

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

MONDAY, JUNE 9, 2003

SESSION OF 2003

187TH OF THE GENERAL ASSEMBLY

No. 40

### HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.d.t.

**THE SPEAKER (JOHN M. PERZEL)  
PRESIDING**

#### PRAYER

REV. JULIANN V. WHIPPLE, Chaplain of the House of Representatives, offered the following prayer:

Let us pray:

God of might and Lord of love, greater than we can imagine and wiser than we can comprehend, patient with us beyond our deserving and generous past anything we can ask or desire, again we assemble in this building to do what is best for the Commonwealth of this State. Help us to be guided by compassion and led by wisdom.

God of all time, we thank You for weekends, a time of renewal spent with family, friends, and in worship of You. May we value that time above all else, and may we remember to bring the smiles, laughter, and silliness with us to our workplaces, remembering that our work when done with a smile can take on a whole new dimension.

For the miracles that happen around us, we thank You and ask Your forgiveness when we have been blinded by our tasks and our desires to such a degree that we do not even stop and take notice. For the special miracle of birth, we praise You. We give special thanks today for the newest member of the House community, who was born this past week. How grateful we are that all went well and the tears that were shed were tears of joy. Oftentimes this is not the case, and we ask that You would teach us to see through our tears and find the joy in every situation.

Life is difficult. Life is joy. Enable us to see You, O God, in both. You have entrusted us with not only our sons and daughters but with the sons and daughters of this Commonwealth. What an honor. What a challenge. May we always seek Your guidance on this and every task. Hear this our common prayer. Amen.

#### PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, June 4, 2003, will be postponed until printed.

### JOURNALS APPROVED

The SPEAKER. However, the following Journals are in print: Thursday, March 6; Monday, March 10; and Tuesday, March 11, 2003. Without objection, they will be approved.

### HOUSE BILLS INTRODUCED AND REFERRED

**No. 1538** By Representatives GANNON, BROWNE, CLYMER, CORRIGAN, CRAHALLA, LAUGHLIN, MANDERINO, McNAUGHTON, PHILLIPS, REICHLEY, ROBERTS, E. Z. TAYLOR, WANSACZ, WATSON and YOUNGBLOOD

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, adding a definition of "occurrence"; and further providing for basic insurance liability.

Referred to Committee on INSURANCE, June 5, 2003.

**No. 1539** By Representatives CORRIGAN, COY, DALEY, GEORGE, HARHAI, SCRIMENTI and YOUNGBLOOD

An Act amending the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act, providing for recycling of cathode ray tubes; and making editorial changes.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 5, 2003.

**No. 1540** By Representatives CORRIGAN, COY, DALEY, DeWEESE, GEORGE, GOODMAN, HARHAI, READSHAW, TIGUE, SOLOBAY, SCRIMENTI and PALLONE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the fee for registration plates for volunteer firefighters.

Referred to Committee on TRANSPORTATION, June 5, 2003.

**No. 1541** By Representatives CORRIGAN, TIGUE, SOLOBAY, SCRIMENTI, READSHAW, HERSHEY, HARHAI, LEWIS, GOODMAN, GERGELY, GEORGE, DeWEESE, DALEY, COY, YOUNGBLOOD and PALLONE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, authorizing the surviving spouse of an ex-prisoner of war to use the POW registration plate until his or her death.

Referred to Committee on TRANSPORTATION, June 5, 2003.

**No. 1542** By Representatives CORRIGAN, COY, DALEY, DeWEESE, LEWIS, HARHAI, GOODMAN, GEORGE, READSHAW, SCRIMENTI, YOUNGBLOOD and PALLONE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, extending additional parking regulations to ex-prisoners of war.

Referred to Committee on TRANSPORTATION, June 5, 2003.

**No. 1543** By Representatives CORRIGAN, DALEY, HARHAI and SCRIMENTI

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for classes of income.

Referred to Committee on FINANCE, June 5, 2003.

**No. 1544** By Representatives CORRIGAN, DALEY, HARHAI, GOODMAN, GEORGE, READSHAW, YOUNGBLOOD, SOLOBAY, SCRIMENTI and PALLONE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, exempting ex-prisoners of war from paying any fees for titling or registration of vehicles; establishing the Recreational Trails Trust Fund; and further providing for refunds relating to the fuels and liquid fuels tax.

Referred to Committee on TRANSPORTATION, June 5, 2003.

**No. 1545** By Representatives CORRIGAN, DALEY, SCRIMENTI and HARHAI

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for personal income valuation information and determinations.

Referred to Committee on EDUCATION, June 5, 2003.

**No. 1546** By Representatives CORRIGAN, DALEY, DeWEESE, GEORGE, HARHAI, SCRIMENTI, SOLOBAY, YOUNGBLOOD and PALLONE

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing an exclusion for sales to public or private libraries.

Referred to Committee on FINANCE, June 5, 2003.

**No. 1547** By Representatives LYNCH, CORRIGAN, CRAHALLA, HARRIS, HORSEY, JAMES, LEVDANSKY, SOLOBAY and YOUNGBLOOD

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for safety zones.

Referred to Committee on GAME AND FISHERIES, June 5, 2003.

**No. 1548** By Representatives LYNCH, BAKER, CAPPELLI, CAUSER, CAWLEY, CRAHALLA, GILLESPIE, HENNESSEY, HORSEY, S. MILLER, RUBLEY, SHANER, E. Z. TAYLOR and WEBER

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for disorderly conduct.

Referred to Committee on JUDICIARY, June 5, 2003.

**No. 1549** By Representatives STABACK, BLAUM, BELARDI, McCALL, BEBKO-JONES, CAPPELLI, COSTA, CREIGHTON, DeWEESE, FABRIZIO, FRANKEL, GEIST, GERGELY, GOODMAN, HERSHEY, JAMES, KIRKLAND, LAUGHLIN, LESCOVITZ, MARKOSEK, MELIO, PHILLIPS, READSHAW, ROBERTS, BELFANTI, CLYMER, COY, DALEY, EACHUS, FICHTER, GABIG, GEORGE, GODSHALL, GRUCELA, HORSEY, KELLER, KOTIK, LEDERER, LEVDANSKY, McGEEHAN, MUNDY, PISTELLA, REICHLEY, SCRIMENTI, SOLOBAY, TIGUE, WANSACZ, YOUNGBLOOD, PALLONE, SHANER, SURRA, WALKO, WOJNAROSKI, YUDICHAK and HASAY

An Act amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, providing for the designation of the Governor Robert P. Casey Highway as a scenic byway.

Referred to Committee on STATE GOVERNMENT, June 5, 2003.

**No. 1550** By Representatives NAILOR, FAIRCHILD, PHILLIPS, MUNDY, CASORIO, COY, DENLINGER, HORSEY, KIRKLAND, McNAUGHTON, MELIO, REICHLEY, SATHER, THOMAS and YOUNGBLOOD

An Act amending the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, further providing for nutrient management plans.

Referred to Committee on APPROPRIATIONS, June 5, 2003.

**No. 1551** By Representatives GANNON, ADOLPH, CIVERA, FLICK, CLYMER, WRIGHT and CAWLEY

An Act amending the act of March 20, 2003, (P.L. , No.1A), entitled, "An act to provide from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and for the public schools for the fiscal year July 1, 2003, to June 30, 2004, for certain institutions and organizations, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2003; to provide appropriations from the State Lottery Fund, the Energy Conservation and Assistance Fund, the Hazardous Material Response Fund,

The State Stores Fund, the Milk Marketing Fund, the Home Investment Trust Fund, the Emergency Medical Services Operating Fund, the Tuition Payment Fund, the Banking Department Fund, the Firearm Records Check Fund, the Ben Franklin Technology Development Authority Fund and the Tobacco Settlement Fund to the Executive Department; to provide appropriations from the Judicial Computer System Augmentation Account to the Judicial Department for the fiscal year July 1, 2003, to June 30, 2004; to provide appropriations from the Motor License Fund for the fiscal year July 1, 2003, to June 30, 2004, for the proper operation of the several departments of the Commonwealth and the Pennsylvania State Police authorized to spend Motor License Fund moneys; to provide for the appropriation of Federal funds to the Executive Department of the Commonwealth and for the establishment of restricted receipt accounts for the fiscal year July 1, 2003, to June 30, 2004, and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2003; to provide for the additional appropriation of Federal and State funds from the General Fund, for the Executive Department of the Commonwealth for the fiscal year July 1, 2002, to June 30, 2003, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2002; and making a repeal," further providing for appropriations relating to the Department of Education.

Referred to Committee on APPROPRIATIONS, June 5, 2003.

**No. 1552** By Representatives FLEAGLE, FORCIER, CAPPELLI, FICHTER, HASAY, HESS, METCALFE, S. MILLER, NAILOR, PHILLIPS, PICKETT, ROHRER, STERN, TANGRETTI, E. Z. TAYLOR, WILT and WOJNAROSKI

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, deleting provisions relating to lighted lamp requirements for motorcycles.

Referred to Committee on TRANSPORTATION, June 5, 2003.

**No. 1553** By Representatives LEH, BELFANTI, COSTA, FORCIER, HARHAI, HERSHEY, HORSEY, NAILOR, ROHRER, SAYLOR, SHANER, E. Z. TAYLOR, THOMAS, WILT and YOUNGBLOOD

An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, further providing for rescission of contracts.

Referred to Committee on CONSUMER AFFAIRS, June 9, 2003.

**No. 1554** By Representatives COLEMAN, ADOLPH, ALLEN, ARGALL, ARMSTRONG, BAKER, BALDWIN, BARRAR, BROWNE, BUNT, CAPPELLI, CAUSER, CORRIGAN, CRAHALLA, CREIGHTON, DAILEY, DALEY, DeWEESE, FABRIZIO, FAIRCHILD, FEESE, FICHTER, FLEAGLE, GEIST, GERGELY, GOODMAN, GRUCELA, HARPER, HENNESSEY, HERMAN, HERSHEY, HORSEY, HUTCHINSON, KIRKLAND, LESCOVITZ, MARKOSEK, McILHATTAN, McNAUGHTON, MELIO, PETRARCA, PHILLIPS, PICKETT, READSHAW, REICHLEY, SAINATO, SCAVELLO, SEMMEL, SOLOBAY, STERN, R. STEVENSON, T. STEVENSON, TIGUE, WALKO, WATSON, WILT, YOUNGBLOOD, ZUG, O'NEILL and LEWIS

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for contributions for volunteer fire companies.

Referred to Committee on FINANCE, June 9, 2003.

**No. 1555** By Representatives COLEMAN, ARGALL, ARMSTRONG, BALDWIN, BENNINGHOFF, BOYD, BUNT, CAPPELLI, CLYMER, CORRIGAN, CREIGHTON, EGOLF, FEESE, FICHTER, FLEAGLE, GABIG, GEIST, GODSHALL, HENNESSEY, HERSHEY, HESS, HUTCHINSON, JAMES, LaGROTTA, LAUGHLIN, LEH, MANDERINO, McILHATTAN, McNAUGHTON, MELIO, METCALFE, PETRARCA, PICKETT, READSHAW, ROBERTS, ROHRER, SATHER, SCHRODER, SOLOBAY, R. STEVENSON, E. Z. TAYLOR, WILT, WOJNAROSKI, DENLINGER and TURZAI

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, repealing religious garb prohibitions.

Referred to Committee on EDUCATION, June 9, 2003.

**No. 1561** By Representatives LEWIS, BENNINGHOFF, CAPPELLI, COLEMAN, CORRIGAN, CRAHALLA, CREIGHTON, DALLY, FEESE, FORCIER, GEORGE, GODSHALL, GOODMAN, HERMAN, METCALFE, MUNDY, REICHLEY, SCAVELLO, E. Z. TAYLOR and YOUNGBLOOD

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for estimated, ending undesignated, unreserved fund balance.

Referred to Committee on EDUCATION, June 9, 2003.

**No. 1562** By Representatives WILT, LEH, ARMSTRONG, BELFANTI, CAPPELLI, CRAHALLA, CREIGHTON, DENLINGER, GEIST, HARRIS, HORSEY, R. MILLER, REICHLEY, SATHER, SCHRODER, R. STEVENSON, TIGUE and YOUNGBLOOD

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for impounding of adoption proceedings and access to records, for determination of paternity and for visitation rights and partial custody when there is a deceased parent.

Referred to Committee on JUDICIARY, June 9, 2003.

**No. 1563** By Representatives WASHINGTON, MANDERINO, DALEY, KIRKLAND, YOUNGBLOOD, WOJNAROSKI, WHEATLEY, WATSON, WALKO, THOMAS, E. Z. TAYLOR, STABACK, PRESTON, PISTELLA, PIPPY, MYERS, MANN, LEH, LAUGHLIN, JOSEPHS, JAMES, HORSEY, GERGELY, GEORGE, GEIST, FRANKEL, FABRIZIO, DeWEESE, DeLUCA, CORRIGAN, COHEN, BUXTON, BISHOP, BELARDI, BEBKO-JONES, ALLEN, WATERS, ROBERTS and TANGRETTI

An Act amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, providing for minority and women business enterprises.

Referred to Committee on STATE GOVERNMENT, June 9, 2003.

**No. 1564** By Representatives FRANKEL, BEBKO-JONES, CAPPELLI, CLYMER, CORRIGAN, CRAHALLA, CREIGHTON, FREEMAN, GILLESPIE, KIRKLAND, LEDERER, MANN, O'NEILL, PRESTON, ROEBUCK, SOLOBAY, SURRA, WATERS and YOUNGBLOOD

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons required to report suspected child abuse.

Referred to Committee on JUDICIARY, June 9, 2003.

**No. 1565** By Representatives FRANKEL, SCHRODER, BEBKO-JONES, BROWNE, BUNT, CALTAGIRONE, CAWLEY, COSTA, CRAHALLA, CREIGHTON, DALEY, DeLUCA, D. EVANS, FABRIZIO, FREEMAN, GEIST, GEORGE, GERGELY, GRUCELA, HARHART, HENNESSEY, HORSEY, JOSEPHS, KIRKLAND, LAUGHLIN, LEACH, MANDERINO, MANN, MELIO, PAYNE, PETRARCA, SAINATO, SOLOBAY, R. STEVENSON, TANGRETTI, TIGUE, WALKO, WANSACZ, WATERS, WHEATLEY, WILLIAMS, YOUNGBLOOD and YUDICHAK

An Act providing for a program for the purchase of certain types of environmental liability insurance and for grants for the costs of premiums.

Referred to Committee on INSURANCE, June 9, 2003.

**No. 1566** By Representatives FRANKEL, TIGUE, CAPPELLI, COSTA, DeWEESE, FABRIZIO, FREEMAN, GABIG, GERGELY, HARHAI, KOTIK, LAUGHLIN, LEACH, MARKOSEK, PISTELLA, READSHAW, RUFFING, SAINATO, SHANER, SOLOBAY, J. TAYLOR, THOMAS, TRAVAGLIO, WHEATLEY and YOUNGBLOOD

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, further providing for prize limits.

Referred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT, June 9, 2003.

**No. 1567** By Representatives SCAVELLO, ALLEN, BASTIAN, CORRIGAN, CRAHALLA, CREIGHTON, CRUZ, DAILEY, EGOLF, FRANKEL, GEIST, GILLESPIE, GOODMAN, GRUCELA, HARHAI, HENNESSEY, HORSEY, KIRKLAND, KOTIK, LAUGHLIN, LEACH, LEH, LEWIS, MAJOR, MANN, MELIO, R. MILLER, MUNDY, O'NEILL, ROHRER, RUBLEY, SATHER, SAYLOR, SHANER, SOLOBAY, E. Z. TAYLOR, TIGUE, WANSACZ, WATSON, WILT and YOUNGBLOOD

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for securing loads in vehicles.

Referred to Committee on TRANSPORTATION, June 9, 2003.

**No. 1568** By Representatives SCAVELLO, CAPPELLI, CRAHALLA, CREIGHTON, CRUZ, DALLY, DeWEESE, GILLESPIE, GORDNER, HENNESSEY, HORSEY, LEWIS, MELIO, O'NEILL, PETRI, RUBLEY, SCHRODER, SOLOBAY, E. Z. TAYLOR, WOJNAROSKI and YOUNGBLOOD

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for rear wheel shields.

Referred to Committee on TRANSPORTATION, June 9, 2003.

## SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

### SB 133, PN 900

Referred to Committee on TRANSPORTATION, June 5, 2003.

### SB 230, PN 238

Referred to Committee on COMMERCE, June 5, 2003.

### SB 498, PN 901

Referred to Committee on EDUCATION, June 5, 2003.

### SB 673, PN 902

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, June 5, 2003.

## SENATE MESSAGE

### AMENDED HOUSE RESOLUTION RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in **HR 131, PN 1815**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

## ACTUARIAL NOTE

The SPEAKER. The Chair acknowledges receipt of an actuarial note for HB 225, PN 1898.

(Copy of actuarial note is on file with the Journal clerk.)

## LEAVES OF ABSENCE

The SPEAKER. The Chair turns to leaves of absence. The Chair recognizes the majority whip, who requests a leave of absence for the gentleman from Adams, Mr. MAITLAND. Without objection, the leave of absence will be granted.

The Chair recognizes the minority whip, who moves for a leave of absence for the gentleman from Mercer, Mr. GRUITZA, and the gentleman from Philadelphia, Mr. ROEBUCK. Without objection, the leaves of absence will be granted.

### MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll call. Members will proceed to vote.

The following roll call was recorded:

#### PRESENT—197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsley	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnarowski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yeweic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—3

Gruitza Maitland Roebuck

LEAVES ADDED—1

Washington

LEAVES CANCELED—1

Maitland

### CALENDAR

#### RESOLUTION

Mr. LEH called up **HR 241, PN 1495**, entitled;

A Concurrent Resolution memorializing the Citizens' Stamp Advisory Committee of the United States Postal Service to recommend to the United States Postal Service Board of Governors the issuance of a commemorative stamp honoring the military career and contributions to military aviation of General Carl A. Spaatz.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

#### YEAS—196

Adolph	Egolf	Lewis	Santoni
Allen	Evans, D.	Lynch	Sather
Argall	Evans, J.	Mackereth	Saylor
Armstrong	Fabrizio	Maher	Scavello
Baker	Fairchild	Major	Schroder
Baldwin	Feese	Manderino	Scrimenti
Bard	Fichter	Mann	Semmel
Barrar	Fleagle	Markosek	Shaner
Bastian	Flick	Marsico	Smith, B.
Bebko-Jones	Forcier	McCall	Smith, S. H.
Belardi	Frankel	McGeehan	Solobay
Belfanti	Freeman	McGill	Staback
Benninghoff	Gabig	McIlhattan	Stairs
Biancucci	Gannon	McIlhinney	Steil
Birmelin	Geist	McNaughton	Stern
Bishop	George	Melio	Stetler
Blaum	Gergely	Metcalfe	Stevenson, R.
Boyd	Gillespie	Micozzie	Stevenson, T.
Browne	Gingrich	Miller, R.	Sturla
Bunt	Godshall	Miller, S.	Surra
Butkovitz	Goodman	Mundy	Tangretti
Buxton	Gordner	Myers	Taylor, E. Z.
Caltagirone	Grucela	Nailor	Taylor, J.
Cappelli	Habay	Nickol	Thomas
Casorio	Haluska	O'Brien	Tigue
Causer	Hanna	Oliver	Travaglio
Cawley	Harhai	O'Neill	True
Civera	Harhart	Pallone	Turzai
Clymer	Harper	Payne	Vance
Cohen	Harris	Petrarca	Veon
Coleman	Hasay	Petri	Vitali
Cornell	Hennessey	Petrone	Walko
Corrigan	Herman	Phillips	Wansacz
Costa	Hershey	Pickett	Washington
Coy	Hess	Pistella	Waters
Crahalla	Hickernell	Preston	Watson
Creighton	Horsley	Raymond	Weber
Cruz	Hutchinson	Readshaw	Wheatley
Curry	James	Reed	Williams

Dailey	Keller	Reichley	Wilt
Daley	Kenney	Rieger	Wojnaroski
Dally	Kirkland	Roberts	Wright
DeLuca	Kotik	Rohrer	Yewcic
Denlinger	LaGrotta	Rooney	Youngblood
Dermody	Laughlin	Ross	Yudichak
DeWeese	Leach	Rubley	Zug
DiGirolamo	Lederer	Ruffing	
Diven	Leh	Sainato	
Donatucci	Lescovitz	Samuelson	Perzel,
Eachus	Levdansky		Speaker

NAYS—0

NOT VOTING—1

Josephs

EXCUSED—3

Gruitza Maitland Roebuck

The majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

Ordered, That the clerk present the same to the Senate for concurrence.

### RESOLUTION PURSUANT TO RULE 35

Mr. S. SMITH called up **HR 308, PN 1927**, entitled:

A Concurrent Resolution memorializing the Secretary of Conservation and Natural Resources to rename the Multi-Purpose Trail on Presque Isle as the Karl Boyes Nature Trail.

On the question,  
Will the House adopt the resolution?

### RESOLUTION RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. S. SMITH. Mr. Speaker, I move that HR 308 be recommitted to the Rules Committee.

On the question,  
Will the House agree to the motion?  
Motion was agreed to.

### GUEST INTRODUCED

The SPEAKER. We are pleased to announce today the guest of Linda Bebko-Jones. Our guest is Mr. David Parker, parole agent from Erie, Pennsylvania. He is seated in the gallery. Would the guest please rise. The Chair thanks the gentleman.

### REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes the gentlelady from Chester, Mrs. Taylor.

Mrs. TAYLOR. Mr. Speaker, the Republican majority caucus will meet immediately following this closure, not for the

day, but the Republican majority caucus will meet, and it will be about a 2-hour meeting, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

### DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen, for the purposes of an announcement.

Mr. COHEN. Mr. Speaker, the House Democratic Caucus will also meet immediately upon the call of the recess.

The SPEAKER. The Chair thanks the gentleman.

### GUEST INTRODUCED

The SPEAKER. The Chair would like to recognize the guest of Representative Rick Geist to the left of the Speaker, Laura Brightbill. Would the guest please rise. Laura.

### APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the Appropriations chairman for the purpose of an announcement.

Mr. ARGALL. Thank you, Mr. Speaker.

At the declaration of the recess, the House Appropriations Committee will meet in room 245.

The SPEAKER. The Chair thanks the gentleman.

At the declaration of the recess, the Appropriations Committee will meet in room 245.

### RECESS

The SPEAKER. This House will now be in recess until 3:15 p.m.

### RECESS EXTENDED

The time of recess was extended until 3:45 p.m.

### AFTER RECESS

The time of recess having expired, the House was called to order.

### BILLS REREPORTED FROM COMMITTEE

**HB 248, PN 277**

By Rep. ARGALL

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for tax levy; and making an editorial change.

APPROPRIATIONS.

**HB 249, PN 278**

By Rep. ARGALL

An Act amending the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, further providing for tax levies.

APPROPRIATIONS.

**HB 250, PN 279**

By Rep. ARGALL

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for township and special tax levies.

## APPROPRIATIONS.

**HB 276, PN 1812**

By Rep. ARGALL

An Act amending the act of December 4, 1996 (P.L.911, No.147), known as the Telemarketer Registration Act, further providing for definitions and for unwanted telephone solicitation calls.

## APPROPRIATIONS.

**HB 395, PN 1971 (Amended)**

By Rep. ARGALL

An Act establishing the Keystone Scholars Award to recognize and reward excellence in academic achievement and performance among graduating seniors in this Commonwealth's public secondary schools.

## APPROPRIATIONS.

**HB 478, PN 556**

By Rep. ARGALL

An Act authorizing an advanced placement incentive grant program for school districts; and providing for the powers and duties of the Department of Education.

## APPROPRIATIONS.

**HB 518, PN 1480**

By Rep. ARGALL

An Act amending the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, further providing for definitions; providing for licensure of home care agencies and home care registries; establishing certain consumer rights and protections; and providing for inspections and plans of correction and for report to General Assembly.

## APPROPRIATIONS.

**HB 538, PN 1757**

By Rep. ARGALL

An Act amending the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, establishing the Technology Work Experience Internship Program.

## APPROPRIATIONS.

**HB 613, PN 714**

By Rep. ARGALL

An Act amending the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, providing for financial assistance.

## APPROPRIATIONS.

**HB 786, PN 918**

By Rep. ARGALL

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for general provisions relating to powers of attorney.

## APPROPRIATIONS.

**HB 884, PN 1040**

By Rep. ARGALL

An Act providing Commonwealth support for a Science and Mathematics Educator Recruitment Loan Forgiveness Program for Pennsylvania residents who graduate from institutions of higher education with certification in science and mathematics and who agree to apply their expertise to public schools in this Commonwealth.

## APPROPRIATIONS.

**HB 1096, PN 1287**

By Rep. ARGALL

An Act designating a portion of State Route 837 in Allegheny County as Charles R. McDevitt Highway.

## APPROPRIATIONS.

**HB 1117, PN 1319**

By Rep. ARGALL

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of trespassing on railroad property; and providing for penalties.

## APPROPRIATIONS.

**RULES COMMITTEE MEETING**

The SPEAKER. The majority leader calls for an immediate meeting of the Rules Committee.

**BILLS REREPORTED FROM COMMITTEE****HB 225, PN 1898**

By Rep. S. SMITH

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities.

## RULES.

**HB 356, PN 420**

By Rep. S. SMITH

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for attendance at schools for the performing arts.

## RULES.

**RESOLUTION REPORTED FROM COMMITTEE****HR 308, PN 1927**

By Rep. S. SMITH

A Concurrent Resolution memorializing the Secretary of Conservation and Natural Resources to rename the Multi-Purpose Trail on Presque Isle as the Karl Boyes Nature Trail.

## RULES.

**BILLS ON SECOND CONSIDERATION**

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

**HB 225, PN 1898; and HB 356, PN 420.**

**GUEST INTRODUCED**

The SPEAKER. The Chair welcomes to the hall of the House Tony Gonnella, who is the guest of Representative DeLuca. He is seated to the left of the Speaker. Would the gentleman please rise.

**CALENDAR CONTINUED**

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 348, PN 1546**, entitled:

An Act amending the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, further providing for the payment of compensation to widows, widowers and children.

On the question,  
Will the House agree to the bill on third consideration?  
Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.  
The question is, shall the bill pass finally?

It is the information of the Chair that the three amendments have been withdrawn.

On that question, the Chair recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Could the prime sponsor of the bill just give a very brief explanation of it?

The SPEAKER. The Chair recognizes the gentlelady from Philadelphia, Mrs. Lederer, for a brief explanation of the bill.

Mrs. LEDERER. Mr. Speaker, this bill is legislation that was passed last session unanimously.

It is a workers' comp bill. When workers' comp was written, it did not take into consideration the relationship of children from previous marriages. This bill allocates 51 percent of wages to the spouse in the event that there are no children, 60 percent in the event of one child, and 66 percent if there are two children or more.

Heretofore, but really from Flight 93, as the result of Flight 93, a gentleman on that flight was killed. He was one of our heroes. He had children by a first marriage, was remarried—

Mr. VITALI. Mr. Speaker, I am satisfied with that explanation. I have no further questions.

Mrs. LEDERER. Excuse me?

Mr. VITALI. I am satisfied with that explanation. I have no further questions.

Mrs. LEDERER. Fine.

The SPEAKER. The gentlelady, Mrs. Lederer, has the floor.  
Would you care to follow up on that, Mrs. Lederer?

Mrs. LEDERER. Yes.

The SPEAKER. Thank you. The lady is in order and may proceed.

Mrs. LEDERER. This bill takes care of support for children of prior marriages. Thank you.

The SPEAKER. The Chair thanks the gentlelady.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

**YEAS—197**

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Bianucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causar	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsy	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewwic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

**NAYS—0**

**NOT VOTING—0**



EXCUSED—3

Gruitza Maitland Roebuck

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

\* \* \*

The House proceeded to third consideration of **HB 1026, PN 1570**, entitled:

An Act requiring all child day-care facilities in this Commonwealth to have one or more persons competent in first aid techniques and under certain circumstances cardiopulmonary resuscitation (CPR) at the facility when one or more children are in care.

