

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2012 Session of 2024

INTRODUCED BY PISCIOTTANO, VENKAT, ISAACSON, MADDEN, SANCHEZ, SCHLOSSBERG, KHAN, DELLOSO, HOWARD, MERSKI, N. NELSON, BOYD, KRAJEWSKI, GREEN, CERRATO, MATZIE, BRIGGS, MADSEN AND T. DAVIS, FEBRUARY 5, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 1, 2024

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for ESTABLISHING cause of <--
3 action for antitrust conduct, for indirect purchaser recovery
4 under State antitrust laws and for premerger notice of health
5 care mergers and transactions; and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 12 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

CHAPTER 9

PENNSYLVANIA OPEN MARKETS

12 Sec.

13 901. Scope of chapter.

14 902. Declaration of purpose.

15 903. Definitions.

16 904. Prohibited acts.

17 905. Enforcement by Attorney General.

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5 911. Antitrust enforcement by private parties.
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7 OTHER STATES AND STATE AGENCIES.
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12 or foreign commerce.
13 917. CONSTRUCTION. <--
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15 § 901. Scope of chapter.
16 This chapter relates to open markets in this Commonwealth.
17 § 902. Declaration of purpose.
18 The purpose of this chapter is to promote free enterprise and
19 free trade in the marketplaces of this Commonwealth by
20 prohibiting restraints of trade that are secured through
21 monopolistic or collusive practices and that act or tend to act
22 to decrease competition between and among persons engaged in
23 commerce and trade.
24 § 903. Definitions.
25 The following words and phrases when used in this chapter
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:
28 "Acquisition." An agreement, arrangement or activity, the
29 consummation of which results in a person acquiring, directly or
30 indirectly, the control of another person or the ability to

1 influence the competitive conduct of the target ~~firm~~ PERSON, and <--
2 includes the acquisition of voting securities and noncorporate
3 interests, such as assets, capital stock, membership interests
4 or equity interests.

5 "Contracting affiliation." The formation of a relationship
6 between two or more ~~entities~~ PERSONS that permits the ~~entities~~ <--
7 PERSONS to negotiate jointly with insurers or third-party <--
8 administrators over rates for professional medical services or
9 for one ~~entity~~ PERSON to negotiate on behalf of the other ~~entity~~ <--
10 PERSON with insurers or third-party administrators over rates <--
11 for professional medical services.

12 "Hart-Scott-Rodino Act." Title II of the Clayton Antitrust
13 Act (Public Law 63-212, 15 U.S.C. § 18a).

14 "Health care facility." As defined in section ~~103~~ 802.1 of <--
15 the act of July 19, 1979 (P.L.130, No.48), known as the Health
16 Care Facilities Act.

17 "Health care facility system." Either of the following:

18 (1) a parent corporation of one or more health care
19 facilities and an ~~entity~~ A PERSON affiliated with the parent <--
20 corporation through ownership or control; or

21 (2) a health care facility and an ~~entity~~ A PERSON <--
22 affiliated with the health care facility through ~~ownership~~ <--
23 DIRECT OR INDIRECT OWNERSHIP, INCLUDING A PRIVATE EQUITY <--
24 FUND.

25 "Health care practitioner." As defined in section 103 of the
26 Health Care Facilities Act.

27 "Health care services." Medical, surgical, chiropractic,
28 hospital, optometric, DENTAL TREATMENT, podiatric, <--
29 pharmaceutical, ambulance, mental health, substance use
30 disorder, therapeutic, preventative, diagnostic, curative,

1 rehabilitative, palliative, custodial and other services
2 relating to the prevention, cure or treatment of illness, injury
3 or disease.

4 "Health care services revenue." The total revenue received
5 for health care services in the previous 12 months.

6 "Insurer." As defined in 40 Pa.C.S. § 9103 (relating to
7 definitions).

8 "Merger." A consolidation of two or more ~~organizations~~ <--
9 PERSONS, including two or more ~~organizations~~ PERSONS joining <--
10 through a common parent organization or two or more
11 organizations forming a new organization. The term does not
12 include a corporate reorganization.

