

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 396 Session of 2015

INTRODUCED BY VANCE, KITCHEN, BAKER, YAW, BREWSTER, FONTANA,
 HUGHES, FOLMER, YUDICHAK, TEPLITZ, COSTA, GREENLEAF, SMITH,
 SCHWANK, PILEGGI, BROWNE, RAFFERTY AND VULAKOVICH,
 FEBRUARY 4, 2015

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 4, 2015

AN ACT

1 Reenacting and amending the act of July 8, 1986 (P.L.408,
 2 No.89), entitled, as reenacted, "An act providing for the
 3 creation of the Health Care Cost Containment Council, for its
 4 powers and duties, for health care cost containment through
 5 the collection and dissemination of data, for public
 6 accountability of health care costs and for health care for
 7 the indigent; and making an appropriation," further providing
 8 for sunset; and making editorial changes.

9 The General Assembly of the Commonwealth of Pennsylvania
 10 hereby enacts as follows:

11 Section 1. The title and section 1 of the act of July 8,
 12 1986 (P.L.408, No.89), known as the Health Care Cost Containment
 13 Act, reenacted and amended June 10, 2009 (P.L.10, No.3), are
 14 reenacted to read:

15 AN ACT

16 Providing for the creation of the Health Care Cost Containment
 17 Council, for its powers and duties, for health care cost
 18 containment through the collection and dissemination of data,
 19 for public accountability of health care costs and for health
 20 care for the indigent; and making an appropriation.

1 Section 1. Short title.

2 This act shall be known and may be cited as the Health Care
3 Cost Containment Act.

4 Section 2. Sections 3 and 4 of the act are reenacted and
5 amended to read:

6 Section 3. Definitions.

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

10 "Allowance." The maximum allowed combined payment from a
11 payor and a patient to a provider for services rendered.

12 "Ambulatory service facility." A facility licensed in this
13 Commonwealth, not part of a hospital, which provides medical,
14 diagnostic or surgical treatment to patients not requiring
15 hospitalization, including ambulatory surgical facilities,
16 ambulatory imaging or diagnostic centers, birthing centers,
17 freestanding emergency rooms and any other facilities providing
18 ambulatory care which charge a separate facility charge. This
19 term does not include the offices of private physicians or
20 dentists, whether for individual or group practices.

21 "Charge" or "rate." The amount billed by a provider for
22 specific goods or services provided to a patient, prior to any
23 adjustment for contractual allowances.

24 "Committee." The Health Care Cost Containment Council Act
25 Review Committee.

26 "Council." The Health Care Cost Containment Council.

27 "Covered services." Any health care services or procedures
28 connected with episodes of illness that require either inpatient
29 hospital care or major ambulatory service such as surgical,
30 medical or major radiological procedures, including any initial

1 and follow-up outpatient services associated with the episode of
2 illness before, during or after inpatient hospital care or major
3 ambulatory service. The term does not include routine outpatient
4 services connected with episodes of illness that do not require
5 hospitalization or major ambulatory service.

6 "Data source." A health care facility; ambulatory service
7 facility; physician; health maintenance organization as defined
8 in the act of December 29, 1972 (P.L.1701, No.364), known as the
9 Health Maintenance Organization Act; hospital, medical or health
10 service plan with a certificate of authority issued by the
11 Insurance Department, including, but not limited to, hospital
12 plan corporations as defined in 40 Pa.C.S. Ch. 61 (relating to
13 hospital plan corporations) and professional health services
14 plan corporations as defined in 40 Pa.C.S. Ch. 63 (relating to
15 professional health services plan corporations); commercial
16 insurer with a certificate of authority issued by the Insurance
17 Department providing health or accident insurance; self-insured
18 employer providing health or accident coverage or benefits for
19 employees employed in the Commonwealth; administrator of a self-
20 insured or partially self-insured health or accident plan
21 providing covered services in the Commonwealth; any health and
22 welfare fund that provides health or accident benefits or
23 insurance pertaining to covered service in the Commonwealth; the
24 Department of [Public Welfare] Human Services for those covered
25 services it purchases or provides through the medical assistance
26 program under the act of June 13, 1967 (P.L.31, No.21), known as
27 the Public Welfare Code, and any other payor for covered
28 services in the Commonwealth other than an individual.

29 "Health care facility." A general or special hospital,
30 including psychiatric hospitals, kidney disease treatment

1 centers, including freestanding hemodialysis units, and
2 ambulatory service facilities as defined in this section, and
3 hospices, both profit and nonprofit, and including those
4 operated by an agency of State or local government.

5 "Health care insurer." Any person, corporation or other
6 entity that offers administrative, indemnity or payment services
7 for health care in exchange for a premium or service charge
8 under a program of health care benefits, including, but not
9 limited to, an insurance company, association or exchange
10 issuing health insurance policies in this Commonwealth; hospital
11 plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to
12 hospital plan corporations); professional health services plan
13 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to
14 professional health services plan corporations); health
15 maintenance organization; preferred provider organization;
16 fraternal benefit societies; beneficial societies; and third-
17 party administrators; but excluding employers, labor unions or
18 health and welfare funds jointly or separately administered by
19 employers or labor unions that purchase or self-fund a program
20 of health care benefits for their employees or members and their
21 dependents.

22 "Health maintenance organization." An organized system which
23 combines the delivery and financing of health care and which
24 provides basic health services to voluntarily enrolled
25 subscribers for a fixed prepaid fee, as defined in the act of
26 December 29, 1972 (P.L.1701, No.364), known as the Health
27 Maintenance Organization Act.

28 "Hospital." An institution, licensed in this Commonwealth,
29 which is a general, mental, chronic disease or other type of
30 hospital, or kidney disease treatment center, whether profit or

1 nonprofit, and including those operated by an agency of State or
2 local government.

3 "Indigent care." The actual costs, as determined by the
4 council, for the provision of appropriate health care, on an
5 inpatient or outpatient basis, given to individuals who cannot
6 pay for their care because they are above the medical assistance
7 eligibility levels and have no health insurance or other
8 financial resources which can cover their health care.

9 "Major ambulatory service." Surgical or medical procedures,
10 including diagnostic and therapeutic radiological procedures,
11 commonly performed in hospitals or ambulatory service
12 facilities, which are not of a type commonly performed or which
13 cannot be safely performed in physicians' offices and which
14 require special facilities such as operating rooms or suites or
15 special equipment such as fluoroscopic equipment or computed
16 tomographic scanners, or a postprocedure recovery room or short-
17 term convalescent room.

18 "Medical procedure incidence variations." The variation in
19 the incidence in the population of specific medical, surgical
20 and radiological procedures in any given year, expressed as a
21 deviation from the norm, as these terms are defined in the
22 classical statistical definition of "variation," "incidence,"
23 "deviation" and "norm."

24 "Medically indigent" or "indigent." The status of a person
25 as described in the definition of indigent care.

26 "Payment." The payments that providers actually accept for
27 their services, exclusive of charity care, rather than the
28 charges they bill.

29 "Payor." Any person or entity, including, but not limited
30 to, health care insurers and purchasers, that make direct

1 payments to providers for covered services.

2 "Physician." An individual licensed under the laws of this
3 Commonwealth to practice medicine and surgery within the scope
4 of the act of October 5, 1978 (P.L.1109, No.261), known as the
5 Osteopathic Medical Practice Act, or the act of December 20,
6 1985 (P.L.457, No.112), known as the Medical Practice Act of
7 1985.

8 "Preferred provider organization." Any arrangement between a
9 health care insurer and providers of health care services which
10 specifies rates of payment to such providers which differ from
11 their usual and customary charges to the general public and
12 which encourage enrollees to receive health services from such
13 providers.

14 "Provider." A hospital, an ambulatory service facility or a
15 physician.

16 "Provider quality." The extent to which a provider renders
17 care that, within the capabilities of modern medicine, obtains
18 for patients medically acceptable health outcomes and prognoses,
19 adjusted for patient severity, and treats patients
20 compassionately and responsively.

21 "Provider service effectiveness." The effectiveness of
22 services rendered by a provider, determined by measurement of
23 the medical outcome of patients grouped by severity receiving
24 those services.

25 "Purchaser." All corporations, labor organizations and other
26 entities that purchase benefits which provide covered services
27 for their employees or members, either through a health care
28 insurer or by means of a self-funded program of benefits, and a
29 certified bargaining representative that represents a group or
30 groups of employees for whom employers purchase a program of

1 benefits which provide covered services, but excluding entities
2 defined in this section as "health care insurers."

