
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 700 Session of 2007

INTRODUCED BY EACHUS, DeLUCA, DeWEESE, McCALL, D. EVANS, COHEN,
DERMODY, SURRA, STURLA, OLIVER AND MUNDY, MARCH 22, 2007

REFERRED TO COMMITTEE ON INSURANCE, MARCH 22, 2007

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, reforming the health care system by providing for
3 access to affordable health insurance coverage for previously
4 uninsured individuals and for small businesses, ensuring that
5 charitable health care institutions meet their community
6 benefit requirements, strengthening Commonwealth oversight of
7 health insurance rate increases, imposing certain duties on
8 retail drug stores, hospitals and certain outpatient
9 facilities to report price information, establishing the
10 Pennsylvania Center for Health Careers and the Health Careers
11 Leadership Council, removing barriers to individual health
12 care providers from practicing to the full extent of their
13 scope of practice, education and training, imposing certain
14 health information technology requirements on health care
15 providers, imposing patient safety obligations on hospitals
16 and nursing homes, prohibiting smoking in areas open to the
17 public, food service establishments and places of employment,
18 providing for administration, imposing penalties and making
19 repeals.

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

22 Section 1. Title 40 of the Pennsylvania Consolidated
23 Statutes is amended by adding a part to read:

24 SUBPART IV
25 HEALTH CARE REFORM

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- 1 71. General Provisions
 - 2 72. Affordability
 - 3 73. Accessibility
 - 4 74. Quality of Care and Healthy Lifestyles
 - 5 75. Miscellaneous Provisions

CHAPTER 71
GENERAL PROVISIONS

8 Sec.

- 9 7101. Scope and short title.
- 10 7102. Legislative intent.
- 11 7103. Definitions.

12 § 7101. Scope and short title.

13 This part relates to health care reform and shall be known
14 and may be cited as the Pennsylvania Health Care Reform Act.

15 § 7102. Legislative intent.

16 The General Assembly recognizes the following public policy
17 purposes and declares that the following objectives of this
18 Commonwealth are to be served by this part:

19 (1) Health care costs have been increasing twice as fast
20 as average wages in this Commonwealth. Yet at the same time
21 as health care costs are skyrocketing and nearly one million
22 Pennsylvanians remain uninsured, the Commonwealth is paying
23 billions of dollars each year in avoidable health care costs.

24 (2) The large number of uninsured workers in this
25 Commonwealth has a negative impact on the Commonwealth's
26 economy and productivity because insured workers are
27 healthier and more productive and use fewer sick days. The
28 Commonwealth should play a role in making health care
29 coverage affordable for small businesses and for uninsured
30 individuals.

20070H0700B1011

- 2 -

1 (3) The health care crisis is of national concern, but
2 it is possible to create a solution in Pennsylvania that
3 drives down the cost of health care and improves the well-
4 being of Pennsylvania's citizens by addressing three
5 fundamental issues: affordability, accessibility and quality.

6 (4) The Commonwealth has a clear interest in ensuring
7 that Pennsylvania families and small employers can afford
8 health insurance. In addition to the staggering human impact
9 of inadequate health care, paying for the uninsured drives up
10 the cost of health care for all insured Pennsylvanians. The
11 extra charge in insurance premiums resulting from this
12 amounts to over a billion dollars each year.

13 (5) Individual and small group health insurance rates
14 are volatile. In order to ensure that affordable individual
15 and small group health insurance is available, the
16 Commonwealth must do all of the following:

17 (i) Contain health care coverage premium increases
18 for small employers.
19 (ii) Spread the risks.
20 (iii) Ensure that affordable health care coverage is
21 available to those who have lost their employer-based
22 coverage.
23 (iv) Ensure that a substantial portion of the
24 premiums for small employers is used to pay medical
25 claims.
26 (v) Require justification for premium increases.
27 (6) The Commonwealth's not-for-profit hospitals receive
28 tax and other benefits as a result of their classification as
29 charitable institutions and, in return, are required to
30 provide a substantial community benefit. However, there is
20070H0700B1011 - 3 -

1 currently no uniform method of assessing whether a hospital
2 has met this obligation. Not-for-profit hospitals that enjoy
3 these benefits must demonstrate how they are meeting their
4 obligations to the community.
5 (7) With regard to quality and price, Pennsylvania's
6 health care market should be as transparent as possible, so
7 that all consumers will have the information they need to
8 make informed decisions on where they can obtain the best
9 quality health care at the best price.
10 (8) To expand access to quality health care, all health
11 care professionals need to be able to practice to the fullest
12 extent of their education, training and skills. Pennsylvania
13 lags behind the rest of the nation in ensuring that nurses,
14 nurse practitioners, physician assistants and other health
15 care providers are permitted to play critical roles to
16 support, coach and treat the patient, resulting in better
17 outcomes for all Pennsylvanians. Barriers that limit licensed
18 health care providers from performing up to the fullest
19 extent of their scope of practice, education and training in
20 this Commonwealth should be eliminated.
21 (9) The unnecessary use of emergency room services in
22 this Commonwealth affects both the outcome of patient care
23 and the cost to the entire health care system. Access to
24 clinics that can function as places where individuals go on a
25 regular basis to receive health care should be expanded and
26 Pennsylvanians should be educated about the appropriate use
27 of emergency rooms and alternative sites of care.
28 (10) The primary goals of the Commonwealth's health care
29 system must be the safety of its patients and the quality of
30 health care services delivered. In order to further these
20070H0700B1011 - 4 -

1 goals and to continue to improve the safety of patients,
2 hospital-acquired infections, which lead to thousands of
3 unnecessary deaths each year and drive up health care costs,

4 must be eliminated. Hospitals need to focus on infection and
5 error trends in their facilities and adopt safe practices and
6 quality management systems to reduce them. Not only
7 individual health care providers, but administrators and
8 boards of directors must be accountable for understanding the
9 importance of patient safety in reducing risk, improving
10 quality and reducing the cost of health care.

11 (11) Breathing secondhand smoke is a significant health
12 hazard for nonsmokers. It is in the best interests of the
13 citizens of this Commonwealth to protect nonsmokers from
14 involuntary exposure to secondhand tobacco smoke in indoor
15 areas open to the public, food service establishments and
16 places of employment. In addition, adults who smoke, are
17 overweight or inactive are at an increased risk of developing
18 high blood pressure, type 2 diabetes, heart disease and some
19 types of cancers and become an economic burden to all health
20 care payers in this Commonwealth.

21 § 7103. Definitions.

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

25 "Accident and Health Filing Reform Act." The act of December
26 18, 1996 (P.L.1066, No.159), known as the Accident and Health
27 Filing Reform Act.

28 "Ambulatory surgical facility." An entity licensed as an
29 ambulatory surgical facility under the act of July 19, 1979
30 (P.L.130, No.48), known as the Health Care Facilities Act.

20070H0700B1011

- 5 -

1 "Behavioral health services." Mental health or substance
2 abuse services.

3 "Birth center." An entity licensed as a birth center under
4 the act of July 19, 1979 (P.L.130, No.48), known as the Health
5 Care Facilities Act.

6 "CAP" or "Cover All Pennsylvanians." The health insurance
7 program established under section 7202 (relating to Cover All
8 Pennsylvanians health insurance program).

9 "CAP Fund." The restricted account established under section
10 7202 (relating to Cover All Pennsylvanians health insurance
11 program).

12 "Children's Health Care Program" or "CHIP." The Children's
13 Health Care Program established under Article XXIII of the act
14 of May 17, 1921 (P.L.682, No.284), known as The Insurance
15 Company Law of 1921.

16 "Commonwealth Attorneys Act." The act of October 15, 1980
17 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

18 "Commonwealth Documents Law." The act of July 31, 1968
19 (P.L.769, No.240), referred to as the Commonwealth Documents
20 Law.

21 "Council." The Health Care Cost Containment Council
22 established under the act of July 8, 1986 (P.L.408, No.89),
23 known as the Health Care Cost Containment Act.

24 "Employer." The term shall include:

25 (1) Any of the following who or which employ one or more

26 employees to perform services for remuneration for any period
27 of time:
28 (i) An individual, copartnership, association,
29 domestic or foreign corporation or other entity.
30 (ii) The legal representative, trustee in
20070H0700B1011 - 6 -

1 bankruptcy, receiver or trustee of any individual,
2 copartnership, association or corporation or other
3 entity.
4 (iii) The legal representative of a deceased
5 individual.
6 (2) Individuals who are self-employed.
7 (3) The executive, legislative and judicial branches of
8 the Commonwealth and any of its political subdivisions.
9 "Fiscal year." A period of 12 consecutive calendar months
10 commencing with July 1.
11 "Health Care Cost Containment Act." The act of July 8, 1986
12 (P.L.408, No.89), known as the Health Care Cost Containment Act.
13 "Health Care Facilities Act." The act of July 19, 1979
14 (P.L.130, No.48), known as the Health Care Facilities Act.
15 "Health care facility." An ambulatory surgical facility,
16 birth center, hospital or nursing home.
17 "Health care provider." Any of the following:
18 (1) A licensee.
19 (2) A health care facility.
20 (3) An officer, employee or agent of any of the entities
21 under paragraph (1) or (2) acting in the course and scope of
22 employment.
23 "Hospital." An entity licensed as an acute-care general
24 hospital, a specialty hospital or rehabilitation hospital under
25 the act of July 19, 1979 (P.L.130, No.48), known as the Health
26 Care Facilities Act.
27 "Institutions of Purely Public Charity Act." The act of
28 November 26, 1997 (P.L.508, No.55), known as the Institutions of
29 Purely Public Charity Act.
30 "Insurer." A company or health insurance entity licensed in
20070H0700B1011 - 7 -

1 this Commonwealth to issue any individual or group health,
2 sickness or accident policy or subscriber contract or
3 certificate or plan that provides medical or health care
4 coverage by a health care facility or licensed health care
5 provider that is offered or governed under the act of May 17,
6 1921 (P.L.682, No.284), known as The Insurance Company Law of
7 1921, or any of the following:
8 (1) The act of December 29, 1972 (P.L.1701, No.364),
9 known as the Health Maintenance Organization Act.
10 (2) The act of May 18, 1976 (P.L.123, No.54), known as
11 the Individual Accident and Sickness Insurance Minimum
12 Standards Act.

13 (3) Chapter 61 (relating to hospital plan corporations)
14 or 63 (relating to professional health services plan
15 corporations).
16 (4) Section 630 of The Insurance Company Law of 1921.
17 (5) Sections 2401 through 2466 of The Insurance Company
18 Law of 1921.
19 "Licensee." An individual who is licensed by the Department
20 of State to provide professional health care services in this
21 Commonwealth.
22 "Mcare." The act of March 20, 2002 (P.L.154, No.13), known
23 as the Medical Care Availability and Reduction of Error (Mcare)
24 Act.
25 "Medical assistance." The program of medical assistance
26 established under the act of June 13, 1967 (P.L.31, No.21),
27 known as the Public Welfare Code.
28 "Medicare." The Federal program established under Title
29 XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395
30 et seq.).
20070H0700B1011 - 8 -

1 "Nursing home." An entity licensed as a long-term care
2 nursing facility under the act of July 19, 1979 (P.L.130,
3 No.48), known as the Health Care Facilities Act.
4 "PACE." The Pharmaceutical Assistance Contract for the
5 Elderly established under the act of August 26, 1971 (P.L.351,
6 No.91), known as the State Lottery Law.
7 "Prevailing Wage Act." The act of August 15, 1961 (P.L.987,
8 No.442), known as the Pennsylvania Prevailing Wage Act.
9 "Public Welfare Code." The act of June 13, 1967 (P.L.31,
10 No.21), known as the Public Welfare Code.
11 "Regulatory Review Act." The act of June 25, 1982 (P.L.633,
12 No.181), known as the Regulatory Review Act.
13 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
14 known as the Tax Reform Code of 1971.
15 "Tobacco Settlement Act." The act of June 26, 2001 (P.L.755,
16 No.77), known as the Tobacco Settlement Act.
17 "Unemployment Compensation Law." The act of December 5, 1936
18 (2nd Sp.Sess., 1936 P.L.2897, No.1), known as the Unemployment
19 Compensation Law.

20 CHAPTER 72
21 AFFORDABILITY

22 Sec.
23 7201. Definitions.
24 7202. Cover All Pennsylvanians health insurance program.
25 7203. Fair share tax.
26 7204. Health insurance rate increases and standard plans.
27 7205. Health insurance coverage for full-time students.
28 7206. Health insurance coverage for certain children of insured
29 parents.
30 7207. Hospital community benefit requirements.
20070H0700B1011 - 9 -

1 7208. Uniform admission and fair billing and collection
2 practices.
3 7209. Transparency in price and quality for consumers.
4 § 7201. Definitions.
5 The following words and phrases, when used in this chapter,
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:
8 "AdultBasic." The health investment insurance program
9 established under Chapter 13 of the Tobacco Settlement Act.
10 "Average annual wage." The total annual wages paid by an
11 employer divided by the number of the employer's employees.
12 "Basic benefit package." The minimum health benefit
13 insurance plan determined by the Insurance Commissioner under
14 section 7202 (relating to Cover All Pennsylvanians health
15 insurance program).
16 "CAP contracts." The contracts entered into under section
17 7202 (relating to Cover All Pennsylvanians health insurance
18 program).
19 "Charitable institution." A hospital that possesses an
20 exemption from tax under Article II of the Tax Reform Code
21 because it meets the criteria for being an institution of purely
22 public charity as set forth in section 5 of the Institutions of
23 Purely Public Charity Act.
24 "Chronic care model." A model based on the redesign of
25 health care delivery so that patients, who are supported by a
26 health care team, play an active role in their care and so that
27 there is an infrastructure to ensure compliance with established
28 practice guidelines. The model includes the following six
29 components:
30 (1) Providing patients with chronic conditions support
20070H0700B1011 - 10 -

1 and information so they can effectively manage their health.
2 (2) Ensuring that treatment decisions by health care
3 providers are based on evidence-based medicine.
4 (3) Ensuring that the patients get the care needed by
5 clarifying roles and tasks and ensuring that all who take
6 care of patients have centralized, up-to-date information
7 about the patient and that follow-up care is provided as a
8 standard procedure.
9 (4) Creating and maintaining a patient registry which is
10 the clinical information system that is the foundation for
11 successful integration of all the components of the model
12 because it permits tracking of individual patients and a
13 population of patients and helps guide the course of
14 treatment, anticipate problems and track problems.
15 (5) Engaging the entire organization in the chronic care
16 improvement effort.
17 (6) Forming alliances with state, local, business,
18 religious and other organizations to support or expand care
19 for those with chronic disease.
20 "Chronic disease." A disease that is long lasting or
21 recurrent, does not resolve spontaneously and is rarely

22 completely cured.
23 "Commissioner." The Insurance Commissioner of the
24 Commonwealth.
25 "Commonwealth average annual wage." The average annual wage
26 in this Commonwealth for a calendar year determined by the
27 Department of Labor and Industry under section 404(e)(2) of the
28 Unemployment Compensation Law.
29 "Community benefit." The community service requirement of an
30 institution of purely public charity under the Institutions of
20070H0700B1011 - 11 -