13 "Monopoly." The power to control prices and exclude
14 competition as a seller.

15 "Monopsony." The power to control prices and exclude
16 competition as a buyer.

17 ~~"Person." A natural person, corporation, trust, partnership, <--~~
18 ~~an incorporated or unincorporated association, the Commonwealth,~~
19 ~~a State agency, municipal authority, political subdivision and~~
20 ~~any other legal entity.~~

21 "Provider organization." A corporation, partnership,
22 business trust, association or organized group of persons,
23 whether incorporated or not, that is in the business of health
24 care delivery or management and that represents two or more
25 health care practitioners in contracting with insurers or third-
26 party administrators for the payments of health care services.
27 The term includes a physician organization, physician-hospital
28 organization, independent practice association, provider network
29 and accountable care organization.

30 "Third-party administrator." ~~An entity~~ A PERSON that <--

1 administers payments for health care services on behalf of a
2 client in exchange for an administrative fee.

3 "Trade or commerce." Economic activity directly or
4 indirectly affecting the people of this Commonwealth.

5 § 904. Prohibited acts.

6 (a) Restraints of trade.--A contract, a combination in the
7 form of trust or otherwise or a conspiracy in restraint of trade
8 or commerce, is unlawful.

9 (b) Monopolize or monopsonize.--It is unlawful for a person
10 to monopolize or monopsonize, to attempt to monopolize or
11 monopsonize, TO MAINTAIN A MONOPOLY OR MONOPSONY or to combine <--
12 or conspire with another person to monopolize or monopsonize, in
13 any part of trade or commerce.

14 (c) Acquisitions.--It is unlawful for a person to acquire,
15 directly or indirectly, the whole or any part of the stock,
16 share capital or other equity interest of another person or the
17 whole or any part of the assets of another person if any of the
18 following apply:

19 (1) The effect of the acquisition is substantially to <--
20 lessen competition. MAY BE SUBSTANTIALLY TO LESSEN <--
21 COMPETITION IN ANY PART OF TRADE OR COMMERCE.

22 (2) The effect of the acquisition tends to create a
23 monopoly or monopsony of any part of trade or commerce.

24 (d) Market power. It is unlawful for any person or persons <--
25 with market power in the conduct of any business, trade or
26 commerce, in a labor market, or in the furnishing of a service
27 in this Commonwealth, to abuse that market power.

28 § 905. Enforcement by Attorney General.

29 (a) Action on behalf of Commonwealth.--If the Attorney
30 General has reason to believe that a person, foreign or

1 domestic, has engaged in, is engaging in or is about to engage
2 in an act or practice that is unlawful under this chapter, the
3 Attorney General may bring a civil action in the name of the
4 Commonwealth against the person to:

5 (1) Obtain a declaratory judgment that the ~~action~~ ACT or <--
6 practice violates this chapter.

7 (2) Enjoin an act or practice that violates this chapter
8 by issuing a temporary restraining order, an ex parte
9 temporary restraining order or a preliminary or permanent
10 injunction, without bond.

11 (3) Recover a civil penalty of not less than \$100,000
12 for each violation of this chapter or of an injunction,
13 judgment or consent agreement issued or entered into under
14 this chapter.

15 (4) Obtain an order requiring divestiture of assets:

16 (i) acquired in violation of this chapter and after
17 the court determines that divestiture is necessary to
18 avoid the creation or continuation of a monopoly or to
19 avoid a likely substantial lessening of competition that
20 results from a transaction found to be in violation of
21 this chapter; or

22 (ii) to restore competition to a line of commerce
23 that has been eliminated by a violation of this chapter.

24 (5) Recover actual damages, restitution or disgorgement
25 on behalf of the Commonwealth and ~~its agencies that are~~ <--
26 COMMONWEALTH AGENCIES injured either directly or indirectly <--
27 through a violation of this chapter.

28 (b) Action on behalf of natural person.--The Attorney
29 General may bring a civil action in the name of the Commonwealth
30 on behalf of a natural person injured directly or indirectly to

1 recover damages, restitution or disgorgement through a violation
2 of this chapter.

