
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1085 Session of
2006

INTRODUCED BY FERLO, FONTANA AND KITCHEN, FEBRUARY 6, 2006

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 6, 2006

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 providers, cost containment, reduction of
5 errors, tort remedies, administrative remedies and
6 procedures, attorney fees, quality assurance,
7 nonparticipating providers, transitional support and
8 training; and establishing the Pennsylvania Health Care
9 Agency, the Employer Health Services Levy, the Individual
10 Wellness Tax and the Pennsylvania Health Care Board and
11 providing for their powers and duties.

12 WHEREAS, It is in the public interest to guarantee every
13 resident of this Commonwealth timely access to health care, to
14 assure a high quality of health services with adequate and
15 stable reimbursement for health care providers, and to apportion
16 rationally the costs of care;

17 WHEREAS, Health care providers and patients have lost
18 confidence in the existing system for resolving claims of
19 medical error and complications of treatment;

20 WHEREAS, The Commonwealth is dependent upon the volunteered
21 services of citizen firefighters, search and rescue teams, and
22 emergency medical technicians and there has been a substantial

1 loss of such volunteers as well as a general inability to
2 recruit replacement volunteers;

3 WHEREAS, A commitment to age-appropriate health awareness,
4 physical education, and first responder emergency training for
5 children through primary and secondary schools will enhance the
6 ability of our citizens to manage their health and the health
7 and safety of their families and communities;

8 WHEREAS, Our Commonwealth must embrace a culture of wellness
9 and illness prevention, rather than ever more expensive
10 interventions and treatments;

11 WHEREAS, A fair and scientific assessment of environmental
12 risks is key to identifying and abating such threats to the
13 health and safety of Pennsylvanians;

14 WHEREAS, The number of avoidable hospital-acquired injuries
15 and infections requires a renewed emphasis upon collection of
16 reliable data with the objective of analyzing the cause of such
17 events and developing and adopting effective protocols and
18 procedures to reduce their frequency;

19 WHEREAS, At least one million Pennsylvanians have no health
20 insurance at all and millions more have insurance that is
21 inadequate for their needs or risk;

22 WHEREAS, Providing financing for injuries incurred in the
23 course and scope of employment through workers' compensation
24 insurance is an increasingly expensive and inefficient approach
25 to managing the cost of industrial accident and disease and is
26 further creating an increasing burden on Commonwealth employers;

27 WHEREAS, Unacceptable health access disparities exist in this
28 Commonwealth by region, race, ethnicity, income and gender;

29 WHEREAS, The existing funding mechanism for health care in
30 this Commonwealth is ill-suited to respond to a natural or man-

1 made catastrophe that could disrupt the availability of health
2 care in the affected regions while at the same time demanding
3 immediate flexibility in revenue sourcing to pay for the care of
4 the injured and reconstruction of health care infrastructure;

5 WHEREAS, Current availability of and funding for substance
6 abuse counseling and treatment is grossly inadequate to the need
7 resulting in lost productivity, domestic violence, vehicular and
8 workplace accidents and crime;

9 WHEREAS, Health care costs are a leading cause of personal
10 bankruptcy and the use of credit cards as a last means of
11 funding care for an individual or the individual's loved ones
12 only adds to the cost of such care through higher interest rates
13 associated with unsecured revolving credit;

14 WHEREAS, Pennsylvania spends significantly more per capita on
15 health care than many other states, putting our Commonwealth and
16 our businesses at a competitive disadvantage to other states and
17 to all the foreign countries where governments provide universal
18 health care;

19 WHEREAS, Unstable and unaffordable rate increases for health
20 insurance are causing significant economic hardship for
21 Commonwealth residents and their employers;

22 WHEREAS, The annual increases in the cost of private health
23 insurance are leading more Pennsylvania employers to shift costs
24 to workers or to discontinue insurance of employees and retirees
25 altogether;

26 WHEREAS, The escalating cost of insuring public employees is
27 increasing the taxpayer burden and preventing municipalities,
28 school boards and the Commonwealth itself from investing in
29 education, public works, human services, environmental
30 protection and other projects needed for the public good;

1 WHEREAS, The Commonwealth has an inefficient concentration of
2 diagnostic and treatment facilities in some communities while
3 other areas are underserved;

4 WHEREAS, Technology exists to support a system of digital
5 medical records that would substantially reduce administrative
6 costs while also reducing medical errors and duplicative
7 treatments or diagnostic procedures caused by unavailable or
8 unreadable records and orders;

9 WHEREAS, The ever-increasing cost of prescription drugs is
10 depriving our citizens of medications that save lives and
11 prevent costly illness yet there currently exists no means
12 whereby our Commonwealth can leverage the purchasing power of
13 its 12,000,000 citizens to bargain for the same discounts
14 enjoyed by nations of even smaller populations;

15 WHEREAS, Needed community hospitals, long-term care
16 facilities, nursing homes and health care agencies within this
17 Commonwealth are threatened with financial failure due to
18 inadequate reimbursement for services and an increasing
19 percentage of unreimbursed care;

20 WHEREAS, Historically efforts to control health care costs
21 while maintaining the private health insurance market has
22 invariably led to diminished access and quality in health care;

23 WHEREAS, An unsustainable and ever-increasing percentage of
24 every Pennsylvania health care dollar goes to inefficient and
25 redundant administrative systems, marketing and underwriting
26 expenses;

27 WHEREAS, Through the adoption of a single-payer public health
28 insurance system, Pennsylvania could cover all residents and
29 better manage and control the future cost of health care;

30 WHEREAS, By simplifying administration, eliminating marketing

1 and underwriting expenses, achieving bulk purchase discounts on
2 pharmaceuticals and medical equipment and reducing the use of
3 emergency facilities for primary care, Pennsylvania could
4 reallocate billions of dollars toward providing direct health
5 care and improved quality and access;

6 WHEREAS, Too many of our citizens have lost their focus on
7 the importance of a personal commitment to and responsibility
8 for health as the most effective means of controlling health
9 care costs; and

10 WHEREAS, Advances in medical technology are not available to
11 all Pennsylvania residents who need them while at the same time
12 some communities have an excess capacity of such technology
13 resulting in inefficient application of resources;

14 THEREFORE, The Commonwealth of Pennsylvania hereby finds it
15 necessary to enact this legislation.

16 TABLE OF CONTENTS

17 Chapter 1. Preliminary Provisions

18 Section 101. Short title.

19 Section 102. Definitions.

20 Chapter 3. Administration and Oversight of the Pennsylvania
21 Health Care Plan

22 Subchapter A. Pennsylvania Health Care Board

23 Section 301. Organization.

24 Section 302. Duties of board.

25 Subchapter B. Pennsylvania Health Care Agency

26 Section 321. Pennsylvania Health Care Agency.

27 Section 322. Executive director duties.

28 Section 323. Administrator for planning, research and
29 development.

30 Section 324. Administrator for consumer affairs and health

1 education.

2 Section 325. Administrator for quality assurance.

3 Section 326. Administrator for finance.

4 Section 327. Administrator for claims.

5 Section 328. Administrator for volunteer services.

6 Section 329. Administrator for provider coordination.

7 Section 330. Administrator for law.

8 Section 331. Administrator for transition services.

9 Section 332. Administrator for beneficiary advocate.

10 Subchapter C. (Reserved).

11 Subchapter D. (Reserved).

12 Subchapter E. (Reserved).

13 Subchapter F. Immunity

14 Section 371. Immunity.

15 Chapter 5. Pennsylvania Health Care Plan

16 Section 501. General provisions.

17 Section 502. Universal health care access eligibility.

18 Section 503. Covered services.

19 Section 504. Excess and collective bargaining agreement health

20 insurance coverage.

