

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 387** Session of
2003

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MARCH 3, 2003

SENATOR THOMPSON, APPROPRIATIONS, RE-REPORTED AS AMENDED,
JUNE 16, 2003

AN ACT

1 Amending the act of July 8, 1986 (P.L.408, No.89), entitled, as
2 reenacted and amended, "An act providing for the creation of
3 the Health Care Cost Containment Council, for its powers and
4 duties, for health care cost containment through the
5 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 membership of the council, its bylaws and terms of its
9 members, for powers and duties of the council, for data
10 submission and collection, for data dissemination and
11 publication, for access to council data and for enforcement
12 and penalties; requiring a certain report from the
13 Legislative Budget and Finance Committee; and extending the
14 sunset date of the act.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Sections 4(b), (d) and (f) and 5(b) and (d)(11)
18 of the act of July 8, 1986 (P.L.408, No.89), known as the Health
19 Care Cost Containment Act, reenacted and amended June 28, 1993
20 (P.L.146, No.34), are amended to read:

21 Section 4. Health Care Cost Containment Council.

22 * * *

1 (b) Composition.--The council shall consist of [21] 28 <—
2 voting members, composed of and appointed in accordance with the
3 following:

4 (1) The Secretary of Health.

5 (2) The Secretary of Public Welfare.

6 (3) The Insurance Commissioner.

7 (3.1) Four members of the General Assembly, which shall
8 consist of the chairman and minority chairman of the Public
9 Health and Welfare Committee of the Senate and the chairman
10 and minority Chairman of the Health and Human Services
11 Committee of the House of Representatives. Members under this
12 paragraph may appoint a designee to act on behalf of the
13 member at meetings OF THE COUNCIL AND of committees, as <—
14 provided in subsection (f). Designees shall be counted for
15 purposes of determining a quorum.

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

26 (5) Six representatives of organized labor, three of
27 which shall be appointed by the President pro tempore of the
28 Senate and three of which shall be appointed by the Speaker
29 of the House of Representatives from a list of twelve
30 qualified persons recommended by the Pennsylvania AFL-CIO.

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

7 (7) [One representative] Two representatives of
8 hospitals, ONE OF WHICH SHALL REPRESENT RURAL HOSPITALS, <—
9 appointed by the Governor from a list of [three] five
10 qualified hospital representatives recommended by the
11 Hospital and Healthsystem Association of Pennsylvania. The
12 [representative] representatives under this paragraph may
13 each appoint two additional delegates to act for the
14 representative only at meetings of committees, as provided
15 for in subsection (f).

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

24 (8.1) One representative of nurses, appointed by the
25 Governor from a list of three qualified representatives
26 recommended by the Pennsylvania State Nurses Association.

27 (9) One representative of the Blue Cross and Blue Shield
28 plans in Pennsylvania, appointed by the Governor from a list
29 of three qualified persons recommended jointly by the Blue
30 Cross and Blue Shield plans of Pennsylvania.

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

5 (11) One representative of health maintenance
6 organizations, appointed by the Governor from a list of three
7 qualified persons recommended by the [Pennsylvania
8 Association of Health Maintenance Organizations] Managed Care
9 Association of Pennsylvania.

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 * * *

25 (d) Quorum.--[Eleven] ~~Fourteen members, a majority~~ FIFTEEN <—
26 MEMBERS, [A MAJORITY] SIX of which in any combination shall be
27 made up of representatives of business and labor, shall
28 constitute a quorum for the transaction of any business, and the
29 act by the majority of the members present at any meeting in
30 which there is a quorum shall be deemed to be the act of the

1 council.

