

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 1062

Sponsor:

Printer's No. 1377

1 Amend Bill, page 1, lines 1 through 5, by striking out all of
2 said lines and inserting
3 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
4 act to consolidate, editorially revise, and codify the public
5 welfare laws of the Commonwealth," as follows:
6 in public assistance, further providing for persons eligible for
7 medical assistance, for medical assistance payments for
8 institutional care and for other computations affecting
9 counties;
10 in children and youth, further providing for provider
11 submissions;
12 in nursing facility assessments, further providing for time
13 periods;
14 in intermediate care facilities for persons with an intellectual
15 disability assessments, further providing for time periods;
16 in hospital assessments, further providing for time periods;
17 in departmental powers and duties as to licensing, further
18 providing for regulations;
19 establishing the Pennsylvania eHealth Partnership Program;
20 making editorial changes; and
21 making related repeals.

22 Amend Bill, page 1, lines 8 through 19; page 2, lines 1
23 through 22; by striking out all of said lines on said pages and
24 inserting

25 Section 1. Section 441.1 of the act of June 13, 1967
26 (P.L.31, No.21), known as the Human Services Code, is amended by
27 adding subsections to read:

28 Section 441.1. Persons Eligible for Medical Assistance.--* *
29 *

30 (c) Except as provided under subsection (a)(4) and (5), upon
31 notification of incarceration, the department shall temporarily
32 suspend, for a period of not more than two years, medical
33 assistance for a recipient who becomes incarcerated in a
34 correctional institution. The suspension of medical assistance
35 shall cease and the recipient shall continue to receive medical

1 assistance upon notification of an inmate's release from the
2 correctional institution, subject to the eligibility
3 requirements under the Commonwealth's approved Title XIX State
4 Plan.

5 (d) Notwithstanding subsection (c), upon notification from a
6 correctional institution of an inmate's release and the
7 department's receipt of an inmate's application, the department
8 shall determine the inmate's eligibility for medical assistance.
9 Except as provided under subsection (a)(4) and (5), medical
10 assistance may not be provided until the date of the inmate's
11 release.

12 Section 2. Section 443.1(7)(iv) and (vi) of the act, amended
13 July 9, 2013 (P.L.369, No.55) and December 28, 2015 (P.L.500,
14 No. 92), are amended to read:

15 Section 443.1. Medical Assistance Payments for Institutional
16 Care.--The following medical assistance payments shall be made
17 on behalf of eligible persons whose institutional care is
18 prescribed by physicians:

19 * * *

20 (7) After June 30, 2007, payments to county and nonpublic
21 nursing facilities enrolled in the medical assistance program as
22 providers of nursing facility services shall be determined in
23 accordance with the methodologies for establishing payment rates
24 for county and nonpublic nursing facilities specified in the
25 department's regulations and the Commonwealth's approved Title
26 XIX State Plan for nursing facility services in effect after
27 June 30, 2007. The following shall apply:

28 * * *

29 (iv) Subject to Federal approval of such amendments as may
30 be necessary to the Commonwealth's approved Title XIX State
31 Plan, for each fiscal year beginning on or after July 1, 2011,
32 the department shall apply a revenue adjustment neutrality
33 factor to county and nonpublic nursing facility payment rates so
34 that the estimated Statewide day-weighted average payment rate
35 in effect for that fiscal year is limited to the amount
36 permitted by the funds appropriated by the General Appropriation
37 Act for the fiscal year. The revenue adjustment neutrality
38 factor shall remain in effect until the sooner of June 30,
39 [2016] 2019, or the date on which a new rate-setting methodology
40 for medical assistance nursing facility services which replaces
41 the rate-setting methodology codified in 55 Pa. Code Chs. 1187
42 (relating to nursing facility services) and 1189 (relating to
43 county nursing facility services) takes effect.