21 Section 505. Duplicate coverage.

22 Section 506. Subrogation.

23 Section 507. Eligible participating providers and availability

24 of services.

25 Section 508. Rational cost containment.

26 Chapter 7. No-Fault Administrative Remedies

27 Section 701. Rationalization of remedies for errors and

28 complications.

29 Section 702. Voluntary waiver of tort remedies and choice

30 to retain

1 tort remedies.

2 Section 703. No-fault administrative remedies for those not
3 opting out.

4 Section 704. Administrative claims procedures.

5 Section 705. Beneficiary right to counsel.

6 Section 706. Quality assurance follow-up to claims.

7 Section 707. Surviving tort claims against participating
8 providers.

9 Section 708. Claims against nonparticipating providers.

10 Section 709. Parallel no-fault compensation for beneficiaries
11 injured by nonparticipating providers.

12 Chapter 9. Pennsylvania Health Care Trust Fund

13 Section 901. Pennsylvania Health Care Trust Fund.

14 Section 902. Rolling budget process.

15 Section 903. Limitation on administrative expense.

16 Section 904. Funding sources.

17 Chapter 11. Transitional Support and Training
18 for Displaced Workers

19 Section 1101. Transitional support and training for displaced
20 workers.

21 Chapter 13. Volunteer Emergency Responder Network

22 Section 1301. Preservation of volunteer emergency responder
23 network.

24 Section 1302. Eligibility certification.

25 Section 1303. Eligibility criteria.

26 Section 1304. Amount of tax credit.

27 Section 1305. Reimbursement of Department of Revenue.

28 Chapter 15. Miscellaneous Provisions

29 Section 1501. Effective date.

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 Balanced and
6 Comprehensive Health Care Reform 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 "Agency." The Pennsylvania Health Care Agency established
12 under this act.

13 "Board." The Pennsylvania Health Care Board established
14 under this act.

15 "Department." The Department of Health of the Commonwealth.

16 "Executive director." The Executive Director of the
17 Pennsylvania Health Care Board.

18 "Fund." The Pennsylvania Health Care Trust Fund established
19 under this act.

20 "Individual Wellness Tax" or "IWT" The Individual Wellness
21 Tax established under this act.

22 "Plan." The Pennsylvania Health Care Plan established under
23 this act.

24 "Tax." The Employer Health Services Levy established under
25 this act.

26 CHAPTER 3

27 ADMINISTRATION AND OVERSIGHT OF THE

28 PENNSYLVANIA HEALTH CARE PLAN

29 SUBCHAPTER A

30 PENNSYLVANIA HEALTH CARE BOARD

1 Section 301. Organization.

2 (a) Composition.--The Pennsylvania Health Care Board shall
3 be composed of 11 voting members and shall be chaired by the
4 executive director.

5 (b) Appointments.--

6 (1) The executive director shall be appointed by the
7 Governor. The members of the board shall be appointed by the
8 Governor, the President pro tempore of the Senate, and the
9 Speaker of the House of Representatives who collectively
10 shall make appointments of members from individuals
11 representative of each of the following constituencies:

- 12 (i) Hospitals.
- 13 (ii) Organized labor, private sector.
- 14 (iii) Consumers.
- 15 (iv) Business.
- 16 (v) Agriculture.
- 17 (vi) Physicians.
- 18 (vii) Public sector employees.
- 19 (viii) Nurses.
- 20 (ix) Pharmacists.
- 21 (x) Long-term care facilities.
- 22 (xi) Social workers.

23 (2) The Governor shall initially appoint the executive
24 director, who shall serve as chair of the board, appointments
25 of the members shall thereafter be made in a rotating fashion
26 beginning with the President pro tempore of the Senate, then
27 the Speaker of the House of Representatives and then the
28 Governor, with each in turn making an appointment from a
29 constituency category not previously filled.

30 (c) Terms of members.--Each member appointed or reappointed

1 under this section shall hold office for three years, starting
2 on the first day of the first month following the member's
3 appointment. A serving member of the board shall continue to
4 serve following the expiration of the member's term until a
5 successor takes office or a period of 90 days has elapsed,
6 whichever occurs first.

7 (d) Midterm vacancies.--Midterm vacancies shall be filled by
8 the same appointer and the individual appointed to fill a
9 vacancy occurring prior to the expiration of the term for which
10 a member is appointed shall hold office for the remainder of the
11 predecessor's term.

12 (e) Compensation, benefits and expenses.--The executive
13 director and members of the board shall receive an annual
14 salary, benefits and expense reimbursement established by the
15 board, to be paid from the trust. The initial board shall
16 establish its own compensation. No increase or decrease in
17 salary or benefits adopted by the board for the executive
18 director or members shall become effective within the same
19 three-year term.

20 (f) Meetings.--

21 (1) The executive director shall set the time, place and
22 date for the initial and subsequent meetings of the board and
23 shall preside over its meetings. The initial meeting shall be
24 set not sooner than 50 nor later than 100 days after the
25 appointment of the executive director. Subsequent meetings
26 shall occur at least monthly thereafter.

27 (2) All meetings of the board are open to the public
28 unless questions of patient confidentiality arise. The board
29 may go into closed executive session with regard to issues
30 related to confidential patient information.

1 (g) Quorum.--Two-thirds of the appointed members of the
2 board shall constitute a quorum for the conducting of business
3 at meetings of the board. Decisions at ordinary meetings of the
4 board shall be reached by majority vote of those actually
5 present or, in the event of emergency meeting, those also
6 present by electronic or telephonic means. Where there is a tie
7 vote, the executive director shall be granted an additional vote
8 to break the tie.

9 (h) Ethics.--The executive director, the members and their
10 immediate families are prohibited from having any pecuniary
11 interest in any business with a contract or in negotiation for a
12 contract with the agency. The board shall also adopt rules of
13 ethics and definitions of irreconcilable conflicts of interest
14 that will determine under what circumstances members must recuse
15 themselves from voting.

16 (i) Prohibitions.--No member of the board, except for the
17 executive director, who shall receive no additional salary or
18 benefits by virtue of serving on the board, shall hold any other
19 salaried Commonwealth public position, either elected or
20 appointed, during the member's tenure on the board.

21 Section 302. Duties of board.

22 (a) General duties.--The board is responsible for directing
23 the agency in the performance of all duties, the exercise of all
24 powers, and the assumption and discharge of all functions vested
25 in the agency. The board shall adopt and publish its rules and
26 procedures in the Pennsylvania Bulletin no later than 180 days
27 after the first meeting of the board.

28 (b) Specific duties.--The duties and functions of the board
29 include, but are not limited to, the following:

30 (1) Implementing statutory eligibility standards for

1 benefits.

2 (2) Annually adopting a benefits package for
3 participants of the plan.

4 (3) Acting directly or through one or more contractors
5 as the single payer administrator for all claims for health
6 care services made under the plan.

7 (4) At least annually reviewing the appropriateness and
8 sufficiency of reimbursements.

9 (5) Providing for timely payments to participating
10 providers through a structure that is well organized and that
11 eliminates unnecessary administrative costs.

12 (6) Implementing standardized claims and reporting
13 methods for use by the plan.

14 (7) Developing a system of centralized electronic claims
15 and payments accounting.

16 (8) Establishing an enrollment system that will ensure
17 that those who travel frequently and cannot read or speak
18 English are aware of their right to health care and are
19 formally enrolled in the plan.

20 (9) Reporting annually to the General Assembly and to
21 the Governor, on or before the first day of October, on the
22 performance of the plan, the fiscal condition of the plan,
23 recommendations for statutory changes, the receipt of
24 payments from the Federal Government, whether current year
25 goals and priorities were met, future goals and priorities,
26 and major new technology or prescription drugs that may
27 affect the cost of the health care services provided by the
28 plan.

