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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 938 Session of  
2023

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INTRODUCED BY CAPPELLETTI, SCHWANK, SAVAL, HAYWOOD, FONTANA,  
KANE, HUGHES, COMMITTA, KEARNEY, TARTAGLIONE AND BREWSTER,  
OCTOBER 3, 2023

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REFERRED TO BANKING AND INSURANCE, OCTOBER 3, 2023

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AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled  
2 "An act reforming the law on medical professional liability;  
3 providing for patient safety and reporting; establishing the  
4 Patient Safety Authority and the Patient Safety Trust Fund;  
5 abrogating regulations; providing for medical professional  
6 liability informed consent, damages, expert qualifications,  
7 limitations of actions and medical records; establishing the  
8 Interbranch Commission on Venue; providing for medical  
9 professional liability insurance; establishing the Medical  
10 Care Availability and Reduction of Error Fund; providing for  
11 medical professional liability claims; establishing the Joint  
12 Underwriting Association; regulating medical professional  
13 liability insurance; providing for medical licensure  
14 regulation; providing for administration; imposing penalties;  
15 and making repeals," in insurance, providing for adverse  
16 actions against legal reproductive health care.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

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

22 Section 747.1. Adverse actions against legal reproductive  
23 health care.

24 (a) Prohibition.--An insurer providing medical professional

1 liability insurance shall be prohibited from taking an adverse  
2 action against a health care provider solely on the basis that  
3 the health care provider provides reproductive health care  
4 services that are permitted under the laws of this Commonwealth  
5 on a patient who is from outside this Commonwealth. This  
6 subsection shall apply to a health care provider who prescribes  
7 medication permitted under the laws of this Commonwealth to  
8 terminate a pregnancy to an out-of-State patient by means of  
9 telemedicine.

10 (b) Definitions.--As used in this section, the following  
11 words and phrases shall have the meanings given to them in this  
12 subsection:

13 "Adverse action." The term includes, but is not limited to,  
14 any of the following:

15 (1) Refusing to renew or execute a contract or an  
16 agreement with a health care provider.

17 (2) Making a report to an appropriate private or  
18 governmental entity regarding the practices of the health  
19 care provider which may violate laws relating to reproductive  
20 health care services in other states.

21 (3) Increasing a charge for or reducing or making  
22 another adverse or unfavorable change in the terms of  
23 coverage or amount for a medical professional liability  
24 contract or agreement with a health care provider.

25 "Reproductive health care services." Medical, surgical,  
26 counseling or referral services relating to the human  
27 reproductive system, including services relating to pregnancy,  
28 contraception or the termination of pregnancy.

29 Section 2. This act shall take effect in 60 days.