

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1828 Session of  
2021

INTRODUCED BY KOSIEROWSKI, BENHAM, FRANKEL, HOHENSTEIN,  
ISAACSON, SANCHEZ, A. DAVIS, BRADFORD, INNAMORATO, SIMS,  
MADDEN, SCHLOSSBERG AND CIRESI, SEPTEMBER 1, 2021

REFERRED TO COMMITTEE ON HEALTH, SEPTEMBER 1, 2021

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; providing for judicial administration; and  
18 prescribing the manner in which the number and compensation  
19 of the deputies and all other assistants and employes of  
20 certain departments, boards and commissions shall be  
21 determined," providing for Office of Health Care Consumer  
22 Advocate; imposing duties on the Office of Attorney General;  
23 and making appropriations.

24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 Section 1. The act of April 9, 1929 (P.L.177, No.175), known  
27 as The Administrative Code of 1929, is amended by adding an  
28 article to read:

1 ARTICLE IX-C

2 OFFICE OF HEALTH CARE CONSUMER ADVOCATE

3 Section 901-C. 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 "Commonwealth agency." Any of the following:

8 (1) The Department of Health.

9 (2) The Department of Human Services.

10 (3) The Insurance Department.

11 (4) Any other department, board, office, commission or  
12 agency under the jurisdiction of the Governor that provides  
13 assistance or information related to health care or health  
14 insurance to consumers or collects data and recommendations  
15 for improving medical services and health care in this  
16 Commonwealth.

17 "Health care." Any medical service, including the following:

18 (1) Behavioral health and mental health.

19 (2) Maternal health.

20 (3) Substance use disorder treatment, including  
21 medication assisted treatment.

22 (4) Preventive health care.

23 (5) Pharmacy and pharmaceutical services.

24 (6) Diagnostic testing and laboratory services.

25 (7) Medical devices and equipment.

26 "Health care consumer." An individual or the parent,  
27 guardian, conservator or authorized representative of the  
28 individual who is:

29 (1) a resident of this Commonwealth, regardless of age;

30 and

1           (2) seeking or has received a medical service.

2           "Health care consumer advocate." The director of the Office  
3 of Health Care Consumer Advocate appointed in accordance with  
4 section 902-C.

5           "Health care facility." As defined in section 103 of the act  
6 of July 19, 1979 (P.L.130, No.48), known as the Health Care  
7 Facilities Act.

8           "Health care provider." As defined in section 103 of the  
9 Health Care Facilities Act.

10          "Health insurance." A group health, sickness or accident  
11 policy or subscriber contract or certificate issued by an entity  
12 subject to any one 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, including section 630 and  
15 Article XXIV of that act.

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

18           (3) The act of May 18, 1976 (P.L.123, No.54), known as  
19 the Individual Accident and Sickness Insurance Minimum  
20 Standards Act.

21           (4) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
22 corporations) or 63 (relating to professional health services  
23 plan corporations).

24          "Health maintenance organization." As defined in section 3  
25 of the Health Maintenance Organization Act.

26          "Individual." A natural person who is a resident of this  
27 Commonwealth, regardless of age, immigration status, criminal  
28 record, housing status or other circumstance of life.

29          "Insurer." An entity subject to any of the following:

30           (1) The Insurance Company Law of 1921, including section

1 630 and Article XXIV of that act.

2 (2) The Health Maintenance Organization Act.

3 (3) The Individual Accident and Sickness Insurance  
4 Minimum Standards Act.

5 (4) 40 Pa.C.S. Ch. 61 or 63.

6 "Managed care organization." As defined in section 501-A of  
7 the act of June 13, 1967 (P.L.31, No.21), known as the Human  
8 Services Code.

9 "Managed care plan." As defined in section 2102 of The  
10 Insurance Company Law of 1921.

11 "Medical service." As defined in section 2 of the act of  
12 December 20, 1985 (P.L.457, No.112), known as the Medical  
13 Practice Act of 1985.

14 "Office." The Office of Health Care Consumer Advocate  
15 established under section 902-C.  
16 Section 902-C. Office of Health Care Consumer Advocate.

17 (a) Establishment.--The Office of Health Care Consumer  
18 Advocate is established within the Office of Attorney General.

19 (b) Purposes.--The purpose of the office is to:

20 (1) Provide assistance to, and advocate on behalf of,  
21 health care consumers in this Commonwealth.

22 (2) Enhance the consumer protection role of the Office  
23 of Attorney General to:

24 (i) Protect the health, safety and general welfare  
25 of health care consumers in this Commonwealth.