29 (10) Administering the revenues of the trust.

30 (11) Obtaining appropriate liability and other forms of

1 insurance to provide coverage for the plan, the board, the
2 agency and their employees and agents.

3 (12) Establishing, appointing and funding appropriate
4 staff, office space, equipment, training and administrative
5 support for the agency throughout this Commonwealth, all to
6 be paid from the trust.

7 (13) Administering aspects of the agency by taking
8 actions that include, but are not limited to, the following:

9 (i) Establishing standards and criteria for the
10 allocation of operating funds.

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

13 (iii) Establishing goals for the health care system
14 established pursuant to the plan in measurable terms.

15 (iv) Establishing Statewide health care databases to
16 support health care services planning.

17 (v) Implementing policies and developing mechanisms
18 and incentives to assure culturally and linguistically
19 sensitive care.

20 (vi) Establishing rules and procedures for
21 implementation and staffing of a no-fault compensation
22 system for iatrogenic injuries or complications of care
23 whereby a patient's condition is made worse or an
24 opportunity for cure or improvement is lost due to the
25 health care or medications provided or appropriate care
26 not provided by participating providers under the plan.

27 (vii) Establishing standards and criteria for the
28 determination of appropriate transitional support and
29 training for residents of this Commonwealth who are
30 displaced from work during the first two years of the

1 implementation of the plan.

2 (viii) Evaluating the state of the art in proven
3 technical innovations, medications and procedures and
4 adopting policies to expedite the rapid introduction
5 thereof in this Commonwealth.

6 (ix) Establishing methods for the recovery of costs
7 for health care services provided pursuant to the plan to
8 a beneficiary who is also covered under the terms of a
9 policy of insurance, a health benefit plan or other
10 collateral source available to the participant under
11 which the participant has a right of action for
12 compensation. Receipt of health care services pursuant to
13 the plan shall be deemed an assignment by the participant
14 of any right to payment for services from any such
15 policy, plan or other source. The other source of health
16 care benefits shall pay to the trust all amounts it is
17 obligated to pay to, or on behalf of, the participant for
18 covered health care services. The board may commence any
19 action necessary to recover the amounts due.

20 (14) Recruiting the Health Advisory Panel of seven
21 members made up of a cross section of the medical and
22 provider community. The members of the advisory panel shall
23 be paid a per diem rate, established by the board, for
24 attendance at meetings and further be reimbursed for actual
25 and necessary expenses incurred in the performance of their
26 duties, which shall include:

27 (i) Advising the board on the establishment of
28 policy on medical issues, population-based public health
29 issues, research priorities, scope of services, expansion
30 of access to health care services and evaluation of the

1 performance of the plan.

2 (ii) Investigating proposals for innovative
3 approaches to the promotion of health, the prevention of
4 disease and injury, patient education, research and
5 health care delivery.

6 (iii) Advising the board on the establishment of
7 standards and criteria to evaluate requests from health
8 care facilities for capital improvements.

9 (iv) Evaluating and advising the board on requests
10 from providers, or their representatives, for adjustments
11 to reimbursements.

12 (15) Establishing a secure and centralized electronic
13 health record system wherein a beneficiary's entire health
14 record can be readily and reliably accessed by authorized
15 persons with the objective of eliminating the errors and
16 expense associated with paper records and diagnostic films.

17 SUBCHAPTER B

18 PENNSYLVANIA HEALTH CARE AGENCY

19 Section 321. Pennsylvania Health Care Agency.

20 (a) Establishment of agency.--There is hereby established
21 the Pennsylvania Health Care Agency. The agency shall administer
22 the plan and is the sole agency authorized to accept applicable
23 grants-in-aid from the Federal Government and State government.
24 It shall use such funds in order to secure full compliance with
25 provisions of Federal and State law and to carry out the
26 purposes established under this act. All grants-in-aid accepted
27 by the agency shall be deposited into the Pennsylvania Health
28 Care Trust Fund established under this act, together with other
29 revenues raised within this Commonwealth to fund the plan.

30 (b) Appointment of executive director.--The executive

1 director of the agency shall be appointed by the Governor for a
2 term of three years and is the chief administrator of the plan.

3 (c) Personnel and employees.--The board shall employ and fix
4 the compensation of agency personnel as needed by the agency to
5 properly discharge the agency's duties. The employment of
6 personnel by the board is subject to the civil service laws of
7 this Commonwealth. The board shall employ personnel including,
8 but not limited to, the following leadership positions, all of
9 whom will report to the executive director of the agency:

10 (1) Administrator for planning, research and
11 development.

12 (2) Administrator for finance.

13 (3) Administrator for quality assurance.

14 (4) Administrator for consumer affairs and health
15 education.

16 (5) Administrator of health claims.

17 (6) Administrator for volunteer services.

18 (7) Administrator for provider coordination.

19 (8) Administrator for law.

20 (9) Administrator of transition services until the
21 termination of this position on December 31, 2012.

22 (10) Beneficiary advocate.

23 Section 322. Executive director duties.

24 The executive director shall oversee the operation of the
25 agency and the agency's performance of any duties assigned by
26 the board.

27 Section 323. Administrator for planning, research and
28 development.

29 The executive director of the agency shall determine the
30 duties of the administrator of planning, research and

1 development. Those duties shall include, but not be limited to,
2 the following:

3 (1) Establishing policy on medical issues, population-
4 based public health issues, research priorities, scope of
5 services, the expansion of participants' access to health
6 care services and the evaluation of the performance of the
7 plan.

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

12 (3) Establishing standards and criteria for evaluating
13 applications from health care facilities for capital
14 improvements.

15 (4) Evaluating environmental risks and coordinating
16 agency policy with other governmental and nongovernmental
17 entities committed to assuring health by reducing
18 environmental hazards.

19 Section 324. Administrator for consumer affairs and health
20 education.

21 The executive director of the agency shall determine the
22 duties of the administrator for consumer affairs and health
23 education. Those duties shall include, but not be limited to,
24 the following:

25 (1) Developing educational and informational guides for
26 consumers that describe consumer rights and responsibilities
27 and that inform consumers of effective ways to exercise
28 consumer rights to obtain health care services. The guides
29 shall be easy to read and understand and available in English
30 and in other languages. The agency shall make the guide

1 available to the public through public outreach and
2 educational programs and through the Internet website of the
3 agency.

4 (2) Establishing a toll-free telephone number to receive
5 questions and complaints regarding the agency and the
6 agency's services. The agency's Internet website shall
7 provide complaint forms and instructions online.

8 (3) Examining suggestions from the public.

9 (4) Making recommendations for improvements to the
10 board.

11 (5) Examining the extent to which individual health care
12 facilities in a region meet the needs of the community in
13 which they are located.

14 (6) Receiving, investigating and responding to all
15 consumer complaints about any aspect of the plan and, where
16 appropriate, referring the results of all investigations of
17 questioned care to the appropriate provider or health care
18 facility licensing board or, in cases of possible violation
19 of law, to a law enforcement agency.

20 (7) Publishing an annual report for the public, the
21 Governor and the General Assembly that contains a Statewide
22 evaluation of the agency.

23 (8) Holding public hearings in each congressional
24 district, at least annually, for public input.

25 Section 325. Administrator for quality assurance.

26 The executive director of the agency shall determine the
27 duties of the administrator of quality assurance. Those duties
28 shall include, but not be limited to, the following:

29 (1) Studying and reporting on the efficacy of health
30 care treatments and medications for particular conditions.