2 * * *

3 (f) Bylaws.--The council shall adopt bylaws, not
4 inconsistent with this act, and may appoint such committees or
5 elect such officers subordinate to those provided for in
6 subsection (c) as it deems advisable. The council shall provide
7 for the approval and participation of additional delegates
8 appointed under subsection [(b)(7)] (B)(3.1), (7) and (8) so <—
9 that each [organization] MEMBER represented by delegates under <—
10 those paragraphs shall not have more than one vote on any
11 committee to which they are appointed. The council shall also
12 appoint a technical advisory group which shall, on an ad hoc
13 basis, respond to issues presented to it by the council or
14 committees of the council and shall make recommendations to the
15 council. The technical advisory group shall include physicians,
16 researchers and biostatisticians. In appointing the technical
17 advisory group, the council shall consult with and take
18 nominations from the representatives of the Hospital Association
19 of Pennsylvania, the Pennsylvania Medical Society, the
20 Pennsylvania Osteopathic Medical Society or other like
21 organizations. At its discretion, nominations shall be approved
22 by the executive committee of the council. The Hospital and
23 Healthsystem Association of Pennsylvania and the Pennsylvania
24 Medical Society shall each be afforded one representative not
25 subject to executive committee approval. If the subject matter
26 of any project exceeds the expertise of the technical advisory
27 group, physicians in appropriate specialties who possess current
28 knowledge of the issue under study may be consulted. The
29 technical advisory group shall also review the availability and
30 reliability of severity of illness measurements as they relate

1 to small hospitals and psychiatric, rehabilitation and
2 children's hospitals and shall make recommendations to the
3 council based upon this review.

4 * * *

5 Section 5. Powers and duties of the council.

6 * * *

7 (b) Rules and regulations.--The council [may, in a manner
8 provided by law,] shall promulgate rules and regulations in
9 accordance with the act of June 25, 1982 (P.L.633, No.181),
10 known as the Regulatory Review Act, necessary to carry out its
11 duties under this act.

12 * * *

13 (d) General duties and functions.--The council is hereby
14 authorized to and shall perform the following duties and
15 functions:

16 * * *

17 [(11) Adopt, within one year, a model patient itemized
18 statement for all providers, which itemizes all charges for
19 services, equipment, supplies and medicine, designed to be
20 more understandable than current patient bills. Each provider
21 shall be required to utilize said model patient itemized
22 statement for covered services within 90 days of adoption of
23 said form by the council. Such model patient itemized
24 statements shall be written in language that is
25 understandable to the average person and be presented to each
26 patient upon discharge from a health care facility or
27 provision of patient services or within a reasonable time
28 thereafter. Patients may request a copy of their Pennsylvania
29 Uniform Claims and Billing Form, and, upon request, the
30 provider shall furnish this form to the patient within 30

1 days.]

2 * * *

3 Section 2. Section 6(a) and (d) of the act are amended and
4 the section is amended by adding a subsection to read:

5 Section 6. Data submission and collection.

6 (a) Submission of data.--

7 (1) The council is hereby authorized to collect and data
8 sources are hereby required to submit, upon request of the
9 council, all data required in this section, according to
10 uniform submission formats, coding systems and other
11 technical specifications necessary to render the incoming
12 data substantially valid, consistent, compatible and
13 manageable using electronic data processing according to data
14 submission schedules, such schedules to avoid, to the extent
15 possible, submission of identical data from more than one
16 data source, established and promulgated by the council in
17 regulations pursuant to its authority under section 5(b). If
18 payor data is requested by the council, it shall, to the
19 extent possible, be obtained from primary payor sources.

20 (2) Within 90 days of the effective date of this
21 paragraph, the council shall publish in the Pennsylvania
22 Bulletin a list of diseases or medical conditions, not to <—
23 exceed 75, for which data required under subsection (d) and
24 former section 21(c) shall be null and void for any diseases
25 or medical conditions not contained on the list. All other
26 data elements shall continue to be required from data
27 sources. The council shall review this list at least once
28 annually and, not more than once annually, may adjust the
29 number of diseases or medical conditions on the list base
30 upon the recommendation of its technical advisory group.

1 BULLETIN A LIST OF DISEASES, PROCEDURES OR MEDICAL <—
2 CONDITIONS, NOT TO EXCEED 75, FOR WHICH DATA REQUIRED UNDER
3 SUBSECTIONS (C)(21) AND (D) SHALL BE REQUIRED. THE CHOSEN
4 LIST SHALL NOT REPRESENT MORE THAN 50% OF TOTAL HOSPITAL
5 ADMISSIONS, BASED UPON THE PREVIOUS YEAR'S DATA. SUBSEQUENT
6 TO THE PUBLICATION OF SAID LIST, ANY DATA SUBMISSION
7 REQUIREMENTS UNDER SUBSECTIONS (C)(21) AND (D), PREVIOUSLY IN
8 EFFECT, WILL BE NULL AND VOID FOR ANY DISEASES, PROCEDURES OR
9 MEDICAL CONDITIONS NOT CONTAINED ON SAID LIST. ALL OTHER DATA
10 ELEMENTS SHALL CONTINUE TO BE REQUIRED FROM DATA SOURCES. THE
11 COUNCIL SHALL REVIEW THIS LIST AT LEAST ONCE ANNUALLY AND MAY
12 ADJUST THE LIST OF DISEASES, PROCEDURES OR MEDICAL
13 CONDITIONS, SUBJECT TO THE ORIGINAL LIMITATION OF 75
14 DISEASES, PROCEDURES OR MEDICAL CONDITIONS AND 50% OF TOTAL
15 HOSPITAL ADMISSIONS.