On the question,  
Will the House agree to the bill on third consideration?

Mr. DeLUCA offered the following amendment No. **A0692**:

Amend Title, page 1, line 4, by removing the period after “care” and inserting

; and providing for criminal and child abuse information.

Amend Bill, page 1, by inserting between lines 6 and 7

CHAPTER 1

PRELIMINARY PROVISIONS

Amend Sec. 1, page 1, line 7, by striking out “1” and inserting 101

Amend Sec. 1, page 1, line 9, by striking out “and CPR” and inserting

, CPR and Criminal and Child Abuse Information

Amend Sec. 2, page 1, line 10, by striking out “2” and inserting 102

Amend Bill, page 2, by inserting between lines 25 and 26

CHAPTER 3

CHILD-CARE FIRST AID AND CPR

Amend Sec. 3, page 2, line 26, by striking out “3” and inserting 301

Amend Sec. 4, page 4, line 9, by striking out “4” and inserting 302

Amend Sec. 4, page 4, line 10, by striking out “act” and inserting chapter

Amend Bill, page 4, lines 13 and 14, by striking out all of said lines and inserting

CHAPTER 5

CRIMINAL AND CHILD ABUSE INFORMATION

Section 501. History information.

In addition to the requirements of 23 Pa.C.S. § 6344 (relating to information relating to prospective child-care personnel), an individual who applies to the department for a registration certificate to operate a family day-care home shall include criminal history record and child abuse record information required under 23 Pa.C.S. § 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.

Section 502. Required information.

Child abuse record information required under section 501 shall include certification by the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for

school employee or indicated report for school employee as defined in 23 Pa.C.S. § 6303 (relating to definitions).

Section 503. Effect on registration.

The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate if the family day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:

(1) is named in the central register on child abuse established under 23 Pa.C.S. Ch. 63 (relating to child protective services) as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee as defined in 23 Pa.C.S. § 6303 (relating to definitions); or

(2) has been convicted of an offense enumerated in 23 Pa.C.S. § 6344(c) (relating to information relating to prospective child-care personnel).

Section 504. Regulations.

The department shall promulgate regulations to administer this chapter.

CHAPTER 51

MISCELLANEOUS

Section 5101. Effective date.

This act shall take effect as follows:

(1) Chapter 3 shall take effect in six months.

(2) Chapter 5 shall take effect July 1, 2003, or immediately, whichever is later.

(3) The remainder of this act shall take effect immediately.

On the question,  
Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

This amendment is the same amendment we had passed last week pertaining to family day care. It is an amendment that should be passed once more. It is to give the people peace of mind, the people who have to utilize family day-care centers, and this requires anyone 18 years or older who resides in a family facility to have a background check. We have found out that mostly 40-some percent of the child abuse comes from individuals who reside in these family day-care centers.

So I would appreciate an affirmative vote on this amendment. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs

Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-3

Gruitza	Maitland	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. **BLAUM** offered the following amendment No. **A0480**:

Amend Bill, page 4, by inserting between lines 8 and 9 Section 4. Inspections.

The department shall have the right to enter, visit and inspect a facility during normal operating hours without prior notice.

Amend Sec. 4, page 4, line 9, by striking out "4" and inserting  
5

Amend Sec. 5, page 4, line 13, by striking out "5" and inserting  
6

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Blaum.

Mr. **BLAUM**. Thank you, Mr. Speaker.

What this amendment does is makes it clear that the department has the right to enter a day-care facility during normal working hours in an unannounced manner to provide for a safety inspection of the facility. Day-care centers are defined as a day-care center, family day-care home, et cetera, and I ask the members for an affirmative vote.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS-0

NOT VOTING-0

## EXCUSED—3

Gruitza Maitland Roebuck

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

The SPEAKER. The Chair has been advised that the lady, Ms. Washington, and the gentleman, Mr. DeWeese, have withdrawn their amendments.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. DeWEESE offered the following amendment No. **A0964**:

Amend Title, page 1, line 4, by removing the period after “care” and inserting

; and providing for liability insurance.

Amend Bill, page 4, by inserting between lines 8 and 9 Section 4. Liability insurance.

(a) Requirement.—In order to continue operation, a family child day-care home must have a comprehensive general liability insurance policy to cover all persons on the premises in a minimum amount to be determined by regulation of the department. A copy of the insurance policy under this subsection shall be kept on the premises.

(b) Regulations.—The department shall promulgate regulations to implement subsection (a).

Amend Sec. 4, page 4, line 9, by striking out “4” and inserting 19

Amend Sec. 5, page 4, line 13, by striking out “5” and inserting 20

Amend Sec. 5, page 4, line 14, by striking out “in six months.” and inserting as follows:

(1) Sections 3 and 19 shall take effect in six months.

(2) Section 4(a) shall take effect on the effective date of regulations promulgated under section 4(b).

(3) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

This is the same amendment that we offered to a different proposal last year, and this amendment passed unanimously during the last session.

As I said last week, a youngster in my district was killed accidentally at a day-care center. The day-care facility in the Greene County setting at that time with children under six in number did not have liability insurance. All day-care facilities in the State that had more than six children in attendance did have liability insurance. The 17-month-old child who was killed

was holding the hand of his 4-year-old sister. The family has been in intensive counseling. The little girl has had no insurance to pay for her counseling, and there was no help for the funeral arrangements. This amendment would make small day-care facilities behave in the same manner that the larger facilities are behaving in.

Research tells us it is about \$50 a month. Six hundred bucks a year for all these day-care facilities seems a worthwhile price to pay, and my constituents back home are an example that obviously we would like to not have repeated.

So I would ask for an affirmative vote. It is the same amendment we passed a few days ago. Thank you very much.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Bianucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causar	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsely	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—3

Gruitza Maitland Roebuck

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on third consideration as amended?  
Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.  
The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Wayne, Mr. Birmelin.

Mr. BIRMELIN. Thank you, Mr. Speaker.  
HB 1026 is sponsored by Representative Civera, and I want to applaud him for his efforts to bring this legislation before us. It was a bill that passed the House last year and was not enacted by the Senate, and I am hopeful that it will make it all the way through that process this year.

I did want to point out for the benefit of the members that the committee, when we discussed this bill and passed it out, added an amendment that protects religious communities from having to fall under this guideline. We are not requiring Sunday schools and people like that to have the people certified in CPR (cardiopulmonary resuscitation) that the bill requires, but otherwise, I think it is the right thing to do, and I think that all the members can support this, and we should be able to pass this unanimously today.

Thank you, Mr. Speaker.  
The SPEAKER. The Chair thanks the gentleman.  
The Chair recognizes the gentleman from Delaware, Mr. Civera.

Mr. CIVERA. Thank you, Mr. Speaker.  
I would like to thank the members of the committee and Chairman Birmelin for doing an excellent job with HB 1026. I am hoping that this time the Senate will move this legislation. The amendments that have been placed in it are good and worthy amendments, and I wish that the House gives me full support.

Thank you, Mr. Speaker.  
The SPEAKER. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?  
The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causar	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—3

Gruitza Maitland Roebuck

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

## SUPPLEMENTAL CALENDAR A

## BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 538, PN 1757**, entitled:

An Act amending the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, establishing the Technology Work Experience Internship Program.

On the question,  
Will the House agree to the bill on third consideration?

Mr. **DALEY** offered the following amendment No. **A1317**:

Amend Title, page 1, line 11, by inserting after “repeals,” ” further providing, in customized job training, for definitions, for program, for applications, for approval and awards, for limitations, for statutory and contractual compliance and for penalties and investigations; and

Amend Bill, page 1, lines 15 through 17, by striking out all of said lines and inserting

Section 1. The definition of “applicant” in section 2901 of the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act, added December 9, 2002 (P.L.1682, NO.213), is amended to read: Section 2901. Definitions.

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

“Applicant.” Any of the following:

- (1) A local education agency.
- (2) An industrial resource center.
- (3) An economic development organization.
- (4) A greenhouse.
- [(5) A private company.]
- (6) A local work force investment board.

\* \* \*

Section 2. Sections 2902, 2903, 2905, 2906, 2908 and 2909 of the act, added December 9, 2002 (P.L.1682, NO.213), are amended to read:

Section 2902. Program.

(a) Program continuation.—The customized job training program within the department is continued and reestablished. Funds appropriated to the department for the program shall be used to provide grants for training programs.

(b) Department responsibilities.—The department shall do all of the following:

- (1) Administer the program.
- (2) Review, approve and award grants to applicants in accordance with sections 2904 and 2905.
- (3) Enter into one or more partnerships with one or more local education agencies or other training providers in accordance with section 2907.
- (4) Establish, at the beginning of each fiscal year, a reserve not to exceed 25% of the funds appropriated to the department for the program for the use of small business applicants. Any uncommitted funds in the reserve after March 1 of any fiscal year may be made available to any applicant.
- (5) Establish a private matching fund requirement for applicants. The department shall establish the private matching fund requirement for [applicants] recipients which are private companies or labor organizations at not less than 25% of the total eligible training project cost. The department may establish different matching fund requirements for a small business enterprise as defined in section 1301 and a labor organization.

Section 2903. Applications.

(a) Provisions of application.—An applicant may submit an application to the department for a grant to fund a training program in accordance with the following:

(1) If an application is submitted by an industrial resource center or economic development organization, the industrial resource center or economic development organization may apply for a grant on behalf of a private company, greenhouse or labor organization. An economic development organization may not serve as the direct training provider of the trainees.

(2) If an application is submitted by a local work force investment board, the local work force investment board may apply for a grant only on behalf of projects which promote local education agency and private company partnerships or private company and private company partnerships.

[(3) If an application to train entry-level employees is submitted by or on behalf of a private company, the applicant shall demonstrate that the private company has contacted the local work force investment board and the local county board of assistance to solicit referrals of candidates for the training program.]

(4) If an application is submitted by any other person, the application shall satisfy any requirements established by the department.

(b) Requirements of application.—An application shall:

(1) Demonstrate that the applicant considered other available resources, including private sector funds, other State or local agency training programs or funds made available under the Workforce Investment Act of 1998 (Public Law 105-200, 112 Stat. 936) or such other Federal programs which provide funds for employment training.

(2) Contain a description of the proposed training or instructional program to be carried out.

(3) Disclose if an applicant intends to contract with other organizations or individuals for the provision of all or a portion of the services to be provided and, if disclosed, contain a request to allocate a portion of the grant from the applicant to the subcontractor.

(4) Include a written commitment from the applicant to invest private matching funds in the training project.

Section 2905. Approval of applications and award of grants.

The department may approve and award grants to applicants in accordance with all of the following:

(1) The department must find that the applicant has satisfied the applicable matching fund requirement and that the grant will be used by the applicant to provide training or instruction only to Commonwealth residents.

(2) The department must find that the grant will result in any of the following objectives:

(i) The location or expansion of a private company or greenhouse within this Commonwealth with the creation of jobs paying competitive wages and the private company or greenhouse making capital expenditures.

(ii) The expansion or upgrade of existing jobs which result in increased wages for the jobs.

(iii) The retention of jobs in this Commonwealth which would otherwise be lost.

(iv) The promotion of local education agency and private company partnerships and private company and private company partnerships if a direct connection between the development of skills and subsequent employment by one or more private companies can be demonstrated.

(v) The promotion of efforts by a labor organization to upgrade the skills of its members.

(3) The department shall give priority to those applications which have any of the following characteristics:

(i) The application would establish a training program determined by the department to be in a growth industry vital to this Commonwealth's competitiveness. These industries include: agribusiness, advanced manufacturing, advanced materials, life sciences, biotechnology and health care, environmental technology and information technology.

(ii) The application is submitted on behalf of a private company or labor organization which is located:

(A) in a municipality in which the average unemployment rate in the most recently completed calendar year is above the Statewide average unemployment rate for the same period;

(B) in a State-designated enterprise zone; or

(C) in a municipality or region which has suffered a significant loss of jobs due to one or more major plant closings, layoffs or natural or man-made disaster.

(iii) The application is submitted [by or] on behalf of a private company which plans to create 50 or more jobs and which is making a capital investment of at least \$1,000,000.

(4) The department may determine that the grant will be used by the applicant to reimburse the cost of training. Costs may include instructional costs, costs of instructional or training material or software, costs associated with tuition reimbursement and reasonable administrative costs as determined by the department.

#### Section 2906. Limitations.

(a) Department.—The department may not do any of the following:

(1) Award grants under this chapter which in the aggregate exceed the amount of the annual appropriations to the department for the program.

(2) Award more than 10% of the funds appropriated to the program in any one fiscal year to any one [private company,] greenhouse or labor organization, including any affiliates thereof.

(3) Award a grant [to or] on behalf of any private company or labor organization, including any affiliates thereof, for more than two successive fiscal years and for no more than three out of every five fiscal years.

(b) Recipients.—A recipient of a grant may not do any of the following:

(1) Use a grant to do any of the following:

(i) Pay wages of trainees during training.

(ii) Pay any costs associated with building construction or renovation or the acquisition, upgrade or installation of equipment or machinery, including computer equipment.

(2) Use a grant to reduce the work force or displace workers of a private company prior to the commencement of a training program except because the introduction of new manufacturing techniques, technology and modernization may lead to short-term reductions in a private company's work force. The secretary may waive this grant limitation if the long-term economic benefits to be gained by the private company significantly exceed the short-term detriment to its work force.

(3) Use a grant to violate any conditions of an existing collective bargaining agreement.

(4) Use a grant for point-of-sale retail job training.

#### Section 2908. Compliance with statutes and collective bargaining agreements.

The department shall require each person receiving a grant under this chapter to comply with applicable Federal and State statutes

governing employment discrimination, minority recruitment, minimum or prevailing wages, worksite safety and procurement practices. The department shall require each private company receiving [a grant] assistance under this chapter to certify that its training program does not abridge any contractual agreement between the private company and the collective bargaining representative of its employees.

#### Section 2909. Penalties and investigations.

(a) Private company.—Unless the department determines that a private company's failure is due to circumstances outside the control of the private company, the private company shall be liable to repay all or part of the amount of a grant [awarded] utilized under this chapter if the private company does any of the following:

(1) Fails to create the number of jobs specified in its agreement with or commitment to the department.

(2) Fails to make the amount of capital investment specified in the application to the department.

(3) Fails to substantially carry out the training program approved by the department.

(b) Applicants.—An applicant or subcontractor that fails to provide for or to perform a training program approved by the department may be required to repay to the department any funds it received under a grant awarded by the department.

(c) Investigation.—Upon receiving any complaint from a private company, greenhouse, labor organization or trainee as to the inadequacy of training received, the department may initiate an investigation and take appropriate action, including the recovery of grant funds expended.

Section 3. The act is amended by adding a chapter to read:

Amend Sec. 2, page 8, line 8, by striking out “2” and inserting  
4

Amend Sec. 3, page 8, line 13, by striking out “3” and inserting  
5

Amend Sec. 3, page 8, line 13, by inserting after “2003”  
, or immediately, whichever is later.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Daley.

Mr. DALEY. Thank you, Mr. Speaker.

This amendment would amend the Job Enhancement Act. It would affect what organizations are eligible to apply directly for customized job training grants. It would reverse a provision we implemented last session in Act 213 of 2002 which allowed private companies to apply for the funding.

The existing network of job training providers has invested heavily in the building of institutional capacity and knowledge about how to administer those programs, and allowing private businesses to apply directly, as we had last year, will permit applicants who have no prior knowledge or administrative ability with regard to this program to participate directly rather than through an established agency or partner.

A multitude of new applicants is likely to flood the system and water down the financial support to help sustain the institutional capacity in the network of existing providers, and many will likely terminate participation in the program.

My amendment is supported, Mr. Speaker, by the AFL-CIO, and I ask for a positive vote.

The SPEAKER. The Chair thanks the gentleman.

(Conference held.)

**FINANCE COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the chairman of the Finance Committee, Representative Flick.

Mr. FLICK. Thank you, Mr. Speaker.

I just wanted the members of the Finance Committee to know that tomorrow, since we are coming in at 10 o'clock, I believe, for session, that the Finance Committee meeting called for 10 will be at 9:45. It will be in hearing room 3 of the North Office Building, and we will consider two bills, HB 322 and HB 1407.

I would appreciate if the members would be there promptly at 9:45. I can assure you we will be out in time to be on the floor for 10 o'clock.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Finance Committee meeting tomorrow at 9:45 in hearing room 3 of the North Office Building.

**COMMITTEE MEETING POSTPONED**

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Herman.

Mr. HERMAN. Thank you very much, Mr. Speaker.

The meeting of the House Local Government Committee scheduled for tomorrow at 10 o'clock will be rescheduled, because we are going to be in session at 10 o'clock tomorrow.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

**CONSIDERATION OF HB 538 CONTINUED**

The SPEAKER. The Chair recognizes the gentleman, Mr. Gordner, from Columbia County.

Mr. GORDNER. Thank you, Mr. Speaker.

I would rise in opposition to the Daley amendment. The bill before us deals with a technology internship program. It is a freestanding act. It went through the House Education Committee. There was a bipartisan subcommittee that heard both sides of it, and then the full committee had a hearing and a voting session on it.

The amendment offered by Representative Daley amends the Job Enhancement Act, which is unrelated to the issue of this bill. The Representative may or may not have a good point. What he is trying to do is remove private companies from possibly being applicants for certain types of grants. Last year Governor Schweiker put this in here so that companies might be able to get grants directly from this program if it was part of some package to attract these companies here or to keep these companies here. The sponsor of the amendment would no longer allow a private company to be a direct recipient of it. Under current law it does not say that they shall be but it says that they may be if they can prove that they can do the type of training that is necessary.

So again, it is an issue that may or may not be a good issue. I would urge that the appropriate committee take a look at this. But we do not have time now to consider it in regard to this package. Also, it is unrelated to the main issue of the bill, and so I ask people to oppose this.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, on this amendment.

I would urge the members to oppose the amendment. Basically, the substance of the amendment deals with private companies being able to directly come into the Commonwealth of Pennsylvania to seek assistance through the Customized Job Training Program. I think that that is an idea that is worthy of having a chance to work in the law, and I would simply ask the members to oppose the amendment at this time.

Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

**YEAS—80**

Bebko-Jones	Evans, D.	Lederer	Sainato
Belardi	Fabrizio	Lescovitz	Santoni
Belfanti	Freeman	Levdansky	Shaner
Bishop	George	Markosek	Solobay
Blaum	Gergely	McCall	Staback
Butkovitz	Godshall	McGeehan	Surra
Caltagirone	Goodman	Melio	Tangretti
Casorio	Gruclera	Mundy	Thomas
Cohen	Haluska	Myers	Travaglio
Corrigan	Hanna	Oliver	Veon
Coy	Harhai	Pallone	Vitali
Cruz	Horsey	Petrarca	Walko
Curry	James	Petrone	Wansacz
Daley	Josephs	Pistella	Washington
DeLuca	Keller	Preston	Waters
Dermody	Kirkland	Readshaw	Wheatley
DeWeese	Kotik	Rieger	Williams
Diven	LaGrotta	Roberts	Wojnaroski
Donatucci	Laughlin	Rooney	Yewcic
Eachus	Leach	Ruffing	Youngblood

**NAYS—114**

Adolph	Egolf	Mackereth	Saylor
Allen	Evans, J.	Maher	Scavello
Argall	Fairchild	Major	Schroder
Armstrong	Feese	Mann	Scrimenti
Baker	Fichter	Marsico	Semmel
Baldwin	Fleagle	McGill	Smith, B.
Bard	Flick	McIlhattan	Smith, S. H.
Barrar	Forcier	McIlhinney	Stairs
Bastian	Frankel	McNaughton	Steil
Benninghoff	Gabig	Metcalfe	Stern
Birmelin	Gannon	Micozzie	Stetler
Boyd	Geist	Miller, R.	Stevenson, R.
Browne	Gillespie	Miller, S.	Stevenson, T.
Bunt	Gingrich	Nailor	Sturla
Buxton	Gordner	Nickol	Taylor, E. Z.
Cappelli	Habay	O'Brien	Taylor, J.
Causar	Harhart	O'Neill	Tigue
Cawley	Harper	Payne	True
Civera	Harris	Petri	Turzai
Clymer	Hasay	Phillips	Vance
Coleman	Herman	Pickett	Watson
Cornell	Hershey	Raymond	Weber
Costa	Hess	Reed	Wilt
Crahalla	Hickernell	Reichley	Wright
Creighton	Hutchinson	Rohrer	Yudichak
Daily	Kenney	Ross	Zug
Dally	Leh	Rublely	
Denlinger	Lewis	Samuelson	Perzel,
DiGirolamo	Lynch	Sather	Speaker

NOT VOTING—3

Biancucci Hennessey Manderino

EXCUSED—3

Gruitza Maitland Roebuck

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring, Will the House agree to the bill on third consideration? Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—197

Adolph Egolf Levdansky Santoni
Allen Evans, D. Lewis Sather
Argall Evans, J. Lynch Saylor
Armstrong Fabrizio Mackereth Scavello
Baker Fairchild Maher Schroder
Baldwin Feese Major Scrimenti
Bard Fichter Manderino Semmel
Barrar Fleagle Mann Shaner
Bastian Flick Markosek Smith, B.
Bebko-Jones Forcier Marsico Smith, S. H.
Belardi Frankel McCall Solobay
Belfanti Freeman McGeehan Staback
Benninghoff Gabig McGill Stairs
Biancucci Gannon McIlhattan Steil
Birmelin Geist McIlhinney Stern
Bishop George McNaughton Stetler
Blau Gergely Melio Stevenson, R.
Boyd Gillespie Metcalfe Stevenson, T.
Browne Gingrich Micozzie Sturla
Bunt Godshall Miller, R. Surra
Butkovitz Goodman Miller, S. Tangretti
Buxton Gordner Mundy Taylor, E. Z.
Caltagirone Grucela Myers Taylor, J.
Cappelli Habay Nailor Thomas
Casorio Haluska Nickol Tigue
Causar Hanna O'Brien Travaglio
Cawley Harhai Oliver True
Civera Harhart O'Neill Turzai
Clymer Harper Pallone Vance
Cohen Harris Payne Veon
Coleman Hasay Petrarca Vitali
Cornell Hennessey Petri Walko
Corrigan Herman Petrone Wansacz
Costa Hershey Phillips Washington
Coy Hess Pickett Waters
Crahalla Hickernell Pistella Watson
Creighton Horsey Preston Weber
Cruz Hutchinson Raymond Wheatley
Curry James Readshaw Williams
Dailey Josephs Reed Wilt
Daley Keller Reichley Wojnaroski
Dally Kenney Rieger Wright
DeLuca Kirkland Roberts Yewcic
Denlinger Kotik Rohrer Youngblood

Dermody LaGrotta Rooney Yudichak
DeWeese Laughlin Ross Zug
DiGirolamo Leach Rubley
Diven Lederer Ruffing
Donatucci Leh Sainato Perzel,
Eachus Lescovitz Samuelson Speaker

NAYS—0

NOT VOTING—0

EXCUSED—3

Gruitza Maitland Roebuck

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

\* \* \*

The House proceeded to third consideration of HB 884, PN 1040, entitled:

An Act providing Commonwealth support for a Science and Mathematics Educator Recruitment Loan Forgiveness Program for Pennsylvania residents who graduate from institutions of higher education with certification in science and mathematics and who agree to apply their expertise to public schools in this Commonwealth.

On the question, Will the House agree to the bill on third consideration? Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

It is the information of the Chair that the gentleman, Mr. Daley, has withdrawn his amendment. The Chair thanks the gentleman.

On the question recurring, Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—197

Adolph Egolf Levdansky Santoni
Allen Evans, D. Lewis Sather
Argall Evans, J. Lynch Saylor
Armstrong Fabrizio Mackereth Scavello
Baker Fairchild Maher Schroder
Baldwin Feese Major Scrimenti
Bard Fichter Manderino Semmel
Barrar Fleagle Mann Shaner
Bastian Flick Markosek Smith, B.
Bebko-Jones Forcier Marsico Smith, S. H.
Belardi Frankel McCall Solobay
Belfanti Freeman McGeehan Staback
Benninghoff Gabig McGill Stairs



Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-3

Gruitza	Maitland	Roebuck
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

\* \* \*

The House proceeded to third consideration of **HB 786, PN 918**, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for general provisions relating to powers of attorney.

On the question,  
Will the House agree to the bill on third consideration?  
Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-3

Gruitza	Maitland	Roebuck
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

**SUPPLEMENTAL CALENDAR B**

**RESOLUTION**

Mrs. FORCIER called up **HR 308, PN 1927**, entitled:

A Concurrent Resolution memorializing the Secretary of Conservation and Natural Resources to rename the Multi-Purpose Trail on Presque Isle as the Karl Boyes Nature Trail.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

**YEAS—197**

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhattan	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causar	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

**NAYS—0**

**NOT VOTING—0**

**EXCUSED—3**

Gruitza Maitland Roebuck

The majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

Ordered, That the clerk present the same to the Senate for concurrence.

**LABOR RELATIONS  
COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman from Schuylkill, Mr. Allen.

Mr. ALLEN. Thank you, Mr. Speaker.

The Labor Relations Committee meeting scheduled for 10 a.m. tomorrow morning has been moved to 9:30 a.m. in room 1 of the North Office Building – thank you very much – because of the change in schedule of the House.

The SPEAKER. The Chair thanks the gentleman.

Labor Relations will meet at 9:30 tomorrow morning in room 1 of the North Office Building.

**CALENDAR CONTINUED**

**BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 158, PN 1578**, entitled:

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, further providing for reporting; and providing for public disclosure of information concerning physicians.

On the question,  
Will the House agree to the bill on third consideration?

Ms. **MUNDY** offered the following amendment No. **A1255**:

Amend Title, page 1, line 15, by inserting after “PROVIDING” for declaration of policy, for the Medical Care Availability and Reduction of Error Fund, for medical professional liability insurance by the joint underwriting association, for approval of medical professional liability insurers, for administrative definitions and

Amend Title, page 1, line 17, by removing the period after “physicians” and inserting  
and for functions of the Department of Health.

Amend Sec. 1, page 1, line 23; page 2, lines 1 and 2, by striking out all of said line on said pages and inserting

Section 1. Sections 102, 712(g), 733, 741, 902 and 903 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, are amended to read: Section 102. Declaration of policy.

The General Assembly finds and declares as follows:

(1) It is the purpose of this act to ensure that medical care is available in this Commonwealth through a comprehensive and high-quality health care system.

(2) Access to a full spectrum of hospital services and to highly trained physicians in all specialties must be available across this Commonwealth.

(3) To maintain this system, medical professional liability insurance has to be obtainable at an affordable and reasonable cost in every geographic region of this Commonwealth.

(4) A person who has sustained injury or death as a result of medical negligence by a health care provider must be afforded a prompt determination and fair compensation.

(5) Every effort must be made to reduce and eliminate medical errors by identifying problems and implementing solutions that promote patient safety.

(6) Recognition and furtherance of all of these elements is essential to the public health, safety and welfare of all the citizens of Pennsylvania.

(7) The cost of medical malpractice insurance premiums are directly impacted by medical errors.

(8) Health care providers' cost of poor quality is estimated to be as high as 30% to 50% of the total amount paid for health care.

(9) A 1999 study by the Institute of Medicine of Harvard University revealed that, each year, as many as 98,000 people die as a result of preventable medical errors which cost the nation an estimated \$29,000,000,000. The study cites medical errors as the fifth leading cause of death in the United States.

(10) Research shows that a vast majority of medical errors are systemic rather than human errors.

(11) Total quality management systems implemented in industry and, recently, by the United States Department of Veterans Affairs hospital system have successfully reduced medical errors.

(12) It is the purpose of this act to improve patient safety, improve health care quality and lower health care costs by offering medical malpractice premium discounts to health care providers that institute total quality management health care systems.

