

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2028 Session of  
2007

INTRODUCED BY STERN, BOYD, WATSON, PICKETT, KILLION, MUSTIO,  
KENNEY, CUTLER, TURZAI, REICHLEY AND GILLESPIE,  
DECEMBER 6, 2007

REFERRED TO COMMITTEE ON INSURANCE, DECEMBER 6, 2007

AN ACT

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

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The title and sections 1 and 2 of the act of July  
15 8, 1986 (P.L.408, No.89), known as the Health Care Cost  
16 Containment Act, reenacted and amended July 17, 2003 (P.L.31,  
17 No.14), are amended to read:

AN ACT

18  
19 Providing for the creation of the Health Care Cost Containment  
20 and Comparison Council, for its powers and duties, for health  
21 care cost containment through the collection and  
22 dissemination of data, for public accountability of health

care costs and for health care for the indigent; and making an appropriation.

Section 1. Short title.

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

Section 2. Legislative finding and declaration.

The General Assembly finds that there exists in this Commonwealth a major crisis because of the continuing escalation of costs for health care services. Because of the continuing escalation of costs, an increasingly large number of Pennsylvania citizens have severely limited access to appropriate and timely health care. Increasing costs are also undermining the quality of health care services currently being provided. Further, the continuing escalation is negatively affecting the economy of this Commonwealth, is restricting new economic growth and is impeding the creation of new job opportunities in this Commonwealth.

The continuing escalation of health care costs is attributable to a number of interrelated causes, including:

(1) Inefficiency in the present configuration of health care service systems and in their operation.

(2) The present system of health care cost payments by third parties.

(3) The increasing burden of indigent care which encourages cost shifting.

(4) The absence of a concentrated and continuous effort in all segments of the health care industry to contain health care costs.

(5) The need for consumers of health care to have access to charge information from physicians for common services and

1       treatments.

2       Therefore, it is hereby declared to be the policy of the  
3 Commonwealth of Pennsylvania to promote health care cost  
4 containment and to identify appropriate utilization practices by  
5 creating an independent council to be known as the Health Care  
6 Cost Containment Council.

7       It is the purpose of this legislation to promote the public  
8 interest by encouraging the development of competitive health  
9 care services in which health care costs are contained and to  
10 assure that all citizens have reasonable access to quality  
11 health care.

12       It is further the intent of this act to facilitate the  
13 continuing provision of quality, cost-effective health services  
14 throughout the Commonwealth by providing current, accurate data  
15 and information to the purchasers and consumers of health care  
16 on both cost and quality of health care services and to public  
17 officials for the purpose of determining health-related programs  
18 and policies and to assure access to health care services.

19       Nothing in this act shall prohibit a purchaser from obtaining  
20 from its third-party insurer, carrier or administrator, nor  
21 relieve said third-party insurer, carrier or administrator from  
22 the obligation of providing, on terms consistent with past  
23 practices, data previously provided to a purchaser pursuant to  
24 any existing or future arrangement, agreement or understanding.

25       Section 2. The definitions of "ambulatory service facility,"  
26 "council," "covered services," "data source," "health care  
27 facility," "physician" and "provider" in section 3 of the act  
28 are amended and the section is amended by adding definitions to  
29 read:

30       Section 3. Definitions.

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

4 "Adult basic." The health investment insurance program  
5 established under Chapter 13 of the act of June 26, 2001  
6 (P.L.755, No.77), known as the Tobacco Settlement Act.

7 "Ambulatory service facility." A facility licensed in this  
8 Commonwealth, not part of a hospital, which provides medical,  
9 diagnostic or surgical treatment to patients not requiring  
10 hospitalization, including ambulatory surgical facilities,  
11 ambulatory imaging or diagnostic centers, birthing centers,  
12 freestanding emergency rooms and any other facilities providing  
13 ambulatory care which charge a separate facility charge. [This  
14 term does not include the offices of private physicians or  
15 dentists, whether for individual or group practices.]  
16 Physician's offices and offices of other licensed health care  
17 providers, whether in group or individual practices, shall be  
18 considered ambulatory service facilities for the purposes of  
19 this act.