1 Purely Public Charity Act.
2 "Community Health Reinvestment Agreement." The Agreement on
3 Community Health Reinvestment entered into February 2, 2005, by
4 the Insurance Department and Capital BlueCross, Highmark Inc.,
5 Hospital Service Association of Northeastern Pennsylvania and
6 Independence Blue Cross and published in the Pennsylvania
7 Bulletin at 35 Pa.B. 4155 (July 23, 2005).
8 "Contractor." A person with whom the Insurance Department
9 has entered into a contract for the purposes of section 7202
10 (relating to Cover All Pennsylvanians health insurance program).
11 "Department." The Insurance Department of the Commonwealth.
12 "Drug price registry." The Pennsylvania Drug Retail Price
13 Registry established by the council under section 7209 (relating
14 to transparency in price and quality for consumers).
15 "Eligible employee enrollee." An individual who is 19 years
16 of age or older, is an employee of an eligible small low-wage
17 employer participant and has enrolled in CAP.
18 "Eligible individual." As follows:
19 (1) An individual who meets all of the following
20 criteria:
21 (i) Is at least 19 years of age but no older than 64
22 years of age.
23 (ii) Has been a resident of this Commonwealth at
24 least 90 days prior to enrollment in CAP.
25 (iii) Is ineligible to receive continuous
26 eligibility coverage under Title XIX or XXI of the Social
27 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.),
28 except for benefits authorized under a waiver granted by
29 the United States Department of Health and Human Services
30 to implement CAP.
20070H0700B1011 - 12 -

1 (iv) Meets one of the following:
2 (A) Is currently enrolled in the health
3 investment insurance program established under
4 Chapter 13 of the Tobacco Settlement Act or is wait-
5 listed for the program on the effective date of this
6 section.
7 (B) Has a household income that is no greater
8 than 200% of the Federal poverty level at the time of

9 application and has not been covered by any health
10 insurance plan or program for at least 90 days
11 immediately preceding the date of application, except
12 that the foregoing 90-day period shall not apply to
13 an individual who meets one of the following:
14 (I) Is eligible to receive benefits under
15 the Unemployment Compensation Law.
16 (II) Was covered under a health insurance
17 plan or program provided by an employer but at
18 the time of application is no longer covered
19 because of a change in the individual's
20 employment status and is ineligible to receive
21 benefits under the Unemployment Compensation Law.
22 (III) Lost coverage as a result of divorce
23 or separation from a covered individual, the
24 death of a covered individual or a change in
25 employment status of a covered individual.
26 (IV) Is transferring from another
27 government-subsidized health insurance program,
28 including as a result of failure to meet income
29 eligibility requirements.
30 (C) Has a household income that is greater than
20070H0700B1011 - 13 -

1 200% of the Federal poverty level and has not been
2 covered by any health insurance plan or program
3 during the 180 days immediately preceding the date of
4 application, except that the foregoing 180-day period
5 shall not apply to an individual who meets one of the
6 following:
7 (I) Is eligible to receive benefits under
8 the Unemployment Compensation Law.
9 (II) Was covered under a health insurance
10 plan or program provided by an employer but at
11 the time of application is no longer covered
12 because of a change in the individual's
13 employment status and is ineligible to receive
14 benefits under the Unemployment Compensation Law.
15 (III) Lost coverage as a result of divorce
16 or separation from a covered individual, the
17 death of a covered individual or a change in
18 employment status of a covered individual.
19 (IV) Is transferring from another
20 government-subsidized health insurance program,
21 including as a result of failure to meet income
22 eligibility requirements.
23 (2) If an individual who otherwise meets the definition
24 in paragraph (1) is attending an institution of higher
25 education in this Commonwealth, he shall be required to meet
26 the domiciliary requirements of 22 Pa. Code Ch. 507 (relating
27 to finance and administration) prior to enrollment in CAP.
28 "Eligible individual enrollee." An eligible individual who
29 is enrolled in CAP. The term does not include an eligible
30 employee enrollee.

1 "Eligible small low-wage employer." An employer that meets
2 all of the following:
3 (1) Has at least two, but not more than 50 full-time-
4 equivalent employees.
5 (2) Has not offered health care insurance through any
6 plan or program during the 180 days immediately preceding the
7 date of application for participation in CAP.
8 (3) Pays an average annual wage that is less than the
9 Commonwealth average annual wage.
10 (4) Will enroll in CAP at least 75% of all of its
11 employees who work 20 hours or more per week.
12 "Eligible small low-wage employer participant." An eligible
13 small low-wage employer who is participating in CAP.
14 "Employee." Any individual from whose wages an employer is
15 required under the Internal Revenue Code of 1986 (Public Law 99-
16 514, 26 U.S.C. § 1 et seq.) to withhold Federal income tax.
17 "Enrollee." An eligible employee enrollee or an eligible
18 individual enrollee, as the context may require.
19 "Fair share tax." The tax imposed under section 7203
20 (relating to fair share tax).
21 "Health benefit plan." An individual or group health
22 insurance policy, subscriber contract, certificate or plan which
23 provides health or sickness and accident coverage which is
24 offered by an insurer. The term shall not include any of the
25 following:
26 (1) An accident only policy.
27 (2) A limited benefit policy.
28 (3) A credit only policy.
29 (4) A long-term or disability income policy.
30 (5) A specified disease policy.

20070H0700B1011 - 15 -

1 (6) A Medicare supplement policy.
2 (7) A Civilian Health and Medical Program of the
3 Uniformed Services (CHAMPUS) supplement policy.
4 (8) A fixed indemnity policy.
5 (9) A dental only policy.
6 (10) A vision only policy.
7 (11) A workers' compensation policy.
8 (12) An automobile medical payment policy pursuant to 75
9 Pa.C.S. (relating to vehicles).
10 "Hospital payment registry." The Pennsylvania Hospital
11 Payment Registry established by the council under section 7209
12 (relating to transparency in price and quality for consumers).
13 "Hospital plan corporation." A not-for-profit corporation
14 operating under the provisions of Chapter 61 (relating to
15 hospital plan corporations).
16 "Imaging center." An outpatient facility used to assist
17 health care providers in diagnosis through noninvasive imaging

18 of internal body organs.
19 "Individual health benefit plan." A health benefit plan
20 offered to an individual.
21 "Institution of higher education." A public or private two-
22 year or four-year college, university or post baccalaureate
23 program.
24 "Medical loss ratio." The ratio of incurred medical claim
25 costs to earned premiums.
26 "Offeror." A hospital plan corporation, professional health
27 service corporation or other insurer that submits a proposal in
28 response to the Insurance Department's solicitation of bids or
29 proposals issued under section 7202 (relating to Cover All
30 Pennsylvanians health insurance program).
20070H0700B1011 - 16 -

1 "Outpatient procedure payment registry." The Pennsylvania
2 Outpatient Procedure Payment Registry established by the council
3 under section 7209 (relating to transparency in price and
4 quality for consumers).
5 "Patient representative." An individual designated to act as
6 the patient's health care agent or health care representative
7 under 20 Pa.C.S. Ch. 54 (relating to health care) or who has
8 informed the hospital that he will be financially responsible
9 for the patient's medical care.
10 "Preexisting condition." A disease or physical condition for
11 which medical advice, diagnosis, care or treatment has been
12 recommended or received prior to the effective date of coverage.
13 "Prescription drug." A controlled substance, other drug or
14 device for medication dispensed by order of a health care
15 provider with prescriptive authority under the laws of this
16 Commonwealth.
17 "Professional health service plan corporation." A not-for-
18 profit corporation operating under the provisions of Chapter 63
19 (relating to professional health services plan corporations).
20 "Qualifying health care coverage." A health benefit plan or
21 other form of health care coverage that qualifies an employer
22 for the credit under section 7203 (relating to fair share tax).
23 "Small employer." In connection with a group health plan
24 with respect to a calendar year and a plan year, an employer who
25 employs an average of at least two but not more than 50
26 employees on business days during the preceding calendar year
27 and who employs at least two such employees on the first day of
28 the plan year. In the case of an employer which was not in
29 existence throughout the preceding calendar year, the
30 determination whether an employer is a small employer shall be
20070H0700B1011 - 17 -

1 based on the average number of employees that it is reasonably
2 expected that the employer will employ on business days in the
3 current calendar year.
4 "Small group health benefit plan." A health benefit plan

5 offered to a small employer.
6 "Standard plan." One of the health benefit packages
7 established by the Insurance Department in accordance with
8 section 7204(d) (relating to health insurance rate increases and
9 standard plans).
10 "Wages." All remuneration, including the cash value of
11 mediums of payment other than cash, paid by an employer to all
12 employees for services performed in this Commonwealth, including
13 amounts withheld from the employees' pay by the employer. The
14 term shall not include remuneration excluded from wages under
15 the provisions of the definition of "wages" under section 4(x)
16 of the Unemployment Compensation Law, other than the provisions
17 of the definition of "wages" under section 4(x)(1). This
18 paragraph shall not exclude remuneration included in wages under
19 the provisions of the definition of "wages" under section
20 4(x)(6) of the Unemployment Compensation Law.
21 § 7202. Cover All Pennsylvanians health insurance program.
22 (a) Establishment.--The Cover All Pennsylvanians health
23 insurance program is established within the department.
24 (b) Purpose.--The purpose of CAP is to assist certain small
25 business employers to cover their uninsured employees and to
26 provide access to affordable health insurance coverage for
27 uninsured adult Pennsylvanians.
28 (c) Administration.--The department shall administer CAP
29 under subsection (f)(1).
30 (d) CAP Fund.--
20070H0700B1011 - 18 -

1 (1) There is established a restricted account in the
2 General Fund, to be known as the CAP Fund.
3 (2) The following are the sources of money for the CAP
4 Fund:
5 (i) Appropriations to the fund.
6 (ii) Money received from the Federal Government or
7 other sources.
8 (iii) Money required to be deposited pursuant to
9 other provisions of this part or any other law.
10 (iv) Money received under section 7203 (relating to
11 fair share tax).
12 (v) Upon implementation of CAP:
13 (A) Money appropriated for adultBasic under
14 section 306(b)(1)(vi) of the Tobacco Settlement Act.
15 (B) Money required to be dedicated to adultBasic
16 or any alternative program to benefit persons of low-
17 income under the Community Health Reinvestment
18 Agreement within the respective service areas for
19 each party to that agreement. Money under this clause
20 shall only be used to defray the cost of the
21 subsidies approved under subsection (e)(6).
22 (vi) Return on money in the fund.
23 (3) Money in the fund is hereby appropriated, upon
24 approval of the Governor, to the fund to be used exclusively
25 for the implementation and administration of CAP.
26 (e) Rates, premiums, discounts, and subsidies.--Rates,

27 premiums, discounts and subsidies shall be determined in
28 accordance with this subsection.
29 (1) Rates for CAP shall be approved annually by the
30 department and may vary by region and contractor. Rates shall
20070H0700B1011 - 19 -

1 be based on actuarially sound and adequate review.
2 (2) Premiums for CAP:
3 (i) shall be established annually by the
4 commissioner; and
5 (ii) may vary by region and contractor.
6 (3) Premiums to be paid by eligible small low-wage
7 employer participants and enrollees under this subsection
8 shall be increased by a factor no higher than the average of
9 the change in the medical care component of the Consumer
10 Price Index and the change in average wage for this
11 Commonwealth as determined by the Department of Labor and
12 Industry.
13 (4) Except as set forth in paragraph (7), the premium
14 for eligible employee enrollees shall be discounted from the
15 amount established under paragraph (2) in an amount
16 determined annually by the commissioner. The premium discount
17 shall not exceed 30%. The following apply:
18 (i) An eligible small low-wage employer participant:
19 (A) shall pay at least 65% of the discounted
20 premium for each employee enrolled; and
21 (B) may pay more than 65% of the discounted
22 premium for each employee.
23 (ii) An eligible employee enrollee not receiving a
24 subsidy under paragraph (6) shall pay the balance of the
25 discounted premium.
26 (iii) An eligible small low-wage employer
27 participant shall sponsor a program that allows health
28 insurance premiums paid by its employees to be made on a
29 pretax basis and shall inform its employees of the
30 availability of such program. The program shall include
20070H0700B1011 - 20 -

1 the following payments:
2 (A) that portion of the discounted premium less
3 applicable subsidies to be paid by its eligible
4 employee enrollees;
5 (B) CAP premiums paid for dependents of the
6 employees; and
7 (C) premiums paid by employees for CHIP.
8 (5) The premiums for eligible individual enrollees not
9 receiving subsidies under paragraph (6) shall be at the full
10 premium level.
11 (6) Subject to paragraph (7), an enrollee whose
12 household income is at or below 300% of the Federal poverty
13 level may apply to the department for a premium subsidy as

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20070H0700B1011

follows:

- (i) The department shall review and approve applications for subsidies under this paragraph.
 - (ii) Except to the extent that changes may be necessary to meet Federal requirements or to encourage eligible small low-wage employer participation or enrollment by eligible individuals, subsidies for the 2007-2008 fiscal year are preliminarily estimated to result in the following premium amount based on household income:
 - (A) For an enrollee whose household income is not greater than 100% of the Federal poverty level, a monthly premium of \$10.
 - (B) For an enrollee whose household income is greater than 100% but not greater than 200% of the Federal poverty level, a monthly premium of \$40.
 - (C) For an enrollee whose household income is
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20070H0700B1011

- greater than 200% but not greater than 300% of the Federal poverty level, a monthly premium of \$60.
 - (iii) For fiscal years beginning after June 30, 2008, the commissioner may establish different subsidy amounts and shall forward notice of the new premium amounts to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.
 - (iv) An enrollee who receives a subsidy under this paragraph must do all of the following:
 - (A) Verify household income and household composition with the department every six months.
 - (B) Notify the department in writing within 30 days of a change in household income or composition.
 - (7) The following apply:
 - (i) An enrollee who is paid the prevailing wage while working on a public work as required by the Prevailing Wage Act, and who is otherwise entitled to a subsidy under paragraph (6), shall be subject to a reduction of the subsidy on a dollar-for-dollar basis for every dollar paid to the enrollee as part of the prevailing wage requirement which is allocable for use in the purchase of health care benefits.
 - (ii) A small low-wage employer participant that has a contract to perform work on a public work subject to the Prevailing Wage Act shall not be entitled to the premium discount provided under paragraph (4) during the term of the contract.
 - (8) The department shall freeze enrollment and establish waiting lists to assure that the Commonwealth's costs to implement and administer CAP do not exceed funds made
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20070H0700B1011

available for CAP.
(9) Notwithstanding any other law to the contrary, employer-based coverage may, in the commissioner's sole discretion, be purchased in place of enrollment in CAP or may be purchased in conjunction with any portion of CAP provided outside the scope of CAP contracts by the Commonwealth paying the employee's share of the premium to the employer if it is more cost effective for the Commonwealth to purchase health care coverage from an enrollee's employer-based program than to pay the Commonwealth's share of a subsidized premium. This paragraph shall apply to any employer-based program, whether individual or family, such that if the Commonwealth's share of the enrollee plus its share for any spouse under CAP or children under CHIP is greater than the enrollee's premium share for family coverage under the employer-based program, the Commonwealth may choose to pay the latter alone or in combination with providing any benefit the Commonwealth does not provide through its CAP contracts.

