
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1213 Session of
2019

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ROZZI, DEASY, CIRESI, MARKOSEK AND NEILSON, APRIL 15, 2019

REFERRED TO COMMITTEE ON INSURANCE, APRIL 15, 2019

AN ACT

1 Requiring physician practices operating as part of an integrated
2 delivery network to meet certain requirements to ensure
3 patient access and consumer choice; and imposing powers and
4 duties on the Insurance Department.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Patient
9 Access and Consumer Choice Act.

10 Section 2. Legislative findings.

11 The General Assembly finds and declares as follows:

12 (1) Beginning in the 1990s, a new trend in hospital
13 mergers and consolidations began and public sources currently
14 estimate that there have been over 300 such hospital mergers
15 since 2007.

16 (2) These hospitals consolidate and merge by either
17 affiliating with other independent hospitals or purchasing
18 independent physician practices.

1 (3) Hospital and physician consolidation has the
2 potential to increase the cost of health care to consumers by
3 limiting competition and thereby giving hospitals and
4 physician practices greater negotiating strength resulting in
5 higher prices for patients and little incentive to improve
6 the quality of care delivered.

7 (4) Research conducted by government agencies, academics
8 and others conclude that increasing provider consolidation
9 has the potential to increase health care costs.

10 (5) The Commonwealth has a duty to protect consumer
11 interests.

12 (6) Hospitals and physician practices that also operate
13 as an integrated delivery network are able to exert
14 additional market dominance as they can set rates for both
15 payment and reimbursement.

16 (7) To ensure that physician practices operating as part
17 of an integrated delivery network are not permitted to use
18 their market dominance to exert undue pressure on health
19 insurance providers or to restrict a patient's access,
20 mandatory contracting requirements must be imposed requiring
21 that all physician practices operating as part of an
22 integrated delivery network contract with any willing health
23 insurance provider.

24 Section 3. Definitions.

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

28 "Default provider agreement." An agreement between a
29 hospital-owned physician practice that is part of an integrated
30 delivery network and a willing health insurance carrier to

1 provide health care services, which agreement is imposed upon
2 the parties if the parties fail to enter into a mutually
3 agreeable provider contract within the time frames established
4 by this act.

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

6 "Health care services." A medical-surgical, hospital,
7 facility or ancillary service provided to an individual.

8 "Health insurance." A health insurance policy, subscriber
9 contract, certificate or policy that provides health or sickness
10 and accident coverage offered by a health insurance carrier and
11 which is subject to review by the department under the
12 provisions of the act of December 18, 1996 (P.L.1066, No.159),
13 known as the Accident and Health Filing Reform Act. The term
14 does not include any of the following:

15 (1) An accident-only policy.

16 (2) A credit-only policy.

17 (3) A long-term care or disability income policy.

18 (4) A specified disease policy.

19 (5) A Medicare supplement policy.

20 (6) A Civilian Health and Medical Program of the
21 Uniformed Services (CHAMPUS) supplement policy.

22 (7) A dental-only policy, other than a qualified dental
23 policy.

24 (8) A vision-only policy.

25 (9) A workers' compensation policy.

26 (10) An automobile medical payment policy under 75
27 Pa.C.S. (relating to vehicles).

28 (11) Any other similar policies providing for limited
29 benefits.

30 "Health insurance carrier." An entity licensed in this

1 Commonwealth to issue health insurance, subscriber contracts,
2 certifications or plans that provide medical or health care
3 coverage by a health care facility or licensed health care
4 provider that is offered or governed under this act or any of
5 the following:

6 (1) The act of December 29, 1972 (P.L.1701, No.364),
7 known as the Health Maintenance Organization Act.

8 (2) The act of May 18, 1976 (P.L.123, No.54), known as
9 the Individual Accident and Sickness Insurance Minimum
10 Standards Act.

11 (3) 40 Pa.C.S. Chs. 61 (relating to hospital plan
12 corporations) and 63 (relating to professional health
13 services plan corporations).

14 "Hospital-owned physician practice." A physician practice
15 that meets both of the following:

16 (1) Provides health care services or other professional
17 medical services to an individual.

18 (2) Is any of the following:

19 (i) Owned or operated by a hospital.

20 (ii) Under joint control of a hospital.

21 (iii) A subsidiary of a hospital.

22 "Integrated delivery network." One or more entities with
23 common ownership, operation or control, which include both of
24 the following:

25 (1) One or more hospitals, one or more physician
26 practices or one or more health care providers offering
27 health care services.

28 (2) One or more entities operating as a health insurance
29 carrier offering health insurance, administering health
30 benefits, operating a health maintenance organization or

1 offering other health care benefits and coverage to employers
2 or individuals in this Commonwealth.

3 "Provider contract." A written agreement meeting both of the
4 following:

5 (1) Is for the payment or reimbursement of health care
6 services provided to an individual by a hospital-owned
7 physician practice that is part of an integrated delivery
8 network or any other entity directly or indirectly owned,
9 operated or controlled by or otherwise affiliated with the
10 integrated delivery network.

11 (2) Is between both of the following:

12 (i) A hospital-owned physician practice that is part
13 of an integrated delivery network or an entity directly
14 or indirectly owned, operated or controlled by or
15 otherwise affiliated with an integrated delivery network.