44 * * *

45 (vi) Subject to Federal approval of such amendments as may
46 be necessary to the Commonwealth's approved Title XIX State
47 Plan, for fiscal [year 2015-2016] years 2015-2016 and 2016-2017,
48 the department shall make up to four medical assistance day-one
49 incentive payments to qualified nonpublic nursing facilities.
50 The department shall determine the nonpublic nursing facilities
51 that qualify for the medical assistance day-one incentive

1 payments and calculate the payments using the total Pennsylvania
2 medical assistance (PA MA) days and total resident days as
3 reported by nonpublic nursing facilities under Article VIII-A.
4 The department's determination and calculations under this
5 subparagraph shall be based on the nursing facility assessment
6 quarterly resident day reporting forms, as determined by the
7 department. The department shall not retroactively revise a
8 medical assistance day-one incentive payment amount based on a
9 nursing facility's late submission or revision of the
10 department's report after the dates designated by the
11 department. The department, however, may recoup payments based
12 on an audit of a nursing facility's report. The following shall
13 apply:

14 (A) A nonpublic nursing facility shall meet all of the
15 following criteria to qualify for a medical assistance day-one
16 incentive payment:

17 (I) The nursing facility shall have an overall occupancy
18 rate of at least eighty-five percent during the resident day
19 quarter. For purposes of determining a nursing facility's
20 overall occupancy rate, a nursing facility's total resident
21 days, as reported by the facility under Article VIII-A, shall be
22 divided by the product of the facility's licensed bed capacity,
23 at the end of the quarter, multiplied by the number of calendar
24 days in the quarter.

25 (II) The nursing facility shall have a medical assistance
26 occupancy rate of at least sixty-five percent during the
27 resident day quarter. For purposes of determining a nursing
28 facility's medical assistance occupancy rate, the nursing
29 facility's total PA MA days shall be divided by the nursing
30 facility's total resident days, as reported by the facility
31 under Article VIII-A.

32 (III) The nursing facility shall be a nonpublic nursing
33 facility for a full resident day quarter prior to the applicable
34 quarterly reporting due dates, as determined by the department.

35 (B) The department shall calculate a qualified nonpublic
36 nursing facility's medical assistance day-one incentive payment
37 as follows:

38 (I) The total funds appropriated for payments under this
39 subparagraph shall be divided by the number of payments, as
40 determined by the department.

41 (II) To establish the per diem rate for a payment, the
42 amount under subclause (I) shall be divided by the total PA MA
43 days, as reported by all qualifying nonpublic nursing facilities
44 under Article VIII-A for that payment.

45 (III) To determine a qualifying nonpublic nursing facility's
46 medical assistance day-one incentive payment, the per diem rate
47 calculated for the payment shall be multiplied by a nonpublic
48 nursing facility's total PA MA days, as reported by the facility
49 under Article VIII-A for the payment.

50 (C) For fiscal [year 2015-2016] years 2015-2016 and 2016-
51 2017, the State funds available for the nonpublic nursing

1 facility medical assistance day-one incentive payments shall
2 equal eight million dollars (\$8,000,000).