3 (c) Recovery authorized.--The Attorney General shall recover
4 the costs of an investigation, expert costs and reasonable
5 attorney fees and costs if successful in an action initiated
6 under this section.

7 (d) Jurisdiction.--A civil action under this section may be
8 brought by the Attorney General in Commonwealth Court or in the
9 court of common pleas of the county in which a party resides or
10 has a principal place of business.

11 (e) Investigation.--

12 (1) If the Attorney General has reason to believe that a
13 person, whether foreign or domestic, has engaged in or is
14 engaging in a violation of this chapter or of a Federal
15 antitrust law that may be enforced by the Attorney General,
16 the Attorney General may initiate an investigation.

17 (2) As part of an investigation under this section, the
18 Attorney General may administer oaths and affirmations,
19 subpoena witnesses and documentary material, propound
20 interrogatories to be answered in writing under oath and
21 collect evidence.

22 (3) The Attorney General may use the information
23 obtained under this section as the Attorney General
24 determines necessary in the civil enforcement of this chapter
25 or Federal antitrust law that may be enforced by the Attorney
26 General, including presentation before a court.

27 (4) The Attorney General may cooperate with and
28 coordinate enforcement of this chapter and a Federal <--
29 antitrust law THAT may be enforced by the Attorney General <--
30 with the Federal Government and, the several states AND STATE <--

1 AGENCIES, including using and sharing information and
2 evidence obtained under this chapter.

3 (F) PRESUMPTIONS.--IN AN ACTION BROUGHT BY THE ATTORNEY <--
4 GENERAL UNDER THIS CHAPTER AND THE ACT OF OCTOBER 15, 1980
5 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT:

6 (1) THE ATTORNEY GENERAL IS THE SOLE PARTY FOR DISCOVERY
7 PURPOSES AND IS DEEMED TO LACK POSSESSION, CUSTODY OR CONTROL
8 OVER DOCUMENTS POSSESSED BY THE GENERAL ASSEMBLY, OTHER
9 COMMONWEALTH OFFICERS OR OTHER COMMONWEALTH AGENCIES.

10 (2) IF THE ACTION IS ASSERTED ON BEHALF OF A
11 COMMONWEALTH AGENCY, THE ATTORNEY GENERAL MAY FACILITATE
12 NONPARTY DISCOVERY FROM THE COMMONWEALTH AGENCY BUT IS NOT
13 OTHERWISE OBLIGATED UNDER SECTION 913 (RELATING TO AGENCY
14 COOPERATION) OR SECTION 208 OF THE COMMONWEALTH ATTORNEYS
15 ACT.

16 (3) IF THE ATTORNEY GENERAL DOES NOT SEEK TO RECOVER
17 DAMAGES FOR AN INJURY SUFFERED BY A COMMONWEALTH AGENCY,
18 NONPARTY DISCOVERY OF THE COMMONWEALTH AGENCY IS
19 PRESUMPTIVELY UNREASONABLE AND UNDULY BURDENSOME.

20 § 906. Measurement of damages.

21 (a) General rule.--In an action brought under this chapter
22 IN WHICH THE PLAINTIFF PREVAILS, the prevailing party PLAINTIFF <--
23 shall recover treble damages sustained, reasonable attorney fees
24 and costs, expert witness fees and investigative costs.

25 (b) Method.--In an action under this chapter, damages may be
26 proved and assessed in the aggregate by statistical or sampling
27 methods, by the computation of illegal overcharges or
28 underpayment or by another reasonable system of estimating
29 aggregate damages as the court may permit without the necessity
30 of separately proving the individual claim of, or amount of

1 damage to, persons on whose behalf the suit was brought.

2 (c) Interest.--Damages for injuries by reason of anything
3 prohibited under this chapter shall include interest computed
4 from the date on which the injury is sustained, at a rate equal
5 to the statutory rate for postjudgment interest, and the cost of
6 suit, including reasonable attorney fees.

7 § 907. Premerger notification regarding health care.

