

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2648 Session of  
2008

INTRODUCED BY EACHUS, DeWEESE, McCALL, DERMODY, D. EVANS, SURRA, YOUNGBLOOD, BISHOP, MUNDY, BLACKWELL, OLIVER, BUXTON, CALTAGIRONE, CAPPELLI, CARROLL, CASORIO, CLYMER, CONKLIN, CUTLER, FABRIZIO, FRANKEL, GALLOWAY, GEORGE, GIBBONS, GINGRICH, HALUSKA, HARKINS, HORNAMAN, JAMES, JOSEPHS, KESSLER, KING, KORTZ, KULA, LENTZ, LONGIETTI, McILVAINE SMITH, MELIO, R. MILLER, M. O'BRIEN, PRESTON, RAMALEY, SAINATO, SAYLOR, SHIMKUS, SIPTROTH, K. SMITH, M. SMITH, STABACK, STURLA, TANGRETTI, R. TAYLOR, VITALI, WALKO, J. WHITE, YUDICHAK, SANTONI, BRENNAN, PARKER, DONATUCCI AND KILLION, JUNE 18, 2008

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 24, 2008

## AN ACT

1 Amending the act of July 8, 1986 (P.L.408, No.89), entitled, "An  
2 act providing for the creation of the Health Care Cost  
3 Containment Council, for its powers and duties, for health  
4 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," ~~further providing for sunset.~~ DEFINING <—  
8 "COMMITTEE"; FURTHER PROVIDING FOR POWERS AND DUTIES OF THE  
9 COUNCIL; PROVIDING FOR THE ESTABLISHMENT OF A HEALTH CARE  
10 COST CONTAINMENT COUNCIL ACT REVIEW COMMITTEE; AND FURTHER  
11 PROVIDING FOR EXPIRATION.

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

14 ~~Section 1. Section 19 of the act of July 8, 1986 (P.L.408,~~ <—  
15 ~~No.89), known as the Health Care Cost Containment Act, reenacted~~  
16 ~~and amended July 17, 2003 (P.L.31, No.14), is amended to read:~~

17 SECTION 1. SECTION 3 OF THE ACT OF JULY 8, 1986 (P.L.408, <—

NO.89), KNOWN AS THE HEALTH CARE COST CONTAINMENT ACT, REENACTED  
AND AMENDED JULY 17, 2003 (P.L.31, NO.14), IS AMENDED BY ADDING  
A DEFINITION TO READ:

SECTION 3. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
CONTEXT CLEARLY INDICATES OTHERWISE:

\* \* \*

"COMMITTEE." THE HEALTH CARE COST CONTAINMENT COUNCIL ACT  
REVIEW COMMITTEE.

\* \* \*

SECTION 2. SECTION 5(D) OF THE ACT IS AMENDED BY ADDING A  
PARAGRAPH AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO  
READ:

SECTION 5. POWERS AND DUTIES OF THE COUNCIL.

\* \* \*

(D) GENERAL DUTIES AND FUNCTIONS.--THE COUNCIL IS HEREBY  
AUTHORIZED TO AND SHALL PERFORM THE FOLLOWING DUTIES AND  
FUNCTIONS:

\* \* \*

(9.1) COMPILE AND ESTABLISH AN INTERNET DATABASE FOR THE  
GENERAL PUBLIC SHOWING MEDICARE REIMBURSEMENT RATES FOR  
COMMON COVERED SERVICES AND TREATMENTS.

\* \* \*

(E) DEFINITIONS.--FOR PURPOSES OF SUBSECTION (D)(9.1), THE  
FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO  
THEM IN THIS SUBSECTION:

"AMBULATORY SERVICE FACILITY." A FACILITY LICENSED IN THIS  
COMMONWEALTH, NOT PART OF A HOSPITAL, WHICH PROVIDES MEDICAL,  
DIAGNOSTIC OR SURGICAL TREATMENT TO PATIENTS NOT REQUIRING

1 HOSPITALIZATION, INCLUDING AMBULATORY SURGICAL FACILITIES,  
2 AMBULATORY IMAGING OR DIAGNOSTIC CENTERS, BIRTHING CENTERS,  
3 FREESTANDING EMERGENCY ROOMS AND ANY OTHER FACILITIES PROVIDING  
4 AMBULATORY CARE WHICH CHARGE A SEPARATE FACILITY CHARGE.  
5 PHYSICIAN'S OFFICES AND OFFICES OF OTHER LICENSED HEALTH CARE  
6 PROVIDERS, WHETHER IN GROUP OR INDIVIDUAL PRACTICES, SHALL BE  
7 CONSIDERED AMBULATORY SERVICE FACILITIES FOR THE PURPOSES OF  
8 THIS ACT.