3 * * *

4 Section 3. Sections 472 and 704.3(a) of the act, amended
5 December 28, 2015 (P.L.500, No.92), are amended to read:

6 Section 472. Other Computations Affecting Counties.--(a) To
7 compute for each month the amount expended as medical assistance
8 for public nursing home care on behalf of persons at each public
9 medical institution operated by a county, county institution
10 district or municipality and the amount expended in each county
11 for aid to families with dependent children on behalf of
12 children in foster family homes or child-caring institutions,
13 plus the cost of administering such assistance. From such total
14 amount the department shall deduct the amount of Federal funds
15 properly received or to be received by the department on account
16 of such expenditures, and shall certify the remainder increased
17 or decreased, as the case may be, by any amount by which the sum
18 certified for any previous month differed from the amount which
19 should have been certified for such previous month, and by the
20 proportionate share of any refunds of such assistance, to each
21 appropriate county, county institution district or municipality.
22 The amounts so certified shall become obligations of such
23 counties, county institution districts or municipalities to be
24 paid to the department for assistance: Provided, however, That
25 for fiscal year 1979-80 and thereafter, the obligations of the
26 counties shall be the amounts so certified representing aid to
27 dependent children foster care as computed above plus one-tenth
28 of the amount so certified above for public nursing home care:
29 And provided further, That as to public nursing home care,
30 except as provided in subsection (b), for fiscal year 2005-2006
31 and thereafter, the obligations of the counties shall be the
32 amount so certified above, less nine-tenths of the non-Federal
33 share of payments made by the department during the fiscal year
34 to county homes for public nursing care at rates established in
35 accordance with section 443.1(5) and (7).

36 (b) A county, county institution district or municipality
37 operating a public medical institution providing public nursing
38 home care shall not be required to meet the obligations under
39 subsection (a) once the approved Federal waivers under section
40 1915(b) and (c) of the Social Security Act (49 Stat. 620, 42
41 U.S.C. § 1396n(b) and (c)) to provide managed physical health
42 care and long-term services and supports to individuals who
43 require a nursing home level of care are implemented in the
44 county.

45 (c) This section shall expire January 1, 2019.

46 Section 704.3. Provider Submissions.--(a) For fiscal years
47 2013-2014, 2014-2015 [and], 2015-2016 and 2016-2017, a provider
48 shall submit documentation of its costs of providing services;
49 and the department shall use such documentation, to the extent
50 necessary, to support the department's claim for Federal funding
51 and for State reimbursement for allowable direct and indirect

1 costs incurred in the provision of out-of-home placement
2 services.

3 * * *

4 Section 4. Section 801-A of the act, amended June 30, 2007
5 (P.L.49, No.16), is amended to read:

6 Section 801-A. Definitions.--As used in this article--
7 "Assessment" means the fee implemented pursuant to this
8 article on every nursing facility.

9 "County nursing facility" means a long-term care nursing
10 facility that is licensed by the Department of Health under the
11 act of July 19, 1979 (P.L.130, No.48), known as the "Health Care
12 Facilities Act," and controlled by the county institution
13 district or county government if no county institution district
14 exists. The term does not include intermediate care facilities
15 for the mentally retarded controlled by the county institution
16 district or county government.

17 "Medical assistance provider" means a person or entity
18 enrolled by the Department of [Public Welfare] Human Services as
19 a provider of services in the medical assistance program.

20 "Nursing facility" means a non-Federal, nonpublic long-term
21 care nursing facility licensed by the Department of Health
22 pursuant to the act of July 19, 1979 (P.L.130, No.48), known as
23 the "Health Care Facilities Act." The term does not include
24 intermediate care facilities for the mentally retarded.

25 "Program" means the medical assistance program.

26 Section 5. Section 815-A of the act, amended June 30, 2012
27 (P.L.668, No.80), is amended to read:

28 Section 815-A. Time periods.--The assessment authorized in
29 this article shall not be imposed prior to July 1, 2003, or
30 after June 30, [2016] 2019.

31 Section 6. Sections 801-C and 811-C of the act, amended July
32 9, 2013 (P.L.369, No.55), are amended to read:
33 Section 801-C. Definitions.

34 The following words and phrases when used in this article
35 shall have the meanings given to them in this section unless the
36 context clearly indicates otherwise:

37 "Assessment." The fee implemented pursuant to this article
38 on every intermediate care facility for persons with an
39 intellectual disability.

40 "Department." The Department of [Public Welfare] Human
41 Services of the Commonwealth.

42 "Intermediate care facility for persons with an intellectual
43 disability" or "ICF/ID." A public or private facility defined
44 in section 1905 of the Social Security Act (49 Stat. 620, 42
45 U.S.C. § 1905).

46 "Medicaid." The program established under Title XIX of the
47 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).