#### Section 712. Medical Care Availability and Reduction of Error Fund.

\* \* \*

(g) Additional adjustments of the prevailing primary premium.—The department shall adjust the applicable prevailing primary premium of each participating health care provider in accordance with the following:

(1) The applicable prevailing primary premium of a participating health care provider which is not a hospital may be adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency of claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods and shall be in accordance with the following:

(i) If three claims have been paid during the past five most recent claims periods by the fund, a 10% increase shall be charged.

(ii) If four or more claims have been paid during the past five most recent claims periods by the fund, a 20% increase shall be charged.

(2) The applicable prevailing primary premium of a participating health care provider which is not a hospital and which has not had an adjustment under paragraph (1) may be adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the severity of at least two claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods.

(3) The applicable prevailing primary premium of a participating health care provider not engaged in direct clinical

practice on a full-time basis may be adjusted through a decrease in the individual participating health care provider's prevailing primary premium not to exceed 10%. Any adjustment shall be based upon the lower risk associated with the less-than-full-time direct clinical practice.

(4) The applicable prevailing primary premium of a hospital may be adjusted through an increase or decrease in the individual hospital's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency and severity of claims paid by the fund on behalf of other hospitals of similar class, size, risk and kind within the same defined region during the past five most recent claims periods.

(5) A participating health care provider that implements, to the satisfaction of the Department of Health, a total quality management health care system approved by the Department of Health shall be entitled to a 20% discount in the applicable prevailing primary premium for each fiscal year in which the system is implemented.

\* \* \*

#### Section 733. Deficit.

(a) Filing.—In the event the joint underwriting association experiences a deficit in any calendar year, the board of directors shall file with the commissioner the deficit.

(b) Approval.—Within 30 days of receipt of the filing, the commissioner shall approve or deny the filing. If approved, the joint underwriting association is authorized to borrow funds sufficient to satisfy the deficit.

(c) Rate filing.—Within 30 days of receiving approval of its filing in accordance with subsection (b), the joint underwriting association shall file a rate filing with the department. The commissioner shall approve the filing if [the]:

(1) The premiums generate sufficient income for the joint underwriting association to avoid a deficit during the following 12 months and to repay principal and interest on the money borrowed in accordance with subsection (b).

(2) There is a 20% discount in each premium for a health care provider that implements, to the satisfaction of the Department of Health, a total quality management health care system approved by the Department of Health.

#### Section 741. Approval.

In order for an insurer to issue a policy of medical professional liability insurance to a health care provider or to a professional corporation, professional association or partnership which is entirely owned by health care providers, the insurer must [be] comply with all of the following:

(1) Be authorized to write medical professional liability insurance in accordance with the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) Offer a 20% discount in the premium for a health care provider that implements, to the satisfaction of the Department of Health, a total quality management health care system approved by the Department of Health.

#### Section 902. Definitions.

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

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

"Licensure board." Either or both of the following, depending on the licensure of the affected individual:

(1) The State Board of Medicine.

(2) The State Board of Osteopathic Medicine.

"Physician." An individual licensed under the laws of this Commonwealth to engage in the practice of:

(1) medicine and surgery in all its branches within the scope of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985; or

(2) osteopathic medicine and surgery within the scope of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act.

Amend Sec. 2, page 3, line 17, by striking out “A SECTION” and inserting

sections

Amend Sec. 2, page 7, by inserting between lines 19 and 20

Section 912. Department of Health.

(a) Total quality management health care system approval.—

(1) A total quality management health care system may apply to the department for approval. The application must be on a form prescribed by the Department of Health and must be accompanied by a fee set by regulation.

(2) Within 30 days of receipt of an application under paragraph (1), the department shall do one of the following:

(i) If the department determines that the system will successfully reduce medical errors by a health care provider, approve the application.

(ii) If the department determines that the system will not successfully reduce medical errors by a health care provider, deny the application. This subparagraph is subject to 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3) Failure to act within the time specified in paragraph (2) shall be deemed approval of the application.

(b) Total quality management health care system implementation.—The department shall provide health care providers with certification of implementation of total quality management health care systems as required by sections 712(g)(5), 733(c)(2) and 741(2).

(c) Regulations.—The department may promulgate regulations to implement this section.

Amend Sec. 3, page 7, line 20, by striking out “immediately.” and inserting as follows:

(1) The amendment or addition of sections 102, 712(g), 733, 741, 902 and 912 of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentlelady, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

Mr. Speaker, much of the discussion about the issue of medical malpractice seems to me to miss the real point. We talk about reporting error after it has occurred; we talk about restricting access to the courts by litigants; we talk about capping noneconomic damages or punitive damages. Why not talk more about preventing error in the first place, and that is what my amendment does.

Back in 1999 the Institute of Medicine reported that medical error is the fifth leading cause of death in the United States, and just last year the Washington Post and the New York Times both did major news articles on the fact that very little has been done since 1999 to correct that situation.

We know that 85 percent of error is about systems and not about individuals and that if we had the proper systems in place, we could prevent problems. If we reduce medical error, we reduce litigation, which reduces insurer payouts and ultimately reduces medical malpractice premiums, and also reduce medical costs in general.

My amendment would provide physicians and other health-care facilities, hospitals and other outpatient facilities, a 20-percent discount on their medical malpractice insurance premiums if they implement a total quality management system. Total quality management systems have been used successfully for years in private industry, and they also have a history of reducing medical error. Legendary American industrialist Henry Ford recognized this nearly a century ago when he introduced the same kinds of total quality management systems that he was using in his automotive factories into a hospital that he established.

The Veterans Administration hospitals recently adopted total quality management systems to reduce medical errors. This is the aspect that we need to focus on much more strongly than we have. With an appropriate management system in place, errors such as illegible prescriptions, wrong-site surgery, hospital-acquired infections, staff fatigue and overwork, are dramatically reduced. This is essential, because medical errors are on the rise despite significant advances in medical technology and training.

The study by the Institute of Medicine of Harvard University that I mentioned earlier revealed that as many as 98,000 people die each year as a result of preventable medical error. Just this year you will all recall that during a heart-and-lung transplant surgery on a 17-year-old female, Duke University Hospital used organs that did not match her blood type. The culprit: a paperwork error. The university admitted the error and immediately implemented a process to prevent such mistakes in the future. How much more beneficial would it have been for that hospital to have looked at its systems in terms of total quality management before that error occurred.

A total quality management system will not only provide some much-needed relief in medical malpractice premiums, it will ensure patient safety and eventually lower overall health-care costs. This is a win-win amendment, it should not be controversial in the least, and I ask for your support.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentlelady.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—158

Adolph	Evans, J.	Lescovitz	Santoni
Allen	Fabrizio	Levdansky	Schroder
Argall	Fairchild	Manderino	Scrimenti
Armstrong	Feese	Mann	Semmel
Baker	Fleagle	Markosek	Shaner
Baldwin	Flick	Marsico	Smith, B.
Bard	Frankel	McCall	Smith, S. H.
Barrar	Freeman	McGeehan	Solobay
Bastian	Gannon	McGill	Staback
Bebko-Jones	George	McIlhatten	Stairs
Belardi	Gergely	McIlhinney	Stetler
Belfanti	Godshall	McNaughton	Stevenson, R.
Bianucci	Goodman	Melio	Stevenson, T.
Bishop	Gordner	Micozzie	Sturla
Blaum	Grucela	Miller, S.	Surra
Boyd	Habay	Mundy	Tangretti
Browne	Haluska	Myers	Taylor, J.
Butkovitz	Hanna	Nailor	Thomas
Buxton	Harhai	O'Brien	Tigue
Caltagirone	Harhart	Oliver	Travaglio

Casorio	Harper	O'Neill	True
Causar	Harris	Pallone	Veon
Cawley	Hasay	Payne	Vitali
Civera	Hennessey	Petrarca	Walko
Cohen	Herman	Petri	Wansacz
Corrigan	Hershey	Petrone	Washington
Costa	Hess	Phillips	Waters
Coy	Hickernell	Pistella	Watson
Cruz	Horsey	Preston	Wheatley
Curry	Hutchinson	Raymond	Williams
Daley	James	Readshaw	Wilt
Dally	Josephs	Reichley	Wojnaroski
DeLuca	Keller	Rieger	Wright
Dermody	Kirkland	Roberts	Yewcic
DeWeese	Kotik	Rooney	Youngblood
DiGirolamo	LaGrotta	Ross	Yudichak
Diven	Laughlin	Rubley	Zug
Donatucci	Leach	Ruffing	
Eachus	Lederer	Sainato	Perzel,
Evans, D.	Leh	Samuelson	Speaker

NAYS—39

Benninghoff	Denlinger	Lynch	Sather
Birmelin	Egolf	Mackereth	Saylor
Bunt	Fichter	Maher	Scavello
Cappelli	Forcier	Major	Steil
Clymer	Gabig	Metcalfe	Stern
Coleman	Geist	Miller, R.	Taylor, E. Z.
Cornell	Gillespie	Nickol	Turzai
Crahalla	Gingrich	Pickett	Vance
Creighton	Kenney	Reed	Weber
Dailey	Lewis	Rohrer	

NOT VOTING—0

EXCUSED—3

Gruitza	Maitland	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. **TANGRETTI** offered the following amendment No. **A1332**:

Amend Title, page 1, line 15, by striking out “AND”

Amend Title, page 1, line 17, by removing the period after “physicians” and inserting

; and extending patient safety standards to certain abortion facilities.

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. The definition of “medical facility” in section 302 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is amended and the section is amended by adding a definition to read:

Section 302. Definitions.

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

“Abortion facility.” A facility or medical facility as defined in 18 Pa.C.S. § 3203 (relating to definitions) which is subject to this

chapter pursuant to section 315(b) or (c) and which is not subject to licensure under the Health Care Facilities Act.

\*\*\*

“Medical facility.” An ambulatory surgical facility, birth center [or], hospital or an abortion facility.

\*\*\*

Section 2. Sections 305(c), 306(b), 310(a)(2), 311(f)(1) and 313(f) of the act are amended to read:

Section 305. Patient Safety Trust Fund.

\*\*\*

(c) Assessment.—Commencing July 1, 2002, each medical facility shall pay the department [a surcharge on its licensing fee] an assessment as necessary to provide sufficient revenues to operate the authority. The total assessment for all medical facilities shall not exceed \$5,000,000. The department shall transfer the total assessment amount to the fund within 30 days of receipt.

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Section 306. Department responsibilities.

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(b) Department consideration.—The recommendations made to medical facilities pursuant to subsection (a)(4) may be considered by the department for licensure purposes under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, and, in the case of abortion facilities, and for approval or revocation purposes pursuant to 28 Pa. Code § 29.43 (relating to facility approval), but shall not be considered mandatory unless adopted by the department as regulations pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Section 310. Patient safety committee.

(a) Composition.—

\*\*\*

(2) An ambulatory surgical facility’s, abortion facility’s or birth center’s patient safety committee shall be composed of the medical facility’s patient safety officer and at least one health care worker of the medical facility and one resident of the community served by the ambulatory surgical facility, abortion facility or birth center who is not an agent, employee or contractor of the ambulatory surgical facility, abortion facility or birth center. No more than one member of the patient safety committee shall be a member of the medical facility’s board of governance. The committee shall include members of the medical facility’s medical and nursing staff. The committee shall meet at least quarterly.

\*\*\*

Section 311. Confidentiality and compliance.

\*\*\*

(f) Access.—

(1) The department shall have access to the information under section 313(a) or (c) and may use such information for the sole purpose of any licensure, approval or corrective action against a medical facility. This exemption to use the information received pursuant to section 313(a) or (c) shall only apply to licensure or corrective actions and shall not be utilized to permit the disclosure of any information obtained under section 313(a) or (c) for any other purpose.

\*\*\*

Section 313. Medical facility reports and notifications.

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(f) Failure to report or notify.—Failure to report a serious event or an infrastructure failure as required by this section or to develop and comply with the patient safety plan in accordance with section 307 or to notify the patient in accordance with section 308(b) shall be a violation of the Health Care Facilities Act[.] and, in the case of an abortion facility, may be a basis for revocation of approval pursuant to 28 Pa. Code § 29.43 (relating to facility approval). In addition to any penalty which may be imposed under the Health Care Facilities Act, or under 18 Pa.C.S. Ch. 32 (relating to abortion), a medical facility which fails to report a serious event or an infrastructure failure or to notify a

licensure board in accordance with this chapter may be subject to an administrative penalty of \$1,000 per day imposed by the department.

Section 3. The act is amended by adding a section to read:

Section 315. Abortion facilities.

(a) General.—This section shall apply to abortion facilities.

(b) Application during current year.—An abortion facility that performs 100 or more abortions after the effective date of this act during the calendar year in which this section takes effect shall be subject to provisions of this chapter at the beginning of the immediately following calendar year and during each subsequent calendar year unless the facility gives the department written notice that it will not be performing 100 or more abortions during such following calendar year and does not perform 100 or more abortion during that calendar year.

(c) Application in subsequent calendar years.—In the calendar years following the effective date of this act, this chapter shall apply to an abortion facility not subject to subsection (b) on the day following the performance of its 100th abortion and for the remainder of that calendar year and during each subsequent calendar year unless the facility gives the department written notice that it will not be performing 100 or more abortions during such following calendar year and does not perform 100 or more abortions during that calendar year.

(d) Patient safety plan.—An abortion facility shall submit its patient safety plan under section 307(c) within 60 days following the application of this chapter to the facility.

(e) Reporting.—An abortion facility shall begin reporting serious events, incidents and infrastructure failures consistent with the requirements of section 313 upon the submission of its patient safety plan to the department.

(f) Construction.—Nothing in this chapter shall be construed to limit the provisions of 18 Pa.C.S. Ch. 32 (relating to abortion) or any regulation adopted under 18 Pa.C.S. Ch. 32.

Section 4. Section 903 of the act is amended to read:

Amend Sec. 2, page 3, line 17, by striking out “2” and inserting  
5

Amend Sec. 3, page 7, line 20, by striking out all of said line and inserting

Section 6. This act shall take effect as follows:

(1) The amendment of section 903 of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Tangretti.

Mr. TANGRETTI. Thank you, Mr. Speaker.

Mr. Speaker, when we did Act 13 last year and set up the Patient Safety Authority, I am sure it was inadvertent, but we did not include abortion clinics within the auspices of those medical facilities that are covered by that act. I do not think that anybody would disagree that our primary concern should be for patient safety. Given the nature of the invasiveness of this procedure performed thousands upon thousands of times over the course of a year, it just makes sense that they ought to be included in the same kind of requirements as every other health-care facility under the act.

We have crafted this amendment in such a way to make it nonburdensome for those facilities that are going to be covered. Regardless of where anybody stands on this issue of abortion, it seems to me that we could all stand together for patient safety of those people who avail themselves of those services.

So I would ask all members to support this amendment that would include abortion facilities under the patient safety requirements of Act 13. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will.

Mr. VITALI. Mr. Speaker, now, I am just trying to get the scope of its applicability. Would this apply to a Planned Parenthood-type facility?

Mr. TANGRETTI. It applies to any facility that performs 100 or more abortions a year.

Mr. VITALI. But some of those institutions or hospitals were already covered, right?

Mr. TANGRETTI. Correct.

Mr. VITALI. But this particular amendment, is it beyond the Planned Parenthood-type facility? Would it in fact apply to a Planned Parenthood-type facility?

Mr. TANGRETTI. If they do more than 100 abortions a year, yes.

Mr. VITALI. And do you know beyond that type of facility who else it might catch that is not already caught by the act that was passed?

Mr. TANGRETTI. Yes. Apparently there are doctors who perform abortions in their office, and this would as well apply to them, again assuming that they reach that 100-abortion threshold. It is not, if I could offer further, it is not something they do as a matter of course but rather as something that they do from time to time. Reaching a threshold of 100 is pretty significant, but we wanted to make sure that if in fact they did, they would be covered.

Mr. VITALI. Have you been made aware of this particular type procedure being particularly problematic, and have you received a number of complaints that would make this extension necessary? I am just wondering what the basis is here.

Mr. TANGRETTI. Well, it is obviously a very serious medical invasive procedure by definition, and as a result, if you are going to apply patient safety kinds of reporting requirements as well as analysis of what needs to be corrected in the medical marketplace, if you will permit, as it is laid out in the Patient Safety Act, why would we not want to include those kinds of conditions for those women who put themselves in that position in an abortion clinic or a doctor's office?

Mr. VITALI. But I guess my question is, is the amendment based on empirical evidence, specific complaints, or just conjecture on your part that this seems like a pretty involved procedure, so therefore, we probably ought to extend it? I mean, is it based on, yes, there have been problems; there have been complaints here; I can point to these complaints, or is it just conjecture?

Mr. TANGRETTI. Even though there is a reporting requirement to the Department of Health relative to these procedures, the information is relatively skimpy, if I can use that phrase. But that is not what it was based on. It was based on, rather, your second qualification, and that is, this is obviously an invasive procedure. There are thousands of them performed every year. The possibility of some problem occurring relative to a complication, relative to poor procedures, poor protocols, various other aspects related to a particular

clinic or facility, they ought to be looked at. They ought to at least, as every other birthing center, ambulatory surgical facility, hospital, doctor's office, any other entity that is covered by the Patient Safety Act, this ought to be included as well for the same reasons.

Mr. VITALI. So if I am hearing you correctly, you do not really have any statistics to show that this is a particularly problematic area. There are no statistics on problems that have occurred in this particular type procedure. Is that correct?

Mr. TANGRETTI. I have not seen any statistics. Does the Department of Health have them? I do not know. There is a reporting procedure that— Excuse me one second, Mr. Speaker.

There is a reporting procedure that is required under the Abortion Control Act. Access to that data, information that is ostensibly provided to the department, is not readily available. I am not going to question that; I am only suggesting to you that if the patient safety aspects of Act 13 are to deal with those kinds of procedures that potentially could have consequences of significant measure, particularly to women in this case, then they ought to be covered under the act.

Mr. VITALI. Have any physicians' groups or nursing groups or any medical groups, you know, voiced any opinions that, yes, this is a problematic area that is not being addressed? What I am trying to do is get at—

Mr. TANGRETTI. Well, let me just, let me just—

Mr. VITALI. —whether this concern is based on, you know, philosophical opposition to abortion or whether it is based on a genuine need to improve safety in this area.

Mr. TANGRETTI. It is based on my personal opinion that we need to look at the safety consequences of the clinics as opposed to any philosophical base, if you are asking my personal opinion.

I have to tell you, too, that the reporting of the statistics of hospital errors or birthing centers or ambulatory surgical facilities has not been given to me either, and yet obviously we found it essential and needed to put it into the patient safety portion, chapter 3 of Act 13. So I do not know that this is any different than those kinds of logical conclusions that one could make relative to those types of medical procedures.

Mr. VITALI. Okay. So if I am hearing you correctly, there are no physicians' groups or nurses' groups or midwives' groups or some professional medical group associated with this area of medicine that said, you know what? this is problematic; we need to deal with it.

Mr. TANGRETTI. To me, no.

Mr. VITALI. Thank you, Mr. Speaker. That concludes my interrogation.

### THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The Chair recognizes the lady from Erie County, Ms. Bebko-Jones, on the amendment.

Ms. BEBKO-JONES. Thank you, Madam Speaker.

Madam Speaker, I would like to interrogate the maker of the amendment, please.

The SPEAKER pro tempore. The gentleman, Mr. Tangretti, agrees. You may proceed.

Ms. BEBKO-JONES. Are not these facilities already covered under this act?

Mr. TANGRETTI. No.

Ms. BEBKO-JONES. And where are you getting that information that they are not?

Mr. TANGRETTI. Because under the definitions that are laid out in Act 13, there are no provisions for this type of facility.

Ms. BEBKO-JONES. What happens to a facility that does not have, I mean, I am more interested in how you threw the number 100 out, okay? What happens to the facilities that do not reach that 100 point, like the—

Mr. TANGRETTI. Then they are not covered.

Ms. BEBKO-JONES. But, and I understand that, but how did you arrive to the 100?

Mr. TANGRETTI. There was a court case in South Carolina, Federal district court, I believe, in which this was upheld, the nature of the limitation on the coverage of whether or not a facility should be included was upheld at 60. After discussion with a number of folks, we decided that 60 may be too burdensome, particularly for a small doctor's office, and so we arbitrarily decided on 100. But there is Federal court precedent at the number of 60.

Ms. BEBKO-JONES. I know you said earlier, regardless of where one stands on the abortion issue, this should have no effect on either side. I think I need to understand from you again when you said previously, regardless of where you stand on the abortion issue, exactly what does this amendment do again?

Mr. TANGRETTI. "Patient Safety," chapter 3 of Act 13, specifically lays out reporting procedures, the ability to create an authority, to create an entity, to look at various kinds of medical incidences, serious incidences, misadventures, or the various other terminology that they use in Act 13, and a reporting procedure to this Patient Safety Authority, whose purpose is to analyze either directly or through a subcontractor this data, analyze this data to assure the people of Pennsylvania and all of us that facilities themselves or even regionally or geographically or the whole State are doing things in the appropriate manner relative to certain procedures, whether that be orthopedic procedures or brain surgery or blood testing or whatever they are doing, and this reporting information— Madam Speaker, I will wait until the gentlelady from Erie is—

Ms. BEBKO-JONES. I am sorry.

Mr. TANGRETTI. That is okay.

Ms. BEBKO-JONES. I am sorry. I just wanted to ask—

Mr. TANGRETTI. I just did not want you to miss—

Ms. BEBKO-JONES. I do not want to miss a thing you say, Madam Speaker.

Mr. TANGRETTI. Thank you.

But in any event, the reporting procedures, the ability for health-care workers to have a protocol to report procedures, to report procedures anonymously, this information then is to be circulated through the system, through the authority, the Department of Health, and to improve the safety of these facilities throughout the Commonwealth — hospitals, birthing centers, ambulatory surgical-care centers, and everybody else who is defined in the act. So it is to improve patient safety.

Ms. BEBKO-JONES. But I thought that that was already included. Would not this amendment be redundant?

Mr. TANGRETTI. It is not.

Ms. BEBKO-JONES. But these facilities are all covered anyway. We do—

Mr. TANGRETTI. They are not.

Ms. BEBKO-JONES. We do— You mean to tell me that hospitals are not covered?

Mr. TANGRETTI. They are.

Ms. BEBKO-JONES. They are; okay.

Mr. TANGRETTI. Hospitals are covered.

Ms. BEBKO-JONES. Well, that is what you said. You listed all of these facilities, but you are adding now—

Mr. TANGRETTI. But would you—

Ms. BEBKO-JONES. Okay.

Mr. TANGRETTI. If I may, Madam Speaker, I would ask the gentlelady a question. Would you agree that there are facilities that are not hospitals that only perform abortions in the Commonwealth?

Ms. BEBKO-JONES. No. Most facilities that I am aware of provide all kinds of women's health care. Maybe one of the services is abortion, but it is many more services like cancer screening, mammo—

Mr. TANGRETTI. That is good—

Ms. BEBKO-JONES. Okay.

Mr. TANGRETTI. —and I agree with that.

Ms. BEBKO-JONES. Okay; okay.

Mr. TANGRETTI. I am not arguing that point. My point is that there are facilities that are not covered under this act. They are not hospitals; they are not birthing centers; they are not ambulatory surgical facilities as defined in the Health Care Facilities Act. These clinics, these abortion operations, are not covered under the patient safety section of the Health Care Facilities Act – I am sorry – of the patient safety section of Act 13. They are not, and I would think— Well, I will let it go at that.

Ms. BEBKO-JONES. No; I am just wondering – that is all – I am just questioning why you are targeting just these facilities. That is all. I mean—

Mr. TANGRETTI. If you are aware—

Ms. BEBKO-JONES. You are telling—

Mr. TANGRETTI. Madam Speaker, if the gentlelady is aware of other facilities out there that should be included, then let us include them. If there is another type of surgical or medical facility that is not included in the patient safety section of Act 13, then let us include them. I am unaware of it, but that does not mean they do not exist.

Ms. BEBKO-JONES. But I believe—

The SPEAKER pro tempore. Is the lady—

Ms. BEBKO-JONES. I am sorry, Madam Speaker. Yes?

The SPEAKER pro tempore. Is the lady asking a question of the gentleman?

Ms. BEBKO-JONES. Yeah, I guess so.

Would you say that these— I am under the understanding, and correct me if I am wrong, that these facilities—

Mr. TANGRETTI. Okay.

Ms. BEBKO-JONES. I know you will.

—these facilities are already, maybe not in that particular act that you are referring to, but are covered. There is a reporting process. They do report; they do review. If they are just an abortion clinic themselves without providing any other health-care services, they have to provide everything by law under the Abortion Control Act. Am I right or wrong?

Mr. TANGRETTI. You are correct, but so do hospitals, birthing centers, ambulatory surgical facilities, and we felt, all of us collectively, last year—

Ms. BEBKO-JONES. Who is all of you collectively?

Mr. TANGRETTI. I beg your pardon?

Ms. BEBKO-JONES. Who is all of us—

Mr. TANGRETTI. This legislature.

Ms. BEBKO-JONES. Okay.

Mr. TANGRETTI. When we passed Act 13 collectively, we decided that irrespective of whatever reporting requirements are on the books now for hospitals, ambulatory surgical facilities, birthing centers, any other kinds of medical, regardless of what kinds of reporting requirements they have now, we still need to do this patient safety reporting process, and we decided as a group that this is the best thing that we could do to enhance the safety of all of our Pennsylvania citizens who go through these facilities, and I believe, inadvertently, we did not include these clinics that should have been included. We are talking about, and I do not want to be redundant here because I know you hate when I am redundant, I do not want to be redundant, but this is about the safety procedures and precautions for the women who visit those clinics.

Ms. BEBKO-JONES. Okay. So in other words, you are just trying to include every facility that deals with any kind of a medical procedure.

Mr. TANGRETTI. That is correct.

Ms. BEBKO-JONES. Okay.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the lady from Philadelphia, Ms. Josephs, on the amendment.

Ms. JOSEPHS. Thank you, Madam Speaker.

I also would like to question the maker of the amendment.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Ms. JOSEPHS. Thank you. Thank you.

Under the Abortion Control Act, I believe of 1989, there were many reporting requirements placed on any facility that did pregnancy terminations. I wonder if you might tell me, Madam Speaker, what those standards were and how these standards fit in and whether or not they are redundant.

Mr. TANGRETTI. I will repeat, Madam Speaker, for the gentlelady from Philadelphia what I had just indicated. Regardless of any reporting requirements already on the books, whether they are for hospitals, for doctors, for ambulatory surgical centers, birthing centers, we collectively decided it was not enough. Now, we still need to have the kinds of reporting requirements as laid out in the patient safety section of Act 13, and so regardless of the requirements under the Abortion Control Act, this is just one more requirement as we have placed on all medical facilities in the Commonwealth.

Ms. JOSEPHS. Madam Speaker, I have another question. Was your amendment ever considered in a committee? Was it subject to a hearing? Has there been any public input?

Mr. TANGRETTI. No, but I quickly follow up and say that the safety of women I do not think is a matter that we need to debate that long about. It just seems to me that the Mcare (Medical Care Availability and Reduction of Error) Act, when it comes to the floor and I have my first opportunity to discuss the possibility of extending safety to women who avail themselves of these services, that we ought to do it, and I do not think we need a hearing to conclude that.

Ms. JOSEPHS. Finally, Madam Speaker, I would like to know if any of the advocates on either side of this issue, while I can tell on the anti-legal-abortion side what people would say,



how about the pro-choice advocates. Have they weighed in? Have we heard anything from them?

Mr. TANGRETTI. I have not heard anything from them.

Ms. JOSEPHS. Madam Speaker, I am finished with my interrogation. I thank the gentleman. May I make a statement?

The SPEAKER pro tempore. The lady may proceed.

Ms. JOSEPHS. Thank you, Madam Speaker.

This is, I think again, another instance of getting legislation that we have not had the opportunity to really discuss with the public. While it may be true, as the maker of this amendment says, that we made a policy decision about what needs to be reported by various medical facilities, I still got no answer whatsoever that was satisfactory on how these proposed reporting requirements and setting up of committee requirements and other requirements fit in or do not fit in with the Abortion Control Act. We have nothing comparable to the Abortion Control Act when we are talking about any other legitimate, safe surgical procedure. This, by the way, Madam Speaker, is not a dangerous procedure. This is one of the safest procedures known to humankind, and terminating a pregnancy surgically or under proper medical care is the safest thing you can do once you are pregnant. It is safer than delivering.