26 (ii) Ensure equity in the delivery of quality and  
27 affordable health care to all health care consumers in  
28 this Commonwealth.

29 (3) Coordinate among, provide assistance to and collect  
30 data from all health care or patient assistance programs and

1 consumer call or help centers administered or operated by  
2 Commonwealth agencies to better enable health care consumers  
3 to access the following:

4 (i) Health care.

5 (ii) Commercial health insurance.

6 (iii) The Commonwealth's State-based insurance  
7 marketplace (Pennie).

8 (iv) Medical assistance under the act of June 13,  
9 1967 (P.L.31, No.21), known as the Human Services Code.

10 (v) Federal veterans' health benefits.

11 Section 903-C. Office staff.

12 (a) Health care consumer advocate.--

13 (1) The Attorney General shall appoint the health care  
14 consumer advocate, who shall be:

15 (i) A deputy attorney general.

16 (ii) By reason of training, experience and  
17 professional expertise, qualified to represent the health  
18 care interests of health care consumers in this  
19 Commonwealth.

20 (2) The term of the health care consumer advocate shall  
21 be for six years.

22 (3) An individual may be reappointed to serve subsequent  
23 terms as a health care consumer advocate as determined by the  
24 Attorney General.

25 (4) The health care consumer advocate may not:

26 (i) Engage in any business, vocation or other  
27 employment, or have other interests, inconsistent with  
28 the official responsibilities of the office.

29 (ii) Seek or accept employment with, or render  
30 beneficial services for compensation to, a health care

1 provider or insurer for a period of two years from the  
2 date that the appointment as health care consumer  
3 advocate expires or the term of office as health care  
4 consumer advocate is terminated.

5 (iii) Seek election or accept appointment to a  
6 political office during the tenure as health care  
7 consumer advocate and for a period of two years from the  
8 date that the appointment as health care consumer  
9 advocate expires or the term of office as health care  
10 consumer advocate is terminated.

11 (b) Assistant health care consumer advocates and other  
12 employees.--

13 (1) In consultation with the Attorney General, the  
14 health care consumer advocate shall:

15 (i) Appoint attorneys as assistant health care  
16 consumer advocates and employ other individuals,  
17 including administrative, support, technical and  
18 professional staff, as may be necessary to carry out the  
19 powers and duties of the office.

20 (ii) Contract for additional services as may be  
21 necessary to carry out the powers and duties of the  
22 office.

23 (2) The employees of the office shall be considered  
24 State employees for purposes of 71 Pa.C.S. Pt. XXV (relating  
25 to retirement for State employees and officers).

26 (3) An assistant health care consumer advocate or other  
27 employee of the office may not, while serving in the  
28 position, engage in any business, vocation or other  
29 employment or have other interests inconsistent with the  
30 duties and responsibilities of employment of the assistant

1 health care consumer advocate or employee.

2 (4) Assistant health care consumer advocates and other  
3 employees of the office shall reflect the diverse racial,  
4 ethnic, gender, age, sexual orientation, religious and  
5 disability demographics of this Commonwealth.

6 Section 904-C. Powers and duties of office.

7 The office, at the direction of the health care consumer  
8 advocate, shall:

9 (1) Review complaints received by the office related to  
10 the delivery of health care and health insurance benefits and  
11 conduct any investigations necessary to assure quality and  
12 affordable health care, including the delivery of  
13 geographically, culturally and linguistically appropriate  
14 health care, for all residents of this Commonwealth.

15 (2) Appear as an amicus curiae in proceedings involving  
16 any of the following:

17 (i) A health care quality standard or issue.

18 (ii) Complaints alleging negligence in the delivery  
19 of health care.

20 (iii) Complaints alleging denial of health insurance  
21 benefits or unfair insurance practices.

22 (iv) Any other complaint, allegation or matter  
23 related to the delivery of or access to health care or  
24 health insurance benefits.

25 (3) Intervene in or request initiation of an  
26 administrative action by the Commonwealth or a Commonwealth  
27 agency related to the delivery of health care or health  
28 insurance benefits.

29 (4) Assist and cooperate with any Commonwealth agency in  
30 the investigation of complaints, occurrences, conditions or

1 practices with respect to inadequacies or inequities in the  
2 delivery of health care, health insurance or covered  
3 benefits.

4 (5) Assist health care consumers with managed care plan  
5 selection by providing information, referral and assistance  
6 related to obtaining health insurance coverage and benefits.