48 "Medical assistance program" or "program." The medical
49 assistance program as administered by the Department of [Public
50 Welfare] Human Services.

51 "Secretary." The Secretary of [Public Welfare] Human

1 Services of the Commonwealth.

2 "Social Security Act." 49 Stat. 620, 42 U.S.C. § 301 et seq.
3 Section 811-C. Time periods.

4 (a) Imposition.--The assessment authorized under this
5 article shall not be imposed as follows:

6 (1) Prior to July 1, 2003, for private ICFs/ID.

7 (2) Prior to July 1, 2004, for public ICFs/ID.

8 (3) In the absence of Federal financial participation as
9 described under section 803-C.

10 (b) Cessation.--The assessment authorized under this article
11 shall cease June 30, [2016] 2019, or earlier, if required by
12 law.

13 Section 7. The definitions of "general acute care hospital"
14 and "high volume Medicaid hospital" in section 801-E of the act,
15 reenacted October 22, 2010 (P.L.829, No.84), are amended to
16 read:

17 Section 801-E. Definitions.

18 The following words and phrases when used in this article
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 * * *

22 "General acute care hospital." A hospital other than a
23 hospital that the Secretary of [Public Welfare] Human Services
24 has determined meets one of the following:

25 (1) Is excluded under 42 CFR 412.23(a), (b), (d), (e) and
26 (f) (relating to Excluded hospitals: Classifications) as of
27 March 20, 2008, from reimbursement of certain Federal funds
28 under the prospective payment system described by 42 CFR 412
29 (relating to prospective payment systems for inpatient hospital
30 services).

31 (2) Is a Federal veterans' affairs hospital.

32 (3) Is a high volume Medicaid hospital.

33 (4) Provides care, including inpatient hospital services, to
34 all patients free of charge.

35 (5) A free-standing acute care hospital organized primarily
36 for the treatment of and research on cancer and which is an
37 exempt hospital under section 801-G.

38 "High volume Medicaid hospital." A hospital that the
39 Secretary of [Public Welfare] Human Services has determined
40 meets all of the following:

41 (1) is a nonprofit hospital subsidiary of a State-related
42 institution as that term is defined in 62 Pa.C.S. § 103
43 (relating to definitions); and

44 (2) provides more than 90,000 days of care to medical
45 assistance patients annually.

46 * * *

47 Section 8. Section 808-E of the act, amended July 9, 2013
48 (P.L.369, No.55), is amended to read:
49 Section 808-E. Time period.

50 (a) Cessation.--The assessment authorized under this article
51 shall cease June 30, [2016] 2019.

1 (b) Assessment.--

2 (1) A municipality shall have the power to enact the
3 assessment authorized in section 802-E(a)(2) either prior to
4 or during its fiscal year ending June 30, 2010.

5 (2) A municipality may adjust an assessment percentage
6 as specified under section 802-E(a.1) either prior to or
7 during the fiscal year in which the adjusted assessment
8 percentage takes effect.

9 Section 9. Section 1021(c) of the act is repealed:

10 Section 1021. Regulations.--* * *

11 [(c) The department shall have enforcement and licensure
12 staff dedicated solely to assisted living residences. All
13 inspections of residences dually licensed as assisted living
14 residences and personal care homes shall be conducted by a team
15 of surveyors comprised of both personal care home and assisted
16 living residence surveyors.]

17 * * *

18 Section 10. The act is amended by adding an article to read:

19 ARTICLE XIV-C

20 PENNSYLVANIA eHEALTH PARTNERSHIP PROGRAM

21 Section 1401-C. Definitions.

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

25 "Board." The Pennsylvania eHealth Partnership Advisory
26 Board.

27 "Department." The Department of Human Services of the
28 Commonwealth.

29 "Electronic health record." An electronic record of health-
30 related information relating to an individual that is created,
31 gathered, managed and consulted by health care providers or
32 payers.