So this is not a dangerous procedure, and we do not know as we are sitting here and voting how the requirements that this amendment would impose fit into already imposed requirements. We do not know what it would cost these facilities. We do not know what the passthrough price might be to patients for these extra procedures.

I do not know, of my own knowledge, how “ambulatory surgical facility” is defined in this act and whether it includes women’s health facilities.

I am appalled, again, that we had no input, public input, that this was not in a committee. If this is such an obvious, easy bill, it should have been an exposed amendment; it should have been exposed to the light.

I myself am going to vote “no” on this amendment, and I hope that those of you who really care about the health and safety of women will do the same. We can discuss this at some later date, get it right if we have to, but we need to have the information before we can vote.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman from Lancaster County, Mr. Sturla, on the amendment.

Mr. STURLA. Thank you, Madam Speaker.

Will the maker of the amendment rise for brief interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. STURLA. Thank you, Madam Speaker.

The requirements under the Patient Safety Act for reporting, would that then preclude abortion facilities from having to report information under the Abortion Control Act?

Mr. TANGRETTI. Excuse me one second, Madam Speaker. I was having a tough time hearing you. Was the question— Would you repeat the question?

Mr. STURLA. The requirements under the Patient Safety Act for reporting, would that then eliminate the need for abortion facilities to do the reporting that they are currently required under the Abortion Control Act, or would they—

Mr. TANGRETTI. It would not.

Mr. STURLA. Okay. So they would have to produce the same information twice and report it twice. Is that the—

Mr. TANGRETTI. As we discussed under the act, Act 13, in the Insurance Committee when the Patient Safety Authority members and director were before us in a hearing, hospitals, all other entities, have to do the same reporting, and there was a discussion about the fact that maybe we ought to streamline that process. But the fact of the matter is, yes, hospitals, ambulatory surgical facilities, everybody else who is covered under the act, have to do the reporting the same way they are doing it and in addition to which we prescribed under the safety provisions under Act 13.

Mr. STURLA. Madam Speaker, another question. My understanding is that there is an assessment facility on every medical facility, including abortion facilities, to create a \$5 million fund to pay for the Patient Safety Authority at the State level. Does this amendment, do we know what would be required of abortion facilities now to comply with this amendment?

Mr. TANGRETTI. Yes. The authority determined the price of \$105 per bed for hospitals, and, for example, ambulatory surgical facilities, \$105 per every procedure room that they have. Obviously the authority is going to be the one who determines the assessment. In discussions, informal discussions, we believe that they will assess those facilities in the same way that they assess the ambulatory surgical facilities; that is, \$105 per procedure room.

Mr. STURLA. Is that specified in your amendment or will that be left up to bureaucrats to decide?

Mr. TANGRETTI. The assessment as defined by the authority.

Mr. STURLA. Which will be someone else determining it other than the legislature. There is not a guarantee that it is at the same rate. Is that correct?

Mr. TANGRETTI. Well, I believe it is. You are asking me for a guarantee? I do not have a guarantee, but I believe it is.

Mr. STURLA. Okay.

Mr. TANGRETTI. I do not think there is a precedent for charging an additional assessment for one facility as opposed to another.

Mr. STURLA. Do you have a fiscal note on this? Can you tell us what the cost to the State will be as a result of these additional reporting—

Mr. TANGRETTI. The fiscal note was circulated, and it is a minimal cost to the Commonwealth.

Mr. STURLA. Thank you.

Thank you, Madam Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—191

Adolph	Evans, J.	Lewis	Samuelson
Allen	Fabrizio	Lynch	Santoni
Argall	Fairchild	Mackereth	Sather
Armstrong	Feese	Maher	Saylor
Baker	Fichter	Major	Scavello
Baldwin	Fleagle	Manderino	Schroder
Bard	Flick	Mann	Scrimenti
Barrar	Forcier	Markosek	Semmel

Bastian	Frankel	Marsico	Shaner
Bebko-Jones	Freeman	McCall	Smith, B.
Belardi	Gabig	McGeehan	Smith, S. H.
Belfanti	Gannon	McGill	Solobay
Benninghoff	Geist	McIlhatten	Staback
Biancucci	George	McIlhinney	Stairs
Birmelin	Gergely	McNaughton	Steil
Bishop	Gillespie	Melio	Stern
Blaum	Gingrich	Metcalfe	Stetler
Boyd	Godshall	Micozzie	Stevenson, R.
Browne	Goodman	Miller, R.	Stevenson, T.
Bunt	Gordner	Miller, S.	Sturla
Buxton	Grucela	Mundy	Surra
Caltagirone	Habay	Myers	Tangretti
Cappelli	Haluska	Nailor	Taylor, E. Z.
Casorio	Hanna	Nickol	Taylor, J.
Causer	Harhai	O'Brien	Tigue
Cawley	Harhart	Oliver	Travaglio
Civera	Harper	O'Neill	True
Clymer	Harris	Pallone	Turzai
Coleman	Hasay	Payne	Vance
Cornell	Hennessey	Petrarca	Veon
Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Hess	Phillips	Washington
Crahalla	Hickernell	Pickett	Waters
Creighton	Horsey	Pistella	Watson
Cruz	Hutchinson	Preston	Weber
Dailey	James	Raymond	Wheatley
Daley	Keller	Readshaw	Williams
Dally	Kenney	Reed	Wilt
DeLuca	Kirkland	Reichley	Wojnaroski
Denlinger	Kotik	Rieger	Wright
Dermody	LaGrotta	Roberts	Yewcic
DeWeese	Laughlin	Rohrer	Youngblood
DiGirolamo	Leach	Rooney	Yudichak
Diven	Lederer	Ross	Zug
Donatucci	Leh	Rublely	
Eachus	Lescovitz	Ruffing	Perzel,
Egolf	Levdansky	Sainato	Speaker
Evans, D.			

## NAYS—6

Butkovitz	Curry	Thomas	Vitali
Cohen	Josephs		

## NOT VOTING—0

## EXCUSED—3

Gruitza	Maitland	Roebuck
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

**RULES SUSPENDED**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Micozzie.

Mr. MICOZZIE. Madam Speaker, I move that the rules of the House be suspended in order to offer amendment A1489.

On the question,  
Will the House agree to the motion?

The following roll call was recorded:

## YEAS—197

Adolph	Egolf	Levdansky	Santoni
Allen	Evans, D.	Lewis	Sather
Argall	Evans, J.	Lynch	Saylor
Armstrong	Fabrizio	Mackereth	Scavello
Baker	Fairchild	Maher	Schroder
Baldwin	Feese	Major	Scrimenti
Bard	Fichter	Manderino	Semmel
Barrar	Fleagle	Mann	Shaner
Bastian	Flick	Markosek	Smith, B.
Bebko-Jones	Forcier	Marsico	Smith, S. H.
Belardi	Frankel	McCall	Solobay
Belfanti	Freeman	McGeehan	Staback
Benninghoff	Gabig	McGill	Stairs
Biancucci	Gannon	McIlhatten	Steil
Birmelin	Geist	McIlhinney	Stern
Bishop	George	McNaughton	Stetler
Blaum	Gergely	Melio	Stevenson, R.
Boyd	Gillespie	Metcalfe	Stevenson, T.
Browne	Gingrich	Micozzie	Sturla
Bunt	Godshall	Miller, R.	Surra
Butkovitz	Goodman	Miller, S.	Tangretti
Buxton	Gordner	Mundy	Taylor, E. Z.
Caltagirone	Grucela	Myers	Taylor, J.
Cappelli	Habay	Nailor	Thomas
Casorio	Haluska	Nickol	Tigue
Causer	Hanna	O'Brien	Travaglio
Cawley	Harhai	Oliver	True
Civera	Harhart	O'Neill	Turzai
Clymer	Harper	Pallone	Vance
Cohen	Harris	Payne	Veon
Coleman	Hasay	Petrarca	Vitali
Cornell	Hennessey	Petri	Walko
Corrigan	Herman	Petrone	Wansacz
Costa	Hershey	Phillips	Washington
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rublely	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz	Samuelson	Speaker

## NAYS—0

## NOT VOTING—0

## EXCUSED—3

Gruitza	Maitland	Roebuck
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A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. **MICOZZIE** offered the following amendment No. **A1489**:

Amend Title, page 1, lines 15 and 16, by striking out “REPORTING; AND providing for” and inserting

powers and duties of the authority, for patient safety plans, for additional adjustments of the prevailing primary premium, for medical facility reports and notification, for claims, for medical professional liability insurance and for reporting; providing for reports by hospitals and health care facilities and for voluntary contractual arbitration; further providing for annual report; further defining “nonparticipating health care provider” and “participating health care provider”; providing for

Amend Title, page 1, line 17, by removing the period after “physicians” and inserting

; and establishing the Mcare Assessment Need Program.

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. Sections 304(b), 307(d) and 313 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, are amended to read:  
Section 304. Powers and duties.

\* \* \*

(b) Anonymous reports to the authority.—A health care worker [who has complied with section 308(a)] may file an anonymous report regarding a serious event with the authority. Upon receipt of the report, the authority shall give notice to the affected medical facility that a report has been filed. The authority shall conduct its own review of the report unless the medical facility has already commenced an investigation of the serious event. The medical facility shall provide the authority with the results of its investigation no later than 30 days after receiving notice pursuant to this subsection. If the authority is dissatisfied with the adequacy of the investigation conducted by the medical facility, the authority shall perform its own review of the serious event and may refer a medical facility and any involved licensee to the department for failure to report pursuant to section 313(e) and (f).

\* \* \*

Section 307. Patient safety plans.

\* \* \*

(d) Employee notification.—Upon approval of the patient safety plan, a medical facility shall notify all health care workers of the medical facility of the patient safety plan[.] and specifically designate in such notification the process through which health care workers will report any serious events and incidents at the medical facility. The department shall establish for use by medical facilities a uniform procedure for notifying health care workers of the patient safety plan. Compliance with the patient safety plan shall be required as a condition of employment or credentialing at the medical facility.

Section 313. Medical facility reports and notifications.

(a) Serious event reports.—A medical facility shall report the occurrence of a serious event to the department and the authority within 24 hours of the medical facility’s confirmation of the occurrence of the serious event. The report to the department and the authority shall be in the form and manner prescribed by the authority in consultation with the department and shall not include the name of any patient or any other identifiable individual information.

(b) Incident reports.—A medical facility shall report the occurrence of an incident to the authority in a form and manner

prescribed by the authority and shall not include the name of any patient or any other identifiable individual information.

(c) Infrastructure failure reports.—A medical facility shall report the occurrence of an infrastructure failure to the department within 24 hours of the medical facility’s confirmation of the occurrence or discovery of the infrastructure failure. The report to the department shall be in the form and manner prescribed by the department.

(d) Effect of report.—Compliance with this section by a medical facility shall satisfy the reporting requirements of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(e) Notification to licensure boards.—If a medical facility discovers that a licensee providing health care services in the medical facility during a serious event failed to report the event in accordance with section 308(a), the medical facility shall notify the licensee’s licensing board of the failure to report.

(e.1) Additional reporting.—If a medical facility is named in a medical liability action which results in a judgment against the facility of \$50,000 or more, the medical facility shall, within 30 days of final adjudication, report the judgment to the department. The report shall contain a description of the occurrence, the location the occurrence took place and the amount of the award. The department shall make such reports available to the general public on its World Wide Web site.

(f) Failure to report or notify.—Failure to [report a serious event or an infrastructure failure as required by this section] comply with the reporting requirements of subsection (a), (b) or (e.1) or to develop and comply with the patient safety plan in accordance with section 307 or to notify the patient in accordance with section 308(b) shall be a violation of the Health Care Facilities Act. In addition to any penalty which may be imposed under the Health Care Facilities Act[, a];

(1) A medical facility which fails to report a serious event or an infrastructure failure or to notify a licensure board in accordance with this chapter may be subject to an administrative penalty of \$1,000 per day imposed by the department.

(2) A medical facility which fails to notify a patient in accordance with section 308(b) is subject to an administrative penalty of \$5,000 imposed by the department.

(g) Report submission.—Within 30 days following notice published pursuant to section 5103, a medical facility shall begin reporting serious events, incidents and infrastructure failures consistent with the requirements of this section.

Section 1.1. The definitions of “nonparticipating health care provider” and “participating health care provider” in section 702 of the act are amended to read:

Section 702. Definitions.

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

\* \* \*

“Nonparticipating health care provider.” A health care provider as defined in section 103 that conducts [20%] 50% or less of its health care business or practice within this Commonwealth.

“Participating health care provider.” A health care provider as defined in section 103 that conducts more than [20%] 50% of its health care business or practice within this Commonwealth or a nonparticipating health care provider who chooses to participate in the fund.

\* \* \*

Section 1.2. Sections 712(g), 714(g) and 732 of the act are amended to read:

Section 712. Medical Care Availability and Reduction of Error Fund.

\* \* \*

(g) Additional adjustments of the prevailing primary premium.—The department shall adjust the applicable prevailing primary premium of each participating health care provider in accordance with the following:

(1) The applicable prevailing primary premium of a participating health care provider which is not a hospital may be

adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency of claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods and shall be in accordance with the following:

(i) If three claims have been paid during the past five most recent claims periods by the fund, a 10% increase shall be charged.

(ii) If four or more claims have been paid during the past five most recent claims periods by the fund, a 20% increase shall be charged.

(2) The applicable prevailing primary premium of a participating health care provider which is not a hospital and which has not had an adjustment under paragraph (1) may be adjusted through an increase in the individual participating health care provider's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the severity of at least two claims paid by the fund on behalf of the individual participating health care provider during the past five most recent claims periods.

(3) The applicable prevailing primary premium of a participating health care provider not engaged in direct clinical practice on a full-time basis may be adjusted through a decrease in the individual participating health care provider's prevailing primary premium [not to exceed 10%]. Any adjustment shall be based upon the lower risk associated with the less-than-full-time direct clinical practice.

(4) The applicable prevailing primary premium of a hospital may be adjusted through an increase or decrease in the individual hospital's prevailing primary premium not to exceed 20%. Any adjustment shall be based upon the frequency and severity of claims paid by the fund on behalf of other hospitals of similar class, size, risk and kind within the same defined region during the past five most recent claims periods.

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#### Section 714. Medical professional liability claims.

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(g) [Mediation. - Upon the request of a party to a medical professional liability claim within the fund coverage limits, the department may provide for a mediator in instances where multiple carriers disagree on the disposition or settlement of a case. Upon the consent of all parties, the mediation shall be binding. Proceeding conducted and information provided in accordance with this section shall be confidential and shall not be considered public information subject to disclosure under the Act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-to-Know Law, or 65 Pa.C.S. Ch. 7 (relating to open meetings).] Medical malpractice small claims dispute resolution.

(1) If a claimant believes that he is a victim of medical malpractice, he shall have the right to request that the claim be heard by medical malpractice small claims arbitration, medical malpractice small claims mediation or summary jury trial as alternatives to formal litigation in Federal or State court.

(2) (i) In order to utilize the medical malpractice small claims arbitration procedure, all parties must agree in writing to submit the claim to medical malpractice small claims arbitration and be subject to the provisions of this subsection. The arbitration procedure shall be commenced by the claimant serving the defendant, via certified or registered mail, with a statement of claim and notice of intent. The statement of claim shall set forth, with sufficient specificity as required in a formal civil complaint pursuant to the Pennsylvania Rules of Civil Procedure, the nature of the alleged malpractice, the resulting injuries and the damages sought. The notice of intent shall state that the claimant desires to have the claim heard by medical malpractice small claims

arbitration and inquires whether the defendant desires the same. If the defendant does not respond within 30 days of service of the statement of claim and notice of intent, it shall be deemed that the defendant does not agree to have the claim heard by medical malpractice small claims arbitration and the claim shall not be heard in that manner. If the defendant does agree to have the claim heard in that manner, an affirmative response shall be served upon the claimant within 30 days of initial service along with an answer to the statement of claim, as would be filed in response to a formal civil complaint pursuant to the Pennsylvania Rules of Civil Procedure. A defendant's agreement, disagreement or lack of response to a medical malpractice small claims arbitration request shall in no way be deemed an admission of liability.

(ii) (A) Nonparty testimony, whether expert testimony or lay testimony, can be submitted without standard formalities by means of affidavit, opinion letter, deposition testimony, curriculum vitae and exhibits including, but not limited to, photographs, medical records, reports and bills, radiology studies, employment records, wage information, business records, official records maintained by the Commonwealth and standard U.S. Government life expectancy tables, if at least 30 days' advance written notice was given to the opposing party along with copies of all materials that are to be submitted.

(B) Any materials submitted may be used only for purposes which would be permissible if the person whose testimony is waived were present and testifying at the hearing.

(C) The parties can testify live, by standard deposition or by videotape deposition.

(D) Except as provided for in this subsection, the Pennsylvania Rules of Evidence shall be applicable.

(E) Any party may have a transcript and recording of the arbitration proceeding made at his or her own expense.

(F) Legal memoranda can be submitted.

(G) The arbitrators are to ensure that a full, fair and impartial hearing and review of the evidence is conducted.

(H) The hearing may proceed in the absence of a party who, after due notice, fails to appear.

(I) Unless the parties agree otherwise, the hearing is to be held in the county where the cause of action arose.

(iii) The following criteria shall apply to the arbitration panel:

(A) There shall be three arbitrators in an arbitration proceeding.

(B) Each arbitrator shall be an attorney licensed in this Commonwealth.

(C) Each party shall select an arbitrator. The selected arbitrators shall select a chair arbitrator. If a party does not select an arbitrator within 20 days of being requested to do so, if the arbitrators selected cannot agree within 20 days on the selection of a chair arbitrator or if there are more than two parties involved and they cannot agree within 20 days of being requested to jointly select an arbitrator, either party may petition a court of competent jurisdiction to make the necessary selections.

(D) The arbitrators shall be independent of all parties, witnesses and legal counsel.

(E) Each party shall be responsible for the compensation of the arbitrator selected by or for that party. The compensation for the chair arbitrator shall be shared by the parties.

(F) After the arbitrators are selected and before an award is made, there shall be no ex parte communication with the arbitrators by the parties or their counsel.

(G) The arbitrators shall consider all relevant evidence that has been properly submitted along with any legal memoranda and shall decide the issues of liability, amount of damages and apportionment of liability among the parties.

(H) The chair arbitrator, at the request of a party and upon good cause shown, may subpoena a party or individual to attend the hearing or a deposition and, unless otherwise provided for in this subsection, the party requesting the subpoena shall pay the reasonable fees and costs of the person being subpoenaed to testify, including a reasonable expert witness fee if applicable.

(I) The chair arbitrator shall determine the date, time and place of the hearing and shall provide the other arbitrators and parties with at least 30 days' advance notice.

(J) The chair arbitrator shall decide any prehearing issues that may arise.

(K) Issues that arise during the hearing shall be heard by the arbitrators and shall be decided by a majority of the arbitrators.

(L) The chair arbitrator shall have the authority to administer oaths or affirmations to witnesses and to adjourn an uncompleted hearing from day to day.

(M) The arbitrators shall have the authority to decide all issues of law and fact, determine liability and award damages.

(N) The decision of the arbitrators shall not be used as evidence in any future proceeding.

(O) The arbitrators may not be called as witnesses in any future proceeding.

(P) Except as provided for in this subsection, the arbitrators shall follow the laws of this Commonwealth and shall be guided by the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Evidence.

(iv) If requested by a defendant, the claimant shall undergo one physical examination, one mental examination and one vocational examination. All expenses associated with the examination shall be borne by the requesting party. All examinations shall be conducted in this Commonwealth. If the examination to be conducted is located more than 50 miles from the claimant's residence, any traveling and associated expenses of the claimant are to be borne by the party requesting the examination. Upon a clear showing of good cause and substantial need, the chair arbitrator can order additional examinations.

(v) Each party shall provide up to five depositions without any request to be compensated for lost wages or travel expenses. It is up to the parties to agree where the depositions are to be held with the objective of minimizing the expense and inconvenience of the parties and witnesses. If the parties cannot agree,

the chair arbitrator shall have the authority to decide when and where the deposition will be held. Parties shall bear their own expenses and those of their counsel. The party requesting the deposition shall bear any costs of the witness and any stenographic and video costs of the deposition.

(vi) Other than as provided for in this act, the parties may exercise all discovery rights, remedies and procedures available as if the claim were pending in a court of common pleas except that the chair arbitrator shall decide all discovery issues and there shall be no right to appeal the chair arbitrator's decision regarding discovery issues.

(vii) The total monetary award, excluding any award of delay damages, that can be rendered for any and all damages per claim, whether the claim includes one or more individual claimants, cannot exceed \$250,000.

(viii) If the parties stipulate or otherwise agree in writing that the arbitration award shall be binding, the claimant shall be entitled to reasonable attorney fees and costs if the claimant is the prevailing party as defined in 42 U.S.C. § 1988 (Public Law 94-559).

(ix) Arbitrators shall have the authority to award delay damages.

(x) Arbitrators shall render an award within ten days from the conclusion of the hearing. The award shall dispose of all claims and be signed by all arbitrators or by a majority of them. The award need not contain factual findings or legal conclusions. Once signed, the award shall be immediately sent to all parties and filed with the prothonotary in a court of competent jurisdiction where the action could have been originally filed had the parties not agreed to small claims arbitration.

(xi) Unless the parties stipulate or otherwise agree in writing, either party shall have the right to appeal the award for a trial de novo in a court of competent jurisdiction. No reference to the agreement of medical malpractice small claims arbitration, the hearing, the findings or the award shall be made during a subsequent trial, except that testimony introduced at the arbitration hearing may be used for purposes otherwise permitted under the laws of this Commonwealth. An appeal by any party shall be deemed an appeal by all parties as to all issues unless otherwise stipulated to in writing by all parties. The appeal shall be filed in accordance with the Pennsylvania Rules of Civil Procedure.

(xii) Unless an appeal is properly filed, a defendant shall, if there was no finding of joint and several liability, immediately pay any monetary arbitration award or its respective portion of the award. If no appeal has been properly filed and the arbitration has not been paid by the 30th day from the date of the award, interest shall accrue at the rate of 18% per annum from the date of the award. The award may be enforced pursuant to the Pennsylvania Rules of Civil Procedure.

(xiii) Other than as provided for in this section, the procedures that can be undertaken once an award has been rendered, including, but not limited to, transferring, recording and enforcing a judgment, shall be governed by the Pennsylvania Rules of Civil Procedure.

(xiv) The service of a statement of claim and notice of intent shall toll the statute of limitations. All claims for recovery pursuant to this section must be commenced within the applicable statute of limitations.

(3) (i) In order to utilize the medical malpractice small claims mediation procedure set forth in this subsection, all parties must agree in writing to the procedure.

The mediation procedure shall be commenced by the claimant serving the defendant, via certified or registered mail, with a statement of claim and notice of intent. The statement of claim shall set forth, with sufficient specificity as required in a formal civil complaint pursuant to the Pennsylvania Rules of Civil Procedure, the nature of the alleged malpractice, the resulting injuries and the damages sought. The notice of intent shall state that the claimant desires to have the claim heard by medical malpractice small claims mediation and inquires whether the defendant desires the same. If the defendant does not respond within 30 days of service of the statement of claim and notice of intent, it shall be deemed that the defendant does not agree to have the claim heard by medical malpractice small claims mediation and the claim shall not be heard in that manner. If the defendant does agree to have the claim heard in that manner, an affirmative response shall be served upon the claimant within 30 days of initial service along with an answer to the statement of claim as would be filed in response to a formal civil complaint pursuant to the Pennsylvania Rules of Civil Procedure. A defendant's agreement, disagreement or lack of response to a medical malpractice small claims mediation request shall in no way be deemed an admission of liability.

(ii) The conduct of mediation conferences shall be as follows:

(A) Testimony shall be submitted by affidavit, opinion letter, deposition testimony and curriculum vitae and exhibits, including, but not limited to, photographs, medical records, reports and bills, radiology studies, employment records, wage information, business records, official records maintained by the Commonwealth and standard U.S. Government life expectancy tables can be submitted if at least 30 days' advance written notice was given to the opposing party along with copies of all materials that are to be submitted.

(B) Any materials submitted may be used only for purposes which would be permissible if the person whose testimony is waived were present and testifying at the hearing.

(C) Legal memoranda may be submitted.

(D) The mediator shall ensure that a full, fair and impartial mediation and review of the evidence is conducted.

(E) Other than the mediator, only counsel of the parties shall attend the mediation conference.

(F) Unless the parties agree otherwise, the mediation conference shall be held in the county where the cause of action arose.

(G) Any discussions or statements made during the mediation conference shall remain confidential, shall not be deemed admissions by a party and shall not be utilized in any future proceeding.

(iii) The following criteria shall apply to mediation conferences:

(A) There shall be one mediator for each mediation conference.

(B) Each mediator shall be an attorney licensed in the Commonwealth, in private practice, who has at least ten years of medical malpractice litigation experience and who has represented both claimants and physicians in medical malpractice cases.

(C) The parties can agree on a mediator or the commissioner shall select a mediator if the parties are unable to agree and at least 60 days have passed since the parties agreed to have the claim decided under this subsection.

(D) The mediator shall be independent of all parties, witnesses and legal counsel.

(E) The compensation for the mediator shall be shared by the parties.

(F) After the mediator is selected there shall be no ex parte communication with the mediator by the parties or their counsel.

(G) The mediator shall consider all relevant evidence that has been properly submitted along with any legal memoranda to help the parties reach a resolution of the claim.

(H) The mediator shall determine the date, time and place of the conference and shall provide the parties with at least 30 days' advance notice.

(I) The mediator shall not be called as a witness in any future proceeding.

(iv) Each party shall provide up to five depositions without any request to be compensated for lost wages or travel expenses. All depositions shall be held in this Commonwealth. The parties shall agree where the depositions are to be held with the objective of minimizing the expense and inconvenience of the parties and witnesses. If the parties cannot agree, the mediator shall decide when and where the deposition will be held. Parties shall bear their own expenses and those of their counsel. The party requesting the deposition shall bear any costs of the witness and any stenographic and video costs of the deposition.

(v) Except as provided for in this act, the parties may exercise all discovery rights, remedies and procedures available as if the claim were pending in a court of common pleas except that the chair arbitrator shall decide all discovery issues and there shall be no right to appeal the chair arbitrator's decision regarding discovery issues.

(vi) The total damages, excluding any award of delay damages, the mediator can recommend for any and all damages per claim, whether a claim includes one or more individual claimants, cannot exceed \$250,000.

(vii) If the parties stipulate or otherwise agree in writing that the mediator's recommendation shall be binding, the claimant shall be entitled to reasonable attorney fees and, if applicable, costs and delay damages if the claimant is the prevailing party.

(viii) Unless the parties stipulate or otherwise agree in writing, the recommendations by the mediator shall not be binding.

(ix) If the parties resolve the claim, any monetary settlement shall be paid within 30 days. If the settlement amount has not been paid in full by the 30th day from the date of settlement of the claim, interest shall accrue at the rate of 18% per annum from the date of the settlement. If a nonbreaching party has to file an action with a court for breach of contract or to otherwise enforce the settlement agreement, reasonable attorney fees, costs and a penalty of 50% of the settlement may be imposed on the breaching party.

(x) The service of a statement of claim and notice of intent will toll the statute of limitations. All claims for recovery pursuant to this subsection must be commenced within the applicable statute of limitations.

(4) After a writ of summons or complaint has been properly filed, the parties may agree, if permitted by the court in which the summons or complaint has been filed, to have the claim heard by way of summary jury trial. Unless the court in which the summons or complaint was filed provides otherwise, the summary jury trial procedure shall be as follows:

(i) Unless otherwise agreed to by the parties, the summary jury trial shall not be binding.