3 "Raw data" or "data." Data collected by the council under
4 section 6. No data shall be released by the council except as
5 provided for in section 11.

6 "Severity." In any patient, the measureable degree of the
7 potential for failure of one or more vital organs.

8 Section 4. Health Care Cost Containment Council.

9 (a) Establishment.--The General Assembly hereby establishes
10 an independent council to be known as the Health Care Cost
11 Containment Council.

12 (b) Composition.--The council shall consist of voting
13 members, composed of and appointed in accordance with the
14 following:

15 (1) The Secretary of Health.

16 (2) The Secretary of [Public Welfare] Human Services.

17 (3) The Insurance Commissioner.

18 (4) Six representatives of the business community, at
19 least one of whom represents small business, who are
20 purchasers of health care as defined in section 3, none of
21 which is primarily involved in the provision of health care
22 or health insurance, three of which shall be appointed by the
23 President pro tempore of the Senate and three of which shall
24 be appointed by the Speaker of the House of Representatives
25 from a list of twelve qualified persons recommended by the
26 Pennsylvania Chamber of Business and Industry. Three nominees
27 shall be representatives of small business.

28 (5) Six representatives of organized labor, three of
29 which shall be appointed by the President pro tempore of the
30 Senate and three of which shall be appointed by the Speaker

1 of the House of Representatives from a list of twelve
2 qualified persons recommended by the Pennsylvania AFL-CIO.

3 (6) One representative of consumers who is not primarily
4 involved in the provision of health care or health care
5 insurance, appointed by the Governor from a list of three
6 qualified persons recommended jointly by the Speaker of the
7 House of Representatives and the President pro tempore of the
8 Senate.

9 (7) Two representatives of hospitals, appointed by the
10 Governor from a list of five qualified hospital
11 representatives recommended by the Hospital and Health System
12 Association of Pennsylvania one of whom shall be a
13 representative of rural hospitals. Each representative under
14 this paragraph may appoint two additional delegates to act
15 for the representative only at meetings of committees, as
16 provided for in subsection (f).

17 (8) Two representatives of physicians, appointed by the
18 Governor from a list of five qualified physician
19 representatives recommended jointly by the Pennsylvania
20 Medical Society and the Pennsylvania Osteopathic Medical
21 Society. The representative under this paragraph may appoint
22 two additional delegates to act for the representative only
23 at meetings of committees, as provided for in subsection (f).

24 (8.1) An individual appointed by the Governor who has
25 expertise in the application of continuous quality
26 improvement methods in hospitals.

27 (8.2) One representative of nurses, appointed by the
28 Governor from a list of three qualified representatives
29 recommended by the Pennsylvania State Nurses Association.

30 (9) One representative of the Blue Cross and Blue Shield

1 plans in Pennsylvania, appointed by the Governor from a list
2 of three qualified persons recommended jointly by the Blue
3 Cross and Blue Shield plans of Pennsylvania.

4 (10) One representative of commercial insurance
5 carriers, appointed by the Governor from a list of three
6 qualified persons recommended by the Insurance Federation of
7 Pennsylvania, Inc.

8 (11) One representative of health maintenance
9 organizations, appointed by the Governor .

10 (12) In the case of each appointment to be made from a
11 list supplied by a specified organization, it is incumbent
12 upon that organization to consult with and provide a list
13 which reflects the input of other equivalent organizations
14 representing similar interests. Each appointing authority
15 will have the discretion to request additions to the list
16 originally submitted. Additional names will be provided not
17 later than 15 days after such request. Appointments shall be
18 made by the appointing authority no later than 90 days after
19 receipt of the original list. If, for any reason, any
20 specified organization supplying a list should cease to
21 exist, then the respective appointing authority shall specify
22 a new equivalent organization to fulfill the responsibilities
23 of this act.

24 (c) Chairperson and vice chairperson.--The members shall
25 annually elect, by a majority vote of the members, a chairperson
26 and a vice chairperson of the council from among the business
27 and labor representatives on the council.

28 (d) Quorum.--Thirteen members, at least six of whom must be
29 made up of representatives of business and labor, shall
30 constitute a quorum for the transaction of any business, and the

1 act by the majority of the members present at any meeting in
2 which there is a quorum shall be deemed to be the act of the
3 council.

4 (e) Meetings.--All meetings of the council shall be
5 advertised and conducted pursuant to 65 Pa.C.S. Ch. 7 (relating
6 to open meetings), unless otherwise provided in this section.

7 (1) The council shall meet at least once every two
8 months, and may provide for special meetings as it deems
9 necessary. Meeting dates shall be set by a majority vote of
10 the members of the council or by the call of the chairperson
11 upon seven days' notice to all council members.

12 (2) All meetings of the council shall be publicly
13 advertised, as provided for in this subsection, and shall be
14 open to the public, except that the council, through its
15 bylaws, may provide for executive sessions of the council on
16 subjects permitted to be discussed in such sessions under 65
17 Pa.C.S. Ch. 7. No act of the council shall be taken in an
18 executive session.

19 (3) The council shall publish a schedule of its meetings
20 in the Pennsylvania Bulletin and in at least one newspaper in
21 general circulation in the Commonwealth. Such notice shall be
22 published at least once in each calendar quarter and shall
23 list the schedule of meetings of the council to be held in
24 the subsequent calendar quarter. Such notice shall specify
25 the date, time and place of the meeting and shall state that
26 the council's meetings are open to the general public, except
27 that no such notice shall be required for executive sessions
28 of the council.

29 (4) All action taken by the council shall be taken in
30 open public session, and action of the council shall not be

1 taken except upon the affirmative vote of a majority of the
2 members of the council present during meetings at which a
3 quorum is present.

4 (f) Bylaws.--The council shall adopt bylaws, not
5 inconsistent with this act, and may appoint such committees or
6 elect such officers subordinate to those provided for in
7 subsection (c) as it deems advisable. The council shall provide
8 for the approval and participation of additional delegates
9 appointed under subsection (b) (7) and (8) so that each
10 organization represented by delegates under those paragraphs
11 shall not have more than one vote on any committee to which they
12 are appointed. The council shall also appoint a technical
13 advisory group which shall, on an ad hoc basis, respond to
14 issues presented to it by the council or committees of the
15 council and shall make recommendations to the council. The
16 technical advisory group shall include physicians, researchers,
17 biostatisticians, one representative of the Hospital and
18 Healthsystem Association of Pennsylvania and one representative
19 of the Pennsylvania Medical Society. The Hospital and
20 Healthsystem Association of Pennsylvania and the Pennsylvania
21 Medical Society representatives shall not be subject to
22 executive committee approval. In appointing other physicians,
23 researchers and biostatisticians to the technical advisory
24 group, the council shall consult with and take nominations from
25 the representatives of the Hospital Association of Pennsylvania,
26 the Pennsylvania Medical Society, the Pennsylvania Osteopathic
27 Medical Society or other like organizations. At its discretion
28 and in accordance with this section, nominations shall be
29 approved by the executive committee of the council. If the
30 subject matter of any project exceeds the expertise of the

1 technical advisory group, physicians in appropriate specialties
2 who possess current knowledge of the issue under study may be
3 consulted. The technical advisory group shall also review the
4 availability and reliability of severity of illness measurements
5 as they relate to small hospitals and psychiatric,
6 rehabilitation and children's hospitals and shall make
7 recommendations to the council based upon this review. Meetings
8 of the technical advisory group shall be open to the general
9 public.

10 (f.1) Payment data advisory group.--

11 (1) In order to assure the technical appropriateness and
12 accuracy of payment data, the council shall establish a
13 payment data advisory group to produce recommendations
14 surrounding the collection of payment data, the analysis and
15 manipulation of payment data and the public reporting of
16 payment data. The payment data advisory group shall include
17 technical experts and individuals knowledgeable in payment
18 systems and discharge claims data. The advisory group shall
19 consist of the following members appointed by the council:

20 (i) One member representing each plan under 40
21 Pa.C.S. Chs. 61 (relating to hospital plan corporations)
22 and 63 (relating to professional health services plan
23 corporations).

24 (ii) Two members representing commercial insurance
25 carriers.

26 (iii) Three members representing health care
27 facilities.

28 (iv) Three members representing physicians.

29 (2) The payment data advisory group shall meet at least
30 four times a year and may provide for special meetings as may

1 be necessary.