33 "Fund." The Pennsylvania eHealth Partnership Fund.

34 "Health care provider." A person licensed by the
35 Commonwealth to provide health care or professional clinical
36 services. The term includes:

37 (1) A "health care practitioner" as defined in section
38 103 of the act of July 19, 1979 (P.L.130, No.48), known as
39 the Health Care Facilities Act.

40 (2) A "health care provider" as defined in section 103
41 of the Health Care Facilities Act.

42 (3) A public health authority.

43 (4) A pharmacy.

44 (5) A laboratory.

45 (6) A person that provides items or services described
46 in section 1861(s) of the Social Security Act (49 Stat. 620,
47 42 U.S.C. § 1395x(s)).

48 (7) A "provider of services" as defined in section
49 1861(u) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
50 1395x(u)).

51 "Health information." Oral or recorded information in any

1 form or medium that is created or received by a health care
2 provider relating to the following:

3 (1) The past, present or future physical or mental
4 health or medical condition of an individual.

5 (2) The past, present or future payment, treatment or
6 operations for the provision of health care to an individual.

7 "Health information exchange." A Statewide interoperable
8 system established under this article that electronically moves
9 and exchanges health information between approved participating
10 health care providers or health information organizations in a
11 manner that ensures the secure exchange of health information to
12 provide care to patients.

13 "Health information organization." An information technology
14 infrastructure with an interoperable system that is established
15 by a health care provider or payer or that connects
16 participating health care providers or payers to ensure the
17 secure digital exchange of health information among participants
18 engaged in the care of the patient.

19 "Health information technology." Hardware, software,
20 integrated technologies or related licenses, intellectual
21 property, upgrades or packaged solutions sold as services that
22 are designed for or support the use by health care entities or
23 patients for the electronic creation, maintenance, access or
24 exchange of health information.

25 "Interoperability." The ability of different operating and
26 software systems to employ federally recognized standards to
27 exchange data securely, accurately, effectively and in a manner
28 that maintains and preserves the clinical purpose of the data.

29 "Participant." A person or entity which has been approved by
30 the department to send and receive health information using the
31 health information exchange.

32 "Payer." An entity that contracts or offers to contract to
33 provide, deliver, pay or reimburse any of the costs of health
34 care services, including an employer, a health care plan, the
35 Federal government, the Commonwealth, a municipality, a labor
36 union or an entity licensed under any of the following:

37 (1) The act of May 17, 1921 (P.L.682, No.284), known as
38 The Insurance Company Law of 1921.

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

41 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
42 corporations).

43 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
44 services plan corporations).

45 "Secretary." The Secretary of Human Services of the
46 Commonwealth.

47 Section 1402-C. Pennsylvania eHealth Partnership Program.

48 The Pennsylvania eHealth Partnership Program is established
49 within the department.

50 Section 1403-C. Powers and duties.

51 The department's powers and duties shall include the

1 following:

2 (1) Develop, establish and maintain a health information
3 exchange that complies with Federal and State law and that:

4 (i) Promotes efficient and effective communication
5 among multiple health care providers, payers and
6 participants.

7 (ii) Creates efficiencies and promotes accuracy in
8 the delivery of health care.

9 (iii) Supports the ability to improve community
10 health status.

11 (2) Determine criteria for organizations and individuals
12 to become and remain participants in the health information
13 exchange, including criteria for organizations and
14 individuals to be suspended and disengaged as participants in
15 the health information exchange.

16 (3) Develop and maintain a directory of health care
17 providers' contact information to enable participants to
18 share health information electronically.

19 (4) Develop and maintain standards to ensure
20 interoperability.

21 (5) Establish and collect fees. Fees may include
22 transaction fees, subscription fees or other fees or
23 donations to cover costs of implementation and operation of
24 the health information exchange or for other services
25 provided under this article. Receipt of services provided by
26 or through the department may be conditioned on payment of
27 fees. Participation in the health information exchange by any
28 health care provider, payer, consumer or any other person
29 shall be voluntary.