1 (2) Identifying causes of medical errors and devising
2 procedures to reduce their frequency.

3 (3) Establishing an evidence-based formulary.

4 (4) Identifying treatments and medications that are
5 unsafe or have no proven value.

6 (5) Establishing a process for soliciting information on
7 medical standards from providers and consumers for purposes
8 of this section.

9 (6) Independently reviewing all claims submitted to the
10 administrator of health claims to determine if correctable
11 errors have occurred or whether there are patterns of errors
12 or complications which require closer investigation,
13 evaluation and correction, and then to assure all such
14 appropriate measures are recommended in writing to the
15 executive director.

16 Section 326. Administrator for finance.

17 The executive director of the agency shall determine the
18 duties of the administrator of finance. Those duties shall
19 include, but not be limited to, the following:

20 (1) Administering the trust.

21 (2) Making payments to participating providers within
22 five business days of submission and to other providers
23 within 30 days of submission.

24 (3) Developing a system of simplified, secure and
25 centralized electronic claims and payments employing the best
26 technology with assured backup and catastrophe recovery
27 contingencies and facilities.

28 (4) Communicating to the State Treasurer when funds are
29 needed from the trust for the operation of the plan.

30 (5) Developing information systems for utilization

1 review.

2 (6) Investigating and recommending for appropriate civil
3 and/or criminal prosecution possible provider or consumer
4 fraud.

5 Section 327. Administrator for claims.

6 The executive director of the agency shall determine the
7 duties of the administrator of claims. Those duties shall
8 include, but not be limited to, the following:

9 (1) Establishing a system of administrative procedures,
10 health claim hearing officers and appeal panel for the
11 processing of patient claims.

12 (2) Supervising the health claims hearing officers to
13 assure swift and fair processing of claims.

14 (3) Reviewing all appeals from the determinations of the
15 health claims hearing officers, and then advising the
16 executive director who shall then make the final agency
17 determination.

18 (4) Supervising follow-up oversight of awarded claims to
19 determine when or if adjustments to the awarded compensation
20 is appropriate given improvement in the awardee's condition
21 and if so to initiate appropriate review procedures before
22 the health claims hearing officers.

23 Section 328. Administrator for volunteer services.

24 The executive director of the agency shall determine the
25 duties of the administrator for volunteer services. Those duties
26 shall include, but not be limited to, the following:

27 (1) Coordinating with the State Treasurer to establish
28 procedures necessary to implement the volunteer tax rebate
29 provisions of this act.

30 (2) Investigating the status of volunteerism in this

1 Commonwealth in firefighting, search and rescue, emergency
2 response and otherwise as it pertains to the health of
3 Pennsylvanians and the means by which citizens can be
4 encouraged to volunteer.

5 (3) Developing programs to encourage blood and organ
6 donation in this Commonwealth.

7 (4) Making recommendations to the executive director and
8 the board for programs and initiatives that will best support
9 and encourage health-related volunteerism in this
10 Commonwealth.

11 Section 329. Administrator for provider coordination.

12 The executive director of the agency shall determine the
13 duties of the administrator for provider coordination. Those
14 duties shall include, but not be limited to, all of the
15 following:

16 (1) Processing all applications for participating
17 provider status.

18 (2) Assisting participating providers in their efforts
19 to meet the qualification requirements established by the
20 board.

21 (3) Establishing an inquiry office to assist
22 participating providers with regard to proper submission of
23 requests for reimbursements.

24 Section 330. Administrator for law.

25 The executive director of the agency shall determine the
26 duties of the administrator for law. Those duties shall include,
27 but not be limited to, the following:

28 (1) Establishing, supervising and maintaining a team of
29 legal professionals as necessary to support all of the legal
30 representation needs of the agency.

1 (2) Defending the interests of the plan before the
2 health claims hearing officers and before the courts against
3 nonmeritorious claims.

4 (3) Representing the board in disciplinary actions
5 against participating providers.

6 (4) Serving as the principal ethics officer for the
7 agency.

8 Section 331. Administrator for transition services.

9 The executive director of the agency shall determine the
10 duties of the administrator of transition services. Those duties
11 shall include, but not be limited to, the following:

12 (1) Establishing procedures for identifying
13 Pennsylvanians whose livelihood will be detrimentally
14 affected by the passage of this act.

15 (2) Establishing procedures to most efficiently and
16 effectively transition such persons into positions with the
17 agency where appropriate or to other health-related fields
18 where the passage of this act will create an immediate need
19 for qualified employees.

20 (3) Reporting to the administrator of finance with
21 respect to the financial requirements to support the eligible
22 displaced citizens and to assist in the filing for
23 transitional wage replacement benefits approved by the board.

24 (4) Planning for the discontinuance of this division of
25 the board on December 31, 2012.

26 Section 332. Administrator for beneficiary advocate.

27 The executive director of the agency shall determine the
28 duties of the beneficiary advocate. Those duties shall include,
29 but not be limited to, the following:

30 (1) Establishment of a readily accessible beneficiary

1 telephone and Internet website resource in instances where
2 they are having difficulties securing necessary care through
3 the plan. This office shall make immediate inquiries to
4 ascertain the nature of the difficulties and to resolve the
5 beneficiary's problem.

6 (2) Where a beneficiary seeks specialized care from
7 outside this Commonwealth and from other than a participating
8 provider, the beneficiary advocate shall assist in the proper
9 application for an extension of benefits on behalf of the
10 beneficiary.

11 (3) Management of death claim dependent trusts.

12 SUBCHAPTER C

13 (Reserved)

14 SUBCHAPTER D

15 (Reserved)

16 SUBCHAPTER E

17 (Reserved)

18 SUBCHAPTER F

19 IMMUNITY

20 Section 371. Immunity.

21 In the absence of fraud or bad faith, the advisory panel, the
22 board and agency and their respective members and employees
23 shall incur no liability in relation to the performance of their
24 duties and responsibilities under this act. The Commonwealth
25 shall incur no liability in relation to the implementation and
26 operation of the plan.

27 CHAPTER 5

28 PENNSYLVANIA HEALTH CARE PLAN

29 Section 501. General provisions.

30 (a) Establishment of plan.--There is hereby established the

1 Pennsylvania Health Care Plan that shall be administered by the
2 independent Pennsylvania Health Care Agency under the direction
3 of the Pennsylvania Health Care Board.

4 (b) Coverage.--The plan shall provide health care coverage
5 for all citizens of this Commonwealth and for certain eligible
6 visitors. The agency shall work simultaneously to control health
7 care costs, achieve measurable improvement in health care
8 outcomes, promote a culture of health awareness, increase
9 satisfaction with the health care system, adopt an optional no-
10 fault administrative system to fairly compensate those whose
11 conditions are made worse by the treatments they receive or
12 through failures to receive appropriate care, implement policies
13 that strengthen and improve culturally sensitive care, and
14 develop an integrated health care database to support health
15 care planning and quality assurance.

16 (c) Reforms.--The board shall implement the reforms adopted
17 by the General Assembly hereby on January 1, 2008.
18 Section 502. Universal health care access eligibility.

19 (a) Eligibility.--All Pennsylvania citizens, including
20 documented aliens, full-time out-of-State students attending
21 school in this Commonwealth, homeless persons and migrant
22 agricultural workers and their accompanying families are
23 eligible beneficiaries under the plan. The board shall establish
24 standards and a simple procedure to demonstrate proof of
25 eligibility.

26 (b) Enrollment.--Enrollment in the plan shall be automatic
27 and beneficiaries shall be provided with access cards with
28 appropriate proof of identity technology and privacy protection.
29 Individuals covered under a collective bargaining agreement that
30 provides health benefits at least as extensive as the plan, as

1 certified by the executive director, shall not be eligible for
2 plan benefits.