(ii) The parties, their counsel and an individual who has settlement authority shall attend the summary jury trial.

(iii) The parties shall at all times exercise good faith effort to amicably resolve the claim.

(iv) Unless otherwise agreed to by the parties, summary juries shall consist of 12 jurors.

(v) Each party shall be entitled to two peremptory challenges.

(vi) The claimant shall proceed first and may save a portion of his allotted time for rebuttal.

(vii) Counsel for each party shall be entitled to a one-half hour presentation of the case. The presentation may involve a combination of argument, a summary of the evidence to be presented and a statement of the applicable law, if needed to answer any special verdict questions. Counsel may quote from depositions and may use exhibits. Counsel shall provide a list of exhibits he intends to use to opposing counsel at least 30 days prior to the summary jury trial. Counsel shall provide proposed jury instructions to opposing counsel and the court at least 30 days prior to the summary jury trial. Nothing done by counsel with regard to the summary jury trial will be binding on counsel or the parties or shall constitute a waiver.

(viii) No live testimony shall be permitted.

(ix) The claim shall be submitted to the jury by special verdict questions which will be provided by the parties.

(x) A majority verdict representing 5/6 of the jury shall be required with respect to each verdict question.

(xi) The jury shall determine liability and damages.

(5) The methods of dispute resolution in this subsection shall not be construed as a limitation on the parties' ability to agree on alternative dispute resolution methods or to agree to modify the methods provided in this subsection.

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Section 732. Medical professional liability insurance.

(a) Insurance.—[The] Except as provided in subsection (d), the joint underwriting association shall offer medical professional liability insurance to health care providers and professional corporations, professional associations and partnerships which are entirely owned by health care providers who cannot conveniently obtain medical professional liability insurance through ordinary methods at rates not in excess of those applicable to similarly situated health care providers, professional corporations, professional associations or partnerships.

(b) Requirements.—The joint underwriting association shall ensure that the medical professional liability insurance it offers does all of the following:

(1) [Is] Except as provided in subsection (d), is conveniently and expeditiously available to all health care providers required to be insured under section 711.

(2) Is subject only to the payment or provisions for payment of the premium.

(3) Provides reasonable means for the health care providers it insures to transfer to the ordinary insurance market.

(4) Provides sufficient coverage for [a health care provider] the health care providers it insures to satisfy its

insurance requirements under section 711 on reasonable and not unfairly discriminatory terms.

(5) Permits [a health care provider] the health care providers it insures to finance its premium or allows installment payment of premiums subject to customary terms and conditions.

(c) Claims-free credit.—The joint underwriting association shall provide a discount of at least 15% on the applicable premium to any noninstitutional full-time health care provider making application for insurance covering a period of at least six months, if it can be documented that a health care provider has a claims-free experience. This subsection shall expire ten years after the effective date of this subsection unless maintaining the discount is proven to be actuarially justified. No other credit for claims-free experience shall apply while this subsection remains in force.

(d) Certain policies prohibited.—Except as provided in paragraph (5), the joint underwriting association shall not offer medical professional liability insurance to any health care provider making application who discloses any of the following:

(1) The health care provider's medical license has been revoked in any state.

(2) The health care provider's license to dispense or prescribe drugs or medication has been revoked in this Commonwealth or any other state.

(3) The health care provider has had three or more medical liability claims in the past five most recent years in which the judgment against the provider or settlement entered was \$500,000 or more for each claim.

(4) The health care provider has been convicted, or entered a plea of guilty or no contest for any of the following offenses:

(i) A felony violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

(iii) 18 Pa.C.S. § 2702 (relating to aggravated assault).

(iv) 18 Pa.C.S. § 2709.1 (relating to stalking).

(v) 18 Pa.C.S. Ch. 29 (relating to kidnapping).

(vi) 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

(vii) 18 Pa.C.S. § 3301 (relating to arson and related offenses).

(viii) 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).

(ix) 18 Pa.C.S. Ch. 35 (relating to burglary and other criminal intrusion).

(x) 18 Pa.C.S. Ch. 37 (relating to robbery).

(xi) A felony violation under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses).

(xii) 18 Pa.C.S. Ch. 59 (relating to public indecency).

(5) A health care provider who is ineligible to obtain medical professional liability insurance under paragraph (4) may become eligible to apply for such insurance with the joint underwriting association upon a determination by the health care provider's State licensing board that the health care provider is fit to practice medicine. The licensing board shall make such a determination upon the health care provider's demonstration to the licensing board's satisfaction that the health care provider has been rehabilitated and possesses the requisite competency, skill and moral character to return to practice. The health care provider shall not be eligible to petition the licensing board for a determination that he is fit to practice until after the resolution of any disciplinary action that may be pending against the health care provider before the licensing board.

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Claims-free experience.” A documented period in which no claims have been made against a health care provider over the past five most recent years, and the health care provider has had continuous insurance coverage in force for the five years immediately preceding the proposed effective date of insurance coverage and no joint underwriting association surcharge applies for the following:

- (1) Licensing board disciplinary procedures.
- (2) Hospital disciplinary proceedings.
- (3) Medicare and Medicaid action.
- (4) Federal Drug Enforcement Administration action.
- (5) The Controlled Substance, Drug, Device and

Cosmetic Act.

“Full time.” A health care provider working more than 25 hours per week.

Section 2. The act is amended by adding chapters to read:

#### CHAPTER 8

#### VOLUNTARY CONTRACTUAL ARBITRATION

Section 801. Scope.

This chapter relates to voluntary contractual arbitration of claims of patients arising from the care and treatment of health care providers.

Section 802. Definitions.

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

“Agreement.” An agreement to submit any dispute arising out of or relating to medical treatment or medical services to binding arbitration, including provisions relating to forum, venue, procedures and limitations, if any, on damages recoverable as long as no statutory or constitutional provision is violated.

“Health care provider.” A primary health care center or a person, including a corporation, university or other educational institution licensed or approved by the Commonwealth to provide health care or professional medical services as a physician, a certified nurse midwife, a podiatrist, hospital, nursing home, birth center and, except as to section 711(a) of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, an officer, employee or agent of any of them acting in the course and scope of employment providing medical care.

“Hospital.” An entity licensed as a hospital under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, or the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

“Patient.” A person receiving care or treatment by a health care provider, including a person’s natural, legal or appointed guardian. If the person receiving care or treatment is a minor, the term shall also include a parent, natural, legal or appointed guardian. In the case of a pregnant woman, the term shall refer to the mother.

Section 803. Voluntary arbitration.

(a) Agreement.—A patient and any health care provider may execute an agreement to submit to binding arbitration any dispute, controversy or issue arising out of care or treatment by the health care provider during the period that the agreement is in force or that has already arisen between the parties.

(b) Form and contents of agreement.—Execution of an agreement under this act by a patient may not be made a prerequisite to receipt of care or treatment by the health care provider. An agreement to arbitrate, executed before care or treatment is provided, shall be a separate document, written in plain language and must:

- (1) Clearly provide in bold print in at least 12-point bold type on the face of the agreement that execution of the agreement by the patient is not a prerequisite to receiving care or treatment.
- (2) Clearly provide in at least 12-point bold, uppercase type:

(i) notice with regard to any terms or conditions of the agreement that constitute waivers and rights affected upon execution; and

(ii) notice with regard to the manner of selection of the arbitrators.

(3) Contain the following notice above the signature line of the agreement in at least 12-point bold, uppercase type.

By signing this contract you are giving up your right to a jury or court trial.

(4) Acknowledge the patient’s receipt of the agreement and shall be dated.

(c) Voidable agreement.—If a health care provider does not comply with this section, the agreement to arbitrate is voidable at the option of the patient.

(d) Revocation of agreement.—The agreement must provide that the patient may do any of the following to revoke the agreement:

(1) Notify the health care provider in writing within seven days after treatment has been completed.

(2) Notify the health care provider in writing within seven days after the patient has received notice of a serious event pursuant to section 308.

(3) Notify the health care provider in writing within 30 days after retaining counsel if the patient was not notified of a serious event pursuant to section 308.

(e) Reexecution of agreement.—An agreement to arbitrate between a patient and a hospital must be reexecuted each time a person is admitted to a hospital. The agreement may be extended by written agreement of all parties to apply to care after hospitalization. A person receiving outpatient care from a hospital or clinic or a member of a health maintenance organization may execute an agreement for a continuing program of treatment or during continued membership, but shall not be effective unless renewed in the same manner as an original agreement at least once every 12 months.

(f) Construction of agreement.—An agreement to arbitrate is not a contract of adhesion, nor unconscionable, nor otherwise improper, where it complies with the provisions of this act.

(g) Arbitration procedure.—The procedure for arbitration shall be as follows:

(1) Arbitrators shall be selected in the same manner as arbitrators are selected pursuant to 42 Pa.C.S. § 7361(a) (relating to compulsory arbitration).

(2) Arbitration shall be conducted in accordance with the provisions of 42 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration), except as further provided in this subsection.

(3) An arbitrator shall be selected by each party and the two arbitrators shall select a third arbitrator. If the two arbitrators selected by the parties cannot agree on a third arbitrator within 30 days of their selection, either arbitrator may request that the selection be made by the court having jurisdiction.

(4) Each party shall:

(i) bear the expenses incurred by the arbitrator they selected; and

(ii) equally bear the expenses incurred by the third arbitrator.

(5) Arbitration shall take place in the county in which the patient lives, unless otherwise agreed to by both parties. Local rules of procedure and evidence shall apply to the proceedings.

(6) A decision agreed to by two of the arbitrators shall be binding on the parties.

#### CHAPTER 8-A

#### MCARE ASSESSMENT NEED PROGRAM

Section 801-A. Scope.

This chapter relates to the Mcare Assessment Need Program.

Section 802-A. Definitions.

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

“Assessment.” The assessment levied by the Insurance Department on health care providers, established under this act.



“Eligible applicant.” A physician licensed in good standing by the licensing board, practicing in this Commonwealth, who meets the criteria established by the program administrator pursuant to this chapter and who is not disqualified under section 803-A(d).

“Licensing board.” The State Board of Medicine, the State Board of Osteopathic Medicine or the State Board of Podiatry.

“Medical professional liability insurance.” Insurance against liability on the part of a health care provider arising out of any tort or breach of contract causing injury or death resulting from the furnishing of medical services which were or should have been provided.

“Physician.” An individual licensed or certified under the laws of this Commonwealth by the State Board of Medicine, the State Board of Osteopathic Medicine or the State Board of Podiatry. The term shall include a licensed nurse midwife.

“Program.” The Mcare Assessment Need Program established under section 803-A(a).

“Program administrator.” The State agency, bureau, department or office designated by the Governor to administer the Mcare Assessment Need Program.

Section 803-A. Mcare Assessment Need Program.

(a) Program established.—The Mcare Assessment Need Program is hereby established to provide assessment reductions to eligible applicants. The program shall apply to policies due on or after January 1, 2003.

(b) Restricted receipts account.—There is hereby established in the Treasury Department a nonlapsing restricted receipts account, to be known as the Mcare Assessment Need Program Account, for the purpose of funding assessment reductions for eligible applicants.

(c) Eligibility.—To be eligible for an assessment reduction under the program, a physician must submit documentation including, but not limited to, the following:

(1) statement of earned and unearned income;

(2) Federal and State tax returns and supporting documentation;

(3) documentation of paid medical professional liability insurance payment, including the primary coverage and the assessment;

(4) other information as the program administrator may require; and

(5) Federal and State tax returns and supporting documentation of the third party, if the physician’s premiums or surcharges are paid by a third party.

(d) Prohibitions.—A physician shall not be eligible for participation in the program if any of the following apply:

(1) The physician’s medical license has been revoked in any state.

(2) The physician’s license to dispense or prescribe drugs or medication has been revoked in this Commonwealth or any other state.

(3) The physician has had three or more medical liability claims in the past five most recent years in which the judgment against the provider or settlement entered was \$500,000 or more for each claim.

(4) The physician has been convicted or entered a plea of guilty or no contest for any of the following offenses:

(i) A felony violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

(iii) 18 Pa.C.S. § 2702 (relating to aggravated assault).

(iv) 18 Pa.C.S. § 2709.1 (relating to stalking).

(v) 18 Pa.C.S. Ch. 29 (relating to kidnapping).

(vi) 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

(vii) 18 Pa.C.S. § 3301 (relating to arson and related offenses).

(viii) 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).

(ix) 18 Pa.C.S. Ch. 35 (relating to burglary and other criminal intrusion).

(x) 18 Pa.C.S. Ch. 37 (relating to robbery).

(xi) A felony violation under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses).

(xii) 18 Pa.C.S. Ch. 59 (relating to public indecency).

(e) Program administrator duties.—The program administrator shall:

(1) Administer the program and establish procedures and forms as may be necessary to implement the program.

(2) Establish criteria to identify assessment reduction recipients from among all physicians who qualify and apply for a reduction and the amount of each reduction. The criteria shall include the amount of funds allocated to the program, the applicant’s actual financial need, the community-based need for the applicant’s services and the applicant’s specialty classification. The program administrator may establish any other criteria necessary to ensure access to quality health care in all regions of this Commonwealth.

(3) Award reductions in assessments to eligible applicants by no later than 90 days after the preceding calendar year for which the necessary documentation is required.

(4) Require assessment reduction recipients to maintain all necessary information in a format specified by the program administrator.

(5) Promulgate regulations to implement this chapter.

(6) Report to the Governor and the chairman and minority chairman of the Banking and Insurance Committee of the Senate and the chairman and minority chairman of the Insurance Committee of the House of Representatives on the reductions awarded, the impact on the recipients and the amount disbursed by the program. In addition to the content specified in this paragraph, the report shall include any other information necessary to accurately inform the public about the program, demographics of eligible applicants and assessment reduction recipients, the financial condition of health care providers in this Commonwealth and patients’ access to health care in this Commonwealth. The report shall be due November 30 of each year and shall be made available for public inspection and posted on the program administrator’s publicly accessible World Wide Web site.

(f) Confidential information.—The documentation specified in subsection (c) shall be confidential and shall not be released to anyone.

(g) Expiration.—This section shall expire January 1, 2014.

Section 804-A. Program funding.

(a) Deposit.—

(1) Notwithstanding the provisions of 75 Pa.C.S. § 6506(b) (relating to surcharge) and section 712(m) to the contrary, all surcharges levied and collected under 75 Pa.C.S. § 6506(a) by any division of the unified judicial system shall be remitted to the Commonwealth for deposit in the Mcare Assessment Need Program Account.

(2) Beginning January 1, 2014, and each year thereafter, the surcharges levied and collected under 75 Pa.C.S. § 6506(a) shall be deposited into the General Fund.

(b) Transfer of funds.—Amounts deposited in the Medical Care Availability and Restriction of Error Fund in accordance with section 712(m) after December 31, 2002, and before the effective date of this section shall be transferred by the State Treasurer to the Mcare Assessment Need Program Account.

(c) Use of funds.—Amounts deposited or transferred into the Mcare Assessment Need Program Account shall be used by the program administrator to provide assessment reductions to eligible applicants as determined under section 3.

(d) Expiration.—Except for subsection (a)(2), this section shall expire January 1, 2014.

Section 805-A. Interim regulations.

The program administrator shall promulgate interim regulations to implement the program within 90 days of the effective date of this section. The interim regulations shall expire after two years or upon the adoption of final regulations, whichever is earlier. The interim regulations shall not be subject to section 201 or 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

Section 3. Section 903 of the act is amended to read:

Amend Sec. 1 (Sec. 903), page 3, lines 4 through 8, by striking out all of said lines and inserting

(b) Filing of complaints.—Within 60 days of filing a complaint in a medical professional liability action against a physician, the plaintiff must do all of the following:

(1) Report the filing to the State Board of Medicine, the State Board of Osteopathic Medicine or the Department of Health, as appropriate. The report under this paragraph must include the

Amend Sec. 1 (Sec. 903), page 3, by inserting between lines 10 and 11

(2) Certify to the prothonotary that the report under paragraph (1) has been made.

Amend Sec. 2, page 3, line 17, by striking out “2” and inserting  
4

Amend Bill, page 3, by inserting between lines 17 and 18  
Section 904.1. Reports by hospitals and health care facilities.

(a) Action report.—Any hospital or health care facility licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, shall report to the appropriate licensure board if the hospital or facility denies, restricts, revokes or fails to renew staff privileges or accepts the resignation of a physician for any reason related to the physician’s competence to practice medicine or for any violation of law, regulation, rule or bylaw of the hospital or facility. The report shall be filed within 30 days of the occurrence of the reportable action and include details regarding the nature and circumstances of the action, its date and the reasons for it.

(b) Liability.—No hospital, health care facility or person that reports information to a licensure board under this section shall be liable to the physician referenced in the report for making the report, provided that the report is made in good faith and without malice.

Section 5. Section 909 of the act is amended to read:  
Section 909. Licensure board report.

(a) Annual report.—Each licensure board shall submit a report not later than March 1 of each year to the chair and the minority chair of the Consumer Protection and Professional Licensure Committee of the Senate and to the chair and minority chair of the Professional Licensure Committee of the House of Representatives. The report shall include:

(1) The number of complaint files against board licensees that were opened in the preceding five calendar years.

(2) The number of complaint files against board licensees that were closed in the preceding five calendar years.

(3) The number of disciplinary sanctions imposed upon board licensees in the preceding five calendar years and the specific reasons for the sanctions.

(4) The number of and specific reasons for revocations, automatic suspensions, immediate temporary suspensions and stayed and active suspensions imposed, voluntary surrenders accepted, license applications denied and license reinstatements denied in the preceding five calendar years.

(5) The range of lengths of suspensions, other than automatic suspensions and immediate temporary suspensions, imposed during the preceding five calendar years.

(b) Posting.—The report shall be posted on each licensure board’s publicly accessible World Wide Web site.

Section 6. The act is amended by adding a section to read:

Amend Sec. 2 (Sec. 911), page 4, line 8, by inserting after  
“PHYSICIAN”

within the ten most recent years

Amend Sec. 2 (Sec. 911), page 4, line 14, by inserting after  
“(III)”

A felony violation under

Amend Sec. 2 (Sec. 911), page 4, line 15, by inserting after  
“(IV)”

A felony violation under

Amend Sec. 2 (Sec. 911), page 4, line 18, by inserting after  
“(VI)”

A felony violation under

Amend Sec. 2 (Sec. 911), page 4, line 22, by inserting after  
“(VIII)”

A felony violation under

Amend Sec. 2 (Sec. 911), page 4, line 27, by inserting after  
“(XI)”

A felony violation under

Amend Sec. 2 (Sec. 911), page 4, by inserting between lines 28 and 29

(xii) 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).

Amend Sec. 2 (Sec. 903), page 4, line 29, by striking out “(XII)” and inserting

(xiii)

Amend Sec. 2 (Sec. 911), page 5, line 10, by inserting after “any”  
final

Amend Sec. 2 (Sec. 911), page 5, line 20, by striking out  
“or settlements”

Amend Sec. 2 (Sec. 911), page 5, line 25, by striking out  
“or settlement”

Amend Sec. 2 (Sec. 911), page 5, line 28, by striking out  
“and settlements”

Amend Sec. 2 (Sec. 911), page 5, lines 29 and 30; page 6, lines 1 through 12, by striking out “AND” in line 29 and all of line 30, page 5 and all of lines 1 through 12, page 6 and inserting  
and within the same county. No information regarding any pending medical liability action against a physician shall be disclosed by the licensing board to the general public.

Amend Sec. 2 (Sec. 911), page 7, by inserting between lines 19 and 20

(g) Telephone hotline.—The State Board of Medicine and the State Board of Osteopathic Medicine shall establish a telephone number which shall be operational on every business day between the hours of 9 a.m. and 6 p.m. local time for the purpose of disseminating information pursuant to this section to any inquiry.

Amend Sec. 3, page 7, line 20, by striking out all of said line and inserting

Section 7. This act shall take effect as follows:

(1) The addition of Chapter 8-A of the act shall take effect January 1, 2004.

(2) The amendment of section 732 of the act shall take effect in 60 days.

(3) This section shall take effect immediately.

(4) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. DeLuca, on the amendment.

Mr. DeLUCA. Thank you, Madam Speaker.

First of all, let me commend the majority chairman for this amendment and including a lot of my amendments in this

omnibus amendment. Working together we were able to accomplish this, and I just wanted to thank him for putting a lot of the amendments that we have worked on throughout this year along with the committee members, certainly on both sides, the Republicans and Democrats.

Now, we did a lot of work to structure this amendment, and what this amendment does, the part that I was able to put in was the anonymous reporting that must be a key ingredient in the reporting of serious events, which this amendment provides for because of the fact that we need that for the Patient Safety Authority without first having to report a serious event to the medical facilities. We also need to encourage reporting, not discourage it, and the fear of reprisals for reporting errors needs to be eased. Anonymous reporting accomplishes this, and that is what we have in the amendment, Madam Speaker.

Also, the amendment requires the Health Department to establish a uniform procedure for hospitals to follow when they notify their employees how to report serious events. You know, as employees leave one facility to work for another, the basic procedure should be similar. Again, we encourage that reporting.

Another part of the provision, a very important part of the provision, in Act 13 requires hospitals to notify the patient that an error affecting their health has occurred, but there is no specific penalty for failing to do so. So what we have done, we incorporated a penalty provision in there that provides a \$5,000 penalty for not reporting.

Finally, the report requires that it be made by the medical licensure board to the Professional Licensure Committee, and it must include the specific reasons for the physician's sanctions, whether it is license suspension or license revocation. We need to see the job that the licensure boards are doing, and we need to know specifics regarding these actions.

As I said before, the majority chairman and myself with this amendment have put the patients first and beside the committee. We have formed this amendment and I think this is a very important amendment, and I would ask for an affirmative vote. But let me also say to you why we need this type of amendment. I just want to give you a case that I just ran across the other day. I am not going to mention the physician's name, but I just want to tell you what we have found out on this one physician and why we need this amendment.

This fellow was convicted of Medicaid fraud in 1987. The Federal government barred the physician from participating in Medicaid or Medicare for 10 years. Then guess what? The State Board of Medicine continued to allow him to practice for 2 years under a probationary license and a little fine of \$1,000. We also found out that he was subject to numerous investigations since then relating to insurance fraud and violations of the State drug act.

In 1991 he was accused of overstating medical care given to patients who allegedly saw him only briefly. Again in 1997 he was rearrested. Recently, we ran across, he was convicted of insurance fraud and drug charges. He was sentenced to a year and a half to 3 years in prison and restitution to Highmark Blue Shield.

Guess what? The State Board of Medicine was notified of the arrests, conviction, and sentence, and still, to this day, there is no suspension.

He also was seeking to shorten his sentence so that he could continue to practice under a work release program.

This is outrageous, Madam Speaker, and that is why we need this amendment pertaining to physician profiling. It is an important piece of legislation this amendment adds to HB 158, and we need to pass this.

Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Beaver County, the Democrat whip, Mr. Veon.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, I have to say that I am so pleased that the gentleman, the chairman of the committee, has brought this bill to the floor of the House today.

All the members here are aware, of course, that we have been working on the issue of medical malpractice in many ways, shapes, and forms over the last 3 or 4 years, and finally, the good gentleman, the chairman of the committee, I think, has agreed with what Democrats have been talking about for the last 4 years, that one important pillar to solving the medical malpractice crisis in the State of Pennsylvania is to bring greater doctor discipline into this Commonwealth.

And the gentleman from the Lehigh Valley, Mr. Rooney, introduced a bill two sessions ago that is incorporated, to a very significant degree, in what the gentleman, the chairman, has in front of us here today.

And certainly, the minority chair of this committee that just spoke right before me introduced a bill in the last session, and he did mention a couple of those items in his remarks here today that are largely incorporated in this bill that is in front of us here today.

So I am very pleased that the chairman has come to the same conclusion that many Democrats had 4 years ago, that we have to have greater doctor discipline. This bill goes a long way towards accomplishing that in this State, and I would ask for an affirmative vote.

Thank you, Madam Speaker.

## LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair returns to leaves of absence. The Democrat whip asks that the lady, Ms. WASHINGTON, be placed on leave for the remainder of the day. The Chair hears no objection.

## CONSIDERATION OF HB 158 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Cumberland County, Mr. Gabig, on the amendment.

Mr. GABIG. Thank you, Madam Speaker.

I am trying to find out if this is the omnibus amendment that we talked about in caucus. Is there anyone that could answer that question for me? I heard somebody say yes.

I was looking on my screen, and it looked like they talk about a doctor's responsibility to report settlements, and I thought we were only going to do judgments in the omnibus. I was only looking on my computer screen, but does this include a doctor's responsibility to report settlements in addition to judgments, what we are voting on here? Does anyone know the answer to that?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware County, Mr. Micozzie.

Mr. MICOZZIE. Settlements will not be placed on the Web as a profile.

Mr. GABIG. So that is not in the amendment that we are voting on. Is that correct, Madam Speaker?

Mr. MICOZZIE. That is true.

Mr. GABIG. I also was looking at my screen. Again, maybe I am not reading it correctly, but I saw some misdemeanor charges, and I thought we were only doing felony charges. Are there any misdemeanor charges included in this amendment that are required to be reported?

Mr. MICOZZIE. Misdemeanors will not be on the Internet.

I am sorry. DUI (driving under the influence) will be on there; that is a misdemeanor, a DUI.

Mr. GABIG. Misdemeanor or felony DUI?

Mr. MICOZZIE. DUI is a misdemeanor.

Mr. GABIG. Okay. And that is the only then misdemeanor that is required to be reported; all the rest are felonies?

Mr. MICOZZIE. That is true.

Mr. GABIG. So what I was provided with in caucus had A1369. The reason I am asking, I see A1489 on the board. Are these the same? Are there any changes from A1369 that we were provided in caucus and A1489 that is up on the board, Madam Speaker?

Mr. MICOZZIE. 1284 and 1287 are included in the omnibus bill, which is the amendment you are talking about.

Mr. GABIG. So the amendment that we were provided in caucus as A1369 and what I see up on the board as A1489, are there any differences between what we were provided in caucus and what we are being asked to vote on now, Madam Speaker?

Mr. MICOZZIE. HB 1284 and HB 1287 are in this amendment, in this omnibus bill.

Mr. GABIG. Oh, so other than that, it is the same thing other than those two additional amendments.

Mr. MICOZZIE. Right.

Mr. GABIG. I see.

Okay. Thank you very much, Madam Speaker.

Mr. MICOZZIE. You are welcome.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Montgomery County, Mr. Leach, on the amendment.

Mr. LEACH. Thank you, Madam Speaker.

Will the maker of the amendment submit to a brief interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. LEACH. Madam Speaker, I was wondering, I am looking at section 801, the provision for the voluntary arbitration, and I am wondering if the language of the bill provides any limitation on when the contract can be presented to the patient. Specifically, I am concerned about situations where the patient may be in a state of distress or some other medical emergency, that they are going to then be presented with contracts to sign.

Mr. MICOZZIE. On page 13, down at the bottom, it says, "...agreement under this act by a patient may not be made a prerequisite to receipt of care or treatment by the health care provider."

Mr. LEACH. Thank you. That concludes my interrogation. Madam Speaker, if I may just speak on the amendment.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. LEACH. Madam Speaker, I commend the maker of the amendment, and I will be voting "yes" on the amendment, and I support 90 percent of what is in it. I do want to raise a concern, however, because this is a lot of very good work, but this one provision is troublesome.

The amendment says that it is not a condition of treatment, it cannot be a condition of treatment, to sign this contract. However, the language does not say, as I understand it, when the contract can be presented to the patient, and my concern is a situation, you know, if someone is coming in with a heart attack or some other urgent medical emergency, A, I do not really want them to be presented with contracts to sign and theoretically read, and B, I do not believe that the courts will accept this. If there is any definition to a contract of adhesion, if there is any definition to a contract under duress, it is a contract that you are given while in extremis, medically speaking. I do not know if this is an issue we can revisit at some point. I do not know if other people share this concern. But it does seem to me that giving people agreements while they are in medical distress is troublesome.