8 (a) General notification.--A person conducting business in
9 this Commonwealth that is required to file the notification and
10 report form for certain mergers and acquisitions under the Hart-
11 Scott-Rodino Act shall provide the same notice and documentation
12 in its entirety to the Office of Attorney General at the same
13 time that notice is filed with the Federal Trade Commission or
14 the United States Department of Justice.

15 (b) Health care notification.--

16 (1) It is the intent of the General Assembly to ensure
17 that competition beneficial to consumers in health care
18 markets across this Commonwealth remains vigorous and robust.

19 (2) The General Assembly supports the intent through
20 this section, which provides the Office of Attorney General
21 with notice of all material health care transactions in this
22 Commonwealth, so that the Office of Attorney General has the
23 information necessary to determine whether an investigation
24 under this chapter is warranted for potential anticompetitive
25 conduct and consumer harm.

26 (3) In addition to requiring notice under subsection (a)
27 for transactions not involving health care, this section is
28 also intended to supplement the Hart-Scott-Rodino Act by
29 requiring notice of health care transactions not reportable
30 under the reporting thresholds of the Hart-Scott-Rodino Act

1 and by providing the Office of Attorney General with a copy
2 of filings made in accordance with the Hart-Scott-Rodino Act.

3 (c) Notice of material change.--

4 (1) Not less than 120 days prior to the effective date
5 of a health care transaction that results in a material
6 change, the parties to the health care transaction shall
7 submit written notice to the Office of Attorney General of
8 the material change.

9 (2) For the purposes of this section, a material change
10 includes a merger, acquisition or contracting affiliation
11 between two or more ~~entities~~ PERSONS of the following types: <--

12 (i) health care facilities;

13 (ii) health care facility systems; or

14 (iii) provider organizations.

15 (3) A material change includes proposed changes
16 identified in paragraph (1) between a Pennsylvania ~~entity~~ <--
17 PERSON and an out-of-State ~~entity~~ PERSON where the out-of- <--
18 State ~~entity~~ PERSON generates at least \$10,000,000 in health <--
19 care services revenue from patients residing in this
20 Commonwealth and the ~~entities~~ PERSONS are of the types <--
21 identified in paragraph (2). A party to a material change
22 that is licensed or operating in this Commonwealth shall
23 submit a notice as required under this section.

24 (4) For purposes of paragraph (2), a merger, acquisition
25 or contracting affiliation between two or more health care
26 facilities, health care facility systems or provider
27 organizations only qualifies as a material change if the
28 health care facilities, health care facility systems or
29 provider organizations did not previously have common
30 ownership or a contracting affiliation.

1 (d) Notice requirements.--

2 (1) The written notice provided by the parties, as
3 required by subsection (c), shall include:

4 (i) The names of the parties and their current
5 business addresses.

6 (ii) Identification of all locations where health
7 care services are currently provided by each party.

8 (iii) Identification of all health care
9 practitioners who currently provide health care services
10 for each party.

11 (iv) A brief description of the nature and purpose
12 of the proposed material change.

13 (v) The anticipated effective date of the proposed
14 material change.

15 (2) Nothing in this section shall be construed to
16 prohibit the parties to a material change from voluntarily
17 providing additional information to the Office of Attorney
18 General.

19 (e) Requests for additional information.--

20 (1) The Office of Attorney General must make a request
21 for additional information from the parties under this
22 chapter within 30 days of the date notice is received under
23 subsections (a), (c) and (d).

24 (2) Nothing in this subsection shall be construed to
25 preclude the Office of Attorney General from conducting an
26 investigation or enforcing Federal or State antitrust laws at
27 a later date.

28 (f) Health care premerger notification.--A HEALTH CARE
29 FACILITY, HEALTH CARE FACILITY SYSTEM, health care practitioner
30 or provider organization conducting business in this

<--

1 Commonwealth that files a premerger notification with the
2 Federal Trade Commission or the United States Department of
3 Justice, in compliance with the Hart-Scott-Rodino Act, shall
4 provide a copy of the filing to the Office of Attorney General.
5 Providing a copy of the Hart-Scott-Rodino Act filing to the
6 Office of Attorney General satisfies the notice requirement
7 under subsection (d).