2 (3) The payment data advisory group shall review and
3 concur with the technical appropriateness of the use and
4 presentation of data and report its findings to the council
5 prior to any vote to publicly release reports. If the council
6 elects to release a report without addressing the technical
7 concerns of the advisory group, it shall prominently disclose
8 this in the public report and include the comments of the
9 advisory group in the public report.

10 (4) The payment data advisory group shall exercise all
11 powers necessary and appropriate to carry out its duties,
12 including advising the council on the following:

13 (i) Collection of payment data by the council.

14 (ii) Manipulation, adjustments and methods used with
15 payment data.

16 (iii) Public reporting of payment data by the
17 council.

18 (g) Compensation and expenses.--The members of the council
19 shall not receive a salary or per diem allowance for serving as
20 members of the council but shall be reimbursed for actual and
21 necessary expenses incurred in the performance of their duties.
22 Said expenses may include reimbursement of travel and living
23 expenses while engaged in council business.

24 (h) Terms of council members.--

25 (1) The terms of the Secretary of Health, the Secretary
26 of [Public Welfare] Human Services and the Insurance
27 Commissioner shall be concurrent with their holding of public
28 office. The council members under subsection (b)(4) through
29 (11) shall each serve for a term of four years and shall
30 continue to serve thereafter until their successor is

1 appointed.

2 (2) Vacancies on the council shall be filled in the
3 manner designated under subsection (b), within 60 days of the
4 vacancy, except that when vacancies occur among the
5 representatives of business or organized labor, two
6 nominations shall be submitted by the organization specified
7 in subsection (b) for each vacancy on the council. If the
8 officer required in subsection (b) to make appointments to
9 the council fails to act within 60 days of the vacancy, the
10 council chairperson may appoint one of the persons
11 recommended for the vacancy until the appointing authority
12 makes the appointment.

13 (3) A member may be removed for just cause by the
14 appointing authority after recommendation by a vote of at
15 least 14 members of the council.

16 (4) No appointed member under subsection (b) (4) through
17 (11) shall be eligible to serve more than two full
18 consecutive terms of four years beginning on the effective
19 date of this paragraph.

20 (j) Subsequent appointments.--Submission of lists of
21 recommended persons and appointments of council members for
22 succeeding terms shall be made in the same manner as prescribed
23 in subsection (b), except that:

24 (1) Organizations required under subsection (b) to
25 submit lists of recommended persons shall do so at least 60
26 days prior to expiration of the council members' terms.

27 (2) The officer required under subsection (b) to make
28 appointments to the council shall make said appointments at
29 least 30 days prior to expiration of the council members'
30 terms. If the appointments are not made within the specified

1 time, the council chairperson may make interim appointments
2 from the lists of recommended individuals. An interim
3 appointment shall be valid only until the appropriate officer
4 under subsection (b) makes the required appointment. Whether
5 the appointment is by the required officer or by the
6 chairperson of the council, the appointment shall become
7 effective immediately upon expiration of the incumbent
8 member's term.

9 Section 3. Sections 5, 6, 7, 8, 9 and 10 of the act are
10 reenacted to read:

11 Section 5. Powers and duties of the council.

12 (a) General powers.--The council shall exercise all powers
13 necessary and appropriate to carry out its duties, including the
14 following:

15 (1) To employ an executive director, investigators and
16 other staff necessary to comply with the provisions of this
17 act and regulations promulgated thereunder, to employ or
18 retain legal counsel and to engage professional consultants,
19 as it deems necessary to the performance of its duties. Any
20 consultants, other than sole source consultants, engaged by
21 the council shall be selected in accordance with the
22 provisions for contracting with vendors set forth in section
23 16.

24 (2) To fix the compensation of all employees and to
25 prescribe their duties. Notwithstanding the independence of
26 the council under section 4(a), employees under this
27 paragraph shall be deemed employees of the Commonwealth for
28 the purposes of participation in the Pennsylvania Employee
29 Benefit Trust Fund.

30 (3) To make and execute contracts and other instruments,

1 including those for purchase of services and purchase or
2 leasing of equipment and supplies, necessary or convenient to
3 the exercise of the powers of the council. Any such contract
4 shall be let only in accordance with the provision for
5 contracting with vendors set forth in section 16.

6 (4) To conduct examinations and investigations, to
7 conduct audits, pursuant to the provisions of subsection (c),
8 and to hear testimony and take proof, under oath or
9 affirmation, at public or private hearings, on any matter
10 necessary to its duties.

11 (4.1) To provide hospitals with individualized data on
12 patient safety indicators pursuant to section 6(c)(7). The
13 data shall be risk adjusted and made available to hospitals
14 electronically and free of charge on a quarterly basis within
15 45 days of receipt of the corrected quarterly data from the
16 hospitals. The data is intended to provide the patient safety
17 committee of each hospital with information necessary to
18 assist in conducting patient safety analysis.

19 (5) To do all things necessary to carry out its duties
20 under the provisions of this act.

21 (b) Rules and regulations.--The council shall promulgate
22 rules and regulations in accordance with the act of June 25,
23 1982 (P.L.633, No.181), known as the Regulatory Review Act,
24 necessary to carry out its duties under this act. This
25 subsection shall not apply to regulations in effect on June 30,
26 2008.

27 (c) Audit powers.--The council shall have the right to
28 independently audit all information required to be submitted by
29 data sources as needed to corroborate the accuracy of the
30 submitted data, pursuant to the following:

1 (1) Audits of information submitted by providers or
2 health care insurers shall be performed on a sample and
3 issue-specific basis, as needed by the council, and shall be
4 coordinated, to the extent practicable, with audits performed
5 by the Commonwealth. All health care insurers and providers
6 are hereby required to make those books, records of accounts
7 and any other data needed by the auditors available to the
8 council at a convenient location within 30 days of a written
9 notification by the council.

10 (2) Audits of information submitted by purchasers shall
11 be performed on a sample basis, unless there exists
12 reasonable cause to audit specific purchasers, but in no case
13 shall the council have the power to audit financial
14 statements of purchasers.

15 (3) All audits performed by the council shall be
16 performed at the expense of the council.

17 (4) The results of audits of providers or health care
18 insurers shall be provided to the audited providers and
19 health care insurers on a timely basis, not to exceed 30 days
20 beyond presentation of audit findings to the council.

21 (d) General duties and functions.--The council is hereby
22 authorized to and shall perform the following duties and
23 functions:

24 (1) Develop a computerized system for the collection,
25 analysis and dissemination of data. The council may contract
26 with a vendor who will provide such data processing services.
27 The council shall assure that the system will be capable of
28 processing all data required to be collected under this act.
29 Any vendor selected by the council shall be selected in
30 accordance with the provisions of section 16, and said vendor

1 shall relinquish any and all proprietary rights or claims to
2 the data base created as a result of implementation of the
3 data processing system.

4 (2) Establish a Pennsylvania Uniform Claims and Billing
5 Form for all data sources and all providers which shall be
6 utilized and maintained by all data sources and all providers
7 for all services covered under this act.

8 (3) Collect and disseminate data, as specified in
9 section 6, and other information from data sources to which
10 the council is entitled, prepared according to formats, time
11 frames and confidentiality provisions as specified in
12 sections 6 and 10, and by the council.

13 (4) Adopt and implement a methodology to collect and
14 disseminate data reflecting provider quality and provider
15 service effectiveness pursuant to section 6.

16 (5) Subject to the restrictions on access to raw data
17 set forth in section 10, issue special reports and make
18 available raw data as defined in section 3 to any purchaser
19 requesting it. Sale by any recipient or exchange or
20 publication by a recipient, other than a purchaser, of raw
21 council data to other parties without the express written
22 consent of, and under terms approved by, the council shall be
23 unauthorized use of data pursuant to section 10(c).

24 (6) On an annual basis, publish in the Pennsylvania
25 Bulletin a list of all the raw data reports it has prepared
26 under section 10(f) and a description of the data obtained
27 through each computer-to-computer access it has provided
28 under section 10(f) and of the names of the parties to whom
29 the council provided the reports or the computer-to-computer
30 access during the previous month.

1 (7) Promote competition in the health care and health
2 insurance markets.

3 (8) Assure that the use of council data does not raise
4 access barriers to care.

5 (10) Make annual reports to the General Assembly on the
6 rate of increase in the cost of health care in the
7 Commonwealth and the effectiveness of the council in carrying
8 out the legislative intent of this act. In addition, the
9 council may make recommendations on the need for further
10 health care cost containment legislation. The council shall
11 also make annual reports to the General Assembly on the
12 quality and effectiveness of health care and access to health
13 care for all citizens of the Commonwealth.