16 (ii) A health insurance carrier.

17 Section 4. Responsibilities.

18 (a) General rule.--A hospital-owned physician practice that
19 is part of an integrated delivery network shall comply with the
20 following responsibilities:

21 (1) Assure availability and accessibility of adequate
22 health care services to members of a health insurance carrier
23 which allows access to quality care and continuity of health
24 care services.

25 (2) Not engage in either of the following:

26 (i) Place restrictive covenants in its employment
27 contracts that restrain an individual from engaging in
28 the individual's lawful profession.

29 (ii) Limit or restrict a consumer's access to care
30 or limit or restrict a consumer's access to continuity of

1 care solely on the basis of the consumer's health
2 insurance carrier.

3 (3) Enter into a provider contract with a health
4 insurance carrier that is willing to enter into a provider
5 contract for health care services.

6 (b) Effect of failure to maintain or enter into mutually
7 agreeable provider contract.--The following shall apply:

8 (1) Failure of a hospital-owned physician practice that
9 is part of an integrated delivery network and the willing
10 health insurance carrier to maintain a mutually agreeable
11 provider contract shall result in the parties entering into a
12 default provider agreement for health care services while
13 they submit to mandatory binding arbitration. The default
14 provider agreement shall set forth payment terms, while all
15 other contractual terms of the previously executed contract
16 shall remain in effect until the arbitration process is
17 completed. The arbitrator shall set all terms of the new
18 provider contract.

19 (2) Failure of a newly affiliated hospital-owned
20 physician practice that is part of an existing integrated
21 delivery network or failure of a hospital-owned physician
22 practice that is part of newly formed integrated delivery
23 network and a willing health insurance carrier to enter into
24 a mutually agreeable provider contract within 90 days of
25 affiliation or formation shall result in the parties entering
26 into immediate mandatory binding arbitration. The arbitrator
27 shall set all terms of the new provider contract.

28 (c) Arbitration.--The following shall apply to arbitration
29 required under subsection (b) (2):

30 (1) A mutually agreeable arbitrator shall be chosen by

1 the parties from the American Arbitration Association's
2 national healthcare panel of arbitrators experienced in
3 handling payor-provider disputes.

4 (2) All costs associated with the arbitration shall be
5 split equally between the parties.

6 (3) The arbitrator shall conduct the arbitration
7 pursuant to the American Arbitration Association's healthcare
8 payor provider rules.

9 (4) Contract terms and conditions shall be established
10 as follows:

11 (i) Each party shall submit best and final contract
12 terms to the arbitrator.

13 (ii) The arbitrator may request the production of
14 documents, data and other information.

15 (iii) Payment terms and all other contractual
16 provisions shall be set by the arbitrator.

17 (d) Term of default provider agreement.--The default
18 provider agreement shall last until the arbitration process
19 between the hospital-owned physician practice that is part of an
20 integrated delivery network and a willing health insurance
21 carrier is completed.

22 (e) Payment under default provider agreement.--The
23 reimbursement rate that a health insurance carrier is required
24 to pay shall be an amount equal to the greatest of the following
25 three possible amounts:

26 (1) The amount negotiated with in-network providers for
27 the same services.

28 (2) The amount calculated by the same method the health
29 insurance carrier generally uses to determine payments for
30 out-of-network services, such as the usual, customary and

1 reasonable charge.

2 (3) The amount that would be paid under Medicare for the
3 same services.

4 (f) Prohibition.--A hospital-owned physician practice is
5 prohibited from incorporating a termination provision within a
6 provider contract with a health insurance carrier that allows
7 for termination for anything other than willful breach.

8 (g) Copies of contracts.--Copies of all provider contracts
9 between a hospital-owned physician practice that is part of an
10 integrated delivery network and any health insurance carrier
11 shall be provided to the department.

12 Section 5. Confidentiality.

13 The following confidentiality provisions shall apply:

14 (1) Provider contracts, documents, materials or
15 information received by the department from a hospital-owned
16 physician practice for the purpose of compliance with this
17 act and regulations developed pursuant to this act shall be
18 confidential.

19 (2) The department may use the information obtained
20 under this act for the sole purpose of compliance with this
21 act.

22 (3) Provider contracts, documents, materials or
23 information made confidential under this act shall not be
24 subject to requests under the act of February 14, 2008

25 (P.L.6, No.3), known as the Right-to-Know Law.

26 Section 6. Enforcement.

27 (a) General rule.--The department shall ensure compliance
28 with this act and shall investigate potential violations of this
29 act based upon information received from health insurance
30 carriers, hospital-owned physician practices, enrollees and

1 other sources.

2 (b) Regulations.--The department shall promulgate
3 regulations as may be necessary to carry out the provisions of
4 this act.

5 Section 7. Civil penalties.

6 The department may impose a civil penalty of not more than
7 \$25,000 per day, not to exceed \$1,000,000 per calendar year, on
8 a hospital-owned physician practice that is part of an
9 integrated delivery network for a violation of this act.

10 Section 8. Effective date.

11 This act shall take effect in 90 days.