9 "COVERED SERVICES." ANY HEALTH CARE SERVICES OR PROCEDURES  
10 CONNECTED WITH EPISODES OF ILLNESS THAT REQUIRE EITHER INPATIENT  
11 HOSPITAL CARE OR MAJOR AMBULATORY SERVICE SUCH AS SURGICAL,  
12 MEDICAL OR MAJOR RADIOLOGICAL PROCEDURES, INCLUDING ANY INITIAL  
13 AND FOLLOW-UP OUTPATIENT SERVICES ASSOCIATED WITH THE EPISODE OF  
14 ILLNESS BEFORE, DURING OR AFTER INPATIENT HOSPITAL CARE OR MAJOR  
15 AMBULATORY SERVICE. THE TERM INCLUDES ROUTINE OUTPATIENT  
16 SERVICES CONNECTED WITH EPISODES OF ILLNESS THAT DO NOT REQUIRE  
17 HOSPITALIZATION OR MAJOR AMBULATORY SERVICE, INCLUDING ALL  
18 OFFICE VISITS TO PHYSICIANS, CHIROPRACTORS AND OTHER DATA  
19 SOURCES INCLUDING OTHER LICENSED HEALTH CARE PROVIDERS.

20 "DATA SOURCE." A HOSPITAL; AMBULATORY SERVICE FACILITY;  
21 PHYSICIAN; AUDIOLOGIST; BIRTHING CENTER; CHIROPRACTOR; DENTIST;  
22 DOCTOR OF MEDICINE; MENTAL HEALTH PROFESSIONAL INCLUDING  
23 PSYCHOLOGISTS; NURSE PRACTITIONER; OPTOMETRIST; OSTEOPATH;  
24 PHYSICAL THERAPIST; PODIATRIST; SPEECH PATHOLOGIST OR OTHER  
25 LICENSED HEALTH CARE PROVIDER; HEALTH MAINTENANCE ORGANIZATION  
26 AS DEFINED IN THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),  
27 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT; HOSPITAL,  
28 MEDICAL OR HEALTH SERVICE PLAN WITH A CERTIFICATE OF AUTHORITY  
29 ISSUED BY THE INSURANCE DEPARTMENT, INCLUDING, BUT NOT LIMITED  
30 TO, HOSPITAL PLAN CORPORATIONS AS DEFINED IN 40 PA.C.S. CH. 61

1 (RELATING TO HOSPITAL PLAN CORPORATIONS) AND PROFESSIONAL HEALTH  
2 SERVICES PLAN CORPORATIONS AS DEFINED IN 40 PA.C.S. CH. 63  
3 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS);  
4 COMMERCIAL INSURER WITH A CERTIFICATE OF AUTHORITY ISSUED BY THE  
5 INSURANCE DEPARTMENT PROVIDING HEALTH OR ACCIDENT INSURANCE;  
6 SELF-INSURED EMPLOYER PROVIDING HEALTH OR ACCIDENT COVERAGE OR  
7 BENEFITS FOR EMPLOYEES EMPLOYED IN THIS COMMONWEALTH;  
8 ADMINISTRATOR OF A SELF-INSURED OR PARTIALLY SELF-INSURED HEALTH  
9 OR ACCIDENT PLAN PROVIDING COVERED SERVICES IN THIS  
10 COMMONWEALTH; ANY HEALTH AND WELFARE FUND THAT PROVIDES HEALTH  
11 OR ACCIDENT BENEFITS OR INSURANCE PERTAINING TO COVERED SERVICE  
12 IN THIS COMMONWEALTH; THE DEPARTMENT OF PUBLIC WELFARE FOR THOSE  
13 COVERED SERVICES IT PURCHASES OR PROVIDES THROUGH THE MEDICAL  
14 ASSISTANCE PROGRAM UNDER THE ACT OF JUNE 13, 1967 (P.L.31,  
15 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, AND ANY OTHER PAYOR  
16 FOR COVERED SERVICES IN THIS COMMONWEALTH OTHER THAN AN  
17 INDIVIDUAL. THIS TERM SHALL ALSO INCLUDE PHYSICIANS.

18 "HEALTH CARE FACILITY." A GENERAL OR SPECIAL HOSPITAL,  
19 INCLUDING TUBERCULOSIS AND PSYCHIATRIC HOSPITALS, KIDNEY DISEASE  
20 TREATMENT CENTERS, INCLUDING FREESTANDING HEMODIALYSIS UNITS,  
21 BIRTHING CENTERS, OFFICES OF PHYSICIANS, CHIROPRACTORS AND OTHER  
22 DATA SOURCES INCLUDING OTHER LICENSED HEALTH CARE PROVIDERS, AND  
23 AMBULATORY SERVICE FACILITIES AS DEFINED IN THIS SECTION, AND  
24 HOSPICES, BOTH PROFIT AND NONPROFIT, AND INCLUDING THOSE  
25 OPERATED BY AN AGENCY OF STATE OR LOCAL GOVERNMENT.

26 "LICENSEE." AN INDIVIDUAL WHO IS A DATA SOURCE AND IS  
27 LICENSED OR CERTIFIED BY THE COMMONWEALTH OF PENNSYLVANIA TO  
28 PROVIDE A COVERED SERVICE IN A HOSPITAL, AN OFFICE OR OTHER  
29 HEALTH CARE FACILITY IN THIS COMMONWEALTH.

