

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1688 Session of  
2017

INTRODUCED BY DeLISSIO, ROZZI, BULLOCK, HARKINS, THOMAS,  
FREEMAN, DONATUCCI, STURLA AND RABB, OCTOBER 2, 2017

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 2, 2017

AN ACT

1 Providing for a Statewide comprehensive health care system;  
2 establishing the Pennsylvania Health Care Plan and providing  
3 for eligibility, services, coverages, subrogation,  
4 participating and nonparticipating providers, cost  
5 containment, quality assurance and for transitional support  
6 and training; establishing the Pennsylvania Health Care  
7 Board, the Pennsylvania Health Care Agency, the Office of  
8 Health Care Ombudsman and the Pennsylvania Health Care Trust  
9 Fund; and imposing a payroll tax and an additional personal  
10 income tax.

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27 employees.  
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29 Section 4501. Effective date.  
30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

3 PRELIMINARY PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the Pennsylvania  
6 Health Care Plan Act.

7 Section 102. Definitions.

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

11 "Advisory committee." The advisory committee under section  
12 301(b).

13 "Agency." The Pennsylvania Health Care Agency established  
14 under section 321.

15 "Board." The Pennsylvania Health Care Board established  
16 under section 301.

17 "Executive director." The executive director of the  
18 Pennsylvania Health Care Agency.

19 "Fund." The Pennsylvania Health Care Trust Fund established  
20 under section 901.

21 "Office." The Office of Health Care Ombudsman established  
22 under section 331(a).

23 "Ombudsman." The health care ombudsman appointed under  
24 section 331(b).

25 "Participant." An individual who is enrolled in the plan.

26 "Plan." The Pennsylvania Health Care Plan established under  
27 section 501.

28 "Quality of care panels." The Health Professional Quality  
29 Panel, Health Institution Quality Panel and Health Supplier  
30 Quality Panel under section 303.

1 CHAPTER 3

2 ADMINISTRATION OF PENNSYLVANIA HEALTH CARE PLAN

3 SUBCHAPTER A

4 PENNSYLVANIA HEALTH CARE BOARD

5 Section 301. Pennsylvania Health Care Board.

6 (a) Board established.--The Pennsylvania Health Care Board  
7 is established as an independent administrative board. The board  
8 shall be composed of the following members:

9 (1) A member appointed by the Governor who shall serve  
10 as chairperson of the board.

11 (2) Two members from geographically diverse areas of  
12 this Commonwealth who have frequent and direct contact with  
13 the health care system and are knowledgeable about health  
14 issues as follows:

15 (i) A caregiver of a child with a chronic illness or  
16 developmental disability.

17 (ii) An adult with a chronic illness, physical  
18 disability or mental illness.

19 (3) A physician.

20 (4) A dentist.

21 (5) An ophthalmologist or optometrist.

22 (6) A pharmacist.

23 (7) A hospital representative.

24 (8) A skilled nursing facility representative.

25 (9) An attorney with expertise in health care law and  
26 policy.

27 (10) A mental health care professional.

28 (11) A representative of a business with fewer than 50  
29 employees.

30 (12) A representative of a business with more than 50



1 employees.

2 (13) An organized labor representative from the health  
3 sector.

4 (14) A public health professional.

5 (b) Advisory committee.--

6 (1) Except for the gubernatorial appointee, the members  
7 of the board shall be appointed by an advisory committee  
8 comprised of the following:

9 (i) The President pro tempore of the Senate or a  
10 designee.

11 (ii) The Minority Leader of the Senate or a  
12 designee.

13 (iii) The Speaker of the House of Representatives or  
14 a designee.

15 (iv) The Minority Leader of the House of  
16 Representatives or a designee.

17 (v) The Secretary of Health or a designee.

18 (vi) The Secretary of Aging or a designee.

19 (vii) The Secretary of Human Services or a designee.

20 (viii) The Insurance Commissioner or a designee.

21 (ix) The Secretary of Labor and Industry or a  
22 designee.

23 (2) All actions of the advisory committee shall be by  
24 majority vote of the members present. A quorum shall be at  
25 least one more than half the number of the advisory committee  
26 members. Vacancies shall not be counted when calculating the  
27 number needed for a quorum.

28 (3) The advisory committee shall elect a chair from  
29 among its members. The advisory committee shall meet upon the  
30 call of the chair of the advisory committee.

1           (4) Advisory committee members shall not receive a  
2 salary but shall be reimbursed for all necessary expenses  
3 incurred in the performance of their duties.

4       (c) Terms.--

5           (1) Except as set forth in paragraph (2), the terms of  
6 the members shall be four years from the date of appointment  
7 or until a successor has been appointed.

8           (2) Of the initial members appointed by the advisory  
9 committee:

10           (i) One-half of the members shall serve initial  
11 terms of four years.

12           (ii) One-half of the members shall serve initial  
13 terms of two years.

14           (iii) After the initial terms, individuals appointed  
15 by the advisory committee shall serve for a term of four  
16 years.

17       (d) Filling of vacancy.--Each vacancy on the board shall be  
18 filled for the unexpired term by appointment in like manner as  
19 in case of expiration of the term of a member of the board. A  
20 vacancy shall be filled by a representative from the same  
21 constituent group as the new member's predecessor.

22       (e) Board chairperson.--The Executive Board established by  
23 section 204 of the act of April 9, 1929 (P.L.177, No.175), known  
24 as The Administrative Code of 1929, shall determine the salary  
25 to be paid to the chairperson of the board. The chairperson of  
26 the board shall, when present, preside at all meetings and, if  
27 absent, a member designated by the chairperson shall preside.

28       (f) Expenses.--Members of the board who are appointed by the  
29 advisory committee shall be reimbursed only for necessary and  
30 actual expenses incurred in the performance of their duties.