3 (c) Waivers.--If waivers are not obtained from the medical
4 assistance and/or Medicare programs operated under Title XVIII
5 or XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301
6 et seq.), the medical assistance and Medicare nonwaived programs
7 shall act as the primary insurers for those eligible for such
8 coverage, and the plan shall serve as the secondary or
9 supplemental plan of health coverage. Until such time as waivers
10 are obtained, the plan will not pay for services for persons
11 otherwise eligible for the same benefits under Medicare or
12 Medicaid. The plan shall also be secondary to benefits provided
13 to military veterans except where reasonable and timely access,
14 as defined by the board, is denied or unavailable through the
15 United States Veterans' Administration, in which instance the
16 plan will be primary and will seek reasonable reimbursement from
17 the United States Veterans' Administration for the services
18 provided to veterans.

19 (d) Priority of plans.--A plan of employee health coverage
20 provided by an out-of-State employer to a Pennsylvania resident
21 working outside of this Commonwealth shall serve as the
22 employee's primary plan of health coverage, and the plan shall
23 serve as the employee's secondary plan of health coverage.

24 (e) Reimbursement.--The plan shall reimburse participating
25 providers practicing outside of this Commonwealth at plan rates,
26 or reasonable locally prevailing rate, for health care services
27 rendered to a beneficiary while the beneficiary is out of this
28 Commonwealth. Services provided to a beneficiary out of this
29 Commonwealth by other than a participating provider shall be
30 reimbursed to the beneficiary or to the provider at a fair and

1 reasonable rate for that location.

2 (f) Presumption of eligibility.--Any individual who arrives
3 at a health care facility unconscious or otherwise unable due to
4 their mental or physical condition to document eligibility for
5 coverage shall be presumed to be eligible, and emergency care
6 shall be provided without delay occasioned over issues of
7 ability to pay.

8 (g) Rules.--The board shall adopt rules assuring that any
9 participating provider who renders humanitarian emergency or
10 urgent care within this Commonwealth to a not actually eligible
11 recipient shall nevertheless be reimbursed for such care from
12 the plan subject to such rules as will reasonably limit the
13 frequency of such events to protect the fiscal integrity of the
14 plan. It shall be the agency's responsibility to secure
15 reimbursement for the costs paid for such care from any
16 appropriate third party funding source, or from the individual
17 to whom the services were rendered.

18 Section 503. Covered services.

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

22 (1) Inpatient and outpatient care, both primary and
23 secondary.

24 (2) Emergency services.

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

27 (4) Rehabilitation services, including speech,
28 occupational and physical therapy.

29 (5) Inpatient and outpatient mental health services and
30 substance abuse treatment.

- 1 (6) Hospice care.
- 2 (7) Prescription drugs and prescribed medical nutrition.
- 3 (8) Vision care, aids and equipment.
- 4 (9) Hearing care, hearing aids and equipment.
- 5 (10) Diagnostic medical tests, including laboratory
- 6 tests and imaging procedures.
- 7 (11) Medical supplies and prescribed medical equipment.
- 8 (12) Immunizations, preventive care, health maintenance
- 9 care and screening.
- 10 (13) Dental care.
- 11 (14) Home health care services.
- 12 (15) Chiropractic and massage therapy.
- 13 (16) Long-term care for those unable to care for
- 14 themselves independently and including assisted and skilled
- 15 care.

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

18 (c) Copayments, deductibles, etc.--Beneficiaries of the plan
19 are not subject to copayments, deductibles, point-of-service
20 charges or any other fee or charge for a service within the
21 package and shall not be directly billed nor balance billed by
22 participating providers for covered benefits provided to the
23 beneficiary. Where a beneficiary has directly paid for
24 nonemergency services of a nonparticipating provider, the
25 beneficiary may submit a claim for reimbursement from the plan
26 for the amount the plan would have paid a participating provider
27 for the same service. Where emergency services are rendered by a
28 nonparticipating provider, the beneficiary shall receive
29 reimbursement of the full amount paid to such nonparticipating
30 provider not to exceed 125% of the amount the plan would have

1 paid a participating provider for the same service.

2 (d) Exclusions of coverage.--The board shall remove or
3 exclude procedures and treatments, equipment and prescription
4 drugs from the plan benefit package that the board finds unsafe
5 or that add no therapeutic value.

6 (e) The board shall exclude coverage for any surgical,
7 orthodontic or other procedure or drug that the board determines
8 was or will be provided primarily for cosmetic purposes unless
9 required to correct a congenital defect, to restore or correct
10 disfigurements resulting from injury or disease or that is
11 certified to be medically necessary by a qualified, licensed
12 provider.

13 (f) Choice by beneficiary.--Beneficiaries shall normally be
14 granted free choice of the participating providers, including
15 specialists, without preapprovals or referrals. However, the
16 board shall adopt procedures to restrict such free choice for
17 those individuals who engage in patterns of wasteful or abusive
18 self-referrals to specialists. Specialists who provide primary
19 care to a self-referred beneficiary will be reimbursed at the
20 board-approved primary care rate established for the service in
21 that community.

22 (g) Service.--No participating provider shall be compelled
23 to offer any particular service so long as the refusal is
24 general, consistent and not discriminatory.

25 (h) Discrimination.--The plan and participating providers
26 shall not discriminate on the basis of race, ethnicity, national
27 origin, gender, age, religion, sexual orientation, health
28 status, mental or physical disability, employment status,
29 veteran status or occupation.

30 Section 504. Excess and collective bargaining agreement health

1 insurance coverage.

2 Subject to the regulations of the Insurance Commissioner and
3 all applicable laws, private health insurers shall be authorized
4 to offer coverage supplemental to the package approved and
5 provided automatically under this act. Private insurers shall
6 also be authorized to offer programs to support the health care
7 terms of a collective bargaining agreement provided that such
8 benefits are at least as comprehensive as those provided under
9 the plan.

10 Section 505. Duplicate coverage.

11 The agency is subrogated to and shall be deemed an assignee
12 of all rights of a beneficiary who has received duplicate health
13 care benefits, or who has a right to such benefits, under any
14 other policy or contract of health care or under any government
15 program.

16 Section 506. Subrogation.

17 (a) General rule.--The agency shall have no right of
18 subrogation against a beneficiary's third-party claims for harm
19 or losses not covered under this act. Nor shall any beneficiary
20 under this act have a claim against a third-party tortfeasor for
21 the services provided or available to the beneficiary under this
22 act. In all personal injury actions accruing and prosecuted by a
23 beneficiary on or after January 1, 2008, the presiding judge
24 shall advise any jury that all health care expenses have been or
25 will be paid under the plan, and, therefore, no claim for past
26 or future health care benefits is pending before the court.

27 (b) Exception.--The exception to the general rule of no
28 subrogation shall be that the agency retains its equitable right
29 to subrogation to the recovery, including the recovery for
30 noneconomic damages, of those persons opting out of the no-fault

1 administrative remedies adopted herein and who successfully
2 prosecute to verdict or settlement a claim for health care
3 professional or institutional negligence. The agency's right to
4 subrogation shall be absolute and shall not be subject to
5 reduction for attorney fees or costs of litigation.

6 Section 507. Eligible participating providers and availability
7 of services.

8 (a) General rule.--All licensed health care providers and
9 facilities are eligible to become a participating provider in
10 the plan in which instance they shall enjoy the rights and have
11 the duties as set forth in the plan as stated in this section or
12 as adopted by the board from time to time. Nonparticipating
13 providers shall not enjoy the rights nor bear the duties of
14 participating providers.