8 (g) Materials submitted to the Office of Attorney General.--

9 (1) Information submitted to the Office of Attorney
10 General under this section shall be maintained and used by
11 the Office of Attorney General in the same manner and under
12 the same protections as provided under this chapter.

13 (2) Nothing in this section shall be construed to limit
14 the Office of Attorney General's authority under this
15 chapter.

16 (3) Failure to comply with this section does not provide
17 a private cause of action.

18 (h) Penalty for noncompliance.--A person that fails to
19 comply with this section is liable to the Commonwealth for a
20 civil penalty of not more than \$200 per day for each day of
21 noncompliance.

22 § 908. Civil investigation.

23 (a) Power of Attorney General to conduct.--

24 (1) If the Attorney General has reason to believe that a
25 person, whether foreign or domestic, has engaged in or is
26 engaging in a violation of this chapter or of a Federal
27 antitrust law that may be enforced by the Attorney General,
28 the Attorney General may initiate an investigation.

29 (2) As part of an investigation under this section, the
30 Attorney General may administer oaths and affirmations,

1 subpoena witnesses and documentary material, propound
2 interrogatories to be answered in writing under oath and
3 collect evidence.

4 (3) The Attorney General may use the information
5 obtained under this section as the Attorney General
6 determines necessary in the civil enforcement of this chapter
7 or Federal antitrust law that may be enforced by the Attorney
8 General, including presentation before a court.

9 (4) An interrogatory or subpoena served under this
10 subsection shall inform the party served of the right to file
11 a petition as provided in subsection (b).

12 (b) Petition authorized.--

13 (1) Not later than five business days after the service
14 of an interrogatory or subpoena, or at any time before the
15 return date specified in the interrogatory or subpoena, the
16 party served under this section may file in Commonwealth
17 Court a petition for an order modifying or setting aside the
18 interrogatory or subpoena.

19 (2) The party must serve the Attorney General with a
20 copy of the petition.

21 (3) The petitioner may raise an objection or privilege
22 that would be available under this chapter or upon service of
23 a subpoena in a civil action.

24 (c) Location for production of documentary material.--

25 (1) If documentary material that the Attorney General
26 seeks to obtain by subpoena is not located within this
27 Commonwealth and is not reducible to electronic reproduction
28 and transmission, the party subpoenaed may make the
29 documentary material available to the Attorney General to
30 examine the documentary material at the place where the

1 documentary material is located.

2 (2) The Attorney General may designate representatives,
3 including officials of the state in which the documentary
4 material is located, to inspect the documentary material on
5 the Attorney General's behalf.

6 (3) The Attorney General may respond to similar requests
7 from officials of other states and may inspect documentary
8 material on their behalf.

9 (d) Investigation enforcement order.--

10 (1) The Attorney General may apply to Commonwealth Court
11 for an order compelling compliance of a party who fails to
12 obey a subpoena or answer an interrogatory issued under this
13 section without lawful excuse and upon reasonable notice to
14 all persons affected by the subpoena or interrogatory.

15 (2) The Attorney General may request that an individual
16 who refuses to comply with a subpoena or answer an
17 interrogatory on the grounds that the testimony or
18 documentary material may incriminate the individual be
19 ordered by the court to provide the testimony or documentary
20 material.

21 (3) Except for a prosecution for perjury, an individual
22 who complies with a court order to provide testimony or
23 matter after asserting a privilege against self-incrimination
24 to which the individual is entitled by law shall not have the
25 testimony or documentary material provided, or evidence
26 derived therefrom, or received against the individual used in
27 a criminal investigation or proceeding.

28 (e) Duty to comply.--A person, whether foreign or domestic,
29 upon whom an interrogatory or subpoena is served pursuant to
30 this section shall comply with the terms of the interrogatory or

1 subpoena unless otherwise provided by this section or by court
2 order.