20 \* \* \*

21 "Children's Health Insurance Program" or "CHIP." The program  
22 established under Article XXIII of the act of May 17, 1921  
23 (P.L.682, No.284), known as The Insurance Company Law of 1921.

24 "Council." The Health Care Cost Containment and Comparison  
25 Council.

26 "Covered services." Any health care services or procedures  
27 connected with episodes of illness that require either inpatient  
28 hospital care or major ambulatory service such as surgical,  
29 medical or major radiological procedures, including any initial  
30 and follow-up outpatient services associated with the episode of

1 illness before, during or after inpatient hospital care or major  
2 ambulatory service. [The term does not include routine  
3 outpatient services connected with episodes of illness that do  
4 not require hospitalization or major ambulatory service.] The  
5 term includes routine outpatient services connected with  
6 episodes of illness that do not require hospitalization or major  
7 ambulatory service, including all office visits to physicians,  
8 chiropractors and other data sources including other licensed  
9 health care providers.

10 "Data source." A hospital; ambulatory service facility;  
11 physician; audiologist; birthing center; chiropractor; dentist;  
12 doctor of medicine; mental health professional including  
13 psychologists; nurse practitioner; optometrist; osteopath;  
14 physical therapist; podiatrist; speech pathologist or other  
15 licensed health care provider; health maintenance organization  
16 as defined in the act of December 29, 1972 (P.L.1701, No.364),  
17 known as the Health Maintenance Organization Act; hospital,  
18 medical or health service plan with a certificate of authority  
19 issued by the Insurance Department, including, but not limited  
20 to, hospital plan corporations as defined in 40 Pa.C.S. Ch. 61  
21 (relating to hospital plan corporations) and professional health  
22 services plan corporations as defined in 40 Pa.C.S. Ch. 63  
23 (relating to professional health services plan corporations);  
24 commercial insurer with a certificate of authority issued by the  
25 Insurance Department providing health or accident insurance;  
26 self-insured employer providing health or accident coverage or  
27 benefits for employees employed in the Commonwealth;  
28 administrator of a self-insured or partially self-insured health  
29 or accident plan providing covered services in the Commonwealth;  
30 any health and welfare fund that provides health or accident

1 benefits or insurance pertaining to covered service in the  
2 Commonwealth; the Department of Public Welfare for those covered  
3 services it purchases or provides through the medical assistance  
4 program under the act of June 13, 1967 (P.L.31, No.21), known as  
5 the Public Welfare Code, and any other payor for covered  
6 services in the Commonwealth other than an individual. This term  
7 shall also include physicians.

8 "Health care facility." A general or special hospital,  
9 including tuberculosis and psychiatric hospitals, kidney disease  
10 treatment centers, including freestanding hemodialysis units,  
11 birthing centers, offices of physicians, chiropractors and other  
12 data sources including other licensed health care providers, and  
13 ambulatory service facilities as defined in this section, and  
14 hospices, both profit and nonprofit, and including those  
15 operated by an agency of State or local government.

16 \* \* \*

17 "Licensee." An individual who is a data source and is  
18 licensed or certified by the Commonwealth of Pennsylvania to  
19 provide a covered service in a hospital, an office or other  
20 health care facility in this Commonwealth.

21 \* \* \*

22 "Medicaid." The program established under Title XIX of the  
23 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).

24 "Medical assistance." Medical treatment which is subsidized  
25 or completely paid for by the Commonwealth under Article IV of  
26 the act of June 13, 1967 (P.L.31, No.21), known as the Public  
27 Welfare Code.

28 \* \* \*

29 "Medicare." The program established under Title XVIII of the  
30 Social Security Act (Public Law 74-271, 42 U.S.C. § 1395 et

1 seq.).

2 "Other licensed health care provider." Any of the following:

3 (1) a licensee;

4 (2) a health care facility; or

5 (3) an officer, employee or entity of a licensee or  
6 health care facility acting in the course and scope of  
7 employment.