7 (6) Assist health care consumers with the filing of  
8 complaints, grievances and appeals, including filing appeals  
9 with a managed care organization's internal appeal or  
10 grievance process and any external appeal process that may be  
11 available to a health care consumer.

12 (7) Ensure that health care consumers have timely access  
13 to the services provided by the office.

14 (8) Pursue administrative remedies on behalf of and with  
15 the consent of any health care consumer.

16 (9) Analyze and monitor the development and  
17 implementation of Federal, State and local laws, regulations  
18 and policies relating to the delivery of health care and  
19 health insurance and recommend legislative or regulatory  
20 changes where appropriate.

21 (10) Facilitate public comment on laws, regulations and  
22 policies or proposed laws, regulations and policies,  
23 including any law, regulation or policy impacting the  
24 availability and affordability of health care and health  
25 insurance, by convening public hearings, webinars, forums and  
26 town halls.

27 (11) When appropriate, refer health care consumers to  
28 the appropriate Commonwealth agency for filing complaints or  
29 grievances and to protect the interests of health care  
30 consumers.



1           (12) In consultation with the Insurance Department,  
2 compile a list of complaints received against insurers. The  
3 following apply:

4           (i) The list may be maintained jointly by the office  
5 and the Insurance Department.

6           (ii) Notwithstanding any other provision of law, the  
7 names and any other personal identifying information  
8 compiled and maintained on the list in accordance with  
9 this paragraph shall be confidential and shall not be  
10 subject to disclosure under the act of February 14, 2008  
11 (P.L.6, No.3), known as the Right-to-Know Law.

12           (13) In consultation with the Department of State, or  
13 with the appropriate licensing boards under the jurisdiction  
14 of the Department of State, compile a list of complaints  
15 received against health care providers. The following apply:

16           (i) The list may be maintained jointly by the office  
17 and the Department of State or the appropriate licensing  
18 board.

19           (ii) Notwithstanding any other provision of law, the  
20 names and any other personal identifying information  
21 compiled and maintained on the list in accordance with  
22 this paragraph shall be confidential and shall not be  
23 subject to disclosure under the Right-to-Know Law.

24           (14) In consultation with the Department of Health,  
25 compile a list of complaints received against health care  
26 facilities. The following apply:

27           (i) The list may be maintained jointly by the office  
28 and the Department of Health.

29           (ii) Notwithstanding any other provision of law, the  
30 names and any other personal identifying information

1 compiled and maintained on the list in accordance with  
2 this paragraph shall be confidential and shall not be  
3 subject to disclosure under the Right-to-Know Law.

4 (15) In consultation with the Department of Human  
5 Services, compile a list of complaints received against  
6 health care providers, insurers, health maintenance  
7 organizations or any other for-profit or nonprofit entity  
8 that provides medical services to medical assistance  
9 recipients or that receives payments for such services in  
10 accordance with the act of June 13, 1967 (P.L.31, No.21),  
11 known as the Human Services Code. The following apply:

12 (i) The list may be maintained jointly by the office  
13 and the Department of Human Services.

14 (ii) Notwithstanding any other provision of law, the  
15 names and any other personal identifying information  
16 compiled and maintained on the list in accordance with  
17 this paragraph shall be confidential and shall not be  
18 subject to disclosure under the Right-to-Know Law.

19 (16) In consultation with the Department of Health, the  
20 Department of Human Services and the Insurance Department,  
21 establish health care consumer assistance help centers or  
22 call centers or utilize existing help centers or call centers  
23 operated by the Department of Health, the Department of Human  
24 Services or the Insurance Department, for use by health care  
25 consumers to obtain information or file or report complaints  
26 related to the delivery of health care or health insurance  
27 coverage. The office shall collaborate with the Department of  
28 Health, the Department of Human Services and the Insurance  
29 Department to develop model protocols to govern how the help  
30 centers or call centers respond to:

1           (i) Requests for information.

2           (ii) The acceptance and filing of health care  
3 consumer complaints.

4           (iii) Health care consumer inquiries, including  
5 inquiries that may be outside the jurisdiction of the  
6 office.

7           (17) Contract and execute instruments as necessary to  
8 carry out the powers and duties of the office.

9           (18) Take any other actions necessary to administer and  
10 enforce the provisions of this article, including:

11           (i) Collecting, tracking and analyzing data on  
12 problems and complaints by, and questions from, health  
13 care consumers about health care coverage for the purpose  
14 of providing public information about problems  
15 encountered and information needed by health care  
16 consumers in accessing health care and health insurance.