14 (12) Conduct studies and publish reports thereon
15 analyzing the effects that noninpatient, alternative health
16 care delivery systems have on health care costs. These
17 systems shall include, but not be limited to: HMO's; PPO's;
18 primary health care facilities; home health care; attendant
19 care; ambulatory service facilities; freestanding emergency
20 centers; birthing centers; and hospice care. These reports
21 shall be submitted to the General Assembly and shall be made
22 available to the public.

23 (13) Conduct studies and make reports concerning the
24 utilization of experimental and nonexperimental transplant
25 surgery and other highly technical and experimental
26 procedures, including costs and mortality rates.

27 Section 6. Data submission and collection.

28 (a) (1) Submission of data.--The council is hereby
29 authorized to collect and data sources are hereby required to
30 submit, upon request of the council, all data required in

1 this section, according to uniform submission formats, coding
2 systems and other technical specifications necessary to
3 render the incoming data substantially valid, consistent,
4 compatible and manageable using electronic data processing
5 according to data submission schedules, such schedules to
6 avoid, to the extent possible, submission of identical data
7 from more than one data source, established and promulgated
8 by the council in regulations pursuant to its authority under
9 section 5(b). If payor data is requested by the council, it
10 shall, to the extent possible, be obtained from primary payor
11 sources. The council shall not require any data sources to
12 contract with any specific vendor for submission of any
13 specific data elements to the council.

14 (1.1) Any data source shall comply with data submission
15 guidelines established in the report submitted under section
16 17.2. The council shall maintain a vendor list of at least
17 two vendors that may be chosen by any data source for
18 submission of any specific data elements.

19 (2) Except as provided in this section, the council may
20 adopt any nationally recognized methodology to adjust data
21 submitted under subsection (c) for severity of illness. Every
22 three years after the effective date of this paragraph, the
23 council shall solicit bids from third-party vendors to adjust
24 the data. The solicitation shall be in accordance with 62
25 Pa.C.S. (relating to procurement). In carrying out its
26 responsibilities, the council shall not require health care
27 facilities to report data elements which are not included in
28 the manual developed by the national uniform billing
29 committee. The council shall publish in the Pennsylvania
30 Bulletin a list of diseases, procedures and medical

1 conditions, not to exceed 35, for which data under
2 subsections (c) (21) and (d) shall be required. The chosen
3 list shall not represent more than 50% of total hospital
4 discharges, based upon the previous year's hospital discharge
5 data. Subsequent to the publication of the list, any data
6 submission requirements under subsections (c) (21) and (d)
7 previously in effect shall be null and void for diseases,
8 procedures and medical conditions not found on the list. All
9 other data elements pursuant to subsection (c) shall continue
10 to be required from data sources. The council shall review
11 the list and may add no more than a net of three diseases,
12 procedures or medical conditions per year over a five-year
13 period starting on the effective date of this paragraph. The
14 adjusted list of diseases, procedures and medical conditions
15 shall at no time be more than 50% of total hospital
16 discharges.

17 (b) Pennsylvania Uniform Claims and Billing Form.--The
18 council shall maintain a Pennsylvania Uniform Claims and Billing
19 Form format. The council shall furnish said claims and billing
20 form format to all data sources, and said claims and billing
21 form shall be utilized and maintained by all data sources for
22 all services covered by this act. The Pennsylvania Uniform
23 Claims and Billing Form shall consist of the Uniform Hospital
24 Billing Form , as developed by the National Uniform Billing
25 Committee, with additional fields as necessary to provide all of
26 the data set forth in subsections (c) and (d).

27 (c) Data elements.--For each covered service performed in
28 Pennsylvania, the council shall be required to collect the
29 following data elements:

30 (1) uniform patient identifier, continuous across

1 multiple episodes and providers;

2 (2) patient date of birth;

3 (3) patient sex;

4 (3.1) patient race, consistent with the method of

5 collection of race/ethnicity data by the United States Bureau

6 of the Census and the United States Standard Certificates of

7 Live Birth and Death;

8 (4) patient ZIP Code number;

9 (5) date of admission;

10 (6) date of discharge;

11 (7) principal and secondary diagnoses by standard code,

12 including external cause of injury, complication, infection

13 and childbirth;

14 (8) principal procedure by council-specified standard

15 code and date;

16 (9) up to three secondary procedures by council-

17 specified standard codes and dates;

18 (10) uniform health care facility identifier, continuous

19 across episodes, patients and providers;

20 (11) uniform identifier of admitting physician, by

21 unique physician identification number established by the

22 council, continuous across episodes, patients and providers;

23 (12) uniform identifier of consulting physicians, by

24 unique physician identification number established by the

25 council, continuous across episodes, patients and providers;

26 (13) total charges of health care facility, segregated

27 into major categories, including, but not limited to, room

28 and board, radiology, laboratory, operating room, drugs,

29 medical supplies and other goods and services according to

30 guidelines specified by the council;

1 (14) actual payments to health care facility,
2 segregated, if available, according to the categories
3 specified in paragraph (13);

4 (15) charges of each physician or professional rendering
5 service relating to an incident of hospitalization or
6 treatment in an ambulatory service facility;

7 (16) actual payments to each physician or professional
8 rendering service pursuant to paragraph (15);

9 (17) uniform identifier of primary payor;

10 (18) ZIP Code number of facility where health care
11 service is rendered;

12 (19) uniform identifier for payor group contract number;

13 (20) patient discharge status; and

14 (21) provider service effectiveness and provider quality
15 pursuant to section 5(d)(4) and subsection (d).

16 (d) Provider quality and provider service effectiveness data
17 elements.--In carrying out its duty to collect data on provider
18 quality and provider service effectiveness under section 5(d)(4)
19 and subsection (c)(21), the council shall define a methodology
20 to measure provider service effectiveness which may include
21 additional data elements to be specified by the council
22 sufficient to carry out its responsibilities under section 5(d)
23 (4). The council shall not require health care insurers to
24 report on data elements that are not reported to nationally
25 recognized accrediting organizations, to the Department of
26 Health or to the Insurance Department in quarterly or annual
27 reports. The council shall not require reporting by health care
28 insurers in different formats than are required for reporting to
29 nationally recognized accrediting organizations or on quarterly
30 or annual reports submitted to the Department of Health or to

1 the Insurance Department. The council may adopt the quality
2 findings as reported to nationally recognized accrediting
3 organizations. Additional quality data elements must be defined
4 and released for public comment prior to the promulgation of
5 regulations under section 5(b). The public comment period shall
6 be no less than 30 days from the release of these elements.

7 (e) Reserve field utilization and addition or deletion of
8 data elements.--The council shall include in the Pennsylvania
9 Uniform Claims and Billing Form a reserve field. The council may
10 utilize the reserve field by adding other data elements beyond
11 those required to carry out its responsibilities under section
12 5(d)(3) and (4) and subsections (c) and (d), or the council may
13 delete data elements from the Pennsylvania Uniform Claims and
14 Billing Form only by a majority vote of the council and only
15 pursuant to the following procedure:

16 (1) The council shall obtain a cost-benefit analysis of
17 the proposed addition or deletion which shall include the
18 cost to data sources of any proposed additions.

19 (2) The council shall publish notice of the proposed
20 addition or deletion, along with a copy or summary of the
21 cost-benefit analysis, in the Pennsylvania Bulletin, and such
22 notice shall include provision for a 60-day comment period.

23 (3) The council may hold additional hearings or request
24 such other reports as it deems necessary and shall consider
25 the comments received during the 60-day comment period and
26 any additional information gained through such hearings or
27 other reports in making a final determination on the proposed
28 addition or deletion.

29 (f) Other data required to be submitted.--Providers are
30 hereby required to submit and the council is hereby authorized

1 to collect, in accordance with submission dates and schedules
2 established by the council, the following additional data,
3 provided such data is not available to the council from public
4 records:

5 (1) Audited annual financial reports of all hospitals
6 and ambulatory service facilities providing covered services
7 as defined in section 3.

8 (2) The Medicare cost report for Medical Assistance or
9 successor forms, including the settled Medicare cost report.