(f) Duties of department.--The department has the following duties:

- (1) Administer CAP on a Statewide basis.
- (2) Solicit bids or proposals and award contracts for the basic benefit package through a competitive procurement in accordance with 62 Pa.C.S. (relating to procurement) and subsection (g). The department may award contracts on a multiple award basis as described in 62 Pa.C.S. § 517 (relating to multiple awards).
- (3) Impose reasonable cost-sharing arrangements and encourage appropriate use by contractors of cost-effective health care providers who will provide quality health care by

1 establishing and adjusting copayments to be incorporated into
2 CAP by contractors. The department shall forward changes to
3 copayments to the Legislative Reference Bureau for
4 publication in the Pennsylvania Bulletin. Changes shall be
5 implemented by contractors as soon as practicable following
6 publication, but in no event more than 120 days following
7 publication.
8 (4) Ensure that the eligibility of eligible small low-
9 wage employer participants and enrollees receiving subsidies
10 are redetermined every six months.
11 (5) In consultation with other appropriate Commonwealth
12 agencies, conduct monitoring and oversight of contracts
13 entered into with contractors.
14 (6) In consultation with other appropriate Commonwealth
15 agencies, monitor, review and evaluate the adequacy,
16 accessibility and availability of services delivered to
17 enrollees.
18 (7) In consultation with other appropriate Commonwealth
19 agencies, establish and coordinate the development,
20 implementation and supervision of an outreach plan to ensure
21 that all those who may be eligible are aware of CAP. The plan
22 shall include provisions for:

23 (i) reaching special populations, including nonwhite
24 and non-English-speaking individuals and individuals with
25 disabilities;
26 (ii) reaching different geographic areas, including
27 rural and inner-city areas; and
28 (iii) assuring that special efforts are coordinated
29 within the overall outreach activities throughout this
30 Commonwealth.
20070H0700B1011 - 24 -

1 (8) At the request of an individual enrollee, facilitate
2 the payment on a pretax basis of premiums:
3 (i) for CAP and dependents covered under CAP; or
4 (ii) if applicable, for CHIP.
5 (9) To establish penalties for persons who enroll in
6 CAP, drop enrollment and subsequently re-enroll for the
7 purpose of avoiding the ongoing payment of premiums.
8 (g) Submitting proposals and awarding contracts.--
9 (1) Each professional health service plan corporation
10 and hospital plan corporation and their subsidiaries and
11 affiliates doing business in this Commonwealth shall submit a
12 bid or proposal to the department to carry out the purposes
13 of this section in the geographic area serviced by the
14 corporation. All other insurers may submit a bid or proposal
15 to the department to carry out the purposes of this section.
16 (2) The department shall review and score the bids or
17 proposals on the basis of all of the requirements for CAP.
18 The department may include other criteria in the solicitation
19 and in the scoring and selection of the bids or proposals
20 that the department, in the exercise of its duties under
21 subsection (f), deems necessary. The department shall do all
22 of the following:
23 (i) Select, to the greatest extent practicable,
24 offerors that contract with health care providers to
25 provide health care services on a cost-effective basis.
26 The department shall select offerors that use appropriate
27 cost-management methods, including the chronic care
28 model, which will enable CAP to provide coverage to the
29 maximum number of enrollees.
30 (ii) Select, to the greatest extent practicable,
20070H0700B1011 - 25 -

1 only offerors that comply with all procedures relating to
2 coordination of benefits as required by the department
3 and the Department of Public Welfare.
4 (3) Contracts may be for an initial term of up to five
5 years, with options to extend for five one-year periods.
6 (h) Rates and charges.--
7 (1) The medical loss ratio for a contract shall be no
8 less than 85%.
9 (2) No enrollee shall be charged a fee by any person as

10 a requirement for enrolling in CAP.
11 (i) Participation by eligible small low-wage employers.--
12 (1) An eligible small low-wage employer seeking to
13 participate in the CAP program must do all of the following:
14 (i) Select and contact a contractor that services
15 its geographic area from a list of CAP contractors posted
16 on the department's CAP website or otherwise obtained
17 from the department upon request.
18 (ii) Adequately inform employees of the opportunity
19 to enroll in CAP and the process for enrollment required
20 by the contractor.
21 (iii) Comply with all other relevant provisions of
22 this part.
23 (2) Eligible employee enrollees must do all of the
24 following:
25 (i) Comply with the application and other enrollment
26 requirements of the contractor.
27 (ii) Pay the required premium.
28 (j) Termination of employment.--An eligible employee
29 enrollee who is terminated from employment shall be eligible to
30 continue participating in CAP if the eligible employee enrollee
20070H0700B1011 - 26 -

1 continues to meet the requirements of an eligible individual
2 enrollee and pays any increased premium required.
3 (k) Enrollment by eligible individuals.--An eligible
4 individual seeking to purchase insurance through CAP must do all
5 of the following:
6 (1) Select and contact a contractor that services the
7 eligible individual's geographic area from a list of CAP
8 contractors posted on the department's CAP website or
9 otherwise obtained from the department upon request.
10 (2) Comply with the application and other enrollment
11 requirements of the contractor.
12 (3) Pay the required premium directly to the contractor.
13 (4) Comply with all other relevant provisions of this
14 part.
15 (l) Basic benefit package.--
16 (1) The basic benefit package to be offered under CAP
17 shall be of the scope and duration as the department
18 determines and shall provide for all of the following which
19 may be limited or unlimited as the department may determine:
20 preliminary and annual health assessments; emergency care;
21 inpatient and outpatient care; prescription drugs; medical
22 supplies and equipment; emergency dental care; maternity
23 care; skilled nursing; home health and hospice care; chronic
24 disease management; preventive and wellness care; and
25 inpatient and outpatient behavioral health services.
26 (2) The Commonwealth may elect to provide any benefit
27 independently and outside the scope of CAP contracts.
28 (3) Enrollment in CAP shall not be prohibited based upon
29 a preexisting condition, nor shall a CAP benefit plan exclude
30 a diagnosis or treatment for a condition based upon its
20070H0700B1011 - 27 -

1 preexistence.
2 (m) Data matching.--
3 (1) All entities providing health insurance or health
4 care coverage within this Commonwealth shall, not less
5 frequently than once every month, provide the names,
6 identifying information and such additional information on
7 coverage and benefits as the department may specify for all
8 individuals for whom the entities provide insurance or
9 coverage.
10 (2) The department shall use the information obtained in
11 paragraph (1) to determine whether any portion of an
12 enrollee's premium is being paid from any other source and to
13 determine whether another entity has primary liability for
14 any health care claims paid under any program administered by
15 the department. If a determination is made that an enrollee's
16 premium is being paid from another source, the department
17 shall not make any additional payments to the insurer for
18 such enrollee.
19 (3) If any payment has been made to an insurer by the
20 department for an enrollee for whom any portion of the
21 premium paid by the department is being paid from another
22 source, the insurer shall reimburse the department the amount
23 of any such excess payment or payments.
24 (4) The department may seek reimbursement from an entity
25 that provides health insurance or health care coverage that
26 is primary to the coverage provided under any program
27 administered by the department.
28 (5) To the maximum extent permitted by law, and
29 notwithstanding any policy or plan provision to the contrary,
30 a claim by the department for reimbursement under paragraph
20070H0700B1011 - 28 -

1 (3) or (4) shall be deemed timely filed if it is filed with
2 the insurer or entity within three years following the date
3 of payment.
4 (6) The department is authorized to enter into
5 agreements with entities providing health insurance and
6 health care coverage for the purpose of carrying out the
7 provisions of this subsection. The agreements shall provide
8 for the electronic exchange of data between the parties at a
9 mutually agreed upon frequency, but no less than once every
10 two months, and may also allow for payment of a fee by the
11 department to the entity providing health insurance or health
12 care coverage.
13 (7) The department shall determine that no other health
14 care coverage is available to the enrollee through an alimony
15 agreement or an employment-related or other group basis. If
16 such health care coverage is available, the department shall
17 re-evaluate the enrollee's eligibility under this section.
18 (8) The commissioner may impose a penalty of up to

19 \$1,000 per violation upon any entity that fails to comply
20 with the obligations imposed by this section. All funds
21 collected under this paragraph shall be deposited into the
22 CAP Fund.

23 (9) The department shall coordinate with the Department
24 of Public Welfare in the implementation of this section and
25 may designate the Department of Public Welfare to perform
26 such duties as are appropriate under this section.

27 (n) Information to be provided by insurers.--

28 (1) Each hospital plan corporation and professional
29 health services corporation shall provide an individual in
30 this Commonwealth who has applied for insurance through its

20070H0700B1011

- 29 -

1 Special Care product with written information in plain
2 language about the existence of CAP, the benefits it covers
3 and the cost to the individual to purchase so that the
4 individual applying for insurance through Special Care can
5 compare the costs and benefits of it and CAP.

6 (2) Each hospital plan corporation and a professional
7 health services corporation shall develop written materials
8 which comply with paragraph (1) and submit them to the
9 department for review and approval.

10 (3) Only materials approved by the department under
11 paragraph (2) may be provided to applicants for a Special
12 Care product offered in this Commonwealth.

13 (o) Regulations.--The department may promulgate regulations
14 for the implementation and administration of this section.

15 (p) Federal waivers.--The Department of Public Welfare, in
16 cooperation with the department, shall apply for all applicable
17 waivers from the Federal Government and shall seek approval to
18 amend the State plan as necessary to carry out the provisions of
19 this part. If the Department of Public Welfare receives approval
20 of a waiver or approval of a State plan amendment as required by
21 this subsection, it shall notify the department and shall
22 transmit notice of the waiver or State plan amendment approvals
23 to the Legislative Reference Bureau for publication as a notice
24 in the Pennsylvania Bulletin. The department is authorized to
25 change the benefits and the premium and copayment amounts
26 payable under subsection (e) in order for CAP to meet Federal
27 requirements.

28 (q) Federal funds.--Notwithstanding any other provision of
29 law, the Department of Public Welfare, in cooperation with the
30 department, shall take any action necessary to do all of the

20070H0700B1011

- 30 -

1 following:

2 (1) Ensure the receipt of Federal financial
3 participation under Title XIX of the Social Security Act (49
4 Stat. 620, 42 U.S.C. § 1396 et seq.) for coverage and for
5 services provided under this part.

6 (2) Qualify for available Federal financial
7 participation under Title XIX of the Social Security Act.
8 (r) Entitlements and claims.--Nothing in this section shall
9 constitute an entitlement derived from the Commonwealth or a
10 claim on any funds of the Commonwealth.
11 (s) Option to limit or not to proceed.--Notwithstanding any
12 other provision of this section, in the event that Federal
13 waiver requirements limit CAP such that only a portion of those
14 individuals otherwise eligible may be covered, the Commonwealth
15 may limit CAP to that portion or, at its option, determine not
16 to proceed with the CAP program.
17 § 7203. Fair share tax.
18 (a) Imposition of tax.--In order to help fund the
19 Commonwealth's cost of implementing and administering CAP, each
20 employer shall be subject to a fair share tax as follows:
21 (1) For fiscal years 2007-2008 through 2009-2010, 3% of
22 the wages paid by the employer.
23 (2) For fiscal years commencing after June 30, 2010,
24 3.5% of the wages paid by the employer.
25 (b) Credits against tax.--
26 (1) For fiscal years 2007-2008 through 2011-2012, the
27 amount of the tax to which an employer is otherwise subject
28 may be reduced by the amount of a quarterly start-up credit
29 as follows:
30 (i) Fiscal year 2007-2008 \$15,000.00
20070H0700B1011 - 31 -

1 (ii) Fiscal year 2008-2009 \$12,000.00
2 (iii) Fiscal year 2009-2010 \$ 9,750.00
3 (iv) Fiscal year 2010-2011 \$ 7,700.00
4 (v) Fiscal year 2011-2012 \$ 3,981.25
5 (vi) Fiscal year 2012-2013 and thereafter \$ 0.00
6 (2) The following apply:
7 (i) An employer that offers qualifying health care
8 coverage to each of its employees who works 30 hours per
9 week or more following no more than 90 days of continued
10 employment shall be entitled to a credit against the fair
11 share tax in an amount equal to 3% of the employer's
12 wages for fiscal years 2007-2008 through 2009-2010 and
13 3.5% of the employer's wages for fiscal years commencing
14 after June 30, 2010.
15 (ii) The Department of Labor and Industry, in
16 consultation with the department, shall determine whether
17 the employer's offer shall be considered as qualifying
18 health care coverage based on the premium and out-of-
19 pocket costs to the employee and the level of employee
20 participation. In the case of multiple plans offered by
21 the same employer, the determination shall be based on
22 the cost to the lowest wage employees of the employer and
23 the relative participation of those employees.
24 (3) The total amount of the credits under this
25 subsection shall not exceed the amount of fair share tax
26 imposed under subsection (a) for the year the credit is
27 granted.

28 (4) The credits under this subsection may not be carried
29 back or carried forward to other years, refunded, assigned or
30 sold.
20070H0700B1011 - 32 -

1 (c) Reports by employers.--
2 (1) If an employer's liability for fair share tax for a
3 calendar quarter, determined without regard to subsection
4 (b)(2), exceeds the amount of credit available to the
5 employer pursuant to subsection (b)(1) for that calendar
6 quarter, the employer shall file a report with the Department
7 of Labor and Industry for that calendar quarter. The report
8 shall be due by the last day of the month immediately
9 following the calendar quarter. The report shall be made in a
10 manner prescribed by the Department of Labor and Industry and
11 shall contain all information required by the Department of
12 Labor and Industry, including the following:
13 (i) The amount of wages paid by the employer during
14 the calendar quarter.
15 (ii) A certification that the employer did or did
16 not satisfy the requirements for the credit under
17 subsection (b)(2) throughout the calendar quarter.
18 (2) Each employer shall file any other reports required
19 by the Department of Labor and Industry in the administration
20 of this section, which reports shall be made in the manner
21 prescribed by the Department of Labor and Industry and
22 contain all information required by the Department of Labor
23 and Industry.
24 (d) Payment of tax.--Concurrently with each report required
25 under subsection (c), the employer shall pay to the Department
26 of Labor and Industry the amount of fair share tax imposed under
27 this section for the period covered by the report.
28 (e) Penalties.--
29 (1) An employer that does not make and file the periodic
30 reports required by subsection (c) in the manner prescribed
20070H0700B1011 - 33 -

1 by the Department of Labor and Industry on or before the date
2 such report is required to be filed shall pay a penalty.
3 (2) The amount of the penalty shall be 10% of the amount
4 of fair share tax due for the period and shall be not less
5 than \$50 or more than \$5,000.
6 (3) All penalties collected under this subsection shall
7 be deposited into the CAP Fund.
8 (f) Interest.--
9 (1) Fair share taxes or penalties unpaid on the date on
10 which they are due and payable shall bear interest at the
11 greater of:
12 (i) one-twelfth of the annual rate determined by the
13 Secretary of Revenue under section 806 of the act of
14 April 9, 1929 (P.L.343, No.176), known as The Fiscal

15 Code, per month or fraction of a month; or
16 (ii) the rate of 0.75% per month or fraction of a
17 month from the date they become due until paid.
18 (2) All interest collected under this subsection shall
19 be deposited into the CAP Fund.
20 (g) Refunds.--
21 (1) If an employer applies for refund or credit of any
22 amount paid as fair share tax, interest or penalties and the
23 Department of Labor and Industry determines that such amount,
24 or any portion thereof, was erroneously collected, the
25 Department of Labor and Industry may at its discretion either
26 allow a credit, without interest, against subsequent fair
27 share tax payments or shall refund from the CAP Fund, without
28 interest, the amount erroneously paid.
29 (2) No refund or credit shall be allowed with respect to
30 a payment as fair share tax, interest or penalties, unless
20070H0700B1011 - 34 -

1 the employer files an application on or before the later of:
2 (i) one year from the date on which such payment was
3 made; or
4 (ii) four years from the reporting due date of the
5 reporting period with respect to which such payment was
6 made.
7 (3) For a like cause and within the same period, a
8 refund may be made or a credit allowed on the initiative of
9 the Department of Labor and Industry.
10 (h) Collections and enforcement.--
11 (1) Records maintained by employers pursuant to section
12 206(a) of the Unemployment Compensation Law and corresponding
13 regulations shall be open to inspection by the Department of
14 Labor and Industry for purposes of this section to the same
15 extent that they are open to inspection for purposes of the
16 Unemployment Compensation Law.
17 (2) The provisions of sections 304(a) through (d),
18 305(c), 308.1, 309 and 309.2 of the Unemployment Compensation
19 Law are incorporated into this section and shall be
20 applicable to the fair share tax, interest and penalties.
21 References in such provisions of the Unemployment
22 Compensation Law to contributions shall be deemed to be
23 references to the fair share tax for purposes of this
24 section.
25 (i) False statements and representations and other
26 offenses.--
27 (1) An employer, whether or not liable for the payment
28 of fair share taxes under this subsection, or an officer or
29 agent of an employer or any other person who does any of the
30 following commits a summary offense and shall, upon
20070H0700B1011 - 35 -