1 (g) Meetings and conduct of business.--

2 (1) The chairperson of the board shall set the time,  
3 place and date for the initial meeting of the board. The  
4 initial meeting shall be scheduled not sooner than 30 days  
5 nor later than 90 days after the appointment of the  
6 chairperson. Subsequent meetings shall occur as determined by  
7 the board but not less than six times annually. The  
8 chairperson may call additional meetings.

9 (2) The board is subject to:

10 (i) The provisions of 65 Pa.C.S. Ch. 7 (relating to  
11 open meetings).

12 (ii) The act of February 14, 2008 (P.L.6, No.3),  
13 known as the Right-to-Know Law.

14 (3) A board member shall be deemed to have abandoned  
15 office upon failure to attend at least 75% of the board  
16 meetings in one year, without excuse approved by resolution  
17 of the board.

18 (4) Decisions at meetings of the board shall be reached  
19 by majority vote of those present in person and those present  
20 by electronic or telephonic means which permit, at a minimum,  
21 audio-video communication. Participation in a meeting  
22 pursuant to this paragraph shall constitute presence at the  
23 meeting. Absentee or proxy voting shall not be allowed.

24 (h) Quorum.--A quorum for the conducting of business at  
25 meetings of the board shall be at least one more than half the  
26 number of the board members. Vacancies shall not be counted when  
27 calculating the number needed for a quorum.

28 (i) Prohibition.--No member of the board may hold any other  
29 salaried public office, either elected or appointed, during the  
30 member's tenure on the board.

1 Section 302. Duties of board.

2 (a) General duties.--The board is responsible for directing  
3 the agency in the performance of all duties, the exercise of all  
4 powers and the assumption and discharge of all functions vested  
5 in the agency. The board shall adopt and publish its policies  
6 and procedures in the Pennsylvania Bulletin no later than 180  
7 days after the first meeting of the board.

8 (b) Specific duties.--The board shall:

9 (1) Implement statutory eligibility standards for health  
10 care benefits.

11 (2) Annually adopt a health care benefits package for  
12 participants of the plan.

13 (3) Act directly or through one or more contractors as  
14 the single payer administrator for all claims for health care  
15 services provided under the plan.

16 (4) At least annually, review the appropriateness and  
17 sufficiency of reimbursements for health care services  
18 rendered and consider whether a charge is fair and reasonable  
19 for its metropolitan statistical area.

20 (5) Provide for timely payments to participating  
21 providers through a structure that is well organized and that  
22 eliminates unnecessary administrative costs.

23 (6) Implement standardized claims and reporting methods  
24 for use by the plan.

25 (7) Develop a system of centralized electronic claims  
26 and payments accounting.

27 (8) Establish an enrollment system that will ensure that  
28 eligible residents are knowledgeable and aware of their  
29 rights to health care and are formally enrolled in the plan.

30 (9) Adopt bylaws for governing its operations.



1           (10) Report annually to the General Assembly and to the  
2 Governor, on or before the first day of October, on the  
3 following:

4           (i) The performance of the plan.

5           (ii) The fiscal condition of the plan.

6           (iii) Recommendations for statutory changes.

7           (iv) The receipt of payments from the Federal  
8 Government.

9           (v) Whether current year goals and priorities were  
10 met.

11          (vi) Future goals and priorities.

12          (11) Obtain appropriate liability and other forms of  
13 insurance to provide coverage for the plan, the board, the  
14 agency and their employees and agents.

15          (12) Provide for oversight of the agency by taking the  
16 following actions:

17           (i) Establishing standards and criteria for the  
18 allocation of operating funds.

19           (ii) Meeting regularly to review the performance of  
20 the agency and adopt and revise its policies.

21           (iii) Establishing goals for the health care  
22 delivery system established pursuant to the plan in  
23 measurable terms.

24           (iv) Supporting the development of an integrated  
25 health care database for health care planning and quality  
26 assurance.

27           (v) Implementing policies and developing mechanisms  
28 and incentives to maximize efficacy across language and  
29 cultural barriers.

30           (vi) Establishing rules and procedures for



1 implementation and staffing of a no-fault compensation  
2 system for iatrogenic injuries or complications of care  
3 in cases where a patient's condition is made worse or an  
4 opportunity for cure or improvement is lost due to the  
5 health care or medication provided or appropriate care  
6 not provided by participating providers under the plan.

7 (vii) Establishing standards and criteria for the  
8 determination of appropriate transitional support and  
9 training in accordance with Chapter 11 for residents of  
10 this Commonwealth who are displaced from work.

11 (viii) Evaluating the state of the art in proven  
12 technical innovations, medications and procedures and  
13 adopting policies to expedite their introduction in this  
14 Commonwealth.

15 (ix) Establishing methods for the recovery of costs  
16 for health care services provided under the plan to a  
17 participant who is also covered under the terms of a  
18 policy of insurance, a health benefit plan or other  
19 collateral source available to the participant under  
20 which the participant has a right of action for  
21 compensation. Receipt of health care services under the  
22 plan shall be deemed an assignment by the participant of  
23 any right to payment for services from a policy of  
24 insurance, a health benefit plan or other source. The  
25 other source of health care benefits shall pay to the  
26 fund all amounts it is obligated to pay to, or on behalf  
27 of, the participant for covered health care services. The  
28 board may commence any action necessary to recover the  
29 amounts due.

30 (13) Establish the quality of care panels in accordance

1 with section 303.

2 (14) Establish a secure and centralized electronic  
3 health record system wherein a participant's entire health  
4 record can be readily and reliably accessed by authorized  
5 persons with the objective of eliminating the errors and  
6 expense associated with paper records and diagnostic films.  
7 The system shall ensure the privacy of all health records it  
8 contains.

