONIC HEALTH INFORMATION IN THE  
25 HEALTH INFORMATION EXCHANGE. THE NOTICE SHALL INCLUDE, AT A  
26 MINIMUM AND IN PLAIN LANGUAGE, THE FOLLOWING INFORMATION:

27 (1) DEFINITION OF A HEALTH INFORMATION EXCHANGE.

28 (2) EXPLANATION OF THE BENEFITS OF PARTICIPATION IN THE  
29 HEALTH INFORMATION EXCHANGE.

30 (3) EXPLANATION OF THE LIMITS OF THE PATIENT'S ABILITY

1 TO DECLINE THE RELEASE OR EXCHANGE OF THE PATIENT'S HEALTH  
2 INFORMATION WITH THE HEALTH INFORMATION EXCHANGE.

3 (4) EXPLANATION OF THE MANNER IN WHICH THE HEALTH  
4 INFORMATION EXCHANGE WILL ADDRESS PRIVACY ISSUES.

5 (5) EXPLANATION OF THE MANNER IN WHICH AN INDIVIDUAL MAY  
6 DECLINE TO PARTICIPATE IN THE HEALTH INFORMATION EXCHANGE.

7 (C) OPT-OUT REGISTRY.--

8 (1) IN ORDER TO DECLINE PARTICIPATION IN THE HEALTH  
9 INFORMATION EXCHANGE, A PATIENT MUST SIGN AND DATE A FORM  
10 DECLINING PARTICIPATION. IF APPROPRIATE, THE SIGNATURE MUST  
11 BE WITNESSED BY THE PATIENT'S REPRESENTATIVE. COPIES OF THE  
12 COMPLETED FORM SHALL BE SENT BY THE PROVIDER WITHIN FIVE  
13 BUSINESS DAYS TO THE DEPARTMENT TO BE INCLUDED IN AN OPT-OUT  
14 REGISTRY.

15 (2) AFTER RECEIPT OF THE FORM, THE DEPARTMENT SHALL  
16 WITHIN FIVE BUSINESS DAYS NOTIFY HEALTH INFORMATION  
17 ORGANIZATIONS THAT THE PATIENT HAS NOT AUTHORIZED THE RELEASE  
18 OF THE HEALTH INFORMATION THROUGH THE HEALTH INFORMATION  
19 EXCHANGE.

20 (3) ONCE THE PATIENT IS INCLUDED IN THE OPT-OUT  
21 REGISTRY, THE DEPARTMENT SHALL NOTIFY THE PATIENT. THE  
22 NOTIFICATION SHALL INCLUDE A COPY OF THE COMPLETED FORM  
23 SIGNED BY THE PATIENT OR ELECTRONIC NOTIFICATION TO THE  
24 PATIENT.

25 (4) THE PATIENT ALONE SHALL DECIDE TO OPT OUT OF THE  
26 HEALTH INFORMATION EXCHANGE.

27 (D) DISCLOSURE.--

28 (1) THE DEPARTMENT MAY NOT DISCLOSE, WITHOUT PRIOR  
29 WRITTEN CONSENT OF THE PATIENT, ANY HEALTH INFORMATION THAT  
30 THE DEPARTMENT OR ITS EMPLOYEES, AGENTS OR CONTRACTORS RETAIN

1 UNDER THIS ARTICLE, OR TO WHICH THE DEPARTMENT OR ITS AGENTS  
2 OR CONTRACTORS HAVE ACCESS OR ANY OTHER HEALTH RECORDS  
3 MAINTAINED OR ACCESSIBLE BY THE DEPARTMENT UNDER THIS  
4 ARTICLE, TO ANY PERSON WHO IS NOT AN AUTHORIZED EMPLOYEE,  
5 AGENT OR CONTRACTOR OF THE DEPARTMENT, EXCEPT AS REQUIRED OR  
6 PERMITTED BY LAW.

7 (2) SHARING HEALTH INFORMATION AMONG PARTICIPANTS IN THE  
8 HEALTH INFORMATION EXCHANGE SHALL NOT BE CONSIDERED A  
9 DISCLOSURE UNDER PARAGRAPH (1).