15 (b) Required notice.--In advance of initially providing
16 services to a beneficiary, nonparticipating providers shall
17 advise the beneficiary at the time the appointment is made that
18 the person or entity is a nonparticipating provider and that the
19 recipient of the service will be initially personally
20 responsible for the entire cost of the service and ultimately
21 responsible for the cost in excess of the reimbursement approved
22 by the board for participating providers. Failure to make such
23 financial disclosure will be deemed a fraud on the beneficiary
24 and entitle the beneficiary to a refund equal to 200% of the
25 amount paid to the nonparticipating provider in excess of the
26 board-approved reimbursement for the services rendered, plus all
27 reasonable fees for collection. The burden of proof that such
28 disclosure was made shall be on the nonparticipating provider.

29 (c) Plan by board.--The board shall assess the number of
30 primary and specialty providers needed to supply adequate health

1 care services in this Commonwealth generally and in all
2 geographic areas and shall develop a plan to meet that need. The
3 board shall develop financial incentives for participating
4 providers in order to maintain and increase access to health
5 care services in underserved areas of this Commonwealth.

6 (d) Reimbursements.--Reimbursements shall be determined by
7 the board in such a fashion as to assure that a participating
8 provider receives compensation for services that fairly and
9 fully reflect the skill, training, operating overhead included
10 in the costs of providing the service, capital costs of
11 facilities and equipment, cost of consumables and the expense of
12 safely discarding medical waste, plus a reasonable profit
13 sufficient to encourage talented individuals to enter the field
14 and for investors to make capital available for the construction
15 of state-of-the-art health care facilities in this Commonwealth.

16 (e) Adjustments to reimbursements.--Participating providers
17 shall have the right alone or collectively to petition the board
18 for adjustments to reimbursements believed to be too low. Such
19 petitions shall be initially evaluated by the administrator of
20 provider services, with input from the Health Advisory Panel,
21 who shall submit a report to the executive director within 30
22 days. The executive director will then submit a recommendation
23 to the board for action at the next scheduled board meeting.
24 Participating providers who remain dissatisfied after the board
25 has ruled may appeal the board's determination to the Court of
26 Common Pleas of Dauphin County, which shall review the action of
27 the board on an abuse of discretion standard.

28 (f) Evaluation of access to care.--The board annually shall
29 evaluate access to trauma care, diagnostic imaging technology,
30 emergency transport and other vital urgent care requirements and

1 shall establish measures to assure beneficiaries have equitable
2 and ready access to such resources regardless of where in this
3 Commonwealth they may be.

4 (g) Performance reports.--The board, with the assistance of
5 the Health Advisory Panel and the administrator of quality
6 assurance, shall define performance criteria and goals for the
7 plan and shall make a written report to the General Assembly at
8 least annually on the plan's performance. All such reports,
9 including the survey results obtained, shall be made publicly
10 available with the goal of total transparency and open self-
11 analysis as a defining quality of the agency. The board shall
12 establish a system to monitor the quality of health care and
13 patient and provider satisfaction and to adopt a system to
14 devise improvements and efficiencies to the provision of health
15 care services.

16 (h) Data reporting.--All participating providers shall
17 provide data to the agency promptly upon the request of the
18 executive director.

19 (i) Coordination of services.--The board shall coordinate
20 the provision of health care services with any other
21 Commonwealth and local agencies that provide health care
22 services directly to their charges or residents.

23 Section 508. Rational cost containment.

24 (a) Approval of expenditures.--As part of its cost
25 containment mission, the board shall screen and approve or
26 disapprove private or public expenditures for new health care
27 facilities and other capital investments that may lead to
28 redundant and inefficient health care provider capacity.
29 Procedures shall be adopted for this purpose with an emphasis
30 upon efficiency and a fair and open consideration of all

1 applications.

2 (b) Capital investments.--All capital investments valued at
3 one million dollars or greater, including the costs of studies,
4 surveys, design plans and working drawing specifications, and
5 other activities essential to planning and execution of capital
6 investment and all capital investments that change the bed
7 capacity of a health care facility by more than 10% over a 24-
8 month period or that add a new service or license category shall
9 require the approval of the board. When a facility, an
10 individual acting on behalf of a facility or any other purchaser
11 obtains by lease or comparable arrangement any facility or part
12 of a facility, or any equipment for a facility, the market value
13 of which would have been a capital expenditure, the lease or
14 arrangement shall be considered a capital expenditure for
15 purposes of this section.

16 (c) Deemed approval.--Capital investment programs submitted
17 for approval shall be deemed approved unless specifically
18 rejected by the board within 60 days from the date the
19 submissions are received by the executive director.

20 (d) Recommendations.--Recommendations of the Pennsylvania
21 Health Cost Containment Council, Pittsburgh Regional Health Care
22 Initiative and such other public and private authoritative
23 bodies as shall be identified from time to time by the board
24 shall be received by the executive director and submitted to the
25 board with the executive director's recommendation regarding
26 implementation of the recommended reforms. The board shall
27 receive input from all interested parties and then shall vote
28 upon all such recommendations within 60 days. Where procedural
29 or protocol reforms are adopted, participating providers will be
30 required to implement such designated best practices within the

1 next 60 days.

2 (e) Required investments.--If mandated reforms require the
3 acquisition of additional equipment, participating providers
4 shall make such investments within one year, and, upon
5 application, the board shall provide financing for such mandated
6 equipment on reasonable terms.

7 (f) Sanctions.--Participating providers refusing to adopt
8 recommended reforms shall, after a reasonable opportunity to be
9 heard, be subject to such sanctions as the board shall deem
10 appropriate and necessary up to and including the suspension or
11 permanent decertification of the provider.

12 CHAPTER 7

13 NO-FAULT ADMINISTRATIVE REMEDIES

14 Section 701. Rationalization of remedies for errors and
15 complications.

16 A primary objective of the board shall be to reduce the
17 frequency of medical errors and complications and to establish a
18 no-fault administrative procedure for fair and expeditious
19 compensation to those who suffer injuries or complications
20 relating to their care.

21 Section 702. Voluntary waiver of tort remedies and choice to
22 retain tort remedies.

23 Beneficiaries under the plan shall be conclusively deemed to
24 have voluntarily waived all other common law and statutory tort
25 remedies against any participating provider for alleged
26 professional negligence, error of judgment or failure to secure
27 informed consent. Beneficiaries under the plan not willing to
28 waive such common law and statutory remedies may opt out of the
29 no-fault administrative remedies set forth in this act at any
30 time prior to the events complained of. Nonparticipating

1 providers shall not fall within the protections of the waiver of
2 tort remedies.

3 Section 703. No-fault administrative remedies for those not
4 opting out.

5 (a) Compensation.--In exchange for the waiver of their
6 traditional tort remedies, beneficiaries who suffer a new injury
7 or complication directly related to the care provided by, or
8 medications or treatments prescribed by a participating provider
9 shall be entitled to expedited compensation without proof of
10 professional negligence or error of judgment. Where the
11 application for compensation does not arise from a new injury or
12 complication but rather asserts a failure of a participating
13 provider to properly intervene, and thus mitigate the natural
14 progress of a disease or injury, proof of a departure from the
15 standard of care must be demonstrated by a preponderance of the
16 credible evidence for the claimant to qualify for compensation.
17 Out-of-state patients seeking care in Pennsylvania from a
18 participating provider shall, prior to treatment unless
19 unconscious or other circumstances prevent it, be provided with
20 a form approved by the board on which the patient can opt in or
21 opt out of the no-fault administrative remedies. Where no
22 election is made, the patient shall be conclusively presumed to
23 have chosen to participate in the no-fault administrative
24 remedies should the occasion arise.