9 (15) Establish, from the revenues received, a reserve  
10 fund sufficient to provide a continuation of services during  
11 periods of reduced or insufficient revenue due to economic  
12 conditions or unforeseen emergency major health care needs.

13 (16) Adopt rules of ethics and definitions of  
14 irreconcilable conflicts of interest that will determine  
15 under what circumstances members must recuse themselves from  
16 voting. The executive director and board members and their  
17 immediate families are prohibited from having any pecuniary  
18 interest in any business with a contract or in negotiation  
19 for a contract with the agency. For purposes of this  
20 paragraph, the term "immediate family member" includes a  
21 spouse, child, stepchild, parent, stepparent, grandparent,  
22 brother, stepbrother, sister, stepsister or like relative-in-  
23 law.

24 (17) Establish procedures to identify, investigate and  
25 resolve fraudulent practices in connection with the plan.

26 (18) Promulgate regulations and establish guidelines and  
27 standards necessary to implement this act.

28 Section 303. Quality of care panels.

29 (a) Establishment.--The following quality of care panels  
30 shall be established by the board upon recommendation of the

1 advisory committee:

2 (1) The Health Professional Quality Panel.

3 (2) The Health Institution Quality Panel.

4 (3) The Health Supplier Quality Panel.

5 (b) Composition.--The quality of care panels shall be  
6 comprised of persons who represent a cross section of the  
7 medical and provider community as follows:

8 (1) Appointments shall be made by the board upon  
9 recommendation of the advisory committee. The board shall  
10 appoint a board member to serve as a nonvoting member and  
11 chairperson of each quality of care panel.

12 (2) The Health Professional Quality Panel shall consist  
13 of one representative of each of the following  
14 constituencies:

15 (i) Primary care physicians.

16 (ii) Specialty care physicians.

17 (iii) Clinical psychologists.

18 (iv) Nurses.

19 (v) Social workers.

20 (vi) Midwives.

21 (vii) Nutritionists.

22 (viii) Pharmacists.

23 (ix) Optometrists.

24 (x) Podiatrists.

25 (xi) Hearing specialists.

26 (xii) Physical or occupational therapists.

27 (xiii) Dentists.

28 (xiv) Chiropractors.

29 (xv) Health educators.

30 (xvi) Acupuncturists.

1 (xvii) Consumers.

2 (3) The Health Institution Quality Panel shall consist  
3 of one representative of each of the following  
4 constituencies:

5 (i) Academic medical centers.

6 (ii) Community hospitals.

7 (iii) Rehabilitation centers.

8 (iv) Trauma systems.

9 (v) Convenient care centers.

10 (vi) Hospice program.

11 (vii) Substance abuse centers.

12 (viii) Home health care services.

13 (ix) Skilled nursing facilities.

14 (x) Birth centers.

15 (xi) Consumers.

16 (4) The Health Supplier Quality Panel shall consist of  
17 one representative of each of the following constituencies:

18 (i) Medical imaging facilities.

19 (ii) Medical laboratories.

20 (iii) Durable medical equipment suppliers.

21 (iv) Pharmaceutical suppliers.

22 (v) Medical suppliers other than durable medical  
23 equipment suppliers.

24 (vi) Electronic medical records.

25 (vii) Consumers.

26 (c) Consumer representatives.--Each consumer representative  
27 under subsection (b) must possess expertise in the area of  
28 health care of the quality of care panel to which the consumer  
29 representative is appointed.

30 (d) Duties.--Duties of the quality of care panels shall



1 include:

2 (1) Making recommendations to the board on the  
3 establishment of policy on medical issues, population-based  
4 public health issues, research priorities, scope of services,  
5 expansion of access to health care services and evaluation of  
6 the performance of the plan in order to provide high quality  
7 care for residents of this Commonwealth.

8 (2) Investigating proposals for innovative approaches to  
9 the promotion of health, the prevention of disease and  
10 injury, patient education, research and health care delivery.

11 (3) Advising the board on the establishment of standards  
12 and criteria to evaluate requests from health care facilities  
13 for capital improvements.

14 (4) Develop and recommend a schedule of reimbursement  
15 rates for covered medical services.

16 (5) Evaluating and advising the board on requests from  
17 providers or their representatives for adjustments to  
18 reimbursements.

19 (6) Coordinating resources in order to minimize  
20 duplication among providers, institutions and suppliers.

21 (7) Evaluating research in order to recommend products  
22 or services.

23 (8) Presenting key recommendations in a report to the  
24 board on improving quality of care. The quality of care  
25 recommendations shall be presented in a formal report at  
26 every board meeting.

27 (e) Compensation.--Voting members of the quality of care  
28 panels shall be paid a per diem rate, established by the board,  
29 for attendance at meetings and further be reimbursed for actual  
30 and necessary expenses incurred in the performance of their



1 duties.

2 (f) Meetings.--The quality of care panels shall meet  
3 regularly as needed to create policies and recommendations to  
4 deliver cost-effective, evidence-based, quality health care to  
5 the residents of this Commonwealth.

6 (g) Staffing.--The board shall hire staff to work with the  
7 agency on the development of quality of care recommendations.

8 (h) Report to board.--The chair of each quality of care  
9 panel shall inform the board on progress or explain the lack of  
10 progress in implementing key recommendations of the quality of  
11 care panels.

12 SUBCHAPTER B

13 PENNSYLVANIA HEALTH CARE AGENCY

14 Section 321. Pennsylvania Health Care Agency.

15 (a) Establishment.--The Pennsylvania Health Care Agency is  
16 established. The agency shall administer the plan and is the  
17 sole agency authorized to accept Federal and State grants-in-  
18 aid. The agency shall use Federal and State money received to  
19 secure full compliance with applicable provisions of Federal and  
20 State law and to carry out the purposes of this act. All grants-  
21 in-aid accepted by the agency shall be deposited into the fund,  
22 together with other revenues raised within this Commonwealth to  
23 fund the plan.