8 \* \* \*

9 "Physician." An individual licensed under the laws of this  
10 Commonwealth to practice medicine [and] or surgery within the  
11 scope of the act of October 5, 1978 (P.L.1109, No.261), known as  
12 the Osteopathic Medical Practice Act, or the act of December 20,  
13 1985 (P.L.457, No.112), known as the Medical Practice Act of  
14 1985. The term includes other licensed health care providers.

15 \* \* \*

16 "Provider." A hospital, an ambulatory service facility or a  
17 physician or a data source, a birthing center or other licensed  
18 health care provider.

19 \* \* \*

20 Section 3. Sections 4 heading and (a), 5(d), 6(a.1), (c) and  
21 (d) and 19 of the act are amended to read:

22 Section 4. Health Care Cost Containment and Comparison Council.

23 (a) Establishment.--The General Assembly hereby establishes  
24 an independent council to be known as the Health Care Cost  
25 Containment and Comparison Council.

26 \* \* \*

27 Section 5. Powers and duties of the council.

28 \* \* \*

29 (d) General duties and functions.--The council is hereby  
30 authorized to and shall perform the following duties and

1 functions:

2           (1) Develop a computerized system for the collection,  
3 analysis and dissemination of data. The council may contract  
4 with a vendor who will provide such data processing services.  
5 The council shall assure that the system will be capable of  
6 processing all data required to be collected under this act.  
7 Any vendor selected by the council shall be selected in  
8 accordance with the provisions of section 16, and said vendor  
9 shall relinquish any and all proprietary rights or claims to  
10 the data base created as a result of implementation of the  
11 data processing system.

12           (2) Establish a Pennsylvania Uniform Claims and Billing  
13 Form for all data sources and all providers which shall be  
14 utilized and maintained by all data sources and all providers  
15 for all services covered under this act.

16           (3) Collect and disseminate data, as specified in  
17 section 6, and other information from data sources to which  
18 the council is entitled, prepared according to formats, time  
19 frames and confidentiality provisions as specified in  
20 sections 6 and 10, and by the council.

21           (4) Adopt and implement a methodology to collect and  
22 disseminate data reflecting provider quality and provider  
23 service effectiveness pursuant to section 6.

24           (5) Subject to the restrictions on access to raw data  
25 set forth in section 10, issue special reports and make  
26 available raw data as defined in section 3 to any purchaser  
27 requesting it. Sale by any recipient or exchange or  
28 publication by a recipient, other than a purchaser, of raw  
29 council data to other parties without the express written  
30 consent of, and under terms approved by, the council shall be



1 unauthorized use of data pursuant to section 10(c).

2 (6) On an annual basis, publish in the Pennsylvania  
3 Bulletin a list of all the raw data reports it has prepared  
4 under section 10(f) and a description of the data obtained  
5 through each computer-to-computer access it has provided  
6 under section 10(f) and of the names of the parties to whom  
7 the council provided the reports or the computer-to-computer  
8 access during the previous month.

9 (7) Promote competition in the health care and health  
10 insurance markets.

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

13 (9.1) Compile and establish an Internet database for the  
14 general public showing physician charge comparisons for  
15 common services and treatments.

16 (10) Make annual reports to the General Assembly on the  
17 rate of increase in the cost of health care in the  
18 Commonwealth and the effectiveness of the council in carrying  
19 out the legislative intent of this act. In addition, the  
20 council may make recommendations on the need for further  
21 health care cost containment legislation. The council shall  
22 also make annual reports to the General Assembly on the  
23 quality and effectiveness of health care and access to health  
24 care for all citizens of the Commonwealth.

25 (12) Conduct studies and publish reports thereon  
26 analyzing the effects that noninpatient, alternative health  
27 care delivery systems have on health care costs. These  
28 systems shall include, but not be limited to: HMO's; PPO's;  
29 primary health care facilities; home health care; attendant  
30 care; ambulatory service facilities; freestanding emergency

1 centers; birthing centers; and hospice care. These reports  
2 shall be submitted to the General Assembly and shall be made  
3 available to the public.

4 (13) Conduct studies and make reports concerning the  
5 utilization of experimental and nonexperimental transplant  
6 surgery and other highly technical and experimental  
7 procedures, including costs and mortality rates.