25 (b) Other compensation.--In further exchange for the waiver
26 of their traditional tort remedies, beneficiaries not opting out
27 of the no-fault administrative remedies and who assert that they
28 did not give their informed consent to an invasive procedure or
29 treatment, but who have not suffered a new injury or
30 complication thereby, shall be entitled to compensation upon

1 proof of the failure of the participating provider, or the
2 provider's representative, to provide at least the level of
3 information required for the procedure at issue pursuant to
4 guidelines adopted by the board.

5 (c) Award of damages.--Eligible claimants not opting out of
6 the no-fault administrative remedies shall be entitled to awards
7 to be determined by the health claims hearing officers as
8 follows:

9 (1) For past and/or continuing lost earning capacity, up
10 to a maximum of \$5,000 per month.

11 (2) For noneconomic harm, defined as past and/or
12 continuing pain, suffering, disfigurement and/or
13 inconvenience, up to a maximum of \$5,000 per month.

14 (3) For a failure of informed consent, either alone or
15 in conjunction with an award for past and or continuing lost
16 earning capacity and/or noneconomic harm, a maximum single
17 lump-sum payment of \$10,000.

18 (4) For death, and in addition to the lost earning
19 capacity and noneconomic harm endured prior to death, up to a
20 maximum of \$10,000 per month for 120 months to be placed in
21 trust for the benefit of the decedent's dependents. The trust
22 shall be managed by the office of the beneficiary advocate
23 under guidelines adopted by the board.

24 (d) Adjustments of limits.--The board shall adjust the
25 limits of compensation annually to account for inflation, and
26 all awards for continuing lost earning capacity and/or
27 noneconomic damages shall be adjusted annually at the same rate
28 of inflation as determined by the board.

29 (e) Payment from trust.--The cost of all such compensation
30 shall be paid from the trust. No participating provider shall be

1 held financially responsible for any portion of the compensation
2 award nor shall participating providers be required to fund the
3 cost of such awards collectively through any assessment or
4 premium.

5 Section 704. Administrative claims procedures.

6 (a) Application for compensation.--The board shall adopt
7 simplified procedures for the submission of applications for no-
8 fault compensation under this act to the administrator of health
9 claims. The procedures shall provide for the expeditious
10 handling and approval of any clearly qualifying claims. Where
11 fact-finding is required in whole or in part, such claims shall
12 be presented expeditiously to a health claims hearing officer
13 for findings. Administrative appeals to the executive director
14 shall be permitted, and, where a claimant has been denied
15 compensation or contests the sufficiency of the award, claimant
16 shall have an appeal to the Court of Common Pleas of Dauphin
17 County which will consider the adequacy of the compensation on a
18 de novo basis with the power to increase or decrease the amount
19 awarded administratively. However, such court shall not have the
20 power to award compensation in excess of the limits established
21 by this act.

22 (b) Attorney fees.--Where on appeal to the Court of Common
23 Pleas of Dauphin County a denied claim is approved or an
24 administrative award is increased by at least 25%, the court
25 shall also award a reasonable attorney fee of no more than 20%
26 and all reasonable litigation expenses including the cost of
27 expert witnesses and exhibits.

28 (c) Adjustment of awards.--The board shall further adopt
29 procedures whereby awards granted under this section for
30 continuing harms shall be subject to increase, not to exceed the

1 limits, or decrease upon a showing of a material change in the
2 claimant's condition. Continuing benefits shall be contingent
3 upon the reasonable cooperation of the claimant with respect to
4 the rehabilitation and mitigation of the claimant's injury.

5 (d) Administrative procedure.--The board shall adopt
6 administrative procedure to review appeals of participating
7 providers with respect to denials or adjustment of reimbursement
8 which appeals must be filed within 90 days of the notice of a
9 denied or adjusted reimbursement.

10 Section 705. Beneficiary right to counsel.

11 (a) Choice of counsel.--Beneficiaries seeking to file a
12 claim for no-fault compensation under this act shall have the
13 right to be represented by legal counsel of their choice.

14 (b) Fee agreement.--Any contingent fee agreement entered
15 into between a beneficiary claimant and their legal counsel
16 shall be limited as follows:

17 (1) Five percent where the claim is administratively
18 approved without a hearing.

19 (2) Ten percent where the claim proceeds to a hearing.

20 (3) Twenty percent where the claim is resolved after
21 appeal.

22 Section 706. Quality assurance follow-up to claims.

23 (a) Investigations.--All claims of error, complication or
24 failure of informed consent shall simultaneously be submitted
25 for analysis and quality assurance investigation through the
26 office of the administrator for quality assurance. The
27 beneficiary submitting the claim shall be advised of the
28 progress of the inquiry and invited to present such information
29 or testimony as they deem necessary to the full and fair
30 consideration of the matters reported. Beneficiaries may attend

1 and/or be represented during this process by counsel of their
2 choosing at their own expense or may request the assistance at
3 no cost of a qualified advocate from the office of the
4 administrator of consumer affairs.

5 (b) Representation of providers.--Participating providers
6 who are the subject of an inquiry initiated by a beneficiary
7 application for compensation may attend and/or be represented by
8 counsel of their choosing at their own expense or may request
9 the assistance at no cost of a qualified advocate from the
10 office of the administrator for provider coordination.

11 (c) Reports.--At the conclusion of the inquiry, the
12 administrator of quality assurance shall submit a report and
13 recommendations to the executive director who shall then take
14 such action as they deem necessary under the circumstances to
15 avoid a recurrence of any avoidable errors. A copy of the
16 recommendations shall be provided to the beneficiary who
17 initiated the claim and also to the participating provider
18 involved in the inquiry. The report will be forwarded to
19 appropriate licensing authorities for further action.

20 Section 707. Surviving tort claims against participating
21 providers.

22 (a) Optional remedies.--Otherwise eligible persons who have
23 opted out of the no-fault administrative remedies of the plan
24 shall retain their right to pursue traditional tort remedies
25 against participating providers through the courts of this
26 Commonwealth and, where jurisdictional requirements are
27 satisfied, through the courts of the United States.

28 (b) Legal counsel.--In all such cases participating
29 providers shall have the right to legal counsel of their choice
30 the reasonable cost of which shall be paid by the plan as will

1 the reasonable cost of experts and other trial expenses. In the
2 event of a final award in favor of the persons filing the claim,
3 the plan shall further provide primary indemnification of up to
4 three million dollars per claim and six million dollars per
5 annual aggregate claims per participating provider.

6 (c) Excess liability coverage.--In the event the private
7 insurance market does not make excess coverage available to
8 participating providers at reasonable cost, the board shall
9 recommend to the General Assembly the establishment of an excess
10 liability insurance pool sponsored by the Commonwealth and
11 financed with premiums to be paid by those participating
12 providers who seek additional protection above and beyond the
13 protection provided in subsection (b).

14 Section 708. Claims against nonparticipating providers.

15 Health care providers opting out of the plan shall be
16 responsible for the cost of their legal defense and shall be
17 further responsible to the patient and/or the plan for any
18 settlement or award, if any. Where the plan has paid for health
19 care-related costs arising from an alleged failure of due care
20 by a nonparticipating provider and where the injured party has
21 otherwise been made whole, the plan shall be subrogated to the
22 claim to the extent of the medical expenses incurred or that
23 have been found will be incurred.

24 Section 709. Parallel no-fault compensation for beneficiaries
25 injured by nonparticipating providers.

26 Beneficiaries who have not opted out of the no-fault
27 administrative remedies pursuant to section 702, and who believe
28 they have been harmed by the negligence of a nonparticipating
29 provider, may elect, alone or in addition to pursuing
30 traditional tort claims against the nonparticipating providers,

1 to submit a claim under section 704, in which instance the plan
2 shall be subrogated to and/or credited with the beneficiary's
3 recovery, net of reasonable attorney fees and expenses, from the
4 nonparticipating provider to the extent of economic, noneconomic
5 and/or failure of informed consent benefits paid to such
6 beneficiaries.