1 conviction, be sentenced to pay a fine of not less than \$100

2 nor more than \$1,500 or to imprisonment for not longer than
3 30 days, or both:
4 (i) makes a false statement or representation
5 knowing it to be false, or knowingly fails to disclose a
6 material fact to avoid becoming or remaining subject
7 hereto or to avoid or reduce any fair share tax or other
8 payment required from an employer under this section;
9 (ii) willfully fails or refuses to make fair share
10 tax or other payment required under this section;
11 (iii) willfully fails or refuses to produce or
12 permit the inspection or copying of records as required
13 under this section; or
14 (iv) willfully fails or refuses to furnish any
15 report required by subsection (c) or the rules or
16 regulations of the Department of Labor and Industry.
17 (2) The number of offenses under paragraph (1) shall be
18 determined as follows:
19 (i) Each false statement or representation or
20 failure to disclose a material fact shall constitute a
21 separate offense under paragraph (1)(i).
22 (ii) Each day of failure or refusal shall constitute
23 a separate offense under paragraph (1)(ii), (iii) and
24 (iv).
25 (iii) Each report required by subsection (c) or the
26 rules or regulations of the Department of Labor and
27 Industry shall be the basis of a separate offense under
28 paragraph (1)(iv).
29 (3) In addition to any other sanction, an employer,
30 officer, agent or other person convicted under this section
20070H0700B1011 - 36 -

1 for willful failure or refusal to make a payment shall be
2 ordered to make restitution of the unpaid amounts, including
3 interest and penalty from the date the payment was due
4 through the date of payment.
5 (4) For purposes of this subsection, the term
6 "willfully" shall have the meaning given to it under 18
7 Pa.C.S. § 302 (relating to general requirements of
8 culpability).
9 (j) Powers and duties of Department of Labor and Industry.--
10 (1) The Department of Labor and Industry shall
11 administer and enforce this section and adopt, amend and
12 rescind such rules, regulations and guidance, require such
13 reports from employers, employees and any other person deemed
14 by the Department of Labor and Industry to be affected by
15 this section, make such investigations and take such other
16 action as it deems necessary or suitable. Such rules,
17 regulations and guidance shall not be inconsistent with the
18 provisions of this section.
19 (2) In the discharge of the duties imposed by this
20 section, the Secretary of Labor and Industry and any agent
21 duly authorized in writing by him shall have the power to
22 administer oaths and affirmations, take depositions and
23 certify to official acts.

24 (3) The Department of Labor and Industry may issue
25 subpoenas to compel the attendance of witnesses and the
26 production of books, papers, correspondence, memoranda and
27 other records deemed necessary in the administration of this
28 section.
29 § 7204. Health insurance rate increases and standard plans.
30 (a) Applicability.--This section applies to all insurers
20070H0700B1011 - 37 -

1 that offer small group health benefit plans and individual
2 health benefit plans that are issued, made effective, delivered
3 or renewed in this Commonwealth after the effective date of this
4 section.
5 (b) Premium rates.--
6 (1) An insurer shall establish a community rate for
7 plans subject to this section and shall file the community
8 rate with the department as required by law. An insurer may
9 adjust its community rate for the following:
10 (i) age;
11 (ii) geographic region as approved by the
12 department; and
13 (iii) family composition.
14 (2) An insurer shall apply all risk adjustment factors
15 under paragraph (1) consistently with respect to all plans
16 subject to this section.
17 (3) An insurer shall not charge a rate that is more than
18 33% above or below the community rate, as adjusted as
19 permitted under paragraph (1).
20 (4) An insurer shall base its rating methods and
21 practices on commonly accepted actuarial assumptions and
22 sound actuarial principles. Rates shall not be excessive,
23 inadequate or unfairly discriminatory.
24 (5) For purposes of this subsection, an insurer's
25 "community rate" for a plan shall refer to a rating
26 methodology that is based on the experience of all risks
27 covered by the plan without regard to health status,
28 occupation or any other factor.
29 (c) Additional rate review.--
30 (1) In conjunction with and in addition to the standards
20070H0700B1011 - 38 -

1 set forth in the Accident and Health Filing Reform Act and
2 all other applicable statutory and regulatory requirements,
3 the department may disapprove a rate filing based on any of
4 the following:
5 (i) The rate is not actuarially sound.
6 (ii) The increase is requested because the insurer
7 has not operated efficiently or has factored in
8 experience that conflicts with recognized best practices
9 in the health care industry.
10 (iii) The increase is requested because the insurer

11 has incurred costs of additional care due to avoidable
12 hospital-acquired infections and avoidable
13 hospitalizations due to ineffective chronic care
14 management, after data for the incidents has become
15 available to and can be analyzed by the insurer and the
16 department.
17 (iv) For small group health plans, the medical loss
18 ratio is less than 85%.
19 (2) In the event a small group health benefit plan has a
20 medical loss ratio of less than 85%, the department may, in
21 addition to any other remedies available under law, require
22 the insurer to refund the difference to policyholders on a
23 pro rata basis as soon as practicable following receipt of
24 notice from the department of the requirement but in no event
25 later than 120 days following receipt of the notice. The
26 department shall establish procedures for the circumstances
27 under which such refunds will be required.
28 (3) The filing and review procedures set forth in the
29 Accident and Health Filing Reform Act shall apply to any
30 filing conducted pursuant to this section.

20070H0700B1011

- 39 -

1 (d) Standard plans required.--
2 (1) An insurer shall not offer a plan that does not meet
3 the minimum benefits specified in one of the standard plans
4 developed by the department in accordance with the following
5 criteria:
6 (i) The standard plans shall at least include all of
7 the benefits of the basic benefit package, except that
8 they shall not include coverage for behavioral health
9 services.
10 (ii) The standard plans may not contain any
11 preexisting condition exclusions.
12 (2) Standard plans may include options for deductible
13 and cost-sharing provisions if the department determines that
14 the provisions:
15 (i) Dissuade consumers from seeking unnecessary
16 services.
17 (ii) Balance the effect of cost sharing in reducing
18 premiums and in effecting utilization of appropriate
19 services.
20 (iii) Limit the total cost sharing that may be
21 incurred by an individual in a year.
22 (3) Each individual in this Commonwealth who applies to
23 an insurer for enrollment in one of the standard plans
24 offered by an insurer shall be enrolled.
25 (4) The following apply:
26 (i) The department shall forward the elements of the
27 standard plans to the Legislative Reference Bureau for
28 publication as a notice in the Pennsylvania Bulletin.
29 (ii) An insurer subject to the provisions of this
30 section shall be required to begin offering its standard

20070H0700B1011

- 40 -

1 plans as soon as practicable following the publication
2 but in no event later than 120 days following the
3 publication.
4 (e) Additional benefits.--
5 (1) An insurer shall offer as an additional benefit to
6 every standard plan a behavioral health services benefit that
7 complies with the provisions of sections 601-A, 602-A, 603-A,
8 604-A, 605-A, 606-A, 607-A and 608-A of the act of May 17,
9 1921 (P.L.682, No.284), known as The Insurance Company Law of
10 1921.
11 (2) An insurer may offer benefits in addition to those
12 in any of its standard plans.
13 (3) Each additional benefit shall:
14 (i) Be offered and priced separately from benefits
15 specified in the standard plan with which the benefits
16 are being offered.
17 (ii) Not have the effect of duplicating any of the
18 benefits in the standard plan with which the benefits are
19 being offered.
20 (iii) Be clearly specified as additions to the
21 standard plan with which the benefits are being offered.
22 (4) The department may prohibit an insurer from offering
23 an additional benefit under this section if the department
24 finds that the additional benefit will be sold in conjunction
25 with one of the insurer's standard plans in a manner designed
26 to promote risk selection or underwriting practices otherwise
27 prohibited by this section or other State law.
28 (f) Regulations.--The department may promulgate regulations
29 necessary for the implementation and administration of this
30 section.
20070H0700B1011 - 41 -

1 § 7205. Health insurance coverage for full-time students.
2 (a) Minimum health benefit package.--Within 90 days
3 following the effective date of this section, the commissioner
4 shall establish a minimum health benefit package for full-time
5 students enrolled in public or private baccalaureate and post
6 baccalaureate programs in Pennsylvania and transmit a
7 description of the package to the Legislative Reference Bureau
8 for publication in the Pennsylvania Bulletin. As soon as
9 practicable after the date of publication of the package, but in
10 no event later than 120 days following such publication, all
11 insurers shall offer the package as individual coverage
12 available to students and as group coverage through the
13 institution. The commissioner may make revisions to the minimum
14 health benefit package periodically, but no more than one time
15 per 12-month period. Each revision shall be implemented by
16 insurers as soon as practicable following publication of the
17 revision in the Pennsylvania Bulletin but in no event later than
18 120 days following such publication.
19 (b) Mandatory coverage.--

20 (1) Every full-time student enrolled in a public or
21 private baccalaureate or post baccalaureate program in
22 Pennsylvania shall maintain health insurance coverage which
23 provides the minimum benefit package established in this
24 section. The coverage shall be maintained throughout the
25 period of the student's enrollment.
26 (2) Every student required to have mandatory coverage
27 under this section shall present evidence of such coverage to
28 the institution in which the student is enrolled at least
29 annually, in a manner prescribed by the institution.
30 (3) Every public or private college or university or
20070H0700B1011 - 42 -

1 post baccalaureate program in Pennsylvania shall make
2 available health insurance coverage, including CAP for those
3 who are eligible under section 7202 (relating to Cover All
4 Pennsylvanians health insurance program), on a group or
5 individual basis for purchase by students who are required to
6 maintain the coverage pursuant to this section.
7 (4) Notwithstanding the provisions of paragraphs (1),
8 (2) and (3), the requirements of this section may be
9 satisfied if the baccalaureate or post baccalaureate program
10 provides on-campus student health care coverage equivalent to
11 the minimum benefit package through its own clinics and
12 health care facilities and receives approval from the
13 department that such equivalent coverage meets the minimum
14 benefit package. Such coverage shall provide that the student
15 is covered for hospital admissions and emergency services at
16 facilities throughout this Commonwealth.
17 (c) Annual certification.--Every public or private
18 baccalaureate or post baccalaureate program in this Commonwealth
19 shall certify to the department at least annually that the
20 requirements of this section have been met for all periods of
21 the preceding year.
22 (d) Penalty for failure to comply.--The commissioner may
23 impose a fine of up to \$500 per day for each day that a public
24 or private baccalaureate or post baccalaureate program fails to
25 meet any of its obligations in this section. The fine shall be
26 due within 30 days following receipt by the institution of
27 notice of the violation. Funds collected under this subsection
28 shall be deposited into the CAP Fund.
29 § 7206. Health insurance coverage for certain children of
30 insured parents.
20070H0700B1011 - 43 -

1 (a) Option to cover certain children.--An insurer that
2 issues, delivers, executes or renews health care insurance in
3 this Commonwealth, under which coverage of a child would
4 otherwise terminate at a specified age, shall, at the option of
5 the child's parent or guardian, provide coverage to a child of
6 the insured beyond that specified age, up through the age of 29,

7 provided that the child meets all of the following requirements:
8 (1) Is not married.
9 (2) Has no dependents.
10 (3) Is a resident of this Commonwealth or is enrolled as
11 a full-time student at an institution of higher education in
12 this Commonwealth.
13 (4) Is not covered by another health insurance policy.
14 (b) Exercise of option.--An insured may exercise the option
15 provided by subsection (a) at any time during the term of the
16 policy by notice to the insurer.
17 (c) Employer contribution.--Employers shall not be required
18 to contribute to any increased premium charged by the insurer
19 for the exercise of the option provided by subsection (a), but
20 such contributions may be agreed to by the employer.
21 § 7207. Hospital community benefit requirements.
22 (a) Community needs assessment.--
23 (1) By January 1, 2008, each hospital operating as a
24 charitable institution shall complete a community needs
25 assessment in accordance with guidelines established by the
26 Department of Health in order to identify, for its primary
27 service area as determined by the hospital, unmet needs to
28 improve or maintain health status in the community,
29 particularly with respect to those vulnerable populations
30 exposed to medical or financial risk by virtue of being
20070H0700B1011 - 44 -

1 uninsured, underinsured or eligible for public health
2 programs. The hospital may conduct the assessment:
3 (i) alone;
4 (ii) in conjunction with other health care
5 providers; or
6 (iii) through other organizational arrangements.
7 (2) The hospital shall conduct its community needs
8 assessment by including a process for consulting with
9 community groups and local government officials in
10 identifying and prioritizing community needs that the
11 hospital can address directly, in collaboration with others
12 or through other organizational arrangements. The community
13 needs assessment shall be updated at least once every three
14 years.
15 (b) Community benefits report.--
16 (1) On or before April 1, 2008, and every calendar year
17 thereafter, each hospital subject to the provisions of
18 subsection (a) shall prepare a community benefits report
19 containing the following information with respect to the
20 immediately preceding calendar year:
21 (i) The specific criterion under section 5(d)(1) of
22 the Institutions of Purely Public Charity Act that the
23 hospital asserts qualifies it as providing benefits to
24 the community and the calculation of the dollar amount
25 that the criterion requires the hospital to meet.
26 (ii) A description and dollar value of the
27 uncompensated goods or services that the hospital has
28 provided to address the specific community needs

29 identified in the community needs assessment.
30 (2) The amount attributed to uncompensated goods or
20070H0700B1011 - 45 -

1 services as set forth in the Institutions of Purely Public
2 Charity Act for the purposes of this report shall be further
3 limited as follows:
4 (i) The full cost of uncompensated health care
5 services shall be calculated as the Medicare
6 reimbursement the hospital would otherwise receive for
7 those services.
8 (ii) The reasonable value of volunteer assistance
9 donated by individuals who are employed or otherwise
10 affiliated with the provision of health care services by
11 the hospital shall only include community services or
12 programs related to the mission of the hospital, but
13 which are not provided in or by the hospital.
14 (iii) The term uncompensated goods or services shall
15 not include the following:
16 (A) Bad debt.
17 (B) Health screening, health education classes
18 or other programs either designed to increase market
19 share or for which a fee is charged or a referral to
20 the hospital is made.
21 (C) Programs provided as an employee benefit.
22 (D) Use of facility space to hold meetings for
23 community groups.
24 (E) Expenses for in-service training, continuing
25 education, orientation, mentoring or joint
26 appointments.
27 (c) Filing and publication.--Each hospital subject to the
28 provisions of subsection (a) shall file its report on or before
29 April 15 of each calendar year with the Department of Health and
30 shall publish its community needs assessment and annual report
20070H0700B1011 - 46 -

1 on its hospital website and make them available to any member of
2 the community upon request.
3 (d) Audit.--The Department of Health shall have authority to
4 audit a hospital's community benefit report at any time and
5 disallow any amount claimed for uncompensated goods and services
6 that does not comply with this section. A hospital shall retain
7 records documenting the calculations contained in its community
8 benefit report for a period of three years following issuance of
9 the report.
10 (e) Fines.--
11 (1) A hospital that reports an amount of uncompensated
12 goods and services under subsection (b) (1) (ii) that is lower
13 than the amount it is required to provide under subsection
14 (b) (1) (i) shall pay the difference to the Department of
15 Health within 60 days following receipt of written notice