16 * * *

17 (d) [Provider quality] Quality and [provider] service
18 effectiveness data elements.--{In carrying out its duty to <—
19 collect data on provider quality and provider service
20 effectiveness under section 5(d)(4) and subsection (c)(21), the
21 council shall define a methodology to measure provider service
22 effectiveness which may include additional data elements to be
23 specified by the council sufficient to carry out its
24 responsibilities under section 5(d)(4). The council may adopt a
25 nationally recognized methodology of quantifying and collecting
26 data on provider quality and provider service effectiveness
27 until such time as the council has the capability of developing
28 its own methodology and standard data elements. The council
29 shall include in the Pennsylvania Uniform Claims and Billing
30 Form a field consisting of the data elements required pursuant

1 to subsection (c)(21) to provide information on each provision
2 of covered services sufficient to permit analysis of provider
3 quality and provider service effectiveness within 180 days of
4 commencement of its operations pursuant to section 4.‡ In <—
5 carrying out its responsibilities, the council may not require
6 health care insurers to report on additional data elements that
7 are not reported to nationally recognized accrediting
8 organizations or to the Department of Health or the Insurance
9 Department in quarterly or annual reports. The council may not
10 require reporting by health care insurers in different formats
11 than are required for reporting to nationally recognized
12 accrediting organizations or on quarterly or annual reports
13 submitted to the Department of Health or the Insurance
14 Department as required by regulations of either department. The
15 council may adopt the quality findings as reported to nationally
16 recognized accrediting organizations.

17 * * *

18 (f.1) Review and correction of data.--The council shall
19 provide a REASONABLE period for data sources to review and <—
20 correct the data submitted by them under section 6 that the
21 council intends to prepare and issue in reports to the General
22 Assembly, to the general public or in special studies and
23 reports under section 11. When corrections are provided, the
24 council shall correct the appropriate data in its data files and
25 subsequent reports.

26 * * *

27 Section 3. Sections 7(a), 10(b)(5) and 12(b) of the act are
28 amended to read:

29 Section 7. Data dissemination and publication.

30 [(a) Public reports.--Subject to the restrictions on access

1 to council data set forth in section 10 and utilizing the data
2 collected under section 6 as well as other data, records and
3 matters of record available to it, the council shall prepare and
4 issue reports to the General Assembly and to the general public,
5 according to the following provisions:

6 (1) The council shall, for every provider within the
7 Commonwealth and within appropriate regions and subregions
8 within the Commonwealth and for those inpatient and
9 outpatient services which, when ranked by order of frequency,
10 account for at least 65% of all covered services and which,
11 when ranked by order of total payments, account for at least
12 65% of total payments, prepare and issue reports that at
13 least provide information on the following:

14 (i) Comparisons among all providers of payments
15 received, charges, population-based admission or
16 incidence rates, and provider service effectiveness, such
17 comparisons to be grouped according to diagnosis and
18 severity, and to identify each provider by name and type
19 or specialty.

20 (ii) Comparisons among all providers, except
21 physicians, of inpatient and outpatient charges and
22 payments for room and board, ancillary services, drugs,
23 equipment and supplies and total services, such
24 comparisons to be grouped according to provider quality
25 and provider service effectiveness and according to
26 diagnosis and severity, and to identify each health care
27 facility by name and type.

28 (iii) Until and unless a methodology to measure
29 provider quality and provider service effectiveness
30 pursuant to sections 5(d)(4) and 6(c) and (d) is

1 available to the council, comparisons among all
2 providers, grouped according to diagnosis, procedure and
3 severity, which identify facilities by name and type and
4 physicians by name and specialty, of charges and payments
5 received, readmission rates, mortality rates, morbidity
6 rates and infection rates. Following adoption of the
7 methodology specified in sections 5(d)(4) and 6(c) and
8 (d), the council may, at its discretion, discontinue
9 publication of this component of the report.