24 (b) Executive director.--The executive director of the  
25 agency shall be appointed by and shall serve at the pleasure of  
26 the board. The executive director shall be the chief  
27 administrator of the plan and is responsible for the  
28 implementation of the plan. The executive director shall oversee  
29 the operation of the agency and the agency's performance of any  
30 duties assigned by the board.

1 (c) Salary of executive director.--The salary of the  
2 executive director shall not exceed the statutory salary of the  
3 Governor. The executive director may not hold any other salaried  
4 public office, either elected or appointed, during the executive  
5 director's tenure with the agency.

6 (d) Personnel and employees.--The board shall employ and fix  
7 the compensation of agency personnel. The employment of  
8 personnel by the board is subject to the civil service laws of  
9 this Commonwealth.

#### 10 SUBCHAPTER C

#### 11 OFFICE OF HEALTH CARE OMBUDSMAN

12 Section 331. Office of Health Care Ombudsman.

13 (a) Establishment.--The Office of Health Care Ombudsman is  
14 established to represent the interests of plan participants and  
15 prospective participants.

16 (b) Health care ombudsman.--The office shall be headed by  
17 the health care ombudsman, who shall be appointed by the board  
18 upon recommendation of the advisory committee. The ombudsman  
19 shall serve at the pleasure of the board until a successor is  
20 appointed and qualified. The ombudsman shall be a person who by  
21 reason of training, experience and attainment is qualified to  
22 represent the interest of participants and prospective  
23 participants. The ombudsman shall devote full time to the  
24 office.

25 (c) Employment restrictions.--No individual who serves as an  
26 ombudsman shall, while serving in the position, engage in any  
27 business, vocation or other employment, or have other interests,  
28 that conflict with the official responsibilities of the  
29 ombudsman during the tenure of the appointment.

30 (d) Political office restrictions.--Any individual who is

1 appointed to the position of ombudsman shall not seek election  
2 nor accept appointment to any political office during the tenure  
3 as ombudsman.

4 (e) Staff.--The ombudsman shall appoint attorneys and  
5 additional clerical, technical and professional staff as may be  
6 appropriate and may contract for additional services as shall be  
7 necessary for the performance of the functions of the office.  
8 No employee shall, while employed by the office, engage in any  
9 business, vocation or other employment, or have other interests,  
10 that conflict with the official responsibilities of the  
11 employee.

12 (f) Compensation.--The compensation of the ombudsman and the  
13 attorneys and clerical, technical and professional staff of the  
14 office shall be set by the Executive Board established by  
15 section 204 of the act of April 9, 1929 (P.L.177, No.175), known  
16 as The Administrative Code of 1929.

17 (g) Role of agency.--The agency shall have administrative  
18 responsibilities for the office only and shall not be  
19 responsible, in any manner, for the policies, procedures or  
20 other substantive matters developed by the office in carrying  
21 out its duties to represent the plan participants and  
22 prospective participants.

23 Section 332. Duties of office.

24 (a) Duties of office.--In addition to any other duties  
25 prescribed by this act, the office shall respond to questions,  
26 complaints and problems related to implementation of the plan.  
27 The office shall respond to an issue related to implementation  
28 of the plan by acting directly or through one or more  
29 contractors. The initial response of the office shall occur  
30 within 24 hours following the office's notification of an issue.

1 The office shall work with agency staff to provide information  
2 when questions are presented and to identify permanent or  
3 temporary resolutions to complaints and problems.

4 (b) Report.--The ombudsman shall prepare a report for each  
5 board meeting summarizing major issues presented to the office  
6 and recommendations for their resolution by the board.

7 Section 333. Funding of office.

8 The operating costs and expenses of the office shall be paid  
9 from the money deposited in the fund.

10 SUBCHAPTER D

11 (Reserved)

12 SUBCHAPTER E

13 (Reserved)

14 SUBCHAPTER F

15 IMMUNITY

16 Section 371. Immunity.

17 In the absence of fraud or bad faith, the quality of care  
18 panels, the board and agency and their respective members and  
19 employees shall incur no liability in relation to the  
20 performance of their duties and responsibilities under this act.  
21 The Commonwealth shall incur no liability in relation to the  
22 implementation and operation of the plan.

23 CHAPTER 5

24 PENNSYLVANIA HEALTH CARE PLAN

25 Section 501. Establishment of plan.

26 (a) Establishment of plan.--The Pennsylvania Health Care  
27 Plan is established and shall be administered by the agency  
28 under the direction of the board.

29 (b) Coverage.--The plan shall provide health care coverage  
30 for residents of this Commonwealth in accordance with this act.



1 The agency shall work simultaneously to:

2 (1) Control health care costs.

3 (2) Achieve measurable improvement in health care  
4 outcomes.

5 (3) Promote a culture of health awareness.

6 (4) Develop an integrated health care database to  
7 support health care planning and quality assurance.

8 (c) Implementation.--The board shall implement the plan  
9 within one year of the effective date of this section.

10 Section 502. Universal health care access eligibility.

11 (a) Eligibility.--The following individuals may enroll as  
12 participants in the plan:

13 (1) A resident of this Commonwealth who files a  
14 Pennsylvania individual income tax return and any dependent  
15 of the resident.

16 (2) Students from out-of-State who are attending school  
17 in this Commonwealth and file a Pennsylvania individual  
18 income tax return.

19 (3) Part-year residents who file a Pennsylvania  
20 individual income tax return.

21 (b) Determination of residency status.--The agency shall  
22 establish rules for use in making residency determinations. To  
23 the extent applicable, the agency shall determine residency  
24 using the rules of the Department of Revenue in its  
25 administration of personal income taxes.