16 from the Department of Health that the same is due.
17 (2) A false or misleading statement contained in a
18 hospital's community benefit report or a failure to comply
19 with the provisions of this section shall subject the
20 hospital to a fine of \$1,000 per day to be imposed and
21 collected by the Department of Health.
22 (3) The fines imposed by paragraphs (1) and (2) shall be
23 in addition to any other fine or penalty that may be imposed
24 upon a hospital under the Institutions of Purely Public
25 Charity Act.
26 (4) All fines collected under this subsection, as well
27 as any fines or penalties collected from hospitals under the
28 Institutions of Purely Public Charity Act, shall be deposited
29 into the CAP Fund.
30 (f) Uncompensated care program.--Notwithstanding the
20070H0700B1011 - 47 -

1 provisions of Chapter 11 of the Tobacco Settlement Act to the
2 contrary, a hospital subject to the provisions of this section
3 shall only be entitled to apply for payment from the Hospital
4 Uncompensated Care Program established under Chapter 11 equal to
5 the amount by which the amount of uncompensated goods and
6 services reported under the provisions of subsection (b) (1) (ii)
7 exceeds the amount it is required to provide under subsection
8 (b) (1) (i).
9 § 7208. Uniform admission and fair billing and collection
10 practices.
11 (a) Admission criteria.--A hospital shall be subject to the
12 following with respect to its admission criteria:
13 (1) A hospital may not deny admission, and a health care
14 provider may not refuse to provide services, for reasons not
15 based on sound medical practice to individuals seeking
16 medical services requiring admission to the hospital.
17 Admission policies and protocols shall be in plain language
18 and available upon request. Admissions shall be prioritized
19 on the basis of urgency of the medical condition and the
20 immediate and long-term risk to the individual of going
21 without medical care.
22 (2) No individual shall be denied necessary medical
23 services from a hospital based on race, color, religion,
24 gender, disability, sexual orientation, national origin or
25 source of payment.
26 (3) A hospital shall facilitate the completion of an
27 application for enrollment in medical assistance or CAP and,
28 if applicable, CHIP, by any uninsured individual who presents
29 at the hospital for admission or emergency services. The
30 hospital shall deliver the completed application or
20070H0700B1011 - 48 -

1 applications by facsimile or other expeditious means to the
2 appropriate county assistance office or, for CAP or CHIP, a

3 contractor providing coverage for the individual's county of
4 residence.

5 (4) When a hospital cannot provide the specific medical
6 services required by a patient, the hospital shall make
7 appropriate arrangements for transferring the patient to
8 another hospital or other source of health care that can
9 provide the required medical services.

10 (5) A hospital is not required to provide services or
11 make a referral that is contrary to its stated ethical policy
12 in accordance with the act of December 9, 2002 (P.L.1701,
13 No.214), known as the Religious Freedom Protection Act,
14 provided, however, that such hospital shall provide express
15 notice to its patients of its policies regarding those health
16 care services.

17 (b) Billing policies.--A hospital shall be subject to the
18 following with respect to its billing policies:

19 (1) A hospital shall provide to the patient or the
20 patient representative upon request an itemized bill and an
21 explanation of all charges in plain language.

22 (2) Prior to admission or as soon as practicable
23 thereafter, the hospital shall inform the patient or the
24 patient representative if the hospital, its staff,
25 contractors or subcontractors will not accept the patient's
26 third-party payment.

27 (3) A hospital shall provide the patient, or the patient
28 representative, with information and counseling on the
29 availability of known financial resources for his health care
30 and assist the patient or patient representative in enrolling
20070H0700B1011 - 49 -

1 in public programs, including CAP and CHIP, for which the
2 patient may be eligible and in securing such other financial
3 resources as may be available.

4 (4) A deposit shall not be required by a hospital where
5 there is a reasonable expectation that the individual will
6 qualify for CAP, CHIP, Medicare, medical assistance, other
7 government programs or a private insurance program that will
8 cover the services to be provided at the hospital.

9 (5) A hospital shall establish a process for receiving
10 and reviewing billing complaints that includes a requirement
11 that hospital staff address them in a specified, timely
12 manner and shall notify the patient or patient representative
13 of the complaint process upon admission to and at discharge
14 from the hospital.

15 (6) In no event shall uninsured patients or self-pay
16 patients be compelled to pay more than the Medicare
17 reimbursement rate for the services provided.

18 (7) A hospital shall not, directly or indirectly, cause,
19 facilitate, enable or otherwise require any patient or
20 patient representative to enter into any third-party credit
21 arrangement for the purpose of paying or securing payment for
22 medical care.

23 (c) Collection policies.--A hospital shall be subject to the
24 following with respect to its collection policies:

25 (1) It shall work with each patient to establish a
26 reasonable payment plan consistent with this section and
27 applicable Federal and State laws and regulations.
28 (2) It shall take legal action only when there is
29 evidence that the patient or responsible party has income or
30 assets or both to meet the financial obligation.
20070H0700B1011 - 50 -

1 (3) It shall not force the sale or foreclosure of a
2 patient's primary residence to pay an outstanding medical
3 bill.
4 (4) It shall require that any collection agency engaged
5 by the hospital follow the requirements of this subsection
6 and any other obligations under Federal and State laws and
7 regulations.
8 § 7209. Transparency in price and quality for consumers.
9 (a) The Pennsylvania Drug Retail Price Registry.--
10 (1) The council shall establish and maintain a registry
11 to be known as the Pennsylvania Drug Retail Price Registry
12 for the purpose of making retail price information for the
13 150-most-frequently prescribed prescription drugs, together
14 with their generic equivalents where applicable, readily
15 available to consumers in this Commonwealth.
16 (i) The drug price registry shall include the
17 information submitted to the council under this
18 subsection and the name and address of each pharmacy
19 providing the information and shall be organized by zip
20 code.
21 (ii) The drug price registry shall be updated
22 monthly by the council and shall be posted on the
23 council's Internet website in a format that is conducive
24 to review and comparison by consumers of prescription
25 drug retail prices charged by pharmacies in each zip code
26 within this Commonwealth. It shall include a toll-free
27 telephone number maintained by the council that consumers
28 may call to obtain reprints of the registry.
29 (iii) The website shall be designed so that the
30 consumer may download and print the displayed information
20070H0700B1011 - 51 -

1 and shall include at least the following:
2 (A) Internet web links to other government
3 resources that provide information relating to the
4 regulation of prescription drugs and Federal and
5 State health care coverage and pharmaceutical
6 assistance programs.
7 (B) An advisory statement alerting consumers of
8 the need to tell their health care practitioner and
9 pharmacist about all the medications they may be
10 taking and to ask them how to avoid harmful
11 interactions between those drugs, if any.

12 (C) Clearly understandable language that is
13 designed to assist consumers in understanding the
14 content of and how to access the information made
15 available on the website pursuant to this subsection.

16 (2) Within 30 days following the effective date of this
17 section, the director of PACE shall determine and submit to
18 the Pennsylvania Bulletin for publication a list of the 150-
19 most-frequently prescribed prescription drugs in this
20 Commonwealth and their generic equivalents and the unit
21 amount to be used for price reporting purposes. The list
22 shall be updated by the director of PACE annually thereafter,
23 and each such update shall be submitted to the Legislative
24 Reference Bureau for publication as a notice in the
25 Pennsylvania Bulletin.

26 (3) Every pharmacy selling pharmaceuticals at retail in
27 this Commonwealth shall submit to the council for inclusion
28 in the drug price registry, in a form and manner prescribed
29 by the council, on the 10th day of each calendar month
30 beginning with the first calendar month following publication

20070H0700B1011

- 52 -

1 of the list described in paragraph (2), its prior monthly
2 retail prices for each drug on the list and its generic
3 equivalent, together with the amount of the dispensing fee.
4 In addition, each such pharmacy shall make the list and its
5 prices available to its customers at the pharmacy retail site
6 upon request.

7 (i) Each pharmacy retail site shall post a sign that
8 notifies customers of the availability of its price list
9 in a conspicuous location that is either at or adjacent
10 to the place where prescriptions are presented for
11 compounding and dispensing, in the customer waiting area
12 or in the area where prescribed drugs are delivered.

13 (ii) The provisions of this paragraph shall not be
14 construed to prevent a pharmacy from changing its current
15 retail price at any time, provided that the listed price
16 available at the pharmacy retail site is updated at least
17 weekly to reflect the new retail price.

18 (4) The State Board of Pharmacy may impose a fine of up
19 to \$1,000 per day for each day that a pharmacy fails to
20 comply with any of the provisions of this paragraph. A
21 separate fine may be imposed for each failure to comply. All
22 fines shall be due 30 days from receipt of notice of each
23 such failure. Funds collected pursuant to this paragraph
24 shall be deposited into the CAP Fund.

25 (b) The Pennsylvania Hospital Payment Registry.--

26 (1) The council shall also establish and maintain a
27 registry to be known as the Pennsylvania Hospital Payment
28 Registry for the purpose of making readily available to
29 consumers information regarding the payments received by
30 hospitals for the 150-most-frequent admission diagnoses and

20070H0700B1011

- 53 -

1 the 150-most-frequently dispensed drugs.
2 (i) The hospital payment registry shall include the
3 information submitted to the council under this
4 subsection and the name and address of each hospital
5 providing the information and shall be organized by zip
6 code.
7 (ii) The hospital payment registry shall be updated
8 annually by the council and shall be posted on the
9 council's Internet website in a format that is conducive
10 to review and comparison by consumers of reimbursement
11 data from hospitals in each zip code of this
12 Commonwealth. It shall include a toll-free telephone
13 number maintained by the council that consumers may call
14 to obtain reprints of the registry.
15 (iii) The website shall be designed so that the
16 consumer may download and print the displayed information
17 and shall include at least the following:
18 (A) Internet web links to other government
19 resources that provide information relating to the
20 regulation of hospitals and health insurance.
21 (B) Clearly understandable language that is
22 designed to assist consumers in understanding the
23 content of and how to access the information made
24 available on the website pursuant to this subsection.
25 (iv) The information on the hospital payment
26 registry may be combined with other data collected by the
27 council and posted on the council's Internet website to
28 provide comparative information useful to consumers
29 selecting a hospital for medical care.
30 (2) Within 90 days following the effective date of this
20070H0700B1011 - 54 -

1 section and on or before January 31 of each year thereafter,
2 all hospitals shall submit to the council for inclusion in
3 the hospital payment registry, in a form and manner
4 prescribed by the council, all of the following:
5 (i) The 150-most-frequent admission diagnoses and
6 the 150-most-frequently dispensed drugs (both
7 prescription and nonprescription) in the hospital during
8 the preceding year.
9 (ii) The amount an individual enrolled in a high
10 deductible health plan with a health savings account is
11 required to pay for the diagnoses and drugs described in
12 subparagraph (i).
13 (iii) The average payment the hospital has
14 negotiated with third-party payers for the diagnoses and
15 drugs described in subparagraph (i).
16 (iv) The amount an uninsured patient is charged for
17 the diagnoses and drugs described in subparagraph (i).
18 (3) A hospital shall make the list and payments received
19 available to its patients at the hospital site upon request.
20 The hospital shall post a sign that notifies patients of the

21 availability of the list at or adjacent to the place where
22 patients are admitted to the hospital and at the place where
23 patients receive financial counseling.

24 (c) The Pennsylvania Outpatient Procedure Payment
25 Registry.--

26 (1) The council shall also establish and maintain a
27 registry to be known as the Pennsylvania Outpatient Procedure
28 Payment Registry for the purpose of making readily available
29 to consumers information regarding the payments received by
30 ambulatory surgical facilities and imaging centers for the

20070H0700B1011

- 55 -

1 50-most-frequent outpatient procedures.

2 (i) The outpatient procedure payment registry shall
3 include the information submitted to the council under
4 this subsection and the name and address of each
5 outpatient facility providing the information and shall
6 be organized by zip code.

7 (ii) The outpatient procedure payment registry shall
8 be updated annually by the council and shall be posted on
9 the council's Internet website in a format that is
10 conducive to review and comparison by consumers of
11 reimbursement data from outpatient facilities in each zip
12 code of this Commonwealth. It shall include a toll-free
13 telephone number maintained by the council that consumers
14 may call to obtain reprints of the registry.

15 (iii) The website shall be designed so that the
16 consumer may download and print the displayed information
17 and shall include at least the following:

18 (A) Internet web links to other government
19 resources that provide information relating to the
20 regulation of outpatient facilities and health
21 insurance.

22 (B) Clearly understandable language that is
23 designed to assist consumers in understanding the
24 content of and how to access the information made
25 available on the website pursuant to this subsection.

26 (iv) The information on the outpatient procedure
27 payment registry may be combined with other data
28 collected by the council and posted on the council's
29 Internet website to provide comparative information
30 useful to consumers selecting a provider of medical care.

20070H0700B1011

- 56 -

1 (2) Within 90 days following the effective date of this
2 section and on or before January 31 of each year thereafter,
3 all ambulatory surgical facilities and all imaging centers
4 shall submit to the council for inclusion in the outpatient
5 procedure payment registry, in a form and manner prescribed
6 by the council, the 50-most-frequent procedures performed at
7 the ambulatory surgical facility or imaging center during the

8 preceding year, the charge for each such procedure and the
9 average third-party reimbursement for each such procedure.
10 (3) The council, in consultation with the Department of
11 Health, may determine that the same information should be
12 obtained from other health care providers that primarily
13 perform outpatient procedures other than for primary or
14 chronic care, and, 90 days following publication of notice in
15 the Pennsylvania Bulletin, those health care providers shall
16 submit to the council for inclusion in the outpatient
17 procedure payment registry the information set forth in
18 paragraph (2).
19 (d) Guidelines.--The council may adopt guidelines to
20 effectuate the purposes of this section.
21 (e) Enforcement.--In addition to any other remedy available,
22 the council may impose a civil penalty of up to \$500 per day for
23 each failure of a facility to provide the council the
24 information required under this section. All fines collected
25 under this subsection shall be deposited in the CAP Fund.
26 CHAPTER 73
27 ACCESSIBILITY
28 Sec.
29 7301. Definitions.
30 7302. Pennsylvania Center for Health Careers.
20070H0700B1011 - 57 -

1 7303. Health care provider practice.
2 7304. Hospice licensure.
3 § 7301. Definitions.
4 The following words and phrases, when used in this chapter,
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:
7 "Center." The Pennsylvania Center for Health Careers
8 established under section 7302 (relating to Pennsylvania Center
9 for Health Careers).
10 "Certified registered nurse anesthetist." A registered nurse
11 certified by the State Board of Nursing to administer anesthesia
12 and who meets the requirements of section 7303(j) (relating to
13 health care provider practice).
14 "Clinical nurse specialist." An individual who is licensed
15 by the State Board of Nursing and holds:
16 (1) A graduate degree, master's degree, doctoral degree,
17 or post-master's certificate from an educational program that
18 is recognized by the State Board of Nursing or a national
19 nursing accrediting body accepted by the board and that
20 prepares graduates to practice as a clinical nurse
21 specialist.
22 (2) A national certification as a clinical nurse
23 specialist in a designated specialty or in an area pertinent
24 to the designated specialty or meets equivalence requirements
25 as specified in regulations of the State Board of Nursing
26 when there is no certification examination available in the
27 clinical nurse specialist specialty area.
28 "CODA." American Dental Association's Commission on Dental
29 Accreditation.