10 (3) Additional data, including, but not limited to, data
11 which can be used in reports about:

12 (i) the incidence of medical and surgical procedures
13 in the population for individual providers;

14 (ii) physicians who provide covered services and
15 accept medical assistance patients;

16 (iii) physicians who provide covered services and
17 accept Medicare assignment as full payment;

18 (v) mortality rates for specified diagnoses and
19 treatments, grouped by severity, for individual
20 providers;

21 (vi) rates of infection for specified diagnoses and
22 treatments, grouped by severity, for individual
23 providers;

24 (vii) morbidity rates for specified diagnoses and
25 treatments, grouped by severity, for individual
26 providers;

27 (viii) readmission rates for specified diagnoses and
28 treatments, grouped by severity, for individual
29 providers;

30 (ix) rate of incidence of postdischarge professional

1 care for selected diagnoses and procedures, grouped by
2 severity, for individual providers; and

3 (x) data from other public sources.

4 (4) Any other data the council requires to carry out its
5 responsibilities pursuant to section 5(d).

6 (f.1) Review and correction of data.--The council shall
7 provide a reasonable period for data sources to review and
8 correct the data submitted under section 6 which the council
9 intends to prepare and issue in reports to the General Assembly,
10 to the general public or in special studies and reports under
11 section 11. When corrections are provided, the council shall
12 correct the appropriate data in its data files and subsequent
13 reports.

14 (g) Allowance for clarification or dissents.--The council
15 shall maintain a file of written statements submitted by data
16 sources who wish to provide an explanation of data that they
17 feel might be misleading or misinterpreted. The council shall
18 provide access to such file to any person and shall, where
19 practical, in its reports and data files indicate the
20 availability of such statements. When the council agrees with
21 such statements, it shall correct the appropriate data and
22 comments in its data files and subsequent reports.

23 (g.1) Allowance for correction.--The council shall verify
24 the patient safety indicator data submitted by hospitals
25 pursuant to subsection (c)(7) within 60 days of receipt. The
26 council may allow hospitals to make changes to the data
27 submitted during the verification period. After the verification
28 period, but within 45 days of receipt of the adjusted hospital
29 data, the council shall risk adjust the information and provide
30 reports to the patient safety committee of the relevant

1 hospital.

2 (h) Availability of data.--Nothing in this act shall
3 prohibit a purchaser from obtaining from its health care
4 insurer, nor relieve said health care insurer from the
5 obligation of providing said purchaser, on terms consistent with
6 past practices, data previously provided or additional data not
7 currently provided to said purchaser by said health care insurer
8 pursuant to any existing or future arrangement, agreement or
9 understanding.

10 Section 7. Data dissemination and publication.

11 (a) Public reports.--Subject to the restrictions on access
12 to council data set forth in section 10 and utilizing the data
13 collected under section 6 as well as other data, records and
14 matters of record available to it, the council shall prepare and
15 issue reports to the General Assembly and to the general public
16 according to the following provisions:

17 (1) The council shall, for every provider of both
18 inpatient and outpatient services within this Commonwealth
19 and within appropriate regions and subregions, prepare and
20 issue reports on provider quality and service effectiveness
21 on diseases or procedures that, when ranked by volume, cost,
22 payment and high variation in outcome, represent the best
23 opportunity to improve overall provider quality, improve
24 patient safety and provide opportunities for cost reduction.
25 These reports shall provide comparative information on the
26 following:

27 (i) Differences in mortality rates; differences in
28 length of stay; differences in complication rates;
29 differences in readmission rates; differences in
30 infection rates; and other comparative outcome measures

1 the council may develop that will allow purchasers,
2 providers and consumers to make purchasing and quality
3 improvement decisions based upon quality patient care and
4 to restrain costs.

5 (ii) The incidence rate of selected medical or
6 surgical procedures, the quality and service
7 effectiveness and the payments received for those
8 providers, identified by the name and type or specialty,
9 for which these elements vary significantly from the
10 norms for all providers.

11 (2) In preparing its reports under paragraph (1), the
12 council shall ensure that factors which have the effect of
13 either reducing provider revenue or increasing provider costs
14 and other factors beyond a provider's control which reduce
15 provider competitiveness in the marketplace are explained in
16 the reports. The council shall also ensure that any
17 clarifications and dissents submitted by individual providers
18 under section 6(g) are noted in any reports that include
19 release of data on that individual provider.

20 (b) Raw data reports and computer access to council data.--
21 The council shall provide special reports derived from raw data
22 and a means for computer-to-computer access to its raw data to
23 any purchaser, pursuant to section 10(f). The council shall
24 provide such reports and computer-to-computer access, at its
25 discretion, to other parties, pursuant to section 10(g). The
26 council shall provide these special reports and computer-to-
27 computer access in as timely a fashion as the council's
28 responsibilities to publish the public reports required in this
29 section will allow. Any such provision of special reports or
30 computer-to-computer access by the council shall be made only

1 subject to the restrictions on access to raw data set forth in
2 section 10(b) and only after payment for costs of preparation or
3 duplication pursuant to section 10(f) or (g).

4 Section 8. Health care for the medically indigent.

5 (a) Declaration of policy.--The General Assembly finds that
6 every person in this Commonwealth should receive timely and
7 appropriate health care services from any provider operating in
8 this Commonwealth; that, as a continuing condition of licensure,
9 each provider should offer and provide medically necessary,
10 lifesaving and emergency health care services to every person in
11 this Commonwealth, regardless of financial status or ability to
12 pay; and that health care facilities may transfer patients only
13 in instances where the facility lacks the staff or facilities to
14 properly render definitive treatment.

15 (b) Studies on indigent care.--To reduce the undue burden on
16 the several providers that disproportionately treat medically
17 indigent people on an uncompensated basis, to contain the long-
18 term costs generated by untreated or delayed treatment of
19 illness and disease and to determine the most appropriate means
20 of treating and financing the treatment of medically indigent
21 persons, the council, at the request of the Governor or the
22 General Assembly, may undertake studies and utilize its current
23 data base to:

24 (1) Study and analyze the medically indigent population,
25 the magnitude of uncompensated care for the medically
26 indigent, the degree of access to and the result of any lack
27 of access by the medically indigent to appropriate care, the
28 types of providers and the settings in which they provide
29 indigent care and the cost of the provision of that care
30 pursuant to subsection (c).

1 (2) Determine, from studies undertaken under paragraph
2 (1), a definition of the medically indigent population and
3 the most appropriate method for the delivery of timely and
4 appropriate health care services to the medically indigent.

5 (c) Studies.--The council shall conduct studies pursuant to
6 subsection (b) (1) and thereafter report to the Governor and the
7 General Assembly the results of the studies and its
8 recommendations. The council may contract with an independent
9 vendor to conduct the study in accordance with the provisions
10 for selecting vendors in section 16. The study shall include,
11 but not be limited to, the following:

12 (1) the number and characteristics of the medically
13 indigent population, including such factors as income,
14 employment status, health status, patterns of health care
15 utilization, type of health care needed and utilized,
16 eligibility for health care insurance, distribution of this
17 population on a geographic basis and by age, sex and racial
18 or linguistic characteristics, and the changes in these
19 characteristics, including the following:

20 (i) the needs and problems of indigent persons in
21 urban areas;

22 (ii) the needs and problems of indigent persons in
23 rural areas;

24 (iii) the needs and problems of indigent persons who
25 are members of racial or linguistic minorities;

26 (iv) the needs and problems of indigent persons in
27 areas of high unemployment; and

28 (v) the needs and problems of the underinsured;

29 (2) the degree of and any change in access of this
30 population to sources of health care, including hospitals,

1 physicians and other providers;

2 (3) the distribution and means of financing indigent
3 care between and among providers, insurers, government,
4 purchasers and consumers, and the effect of that distribution
5 on each;

6 (4) the major types of care rendered to the indigent,
7 the setting in which each type of care is rendered and the
8 need for additional care of each type by the indigent;

9 (5) the likely impact of changes in the health delivery
10 system, including managed care entities, and the effects of
11 cost containment in the Commonwealth on the access to,
12 availability of and financing of needed care for the
13 indigent, including the impact on providers which provide a
14 disproportionate amount of care to the indigent;

15 (6) the distribution of delivered care and actual cost
16 to render such care by provider, region and subregion;

17 (7) the provision of care to the indigent through
18 improvements in the primary health care system, including the
19 management of needed hospital care by primary care providers;

20 (8) innovative means to finance and deliver care to the
21 medically indigent; and

22 (9) reduction in the dependence of indigent persons on
23 hospital services through improvements in preventive health
24 measures.