30 (6) Establish an advisory board under section 1404-C
31 with a diverse membership representing interested and
32 affected groups and individuals.

33 (7) Develop and conduct public information programs to
34 educate and inform consumers and patients about health
35 information.

36 (8) Submit an annual report to the Governor, the
37 President pro tempore of the Senate and the Speaker of the
38 House of Representatives for distribution to appropriate
39 legislative committees on the activities of the program for
40 the year, including a summary of the receipts and
41 expenditures, a list of contracts and a summary of any
42 reportable security breaches that occurred and corrective
43 actions that were taken.

44 (9) Develop and maintain:

45 (i) a registry of patients choosing to opt out of
46 the health information exchange; and

47 (ii) procedures to re-enroll into the health
48 information exchange.

49 (10) Promulgate regulations, as necessary, to implement
50 and administer this article.

51 (11) Perform all other activities in furtherance of the

1 purposes of this article.

2 Section 1404-C. Pennsylvania eHealth Partnership Advisory
3 Board.

4 (a) Establishment.--The Pennsylvania eHealth Partnership
5 Advisory Board is established within the department as an
6 advisory board.

7 (b) Composition.--The board shall consist of the following
8 members who must be residents of this Commonwealth:

9 (1) The secretary or a designee, who shall be an
10 employee of the department, designated in writing prior to
11 service.

12 (2) The Secretary of Health of the Commonwealth or a
13 designee, who shall be an employee of the Department of
14 Health, designated in writing prior to service.

15 (3) The Insurance Commissioner or a designee, who shall
16 be an employee of the Insurance Department, designated in
17 writing prior to service.

18 (4) One representative of the health care community
19 focused on an unserved or underserved rural or urban patient
20 population, who shall be appointed by the secretary from a
21 list of individuals submitted for consideration by both the
22 Pennsylvania Area Health Education Center and the Association
23 of Community Health Centers.

24 (5) One physician or nurse appointed by the secretary
25 from lists of individuals submitted by the Pennsylvania
26 Medical Society, the Pennsylvania Osteopathic Medical
27 Association, the Pennsylvania Academy of Family Physicians
28 and the Pennsylvania State Nurses Association. At least one
29 name on each list must include an individual residing in an
30 unserved or underserved rural patient population area and an
31 individual in an unserved or underserved urban patient
32 population area.

33 (6) One hospital representative appointed by the
34 secretary from a list of individuals submitted by the
35 Hospital and Healthsystem Association of Pennsylvania. At
36 least one name on the list must include an individual
37 residing in an unserved or underserved rural or urban patient
38 population area.

39 (7) One insurance representative appointed by the
40 secretary from lists of individuals submitted by the Blue
41 Cross and Blue Shield plans and the Insurance Federation of
42 Pennsylvania.

43 (8) One representative of an assisted living residence,
44 personal care home, long-term care nursing facility,
45 continuing care facility or behavioral or mental health
46 facility who shall be appointed by the secretary.

47 (9) Two consumer representatives appointed by the
48 secretary who are not primarily involved in providing health
49 care or health care insurance. At least one of the
50 individuals must have expertise in health care or health care
51 information technology or the laboratory industry.

1 (10) Three representatives from established health
2 information organizations appointed by the President pro
3 tempore of the Senate, in consultation with the Majority
4 Leader and the Minority Leader of the Senate, each of whom
5 shall recommend one person. At least one of the
6 representatives must be from the private information
7 technology sector with knowledge about security issues.

8 (11) Three representatives from established health
9 information organizations appointed by the Speaker of the
10 House of Representatives, in consultation with the Majority
11 Leader and the Minority Leader of the House of
12 Representatives, each of whom shall recommend one person. At
13 least one of the representatives must be from the private
14 information technology sector with knowledge about security
15 issues.