7 CHAPTER 9

8 PENNSYLVANIA HEALTH CARE TRUST FUND

9 Section 901. Pennsylvania Health Care Trust Fund.

10 (a) Establishment.--The Pennsylvania Health Care Trust Fund
11 is hereby established within the State Treasury. All moneys
12 collected and received by the plan shall be transmitted to the
13 State Treasurer for deposit into the fund, to be used
14 exclusively to finance the plan.

15 (b) State Treasurer.--The State Treasurer may invest the
16 principal and interest earned by the fund in any manner
17 authorized under law for the investment of Commonwealth moneys.
18 Any revenue or interest earned from the investments shall be
19 credited to the fund.

20 (c) Administrator of finance.--The administrator of finance
21 of the agency shall notify the board when the monthly
22 expenditures or anticipated future expenditures of the plan
23 appear to be in excess of the anticipated future revenues for
24 the same period. The board shall implement appropriate measures
25 upon such notification. Such measures shall include the
26 adjustment of the Wellness Tax as necessary to ensure the
27 solvency of the trust.

28 Section 902. Rolling budget process.

29 (a) Estimated annual budget.--The board shall prepare and
30 recommend to the General Assembly an estimated annual budget for

1 health care, which budget specifies an estimated requirement for
2 health care provided under this act. The budget shall include
3 all of the following components:

4 (1) A system budget covering all expenditures for the
5 agency.

6 (2) A capital investment budget.

7 (3) A purchasing budget.

8 (4) A research and innovation budget.

9 (b) Budget projections.--In preparing the budget, the board
10 shall consider anticipated increased expenditures and savings,
11 including, but not limited to, projected increases in
12 expenditures due to improved access for underserved populations
13 and improved reimbursement for primary care, projected
14 administrative savings under the single-payer mechanism,
15 projected savings in prescription drug expenditures under
16 competitive bidding and a single buyer, and projected savings
17 due to provision of primary care rather than emergency room
18 treatment.

19 (c) Rolling budget.--The board shall operate on a rolling
20 budget whereby it will anticipate its funding needs 90 days in
21 advance and shall seek adjustments from the General Assembly to
22 The Employer Health Services Levy and/or The Individual Wellness
23 Tax to assure solvency of the plan and to avoid unnecessary cash
24 surpluses in the trust.

25 Section 903. Limitation on administrative expense.

26 The system budget referred to in this chapter shall comprise
27 the cost of the agency, services and benefits provided,
28 administration, data gathering, planning and other activities
29 and revenues deposited with the system account of the trust. The
30 board shall limit administrative costs to 5% of the agency

1 budget and shall annually evaluate methods to reduce
2 administrative costs and publicly report the results of that
3 evaluation.

4 Section 904. Funding sources.

5 Funding of the plan shall be obtained from the following
6 dedicated sources:

7 (1) Funds obtained from existing or future Federal
8 health care programs.

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

11 (3) Receipts from the tax of 10% of gross payroll,
12 including self-employment profits. One percent of the tax
13 shall become effective the date that shall be the first day
14 of a calendar month no less than 32 days after the effective
15 date of this act, and the tax shall become fully effective
16 November 1, 2007. Employers who are part of a collective
17 bargaining agreement whereby the health care benefits are no
18 less generous than those provided under the plan shall be
19 excused from paying 90% of the tax.

20 (4) Receipts from the Individual Wellness Tax of 3% of
21 personal earned, passive, pension and investment income. One-
22 half of one percent of the Individual Wellness Tax shall
23 become effective the date that shall be the first day of a
24 calendar month no less than 32 days after the effective date
25 of this act, and the IWC tax shall become fully effective
26 November 1, 2007. Employees who are part of a collective
27 bargaining agreement whereby the health care benefits are no
28 less generous than those provided under the plan shall be
29 excused from paying 90% of the Individual Wellness Tax.

30 (5) In the event the General Assembly has not responded

1 to a request by the board for an increase in funding in
2 anticipation of projected expenses, the board is hereby
3 authorized to order a temporary increase, for no more than 90
4 days, in the Employer Health Services Tax and/or the
5 Individual Wellness Tax of no more than 250 basis points each
6 to respond to a threatened insolvency of the plan.

7 CHAPTER 11

8 TRANSITIONAL SUPPORT AND TRAINING FOR DISPLACED WORKERS

9 Section 1101. Transitional support and training for displaced
10 workers.

11 (a) Determination of administrator.--The administrator of
12 transition services shall determine which citizens of this
13 Commonwealth employed by a health care insurer, health insuring
14 corporation or other health care-related business have lost
15 their employment as a result of the implementation and operation
16 of the plan. The administrator also shall determine the amount
17 of monthly wages that the individual has lost due to the plan's
18 implementation. The department shall attempt to position these
19 displaced workers in comparable positions of employment or
20 assist in the retraining and placement of such displaced
21 employees elsewhere.

22 (b) Information.--The administrator of transition services
23 shall forward the information on the amount of monthly wages
24 lost by Commonwealth residents due to the implementation of the
25 plan to the board. The board shall determine the amount of
26 compensation required to assure income maintenance and training
27 that each displaced worker shall receive on a case-by-case basis
28 and shall submit a claim to the trust for payment. A displaced
29 worker, however, shall not receive compensation or training
30 assistance from the trust in excess of \$5,000 per month for two

1 years. Compensation paid to the displaced worker under this
2 section shall serve as a supplement to any compensation the
3 worker receives from any other source including unemployment
4 insurance.

5 (c) Coordination of services.--The administrator of
6 transition services shall fully coordinate activity with public
7 and private services also available or actually participating in
8 the assistance to the affected individuals.

9 (d) Appeals.--Persons dissatisfied with the level of
10 assistance they are receiving may appeal to the office of the
11 executive director whose determination shall be final and not
12 subject to appeal.

13 CHAPTER 13

14 VOLUNTEER EMERGENCY RESPONDER NETWORK

15 Section 1301. Preservation of volunteer emergency responder
16 network.

17 Because this Commonwealth is dependent upon the volunteered
18 services of firefighters, emergency medical technicians and
19 search and rescue workers, the board is further charged with
20 administering a Commonwealth income tax credit program for such
21 volunteers.

22 Section 1302. Eligibility certification.

23 Annually, in January, administrators of volunteer
24 firefighting and rescue departments, emergency medical
25 technicians and paramedics stations and similar volunteer
26 emergency entities shall certify the identity of Commonwealth
27 residents providing active services during the prior calendar
28 year.

29 Section 1303. Eligibility criteria.

30 Active status shall require a minimum of 200 hours of service

1 during the preceding year and response to no less than 50% of
2 the emergency calls during at least three of the four calendar
3 quarters.

4 Section 1304. Amount of tax credit.

5 Each volunteer certified as active shall be granted a credit
6 equal to \$1,000 toward their State income tax obligation under
7 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
8 the Tax Reform Code of 1971. Any eligible volunteer who does not
9 incur \$1,000 in annual State income tax liability shall
10 nevertheless be eligible for a refund equal to the amount the
11 credit exceeds that volunteer's tax obligation.

12 Section 1305. Reimbursement of Department of Revenue.

13 The State Treasury shall be reimbursed the value of such
14 volunteer credits from the fund.

15 CHAPTER 15

16 MISCELLANEOUS PROVISIONS

17 Section 1501. Effective date.

18 This act shall take effect immediately.