IN THE GENERAL ASSEMBLY STATE OF ____

Physician Fair Process Protections Act

Be it enacted by the People of the State of ______________, represented in the General Assembly:

Section 1. Title. This Act shall be known and may be cited as the “Physician Fair Process Protections Act.”

Section 2. Purpose. The Legislature hereby finds and declares that:

(a) Plans must have a sufficient network of physicians and other health care providers so as to provide timely and adequate care, including the full range of essential health benefits;

(b) In an effort to control health care costs, however, some health insurers choose to limit the size of the provider networks through which they will provide health care services offered to consumers that are covered under health insurance plans;

(c) This limiting action may result in health insurers terminating the participation of physicians and other health care providers from existing networks and or excluding otherwise qualified and potentially essential physicians and other health care providers from network participation; and

(d) To ensure that patients have sufficient access to care and that long-standing patient-physician relationships essential to patient care are not disrupted, health insurers must
provide physicians with due process prior to making changes to, terminating physicians
from, or denying physicians participation in, a provider network.

Section 3. Definitions.

Adverse action means a decision by a health insurer to terminate, deny, restrict, limit, or
otherwise condition a physician’s participation in one or more provider networks, including but
not limited to, participation in a narrow network or network participation determined through
tiering.

Health Insurer means an entity or person that offers or administers a health insurance plan,
coverage or policy in this state; or contracts with physicians and other health care providers to
furnish specified health care services to enrollees covered under a health insurance plan or
policy.

Health Insurance Plan means any hospital and medical expense incurred policy, non-profit
health care service plan contract, health maintenance organization subscriber contract or any
other health care plan, policy, coverage or arrangement that pays for or furnishes medical or
health care services, whether by insurance or otherwise, offered in this State. Health insurance
plan includes any and all health insurance plan offered in the Exchange, including any Qualified
Health Plan.

Network or Provider Network means the physicians, health care professionals, health care
facilities, and ancillary health care providers with whom a health insurer contracted to provide
health care services to a specified group of enrollees under a health insurance plan offered in this
state.
**Tiering** means a system that compares, rates, ranks, measures, tiers or classifies a health care provider’s performance, quality or cost of care against objective standards, subjective standards or the practice or performance of other health care providers, and shall include quality improvement programs, pay-for-performance programs, public reporting on health care provider performance or ratings and the use of tiered or narrowed networks.

**Section 4. Requirements.**

(a) A health insurer shall not effect an adverse action with respect to a physician without first providing the physician with the fair process protections required by Section 4 of this Act.

(b) Prior to effecting any adverse action described in Section 4(a), the health insurer must provide the affected physician with written notice, sent by certified mail, return receipt requested, informing the physician of the proposed action. The notice must:

(i) contain an explanation of the reasons for the proposed adverse action that are of sufficient detail to enable the physician to challenge the proposed adverse action;

(ii) reference the evidence or documentation underlying the decision to pursue the proposed adverse action, which the health insurer must provide the physician within seven (7) working days of the date on which the health insurer received a request for such evidence of documentation from the affected physician;

(iii) inform the physician of the physician's right to a full, fair, objective, and independent, in-person hearing, pursuant to rules established by the [identify
appropriate state department] by administrative rule, at which the physician
may challenge the proposed adverse action; and
(iv) inform the physician of his or her right to be represented by legal counsel to
challenge the proposed adverse action.
(c) The notice described in Section 4(b) of this Act must be received by the physician at least
60 working days prior to the date or dates on which the hearing described in Section 4(d)
is scheduled.
(d) The in-person hearing described in this Section 4 of this Act must satisfy the following
requirements:
   (i) the hearing must be conducted by a panel of at least three persons selected
       according to procedures promulgated by organizations nationally recognized as
       having expertise with respect to resolution of health care-related disputes; and
       (ii) at least one member of the hearing panel must an actively practicing physician in
           the same specialty and sub-specialty, if applicable, as the affected physician.
(e) The hearing panel must provide the physician with a written decision no later than 60
calendar days after the close of the hearing. The written decision must contain a detailed
description of all of the bases of the decision and any applicable contract language.
(f) A decision to effect the adverse action may not become effective until less than 60 days
after the receipt by the physician of the health panel’s decision or, if applicable, until the
termination date of the physician’s agreement with the health insurer, whichever is
earlier.
Section 5. Waiver Prohibited. The provisions of this Act cannot be waived by contract, and any contractual arrangements in conflict with the provisions of this act or that purport to waive any requirements of this Act are null and void.

Section 6. Effective Date. This Act shall become effective immediately upon being enacted into law.

Section 7. Severability. If any provision of this Act is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, and to this end the provisions of this Act are hereby declared severable.