16 (12) One home care or hospice representative appointed
17 by the secretary from a list of individuals submitted by a
18 Statewide home care association.

19 (c) Terms.--Except for a member under subsection (b)(1), (2)
20 or (3), a member of the board shall serve for a term of three
21 years after completion of the initial terms designated under
22 subsection (g) and may not be eligible to serve more than two
23 full consecutive three-year terms. A member shall remain on the
24 board until the member's replacement is appointed.

25 (d) Quorum.--A majority of the appointed members of the
26 board shall constitute a quorum for the transaction of any
27 business. An act by a majority of the members present at a
28 meeting at which there is a quorum shall be deemed to be that of
29 the board.

30 (e) Meetings.--The board shall hold meetings at least
31 quarterly and may provide for special meetings as the board
32 deems necessary. The meetings shall be subject to the
33 requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).
34 Meetings of the board may be held anywhere within this
35 Commonwealth.

36 (f) Chairperson.--The secretary shall appoint a chairperson
37 of the board. The members of the board shall annually elect, by
38 a majority vote of the members, a vice chairperson from among
39 the members of the board.

40 (g) Initial appointment and vacancy.--

41 (1) A member appointed under subsection (b)(4), (5) or
42 (6) shall be appointed to an initial term of two years with
43 the option for reappointment to two additional three-year
44 terms.

45 (2) A member appointed under subsection (b)(7) or (8)
46 shall be appointed to an initial term of one year with the
47 option for reappointment to two additional three-year terms.

48 (3) A member appointed under subsection (b)(9) or (12)
49 shall be appointed to an initial term of three years with the
50 option for reappointment to one additional three-year term.

51 (4) A member appointed under subsection (b)(10) or (11)

1 shall be appointed to an initial term that coincides with the
2 appointing members' terms with the option for reappointment
3 to two additional three-year terms.

4 (h) Formation.--The board must be formed within 90 days of
5 the effective date of this section.

6 (i) Reimbursement.--The members of the board may not receive
7 a salary or per diem allowance for serving as members of the
8 board but shall be reimbursed for actual and necessary expenses
9 incurred in the performance of the members' duties.

10 Section 1405-C. Establishment of fund.

11 The Pennsylvania eHealth Partnership Fund, established under
12 section 501 of the act of July 5, 2012 (P.L.1042, No.121), known
13 as the Pennsylvania eHealth Information Technology Act, is
14 continued. The fund shall be administered by the department upon
15 the effective date of this section.

16 Section 1406-C. Funds.

17 All money deposited into the fund shall be held for the
18 purposes under this article, may not be considered a part of the
19 General Fund and shall be used only to effectuate the purposes
20 of this article as determined by the department. All interest
21 earned from the investment or deposit of money accumulated in
22 the fund shall be deposited in the fund for the same use.

23 Section 1407-C. Consent and confidentiality of health
24 information.

25 (a) Construction.--

26 (1) Nothing under this article shall be construed to
27 prohibit a health care provider or payer from obtaining and
28 storing a patient's health records in electronic form or
29 exchanging health information with another health care
30 provider or payer in accordance with Federal or State law
31 other than this article.

32 (2) Nothing under this article shall supersede or limit
33 any other law which requires additional consent to the
34 release of health information or otherwise establishes
35 greater restrictions or limitations on the release of health
36 information.

37 (b) Consent.--The department shall publish a consent form
38 including notice of a patient's ability to decline to allow
39 exchange of the patient's electronic health information in the
40 health information exchange. The notice shall include, at a
41 minimum and in plain language, the following information:

42 (1) Definition of a health information exchange.

43 (2) Explanation of the benefits of participation in the
44 health information exchange.

45 (3) Explanation of the limits of the patient's ability
46 to decline the release or exchange of the patient's health
47 information with the health information exchange.

48 (4) Explanation of the manner in which the health
49 information exchange will address privacy issues.