10 (3) VIOLATIONS OF THIS SUBSECTION:

11 (I) SHALL SUBJECT EMPLOYEES, AGENTS AND CONTRACTORS  
12 TO ADMINISTRATIVE DISCIPLINE, INCLUDING DISCHARGE AND  
13 SUSPENSION.

14 (II) SHALL SUBJECT CONTRACTORS TO MONETARY PENALTIES  
15 OR CONTRACT REVOCATION OR SUSPENSION.

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

23 SECTION 1408-C. NONAPPLICABILITY.

24 (A) THIS ARTICLE IS SUBJECT TO 1 PA.C.S. § 2310 (RELATING TO  
25 SOVEREIGN IMMUNITY REAFFIRMED; SPECIFIC WAIVER).

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

30 (C) NOTHING IN THIS ARTICLE IS INTENDED TO AFFECT COMMON LAW

1 OR STATUTORY RIGHTS OR OBLIGATIONS WITH RESPECT TO PATIENT  
2 ACCESSIBILITY TO THEIR ELECTRONIC OR NONELECTRONIC MEDICAL  
3 RECORDS.

4 (D) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALTER,  
5 LIMIT OR SUPERSEDE ANY OTHER PROVISION OF LAW REGARDING THE  
6 DEPARTMENT'S DUTIES, POWERS, RESPONSIBILITIES AND AUTHORITY THAT  
7 EXIST SEPARATE FROM THIS ARTICLE.

8 Section 2 12. The provisions of 55 Pa. Code § 1121.54(1) are <--  
9 abrogated insofar as they are inconsistent with the addition of  
10 section 443.12 of the act.

11 ~~Section 3. This act shall take effect in 60 days.~~ <--

12 SECTION 13. REPEALS ARE AS FOLLOWS: <--

13 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER  
14 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF  
15 ARTICLE XIV-C OF THE ACT.

16 (2) THE ACT OF JULY 5, 2012 (P.L.1042, NO.121), KNOWN AS  
17 THE PENNSYLVANIA EHEALTH INFORMATION TECHNOLOGY ACT, IS  
18 REPEALED.

19 SECTION 14. EXCEPT AS OTHERWISE PROVIDED IN ARTICLE XIV-C OF  
20 THE ACT, ALL ACTIVITIES INITIATED UNDER THE ACT OF JULY 5, 2012  
21 (P.L.1042, NO.121), KNOWN AS THE PENNSYLVANIA EHEALTH  
22 INFORMATION TECHNOLOGY ACT, SHALL CONTINUE AND REMAIN IN FULL  
23 FORCE AND EFFECT AND MAY BE COMPLETED UNDER ARTICLE XIV-C OF THE  
24 ACT. ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE MADE  
25 UNDER THE PENNSYLVANIA EHEALTH INFORMATION TECHNOLOGY ACT AND  
26 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION SHALL  
27 REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR  
28 MODIFIED UNDER ARTICLE XIV-C OF THE ACT. CONTRACTS AND  
29 OBLIGATIONS ENTERED INTO UNDER THE PENNSYLVANIA EHEALTH  
30 INFORMATION TECHNOLOGY ACT ARE NOT AFFECTED NOR IMPAIRED BY THE

1 REPEAL OF THE PENNSYLVANIA EHEALTH INFORMATION TECHNOLOGY ACT.  
2 ALL CONTRACTS, GRANTS, PROCUREMENT DOCUMENTS AND PARTNERSHIP  
3 AGREEMENTS UNDER THE PENNSYLVANIA EHEALTH INFORMATION TECHNOLOGY  
4 ACT IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION ARE ASSIGNED  
5 TO THE DEPARTMENT OF HUMAN SERVICES.

6 SECTION 15. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

7 (1) THE ADDITION OF SECTION 443.12 OF THE ACT SHALL TAKE  
8 EFFECT IN 60 DAYS.

9 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
10 IMMEDIATELY.