1 providers to deliver health care services with each contributing
2 their expertise within the scope of their license, education and
3 training. In the case of collaboration between a physician or
4 dentist and a certified registered nurse practitioner, nurse
5 midwife, clinical nurse specialist, certified registered nurse
6 anesthetist or physician's assistant, the process allows the
7 health care provider to perform acts of medical diagnosis and,
8 pursuant to a collaborative or written agreement, to prescribe
9 medical therapeutic and corrective measures. Collaboration
10 includes all of the following:

11 (1) Immediate availability of a licensed physician or
12 dentist to the health care provider through direct
13 communications or by radio, telephone or telecommunications.

14 (2) A predetermined plan for emergency services.

15 (3) A physician or dentist available to the health care
16 provider on a regularly scheduled basis for referrals, review
17 of the standards of clinical practice incorporating
18 consultation and chart review, review of drug and other
19 clinical protocols within the practice setting, periodic
20 updating in diagnosis and therapeutics and cosigning records
21 when necessary to document accountability by both parties.

22 "Collaborative or written agreement." An agreement between a
23 physician and a health care provider that is not a physician
24 where such an agreement has been required under law for the
25 health care provider to provide health care services.

26 "Debridement." The removal of dental calculus from teeth.

27 "Department." The Department of Labor and Industry of the
28 Commonwealth.

29 "Expanded primary care availability." The provision of
30 primary and urgent care during evenings and weekends on a walk-

1 in or same-day appointment basis.

2 "General supervision." Supervision by a dentist who has
3 authorized dental hygiene services for a patient to be
4 administered in accordance with the dentist's diagnosis and
5 treatment plan without the dentist being present, including
6 being present in the treatment location.

7 "Health care worker." An employee, independent contractor,
8 licensee or other individual authorized to provide health care
9 services in a health care facility or who is engaged in public
10 health activities.

11 "Independent dental hygiene practitioner." A dental
12 hygienist who performs educational, preventative, therapeutic
13 and intra-oral procedures which the hygienist is educated to
14 perform and which require the hygienist's professional
15 competence and skill but which do not require the professional
16 competence and skill of a dentist without the authorization,

17 assignment or examination of a dentist, and who is certified by
18 the State Board of Dentistry as having satisfied the
19 requirements of section 7303(h) (relating to health care
20 provider practice).

21 "Leadership council." The Health Careers Leadership Council
22 established under section 7302 (relating to Pennsylvania Center
23 for Health Careers).

24 "Local anesthesia." A drug administered by injection in the
25 mouth to temporarily eliminate or diminish the sensation of pain
26 during routine dental care.

27 "Nurse midwife." An individual licensed by the State Board
28 of Medicine to practice midwifery.

29 "Physician assistant." An individual certified as a
30 physician assistant by the State Board of Medicine.

20070H0700B1011

- 60 -

1 "Primary care." The provision of family, adult, pediatric,
2 men's or women's health care services or chronic care management
3 at a point of entry to the health care system other than an
4 emergency room.

5 "Primary care provider." A licensee who is a physician,
6 physician assistant, certified registered nurse practitioner,
7 clinical nurse specialist practicing primary care, nurse midwife
8 or any group practice consisting of some or all of the
9 foregoing.

10 "Radiologic procedure." A medical or dental procedure, such
11 as an X-ray, that uses radiation or other sources to create
12 images useful in diagnosis.

13 "Secretary." The Secretary of Labor and Industry.

14 "Soft tissue curettage." The removal of soft tissue in the
15 mouth with a curette.

16 § 7302. Pennsylvania Center for Health Careers.

17 (a) Establishment.--The Pennsylvania Center for Health
18 Careers is hereby established within the department. The center
19 will provide a focused direction and purpose for the development
20 of strategies to address the Commonwealth's short-term and long-
21 term health care work force challenges to ensure the quality and
22 supply of such work force by:

23 (1) Increasing the capacity of nursing education in this
24 Commonwealth.

25 (2) Retaining health care workers.

26 (3) Increasing diversity of health care workers.

27 (4) Responding to the demand for allied health
28 professionals that provide critical care.

29 (5) Addressing the needs of direct care workers.

30 (b) Powers and duties.--The center shall have the following
20070H0700B1011

- 61 -

1 powers and duties:

2 (1) Determine the health care work force needs of this
3 Commonwealth through research, outreach and study.

4 (2) Research best practices in addressing similar work
5 force needs in other states.
6 (3) Assess the effectiveness of the initiatives,
7 programs and projects the center undertakes.
8 (4) Assist and implement the initiatives and strategies
9 of the council.
10 (5) Develop recruitment and workplace tools that assist
11 health care facilities to increase the diversity of their
12 work force and promote the delivery of culturally appropriate
13 care.
14 (6) Assess the current capacity of medical education
15 within the Commonwealth's medical schools and training
16 programs.
17 (7) Assess current and needed efforts addressing
18 recruitment and retention of physicians and other health care
19 professionals.
20 (c) Leadership council.--The center shall be governed by the
21 Health Careers Leadership Council which shall consist of the
22 following members:
23 (1) The secretary, the Secretary of State, the Secretary
24 of Health, the Secretary of Public Welfare or their
25 designees.
26 (2) Four members of the General Assembly:
27 (i) Two members of the Senate, one appointed by the
28 President pro tempore of the Senate and one appointed by
29 the Minority Leader of the Senate.
30 (ii) Two members of the House of Representatives,
20070H0700B1011 - 62 -

1 one appointed by the Speaker of the House of
2 Representatives and one appointed by the Minority Leader
3 of the House of Representatives.
4 (3) Additional members that are representatives of
5 health care-related professionals and organizations,
6 including employers, employees and educators, in such number
7 as may be determined by the Governor and to be appointed by
8 the Governor in consultation with the Pennsylvania Workforce
9 Investment Board created by the act of December 18, 2001
10 (P.L.949, No.114), known as the Workforce Development Act.
11 (4) Members of the leadership council shall serve at the
12 pleasure of their respective appointing authorities. Members
13 shall not receive compensation for their service as members
14 of the council but shall be reimbursed for reasonable and
15 necessary expenses in the performance of their duties in
16 accordance with Commonwealth policy with the approval of the
17 secretary.
18 (5) The Governor shall designate a member or members of
19 the leadership council to serve as chair or cochairs.
20 (6) The leadership council shall have the following
21 powers and duties:
22 (i) Determine the organization, procedures and
23 priorities of the center.
24 (ii) Develop initiatives, programs and projects for
25 the center to address the health care work force needs of

26 the Commonwealth.
27 (iii) Apply for grants and seek other revenue
28 sources, including General Fund appropriations through
29 the department's budget.
30 (iv) Do all other acts necessary to carry out the
20070H0700B1011 - 63 -

1 purposes and policies of this section.
2 (d) Administration.--The department shall provide
3 administrative support to the leadership council. The center
4 shall use and have access to any information, services,
5 functions and other resources in the possession of Commonwealth
6 agencies deemed necessary to the fulfillment of its
7 responsibilities under this section.
8 § 7303. Health care provider practice.
9 (a) General rule.--Except with respect to those laws or
10 regulations applying to the medical staff of a hospital or the
11 oversight of inpatient clinical services performed in a
12 hospital, wherever in any law or regulation of the Commonwealth
13 the terms "physician," "medical doctor," "doctor of osteopathy,"
14 "dentist" or similar term is used to define an individual who
15 shall take medical histories, perform physical or mental
16 examinations or provide acute illness, minor injury or chronic
17 disease management care, those terms shall be deemed to include
18 certified registered nurse practitioners, clinical nurse
19 specialists, physician assistants, nurse midwives and
20 independent dental hygienist practitioners; provided that such
21 activities fall within the individual's specialty certification
22 and scope of practice as determined by the applicable State
23 licensing board.
24 (b) Professional liability.--A certified registered nurse
25 practitioner, clinical nurse specialist, nurse midwife or
26 physician assistant practicing in this Commonwealth whose
27 employer does not provide professional liability coverage shall
28 maintain a level of professional liability coverage required by
29 law of a physician providing similar health care services in
30 this Commonwealth, but shall not be eligible to participate in
20070H0700B1011 - 64 -

1 the fund established under Mcare.
2 (c) Collaborative and written agreements.--
3 (1) There shall be no limit to the number of certified
4 registered nurse practitioners with prescriptive authority or
5 physician assistants for whom a physician has responsibility
6 or supervises under a collaborative or written agreement at
7 any time.
8 (2) Collaborative and written agreements shall not
9 unreasonably restrict any health care provider's ability to
10 practice to the fullest extent permitted by his scope of
11 practice, clinical education and experience.
12 (3) The Department of State, Bureau of Professional and

13 Occupational Affairs, shall accept complaints in a form and
14 manner prescribed by the bureau with respect to the
15 following:
16 (i) the unwillingness of physicians in a given
17 geographic area to enter into an agreement with any
18 member of a class of health care providers; or
19 (ii) any unduly restrictive provisions contained in
20 an agreement.
21 The bureau shall establish a process for resolving complaints
22 it determines are credible, including required mediation
23 among the parties.
24 (4) The provisions of 49 Pa. Code §§ 18.57 (relating to
25 physician supervision) and 21.287 (relating to physician
26 supervision) are abrogated to the extent such provisions
27 restrict the number of certified registered nurse
28 practitioners a physician may supervise at any time. The
29 provisions of 49 Pa. Code § 18.152(b)(2) (relating to
30 prohibitions) are abrogated to the extent that the number of
20070H0700B1011 - 65 -

1 physician assistants for which a physician may have primary
2 responsibility is restricted.
3 (d) Certified registered nurse practitioners.--Except as
4 limited by the scope of his specialty certification or in a
5 collaborative or written agreement:
6 (1) A certified registered nurse practitioner shall not
7 be limited in prescribing any drug, including a controlled
8 substance on Schedules II through V, nor shall there be any
9 limit on the number of refills or dosages except as may be
10 provided under Federal law, except that the certified
11 registered nurse practitioner shall use his own Drug
12 Enforcement Administration number and not that of any
13 collaborating physician in writing the prescription.
14 (2) In addition to existing authority, a certified
15 registered nurse practitioner shall have authority to do all
16 of the following:
17 (i) Order home health and hospice care.
18 (ii) Order durable medical equipment.
19 (iii) Issue oral orders under the same conditions
20 and in the same facilities as physicians are permitted to
21 do.
22 (iv) Perform and sign workers compensation
23 physicals.
24 (v) Perform physical therapy and dietitian
25 referrals.
26 (vi) Order respiratory or occupational therapy.
27 (vii) Perform disability assessments for the program
28 providing Temporary Assistance to Needy Families.
29 (viii) Perform and sign methadone treatment
30 evaluations.
20070H0700B1011 - 66 -

1 (ix) Perform and sign cosmetology license physicals.
2 (x) Issue home schooling certifications.
3 (xi) Make commitments under the act of July 9, 1976
4 (P.L.817, No.143), known as the Mental Health Procedures
5 Act.
6 (xii) Perform and sign psychiatric evaluations.
7 (xiii) Perform other similar activities.
8 (e) Nurse midwives.--Notwithstanding the provisions of any
9 other law or regulation:
10 (1) A nurse midwife is authorized to provide and manage
11 primary health care of women during pregnancy, childbirth,
12 and the postpartum period, provide care of the neonate and
13 provide office gynecological care and family planning
14 services.
15 (2) A nurse midwife may, consistent with the midwife's
16 academic educational preparation and national certification,
17 prescribe, dispense, order and administer the following:
18 (i) Legend drugs and Schedule II through Schedule V
19 controlled substances provided that the midwife:
20 (A) Has successfully completed at least 45 hours
21 of coursework specific to advanced pharmacology at a
22 level above that required by a professional nursing
23 education program.
24 (B) In the two years prior to the biennial
25 renewal of the nurse midwife's license, successfully
26 completes at least 16 hours of continuing education
27 in pharmacology approved by the State Board of
28 Medicine. The nurse midwife shall provide the board
29 with evidence that the nurse midwife has completed
30 such training as part of the biennial renewal
20070H0700B1011 - 67 -

1 process.
2 (C) Acts in collaboration with a physician as
3 set forth in a written agreement which shall at a
4 minimum identify the categories of drugs from which
5 the nurse midwife may prescribe or dispense and the
6 circumstances under which the collaborating physician
7 will personally see the patient.
8 (D) Acts in accordance with regulations
9 promulgated by the State Board of Medicine, which
10 shall not unreasonably restrict the midwife's
11 practice.
12 (ii) Medical devices.
13 (iii) Immunizing agents.
14 (iv) Laboratory tests.
15 (v) Therapeutic, diagnostic and preventative
16 measures.
17 (f) Clinical nurse specialists.--Any individual who holds a
18 license to practice professional nursing in this Commonwealth
19 who meets the requirements to be a clinical nurse specialist
20 shall have the right to use the title "clinical nurse
21 specialist" and the abbreviation "CNS." No other individual

22 shall have that right.

23 (g) Dental hygienists.--

24 (1) Classifications developed by the American Society of
25 Anesthesiologists shall not be a factor in determining the
26 level of supervision required by dental hygienists. The
27 supervising dentist and the dental hygienist shall determine
28 the appropriate level of supervision for each patient based
29 on the patient's health and history.

30 (2) In addition to existing authority, a dental

20070H0700B1011

- 68 -

1 hygienist may perform the following in any setting under the
2 general supervision of a dentist:

- 3 (i) Radiologic procedures.
- 4 (ii) Debridement.
- 5 (iii) Soft tissue curettage.
- 6 (iv) Suture removal.
- 7 (v) Teeth filling.

8 (3) A dental hygienist may administer local anesthesia
9 under the following conditions:

10 (i) The dental hygienist holds a current license in
11 good standing, is certified in basic life support and has
12 provided the board documentation evidencing one of the
13 following:

14 (A) Graduation within the five years immediately
15 preceding the filing of the application from a dental
16 hygiene school accredited by CODA, which included the
17 successful completion of a course in the
18 administration of local anesthesia.

19 (B) Successful completion within the five years
20 immediately preceding the filing of the application
21 of a course consisting of a minimum of 30 hours of
22 instruction in the administration of local anesthesia
23 sponsored by an education program accredited by CODA.

24 (C) Possession of a current license or permit
25 issued by the proper licensing authority of another
26 state, territory or district, or by Canada, where the
27 dental hygienist is authorized under the laws of that
28 jurisdiction to administer local anesthesia, provided
29 that the dental hygienist has been actively engaged
30 in the administration of local anesthesia within the

20070H0700B1011

- 69 -

1 five years immediately preceding the filing of the
2 application and that the applicable jurisdiction
3 required, as a condition of receiving the license or
4 permit, that the dental hygienist complete a course
5 in the administration of local anesthesia accredited
6 by CODA or its Canadian counterpart.

7 (ii) The dental hygienist has applied for and
8 received a permit from the State Board of Dentistry and

1 integrated health setting such as academic health centers and
2 group practice settings where the pharmacist is an integral
3 member of the interdisciplinary clinical team and has access to
4 the patient's medical record. In such practice settings, the
5 pharmacist shall follow the same protocols and procedures as
6 that required for drug therapy management in "institutions" as
7 defined in the Pharmacy Act.

8 (j) Certified registered nurse anesthetists.--The State
9 Board of Nursing shall certify a registered nurse as a certified
10 registered nurse anesthetist if the nurse satisfies the
11 requirements established by this subsection and any regulations
12 promulgated by the board. The certification of a nurse under
13 this subsection shall expire on the same date as the nurse's
14 license expires.

15 (1) In order to be certified, a registered nurse must
16 satisfy the following criteria:

17 (i) Completion of the educational program of a
18 school for nurse anesthetists accredited by an
19 accrediting agency recognized by the State Board of
20 Nursing.

21 (ii) Receipt of certification as a certified
22 registered nurse anesthetist by a board-recognized
23 national certification organization.