3 (f) Liability.--

4 (1) A person ~~who~~ SHALL BE LIABLE FOR A CIVIL PENALTY AS <--
5 PROVIDED IN THIS SUBSECTION IF THE PERSON:

6 (i) fails to appear with the intent to avoid, evade
7 or prevent compliance, in whole or in part, with an
8 investigation under this chapter or ~~who~~ removes from a <--
9 place, conceals, withholds, mutilates, alters, destroys
10 or by other means falsifies a matter or documentary
11 material in the possession, custody or control of a
12 person, subject to the request or subpoena; or

13 (ii) knowingly conceals relevant information with
14 the intent to avoid, evade or prevent compliance ~~shall be~~ <--
15 liable for a civil penalty as provided in this
16 subsection.

17 (2) The Attorney General may, upon petition to
18 Commonwealth Court, recover a civil penalty not to exceed
19 \$25,000. If a civil penalty is assessed in or as the result
20 of litigation, the Attorney General is entitled to reasonable
21 attorney fees and costs.

22 (g) Access to information of other agencies and
23 confidentiality.--

24 (1) If criminal or civil intelligence, records of
25 investigations, investigative information or other
26 information held by a Federal or State agency is available to
27 the Attorney General on a confidential or restricted basis,
28 the Attorney General may obtain and use the information, <--
29 unless otherwise prohibited by law, IN THE ENFORCEMENT OF <--
30 THIS CHAPTER, INCLUDING PRESENTATION BEFORE A COURT.

1 (2) A record of an investigation or intelligence or
2 investigative information that is exempt from disclosure
3 under the act of February 14, 2008 (P.L.6, No.3), known as
4 the Right-to-Know Law, shall remain confidential EXCEPT AS <--
5 PROVIDED IN THIS SECTION and be exempt from disclosure under
6 that act.

7 (h) Records of investigation.--A written response, testimony
8 or document obtained by the Attorney General under this section,
9 or information derived directly or indirectly from a written
10 response, testimony or document obtained by the Attorney
11 General, shall be deemed a record of an investigation and shall
12 be exempt from disclosure under the Right-to-Know Law.

13 § 909. Criminal penalties.

14 A person, including an agent or officer of the person, who
15 knowingly commits an unlawful act under section 904(a) or (b)
16 (relating to prohibited acts) is guilty of a felony of the third
17 degree and, upon conviction, shall be sentenced to a term of
18 imprisonment of not more than four years or sentenced to pay a
19 fine of not more than \$1,000,000, or both. If the person who
20 knowingly committed an unlawful act under section 904(a) or (b)
21 is a corporation, the corporation shall be sentenced to pay a
22 fine of not more than \$1,000,000. An indictment or information
23 based on a violation of this chapter must be filed within five
24 years after the violation. No criminal proceeding barred by a
25 prior limitation shall be revived by this chapter.

26 § 910. Standing.

27 ~~An individual or entity who~~ A PERSON THAT has suffered <--
28 damages as a result of prohibited acts enumerated in section 904
29 (relating to prohibited acts) shall have standing to commence an
30 action in a court of competent jurisdiction.

1 § 911. Antitrust enforcement by private parties.

2 (a) Election.--The plaintiff in an action commenced under
3 this chapter may elect to sue for and recover either treble
4 damages sustained or the full amount of the plaintiff's
5 overcharge or underpayment without regard to any portion of the
6 overcharge or underpayment that was recovered upon resale. An
7 action under this section may be brought by a person injured in
8 the person's business or property under this chapter, regardless
9 of whether the person dealt directly or indirectly with the
10 defendant. A remedy under this section is in addition to any
11 other remedy under law and may not diminish or offset any other
12 remedy. Proof of liability as a result of anticompetitive
13 conduct in violation of this chapter shall not require proof of
14 individual reliance.

15 (b) Class action.--An action brought under this section may
16 be maintained as a class action pursuant to the Pennsylvania
17 Rules of Civil Procedure.

18 § 912. Cooperation with Federal Government and other states, <--
19 OTHER STATES AND STATE AGENCIES.

20 The Attorney General may cooperate with and coordinate
21 enforcement of this chapter and Federal antitrust law that may
22 be enforced by the Attorney General with the Federal Government
23 and, the several states AND STATE AGENCIES, including using and <--
24 sharing information and evidence obtained under this chapter.