There is a second part of this, which is that I believe this is going to lead to a lot of litigation over the issue of whether the person was competent to enter into an agreement. If I go into the hospital after having fainting spells or dizzy spells or I am having a stroke or I am having a nervous breakdown or I am having one of many things that I can think of and I sign this agreement, I may later say I was not competent to sign the agreement, and there will be a lot of litigation about whether or not I, in my medical distress, was competent to sign the agreement.

So you know, I am troubled by that. I wanted to raise it and get on record about that. Otherwise, I appreciate the efforts of the maker of the amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Franklin County, Mr. Coy, on the amendment.

Mr. COY. Thank you, Madam Speaker.

Madam Speaker, I just want to thank the maker of the amendment for including language in this amendment that was suggested by Representative Fleagle and myself concerning the amount of time out-of-State doctors can practice in the State. This is very, very important for those of us who live and represent border counties. Many of us in areas like that are dependent upon doctors from out of State, especially specialty doctors in certain fields, like neurosurgeons and others, to be able to come – in my case and in the case of Representative Fleagle – from Hagerstown and the Maryland area and be able to practice. The language in this bill would allow them to practice 50 percent of the time in Pennsylvania. This is very important. It is very important to ease what is indeed in many cases a crisis atmosphere in those border counties.

So I want to thank the maker of the amendment, Representative Micozzie, for including this language, which I think will help to alleviate the problem in those border counties.

Thank you, Madam Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—195

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Major	Schroder
Bard	Fichter	Manderino	Scrimenti
Barrar	Fleagle	Mann	Semmel
Bastian	Flick	Markosek	Shaner
Bebko-Jones	Forcier	Marsico	Smith, B.
Belardi	Frankel	McCall	Smith, S. H.
Belfanti	Freeman	McGeehan	Solobay
Benninghoff	Gabig	McGill	Staback
Bianucci	Gannon	McIlhattan	Stairs
Birmelin	Geist	McIlhinney	Steil
Bishop	George	McNaughton	Stern
Blaum	Gergely	Melio	Stetler
Boyd	Gillespie	Metcalfe	Stevenson, R.
Browne	Gingrich	Micozzie	Stevenson, T.
Bunt	Godshall	Miller, R.	Sturla
Butkovitz	Goodman	Miller, S.	Surra
Buxton	Gordner	Mundy	Tangretti
Caltagirone	Grucela	Myers	Taylor, E. Z.
Cappelli	Habay	Nailor	Taylor, J.
Casorio	Haluska	Nickol	Thomas
Causer	Hanna	O'Brien	Tigue
Cawley	Harhai	Oliver	Travaglio
Civera	Harhart	O'Neill	True
Clymer	Harris	Pallone	Turzai
Cohen	Hasay	Payne	Vance
Coleman	Hennessey	Petrarca	Veon
Cornell	Herman	Petri	Vitali
Corrigan	Hershey	Petrone	Walko
Costa	Hess	Phillips	Wansacz
Coy	Hickernell	Pickett	Waters
Crahalla	Horsey	Pistella	Watson
Creighton	Hutchinson	Preston	Weber
Cruz	James	Raymond	Wheatley
Curry	Josephs	Readshaw	Williams
Dailey	Keller	Reed	Wilt
Daley	Kenney	Reichley	Wojnaroski
Dally	Kirkland	Rieger	Wright
DeLuca	Kotik	Roberts	Yewcic
Denlinger	LaGrotta	Rohrer	Youngblood
Dermody	Laughlin	Rooney	Yudichak
DeWeese	Leach	Ross	Zug
DiGirolamo	Lederer	Rubley	
Diven	Leh	Ruffing	Perzel,
Donatucci	Lescovitz	Sainato	Speaker
Eachus			

## NAYS—1

Harper

## NOT VOTING—0

## EXCUSED—4

Gruitza Maitland Roebuck Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

Mr. BENNINGHOFF offered the following amendment No. A1256:

Amend Title, page 1, line 15, by inserting after "repeals," "

providing for medical licensure peer review;

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. The act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is amended by adding a chapter to read:

## CHAPTER 6

## MEDICAL LICENSURE PEER REVIEW

## Section 601. Scope.

This chapter relates to medical licensure peer review.

## Section 602. Legislative finding.

The General Assembly finds that there is a compelling need in this Commonwealth for fair, unbiased, credible and confidential peer review of the quality of health care rendered by physicians in hospital settings.

## Section 603. Definitions.

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

"Adverse credentialing action." An action which affects adversely, or which may affect adversely, the clinical privileges of a physician at a hospital. The term "clinical privileges" includes privileges, membership on the medical staff and any other circumstances pertaining to furnishing health care under which a physician is permitted by a hospital to furnish such care.

"Authority." The Patient Safety Authority.

"Council." The Statewide Peer Review Council established under section 604.

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

"Personal representative." An individual who is authorized to make health care decisions on behalf of a minor patient or an incompetent patient.

"Physician licensure board." The State Board of Medicine or the State Board of Osteopathic Medicine, as appropriate.

"Secretary." The Secretary of Health of the Commonwealth.

"Substandard care." Health care which departs from or fails to conform to the accepted standard of care. The accepted standard of care is the level of care which would be exercised normally by an average physician of the same type in this Commonwealth under similar circumstances, including locality and with reference to whether the practitioner is or purports to be a specialist.

## Section 604. Council.

(a) Establishment.—The Statewide Peer Review Council is hereby established as an independent council.

(b) Composition.—The council shall consist of nine voting members composed of and appointed in accordance with the following:

(1) The secretary or, if the secretary is not a physician, the Physician General.

(2) Four physicians appointed by the Governor, taking into consideration nominations of eight qualified persons jointly recommended by the Pennsylvania Medical Society and the Pennsylvania Osteopathic Medical Association.

(3) Two representatives of hospitals appointed by the Governor, taking into consideration nominations of four qualified persons recommended by the Hospital and Health System Association of Pennsylvania.

(4) Two representatives of patients who are not primarily involved in the provision of health care or representation of patients in medical liability actions, appointed by the Governor.

(c) Appointment process.—In the case of each appointment to be made, taking into consideration nominations supplied by a specified organization, that organization shall consult with and provide a list

which reflects the input of other equivalent organizations representing similar interests. The Governor may request additions to the list originally submitted. Additional names shall be provided not later than 15 days after the request. Appointments shall be made by the Governor no later than 90 days after receipt of the original list. If, for any reason, any specified organization supplying a list should cease to exist, then the Governor shall specify a new equivalent organization to fulfill the responsibilities.

(d) Chairperson and vice chairperson.—The members shall annually elect, from the members of the council and by a majority vote, a chairperson and a vice chairperson of the council. The chairperson shall be a physician and the vice chairperson shall be a hospital representative.

(e) Quorum.—Five members, a majority of which shall be made up of physicians, shall constitute a quorum for the transaction of any business. An action taken by the majority of the members present at any meeting in which there is a quorum shall be deemed to be an action of the council.

(f) Meetings.—All meetings of the council shall be advertised and conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings) unless otherwise provided in this section.

(1) The council shall meet at least once every four months and may provide for special meetings as it deems necessary. Meeting dates shall be set by a majority vote of the members of the council or by the call of the chairperson upon seven days' notice to all council members.

(2) All meetings of the council shall be publicly advertised as provided in this subsection and shall be open to the public, except that the council, through its bylaws, may provide for executive sessions of the council on subjects permitted to be discussed in accordance with 65 Pa.C.S. § 708 (relating to executive sessions) or are otherwise required to be confidential under this chapter. No act of the council shall be taken in an executive session unless the action is required to be confidential under this chapter.

(3) The council shall publish a schedule of its meetings in the Pennsylvania Bulletin and in at least one newspaper in general circulation in this Commonwealth. The notice shall be published at least once in each calendar quarter and shall list the schedule of meetings of the council to be held in the subsequent calendar quarter. The notice shall specify the date, time and place of the meeting and shall state that the council's meetings are open to the general public, except that no notice shall be required for executive sessions.

(4) All action taken by the council shall be taken in open public session unless the action is required to be confidential under this chapter. Action of the council shall not be taken except upon the affirmative vote of a majority of the members of the council present during meetings at which a quorum of the members are present.

(g) Bylaws.—The council shall adopt bylaws, not inconsistent with this chapter, and may appoint committees or elect officers subordinate to those provided for in subsection (d) as it deems advisable.

(h) Compensation and expenses.—The members of the council shall not receive a salary for serving as members of the council but shall be entitled to a per diem allowance in an amount to be determined by the Governor and shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. Expenses may include reimbursement of travel and living expenses while engaged in council business.

(i) Terms.—

(1) The term of the secretary or the Physician General shall be concurrent with his or her holding office. The eight appointed council members shall each serve for a term of three years and shall continue to serve thereafter until their successor is appointed, except that, of the first eight members appointed:

(i) One each of the representatives of physicians, hospitals and patients shall serve for a term to expire on June 30 of the year following appointment.

(ii) Two representatives of physicians and one of the representatives of hospitals shall serve for a term to expire on June 30 of the second year following appointment.

(iii) One each of the representatives of physicians and patients shall serve for a term to expire on June 30 of the third year following appointment.

(2) Vacancies shall be filled within 60 days in the same manner in which they were originally filled under subsection (b). If the Governor fails to act within 60 days of a vacancy, the council chairperson may appoint one of the persons recommended to fill the vacancy until the Governor makes an appointment.

(3) A member may be removed for good cause by the appointing authority after recommendation by a vote of at least six members of the council.

(j) Commencement of operations.—

(1) Within 60 days after the effective date of this section, each organization or individual required to make nominations to the Governor under subsection (b) shall submit the list.

(2) Within 90 days after the effective date of this section, the Governor shall make all of the appointments called for in subsection (b). The council shall begin operations immediately following these appointments.

(k) Subsequent appointments.—Submission of recommended persons and appointment of council members for the second and succeeding terms shall be made in the same manner as prescribed in subsection (b), except that:

(1) Organizations required under subsection (b) to submit lists of recommended persons shall do so at least 60 days prior to expiration of the council members' terms.

(2) The Governor shall make appointments at least 30 days prior to expiration of the council members' terms. If the appointments are not made within the specified time, the council chairperson may make interim appointments from the lists of recommended individuals. An interim appointment shall be valid only until the Governor makes the required appointment. Whether the appointment is by the Governor or by the chairperson of the council, the appointment shall become effective immediately upon expiration of the incumbent member's term.

(l) Appointments of acting councillors.—If an organization or individual fails to submit a list of recommended persons as required under subsection (b) within the time limits in subsection (j) or (k), the Governor shall appoint as many acting councillors as required under subsection (b) until the list of recommended persons is submitted by the original organization as required by subsection (b).  
Section 605. Powers and duties; regulations.

(a) Exercise of powers.—The council shall exercise all powers necessary and appropriate to carry out its duties, including, but not limited to, the following:

(1) To employ an executive director, investigators and other staff necessary to comply with the provisions of this chapter and to employ or retain legal counsel as it deems necessary for the performance of its duties.

(2) To fix the compensation of all employees and to prescribe their duties. Notwithstanding the independence of the council under section 604(a), employees under this paragraph shall be deemed employees of the Commonwealth for the purposes of participation in the Pennsylvania Employee Benefit Trust Fund.

(3) To make and execute contracts and other instruments, including those for purchase of services and purchase or leasing of equipment and supplies, necessary or convenient to the exercise of the powers of the council.

(4) To do all things necessary to carry out its duties under the provisions of this chapter.

(b) Exercise of duties and functions.—The council shall perform the following duties and functions:

(1) Provide for peer review of the quality of health care rendered by a physician in a hospital through an independent peer review organization as provided in this chapter.

(2) Make annual reports to the General Assembly on the peer review conducted by the council, subject to the confidentiality requirements in section 617.

(c) Rules and regulations.—The council may, in a manner provided by law, promulgate rules and regulations necessary to carry out its duties and functions under this chapter.

Section 606. Contract with independent peer review organization.

(a) Outsource requirement.—The council shall contract with a single independent peer review organization to conduct peer review of the quality of health care rendered by a physician in a hospital as required by this chapter. If more than one independent peer review organization meets the requirements of this section, priority shall be given to any organization which is described in subsection (b)(1)(i)(A).

(b) Independent peer review organization.—

(1) For purposes of this chapter, an independent peer review organization is an entity which:

(i) (A) is composed of a substantial number of doctors of medicine and osteopathy who are engaged in the practice of medicine or surgery in this Commonwealth and who are representative of the practicing physicians in the area; or

(B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in this Commonwealth to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured;

(ii) is able, in the judgment of the council, to perform review functions required under this chapter in a manner consistent with the efficient and effective administration of this chapter; and

(iii) has at least one individual who is a representative of consumers on its governing body.

(2) A nonmembership organization may meet the membership requirement of subsection (b)(1)(i)(A) if it is owned or controlled by a membership organization that meets the requirements of subsection (b)(1)(i)(A).

(c) Ineligible entities.—

(1) The council shall not enter into a contract under this section with any entity which is or is affiliated with, through management, ownership or common control, a hospital or association of hospitals.

(2) For purposes of paragraph (1), an entity shall not be considered to be affiliated with a hospital or association of hospitals by reason of management, ownership or common control if the management, ownership or common control consists of not more than 20% of the members of the governing board of the entity being affiliated through management, ownership or common control with one or more of the hospitals or associations.

(d) Authority of council.—Contracting authority of the council under this section may be carried out without regard to any provision of law relating to the making, performance, amendment or modification of contracts of the Commonwealth as the council may determine to be inconsistent with the purposes of this chapter.

(e) Termination not subject to judicial review.—Any determination by the council to terminate or not to renew a contract under this section shall not be subject to judicial review.

(f) Preference in contracting with in-State organizations.—The council shall give preference to in-State organizations in selecting an independent peer review organization under this section. For purposes of this subsection, an in-State organization is an organization that has its primary place of business in this Commonwealth.  
Section 607. Reviewable matters.

The peer review provided for under this chapter shall be limited to questions as to whether a physician provided substandard health care in a hospital in this Commonwealth. Excluded matters include, but are not limited to, questions as to the reasonableness of fees and breaches of patient privacy.

Section 608. Persons authorized to request a peer review.

(a) General rule.—An interested person authorized to request a peer review under this chapter shall be any of the following:

(1) The physician who rendered the care.

(2) The hospital in which the care was rendered.

(3) A physician member of that hospital's medical staff.

(4) A subsequent treating physician of the patient.

(5) The patient who received the care or the patient's personal representative.

(b) Appeal of adverse credentialing action.—A physician against whom an adverse credentialing action has been taken on the basis that the physician provided substandard health care in the hospital may obtain a de novo review of the substandard health care determination by submitting a request for peer review under this chapter.

Section 609. Request for peer review.

(a) Request for review.—A request for peer review shall identify with particularity the health care that is to be reviewed and, except in the case of a review requested by the physician who rendered the care, any alleged deficiencies.

(b) Notice of request for review.—Upon receipt of a request for peer review, the independent peer review organization shall notify the physician whose care is requested to be reviewed and the hospital in which the care was rendered unless they submitted the request. The notice shall identify with particularity the health care that will be reviewed and any alleged deficiencies. If the review was requested by the physician, the notice shall direct the hospital to notify the independent peer review organization of any alleged deficiencies in the care.

(c) Confidentiality.—The identity of the person who requests a peer review shall not be disclosed to the physician whose care is to be reviewed in accordance with section 617 unless the request for the peer review is made by the physician whose care is to be reviewed or the hospital.

Section 610. Time limitation.

(a) General rule.—Except as provided in subsection (b), no peer review shall be conducted under this chapter unless the request for peer review is submitted to the independent peer review organization within one year after the health care was rendered.

(b) Appeal of adverse credentialing action.—A request for peer review may be made by a physician who seeks to appeal an adverse credentialing action if the request is submitted to the independent peer review organization within 60 days after the final decision of the hospital governing board.

Section 611. Investigation.

Upon receipt of a request for peer review, the independent peer review organization shall investigate the matter. The investigation shall include, at the minimum, a review of the pertinent medical records and any other information submitted by the interested person who requested the review or by the physician whose care is requested to be reviewed. Upon written request by the independent peer review organization, the hospital shall provide the independent peer review organization with copies of medical records that the independent review organization reasonably believes are relevant to its investigation.

Section 612. Screening determination.

(a) General rule.—Upon completion of its investigation of a request for peer review, the independent peer review organization shall

either refer the matter for a full peer review or terminate further review of the matter. The independent peer review organization shall:

(1) Refer a matter for a full peer review if:

(i) the organization determines that there is a credible basis for proceeding with a full peer review in accordance with subsection (b); and

(ii) the request was submitted within the time limitation required under section 610.

(2) Terminate further review of a matter if:

(i) the organization is not able to identify a credible basis for proceeding with a full peer review; or

(ii) the request was not submitted within the time limitation required under section 610.

The independent peer review organization also may terminate further review of a matter if the organization determines that the request for review is frivolous, filed for nuisance purposes, or otherwise without merit on its face.

(b) Credible basis for peer review.—The independent peer review organization shall find that there is a credible basis for a full peer review if:

(1) the request for review is an appeal of an adverse credentialing determination;

(2) the organization's investigation of the matter finds credible prima facie evidence that the physician provided substandard care; or

(3) the organization otherwise determines that the matter warrants further review.

(c) No appeal.—A determination to refer a matter for a full peer review or to terminate further review shall not be subject to judicial review.

(d) Qualifications of screening reviewers.—The decision by the independent peer review organization to refer a matter for peer review or to terminate further review shall be made by:

(1) a physician; or

(2) a registered nurse based upon the predefined criteria developed by physicians.

Section 613. Peer review committee.

(a) General rule.—A full peer review shall be performed by a committee of physicians retained by the independent peer review organization.

(b) Composition of peer review committee.—The following shall apply:

(1) The members of the peer review committee shall meet the following qualifications:

(i) Possess an unrestricted license to practice medicine or osteopathic medicine in any state or the District of Columbia.

(ii) Be substantially familiar with the applicable standard of care for the specific care at issue as of the time the care was rendered.

(iii) Be engaged in active clinical practice or teaching in the same subspecialty as the physician under review or in a subspecialty that has a substantially similar standard of care for the specific care at issue.

(iv) Be board-certified in the same subspecialty as the physician under review or in a subspecialty that has a substantially similar standard of care for the specific care at issue.

(2) Notwithstanding paragraph (1)(iii) and (iv), the applicable subspecialty for purpose of the active clinical practice or teaching and board certification requirements may be a subspecialty that provides the care at issue if the physician under review acted outside of his or her subspecialty.

(3) A majority of the committee shall be engaged in active clinical practice for at least 20 hours per week.

(4) The members of the committee shall not practice or teach within 150 miles of the physician whose care is under review. The members of the peer review committee shall have no

conflict of interest by virtue of being affiliated with or a competitor of the physician under review or otherwise. The independent peer review organization shall use physicians who practice or teach out-of-State when appropriate to meet the requirements of this paragraph.

(5) The members of the committee shall not have been involved in any way in the investigation of the request for review or the determination to proceed with a full peer review.

(c) Blind review.—The independent peer review organization shall endeavor to shield the identity of the patient, the hospital and the physician under review and any other information tending to reveal their identity from the members of the peer review committee, except to the extent that disclosure of the information is reasonably required to conduct the peer review.

(d) Reimbursement.—The independent peer review organization shall reimburse the members of the peer review committee for:

(1) Their time at rates established in the independent peer review organization's contract with the council.

(2) Their actual and necessary expenses incurred in the performance of their duties.

Said expenses may include reimbursement of travel and living expenses.

Section 614. Full peer review proceedings.

(a) General rule.—Except as provided in subsection (c), the peer review committee, in its discretion, may conduct an informal review or hold a formal hearing.

(b) Informal review.—In the case of an informal review, the physician under review shall be provided the opportunity to submit relevant evidence and arguments to the committee, at the discretion of the peer review committee, either in person or through written submissions. An informal review shall consist, at a minimum, of a review of the relevant evidence, including, but not limited to, the pertinent medical records and other relevant evidence obtained during the investigation, any relevant evidence and arguments submitted by the physician under review and any relevant additional evidence collected by the committee.

(c) Hearing.—The peer review committee shall hold a formal hearing if the peer review is an appeal of an adverse credentialing action. The following shall apply:

(1) The parties to the hearing shall be the physician under review and the hospital. The patient shall not be a party.

(2) The parties shall be entitled to attend the hearing, be represented by counsel, to present relevant evidence, to cross-examine witnesses of other parties and the committee, to object to evidence of other parties and the committee and to submit a written statement at the end of the hearing. The parties shall be notified of their rights under this section.

(3) The committee may question witnesses and seek additional testimony and other evidence that it believes is relevant to its determination.

(4) The hospital shall have the burden of proving by a preponderance of evidence that the physician provided substandard care.

(d) Legal counsel.—Upon request of the peer review committee, the independent peer review organization shall furnish the committee with legal counsel to advise the committee on the conduct of the hearing.

(e) Powers of committee.—The peer review committee shall be empowered to administer oaths and to issue subpoenas that compel the presence of witnesses and the production of documents and other evidence that it reasonably believes are relevant to its determination.

(f) Decision.—The peer review committee shall render a written determination with findings of fact and any opinions of the committee, to a reasonable degree of medical certainty, regarding the quality of the care. The decision may include recommendations regarding appropriate corrective action, including, but not limited to, education, supervision or other limitations on scope of clinical privileges.



(g) Notice of decision.—The peer review committee shall provide a written decision to the reviewed physician and the hospital.

(h) Rules.—The proceedings shall be conducted in accordance with rules established by the council in accordance with this chapter. The proceedings, except to the extent adopted by the council, shall not be subject to:

(1) 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action), known as the Administrative Agency Law.

(2) The Pennsylvania Rules of Evidence.

(3) The Pennsylvania Rules of Civil Procedure.

Section 615. Finality of decision.

(a) General rule.—The peer review committee's decision shall be final and shall not be subject to judicial review, except as otherwise provided in subsection (b).

(b) Appeal of adverse credentialing action.—In the case of an appeal of an adverse credentialing action, both the reviewed physician and the hospital shall be bound by the peer review committee's decision regarding the quality of care rendered by the physician and the decision of the peer review committee shall not be subject to judicial review, unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable decision.

Section 616. Report to physician licensure boards.

In the event that the peer review committee determines that the reviewed physician failed to act in conformance with the accepted standard of care, the peer review committee may forward the decision and the record of the proceeding to the appropriate physician licensure board. In the event of such a referral, the licensure board shall review the decision and record. The boards shall give due deference to corrective action recommendations of the peer review committee, including, but not limited to, recommendations, education, supervision or other limitations on scope of clinical privileges. The boards shall not suspend or revoke the license of the physician or fine the physician if the physician agrees to the corrective action recommended by the peer review committee and the board determines that such corrective action is more appropriate under the circumstances. The licensure board shall treat the decision and record as confidential in accordance with section 617.

Section 617. Confidentiality.

(a) Peer review protection.—Except as set forth in this chapter, the peer review proceedings, including, but not limited to, the request for review, the investigative file, the record of the hearing, any other submissions of the parties, the deliberations of the committee and the decision of the peer review committee shall be confidential and subject to the same limits on disclosure and introduction into evidence as set forth in the act of July 20, 1974 (P.L.564, No.193), known as the Peer Review Protection Act. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and 65 Pa.C.S. Ch. 7 (relating to open meetings) shall not apply to the peer review proceedings. The decision of the committee and any other information received by the hospital during or otherwise related to the proceedings shall likewise be treated by the hospital as protected peer review information, subject to the Peer Review Protection Act.

(b) Use by licensure board.—The decision and record shall be admissible in any disciplinary proceeding brought by a physician licensure board against the reviewed physician, subject to the right of the physician to object and the evidentiary rulings of the licensure board. The record of the disciplinary proceedings shall be confidential and the proceedings shall not be open to the public or subject to the Right-to-Know Law and 65 Pa.C.S. Ch. 7 to the extent necessary to preserve the confidentiality of any admitted confidential peer review information.

Section 618. Immunity from liability.

(a) Persons who provide information.—Notwithstanding any other provision of law, no person who provides information to the independent peer review organization or a peer review committee shall

be held, by reason of providing information, to have violated any criminal law or to be civilly liable under any law, unless:

(1) the information is unrelated to the performance or the functions of the organization or committee; or

(2) the person provides false information with knowledge or reason to know that the information is false.

(b) Members of peer review committee.—The following shall apply:

(1) Except as set forth in paragraph (2), a member of a committee or an individual who furnishes professional counsel or services to the committee shall not be held, by reason of the performance by him of a function authorized or required by the committee, criminally or civilly liable if the member or individual exercises due care in the performance of the function.

(2) Paragraph (1) shall not apply with respect to any action taken by an individual if the individual in taking the action was motivated by malice toward any person affected by the action.

Section 619. Whistleblower protection.

A person who in good faith requests a peer review or provides information to the independent peer review organization or a peer review committee shall not be subject to any retaliatory action for such conduct and shall be entitled to the protections and remedies set forth in the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.

Section 620. Patient safety.

(a) Reports.—The council shall study the findings of the peer reviews performed under this chapter consistent with the confidentiality requirements of section 617 and make recommendations as to measures that would improve patient safety. These recommendations shall be forwarded to the authority and the physician licensure boards. The recommendations and information provided in support of recommendations shall not disclose confidential peer review information.

(b) Quarterly newsletter.—The independent peer review organization shall develop and distribute to physicians in active clinical practice in this Commonwealth a quarterly publication that includes specialty-specific and general information regarding substandard care identified through the peer review process and analyzes what measures should have been taken to improve patient safety. The reports shall not disclose information which is required to be confidential under section 617.

Section 621. Budget and funding.

The council's operations shall be funded exclusively by appropriations from the General Fund. No fees shall be levied by the council for peer reviews conducted by the council.

Section 622. Severability.

The provisions of this act are nonseverable. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the entire chapter shall be null and void.

Section 2. Section 903 of the act is amended to read:

Amend Sec. 2, page 3, line 17, by striking out "2" and inserting  
3

Amend Sec. 3, page 7, line 20, by striking out "3" and inserting  
4

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Centre County, Mr. Benninghoff, on the amendment.

Mr. BENNINGHOFF. Thank you, Madam Speaker.

To the House's delight, I will be pulling this amendment, but I did want to make a brief comment on two things.

I want to thank Chairman Gannon, who has agreed to host a hearing or so this summer, because I believe that to address this

issue, we must address patient errors. I think there is a collective need for hospitals, physicians, policymakers, and patients to be involved in this, and for that reason I will allow this to go to a hearing or two in order to accomplish it.

But I want to warn the members, or not warn them but just alert them to the fact that as we continue this whole discussion on malpractice and caps and all that encompasses it, we really need to be delineating the difference between negative outcomes and true malpractice. You know, when you go in for procedures or surgery, there is no guarantee it is always going to come out perfect, the way we want it. We must use a realistic approach to that, and I look forward to having these hearings on a statewide peer perspective and hope that the participants from HAP (Hospital Association of Pennsylvania), the Medical Society, and the different chairmen that might be involved will give some testimony and we can come up with a good bill.

#### AMENDMENT WITHDRAWN

Mr. BENNINGHOFF. So at this moment I will withdraw that and again thank Representative Gannon for allowing us to do that.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. GANNON offered the following amendment No. **A0946**:

Amend Title, page 1, line 15, by inserting after "PROVIDING" for the Medical Care Availability and Reduction of Error Fund and

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. Section 712 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is amended by adding a subsection to read:

Section 712. Medical Care Availability and Reduction of Error Fund.

\* \* \*

(o) Mandatory experience rating.—The following shall apply:

(1) The commissioner in his sole discretion shall, within 30 days of the effective date of this subsection, establish and implement a plan whereby all professional liability insurers shall place physicians in at least one insurance rating class. Physicians shall not be placed in more than ten insurance rating classes with not more than four subclasses. The loss and loss adjustment expense costs for each class shall progressively increase from class one through the final class. The plan shall also provide that:

(i) each insurer develop and submit for approval by the commissioner expenses to be added to the loss and loss adjustment expense costs that are established by the commissioner for each class;

(ii) each insurer shall develop and submit to the commissioner an experience rating plan which provides that the premium for each health care provider within a class shall be based upon the individual health care provider's experience; and

(iii) the commissioner may approve deviations in the premiums for each class of health care providers on the basis of no more than two territories, urban and nonurban, approved or established by the commissioner.