24 (2) A registered nurse who is enrolled in an educational
25 program of a school for nurse anesthetists accredited by an
26 accrediting agency recognized by the State Board of Nursing
27 may, during such enrollment, administer anesthesia under the
28 direction of the chief or director of anesthesia services, an
29 anesthesiologist or a certified registered nurse anesthetist.

30 (3) A registered nurse who has obtained the education

20070H0700B1011

1 required by this subsection but who has not yet obtained
2 certification as a certified registered nurse anesthetist may
3 administer anesthesia under the direction of the chief or
4 director of anesthesia services, an anesthesiologist or a
5 certified registered nurse anesthetist until the announcement
6 of results of the first examination taken for certification
7 for which the registered nurse is eligible. If the registered
8 nurse fails to take or fails to pass that examination, the
9 registered nurse shall immediately cease practicing as a
10 nurse anesthetist, provided, however, that the registered
11 nurse may appeal to the State Board of Nursing for authority
12 to continue practicing as a nurse anesthetist if, due to
13 extenuating circumstances, the registered nurse is unable to
14 take the examination in a time period specified by the board
15 following completion of the required education.

16 (4) A certified registered nurse anesthetist shall be
17 subject to all of the following:

18 (i) A certified registered nurse anesthetist shall
19 administer anesthesia in collaboration with a physician
20 or dentist.
21 (ii) A certified registered nurse anesthetist's
22 performance shall be under the overall direction of the
23 chief or director of anesthesia services, provided,
24 however, that in situations or health care facilities
25 where anesthesia services are not mandatory, the
26 certified registered nurse anesthetist's performance
27 shall be under the overall direction of the collaborating
28 physician or dentist.
29 (iii) When the operating or anesthesia team consists
30 entirely of nonphysicians, an anesthesiologist or
20070H0700B1011 - 73 -

1 consulting physician of the certified registered nurse
2 anesthetist's choice shall be available to the certified
3 registered nurse anesthetist by physical presence or
4 electronic communication.
5 (5) Nothing in this subsection shall be construed to
6 prohibit the continued practice of certified registered nurse
7 anesthetists who were authorized to practice in this
8 Commonwealth on the effective date of this subsection.
9 (k) Health insurers.--An insurer issuing health insurance
10 coverage within this Commonwealth is:
11 (1) Required to include the following classes of health
12 care providers as primary care providers in each of its
13 provider networks:
14 (i) certified registered nurse practitioners,
15 physician assistants, clinical nurse specialists
16 practicing in primary care and nurse midwives; and
17 (ii) urgent care, convenient care, nurse-managed
18 care or federally qualified health centers if they are
19 geographically available to provide services to those
20 insured by the insurer.
21 The Insurance Commissioner may modify the foregoing list from
22 time to time by publication of a notice in the Pennsylvania
23 Bulletin.
24 (2) Required to establish a credentialing process to
25 enroll qualified health care providers to create an adequate
26 provider network that includes the classes of health care
27 providers required under paragraph (1). The process shall be
28 submitted to the Department of Health for approval within 180
29 days following the effective date of this section and shall
30 be resubmitted to the Department of Health for approval every
20070H0700B1011 - 74 -

1 two years thereafter. The process shall include written
2 criteria and procedures for initial enrollment, renewal,
3 restrictions and termination of credentials for health care
4 providers, disclose relevant credentialing criteria and

5 procedures to health care providers that apply to participate
6 or that are participating in the insurer's provider network
7 and provide any health care provider denied credentials or
8 renewal of credentials with timely written notice containing
9 a clear explanation of the reason for the denial.
10 (3) Required to timely pay health care providers for
11 health care services at rates sufficient to assure the
12 availability of and access to adequate health care providers
13 in all networks, taking into account the need for fiscal
14 restraint.
15 (4) Required to pay health care providers incentives for
16 providing expanded primary care availability.
17 (5) Required to pay a primary care provider and
18 certified registered nurse anesthetist directly for services
19 provided unless the provider or certified registered nurse
20 anesthetist notifies the insurer otherwise.
21 (6) Required to pay certified registered nurse
22 practitioners, clinical nurse specialists, physician
23 assistants and nurse midwives as primary care providers for
24 primary care services and reasonable rates for providing
25 specialty health care services that are within their scope of
26 practice to provide.
27 (7) Prohibited from excluding minor children with
28 behavioral health conditions from coverage or excluding from
29 covered services behavioral therapy services for minor
30 children.
20070H0700B1011 - 75 -

1 § 7304. Hospice licensure.
2 (a) Regulations.--Within 180 days following the effective
3 date of this section, the Department of Health shall promulgate
4 proposed regulations, and within 270 days following the
5 effective date of this section the Department of Health shall
6 promulgate final regulations for licensure of residential
7 hospice facilities which shall include licensure of the
8 following:
9 (1) small residential hospices with 22 or fewer beds;
10 and
11 (2) hospices for children or units for children within
12 licensed hospices or other health care facilities provided
13 that the children's hospice units are physically separated
14 and secured from units providing services to adults.
15 (b) Alternative.--In developing its regulations, the
16 Department of Health shall establish for small residential
17 hospices an alternative to the fire and safety regulations for
18 hospices certified as providers of the Medicare program under
19 Title XVIII of the Social Security Act (49 Stat. 620, U.S.C. §
20 1395 et seq.) that currently require hospices to meet standards
21 for nursing homes contained in the 2000 edition of the Life
22 Safety Code of the National Fire Protection Association. In
23 developing the alternative, the Department of Health shall
24 consider as a minimum the requirements for large board and care
25 occupancies set forth in the 2006 edition of the Life Safety
26 Code.

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20070H0700B1011

CHAPTER 74
QUALITY OF CARE AND HEALTHY LIFESTYLES

Sec.
7401. Definitions.

- 76 -

1 7402. Patient safety.
2 7403. Smoking restrictions.
3 § 7401. Definitions.
4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:
7 "Authority." The Patient Safety Authority established under
8 Mcare.
9 "Bar." Any area, including outdoor seating areas, devoted to
10 the sale and service of alcoholic beverages for on-premises
11 consumption and where the service of food is only incidental to
12 the consumption of such beverages.
13 "Consumer Price Index." The Consumer Price Index for All
14 Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,
15 Delaware and Maryland area, for the most recent 12-month period
16 for which figures have been officially reported by the United
17 States Department of Labor, Bureau of Labor Statistics,
18 immediately prior to the subject date.
19 "Department." The Department of Health of the Commonwealth.
20 "Enforcement officer." The board of health of a county or an
21 officer designated under section 7403(g) (relating to smoking
22 restrictions).
23 "Food service establishment." Any area, including outdoor
24 seating areas, or portion of an area in which the business is
25 the sale of food for on-premises consumption.
26 "Health-care-acquired-infection." An infection acquired in a
27 health care facility.
28 "Impaired professional program." The program established
29 under the act of December 20, 1985 (P.L.457, No.112), known as
30 the Medical Practice Act of 1985.
20070H0700B1011

- 77 -

1 "MRSA." Methicillin-resistant staphylococcus aureus, a more
2 serious form of bacterial health-care-acquired infection that is
3 resistant to commonly used antibiotics.
4 "Patient safety report." The Patient Safety and Quality
5 Improvement Report required under section 7402(f) (relating to
6 patient safety).
7 "Places of employment." An indoor area or portion of an
8 indoor area under the control of an employer in which employees
9 of the employer perform services. The term includes offices,
10 school grounds, retail stores, banquet facilities, theaters,
11 food stores, banks, financial institutions, factories,
12 warehouses, employee cafeterias, lounges, auditoriums,
13 gymnasiums, restrooms, elevators, hallways, museums, libraries,

14 bowling establishments, employee medical facilities, rooms or
15 areas containing photocopying equipment or other office
16 equipment used in common and company vehicles.
17 "Retail tobacco business." A sole proprietorship, limited
18 liability company, corporation, partnership or other enterprise
19 in which the primary activity is the retail sale of tobacco
20 products and accessories and in which the sale of other products
21 is merely incidental.
22 "Safe practices." The set of standards endorsed by the
23 National Quality Forum that should be used by health care
24 providers to reduce the risk of harm to patients.
25 "School grounds." A building, structure and surrounding
26 outdoor grounds contained within a public or private preschool,
27 nursery school, elementary or secondary school's legally defined
28 property boundaries and any vehicles used to transport children
29 or school personnel.
30 "Smoking." The burning of a lighted cigar, cigarette, pipe
20070H0700B1011 - 78 -

1 or any other matter or substance which contains tobacco.
2 § 7402. Patient safety.
3 (a) Electronic surveillance of health-care-acquired
4 infections.--
5 (1) By September 1, 2008, all hospitals shall use a
6 uniform electronic surveillance system to report health-care-
7 acquired infections to the council in a form and manner
8 prescribed by the council. The system shall provide for all
9 of the following:
10 (i) Extraction of existing electronic clinical data
11 from hospital systems on an ongoing basis.
12 (ii) Translation of nonstandardized laboratory data
13 into uniform information that can be analyzed on a
14 population-wide basis.
15 (iii) Clinical support, educational tools and
16 training to ensure that information provided under this
17 paragraph will lead to change.
18 (iv) Clinical improvement measurement and the
19 structure to provide ongoing positive and negative
20 feedback to hospital staff who implement change.
21 (2) Within 30 days following the effective date of this
22 section, the council shall identify and certify a specific
23 system or systems that meet the criteria described in
24 paragraph (1) and shall forward the identity of the certified
25 system or systems to the Legislative Reference Bureau for
26 publication as a notice in the Pennsylvania Bulletin.
27 (b) Reporting emergency services.--The council, in
28 consultation with the department, shall determine the manner and
29 scope of reporting to the council that hospitals shall undertake
30 with respect to individuals presenting at hospitals for
20070H0700B1011 - 79 -

1 emergency services. The council shall forward requirements
2 concerning the reporting, including the date the reporting is to
3 commence, to the Legislative Reference Bureau for publication as
4 a notice in the Pennsylvania Bulletin. After the date the
5 reporting is to commence, compliance with the requirements shall
6 be a condition of licensure for hospitals.

7 (c) Reporting by nursing homes.--Nursing homes shall report
8 to the council the same infections and in the same manner that
9 hospitals are required to report to the council under the Health
10 Care Cost Containment Act. Reporting shall begin within 30 days
11 following the effective date of this section. For purposes of
12 this section, nursing homes shall be additional data sources as
13 defined in the Health Care Cost Containment Act, and covered
14 services, as defined in that act, shall include those services
15 provided by nursing homes.

16 (d) Analysis of nursing home data by Patient Safety
17 Authority.--

18 (1) At the request of the department, but no less
19 frequently than once per year, the authority shall analyze
20 data without patient identifying information reported to the
21 department by nursing homes with respect to events
22 compromising patient safety as required by 28 Pa. Code § 51.3
23 (relating to notification).

24 (2) The authority shall conduct analyses as it
25 determines are appropriate to provide information to nursing
26 homes which can be used to improve patient safety and quality
27 of care.

28 (3) The authority shall provide nursing homes with
29 patient safety advisories issued by the authority and permit
30 any nursing home administrator to attend any patient safety

20070H0700B1011

- 80 -

1 training program it offers.

2 (4) Nursing homes shall pay the department a surcharge
3 on their licensing fees to provide sufficient revenues to the
4 authority for its responsibilities under this section. The
5 department shall determine the proportionate share to be paid
6 by each nursing home on a per-bed basis within 60 days
7 following the effective date of this section.

8 (i) The total surcharge for all nursing homes shall
9 not exceed \$1,000,000 in fiscal year 2007-2008 and shall
10 be increased by the Consumer Price Index in each
11 succeeding fiscal year. All surcharges shall be paid by
12 the end of each fiscal year.

13 (ii) The department shall transfer the total
14 surcharges collected to the Patient Safety Trust Fund
15 within 30 days of receipt.

16 (iii) In the event that the Patient Safety Trust
17 Fund is discontinued or the authority is dissolved, any
18 balance of the surcharges paid by nursing homes remaining
19 in the Patient Safety Trust Fund, after deducting
20 administrative costs of liquidation, shall be returned to
21 the nursing homes in proportion to their financial
22 contributions to the Patient Safety Trust Fund in the

23 preceding licensing period.
24 (iv) If, after 30 days' notice, a nursing home fails
25 to pay a surcharge levied by the department under this
26 subsection, the department may assess an administrative
27 penalty of \$1,000 per day until the surcharge is paid.
28 The penalty shall be imposed from the date of the notice
29 and deposited into the CAP Fund.
30 (e) E-prescribing.--
20070H0700B1011 - 81 -

1 (1) Within 60 days following the effective date of this
2 section, each health care facility shall develop a full and
3 complete implementation plan with specific goals, key
4 performance indicators and timelines in order to meet the
5 following requirements:
6 (i) Commencing September 1, 2008, a health care
7 facility shall provide easy and timely access to an e-
8 prescribing system for all of its staff, employees or
9 contractors who have prescriptive authority in this
10 Commonwealth and who write prescriptions for patients of
11 the health care facility in order to allow them to write
12 prescriptions electronically and check for potentially
13 harmful drug interactions.
14 (ii) Thereafter, the health care facility shall
15 certify to the department on its application for license
16 or license renewal that it provides access for all staff,
17 employees and contractors with prescriptive authority to
18 an e-prescribing system and requires its use.
19 (2) Within 60 days following the effective date of this
20 section, the State Board of Medicine shall determine the date
21 after which it will require physicians, as a condition of
22 licensure, to use an e-prescribing system to write
23 prescriptions electronically and check for potentially
24 harmful drug interactions. The State Board of Medicine shall
25 forward a notice of the date to the Legislative Reference
26 Bureau for publication in the Pennsylvania Bulletin.
27 Effective as of that date, the State Board of Medicine shall
28 require a physician to certify on the physician's application
29 for license or license renewal that the physician has access
30 to and uses an e-prescribing system.
20070H0700B1011 - 82 -

1 (3) (i) Any false or misleading statement on a
2 certification by a health care facility shall subject the
3 health care facility to a civil penalty of \$5,000 per
4 instance, which shall be imposed and collected by the
5 department and deposited into the CAP Fund.
6 (ii) Any false or misleading statement on a
7 certification by a physician shall subject the physician
8 to a civil penalty of \$5,000 per instance, which shall be
9 imposed and collected by the State Board of Medicine and

10 deposited into the CAP Fund.

11 (4) Notwithstanding any provision of law or regulation,
12 oral orders for medication or treatment shall be issued or
13 accepted only in emergency circumstances if no alternative
14 method is available.

15 (5) Up to \$25,000,000 of the funds appropriated by the
16 General Assembly for the Machinery and Equipment Loan Fund
17 shall be made available for grants to health care facilities
18 to assist in acquiring the systems described under this
19 subsection. Grants shall not exceed 50% of a hospital's
20 costs, which shall be approved by the Department of Community
21 and Economic Development. The Department of Community and
22 Economic Development shall develop criteria for evaluating
23 applications for grants that considers the fiscal condition
24 of the hospital, the ability of the hospital to implement the
25 technology and the potential savings through avoided costs
26 and reduced errors. The criteria shall be forwarded by the
27 Department of Community and Economic Development to the
28 Legislative Reference Bureau for publication as a notice in
29 the Pennsylvania Bulletin.

30 (f) Health care facilities annual report.--

20070H0700B1011

- 83 -

1 (1) A hospital shall, on or before April 1 of each
2 calendar year, submit to the department a Patient Safety and
3 Quality Improvement Report for each facility that it
4 operates. The patient safety report shall cover the prior
5 calendar year and shall contain at least the following
6 information:

7 (i) Three-year trends in the rates of health-care-
8 acquired infections, medication errors, readmissions and
9 procedure complications, failures to rescue and falls.