25 § 913. AGENCY COOPERATION. <--

26 (A) GENERAL RULE.--ALL COMMONWEALTH AGENCIES SHALL ASSIST
27 THE ATTORNEY GENERAL IN THE ENFORCEMENT OF THIS CHAPTER, IF
28 REQUESTED, AND SHALL PROMPTLY COMPLY WITH ANY REQUEST FOR
29 DOCUMENTS, TESTIMONY OR INFORMATION.

30 (B) ATTORNEY GENERAL.--THE ATTORNEY GENERAL SHALL PROVIDE

1 NOTICE TO:

2 (1) THE DEPARTMENT OF HEALTH OF ANY ENFORCEMENT ACTION
3 INITIATED UNDER SECTION 905 (RELATING TO ENFORCEMENT BY
4 ATTORNEY GENERAL) AS WELL AS THE RESOLUTION OF ANY ACTION
5 INITIATED UNDER SECTION 905 THAT INVOLVES A HEALTH CARE
6 FACILITY OR A HEALTH CARE FACILITY SYSTEM.

7 (2) THE INSURANCE DEPARTMENT OF ANY ENFORCEMENT ACTION
8 INITIATED UNDER SECTION 905 AS WELL AS THE RESOLUTION OF ANY
9 ACTION INITIATED UNDER SECTION 905 THAT INVOLVES AN INSURER.

10 § 913 914. Exceptions.

<--

11 This chapter shall not make illegal an activity or conduct
12 exempt under any statute of the United States or the
13 Commonwealth.

14 § 914 915. Applicability.

<--

15 This chapter shall not apply to a cooperative association or <--
16 an employee owned enterprise, corporate or otherwise, of
17 farmers, gardeners or dairy producers, including livestock
18 farmers and fruit growers, nor to a contract, agreement or
19 arrangement made by the association or enterprise, nor to a bona
20 fide labor union.

21 THIS CHAPTER SHALL NOT APPLY TO:

<--

22 (1) A COOPERATIVE ASSOCIATION OR AN EMPLOYEE-OWNED
23 ENTERPRISE, CORPORATE OR OTHERWISE, OF FARMERS, GARDENERS OR
24 DAIRY PRODUCERS, INCLUDING LIVESTOCK FARMERS AND FRUIT
25 GROWERS, NOR TO A CONTRACT, AGREEMENT OR ARRANGEMENT MADE BY
26 THE ASSOCIATION OR ENTERPRISE, NOR TO A BONA FIDE LABOR
27 UNION; OR

28 (2) THE BUSINESS OF INSURANCE TO THE EXTENT THAT THE
29 BUSINESS:

30 (I) DOES NOT CONSTITUTE A BOYCOTT, COERCION OR

1 INTIMIDATION OR AN AGREEMENT TO BOYCOTT, COERCE OR
2 INTIMIDATE; AND

3 (II) DOES NOT RELATE TO THE BUSINESS OF HEALTH
4 INSURANCE, INCLUDING THE BUSINESS OF DENTAL INSURANCE AND
5 LIMITED-SCOPE DENTAL BENEFITS.

6 § 915 916. Action not barred as affecting or involving <--
7 interstate or foreign commerce.

8 An action under this chapter may not be barred on the grounds
9 that the activity or conduct complained of affects or involves
10 interstate or foreign commerce.

11 § 917. CONSTRUCTION. <--

12 THIS CHAPTER SHALL BE CONSTRUED IN HARMONY WITH JUDICIAL
13 INTERPRETATIONS OF COMPARABLE FEDERAL ANTITRUST STATUTES INSOFAR
14 AS PRACTICABLE.

15 § 916 918. Remedies cumulative. <--

16 The remedies afforded by this chapter are cumulative.

17 Section 2. The addition of 12 Pa.C.S. Ch. 9 shall apply to
18 any action or proceeding brought by the Attorney General and
19 pending on the date of enactment of this act.

20 Section 3. This act shall take effect in 60 days.