26 (c) Demonstration of eligibility.--The board shall establish  
27 standards and a simple procedure for use in demonstrating proof  
28 of eligibility.

29 (d) Enrollment.--Enrollment in the plan shall be established  
30 by the board, and participants shall be provided with smart



1 technology cards with appropriate proof of identity technology  
2 and privacy protection.

3 (e) Outreach to eligible residents.--Residents of this  
4 Commonwealth who are unable to file or pay their taxes because  
5 of physical or mental disabilities may obtain assistance through  
6 county assistance offices and other agencies identified by the  
7 board.

8 (f) Waiver.--If a waiver is not granted from the medical  
9 assistance or Medicare program operated under Title XVIII or XIX  
10 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et  
11 seq.), the medical assistance or Medicare program for which a  
12 waiver is not granted shall act as the primary insurer for those  
13 eligible for such coverage, and the plan shall serve as the  
14 secondary or supplemental plan of health insurance coverage.  
15 Until such time as a waiver is granted, the plan shall not pay  
16 for services for persons otherwise eligible for the same health  
17 care benefits under the medical assistance or Medicare program.

18 (g) Veterans.--The plan shall serve as the secondary or  
19 supplemental plan of health insurance coverage for military  
20 veterans except where reasonable and timely access, as defined  
21 by the board, is denied or unavailable through the Department of  
22 Veterans Affairs, in which instance the plan shall be the  
23 primary insurer and shall seek reasonable reimbursement from the  
24 Department of Veterans Affairs for the services provided to  
25 veterans.

26 (h) Priority of plans.--A plan of employee health coverage  
27 provided by an out-of-State employer to a resident of this  
28 Commonwealth working outside of this Commonwealth shall serve as  
29 the employee's primary plan of health coverage, and the plan  
30 shall serve as the employee's secondary plan of health coverage.

1 (i) Reimbursement.--The plan shall reimburse providers  
2 practicing outside of this Commonwealth at plan rates. Services  
3 provided to a participant outside this Commonwealth by other  
4 than a participating provider shall be reimbursed to the  
5 participant or to the provider at plan rates.

6 (j) Presumption of eligibility.--An individual who arrives  
7 at a health care facility unconscious or otherwise unable to  
8 document eligibility for coverage due to the individual's  
9 medical condition shall be presumed to be eligible, and  
10 emergency care shall be provided without delay occasioned by  
11 issues of ability to pay.

12 (k) Rules.--The board shall adopt rules ensuring that a  
13 participating provider who renders humanitarian emergency care,  
14 urgent care or prevention or treatment for a communicable  
15 disease or prenatal and delivery care within this Commonwealth  
16 to a noneligible recipient shall be reimbursed by the plan for  
17 the care provided. The rules shall reasonably limit the  
18 frequency of reimbursement to protect the fiscal integrity of  
19 the plan. The agency shall secure reimbursement for the costs  
20 paid for the care provided from any appropriate third-party  
21 funding source or from the individual to whom the services were  
22 rendered.

23 Section 503. Covered services.

24 (a) Benefits package.--The board shall establish a single  
25 health care benefits package within the plan that shall include,  
26 but not be limited to, all of the following:

27 (1) All medically necessary inpatient and outpatient  
28 care and treatment, both for primary and specialty care.  
29 Medically necessary care and treatment shall be approved by  
30 the quality of care panels and provided by licensed health

1 care providers.

2 (2) Emergency services.

3 (3) Emergency and other medically necessary transport to  
4 covered health services.

5 (4) Rehabilitation services, including speech,  
6 occupational, physical and evidence-based alternative  
7 therapy.

8 (5) Inpatient and outpatient mental health services and  
9 substance abuse treatment.

10 (6) Hospice care.

11 (7) Prescription drugs and prescribed medical nutrition.

12 (8) Vision care, aids and equipment.

13 (9) Hearing care, hearing aids and equipment.

14 (10) Diagnostic medical tests, including laboratory  
15 tests and imaging procedures.

16 (11) Medical supplies and prescribed medical equipment.

17 (12) Immunizations, preventive care, health maintenance  
18 care and screening.

19 (13) Dental care.

20 (14) Home health care services.

21 (15) Chiropractic.

22 (16) Complementary and alternative modalities that have  
23 been shown by the National Institute of Health's Division of  
24 Complementary and Alternative Medicine to be safe and  
25 effective for possible inclusion as covered benefits.

26 (b) Exclusions for preexisting conditions.--The plan shall  
27 not exclude or limit coverage due to preexisting conditions.

28 (c) Copayments, deductibles and other charges.--Participants  
29 are not subject to copayments, deductibles, point-of-service  
30 charges or any other fee or charge for a service within the

1 package and shall not be directly billed nor balance billed by  
2 participating providers for covered benefits provided to the  
3 participant. If a participant has directly paid for nonemergency  
4 services of a nonparticipating provider, the participant may  
5 submit a claim for reimbursement from the plan for the amount  
6 the plan would have paid a participating provider for the same  
7 service. If emergency services are rendered by a  
8 nonparticipating provider, the participant shall receive  
9 reimbursement of the full amount paid to the nonparticipating  
10 provider, not to exceed the amount the plan would have paid a  
11 participating provider for the same service.

12 (d) Exclusions of coverage.--

13 (1) The board may remove or exclude procedures and  
14 treatments, equipment and prescription drugs from the plan  
15 benefit package that the Food and Drug Administration or a  
16 quality of care panel finds, on the basis of medical  
17 evidence, unsafe or that add no therapeutic value.