8 (14) In order to ensure that the council adopts and  
9 maintains both scientifically credible and cost-effective  
10 methodology to collect and disseminate data reflecting  
11 provider quality and effectiveness, the council shall, within  
12 one year of the effective date of this paragraph, utilizing  
13 current Commonwealth agency guidelines and procedures, issue  
14 a request for information from any vendor that wishes to  
15 provide data collection or risk adjustment methodology to the  
16 council to help meet the requirements of this subsection and  
17 section 6. The council shall establish an independent Request  
18 for Information Review Committee to review and rank all  
19 responses and to make a final recommendation to the council.  
20 The Request for Information Review Committee shall consist of  
21 the following members appointed by the Governor:

22 (i) One representative of the Hospital and  
23 Healthsystem Association of Pennsylvania.

24 (ii) One representative of the Pennsylvania Medical  
25 Society.

26 (iii) One representative of insurance.

27 (iv) One representative of labor.

28 (v) One representative of business.

29 (vi) Two representatives of the general public.

30 (15) The council shall execute a request for proposals

1 with third-party vendors for the purpose of demonstrating a  
2 methodology for the collection, analysis and reporting of  
3 hospital-specific complication rates. The results of this  
4 demonstration shall be provided to the chairman and minority  
5 chairman of the Public Health and Welfare Committee of the  
6 Senate and the chairman and minority chairman of the Health  
7 and Human Services Committee of the House of Representatives.  
8 This methodology may be utilized by the council for public  
9 reporting on comparative hospital complication rates.

10 Section 6. Data submission and collection.

11 \* \* \*

12 (a.1) Abstraction and technology work group.--

13 (1) The council shall establish a data abstraction and  
14 technology work group to produce recommendations for  
15 improving and refining the data required by the council and  
16 reducing, through innovative direct data collection  
17 techniques, the cost of collecting required data. The work  
18 group shall consist of the following members appointed by the  
19 council:

20 (i) one member representing the Office of Health  
21 Care Reform;

22 (ii) one member representing the business community;

23 (iii) one member representing labor;

24 (iv) one member representing consumers;

25 (v) two members representing physicians;

26 (vi) two members representing nurses;

27 (vii) two members representing hospitals;

28 (viii) one member representing health underwriters;

29 and

30 (ix) one member representing commercial insurance

1 carriers.

2 (2) The work group, with approval of the council, may  
3 hire an independent auditor to determine the value of various  
4 data sets. The work group shall have no more than one year to  
5 study current data requirements and methods of collecting and  
6 transferring data and to make recommendations for changes to  
7 produce a 50% overall reduction in the cost of collecting and  
8 reporting required data to the council while maintaining the  
9 scientific credibility of the council's analysis and  
10 reporting. The work group recommendations shall be presented  
11 to the council for a vote.

12 (3) (i) The work group shall develop a system of data  
13 collection and analysis on physician charges for common  
14 services and treatments working with council staff and  
15 outside third-party vendors as needed and authorized by  
16 the council. The analysis shall provide a methodology for  
17 developing a charge comparison Internet search capability  
18 showing most commonly utilized medical services and  
19 treatments.

20 (ii) The work group will, as part of its analysis,  
21 examine physician charge comparison systems used in other  
22 states as an addendum to its report identifying which  
23 components of those other state systems are applicable or  
24 appropriate to Pennsylvania. This analysis of other  
25 states shall include descriptions as to how the physician  
26 charge data is collected and shall include a  
27 recommendation to the council, as to the most efficient,  
28 cost-effective and least intrusive way to determine the  
29 physician charge comparisons for common utilized services  
30 and treatments. The work group recommendation to the

council shall contain comparison by common physician service or treatment and geographic location of the physician searchable by county.

(iii) This physician charge comparison shall also contain data on reimbursement rates for adult basic, CHIP, Medicaid, medical assistance, Medicare and insurer reimbursement rates by insurer.

(iv) The work group shall report its recommendations to the council no later than 180 days after the effective date of this section. The physician charge comparison described in this paragraph shall be available to consumers beginning January 1, 2009, or sooner.