(2) A professional liability insurer who fails to comply with the requirements of this subsection shall pay a civil penalty of \$25,000 and a fine of \$1,000 per day until the insurer is in compliance.

Section 2. Section 903 of the act is amended to read:

Amend Sec. 2, page 3, line 17, by striking out "2" and inserting

3

Amend Sec. 3, page 7, line 20, by striking out all of said line and inserting

Section 4. This act shall take effect as follows:

(1) The addition of section 712(o) of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman, Mr. Gannon, on the amendment.

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, one of the problems that we have been watching as we have gone through this lengthy debate on the issue of medical liability insurance costs is how the insurance carriers, through their rating structures, have discriminated against those physicians who are the most pressed by high insurance costs, and I am specifically referring to our neurosurgeons, orthopedic surgeons, OB-GYN (obstetrics-gynecology) doctors, heart doctors, general surgeons.

What they have done is they have simply arbitrarily set up rate classifications. They have compartmentalized these physicians so that those physicians in the highest compartment — and it is an arbitrary compartmentalization — are paying anywhere between \$100,000 to \$150,000 for their medical liability insurance, and that is for a \$500,000 insurance policy. At the other end of the spectrum, way down at the lower end where you are in the number 18 risk classification, you may find a general practitioner who is paying \$5,000, \$6,000, \$7,000 a year, sometimes less, yet he is treating the same patients in the same type of practice, except for their specialty designation.

What my amendment proposes to do— And it is not an easy amendment, and it is not free of charge. There is a cost involved. When the Judiciary Committee held public hearings last session, this issue came up of these arbitrary rate classifications, and we were told by very good authority, experts in the area, that because of these many classifications that Pennsylvania had, our neurosurgeons, orthopedic surgeons, and general surgeons were being discriminated against on the rates that they have to pay, and that if we took those classifications and reduced them to, say, about 10 instead of 18, that we would see savings on the part of our neurosurgeons, our orthopedic surgeons, our heart surgeons, our gynecologists, our OB-GYN doctors, of anywhere between 40 to 50 percent. That is the good news. The bad news would be that those physicians at the lower end who are paying \$4,000, \$5,000, \$6,000, \$7,000, \$8,000 a year would probably pay about 10 percent more.

There is a very simple reason why there is such a disparity in the savings on the high-end physicians and the additional payment on the low end, and that is because — and I do not mean low end; I mean the general practitioners — those physicians in the lowest rate category, because there are so

many of them, their numbers are so large that their increases would be what many people would say very modest.

We are not seeing a lot of GPs leave Pennsylvania. We are seeing specialists leave. They are going to Delaware; they are going to Jersey; they are going to New York; they are going to Georgia. They are leaving. They are going to other States, and the principal reason they tell us, when asked, is because of the high insurance costs.

So the first thing this amendment does is reduce their insurance costs. The second thing it does is it keeps them here practicing in Pennsylvania.

The third thing it does is it sets up a system of experience rating. I have seen physicians who have had four or five claims made against them and each claim was either withdrawn or they were found not liable or not responsible – in other words, they had the defendant's verdict – so there was no charge that the physician would have to pay for any alleged injury that he may have caused. In fact, it was found that he did not cause any injury in some cases. And yet those physicians have seen their rates go up simply because a claim was made against them, and that is wrong, and this amendment fixes that. This amendment puts in a plan for experience rating where a case is made and there is no payment. There is no reason in the world why that physician should be discriminated against to the point that either the carrier says they are not going to write his insurance or her insurance anymore or their rates begin to skyrocket. You cannot prevent claims from being made, but these physicians are entitled to a good defense, and when it is found out that the case has no merit, it is withdrawn, or in two instances, the case went to a full trial, and the decision was in favor of the physician, yet the carrier came back and assessed the physician additional premium charges.

We do not do that in any other line of insurance. No other line of insurance do we go back and penalize somebody because a claim was made against them and the claim was beaten back; it was defeated; it was lost. We do that for physicians.

This does not change that entirely, but it does make a modest change so that we now have some element of experience rating so that our physicians, particularly our neurosurgeons, the people that are under the most financial pressure today with skyrocketing insurance premiums, they will be getting very, very quick relief when we adopt this plan in Pennsylvania.

I urge a "yes" vote on this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Tioga County, Mr. Baker, on the amendment.

Mr. BAKER. Thank you, Madam Speaker.

Madam Speaker, I rise to respectfully oppose this amendment. This amendment is opposed by thousands of doctors across the Commonwealth of Pennsylvania. In fact, the Pennsylvania Medical Society opposes this amendment, the Pennsylvania Academy of Family Physicians opposes this amendment, the American Academy of Pediatricians opposes this amendment, and the Pennsylvania Society of Internal Medicine opposes this amendment.

Madam Speaker, that is over 20,000 medical physicians that oppose this amendment. In their letter of April 29 that I have received to one of our leaders, these combined organizations say that – and I concur – they provide the first line of defense for medical treatment for our families, for our children, and for all

adults in Pennsylvania. Unfortunately, their annual income is oftentimes a lot less than the tertiary-care specialists that we have here in the Commonwealth of Pennsylvania, and their insurance premiums reflect that because of the lower level of risk that they provide in treatment. But they do in fact provide the backbone of prevention, education, diagnosis, and treatment in our health system.

Collapsing the rates, and that is what this legislation does before us, it collapses the rates by reducing the number of classes for professional liability insurance that will result in primary-care physicians, the docs that take care of us on a regular basis, day in and day out, whenever we need them, who we have the most contact with and who most of our constituents have the most contact with, it is going to dramatically increase their rates. They are some of the lowest paid and least sued physicians, and yet they are now being asked with this amendment to pay a disproportionate share of the Mcare Fund liability, thereby increasing their cost of professional liability insurance.

Madam Speaker, Act 13 of 2002, the Mcare Act, enacted a 10-percent mandatory increase in Mcare assessments if a physician had three paid claims in the first 5 years and a 20-percent mandatory increase for four or more paid claims. Obviously, the question is, should the General Assembly adopt a rate collapsing with this amendment for physicians in one rate of classification at the cost of so many others?

Why, Madam Speaker, should doctors of low risk be asked to pay a dramatically larger increase in a premium? When they in fact may have an absolutely clean record, they are still being asked for an increase. Rate collapsing is contradictory to the Mcare Act.

If the JUA (Joint Underwriting Authority) collapses the rates, some of our family physicians could arguably pay between \$10,000 and \$20,000 more in a rate-collapsing scheme. That is if all of them were collapsed into one. We are not sure if that would happen, whether it would be collapsed to three, to five, or to one, but the impact to the majority of our doctors could be rather dramatic. Primary-care doctors and many other doctors, for that matter, would be saddled with more than their fair share of costs with this cost-shifting scheme.

Madam Speaker, I think this is too much to ask for our physicians. I think already physicians are very, very leery of practicing medicine in Pennsylvania. In fact, hundreds of them have already left Pennsylvania. So does this not create a disincentive for our primary physicians to come to Pennsylvania, to be educated here and to stay here or to even come here from out of the area? If we in fact have a crisis, why create a winner-loser type of scheme? At the very least, we should do no harm, and this legislation, unfortunately, although it may be well intended by the author to reduce the higher risk premiums, really saddles our lower risk physicians in an unreasonable manner.

So I concur with these four, the Medical Society and these three other physician organizations and over 20,000 physicians, that this legislation should be opposed.

I thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Chester County, Mr. Schroder, on the amendment.

Mr. SCHRODER. Thank you, Madam Speaker.

Madam Speaker, I, too, rise to oppose the amendment and would echo much of the same comments that were given by the previous speaker.

Madam Speaker, I believe that we need to be looking for solutions that will benefit all areas of medicine and all medical providers and not trying to help one at the expense of others.

Now, the medical malpractice crisis which we are facing today has impacted all areas of medicine. Collapsing the rates, as was noted previously, is basically a risk and cost shift. It is not the solution that we need. As I said, we need further tort reform, which hopefully we will be getting to very shortly, this week even.

So while I commend the maker of the amendment, I think that this does not go to what we need to do. We need to remember that our general practitioners, our family practitioners, our gatekeeper practitioners, they have been hit by this medical malpractice crisis, and they certainly earn the least amount of money of our medical professionals, and therefore, I think it is unfair to take this approach. We do need to alleviate what is happening with our high-risk specialties and alleviate the pressures on them, but there are other ways to do it, and as I said, I think we need to get to those other ways, and hopefully we will do that very soon.

So I would ask the House for a “no” vote on the amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. Preston, on the amendment.

Mr. PRESTON. Thank you, Madam Speaker.

Will the gentleman stand for interrogation?

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. PRESTON. As I was reading the amendment, I was trying to understand, if this was even passed, how in the world it would even be accomplished by the Insurance Commissioner. I am hoping that you can explain it to me.

In your first sentence here, in section 1, it says, “The commissioner in his sole discretion shall, within 30 days of the effective date of this subsection, establish and implement a plan whereby all professional liability insurers shall place physicians in at least one insurance rating class.”

Now, most doctors that I know, they may have a general practice; they may be affiliated with five or eight hospitals, depending on the makeup of the area; they may have different specialties at different hospitals. How is an insurance company going to put these people in different categories?

Mr. GANNON. When a physician makes application for his insurance, he tells the insurance company what his practice is like. The keys here are neurosurgery, orthopedic surgery, OB-GYN, heart surgery, general surgery. These then get thrown into the high-risk categories, no matter what their claims experience has been; it is automatic; it is automatic. And if you in your application simply say, well, I am a general practitioner and I just stay in my office, people come in to see me, then you are in the lowest risk classification.

But these are very arbitrary classifications, and that is how it is done. What I am simply saying is taking that from 18 and taking it down to 10, with some subclassifications within those classes, so that within a classification, we are not discriminating also.

It is just an arbitrary setup. This was not something that was, you know, great minds. This was, 18 classifications were put together; you start pigeonholing people in these classes. You end up with your largest numbers ending up in the risk classification 1, which is your lowest risk classification; your highest at 18, or vice versa – 1 is the highest; 18, the lowest. The problem is, by boxing these people in, the risk is not spread around far enough. It is a principle of insurance to spread the risk to as many as you possibly can. That lowers the cost for everybody.

Mr. PRESTON. So we would be asking an Insurance Commissioner to determine which class – and you are saying 10 classes here with 4 subsidiary classes in each section – an Insurance Commissioner to determine which phase or which class these doctors should be in?

Mr. GANNON. No; that is not doing that.

Mr. PRESTON. Well, let me read the amendment again.

Mr. GANNON. The insurance company on the application would still assign a physician to a particular class. Instead of 18 being the lowest class, number 10 – I am just picking the numbers – number 10 would be the lowest risk class.

We are not making any dramatic changes as where you would be. If you were a general practitioner who did not do any surgery and practice out of your local office, more likely than not, you would end up in the lowest risk category. That would not change, and that is based on your practice and what you tell the insurance company what your practice is like.

If you tell the insurance company that you are a neurosurgeon and you do surgery in the local hospital or you are affiliated with hospitals and that is what you do, you are a surgeon, either a general surgeon or a neurosurgeon, which neurosurgeon is the highest, it is only a couple of people that are in that classification. That is why their premiums are so high. It is only a handful of neurosurgeons in Pennsylvania. They are the ones that we have to keep here. They are the ones that are saying, I am leaving because it just costs too much money. I think probably everybody in this room knows somebody who is retired from the practice or left; I do. One of the best neurosurgeons in my area has left the practice because his premiums are too high; he is out. We lost a very good physician because of the cost.

What I am targeting here is the cost of the insurance for those folks that are really the bedrock of the specialty treatments that our people need. When you have a brain tumor, when you need bypass surgery, you do not go to a general practitioner; you have got to go to a neurosurgeon for a brain tumor. You have got to go to a heart surgeon if you have to have a bypass, a heart transplant, or a liver transplant or a kidney transplant. The concern here is that somebody is going to go to the hospital deathly ill and there is not going to be a surgeon there to take care of him, because his insurance premiums just pushed him out of business, pushed him out of the State.

Mr. PRESTON. Which brings me to my next question: How do you create a rating form on a normative score and rate experience? Just say, for an example, with a neurosurgeon, do you go by years? Do you go by the school they went to; what class they were in; what their mental age, what their IQ (intelligence quotient) was? Maybe somebody who is just coming out of school who knows more of the modern techniques versus the person who has 20 years’ experience, how

do you rate that and how do you do that on a quantitative basis with the insurance industry?

Mr. GANNON. Well, look, there are people that do this for a living. They are actuaries; they are underwriters. They know all of the elements that come into play in determining what classification of risk you would be assigned to. The insurance companies pay them a lot of money to give them this information. That is how that would work. It would not be on—I do not want to speculate what it would be on, because I am not an actuary and I am not an underwriter, but those are the folks who would determine which risk classification you would be assigned to. They do that today. This does not change that at all; this does not change that at all.

Mr. PRESTON. So does anybody have an experience rating today in this country?

Mr. GANNON. Some States do, I understand. I have looked at what is happening here in Pennsylvania and the lack of a sound experience rating plan. You know, why should two doctors that work side by side in the same building, have the same office, the one guy has never had a claim made against him, never had a claim made against him, and the other guy may have had a series of claims made against him and maybe successful, had been found guilty of negligence, why should they be paying the same insurance premium? If you are in your car and you whack somebody in the rear, you know for about 3 years you are going to get a surcharge on your policy, and the idea of that is to keep the cost down for the other folks that are not involved in accidents.

And I am not suggesting that they adopt that kind of plan here, but I think the Insurance Commissioner has to take a look at developing a plan that is going to have some experience modification in there so that we are protecting those doctors who have never had a paid claim; they have never been found guilty of any negligence; they have never been found guilty of malpractice, or if they have, if they have been charged or a claim has been made against them, they successfully defended or it has been withdrawn. Why would we be penalizing those people as we do under the present system? That is why we are in the pickle that we are in.

Mr. PRESTON. Well, I want to go back to your amendment in dealing, for an example, with lines 27 to 31, where you start off with each insurer develops these plans, and then I guess they submit them to the Insurance Commissioner, and further on, you allow for the Insurance Commissioner to deviate.

Why are we letting the insurance companies themselves determine which category to be submitted to the Commissioner, and then at the same time, you are saying they have the experience to establish these categories? Why cannot the Insurance Commissioner do this? Why would we trust the insurance companies to do that?

Mr. GANNON. Well, the Insurance Commissioner's job is to supervise the insurance industry in Pennsylvania. He is not an insurance company, but his job is to make sure that they are following what we prescribe in the law and the regulations, and that is what this is doing. It is simply saying that the Insurance Commissioner is going to oversee what the insurance companies do to make sure that they do it right.

The objective here, quite frankly, is to reduce insurance costs for those folks that are hurting the most today, under today's environment. That is our neurosurgeons, our orthopedic surgeons, gynecologists, OB-GYNs, heart surgeons. These are

the guys that are hurting the most and women who are in this practice. They are the folks that were up here a couple weeks ago, asking us to do something for them. Here we can have an opportunity to do something for them. Is it pain free? No, it is not pain free, but it does accomplish a goal, and there is a modest, modest increase.

When we heard testimony directly from the experts last session and they talked about this helping our specialists, you may see a fellow or a gal who is in risk classification 18, assuming that has the least experience, the lowest experience rating, they would see an increase of no more than 10 percent, maybe less, and why? Because there are so many of them. It is very simple. There are so many of them.

The SPEAKER pro tempore. Has the gentleman, Mr. Preston, finished his interrogation?

Mr. PRESTON. I am finished with my interrogation. I would like to be able to make a brief statement on the amendment.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. PRESTON. I get very nervous sometimes when we start letting the people who— Insurance companies are made to make a profit. They have to report to the stockholders and the premiumholders that they have, and they make money doing that. And for them to be able to set up all of these wide myriad of categories, which are not really even clearly defined, and also to be able to deal with the issues of liability, I am looking at the difference, like in this amendment he assumes that in urban areas there are not standard deviations and costs between different hospitals, but yet in a sense, there are categories that he has a chance to offer for deviations between the rural and the urban and the suburban, but within the suburban areas, depending on if it is closer to one county or not or closer to another State line in a suburban area, there are going to be different deviations.

Within the city of Pittsburgh, we know that there may be thousands of dollars between different surgeries, between the seven or eight different hospitals that apply major surgery. There are also different lines of equations as far as their evaluations, as far as success, the overall costs, the average long-term from the same system if we go back to some of our reports for the hospital cost containment plan.

This plan, if we would ever be able to finish it, if the Insurance Commissioner might be able to get this together by the year 2010, it might be good, but it is also a large cost factor. Just the cost to the insurance companies to be able to deal with this has to cost a lot. Just the cost for the doctors to have to go through which rating and how they are filing their forms and being able to look at their costs and be able to have someone else be able to control their costs, I do not think that this is needed.

I really do not think that this amendment really does much of anything other than exacerbate the whole problem and make things even more complicated. Therefore, I would ask for a "no" vote on this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Lycoming County, Mr. Cappelli, on the amendment.

Mr. CAPPELLI. Thank you, Madam Speaker.

I rise to join previous speakers in opposition to this amendment.

I have yet to meet a physician in my district, whether he or she is a primary-care practitioner or a specialist, who is overly

thrilled with their primary insurance premium, let alone their Mcare assessment each year. Now we want to ask those same primary-care physicians who are subsidizing outrageous assessments here in Harrisburg to an Mcare Fund that they did not create – we did – to pay more, to pay more for costs that they have not produced or contributed to. It is simply outrageous.

The state of our insurance market for physicians is horrendous. Will we ever get to a truly commercial, experience-rated industry? God knows, but we better try and we better try very quickly. Adding \$20,000 or \$30,000 onto the annual operating cost of a physician who has not had a lawsuit in the last 24 to 36 months, let alone a settlement or jury award, is very, very difficult for me to justify. The \$2 billion in debt that our Mcare Fund currently amasses is as much our problem as it is the medical community's, and I think we should find an answer for it before we ask them to bail it out again.

So I would ask my colleagues for a commonsense “no” vote.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

### LEAVE OF ABSENCE CANCELED

The SPEAKER pro tempore. The majority whip notes the presence on the floor of the gentleman from Adams County, Mr. Maitland, and asks that he be added to the master roll call. The Chair hears no objection.

### CONSIDERATION OF HB 158 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. DeLuca, on the amendment.

Mr. DeLUCA. Thank you, Madam Speaker.

Madam Speaker, I rise to oppose the Gannon amendment. Although I commend him for the objective he has set out, to reduce costs for our high-end specialties, I believe that there are other ways that we should be going about this.

First of all, when we talk about the insurance costs, this is a multifaceted problem. There is not one answer against another answer. So there are a bunch of solutions that we have to look at before we are ever going to get these costs down.

But certainly, this is not the way to go about it. This certainly would penalize some of our family doctors out there. I think we would be creating a bigger problem. And secondly, I think this type of amendment needs to have more study to it, and we need to hear more from the medical profession and from the insurance companies and that there before we try to enact this type of legislation.

So I am asking my members to vote against this amendment.

Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Clearfield County, Mr. George, on the amendment.

Mr. GEORGE. Thank you, Madam Speaker.

Madam Speaker, we all must be very tired and if not very confused in that for the last 2 or 3 hours we deliberated on a matter and I assume it was to take the medical industry and help in any way we can so there could be possibly fewer accidents or

situations that would hurt those that we are here to help, those involved in medical need.

It just does not make a lot of sense for someone who just came here, but you know, for 20 years we have been talking about providing the help to our constituents who needed medical care and they could not get it, and I can remember for 5 or 6 years where we had legislation to train doctors, to give them their education if in fact they would practice medicine in the areas of medical deprivation or medically underserved.

Now, just an hour ago an amendment went into the bill which was opposite to the gentleman's amendment that he brings forth now. I commend him. I am glad he is trying. But that amendment gave 15 percent to those who were not involved in a medical malpractice situation, and now we come along and we say, in order to protect our people, we should take care of those whose premiums rise because they have been involved in a malpractice situation. Maybe he has forgotten but we have not, premiums have risen for those that were not involved in a malpractice situation.

Now, tomorrow we will come in at around 10 o'clock, and we will labor, delightfully, and argue, as we should, over what is right and what is wrong, and as the gentleman said a moment ago, the insurance company and the insurance commission, the insurance industry, we cannot do anything to them; no, we cannot, because when we go out of here tomorrow tired, it will be a no-win, no-loss situation to all of us, because we will not have resolved the problem that we are here today and tomorrow and Wednesday and Thursday; we will not, because we have not taken care of business to bring into the format the third party that is responsible for these insurance rates – the insurance industry.

And so as we talk and labor and go back and forth and we will tell those that we side with that we have done something for you, let us not worry about doing anything for the doctors or the attorneys; let us do something for the people. Let us take and release them from being hostage to what has been going on for years.

I will have more to say tomorrow, because tomorrow will be the nit-and-grit of it, but right now let us vote “no” on this amendment and get on with the business of the House.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Delaware County, Mr. Micozzie, on the amendment.

Mr. MICOZZIE. Thank you, Madam Speaker.

For all the reasons – and I am reluctant to do this, because Representative Gannon is one of my personal friends and I love him like a brother – but because of all the different arguments that have been given against it – and we in the Insurance Committee, especially Representative DeLuca and I, we have discussed this issue time and time again, and it is a very complex issue; it is not an easy issue – I ask the members to vote against this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware County, Mr. Gannon, on the amendment for the second time.

Mr. GANNON. Thank you, Madam Speaker.

One thing I can do, I can count. But I do want to make a couple comments in response to some of the comments that were made earlier about this approach to helping the physicians

who are hurting the most as a result of dramatic increases in the cost of medical liability insurance.

If this amendment were adopted and it went into law, it would only mean a modest increase for those physicians in the lower experience rating. It is a cost shifting, and that is true, and that has been stated on the floor and also some of the letters. It is cost shifting.

Tomorrow we are going to engage in probably the grandest cost-shifting enterprise that has ever been undertaken by the General Assembly, but that is for another time.

With respect to the experience rating, I think there was a misstatement here or maybe a misunderstanding of what I was attempting to do here, and I was principally focusing on helping those physicians who have never been involved in a medical malpractice situation. That is one of the goals of this amendment, and I believe it accomplished that goal.

This amendment, I just did not get this out of thin air. This was as a result of work that was done almost 12 years ago by people who were experts in this area. This was a recommendation made 12 years ago to this General Assembly, that we change this ratings scheme so that we could help those physicians who were in the higher classifications.

I do not know where this risk classification scheme came from. I know where it has ended up, though, and that it severely, severely discriminated against those physicians who we absolutely need the most – neurosurgeons, heart surgeons, orthopedic surgeons, general surgeons. They are the ones that are taking the hit here.

There is a reluctance on the part of this General Assembly – and that is obvious from the tenor of the debate – to come to grips with this issue, to address this problem. It is not easy; it is not an easy issue, but the insurance companies certainly are not going to tackle it. They have already said that. They sent letters out saying we do not like it.

The Medical Society, which represents about 38, 40 percent of the doctors but has about 80 percent of its membership as general practitioners, I understand why they would be against it, and as I said before, the larger number is in the general practitioners. If they do not want to help their colleagues in this crisis, which they have defined as a crisis, then it is on their conscience; it is on their shoulders. But that is what I am hearing: We do not want to help our colleagues in this crisis.

#### AMENDMENT WITHDRAWN

Mr. GANNON. That is all I was asking for, but considering the tenor of the debate and the reluctance on the part of the General Assembly, in my view, to tackle this somewhat controversial issue at this particular time and acknowledging that perhaps some additional work should be done on this, as recommended by some of the members, I am going to withdraw this amendment at this time, Madam Speaker. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

The SPEAKER pro tempore. Is the gentleman from Delaware County, Mr. Gannon, going to be offering his other amendment?

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. GANNON offered the following amendment No. **A1104**:

Amend Title, page 1, line 17, by removing the period after “physicians” and inserting  
and for fair medical bill payments to certain high risk health care providers and acute care institutions for care, treatments and services covered under health insurance policies.

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. The act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is amended by adding a chapter to read:

#### CHAPTER 8

#### HEALTH CARE PROVIDER REIMBURSEMENTS

##### Section 801. Scope.

This chapter relates to health insurance reimbursements for high risk health care providers and institutions.

##### Section 802. Findings.

The General Assembly of the Commonwealth of Pennsylvania finds that:

(1) Many high risk health care providers and institutions in this Commonwealth are receiving reimbursements even less than Medicare rates for services they provide for covered care.

(2) High risk health care providers and institutions are currently being undercompensated for treatments and services properly covered under health insurance policies.

(3) The continuing low reimbursement rates to these providers threaten the health, safety and welfare of the citizens of this Commonwealth because high risk health care providers and institutions may leave this Commonwealth or close down if the low reimbursements continue similar to what has happened in the State of California.

(4) Fair reimbursements must be established for high risk health care providers and institutions for services provided to individuals for care, treatments and services covered under health insurance policies.

##### Section 803. Definitions.

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

“Health insurance policy.” An individual or group health insurance policy, contract or plan which provides medical, mental, dental, optical, psychological or health care coverage by any health care facility or licensed health care provider on an expense incurred, service or prepaid basis which is offered by or is governed under any of the following:

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

(2) The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

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

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

(5) A nonprofit corporation subject to 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations) and 63 (relating to professional health services plan corporations).

“High risk institution.” Any Level I or Level II trauma center accredited by the Pennsylvania Trauma Systems Foundation under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act.

“High risk provider.” A medical provider who pays medical malpractice premiums in this Commonwealth in one of the four highest classes.

“Insurer.” An entity that insures an individual or group health insurance policy, contract or plan described under a health insurance policy.

Section 804. Fair reimbursements for high risk health care providers and institutions.

(a) General rule.—Subject to subsection (b), every health insurance policy that provides coverage to an individual and is effective, delivered, issued, executed or renewed in this Commonwealth on or after the effective date of this chapter shall provide payment to any high risk health care provider or high risk institution providing any care covered under a health insurance policy for all care including treatment, accommodation, products, or services to a covered individual for treatments at a minimum of 110% of the applicable fee schedule, the recommended fee or the inflation index charts; or 110% of the diagnostic-related groups (DRG) payment, whichever pertains to the specialty service involved, determined to be applicable in this Commonwealth under the Medicare program and its regulations for comparable services at the time the services were rendered or at the provider’s usual and customary charge, whichever is less.

(b) Medicare allowance modifications.—

(1) The General Assembly finds that the reimbursement allowance applicable in this Commonwealth under the Medicare program is an appropriate basis to calculate payments for care including treatments, accommodations, products or services for care and treatment.

(2) Future changes or additions to the Medicare allowances shall apply to this section. If the Insurance Commissioner determines that an allowance under Medicare is not reasonable, the Insurance Commissioner may adopt a different allowance by regulation, which allowance shall be applied against a percentage limitation in this section.

(3) If a prevailing charge, fee schedule, recommended fee, inflation index charge or DRG payment is not being calculated under the Medicare program for a particular treatment, accommodation, product or service, the reimbursement may not be less than 80% of the provider’s usual and customary charge.

(4) If acute care is provided in an acute care facility to a patient with immediate life-threatening or urgent injury by a Level I or Level II trauma center, accredited by the Pennsylvania Trauma Systems Foundation under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act, or to a major burn injury patient by a burn facility which meets all of the service standards of the American Burn Association, the reimbursement may not be less than the usual or customary charge while the patient is still at an immediate life-threatening or urgent injury level.

Section 805. Direct billing to insureds prohibited.

No high risk provider or high risk institution subject to this act may:

(1) Bill an insured directly, but must bill the insurer for determination of the amount payable.

(2) If receiving fair payments under this chapter, bill or otherwise attempt to collect from an insured the difference between the provider’s or institution’s full charge and the fair amount paid by the insurer, unless required by a copayment under the health insurance policy.