10 (iv) The incidence rate of selected medical or
11 surgical procedures, the provider service effectiveness
12 and the payments received for those providers, identified
13 by the name and type or specialty, for which these
14 elements vary significantly from the norms for all
15 providers.

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

25 (3) The council shall, for all providers within the
26 Commonwealth and within appropriate regions and subregions
27 within the Commonwealth, prepare and issue quarterly reports
28 that at least provide information on the number of
29 physicians, by speciality, on the staff of each hospital or
30 ambulatory service facility and those physicians on the staff

1 that accept Medicare assignment as full payment and that
2 accept Medical Assistance patients.

3 (4) The council shall publish all reports required in
4 this section in the Pennsylvania Bulletin and shall publish,
5 in at least one newspaper of general circulation in each
6 subregion within the Commonwealth, reports on the providers
7 in that subregion and subregions adjacent to it. In addition,
8 the council shall advertise annually the availability of
9 these reports and the charge for duplication in the
10 Pennsylvania Bulletin and in at least one newspaper of
11 general circulation in each subregion within the Commonwealth
12 at least once in each calendar quarter.]

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

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

29 (i) Differences in mortality rates; differences in
30 length of stay; differences in complication rates;

1 differences in readmission rates; differences in
2 infection rates; and other comparative outcome measures
3 the council may develop that will allow purchasers,
4 providers and consumers to make purchasing and quality
5 improvement decisions based upon quality patient care and
6 to restrain costs.

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

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

22 * * *

23 Section 10. Access to council data.

24 * * *

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 * * *

(5) Any raw data disclosing discounts or differentials between payments accepted by providers for services and their billed charges obtained by identified payors from identified providers [unless comparable data on all other payors is also released and the council determines that the release of such information is not prejudicial or inequitable to any individual payor or provider or group thereof. In making such determination the council shall consider that it is primarily concerned with the analysis and dissemination of payments to providers, not with discounts].

* * *

Section 12. Enforcement; penalty.

* * *

(b) Penalty.--

(1) Any person who fails to supply data pursuant to section 6 [commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not to exceed \$1,000. Each day on which the required data is not submitted constitutes a separate offense under this paragraph.] may be assessed a civil penalty not to exceed \$1,000 for each day the data is not submitted.

(2) Any person who[, after being sentenced under paragraph (1), fails to supply data] knowingly submits inaccurate data pursuant to section 6 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$10,000 or to imprisonment for not more than five years, or both.

Section 4. The act is amended by adding a section to read:

Section 17.2. Legislative Budget and Finance Committee Report.

(a) General rule.--By December 31, 2006, the Legislative

Budget and Finance Committee shall complete a written report evaluating the management, performance, visibility, awareness and performance of the council and shall submit the report to the Public Health and Welfare Committee of the Senate and the Health and Human Services Committee of the House of Representatives. The report shall determine whether the council is:

(1) Conducting authorized activities in a manner consistent with accomplishing the objectives intended by the General Assembly.

(2) Conducting activities and expending funds made available in a faithful, efficient, economical and effective manner.

(b) Contents of report.--The report shall include, but not be limited to, discussion of the following criteria:

(1) Whether there is overlap or duplication of effort by other agencies.

(2) Whether there is a more economical way of accomplishing the objectives of the council.

(3) Whether there is a demonstrated need, based on service to the public, for the continuing existence of the council.

(4) Whether the operation of the council has been in the public interest.

(5) Whether the council has encouraged public participation in the making of its rules and decisions or whether the council has permitted participation solely by the persons its regulates.

(6) Whether there is an alternate, less restrictive method of providing the same services to the public.

1 (7) Such other criteria as may be established by the
2 standing committees.

3 Section 5. Section 19 of the act is amended to read:

4 Section 19. Sunset.

5 This act shall expire June 30, [2003] 2009, unless reenacted
6 prior to [that date] ~~December 31, 2008~~ MARCH 31, 2009. <—

7 Section 6. This act shall take effect as follows:

8 (1) The amendment of section 19 of the act shall take
9 effect immediately.

10 (2) This section shall take effect immediately.

11 (3) The remainder of this act shall take effect in 60
12 days.