18 (2) The board shall exclude coverage for any surgical,  
19 orthodontic or other procedure or drug that the board  
20 determines was or will be provided primarily for cosmetic  
21 purposes unless required to correct a congenital defect, to  
22 restore or correct disfigurements resulting from injury or  
23 disease or that is certified to be medically necessary by a  
24 licensed health care provider.

25 (e) Participant choice.--Participants shall normally be  
26 granted freedom to choose participating providers, including  
27 specialists, without preapprovals or referrals. However, the  
28 board shall adopt procedures to restrict the freedom to choose  
29 for those individuals who engage in patterns of wasteful or  
30 abusive self-referrals to specialists. A specialist who provides



1 primary care to a self-referred participant shall be reimbursed  
2 at the board-approved primary care rate established for the  
3 service in that community.

4 (f) Practice patterns.--Practice patterns of participating  
5 providers shall be monitored. Practice patterns that reflect  
6 overutilization or underutilization shall be reviewed. The board  
7 may set policies addressing overutilization or underutilization  
8 after reviewing practice patterns and recommendations from the  
9 quality of care panels.

10 (g) Service.--No participating provider shall be compelled  
11 to offer any particular service so long as the refusal is  
12 consistent with the provider's practice.

13 (h) Discrimination.--The plan and participating providers  
14 shall not discriminate on the basis of race, ethnicity, national  
15 origin, sex, age, religion, sexual orientation, gender identity,  
16 health status, mental or physical disability, employment status,  
17 veteran status or occupation.

18 (i) Appeals.--A participant may appeal a decision relating  
19 to covered services under the plan to the ombudsman.

20 Section 504. Supplemental health insurance coverage.

21 Subject to the regulations of the Insurance Commissioner and  
22 all applicable laws, private health insurers shall be authorized  
23 to offer coverage supplemental to the health benefits package  
24 approved and provided under the plan.

25 Section 505. Duplicate coverage.

26 The agency is subrogated to and shall be deemed an assignee  
27 of all rights of a participant who has received duplicate health  
28 care benefits, or who has a right to such benefits, under any  
29 other policy or contract of health care or under any government  
30 program.



1 Section 506. Subrogation.

2 The agency has no right of subrogation against a  
3 participant's third-party claims for harm or losses not covered  
4 under this act. A participant has no right to claim against a  
5 third-party tortfeasor for the services provided or available to  
6 the participant under this act. In all personal injury actions  
7 accruing and prosecuted by a participant after the participant's  
8 enrollment in the plan, the presiding judge shall advise any  
9 jury that all health care expenses have been or will be paid  
10 under the plan, and, therefore, no claim for past or future  
11 health care benefits is pending before the court.

12 Section 507. Eligible participating providers and availability  
13 of services.

14 (a) General rule.--Health care providers licensed,  
15 registered or certified to practice and licensed health care  
16 facilities are eligible to become a participating provider in  
17 the plan in which instance they shall enjoy the rights and have  
18 the duties as set forth in the plan as provided under this  
19 section or as adopted by the board in accordance with this act.  
20 Nonparticipating providers shall not enjoy the rights nor bear  
21 the duties of participating providers.

22 (b) Required notice.--

23 (1) In advance of initially providing services to a  
24 participant, nonparticipating providers shall advise the  
25 participant at the time the appointment is made that the  
26 person or entity is a nonparticipating provider and that the  
27 recipient of the service initially will be personally  
28 responsible for the entire cost of the service and ultimately  
29 responsible for the cost in excess of any reimbursement  
30 approved by the board for participating providers.

1           (2) A form signed by the participant acknowledging that  
2     the provider has disclosed to the participant whether the  
3     provider participates or does not participate in the plan and  
4     who is responsible for the cost of care shall be deemed  
5     sufficient notice.

6           (3) Failure to make the required disclosure is deemed a  
7     fraud on the participant and shall entitle the participant to  
8     a refund from the provider equal to 200% of the amount paid  
9     to the nonparticipating provider in excess of the board-  
10    approved reimbursement for the services rendered, plus all  
11    reasonable fees for collection. The burden of proof that the  
12    disclosure was made shall be on the nonparticipating  
13    provider.

14          (c) Plan by board.--The board shall assess the number of  
15    primary care and specialty providers needed to supply adequate  
16    health care services in this Commonwealth generally and in all  
17    geographic areas and shall develop a plan to meet that need. The  
18    board shall develop financial incentives for participating  
19    providers in order to maintain and increase access to health  
20    care services in underserved areas of this Commonwealth.

21          (d) Reimbursements.--Reimbursements shall be determined by  
22    the board in such a fashion as to assure that a participating  
23    provider receives compensation for services that fairly and  
24    fully reflect the skill, training, outcomes, operating overhead  
25    included in the costs of providing the service, capital costs of  
26    facilities and equipment, cost of consumables and the expense of  
27    safely discarding medical waste, plus a reasonable profit  
28    sufficient to encourage talented individuals to enter the field  
29    and for investors to make capital available for the construction  
30    of state-of-the-art health care facilities in this Commonwealth.

1 The plan shall review fee schedules and may offer reimbursement  
2 mechanisms, including capitation, salary and bonuses.

3 (e) Adjustments to reimbursements.--Participating providers  
4 shall have the right individually or collectively to petition  
5 the board for adjustments to reimbursements believed to be too  
6 low. Petitions shall be initially evaluated by the agency, with  
7 input from the Health Professional Quality Panel. The agency  
8 shall submit a report to the chairperson of the board within 30  
9 days. Following receipt of the report, the chairperson shall  
10 submit a recommendation to the board for action at the next  
11 scheduled board meeting. Participating providers who remain  
12 dissatisfied after the board has ruled may appeal the board's  
13 determination to Commonwealth Court, which shall review the  
14 action of the board on an abuse of discretion standard.

15 (f) Evaluation of access to care.--The board annually shall  
16 evaluate access to trauma care, diagnostic imaging technology,  
17 emergency transport and other vital urgent care requirements and  
18 make recommendations as needed.