Section 806. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this chapter.

Section 2. Section 903 of the act is amended to read:

Amend Sec. 2, page 3, line 17, by striking out “2” and inserting  
3

Amend Sec. 3, page 7, line 20, by striking out “3” and inserting  
4

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Delaware County, Mr. Gannon.

Mr. GANNON. Madam Speaker, thank you.

Once again, this amendment is an approach to help those physicians who are hurting the most as a result of skyrocketing medical malpractice insurance premiums. What this does is it takes those highest four risk classifications and increases their reimbursement.

Now, what I have done is I have benchmarked this to our Medicare payments and, quite frankly, looked at the language in our workers’ compensation statute and our automobile law and tracked that as closely as I possibly could, because that is something we have done already and we know it works.

There is no good reason why these folks who are in the operating rooms, in our hospitals, who are caring for the most critically ill who need these specialized treatments, should be getting the lowest reimbursements probably in the whole United States. Many of the physicians who have come to us in connection with the situation that they find themselves in have been very firm that that is one of their top priorities, to do something about these reimbursements.

There is an opportunity for us to do that here today, and I would like to see us increase just those reimbursements to those four top risk classifications. They are the ones that are being hit the most. We have an opportunity to help them out. We were reluctant to help them with reducing their medical liability insurance costs. Maybe we can help them with increasing their reimbursements for the services that they provide to those folks that are the most critically ill and need the highly specialized service that they provide.

I ask for a “yes” vote.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Allegheny County, Mr. DeLuca, on the amendment.

Mr. DeLUCA. Thank you, Madam Speaker.

This is certainly a good amendment, and I want to commend Representative Gannon for this amendment, and I would ask the House to vote for this amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—191

Adolph	Egolf	Lescovitz	Samuelson
Allen	Evans, D.	Levdansky	Santoni
Argall	Evans, J.	Lewis	Sather
Armstrong	Fabrizio	Lynch	Scavello
Baker	Fairchild	Mackereth	Schroder
Baldwin	Feese	Maher	Scrimenti
Bard	Fichter	Major	Semmel
Barrar	Fleagle	Manderino	Shaner
Bastian	Flick	Mann	Smith, B.



Bebko-Jones	Forcier	Markosek	Smith, S. H.
Belardi	Frankel	Marsico	Solobay
Belfanti	Freeman	McCall	Staback
Bianucci	Gabig	McGeehan	Stairs
Birmelin	Gannon	McGill	Steil
Bishop	Geist	McIlhattan	Stern
Blaum	George	McIlhinney	Stetler
Boyd	Gergely	McNaughton	Stevenson, R.
Browne	Gillespie	Melio	Stevenson, T.
Bunt	Gingrich	Micozzie	Sturla
Butkovitz	Godshall	Miller, R.	Surra
Buxton	Goodman	Miller, S.	Tangretti
Caltagirone	Gordner	Mundy	Taylor, E. Z.
Cappelli	Grucela	Myers	Taylor, J.
Casorio	Habay	Nailor	Thomas
Causer	Haluska	Nickol	Tigue
Cawley	Hanna	O'Brien	Travaglio
Civera	Harhai	Oliver	True
Clymer	Harhart	O'Neill	Turzai
Cohen	Harper	Pallone	Vance
Coleman	Harris	Payne	Veon
Cornell	Hasay	Petrarca	Vitali
Corrigan	Hennessey	Petrone	Walko
Costa	Herman	Phillips	Wansacz
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yewcic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamio	Leach	Rubley	
Diven	Lederer	Ruffing	Perzel,
Donatucci	Leh	Sainato	Speaker
Eachus			

NAYS-5

Benninghoff	Metcalfe	Petri	Saylor
Maitland			

NOT VOTING-1

Hershey

EXCUSED-3

Gruitza	Roebuck	Washington
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The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Ms. **BARD** offered the following amendment No. **A1102**:

Amend Title, page 1, line 15, by striking out "AND"

Amend Title, page 1, line 17, by removing the period after "physicians" and inserting

; requiring health insurers to disclose fee schedules and all rules and algorithms relating thereto; requiring health insurers to provide full payment to physicians when more than one surgical procedure is

performed on the patient by the same physician during one continuous operating procedure; and providing for causes of action and for penalties.

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. The act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, is amended by adding a chapter to read:

**CHAPTER VIII**

**HEALTH INSURANCE PAYERS**

Section 801. Scope.

This chapter relates to health insurance fee schedules and provider reimbursements.

Section 802. Legislative findings.

The General Assembly finds that:

(1) A majority of physicians in this Commonwealth are reimbursed for their services to patients by third-party payors. In some cases, this contractual relationship between physician and insurer has existed for years without the physician receiving from the insurer a formal contract or an accurate or complete fee schedule detailing fees or the rules or algorithms that actually define the rates at which physicians are compensated for the services they render to the payors' insureds. Most health care insurers in this Commonwealth refuse to fully and accurately disclose their fee schedules to participating physicians; therefore, doctors do not know and cannot find out what they will receive in compensation prior to performing a service. This insurer policy is manifestly unfair to physicians; it is a breach of the physicians' contracts; and it facilitates further breaches of such contracts by making it impossible for physicians to enforce their right to full payment for services rendered.

(2) During the course of a single operative session, a surgeon may perform multiple surgical procedures on the patient. These multiple surgical procedures are separate and distinct operations in layman's terms and as defined by the current procedure terminology coding system created by the American Medical Association and other professional medical societies. The General Assembly further finds that the Current Procedural Terminology (CPT) Coding System is utilized by all physicians to identify to payors the services rendered by physicians and that payors purport to adopt the same CPT Coding System in defining the services for which they compensate such physicians. The General Assembly also finds, however, that, contrary to the dictates of the CPT Coding System and without disclosing any such deviation to the physicians with whom they contract, a number of health care insurers in this Commonwealth compensate physicians as if the procedures performed in addition to the primary procedure were merely incidental to the primary procedure and therefore such payors will compensate the surgeon for only one procedure. This insurer policy is inconsistent with the medical judgments upon which the CPT Coding System is based, it is not accurately disclosed to physicians, it is manifestly unfair to surgeons, it leads to a lack of access to quality health care services for patients, and it adds to the excess profits insurers take from the health care delivery system.

Section 803. Declaration of intent.

The General Assembly hereby declares that it is the policy of this Commonwealth that physicians should receive from health care insurers a complete and accurate schedule of the reimbursement fees, including any rules or algorithms utilized by the payor to determine the amount a physician will be compensated if more than one procedure is performed during a single treatment session. The General Assembly further declares that it is the policy of this Commonwealth that insurers must comply with their contractual obligations and that surgeons should be fairly and justly compensated for all surgical procedures they perform in a single operative session.

Section 804. Definitions.

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

“Fee schedule.” The generally applicable monetary allowance payable to a participating physician for services rendered as provided for by agreement between the participating physician and the insurer, including, but not limited to, a list of Healthcare Common Procedure Coding System (HCPCS) Level I Current Procedural Terminology (CPT) Codes, HCPCS Level II National Codes and HCPCS Level III Local Codes and the fees associated therein; and a delineation of the precise methodology used for determining the generally applicable monetary allowances, including, but not limited to, footnotes describing formulas, algorithms, rules and calculations associated with determination of the individual allowances.

“HCPCS.” HCFA (Health Care Financing Administration) Common Procedural Coding System, a uniform method for health care providers and medical suppliers to report professional services, procedures, pharmaceuticals and supplies.

“HCPCS Level I CPT Codes.” The descriptive terms and identifying codes used in reporting supplies and pharmaceuticals used by and services and procedures performed by participating physicians as listed in the American Medical Association’s Physician’s Current Procedural Terminology (CPT).

“HCPCS Level II National Codes.” Descriptive terms and identifying codes used in reporting supplies and pharmaceuticals used by and services and procedures performed by participating physicians.

“HCPCS Level III Local Codes.” Descriptive terms and identifying codes used in reporting supplies and pharmaceuticals used by and services and procedures performed by participating physicians which are assigned and maintained by Pennsylvania’s Centers for Medicare and Medicaid Services carrier.

“Insurer.” Any insurance company, association or exchange authorized to transact the business of insurance in this Commonwealth. This shall also include any entity operating under any of the following:

- (1) Section 630 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.
- (2) Article XXIV of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.
- (3) The act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.
- (4) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).
- (5) 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).
- (6) 40 Pa.C.S. Ch. 67 (relating to beneficial societies).

“Participating physician.” An individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all its branches within the scope of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or in the practice of osteopathic medicine within the scope of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, who by agreement provides services to an insurer’s subscribers.

Section 805. Disclosure of fee schedules.

Within 30 days of the effective date of this chapter, insurers shall provide their participating physicians with a copy of their fee schedule, including all applicable rules and algorithms utilized by the insurer to determine the amount any such physician will be compensated for performing any single procedure and any group of procedures during a single treatment session, which are applicable on July 1, 2002, and annually thereafter. Insurers shall also provide participating physicians with updates to the fee schedule as modifications occur.

Section 806. Procedure for payment of multiple surgical procedures.

When a participating physician performs more than one surgical procedure on the same patient and at the same operative session, insurers shall pay the participating physician the greater of the amount calculated on the basis of the applicable insurer fee schedule and:

(1) any rules, algorithms, codes or modifiers included therein, governing reimbursement for multiple surgical procedures; or

(2) the principles governing reimbursement for multiple surgical procedures set forth and established by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services, including the rule mandating payment to the physician of:

(i) One hundred percent of the generally applicable maximum monetary allowance for the procedure which has the highest monetary allowance.

(ii) Fifty percent of the generally applicable maximum monetary allowance for the second through fifth procedures with the next highest values.

(iii) Procedures in excess of five require submission of documentation and individual review to determine payment amount.

Section 807. Contract provisions.

Any provision in any contract, insurer policy or fee schedule that is inconsistent with any provision of this chapter is hereby declared to be contrary to the public policy of the Commonwealth and is void and unenforceable.

Section 808. Violations.

An insurer violates:

(1) Section 805 if the insurer fails to provide a participating physician with a copy of the fee schedule and updates to the fee schedule in the time frame provided in section 805.

(2) Section 806 if the insurer fails to adhere to the policy for payment of multiple surgeries as set forth and established by the Centers for Medicare and Medicaid Services within the Department of Health and Human Services.

Section 809. Cause of action.

In addition to all statutory, common law and equitable causes of action which already exist, a participating physician shall have a private cause of action for any violation of any provision of this chapter to enforce the provisions of this chapter. A participating physician shall be entitled to recover from an insurer any legal fees and costs associated with any suit brought under this section.

Section 810. Termination of agreement.

In addition to other remedies provided in this chapter, a participating physician may terminate his agreement if an insurer violates the provisions of this chapter. The physician may continue to provide services to the insurer’s insureds and shall receive compensation as an out-of-network provider.

Section 811. Penalties.

Violations of this chapter shall be considered violations of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and are subject to the penalties and sanctions of section 2182 of The Insurance Company Law of 1921.

Section 2. Section 903 of the act is amended to read:

Amend Sec. 2, page 3, line 17, by striking out “2” and inserting  
3

Amend Sec. 3, page 7, line 20, by striking out “3” and inserting  
4

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the lady from Montgomery County, Ms. Bard.

Ms. BARD. Thank you, Madam Speaker.

This legislation has been endorsed by the Pennsylvania Medical Society and the Pennsylvania Orthopaedic Society as HB 20.

Often a surgeon will perform several surgical procedures in a single operative session. As we have heard previously, the

reimbursements are a problem in Pennsylvania. Elsewhere in the country, physicians are reimbursed significantly, more advantageously than in Pennsylvania. Under this legislation Pennsylvania would be brought in line with Medicare guidelines which currently pay for reimbursement for multiple procedures. Under the Medicare policy, a surgeon is reimbursed 100 percent for the first procedure and 50 percent for subsequent procedures in the same operative session.

This amendment will simply bring Pennsylvania's health-care insurers in line with the Medicare standard. It will also require that insurers disclose their fee schedules, and I ask for the support of the members.

Thank you very much, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the lady.

On the question recurring,  
Will the House agree to the amendment?

The following roll call was recorded:

## YEAS—196

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner
Bebko-Jones	Forcier	Markosek	Smith, B.
Belardi	Frankel	Marsico	Smith, S. H.
Belfanti	Freeman	McCall	Solobay
Benninghoff	Gabig	McGeehan	Staback
Bianucci	Gannon	McGill	Stairs
Birmelin	Geist	McIlhattan	Steil
Bishop	George	McIlhinney	Stern
Blaum	Gergely	McNaughton	Stetler
Boyd	Gillespie	Melio	Stevenson, R.
Browne	Gingrich	Metcalfe	Stevenson, T.
Bunt	Godshall	Miller, R.	Sturla
Butkovitz	Goodman	Miller, S.	Surra
Buxton	Gordner	Mundy	Tangretti
Caltagirone	Grucela	Myers	Taylor, E. Z.
Cappelli	Habay	Nailor	Taylor, J.
Casorio	Haluska	Nickol	Thomas
Causar	Hanna	O'Brien	Tigue
Cawley	Harhai	Oliver	Travaglio
Civera	Harhart	O'Neill	True
Clymer	Harper	Pallone	Turzai
Cohen	Harris	Payne	Vance
Coleman	Hasay	Petrarca	Veon
Cornell	Hennessey	Petri	Vitali
Corrigan	Herman	Petrone	Walko
Costa	Hershey	Phillips	Wansacz
Coy	Hess	Pickett	Waters
Crahalla	Hickernell	Pistella	Watson
Creighton	Horsey	Preston	Weber
Cruz	Hutchinson	Raymond	Wheatley
Curry	James	Readshaw	Williams
Dailey	Josephs	Reed	Wilt
Daley	Keller	Reichley	Wojnaroski
Dally	Kenney	Rieger	Wright
DeLuca	Kirkland	Roberts	Yeweic
Denlinger	Kotik	Rohrer	Youngblood
Dermody	LaGrotta	Rooney	Yudichak
DeWeese	Laughlin	Ross	Zug
DiGirolamo	Leach	Rubley	
Diven	Lederer	Ruffing	
Donatucci	Leh	Sainato	Perzel,
Eachus	Lescovitz		Speaker

## NAYS—1

Micozzie

## NOT VOTING—0

## EXCUSED—3

Gruitza                      Roebuck                      Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,  
Will the House agree to the bill on third consideration as amended?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery County, Mr. Godshall.

Mr. GODSHALL. I had an amendment to this bill, amendment No. 1347.

The SPEAKER pro tempore. The gentleman will have to suspend the rules.

## RULES SUSPENDED

The SPEAKER pro tempore. Would you like to make that motion?

Mr. GODSHALL. I would like to suspend the rules – it is very brief – for this amendment.

What it does is it—

The SPEAKER pro tempore. Go ahead; a brief explanation.

Mr. GODSHALL. That is what I was trying to do.

It adds to the time that is required for a termination or nonrenewal notice for medical malpractice in a medical malpractice insurance case.

The SPEAKER pro tempore. What is the number of that amendment again, please?

Mr. GODSHALL. The number is 1347.

The SPEAKER pro tempore. The gentleman from Montgomery County, Mr. Godshall, moves that the rules of the House be suspended in order to offer amendment No. 1347.

On the question,  
Will the House agree to the motion?

The following roll call was recorded:

## YEAS—197

Adolph	Egolf	Levdansky	Samuelson
Allen	Evans, D.	Lewis	Santoni
Argall	Evans, J.	Lynch	Sather
Armstrong	Fabrizio	Mackereth	Saylor
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner
Bebko-Jones	Forcier	Markosek	Smith, B.
Belardi	Frankel	Marsico	Smith, S. H.
Belfanti	Freeman	McCall	Solobay
Benninghoff	Gabig	McGeehan	Staback

Biancucci	Gannon	McGill	Stairs
Birmelin	Geist	McIlhattan	Steil
Bishop	George	McIlhinney	Stern
Blaum	Gergely	McNaughton	Stetler
Boyd	Gillespie	Melio	Stevenson, R.
Browne	Gingrich	Metcalfe	Stevenson, T.
Bunt	Godshall	Micozzie	Sturla
Butkovitz	Goodman	Miller, R.	Surra
Buxton	Gordner	Miller, S.	Tangretti
Caltagirone	Grucela	Mundy	Taylor, E. Z.
Cappelli	Habay	Myers	Taylor, J.
Casorio	Haluska	Nailor	Thomas
Causar	Hanna	Nickol	Tigue
Cawley	Harhai	O'Brien	Travaglio
Civera	Harhart	Oliver	True
Clymer	Harper	O'Neill	Turzai
Cohen	Harris	Pallone	Vance
Coleman	Hasay	Payne	Veon
Cornell	Hennessey	Petrarca	Vitali
Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Hess	Phillips	Waters
Crahalla	Hickernell	Pickett	Watson
Creighton	Horsey	Pistella	Weber
Cruz	Hutchinson	Preston	Wheatley
Curry	James	Raymond	Williams
Dailey	Josephs	Readshaw	Wilt
Daley	Keller	Reed	Wojnarowski
Dally	Kenney	Reichley	Wright
DeLuca	Kirkland	Rieger	Yewcic
Denlinger	Kotik	Roberts	Youngblood
Dermody	LaGrotta	Rohrer	Yudichak
DeWeese	Laughlin	Rooney	Zug
DiGirolamo	Leach	Ross	
Diven	Lederer	Rubley	
Donatucci	Leh	Ruffing	Perzel,
Eachus	Lescovitz	Sainato	Speaker

NAYS-0

NOT VOTING-0

EXCUSED-3

Gruitza            Roebuck            Washington

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. **GODSHALL** offered the following amendment No. **A1347**:

Amend Title, page 1, line 15, by inserting after "PROVIDING" for cancellation of insurance policy and for

Amend Bill, page 1, line 23; page 2, lines 1 and 2, by striking out all of said lines on said pages and inserting

Section 1. Sections 747 and 903 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, are amended to read: Section 747. Cancellation of insurance policy.

(a) Termination.—A termination of a medical professional liability insurance policy by nonrenewal or cancellation, except for suspension or revocation of the insured's license or for reason of nonpayment of premium, is not effective against the insured unless notice of nonrenewal or cancellation was [given within 60 days after

the issuance of the policy to the insured,] received by the insured 120 days prior to the nonrenewal or cancellation and no nonrenewal or cancellation shall take effect unless a written notice stating the reasons for the nonrenewal or cancellation and the date and time upon which the termination becomes effective has been received by the commissioner. Mailing of the notice to the commissioner at the commissioner's principal office address shall constitute notice to the commissioner.

(b) Premium increase.—A premium increase for a medical professional liability insurance policy shall not be effective against the insured unless notice of the premium increase was received by the insured 90 days prior to the premium increase and no premium increase shall take effect unless a written notice stating the reasons for the premium increase and the date and time upon which the premium increase becomes effective has been received by the commissioner. Mailing of the notice to the commissioner at the commissioner's principal office address shall constitute notice to the commissioner.

Amend Bill, page 7, by inserting between lines 19 and 20

Section 3. All acts and parts of acts providing for nonrenewal, cancellation or premium increase notice are repealed insofar as they are inconsistent with section 747 of the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act.

Amend Sec. 3, page 7, line 20, by striking out "3" and inserting  
4

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Montgomery County, Mr. Godshall.

Mr. GODSHALL. Very briefly. Presently if there is a cancellation of malpractice insurance, the insurer must give 60 days' notice. This extends that to 120 days.

Also, it calls for the fact that if there is going to be a rate increase passed on to the doctor, 60 days' prior notice has to be given for that rate increase to the doctor.

Thank you, and I appreciate your support.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS-196

Adolph	Egolf	Levdansky	Sainato
Allen	Evans, D.	Lewis	Samuelson
Argall	Evans, J.	Lynch	Santoni
Armstrong	Fabrizio	Mackereth	Sather
Baker	Fairchild	Maher	Scavello
Baldwin	Feese	Maitland	Schroder
Bard	Fichter	Major	Scrimenti
Barrar	Fleagle	Manderino	Semmel
Bastian	Flick	Mann	Shaner
Bebko-Jones	Forcier	Markosek	Smith, B.
Belardi	Frankel	Marsico	Smith, S. H.
Belfanti	Freeman	McCall	Solobay
Benninghoff	Gabig	McGeehan	Staback
Biancucci	Gannon	McGill	Stairs
Birmelin	Geist	McIlhattan	Steil
Bishop	George	McIlhinney	Stern
Blaum	Gergely	McNaughton	Stetler
Boyd	Gillespie	Melio	Stevenson, R.
Browne	Gingrich	Metcalfe	Stevenson, T.
Bunt	Godshall	Micozzie	Sturla
Butkovitz	Goodman	Miller, R.	Surra
Buxton	Gordner	Miller, S.	Tangretti

Caltagirone	Grucela	Mundy	Taylor, E. Z.
Cappelli	Habay	Myers	Taylor, J.
Casorio	Haluska	Nailor	Thomas
Causer	Hanna	Nickol	Tigue
Cawley	Harhai	O'Brien	Travaglio
Civera	Harhart	Oliver	True
Clymer	Harper	O'Neill	Turzai
Cohen	Harris	Pallone	Vance
Coleman	Hasay	Payne	Veon
Cornell	Hennessey	Petrarca	Vitali
Corrigan	Herman	Petri	Walko
Costa	Hershey	Petrone	Wansacz
Coy	Hess	Phillips	Waters
Crahalla	Hickernell	Pickett	Watson
Creighton	Horsey	Pistella	Weber
Cruz	Hutchinson	Preston	Wheatley
Curry	James	Raymond	Williams
Dailey	Josephs	Readshaw	Wilt
Daley	Keller	Reed	Wojnaroski
Dally	Kenney	Reichley	Wright
DeLuca	Kirkland	Rieger	Yewcic
Denlinger	Kotik	Roberts	Youngblood
Dermody	LaGrotta	Rohrer	Yudichak
DeWeese	Laughlin	Rooney	Zug
DiGirolo	Leach	Ross	
Diven	Lederer	Rubley	
Donatucci	Leh	Ruffing	Perzel,
Eachus	Lescovitz		Speaker

NAYS-1

Saylor

NOT VOTING-0

EXCUSED-3

Gruitza            Roebuck            Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

**VOTE CORRECTION**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware County, Mr. Micozzie, on final passage.

Mr. MICOZZIE. Madam Speaker, my vote malfunctioned on amendment 1102.

**CONSIDERATION OF HB 158 CONTINUED**

Mr. MICOZZIE. And while I have the mike, I just want to thank all the members of the Insurance Committee, especially my good friend, DeLuca, Representative DeLuca.

A lot of work went into this over the last, oh, last 6 months to a year, and it just shows what can be done if we work together and spend the time and do the things we have to do. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-177

Adolph	Evans, D.	Maitland	Schroder
Allen	Evans, J.	Major	Scrimenti
Argall	Fabrizio	Manderino	Semmel
Armstrong	Fichter	Mann	Shaner
Baldwin	Fleagle	Markosek	Smith, B.
Bard	Flick	Marsico	Smith, S. H.
Barrar	Forcier	McCall	Solobay
Bastian	Frankel	McGeehan	Staback
Bebko-Jones	Freeman	McGill	Stairs
Belardi	Gabig	McIlhattan	Steil
Belfanti	Gannon	McIlhinney	Stern
Biancucci	George	McNaughton	Stetler
Birmelin	Gergely	Melio	Stevenson, R.
Bishop	Gingrich	Micozzie	Stevenson, T.
Blaum	Godshall	Miller, R.	Sturla
Boyd	Goodman	Miller, S.	Surra
Browne	Gordner	Mundy	Tangretti
Bunt	Grucela	Myers	Taylor, E. Z.
Butkovitz	Habay	Nailor	Taylor, J.
Buxton	Haluska	Nickol	Thomas
Caltagirone	Hanna	O'Brien	Tigue
Casorio	Harhai	Oliver	Travaglio
Causer	Harhart	Pallone	True
Cawley	Hennessey	Payne	Turzai
Civera	Hershey	Petrarca	Vance
Cohen	Hess	Petri	Veon
Cornell	Hickernell	Petrone	Vitali
Corrigan	Horsey	Pickett	Walko
Costa	Hutchinson	Pistella	Wansacz
Coy	James	Preston	Waters
Crahalla	Josephs	Raymond	Watson
Cruz	Keller	Readshaw	Weber
Curry	Kenney	Reichley	Wheatley
Dailey	Kirkland	Rieger	Williams
Daley	Kotik	Roberts	Wilt
Dally	LaGrotta	Rohrer	Wojnaroski
DeLuca	Laughlin	Rooney	Wright
Denlinger	Leach	Ross	Yewcic
Dermody	Lederer	Rubley	Youngblood
DeWeese	Leh	Ruffing	Yudichak
DiGirolo	Lescovitz	Sainato	Zug
Diven	Levdansky	Samuelson	
Donatucci	Lynch	Santoni	
Eachus	Mackereth	Sather	Perzel,
Egolf	Maher	Saylor	Speaker

NAYS-20

Baker	Creighton	Harper	Metcalfe
Benninghoff	Fairchild	Harris	O'Neill
Cappelli	Feese	Hasay	Phillips
Clymer	Geist	Herman	Reed
Coleman	Gillespie	Lewis	Scavello

NOT VOTING-0

## EXCUSED—3

Gruitza                      Roebuck                      Washington

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER pro tempore. Members are reminded that tomorrow's session begins at 10 a.m.; 10 a.m.

**COMMITTEE MEETING CANCELED**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Allen.

Mr. ALLEN. Madam Speaker, the Labor Relations Committee meeting scheduled at 10 a.m. and then moved to 9:30 a.m. is now canceled. Thank you very much.

The SPEAKER pro tempore. The gentleman, Mr. Allen, says that the Labor Relations Committee is canceled for tomorrow.

**VOTE CORRECTION**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Chester County, Mr. Hershey.

Mr. HERSHEY. Thank you, Madam Speaker.

On amendment A1104 my switch did not work, and I want to be voted in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your vote will be cast upon the record.

**COMMITTEE MEETING CANCELED**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware County, Mr. Gannon.

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, the House Professional Licensure Committee meeting scheduled for 10 o'clock tomorrow morning has been canceled.

The SPEAKER pro tempore. The gentleman, Mr. Gannon, notes that the Professional Licensure Committee meeting for tomorrow at 10 a.m. is canceled.

**DEMOCRATIC CAUCUS**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Cohen.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, the caucus we had previously scheduled for 10:30 a.m. tomorrow is canceled. We will have a caucus at noon during the lunch recess.

The SPEAKER pro tempore. The Chair thanks the gentleman.

**REPUBLICAN CAUCUS**

The SPEAKER pro tempore. The Chair recognizes the gentlelady from Chester County, Mrs. Taylor.

Mrs. TAYLOR. Thank you, Madam Speaker.

The Republican majority caucus will meet at 8:30, and we will then be prepared to come to the floor at 10. Thank you.

**VOTE CORRECTIONS**

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Ms. Manderino.

Ms. MANDERINO. Thank you, Madam Speaker.

Correction of the record.

On HB 538, amendment 1317, my vote was not recorded. I wish the record to reflect that I had intended to vote "no."

The SPEAKER pro tempore. The Chair thanks the lady. Your vote will be cast upon the record.

The Chair recognizes the gentleman, Mr. Biancucci.

Mr. BIANCUCCI. Madam Speaker, on HB 538, amendment 1317, I would like to correct the record. My switch did not work. I would like to be recorded in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your vote will be cast upon the record.

The Chair recognizes the gentleman from Monroe County, Mr. Scavello.

Mr. SCAVELLO. Thank you, Madam Speaker.

On HB 158, the last vote, my button malfunctioned. Please put me in the affirmative.

The SPEAKER pro tempore. The Chair thanks the gentleman. Your remarks will be spread upon the record.

**BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

**ADJOURNMENT**

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Kotik, from Allegheny County.

Mr. KOTIK. Madam Speaker, I move that this House do now adjourn until Tuesday, June 10, 2003, at 10 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:31 p.m., e.d.t., the House adjourned.