\* \* \*

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

(1) uniform patient identifier, continuous across multiple episodes and providers;

(2) patient date of birth;

(3) patient sex;

(3.1) patient race, consistent with the method of collection of race/ethnicity data by the United States Bureau of the Census and the United States Standard Certificates of Live Birth and Death;

(4) patient ZIP Code number;

(5) date of admission;

(6) date of discharge;

(7) principal and secondary diagnoses by standard code, including external cause of injury, complication, infection and childbirth;

(8) principal procedure by council-specified standard code and date;

(9) up to three secondary procedures by council-specified standard codes and dates;

(10) uniform health care facility identifier, continuous across episodes, patients and providers;

(11) uniform identifier of admitting physician, by unique physician identification number established by the council, continuous across episodes, patients and providers;

(12) uniform identifier of consulting physicians, by unique physician identification number established by the council, continuous across episodes, patients and providers;

(13) total charges of health care facility, segregated into major categories, including, but not limited to, room and board, radiology, laboratory, operating room, drugs, medical supplies and other goods and services according to guidelines specified by the council;

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

(15) charges of each physician or professional rendering service relating to an incident of hospitalization [or], treatment in an ambulatory service facility and charges from physicians for commonly utilized treatments as approved by the council in accordance with subsection(a.1)(3)(iv);

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

(17) uniform identifier of primary payor;

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

1 (19) uniform identifier for payor group contract number;  
2 (20) patient discharge status; and  
3 (21) provider service effectiveness and provider quality  
4 pursuant to section 5(d)(4) and subsection (d).

5 (d) Provider quality and provider service effectiveness data  
6 elements.--In carrying out its duty to collect data on provider  
7 quality and provider service effectiveness under section 5(d)(4)  
8 and subsection (c)(21), the council shall, by January 1, 2007,  
9 define a methodology to measure provider service effectiveness  
10 which may include additional data elements to be specified by  
11 the council sufficient to carry out its responsibilities under  
12 section 5(d)(4). The council shall not require a hospital to  
13 contract with a specific vendor for provider quality and  
14 provider service effectiveness data elements; however, the  
15 council may adopt a nationally recognized methodology of  
16 quantifying and collecting data on provider quality and provider  
17 service effectiveness until such time as the council has the  
18 capability of developing its own methodology and standard data  
19 elements. The council shall include in the Pennsylvania Uniform  
20 Claims and Billing Form a field consisting of the data elements  
21 required pursuant to subsection (c)(21) to provide information  
22 on each provision of covered services sufficient to permit  
23 analysis of provider quality and provider service effectiveness  
24 within 180 days of commencement of its operations pursuant to  
25 section 4. In carrying out its responsibilities, the council  
26 shall not require health care insurers to report on data  
27 elements that are not reported to nationally recognized  
28 accrediting organizations, to the Department of Health or to the  
29 Insurance Department in quarterly or annual reports. The council  
30 shall not require reporting by health care insurers in different

1 formats than are required for reporting to nationally recognized  
2 accrediting organizations or on quarterly or annual reports  
3 submitted to the Department of Health or to the Insurance  
4 Department. The council may adopt the quality findings as  
5 reported to nationally recognized accrediting organizations.

6 \* \* \*

7 Section 19. Sunset.

8 This act shall expire [June 30, 2008] June 30, 2011, unless  
9 reenacted prior to that date. By September 1, [2007,] 2008, a  
10 written report by the Legislative Budget and Finance Committee  
11 evaluating the management, visibility, awareness and performance  
12 of the council shall be provided to the Public Health and  
13 Welfare Committee of the Senate and the Health and Human  
14 Services Committee of the House of Representatives. The report  
15 shall include a review of the council's procedures and policies,  
16 the availability and quality of data for completing reports to  
17 hospitals and outside vendor purchasers, the ability of the  
18 council to become self-sufficient by selling data to outside  
19 purchasers, whether there is a more cost-efficient way of  
20 accomplishing the objectives of the council and the need for  
21 reauthorization of the council.

22 Section 4. This act shall take effect in 60 days.