19 (g) Health care delivery models.--The board, with the  
20 assistance of the quality of care panels, shall review best  
21 practices in delivering high quality care. Those wellness  
22 practices that can be adopted shall be funded with an increasing  
23 emphasis on prevention and community-based care in order to  
24 reduce the need for hospitalization and skilled nursing facility  
25 care in the future.

26 (h) Performance reports.--The board, with the assistance of  
27 the quality of care panels, shall define performance criteria  
28 and goals for the plan and shall make a written report to the  
29 General Assembly at least annually on the plan's performance.  
30 Reports shall be made publicly available with the goal of total



1 transparency and open self-analysis as a defining quality of the  
2 agency. The board shall establish a system to monitor the  
3 quality of health care and patient and provider satisfaction and  
4 to adopt a system to devise improvements and efficiencies to the  
5 provision of health care services.

6 (i) Data reporting.--Participating providers shall, in a  
7 prompt and timely manner, provide information to the agency in  
8 the form and manner requested by the agency.

9 (j) Coordination of services.--The agency shall coordinate  
10 the provision of health care services with any other  
11 Commonwealth and local agencies that provide health care  
12 services directly to their charges or residents.

13 Section 508. Rational cost containment.

14 (a) Approval of expenditures.--As part of its cost  
15 containment mission, the board, with the assistance of the  
16 Health Institution Quality Panel, shall screen and approve or  
17 disapprove private or public expenditures for new health care  
18 facilities and other capital investments that may lead to  
19 redundant and inefficient health care provider capacity.  
20 Procedures shall be adopted for this purpose with an emphasis  
21 upon efficiency, quality of delivery and a fair and open  
22 consideration of all applications.

23 (b) Capital investments.--

24 (1) Capital investments of \$1,000,000 or more require  
25 the approval of the board. If a facility, an individual  
26 acting on behalf of a facility or any other purchaser obtains  
27 by lease or comparable arrangement any facility or part of a  
28 facility, or any equipment for a facility, the market value  
29 of which would have been a capital expenditure, the lease or  
30 arrangement shall be considered a capital expenditure for



1 purposes of this section.

2 (2) For purposes of this subsection, the term "capital  
3 investments" includes the costs of studies, surveys, design  
4 plans and working drawing specifications and other activities  
5 essential to planning and execution of capital investment.  
6 The term includes capital investments that change the bed  
7 capacity of a health care facility by more than 10% over a  
8 24-month period or that add a new service or license  
9 category.

10 (c) Study.--An entity that intends to make capital  
11 investments or acquisitions shall prepare a business case for  
12 making each investment and acquisition. It shall include the  
13 full-life-cycle costs of the investment or acquisition, an  
14 environmental impact report that meets existing State standards  
15 and a demonstration of how the investment or acquisition meets  
16 the health care needs of the population it is intended to serve.  
17 Acquisitions may include acquisitions of land, operational  
18 property or administrative office space.

19 (d) Deemed approval.--Capital investment programs submitted  
20 for approval shall be deemed approved by the board if not  
21 disapproved by the board within 60 days from the date the  
22 submissions are received by the chairperson of the board. A 60-  
23 day extension may apply if the board requires additional  
24 information.

25 (e) Recommendations.--Recommendations of the Health Care  
26 Cost Containment Council and other public and private  
27 authoritative bodies as shall be identified from time to time by  
28 the board shall be received by the chairperson of the board and  
29 submitted to the board with the chairperson's recommendation  
30 regarding implementation of the recommended reforms. The board

1 shall receive input from all interested parties and then shall  
2 vote upon the recommendations within 60 days. If procedural or  
3 protocol reforms are adopted, participating providers shall be  
4 required to implement the designated best practices within the  
5 next 60 days.

6 (f) Appeal.--A decision of the board may be appealed through  
7 a uniform dispute resolution process that has been established  
8 by unanimous approval of the board.

9 (g) Required investments.--The board, with the  
10 recommendations of the Health Institution Quality Panel, may  
11 adopt programs to assist participating providers in making  
12 capital investments responsive to best practice recommendations.

## 13 CHAPTER 9

### 14 PENNSYLVANIA HEALTH CARE TRUST FUND

15 Section 901. Pennsylvania Health Care Trust Fund.

16 (a) Establishment.--The Pennsylvania Health Care Trust Fund  
17 is established within the State Treasury. All money collected  
18 and received by the plan shall be transmitted to the State  
19 Treasurer for deposit into the fund and used exclusively to  
20 finance the plan.

21 (b) State Treasurer.--The State Treasurer may invest the  
22 principal and interest earned by the fund in any manner  
23 authorized under law for the investment of Commonwealth money.  
24 Any revenue or interest earned from the investments shall be  
25 credited to the fund.

26 Section 902. Agency budget.

27 The agency budget shall comprise the cost of the agency,  
28 services and benefits provided, administration, data gathering,  
29 planning and other activities and revenues of the fund. The  
30 board shall limit administrative costs, excluding start-up

costs, to 5% of the agency budget. The board shall annually evaluate methods to reduce administrative costs and publicly report the results of that evaluation.

#### Section 903. Funding sources.

Revenues of the fund shall be obtained from the following sources:

(1) Funds obtained through Federal health care programs.

(2) Funds from dedicated sources specified by the General Assembly.

(3) Receipts from the tax under section 904.

(4) Receipts from the tax imposed under section 905.