50 (5) Explanation of the manner in which an individual may
51 decline to participate in the health information exchange.

1 (c) Opt-out registry.--

2 (1) In order to decline participation in the health
3 information exchange, a patient must sign and date a form
4 declining participation. If appropriate, the signature must
5 be witnessed by the patient's representative. Copies of the
6 completed form shall be sent by the provider within five
7 business days to the department to be included in an opt-out
8 registry.

9 (2) After receipt of the form, the department shall
10 within five business days notify health information
11 organizations that the patient has not authorized the release
12 of the health information through the health information
13 exchange.

14 (3) Once the patient is included in the opt-out
15 registry, the department shall notify the patient. The
16 notification shall include a copy of the completed form
17 signed by the patient or electronic notification to the
18 patient.

19 (4) The patient alone shall decide to opt out of the
20 health information exchange.

21 (d) Disclosure.--

22 (1) The department may not disclose, without prior
23 written consent of the patient, any health information that
24 the department or the department's employees, agents or
25 contractors retain under this article, or to which the
26 department or the department's agents or contractors have
27 access or any other health records maintained or accessible
28 by the department under this article, to any person who is
29 not an authorized employee, agent or contractor of the
30 department, except as required or permitted by law.

31 (2) Sharing health information among participants in the
32 health information exchange shall not be considered a
33 disclosure under paragraph (1).

34 (3) Violations of this subsection:

35 (i) shall subject employees, agents and contractors
36 to administrative discipline, including discharge and
37 suspension; and

38 (ii) shall subject contractors to monetary penalties
39 or contract revocation or suspension.

40 (e) Construction.--Nothing under this article may be
41 construed to alter a proprietary interest held by a participant
42 in a record, data or information released, accepted or included
43 in the health information exchange, except that the paperwork
44 approved by the department may require participants to license
45 the interests by contract in order to allow for the free flow of
46 information.

47 Section 1408-C. Nonapplicability.

48 (a) Sovereign immunity.--This article shall be subject to 1
49 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed;
50 specific waiver).

51 (b) Public record.--Health information or personally

1 identifying information shall not be considered a public record
2 for purposes of the act of February 14, 2008 (P.L.6, No.3),
3 known as the Right-to-Know Law.

4 (c) Rights.--Nothing under this article is intended to
5 affect common law or statutory rights or obligations with
6 respect to patient accessibility to the patient's electronic or
7 nonelectronic medical records.

8 (d) Construction.--Nothing under this article shall be
9 construed to alter, limit or supersede any other provision of
10 law regarding the department's duties, powers, responsibilities
11 and authority that exist separate from this article.

12 Section 11. Repeals are as follows:

13 (1) The General Assembly declares that the repeal under
14 paragraph (2) is necessary to effectuate the addition of
15 Article XIV-C of the act.

16 (2) The act of July 5, 2012 (P.L.1042, No.121), known as
17 the Pennsylvania eHealth Information Technology Act, is
18 repealed.

19 Section 12. Except as otherwise provided under Article XIV-C
20 of the act, all activities initiated under the act of July 5,
21 2012 (P.L.1042, No.121), known as the Pennsylvania eHealth
22 Information Technology Act, shall continue and remain in full
23 force and effect and may be completed under Article XIV-C of the
24 act. Orders, regulations, rules and decisions which were made
25 under the Pennsylvania eHealth Information Technology Act and
26 which are in effect on the effective date of this section shall
27 remain in full force and effect until revoked, vacated or
28 modified under Article XIV-C of the act. Contracts and
29 obligations entered into under the Pennsylvania eHealth
30 Information Technology Act are not affected nor impaired by the
31 repeal of the Pennsylvania eHealth Information Technology Act.
32 All contracts, grants, procurement documents and partnership
33 agreements under the Pennsylvania eHealth Information Technology
34 Act in effect on the effective date of this section are assigned
35 to the Department of Human Services.

36 Section 13. This act shall take effect immediately.