25 Section 9. Mandated health benefits.

26 In relation to current law or proposed legislation, the
27 council shall, upon the request of the appropriate committee
28 chairman in the Senate and in the House of Representatives or
29 upon the request of the Secretary of Health, provide information
30 on the proposed mandated health benefit pursuant to the

1 following:

2 (1) The General Assembly hereby declares that proposals
3 for mandated health benefits or mandated health insurance
4 coverage should be accompanied by adequate, independently
5 certified documentation defining the social and financial
6 impact and medical efficacy of the proposal. To that end the
7 council, upon receipt of such requests, is hereby authorized
8 to conduct a preliminary review of the material submitted by
9 both proponents and opponents concerning the proposed
10 mandated benefit. If, after this preliminary review, the
11 council is satisfied that both proponents and opponents have
12 submitted sufficient documentation necessary for a review
13 pursuant to paragraphs (3) and (4), the council is directed
14 to contract with individuals, pursuant to the selection
15 procedures for vendors set forth in section 16, who will
16 constitute a Mandated Benefits Review Panel to review
17 mandated benefits proposals and provide independently
18 certified documentation, as provided for in this section.

19 (2) The panel shall consist of senior researchers, each
20 of whom shall be a recognized expert:

21 (i) one in health research;

22 (ii) one in biostatistics;

23 (iii) one in economic research;

24 (iv) one, a physician, in the appropriate specialty
25 with current knowledge of the subject being proposed as a
26 mandated benefit; and

27 (v) one with experience in insurance or actuarial
28 research.

29 (3) The Mandated Benefits Review Panel shall have the
30 following duties and responsibilities:

1 (i) To review documentation submitted by persons
2 proposing or opposing mandated benefits within 90 days of
3 submission of said documentation to the panel.

4 (ii) To report to the council, pursuant to its
5 review in subparagraph (i), the following:

6 (A) Whether or not the documentation is complete
7 as defined in paragraph (4).

8 (B) Whether or not the research cited in the
9 documentation meets professional standards.

10 (C) Whether or not all relevant research
11 respecting the proposed mandated benefit has been
12 cited in the documentation.

13 (D) Whether or not the conclusions and
14 interpretations in the documentation are consistent
15 with the data submitted.

16 (4) To provide the Mandated Benefits Review Panel with
17 sufficient information to carry out its duties and
18 responsibilities pursuant to paragraph (3), persons proposing
19 or opposing legislation mandating benefits coverage should
20 submit documentation to the council, pursuant to the
21 procedure established in paragraph (5), which demonstrates
22 the following:

23 (i) The extent to which the proposed benefit and the
24 services it would provide are needed by, available to and
25 utilized by the population of the Commonwealth.

26 (ii) The extent to which insurance coverage for the
27 proposed benefit already exists, or if no such coverage
28 exists, the extent to which this lack of coverage results
29 in inadequate health care or financial hardship for the
30 population of the Commonwealth.

1 (iii) The demand for the proposed benefit from the
2 public and the source and extent of opposition to
3 mandating the benefit.

4 (iv) All relevant findings bearing on the social
5 impact of the lack of the proposed benefit.

6 (v) Where the proposed benefit would mandate
7 coverage of a particular therapy, the results of at least
8 one professionally accepted, controlled trial comparing
9 the medical consequences of the proposed therapy,
10 alternative therapies and no therapy.

11 (vi) Where the proposed benefit would mandate
12 coverage of an additional class of practitioners, the
13 results of at least one professionally accepted,
14 controlled trial comparing the medical results achieved
15 by the additional class of practitioners and those
16 practitioners already covered by benefits.

17 (vii) The results of any other relevant research.

18 (viii) Evidence of the financial impact of the
19 proposed legislation, including at least:

20 (A) The extent to which the proposed benefit
21 would increase or decrease cost for treatment or
22 service.

23 (B) The extent to which similar mandated
24 benefits in other states have affected charges, costs
25 and payments for services.

26 (C) The extent to which the proposed benefit
27 would increase the appropriate use of the treatment
28 or service.

29 (D) The impact of the proposed benefit on
30 administrative expenses of health care insurers.

1 (E) The impact of the proposed benefits on
2 benefits costs of purchasers.

3 (F) The impact of the proposed benefits on the
4 total cost of health care within the Commonwealth.

5 (5) The procedure for review of documentation is as
6 follows:

7 (i) Any person wishing to submit information on
8 proposed legislation mandating insurance benefits for
9 review by the panel should submit the documentation
10 specified in paragraph (4) to the council.

11 (ii) The council shall, within 30 days of receipt of
12 the documentation:

13 (A) Publish in the Pennsylvania Bulletin notice
14 of receipt of the documentation, a description of the
15 proposed legislation, provision for a period of 60
16 days for public comment and the time and place at
17 which any person may examine the documentation.

18 (B) Submit copies of the documentation to the
19 Secretary of Health and the Insurance Commissioner,
20 who shall review and submit comments to the council
21 on the proposed legislation within 30 days.

22 (C) Submit copies of the documentation to the
23 panel, which shall review the documentation and issue
24 their findings, pursuant to paragraph (3), within 90
25 days.

26 (iii) Upon receipt of the comments of the Secretary
27 of Health and the Insurance Commissioner and of the
28 findings of the panel, pursuant to subparagraph (ii), but
29 no later than 120 days following the publication required
30 in subparagraph (ii), the council shall submit said

1 comments and findings, together with its recommendations
2 respecting the proposed legislation, to the Governor, the
3 President pro tempore of the Senate, the Speaker of the
4 House of Representatives, the Secretary of Health, the
5 Insurance Commissioner and the person who submitted the
6 information pursuant to subparagraph (i).

7 Section 10. Right-to-Know Law and access to council data.

8 (a) Public access.--The information and data received by the
9 council shall be utilized by the council for the benefit of the
10 public and public officials. Subject to the specific limitations
11 set forth in this section and section 3101.1 of the act of
12 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
13 the council shall make determinations on requests for
14 information in favor of access. Payor discounts and allowances
15 are considered confidential proprietary information and, as
16 such, are not records subject to the requirements for public
17 access established under the Right-to-Know Law.

18 (a.1) Outreach programs.--The council shall develop and
19 implement outreach programs designed to make its information
20 understandable and usable to purchasers, providers, other
21 Commonwealth agencies and the general public. The programs shall
22 include efforts to educate through pamphlets, booklets, seminars
23 and other appropriate measures and to facilitate making more
24 informed health care choices.

25 (b) Limitations on access.--Unless specifically provided for
26 in this act, neither the council nor any contracting system
27 vendor shall release and no data source, person, member of the
28 public or other user of any data of the council shall gain
29 access to:

30 (1) Any raw data of the council that does not

1 simultaneously disclose payment, as well as provider quality
2 and provider service effectiveness pursuant to sections 5(d)
3 (4) and 6(d) or 7(a)(1)(iii).

4 (2) Any raw data of the council which could reasonably
5 be expected to reveal the identity of an individual patient.

6 (3) Any raw data of the council which could reasonably
7 be expected to reveal the identity of any purchaser, as
8 defined in section 3, other than a purchaser requesting data
9 on its own group or an entity entitled to said purchaser's
10 data pursuant to subsection (f).

11 (4) Any raw data of the council relating to actual
12 payments to any identified provider made by any purchaser,
13 except that this provision shall not apply to access by a
14 purchaser requesting data on the group for which it purchases
15 or otherwise provides covered services or to access to that
16 same data by an entity entitled to the purchaser's data
17 pursuant to subsection (f).

18 (5) Any raw data disclosing discounts or allowances
19 between identified payors and providers unless the data is
20 released in a Statewide, aggregate format that does not
21 identify any individual payor or class of payors, directly or
22 indirectly through the use of a market share, and unless the
23 council assures that the release of such information is not
24 prejudicial or inequitable to any individual payor or
25 provider or group thereof. Payor data shall be released to
26 individual providers for purposes of verification and
27 validation prior to inclusion in a public report. An
28 individual provider shall verify and validate the payor data
29 within 30 days of its release to that specific individual
30 provider.

1 (c) Unauthorized use of data.--Any person who knowingly
2 releases council data violating the patient confidentiality,
3 actual payments, discount data or raw data safeguards set forth
4 in this section to an unauthorized person commits a misdemeanor
5 of the first degree and shall, upon conviction, be sentenced to
6 pay a fine of \$10,000 or to imprisonment for not more than five
7 years, or both. An unauthorized person who knowingly receives or
8 possesses such data commits a misdemeanor of the first degree.

