

**REPORT ON  
2003 HEALTH CARE PROVIDER  
RETENTION PROGRAM**

**PREPARED BY:**



**INSURANCE DEPARTMENT**

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Insurance Commissioner

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COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Insurance Department  
**Medical Care Availability and Reduction of Error Fund**  
Act 44 of 2003  
Health Care Provider Retention Account  
Health Care Provider Retention Program

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Pursuant to Section 1306-A of Act 44 of 2003, 62 P.S. §1306-A, the Pennsylvania Insurance Department ("Department") submits this report to the Governor, the Chairperson and the Minority Chairperson of the Banking and Insurance Committee of the Senate, and the Chairperson and the Minority Chairperson of the Insurance Committee of the House of Representatives regarding the status of the 2003 Health Care Provider Retention Program ("2003 Abatement Program").<sup>1</sup>

On December 23, 2003, Governor Rendell signed into law Act 44 of 2003, amending the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code ("Act 44"), and establishing the Health Care Provider Retention Program ("Program"). As set forth in Act 44, the Program provides that a health care provider, as defined by Act 44, who participates in the Medical Care Availability and Reduction of Error ("Mcare") Act as defined in section 702 of the act of March 20, 2002 (P.L. 154, No. 13) ("Act 13 of 2002"), can submit an application to the Department for an abatement of the Mcare assessment imposed for the previous calendar year. More particularly, a health care

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<sup>1</sup> Section 1306-A provides that the report submitted by the Department shall include the following:

1. The number of health care providers who applied for abatement under the program.
2. The number of health care providers granted 100% abatement under the program.
3. The number of health care providers granted 50% abatement under the program.
4. Based upon available information, the number of health care providers who have left this Commonwealth after receiving abatement under the program.
5. The number of and the reason for any unapproved applications.
6. Any other information relevant to assessing the success of the program.

provider can obtain an abatement of his/her Mcare assessment for calendar year 2003 by electronically submitting an online application ("Abatement Application"), in the form required by the Department, and by forwarding to the Department a fully executed, signed copy of the completed Abatement Application, with all necessary supporting documents, including a fully executed and signed certificate of retention on or before February 15, 2004.

On January 6, 2004, the 2003 Abatement Application was posted on the Department's website and the Department started accepting and processing applications almost immediately. Since February 15, 2004 fell on a Sunday, and the following Monday was a legal holiday, the Department accepted all applications received in its offices on or before February 17, 2004.

We note that statistics regarding Abatement Applications do not and are not intended to calculate or track the number of practicing health care providers in this Commonwealth, and the Department cautions against any use of the statistics in this Report for purposes other than those expressly set forth in Act 44.

As of May 12, 2004, the Department has reviewed 36,091 Abatement Applications from 33,239 health care providers for the 2003 Abatement Program. The number of Abatement Applications received is greater than the number of health care providers who applied because a health care provider was required to submit an Abatement Application for each 2003 medical professional liability policy ("policy") they had in effect, and certain health care providers had more than one 2003 policy. Of the health care providers who submitted timely and complete 2003 Abatement Applications, 4,928 health care providers have self-certified themselves as eligible for the

100% abatement and 25,360 health care providers have self-certified themselves as eligible for the 50% abatement.

It is important to note that the Department has 236 Abatement Applications pending for the 2003 Abatement Program as a result of health care providers who, although substantially complying with the statutory requirements, have failed *inter alia* to submit fully executed and signed applications, to submit fully executed and signed certificates of retention, and/or have failed to submit the correct 2003 policy information. The Department also has 2,596 complete 2003 Abatement Applications pending, for which eligibility notices have not been sent to the health care provider, because certain medical professional liability carriers have not yet submitted the requisite 2003 coverage information and/or assessment payment to the Department.

Section 1306-A requires the Department, based on the information available to it at this time, to report the number of health care providers who have left the Commonwealth after receiving the abatement. The Department will be determining that a health care provider has left the Commonwealth based on notice received from the health care provider's primary carrier that coverage has terminated and that no other medical malpractice insurance carrier and/or self-insured entity has reported subsequent coverage. While the Department has received notice from certain medical malpractice insurance carriers and/or self-insured entities that primary coverage for certain 2003 participating health care providers has been cancelled, as a result of the deferral of the 2003 assessment payment, the Department cannot verify that these health care providers are without primary coverage, have stopped providing health care services within the Commonwealth, or have left the Commonwealth. Consequently, based upon currently

available information, the Department is not aware of any health care provider, self-certified as eligible for the 2003 Abatement Program, who has left the Commonwealth or has stopped providing health care services in the Commonwealth, after receiving the abatement for 2003.

Section 1303-A of Act 44 states that a health care provider is not eligible for the assessment abatement if the health care provider's license has been revoked in any state within the ten most recent years, if the health care provider's ability, if any, to dispense or to prescribe drugs or medications has been revoked in this Commonwealth or any other state within the ten most recent years, if the health care provider has had three or more medical liability claims within the past five most recent years in which a judgment has been entered against the health care provider or a settlement was paid on behalf of the health care provider in an amount equal to or exceeding \$500,000.00 per claim, the health care provider has been convicted of or has entered a plea of guilty or no contest to an offense which is required to be reported under section 903(3) or 903(4) of the Mcare Act within the ten most recent years, or the health care provider has an unpaid surcharge under the Mcare Act.<sup>2</sup> Of the total 36,091 Abatement Applications received for the 2003 Abatement Program, 119 health care providers were not eligible to participate in the 2003 Abatement Program because the health care provider advised and certified to the Department that they were not eligible for the Program as set forth in Section 1303-A.<sup>3</sup>

Specifically:

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<sup>2</sup> 62 P.S. §1303-A.

<sup>3</sup> Please note that several applicants provided affirmative answers to more than one disqualifying factor. Therefore, the total number of health care providers who responded affirmatively to each of the disqualifying factors does not correspond to the unique number of health care providers who applied for the Abatement Program.

1. 14 health care providers certified to the Department that this Commonwealth or another state had revoked their license within the ten most recent years.
2. 9 health care providers certified to the Department that the health care provider's ability to dispense or prescribe drugs or medication had been revoked in this Commonwealth or in another state within the ten most recent years.
3. 11 health care providers certified to the Department that the health care provider had three or more medical liability claims in the past five most recent years, in which a judgment was entered against the health care provider, or a settlement was paid on behalf of the health care provider, in an amount equal to or exceeding \$500,000.00 per claim.
4. 64 health care providers certified to the Department that the health care provider had been convicted of or entered a plea of guilty or no contest to an offense, which is required to be reported under section 903(3) or (4) of the Mcare Act, 40 P.S. § 1303.903, within the ten most recent years.
5. 38 health care providers certified to the Department that they have or had an unpaid surcharge under the Mcare Act.

As of May 12, 2004, the 2003 Abatement Program has provided financial relief to the Commonwealth's health care providers participating in Mcare in the amount of \$207,147,043.00.

Finally, with regard to the 2004 Abatement Program, the Department is in the process of reviewing the 16,733 Abatement Applications it has received to date.