17           The data collected shall include:

18                   (A) Demographic data.

19                   (B) The source or sources of health insurance  
20 coverage.

21                   (C) Identification of the regulatory agency.

22                   (D) The nature of complaints, problems or issues  
23 or comparable types of complaints, problems or  
24 issues.

25                   (E) The resolution of complaints, problems or  
26 issues, including the timeliness of resolution.

27           (ii) Providing geographically, culturally and  
28 linguistically appropriate public education.

29           (iii) Instituting legal action, to secure and ensure  
30 compliance with the provisions of the health care and

1 health insurance laws and regulations of this  
2 Commonwealth.

3 (iv) Advocating for any administrative or  
4 legislative changes determined necessary to support the  
5 goal of quality and affordable health care, including the  
6 delivery of geographically, culturally and linguistically  
7 appropriate health care, for all residents in this  
8 Commonwealth.

9 (19) Within six months after the effective date of this  
10 paragraph, in a manner that does not impede the immediate  
11 implementation of the powers and duties of the office under  
12 this article and in consultation with the Attorney General,  
13 develop an inclusion and participation plan to ensure that:

14 (i) All health care consumers are accorded equity in  
15 securing relief under this article.

16 (ii) All persons are accorded equality of  
17 opportunity in employment and contracting by the office  
18 and its contractors, subcontractors, assignees, lessees,  
19 agents, vendors and suppliers.

20 (20) Develop a publicly accessible Internet website  
21 configured to be easily navigated by health care consumers to  
22 retrieve public information related to the delivery of health  
23 care and health insurance. The office shall, to the extent  
24 feasible, ensure that the information posted on its publicly  
25 accessible Internet website can be translated into other  
26 languages spoken by residents of this Commonwealth who speak  
27 English as a second language, including Spanish.

28 (21) Submit reports and recommendations, in addition to  
29 the annual report under section 905-C, as necessary or  
30 desirable to carry out the purposes, powers and duties of the

1 office.

2 Section 905-C. Reports.

3 (a) Requirement.--The health care consumer advocate shall  
4 submit an annual report to:

5 (1) The Governor.

6 (2) The majority chairperson and minority chairperson of  
7 the Banking and Insurance Committee of the Senate.

8 (3) The majority chairperson and minority chairperson of  
9 the Health and Human Services Committee of the Senate.

10 (4) The majority chairperson and minority chairperson of  
11 the Health Committee of the House of Representatives.

12 (5) The majority chairperson and minority chairperson of  
13 the Human Services Committee of the House of Representatives.

14 (6) The majority chairperson and minority chairperson of  
15 the Insurance Committee of the House of Representatives.

16 (b) Contents.--A report under subsection (a) shall summarize  
17 the activities of the health care consumer advocate and the  
18 office for the preceding calendar year and shall include  
19 information and metrics regarding:

20 (1) Activities of the health care consumer advocate,  
21 including:

22 (i) Case volume, including the type and nature of  
23 complaints related to access to health care and health  
24 insurance.

25 (ii) Stakeholder surveys and survey results.

26 (iii) Outreach and education activities.

27 (iv) Participation on committees and working groups,  
28 along with legislative recommendations and outcomes.

29 (2) The subject, disposition and number of complaints,  
30 investigations, mediations, appeals and other administrative

1 or legal actions.

2 (3) Problems and concerns discerned by the office from  
3 the complaints, investigations, mediations, appeals and legal  
4 actions, if any.

5 (4) The need, if any, for administrative, legislative or  
6 regulatory remedies for inadequacies or inequities in the  
7 delivery of health care or access to health care insurance.

8 (5) Quantitative and qualitative documentation of health  
9 care outcomes, including:

10 (i) The number of individuals with and without  
11 health care insurance, rural and urban access to health  
12 care providers and health care facilities.

13 (ii) Appeal success rate.

14 (iii) Financial returns to individuals and the  
15 Commonwealth.

16 (iv) Testimonies from health care consumers, health  
17 care workers, residents and stakeholders related to the  
18 delivery of health care and access to health insurance.

19 (c) Format.--To the extent feasible, a report under  
20 subsection (a) shall be disaggregated by income level, race and  
21 ethnicity, immigration and citizenship status, health care  
22 insurance status, type of health insurance, health insurance  
23 premium rates, if known, county of residence and other relevant  
24 demographic information as determined appropriate by the health  
25 care consumer advocate to ensure equity.