9 (d) Unauthorized access to data.--Should any person
10 inadvertently or by council error gain access to data that
11 violates the safeguards set forth in this section, the data must
12 immediately be returned, without duplication, to the council
13 with proper notification.

14 (e) Public access to records.--All public reports prepared
15 by the council shall be public records and shall be available to
16 the public for a reasonable fee, and copies shall be provided,
17 upon request of the chair, to the Public Health and Welfare
18 Committee of the Senate and the Health and Welfare Committee of
19 the House of Representatives.

20 (f) Access to raw council data by purchasers.--Pursuant to
21 sections 5(d)(5) and 7(b) and subject to the limitations on
22 access set forth in subsection (b), the council shall provide
23 access to its raw data to purchasers in accordance with the
24 following procedure:

25 (1) Special reports derived from raw data of the council
26 shall be provided by the council to any purchaser requesting
27 such reports.

28 (2) A means to enable computer-to-computer access by any
29 purchaser to raw data of the council as defined in section 3
30 shall be developed, adopted and implemented by the council,

1 and the council shall provide such access to its raw data to
2 any purchaser upon request.

3 (3) In the event that any employer obtains from the
4 council, pursuant to paragraph (1) or (2), data pertaining to
5 its employees and their dependents for whom said employer
6 purchases or otherwise provides covered services as defined
7 in section 3 and who are represented by a certified
8 collective bargaining representative, said collective
9 bargaining representative shall be entitled to that same
10 data, after payment of fees as specified in paragraph (4).
11 Likewise, should a certified collective bargaining
12 representative obtain from the council, pursuant to paragraph
13 (1) or (2), data pertaining to its members and their
14 dependents who are employed by and for whom covered services
15 are purchased or otherwise provided by any employer, said
16 employer shall be entitled to that same data, after payment
17 of fees as specified in paragraph (4).

18 (4) In providing for access to its raw data, the council
19 shall charge the purchasers which originally obtained such
20 access a fee sufficient to cover its costs to prepare and
21 provide special reports requested pursuant to paragraph (1)
22 or to provide computer-to-computer access to its raw data
23 requested pursuant to paragraph (2). Should a second or
24 subsequent party or parties request this same information
25 pursuant to paragraph (3), the council shall charge said
26 party a reasonable fee.

27 (g) Access to raw council data by other parties.--Subject to
28 the limitations on access to raw council data set forth in
29 subsection (b), the council may, at its discretion, provide
30 special reports derived from its raw data or computer-to-

1 computer access to parties other than purchasers. The council
2 shall publish regulations that set forth the criteria and the
3 procedure it shall use in making determinations on such access,
4 pursuant to the powers vested in the council in section 4. In
5 providing such access, the council shall charge the party
6 requesting the access a reasonable fee.

7 Section 4. Section 11 of the act is reenacted and amended to
8 read:

9 Section 11. Special studies and reports.

10 (a) Special studies.--Any Commonwealth agency may publish or
11 contract for publication of special studies. Any special study
12 so published shall become a public document.

13 (b) Special reports.--

14 (1) Any Commonwealth agency may study and issue a report
15 on the special medical needs, demographic characteristics,
16 access or lack thereof to health care services and need for
17 financing of health care services of:

18 (i) Senior citizens, particularly low-income senior
19 citizens, senior citizens who are members of minority
20 groups and senior citizens residing in low-income urban
21 or rural areas.

22 (ii) Low-income urban or rural areas.

23 (iii) Minority communities.

24 (iv) Women.

25 (v) Children.

26 (vi) Unemployed workers.

27 (vii) Veterans.

28 The reports shall include information on the current
29 availability of services to these targeted parts of the
30 population, and whether access to such services has increased

1 or decreased over the past [ten] 10 years, and specific
2 recommendations for the improvement of their primary care and
3 health delivery systems, including disease prevention and
4 comprehensive health care services. The department may also
5 study and report on the effects of using prepaid, capitated
6 or HMO health delivery systems as ways to promote the
7 delivery of primary health care services to the underserved
8 segments of the population enumerated above.

9 (2) The department may study and report on the short-
10 term and long-term fiscal and programmatic impact on the
11 health care consumer of changes in ownership of hospitals
12 from nonprofit to profit, whether through purchase, merger or
13 the like. The department may also study and report on factors
14 which have the effect of either reducing provider revenue or
15 increasing provider cost, and other factors beyond a
16 provider's control which reduce provider competitiveness in
17 the marketplace, are explained in the reports.

18 Section 5. Section 12, 13, 14, 15, 16, 17.1, 17.2 and 18 of
19 the act are reenacted to read:

20 Section 12. Enforcement; penalty.

21 (a) Compliance enforcement.--The council shall have standing
22 to bring an action in law or in equity through private counsel
23 in any court of common pleas to enforce compliance with any
24 provision of this act, except section 11, or any requirement or
25 appropriate request of the council made pursuant to this act. In
26 addition, the Attorney General is authorized and shall bring any
27 such enforcement action in aid of the council in any court of
28 common pleas at the request of the council in the name of the
29 Commonwealth.

30 (b) Penalty.--

1 (1) Any person who fails to supply data pursuant to
2 section 6 may be assessed a civil penalty not to exceed
3 \$1,000 for each day the data is not submitted.

4 (2) Any person who knowingly submits inaccurate data
5 under section 6 commits a misdemeanor of the third degree and
6 shall, upon conviction, be sentenced to pay a fine of \$1,000
7 or to imprisonment for not more than one year, or both.

8 Section 13. Research and demonstration projects.

9 The council shall actively encourage research and
10 demonstrations to design and test improved methods of assessing
11 provider quality, provider service effectiveness and efficiency.
12 To that end, provided that no data submission requirements in a
13 mandated demonstration may exceed the current reserve field on
14 the Pennsylvania Uniform Claims and Billing Form, the council
15 may:

16 (1) Authorize contractors engaged in health services
17 research selected by the council, pursuant to the provisions
18 of section 16, to have access to the council's raw data
19 files, providing such entities assume any contractual
20 obligations imposed by the council to assure patient identity
21 confidentiality.

22 (2) Place data sources participating in research and
23 demonstrations on different data submission requirements from
24 other data sources in this Commonwealth.

25 (3) Require data source participation in research and
26 demonstration projects when this is the only testing method
27 the council determines is promising.

28 Section 14. Grievances and grievance procedures.

29 (a) Procedures and requirements.--Pursuant to its powers to
30 publish regulations under section 5(b) and with the requirements

1 of this section, the council is hereby authorized and directed
2 to establish procedures and requirements for the filing, hearing
3 and adjudication of grievances against the council of any data
4 source. Such procedures and requirements shall be published in
5 the Pennsylvania Bulletin pursuant to law.

6 (b) Claims; hearings.--Grievance claims of any data source
7 shall be submitted to the council or to a third party designated
8 by the council, and the council or the designated third party
9 shall convene a hearing, if requested, and adjudicate the
10 grievance.

11 Section 15. Antitrust provisions.

12 Persons or entities required to submit data or information
13 under this act or receiving data or information from the council
14 in accordance with this act are declared to be acting pursuant
15 to State requirements embodied in this act and shall be exempt
16 from antitrust claims or actions grounded upon submission or
17 receipt of such data or information.

18 Section 16. Contracts with vendors.

19 Any contract with any vendor other than a sole source vendor
20 for purchase of services or for purchase or lease of supplies
21 and equipment related to the council's powers and duties shall
22 be let only after a public bidding process and only in
23 accordance with the following provisions, and no contract shall
24 be let by the council that does not conform to these provisions:

25 (1) The council shall prepare specifications fully
26 describing the services to be rendered or equipment or
27 supplies to be provided by a vendor and shall make these
28 specifications available for inspection by any person at the
29 council's offices during normal working hours and at such
30 other places and such other times as the council deems

1 advisable.

2 (2) The council shall publish notice of invitations to
3 bid in the Pennsylvania Bulletin. The council shall also
4 publish such notice in at least four newspapers in general
5 circulation in the Commonwealth on at least three occasions
6 at intervals of not less than three days. Said notice shall
7 include at least the following:

8 (i) The deadline for submission of bids by
9 prospective vendors, which shall be no sooner than 30
10 days following the latest publication of the notice as
11 prescribed in this paragraph.

12 (ii) The locations, dates and times during which
13 prospective vendors can examine the specifications
14 required in paragraph (1).

15 (iii) The date, time and place of the meeting or
16 meetings of the council at which bids will be opened and
17 accepted.