10 (ii) The recommendations of the authority and
11 approved by the department under section 301 of Mcare
12 that have been implemented at the hospital.

13 (iii) The specific safe practices that each hospital
14 facility will adopt and implement during the next
15 calendar year to reduce health-care-acquired infections,
16 medication errors, readmissions and procedure
17 complications, failures to rescue and falls.

18 (iv) Beginning with the second report submitted
19 under this subsection and with each report submitted
20 thereafter, the progress of implementation of safe
21 practices adopted during the previous calendar year,
22 whether the hospital will continue any of the practices
23 and the reason the hospital will discontinue any safe
24 practice previously adopted.

25 (v) The hospital's plan to implement facility-wide
26 and data-driven error-reduction or quality improvement
27 programs that the hospital intends to adopt and implement
28 at each hospital facility, including a computer physician
29 order entry system, medication bar coding and programs to
30 identify and correct systemic causes of error and achieve

20070H0700B1011

- 84 -

19 of in-person and monitored training in patient safety and
20 continuous quality improvement every two years.

21 (ii) Each nursing home shall ensure that its nursing
22 home administrator and director of nursing receives at
23 least six hours of in-person and monitored training in
24 patient safety and continuous quality improvement every
25 two years.

26 (2) Hospitals and nursing homes currently licensed will
27 have 12 months following the effective date of this section
28 to comply with this subsection. Hospitals and nursing homes
29 applying for a license for the first time following the
30 effective date of this section shall certify to the

20070H0700B1011

- 86 -

1 department that the persons described under paragraph (1)
2 have completed the requisite training within the preceding
3 12-month period as a condition of being licensed.

4 (3) The department shall issue guidelines with respect
5 to the particular types of patient safety education classes
6 that will be acceptable. The training shall emphasize the
7 integrated nature of patient safety and continuous quality
8 improvement.

9 (4) Documentation of training shall be maintained as
10 part of the records of the hospital or nursing home.

11 (5) The training requirements of this subsection are not
12 to be construed to add to any continuing education
13 requirements imposed by a State licensing board.

14 (6) For the fiscal year 2008-2009 and thereafter, the
15 State Board of Medicine shall not approve for accreditation
16 any graduate medical education program in this Commonwealth
17 that does not require a minimum of six hours of patient
18 safety training focused on eliminating health-care-acquired
19 infections, preventing medical errors and integrating safe
20 practices into the clinical environment.

21 (i) Clinical skills assessments.--The State Board of
22 Medicine may utilize a program similar to the impaired
23 professional program through which a licensee may be referred
24 for a clinical skills assessment and undertake a subsequent plan
25 to improve clinical skills or otherwise address any clinical
26 skills deficiencies, if the State Board of Medicine has
27 evaluated the program and approved its use by licensees of the
28 board. Once approved, the board shall have the authority to
29 defer disciplinary or corrective action, provided that the
30 licensee enters into an agreement with the board to undergo the

20070H0700B1011

- 87 -

1 assessment and continues to completion with a plan acceptable to
2 the board to address any deficiency.

3 (j) Enforcement.--In addition to any other remedy available,
4 the council may impose a civil penalty of up to \$500 per day for
5 each failure of a facility to provide the council the

6 information required under this section. All fines collected
7 under this subsection shall be deposited in the CAP Fund.
8 § 7403. Smoking restrictions.
9 (a) Restrictions.--Smoking shall not be permitted and no
10 individual shall smoke in any of the following indoor areas:
11 (1) Places of employment.
12 (2) Bars.
13 (3) Food service establishments.
14 (4) Enclosed indoor areas open to the public.
15 (5) Means of mass transportation, including subways,
16 underground subway stations and, when occupied by passengers,
17 buses, including school buses, vans, taxicabs and limousines.
18 (6) Ticketing, boarding and waiting areas in public
19 transportation terminals.
20 (7) A public or private facility that houses or treats
21 children and youth, including youth detention centers and
22 group homes except for facilities in private homes.
23 (8) A facility that provides child-care services.
24 Services provided in a private home are excluded from this
25 paragraph if children enrolled in the child-care services are
26 not present.
27 (9) Public and private colleges, universities and other
28 educational and vocational institutions.
29 (10) Health care facilities where individuals reside.
30 This paragraph shall not prohibit smoking by patients in
20070H0700B1011 - 88 -

1 separate enclosed rooms of residential health care
2 facilities, adult care facilities, community mental health
3 residences or facilities where day treatment programs are
4 provided, which are designated as smoking rooms for patients
5 of the facilities or programs and which are ventilated to the
6 outside.
7 (11) Commercial establishments used for the purpose of
8 carrying on or exercising any trade, profession, vocation or
9 charitable activity.
10 (12) Indoor arenas.
11 (13) Zoos.
12 (14) Facilities where bingo, as defined in the act of
13 July 10, 1981 (P.L.214, No.67), known as the Bingo Law, is
14 played.
15 (15) Licensed facilities, as defined under 4 Pa.C.S. §
16 1103 (relating to definitions), or any other similar type of
17 facility authorized under State law.
18 (b) Signage.--"Smoking" or "No Smoking" signs, or the
19 international "No Smoking" symbol, which consists of a pictorial
20 representation of a burning cigarette in a circle with a bar
21 across it, shall be prominently posted and properly maintained
22 where smoking is regulated by this section, by the owner,
23 operator, manager or other person having control of the area.
24 The owner, operator or manager of a hotel or motel that chooses
25 to develop and implement a smoking policy for rooms rented to
26 guests shall post a notice at the reception area of the
27 establishment as to the availability, upon request, of rooms in

28 which no smoking is allowed.

29 (c) Exceptions.--The provisions of this section shall not
30 apply to any of the following:

20070H0700B1011

- 89 -

1 (1) Private homes, private residences and private
2 automobiles.

3 (2) A hotel or motel room rented to one or more guests.

4 (3) Retail tobacco businesses.

5 (4) Cigar bars that, in the calendar year ending
6 December 31, 2005, generated 10% or more of their total
7 annual gross income from the onsite sale of tobacco products
8 and the rental of onsite humidors, not including any sales
9 from vending machines.

10 (d) Relationship to other laws.--Smoking may not be
11 permitted where prohibited by any other law, rule or regulation
12 of any Commonwealth agency or any political subdivision. Nothing
13 in this section shall be construed to restrict the power of any
14 political subdivision to adopt and enforce additional local
15 laws, ordinances or regulations which comply with at least the
16 minimum applicable standards set forth under this section.

17 (e) Prohibited acts.--The following shall be unlawful:

18 (1) For any person that owns, manages, operates or
19 otherwise controls the use of an area in which smoking is
20 prohibited or restricted under this section to fail to comply
21 with the provisions of this section, except that it shall be
22 an affirmative defense that during the relevant time period
23 actual control of the area was not exercised by the person,
24 but rather by a lessee, a sublessee or another person. To
25 establish an affirmative defense, the owner, manager,
26 operator or person who controls the area shall submit an
27 affidavit and may submit any other relevant proof indicating
28 that the person did not exercise actual control of the area
29 during the relevant time period. The affidavit and other
30 proof shall be sent by certified mail to the appropriate

20070H0700B1011

- 90 -

1 enforcement officer within 30 days of receipt by the person
2 of a notice of violation.

3 (2) For an employer whose place of employment is subject
4 to this section to fail to comply with the provisions of this
5 section, except that it shall be an affirmative defense that
6 the employer has made a good faith effort to ensure that
7 employees comply with the provisions of this section.

8 (3) For an individual to smoke in any area where smoking
9 is prohibited or restricted under this section.

10 (f) Penalty for unlawful conduct.--

11 (1) If the enforcement officer determines that a
12 violation of subsection (e) has occurred, the enforcement
13 officer may impose a civil penalty of not less than \$250 for
14 the first offense, \$500 for the second offense and \$1,000 for

15 each subsequent offense. In addition, a court of competent
16 jurisdiction may order immediate compliance with the
17 provisions of this section.

18 (2) The enforcement officer may bring an action to
19 recover the civil penalty provided under paragraph (1) in any
20 court of competent jurisdiction. A civil penalty recovered
21 under the provisions of this section shall be recovered by
22 and in the name of the county board of health or the county
23 for whom the enforcement officer has been designated.

24 (g) Enforcement officer.--If a county does not have a board
25 of health, the governing body of the county shall, by resolution
26 adopted within 30 days following the effective date of this
27 section, designate an officer for the purpose of enforcing this
28 section. The designation shall be filed with the department
29 within 30 days after adoption and shall be effective 30 days
30 after it is filed with the department. The enforcement officer
20070H0700B1011 - 91 -

1 shall have sole jurisdiction to enforce the provisions of this
2 section on a countywide basis under the guidelines developed and
3 published by the department. Any person who desires to register
4 a complaint under this section may do so with the appropriate
5 enforcement officer.

6 CHAPTER 75
7 MISCELLANEOUS PROVISIONS

8 Sec.

9 7501. Regulations.

10 7502. Enforcement.

11 7503. Severability.

12 § 7501. Regulations.

13 (a) Regulations promulgated under this part.--Except as
14 otherwise provided in this part, the promulgation of regulations
15 under this part by Commonwealth agencies given the authority to
16 promulgate regulations shall, until three years from the
17 effective date of this section, be exempt from the following:

18 (1) Section 205 of the Commonwealth Documents Law.

19 (2) The Commonwealth Attorneys Act.

20 (3) The Regulatory Review Act.

21 (b) Other regulations.--If, in the determination of the head
22 of a Commonwealth agency given authority to promulgate
23 regulations under this part, rulemaking is needed for purposes
24 of the safety of patients in this Commonwealth, the Commonwealth
25 agency may promulgate a final-omitted regulation under the
26 Regulatory Review Act.

27 § 7502. Enforcement.

28 (a) Determination of violation.--Upon a determination that a
29 person licensed by the Insurance Department has violated any
30 provision of this part, the department may, subject to 2 Pa.C.S.
20070H0700B1011 - 92 -

1 Chs. 5 Subch. A (relating to practice and procedure of

2 Commonwealth agencies) and 7 Subch. A (relating to judicial
3 review of Commonwealth agency action) do any of the following:
4 (1) Issue an order requiring the person to cease and
5 desist from engaging in the violation.
6 (2) Suspend or revoke or refuse to issue or renew the
7 certificate or license of the offending party or parties.
8 (3) Impose an administrative penalty of up to \$5,000 for
9 each violation.
10 (4) Seek restitution.
11 (5) Impose any other penalty or pursue any other remedy
12 deemed appropriate by the commissioner.
13 (b) Other remedies.--The enforcement remedies imposed under
14 this section are in addition to any other remedies or penalties
15 which be imposed by any other applicable statute, including the
16 act of July 22, 1974 (P.L.589, No.205), known as the Unfair
17 Insurance Practices Act. A violation by any person of this part
18 is deemed an unfair method of competition and an unfair or
19 deceptive act of practice under the Unfair Insurance Practices
20 Act.
21 (c) No private cause of action.--Nothing in this part shall
22 be construed as to create or imply a private cause of action for
23 violation of this part.
24 § 7503. Severability.
25 (a) General rule.--The provisions of this part are
26 severable. If any provision of this part or its application to
27 any person or circumstance is held invalid, the invalidity shall
28 not affect other provisions or applications of this part which
29 can be given effect without the invalid provision or
30 application.

20070H0700B1011

- 93 -

1 (b) Limitation.--If the provisions of section 7203(b)(2)
2 (relating to fair share tax) are declared invalid by a court of
3 competent jurisdiction and the decision is affirmed on its
4 highest appeal or the appeal period expires without appeal being
5 filed, the commissioner shall transmit notice of this fact to
6 the Legislative Reference Bureau for publication as a notice in
7 the Pennsylvania Bulletin. Thereafter, subsection (c) shall be
8 effective in its place and stead.
9 (c) Alternate provision.--An employer that offers health
10 care coverage to each of its employees who works 30 hours per
11 week or more following no more than 90 days of continued
12 employment during any fiscal year shall be entitled to an annual
13 credit against the fair share tax in an amount equal to 3% of
14 the employer's wages for fiscal years 2007-2008 through 2009-
15 2010 and 3.5% of the employer's wages for fiscal years
16 commencing after June 30, 2010.
17 Section 2. Repeals are as follows:
18 (1) The General Assembly declares as follows:
19 (i) The repeal under paragraph (2)(vi) is necessary
20 to effectuate the addition of 40 Pa.C.S. § 7202.
21 (ii) The repeal under paragraph (2)(v) is necessary
22 to effectuate the addition 40 Pa.C.S. § 7204.
23 (iii) The repeal under paragraph (2)(iv) is

24 necessary to effectuate the addition of 40 Pa.C.S. §§
25 7209 and 7402.
26 (iv) The repeals under paragraph (2)(i), (ii) and
27 (iii) are necessary to effectuate the addition of 40
28 Pa.C.S. § 7303.
29 (2) Subject to section 3 of this act, the following acts
30 and parts of acts are repealed to the extent specified:
20070H0700B1011 - 94 -

1 (i) The last sentence of section 8.3(b) of the act
2 of May 22, 1951 (P.L.317, No.69), known as The
3 Professional Nursing Law, absolutely.
4 (ii) Section 8.4 of The Professional Nursing Law,
5 absolutely.
6 (iii) The last sentence of section 13(e) of the act
7 of December 20, 1985 (P.L.457, No.112), known as the
8 Medical Practice Act of 1985, absolutely.
9 (iv) The first sentence of section 19 of the act of
10 July 8, 1986 (P.L.408, No.89), known as the Health Care
11 Cost Containment Act, absolutely.
12 (v) Section 3(e)(4) and (5) of the act of December
13 18, 1996 (P.L.1066, No.159), known as the Accident and
14 Health Filing Reform Act, absolutely.
15 (vi) Chapter 13 of the act of June 26, 2001
16 (P.L.755, No.77), known as the Tobacco Settlement Act,
17 absolutely.
18 (3) All other acts and parts of acts are repealed
19 insofar as they are inconsistent with this act.
20 Section 3. Savings from repeal are as follows:
21 (1) Notwithstanding section 2(2)(iv) of this act, the
22 Legislative Budget and Finance Committee shall prepare the
23 report required by section 19 of the act of July 8, 1986
24 (P.L.408, No.89), known as the Health Care Cost Containment
25 Act, but the committee need not comment on the
26 reauthorization of the Health Care Cost Containment Council.
27 (2) Notwithstanding section 2(2)(vi) of this act, funds
28 appropriated under section 306(b)(1)(vi) of the act of June
29 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement
30 Act, for the program established in former Chapter 13 of that
20070H0700B1011 - 95 -

1 act shall be deposited in the CAP Fund under 40 Pa.C.S. §
2 7202.
3 Section 4. The tax imposed by 40 Pa.C.S. § 7203(a) shall
4 apply to wages paid by employers commencing with the first full
5 calendar quarter after the effective date of 40 Pa.C.S. §
6 7203(a).
7 Section 5. This act shall take effect as follows:
8 (1) The addition of 40 Pa.C.S. § 7202(a) through (o) and
9 (q) shall take effect 30 days after publication of the notice
10 under 40 Pa.C.S. § 7202(p).

11 (2) The addition of the following provisions of Title 40
12 shall take effect in 30 days:
13 (i) Section 7203.
14 (ii) Section 7205.
15 (iii) Section 7303.
16 (3) Section 2(2)(vi) of this act shall take effect upon
17 publication of the notice under 40 Pa.C.S. § 7202(p).
18 (4) The remainder of this act shall take effect
19 immediately.