26 (d) Publication.--The office shall:

27 (1) Submit each report under subsection (a) to the  
28 Legislative Reference Bureau for publication in the  
29 Pennsylvania Bulletin.

30 (2) Post the report on the publicly accessible Internet

1 website of the office.

2 Section 906-C. Request for information.

3 The health care consumer advocate shall respond promptly to  
4 reasonable requests for information from the Governor, the  
5 General Assembly and Commonwealth agencies.

6 Section 907-C. Health care information.

7 (a) Authorization.--Notwithstanding any other provision of  
8 law, the office shall be entitled to receive confidential health  
9 care information available to the Commonwealth agencies.

10 (b) Restrictions.--Confidential health care information  
11 received by the office under this section may not:

12 (1) Be disclosed by the health care consumer advocate,  
13 an employee of the office or any other person, except  
14 pursuant to judicial process.

15 (2) Be used against the subject of the information or  
16 any other person in any administrative, civil or criminal  
17 proceeding or in any other matter.

18 (3) Include the name, address or Social Security number  
19 of the subject of the information or any information that  
20 specifically identifies the subject of the information.

21 (c) Disposition of records.--Upon the completion of an  
22 investigation, administrative or legal action initiated or  
23 conducted under this article, all records obtained by the office  
24 under this section shall be destroyed.

25 Section 908-C. Commonwealth agency cooperation.

26 Notwithstanding any other law to the contrary, each  
27 Commonwealth agency shall cooperate with the office in carrying  
28 out the powers and duties under this article, including the  
29 furnishing of data and information related to the delivery of  
30 health care and health insurance coverage.

1 Section 909-C. Liability.

2 (a) Immunity.--

3 (1) Notwithstanding any other provision of law, a cause  
4 of action shall not arise and liability shall not be imposed  
5 against the health care consumer advocate, an employee of the  
6 office, a health care provider or insurer, an employee of a  
7 health care provider or insurer or any other person subject  
8 to the provisions of this article for any statement made,  
9 investigation conducted or activity performed in good faith  
10 in accordance with the provisions of this article, unless the  
11 lack of good faith is demonstrated by clear and convincing  
12 evidence.

13 (2) A cause of action shall not arise and liability  
14 shall not be imposed against a person identified in paragraph  
15 (1) for the act of communicating or delivering information or  
16 data to the health care consumer advocate, the Attorney  
17 General or an employee of the office or the Office of  
18 Attorney General pursuant to an investigation conducted under  
19 this article if the act of communication or delivery was  
20 performed in good faith and without fraudulent intent or the  
21 intent to deceive.

22 (b) Other privileges and immunities.--This section shall not  
23 abrogate or modify in any way any common law or statutory  
24 privilege or immunity established prior to the effective date of  
25 this subsection.

26 (c) Good faith.--The presumption of good faith may be  
27 rebutted by clear and convincing evidence establishing that a  
28 person subject to the provisions of this article disclosed  
29 information that:

30 (1) the person knew was false or, in the exercise of due



1 diligence, should have known was false;

2 (2) the person knew was materially misleading;

3 (3) was false and rendered with reckless disregard as to  
4 the truth or falsity of the information; or

5 (4) was prohibited from disclosure under Federal or  
6 State law.

7 (d) Effect on immunity.--This section shall not be construed  
8 to affect immunities from civil liability or defenses  
9 established under any other law or available at common law to  
10 which a person identified in subsection (a) may be entitled.

11 Section 910-C. Regulations, guidelines or policy statements.

12 The office may adopt and promulgate regulations, guidelines  
13 or policy statements to carry out the provisions of this  
14 article.

15 Section 911-C. Appropriations.

16 Notwithstanding Subarticle A of Article XVII-A of the act of  
17 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, or  
18 any other provision of law, for the fiscal year beginning July  
19 1, 2021, and ending June 30, 2022, and for each fiscal year  
20 thereafter, the sum of \$10,000,000, or as much thereof as may be  
21 necessary, is hereby appropriated to the Attorney General from  
22 the Budget Stabilization Reserve Fund to implement and  
23 administer the provisions of this article.

24 Section 912-C. Construction.

25 No provision of this article shall be construed to:

26 (1) Limit the right of a health care consumer to bring a  
27 proceeding before another Commonwealth agency or a court with  
28 jurisdiction.

29 (2) Abrogate or otherwise limit the authority of another  
30 Commonwealth agency, including the authority to resolve

1 consumer complaints, grievances and appeals.

2 Section 2. This act shall take effect in 60 days.