18 (iv) A statement to the effect that any person is
19 eligible to bid.

20 (3) Bids shall be accepted as follows:

21 (i) No council member who is affiliated in any way
22 with any bidder shall vote on the awarding of any
23 contract for which said bidder has submitted a bid, and
24 any council member who has an affiliation with a bidder
25 shall state the nature of the affiliation prior to any
26 vote of the council.

27 (ii) Bids shall be opened and reviewed by the
28 appropriate council committee, which shall make
29 recommendations to the council on approval. Bids shall be
30 accepted and such acceptance shall be announced only at a

1 public meeting of the council as defined in section 4(e),
2 and no bids shall be accepted at an executive session of
3 the council.

4 (iii) The council may require that a certified
5 check, in an amount determined by the council, accompany
6 every bid, and, when so required, no bid shall be
7 accepted unless so accompanied.

8 (4) In order to prevent any party from deliberately
9 underbidding contracts in order to gain or prevent access to
10 council data, the council may award any contract at its
11 discretion, regardless of the amount of the bid, pursuant to
12 the following:

13 (i) Any bid accepted must reasonably reflect the
14 actual cost of services provided.

15 (ii) Any vendor so selected by the council shall be
16 found by the council to be of such character and such
17 integrity as to assure, to the maximum extent possible,
18 adherence to all the provisions of this act in the
19 provision of contracted services.

20 (iii) The council may require the selected vendor to
21 furnish, within 20 days after the contract has been
22 awarded, a bond with suitable and reasonable requirements
23 guaranteeing the services to be performed with sufficient
24 surety in an amount determined by the council, and upon
25 failure to furnish such bond within the time specified,
26 the previous award shall be void.

27 (5) The council shall make efforts to assure that its
28 vendors have established affirmative action plans to assure
29 equal opportunity policies for hiring and promoting
30 employees.

1 Section 17.1. Reporting.

2 The council shall provide an annual report of its financial
3 expenditures to the Appropriations Committee of the Senate and
4 the Appropriations Committee of the House of Representatives.

5 Section 17.2. Health Care Cost Containment Council Act Review
6 Committee.

7 (a) Establishment.--There is established an independent
8 committee to be known as the Health Care Cost Containment
9 Council Act Review Committee.

10 (b) Composition.--The committee shall consist of the
11 following voting members composed of and appointed as follows:

12 (1) One member appointed by the Governor.

13 (2) Four members appointed by the General Assembly, one
14 of whom appointed by each of the following:

15 (i) one by the President pro tempore of the Senate;

16 (ii) one by the Minority Leader of the Senate;

17 (iii) one by the Majority Leader of the House of
18 Representatives; and

19 (iv) one by the Minority Leader of the House of
20 Representatives.

21 (3) Two representatives of the business community, at
22 least one of whom represents small business, and neither of
23 whom is primarily involved in the provision of health care or
24 health insurance, one of whom appointed by the President pro
25 tempore of the Senate and one of whom appointed by the
26 Speaker of the House of Representatives from a list of four
27 qualified persons recommended by the Pennsylvania Chamber of
28 Business and Industry.

29 (4) Two representatives of organized labor, one of whom
30 appointed by the President pro tempore of the Senate and one

1 of whom appointed by the Speaker of the House of
2 Representatives from a list of four qualified persons
3 recommended by the Pennsylvania AFL-CIO.

4 (5) One representative of consumers who is not primarily
5 involved in the provision of health care or health care
6 insurance, appointed by the Governor from a list of three
7 qualified persons recommended jointly by the President pro
8 tempore of the Senate and the Speaker of the House of
9 Representatives.

10 (6) One representative of a health care facility,
11 appointed by the Governor from a list of three qualified
12 hospital representatives recommended by the Hospital and
13 Health System Association of Pennsylvania.

14 (7) One representative of physicians, appointed by the
15 Governor from a list of three qualified physician
16 representatives recommended jointly by the Pennsylvania
17 Medical Society and the Pennsylvania Osteopathic Medical
18 Society.

19 (8) One representative of nurses, appointed by the
20 Governor from a list of three qualified representatives
21 recommended by the Pennsylvania State Nurses Association.

22 (9) One representative of the Blue Cross and Blue Shield
23 plans in Pennsylvania, pursuant to 40 Pa.C.S. Ch. 61
24 (relating to Hospital Plan Corporations), appointed by the
25 Governor from a list of three qualified persons recommended
26 jointly by the Blue Cross and Blue Shield plans of
27 Pennsylvania.

28 (10) One representative of commercial insurance
29 carriers, appointed by the Governor from a list of three
30 qualified persons recommended by the Insurance Federation of

1 Pennsylvania, Inc.

2 (c) Chairperson.--The appointment made by the Governor under
3 subsection (b) (1) shall serve as chairman of the committee.

4 (d) Quorum.--Eleven members shall constitute a quorum for
5 the transaction of any business, and action by the majority of
6 the members present at any meeting in which there is a quorum
7 shall be deemed to be action of the committee.

8 (e) Meetings.--

9 (1) All meetings of the committee shall be advertised
10 and conducted pursuant to 65 Pa.C.S. Ch. 7 (relating to open
11 meetings).

12 (2) All action taken by the committee shall be taken in
13 open public session, and action of the committee shall not be
14 taken except upon the affirmative vote of a majority of the
15 members of the committee present during meetings at which a
16 quorum is present.

17 (f) Compensation and expenses.--The members of the committee
18 shall not receive a salary or per diem allowance for serving as
19 members of the committee but shall be reimbursed for actual and
20 necessary expenses incurred in the performance of their duties.
21 Expenses may include reimbursement of travel and living expenses
22 while engaged in committee business.

23 (g) Commencement of committee.--

24 (1) Within 15 days after the effective date of this
25 section, each organization or individual required to submit a
26 list of recommended persons to the Governor, the President
27 pro tempore of the Senate or the Speaker of the House of
28 Representatives under subsection (b) shall submit the list.

29 (2) Within 30 days of the effective date of this
30 section, the Governor, the President pro tempore of the

1 Senate and the Speaker of the House of Representatives shall
2 make the appointments called for in subsection (b), and the
3 committee shall begin operations immediately following the
4 appointments.

5 (h) Responsibilities of the committee.--The committee shall
6 have the following powers and duties:

7 (1) To study, review and recommend changes to this act.

8 (2) To accept and review suggested changes to this act
9 submitted by members of the committee.

10 (3) To approve, by a majority vote of the members of the
11 committee, a report recommending statutory changes to this
12 act. The report shall include, at a minimum, the following:

13 (i) The establishment of an Internet database for
14 the general public showing Medicare reimbursement rates
15 for common covered services and treatment.

16 (ii) In consultation with experts in the fields of
17 quality data and outcome measures, the definition and
18 implementation of:

19 (A) A methodology by provider type for the
20 council to risk-adjust quality data.

21 (B) A methodology for the council to collect and
22 disseminate data reflecting provider quality and
23 provider service effectiveness.

24 (4) To submit the report approved under paragraph (3) to
25 the President pro tempore of the Senate and the Speaker of
26 the House of Representatives within six months after the
27 effective date of this section.

28 (i) Committee support.--The council shall offer staff and
29 administrative support from the council or its work groups
30 necessary for the committee to carry out its duties under this

1 section.

2 Section 18. Severability.

3 The provisions of this act are severable. If any provision of
4 this act or its application to any person or circumstance is
5 held invalid, the invalidity shall not affect other provisions
6 or applications of this act which can be given effect without
7 the invalid provision or application.

8 Section 6. Section 19 of the act is reenacted and amended to
9 read:

10 Section 19. [Sunset] Expiration.

11 This act shall expire June 30, [2014] 2019, unless reenacted
12 prior to that date. [By September 1, 2013, a written report by
13 the Legislative Budget and Finance Committee evaluating the
14 management, visibility, awareness and performance of the council
15 shall be provided to the Public Health and Welfare Committee of
16 the Senate and the Health and Human Services Committee of the
17 House of Representatives. The report shall include a review of
18 the council's procedures and policies, the availability and
19 quality of data for completing reports , whether there is a more
20 cost-efficient way of accomplishing the objectives of the
21 council and the need for reauthorization of the council.]

22 Section 7. Section 20 of the act is reenacted to read:

23 Section 20. Effective date.

24 This act shall take effect immediately.

25 Section 8. This act shall be retroactive to June 29, 2014.

26 Section 9. This act shall take effect immediately.