#### Section 904. Payroll tax.

(a) Imposition.--Beginning July 1 of the calendar year following the effective date of this section, a tax of 10% is imposed on payroll amounts generated as a result of an employer conducting business activity within this Commonwealth. For purposes of the payroll tax imposed under this section, the business activity shall be directly attributable to activity within this Commonwealth. For purposes of computation of the payroll tax, the payroll amount attributable to the Commonwealth shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll expense which the total number of days an employee, partner, member, shareholder or other individual works within this Commonwealth bears to the total number of days the employee or person works outside of this Commonwealth.

(b) Business activity.--For purposes of the payroll tax assessed pursuant to this section, an employer is conducting business within this Commonwealth if the employer engages, hires, employs or contracts with one or more individuals as

1 employees and, in addition, the employer does at least one of  
2 the following:

3 (1) Maintains a fixed place of business within this  
4 Commonwealth.

5 (2) Owns or leases real property within this  
6 Commonwealth for purposes of a business.

7 (3) Maintains a stock of tangible personal property in  
8 this Commonwealth for sale in the ordinary course of a  
9 business.

10 (4) Conducts continuous solicitation within this  
11 Commonwealth related to a business.

12 (5) Utilizes the highways of this Commonwealth in  
13 connection with the operation of a business other than  
14 transportation through this Commonwealth.

15 (c) Reports.--All employers in this Commonwealth shall file  
16 returns and make payments as required by the Department of  
17 Revenue. An employer making a return shall certify the  
18 correctness of the return. The Department of Revenue may audit,  
19 examine or inspect the books, records or accounts of all  
20 employers subject to the tax imposed under this section.

21 (d) Regulations.--The Department of Revenue may promulgate  
22 regulations necessary to implement this section.

23 (e) Deposit in fund.--All taxes, additions and penalties  
24 collected pursuant to this section shall be transmitted to the  
25 State Treasurer for deposit into the fund and used exclusively  
26 for the purposes of this act.

27 (f) Offset prohibited.--An employer shall not offset the  
28 amount of tax paid pursuant to this section by reducing  
29 compensation or benefits paid to employees.

30 (g) Enforcement.--The Department of Revenue shall proceed to



1 recover taxes due and unpaid under this section in accordance  
2 with the applicable processes, remedies and procedures for the  
3 collection of taxes provided by the act of March 4, 1971 (P.L.6,  
4 No.2), known as the Tax Reform Code of 1971.

5 (h) Construction.--This section shall not be construed to  
6 limit the Department of Revenue from recovering delinquent taxes  
7 by any other means provided by law.

8 (i) Definitions.--As used in this section, the following  
9 words and phrases shall have the meanings given to them in this  
10 subsection unless the context clearly indicates otherwise:

11 "Employer." All persons conducting business activity within  
12 this Commonwealth, including a governmental entity.

13 "Payroll amounts." All amounts paid by an employer as  
14 salaries, wages, commissions, bonuses, net earnings and  
15 incentive payments, whether based on profits or otherwise, fees  
16 and similar remuneration for services rendered, whether directly  
17 or through an agent and whether in cash, in property or the  
18 right to receive property.

19 Section 905. Additional personal income tax imposed.

20 (a) Personal income tax.--Beginning July 1 of the calendar  
21 year following the effective date of this section, there is  
22 imposed an additional tax upon each class of income as defined  
23 in Article III of the act of March 4, 1971 (P.L.6, No.2), known  
24 as the Tax Reform Code of 1971. The tax shall be calculated,  
25 collected and paid over to the Commonwealth in the same manner  
26 as provided in Article III of the Tax Reform Code of 1971.

27 (b) Rate.--The tax imposed by subsection (a) shall be at the  
28 rate of 3%.

29 (c) Deposit of tax proceeds.--The Department of Revenue  
30 shall deposit taxes collected under this section in the fund.

1 The amount shall be the sum of the taxes collected under this  
2 section and Article III of the Tax Reform Code of 1971  
3 multiplied by a fraction equal to the rate of tax under this  
4 section divided by the sum of the rate of tax under this section  
5 and the rate of tax under section 302 of the Tax Reform Code of  
6 1971.

7 (d) Rules and regulations.--The rules and regulations of the  
8 Department of Revenue promulgated under Article III of the Tax  
9 Reform Code of 1971, or any other act, shall be applicable to  
10 the tax imposed by this section to the extent that they are  
11 applicable.

12 (e) Construction.--The tax imposed by this section shall be  
13 in addition to any tax imposed under Article III of the Tax  
14 Reform Code of 1971 or section 321(c) of the act of June 27,  
15 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer  
16 Relief Act. The provisions of Article III of the Tax Reform Code  
17 of 1971 shall apply to the tax imposed by this section.

## 18 CHAPTER 11

### 19 TRANSITIONAL SUPPORT

20 Section 1101. Definitions.

21 The following words and phrases when used in this chapter  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 "Displaced employee." A resident of this Commonwealth  
25 employed by a health care insurer or other health-care-related  
26 business who loses employment within the first two years  
27 following implementation of the plan as a direct result of the  
28 implementation of the plan.

29 Section 1102. Transitional support and training for displaced  
30 employees.

1 (a) Agency duties.--The agency shall:

2 (1) Identify displaced employees.

3 (2) Determine the amount of monthly wages that each  
4 displaced employee has lost due to the plan's implementation.

5 (3) Attempt to position the displaced employees in  
6 comparable positions of employment or assist in the  
7 retraining and placement of the displaced employees  
8 elsewhere.

9 (b) Coordination of services.--The agency shall fully  
10 coordinate activity with public and private services that are  
11 available or actually participating in providing employment-  
12 related assistance.

13 (c) Appeals.--Displaced employees who are dissatisfied with  
14 the level of assistance they are receiving may appeal to the  
15 ombudsman. A determination by the ombudsman shall be final and  
16 not subject to appeal.

17 CHAPTER 45

18 MISCELLANEOUS PROVISIONS

19 Section 4501. Effective date.

20 This act shall take effect immediately.