30 "MEDICARE." THE PROGRAM ESTABLISHED UNDER TITLE XVIII OF THE

1 SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 1395 ET 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 "PHYSICIAN." AN INDIVIDUAL LICENSED UNDER THE LAWS OF THIS  
9 COMMONWEALTH TO PRACTICE MEDICINE OR SURGERY WITHIN THE SCOPE OF  
10 THE ACT OF OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE  
11 OSTEOPATHIC MEDICAL PRACTICE ACT, OR THE ACT OF DECEMBER 20,  
12 1985 (P.L.457, NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF  
13 1985. THE TERM INCLUDES OTHER LICENSED HEALTH CARE PROVIDERS.

14 "PROVIDER." A HOSPITAL, AN AMBULATORY SERVICE FACILITY OR A  
15 PHYSICIAN OR A DATA SOURCE, A BIRTHING CENTER OR OTHER LICENSED  
16 HEALTH CARE PROVIDER.

17 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:  
18 SECTION 17.2. HEALTH CARE COST CONTAINMENT COUNCIL ACT REVIEW  
19 COMMITTEE.

20 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED AN  
21 INDEPENDENT COMMITTEE TO BE KNOWN AS THE HEALTH CARE COST  
22 CONTAINMENT COUNCIL ACT REVIEW COMMITTEE.

23 (B) COMPOSITION.--THE COMMITTEE SHALL CONSIST OF THE  
24 FOLLOWING VOTING MEMBERS COMPOSED OF AND APPOINTED AS FOLLOWS:

25 (1) ONE MEMBER APPOINTED BY THE GOVERNOR.

26 (2) FOUR MEMBERS APPOINTED BY THE GENERAL ASSEMBLY, ONE  
27 OF WHOM SHALL BE APPOINTED BY EACH OF THE FOLLOWING:

28 (I) ONE BY THE PRESIDENT PRO TEMPORE OF THE SENATE;

29 (II) ONE BY THE MINORITY LEADER OF THE SENATE;

30 (III) ONE BY THE MAJORITY LEADER OF THE HOUSE OF

1           REPRESENTATIVES; AND

2           (IV) ONE BY THE MINORITY LEADER OF THE HOUSE OF  
3           REPRESENTATIVES .

4           (3) TWO REPRESENTATIVES OF THE BUSINESS COMMUNITY, AT  
5           LEAST ONE OF WHOM REPRESENTS SMALL BUSINESS, AND NEITHER OF  
6           WHOM IS PRIMARILY INVOLVED IN THE PROVISION OF HEALTH CARE OR  
7           HEALTH INSURANCE, ONE OF WHOM SHALL BE APPOINTED BY THE  
8           PRESIDENT PRO TEMPORE OF THE SENATE AND ONE OF WHOM SHALL BE  
9           APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FROM  
10          A LIST OF FOUR QUALIFIED PERSONS RECOMMENDED BY THE  
11          PENNSYLVANIA CHAMBER OF BUSINESS AND INDUSTRY.

12          (4) TWO REPRESENTATIVES OF ORGANIZED LABOR, ONE OF WHOM  
13          SHALL BE APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE  
14          AND ONE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE  
15          HOUSE OF REPRESENTATIVES FROM A LIST OF FOUR QUALIFIED  
16          PERSONS RECOMMENDED BY THE PENNSYLVANIA AFL-CIO.

17          (5) ONE REPRESENTATIVE OF CONSUMERS WHO IS NOT PRIMARILY  
18          INVOLVED IN THE PROVISION OF HEALTH CARE OR HEALTH CARE  
19          INSURANCE, APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
20          QUALIFIED PERSONS RECOMMENDED JOINTLY BY THE PRESIDENT PRO  
21          TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
22          REPRESENTATIVES.

23          (6) ONE REPRESENTATIVE OF HOSPITALS, APPOINTED BY THE  
24          GOVERNOR FROM A LIST OF THREE QUALIFIED HOSPITAL  
25          REPRESENTATIVES RECOMMENDED BY THE HOSPITAL AND HEALTH SYSTEM  
26          ASSOCIATION OF PENNSYLVANIA.

27          (7) ONE REPRESENTATIVE OF PHYSICIANS, APPOINTED BY THE  
28          GOVERNOR FROM A LIST OF THREE QUALIFIED PHYSICIAN  
29          REPRESENTATIVES RECOMMENDED JOINTLY BY THE PENNSYLVANIA  
30          MEDICAL SOCIETY AND THE PENNSYLVANIA OSTEOPATHIC MEDICAL

1     SOCIETY.

2             (8) ONE REPRESENTATIVE OF NURSES, APPOINTED BY THE  
3     GOVERNOR FROM A LIST OF THREE QUALIFIED REPRESENTATIVES  
4     RECOMMENDED BY THE PENNSYLVANIA STATE NURSES ASSOCIATION.

5             (9) ONE REPRESENTATIVE OF THE BLUE CROSS AND BLUE SHIELD  
6     PLANS IN PENNSYLVANIA, APPOINTED BY THE GOVERNOR FROM A LIST  
7     OF THREE QUALIFIED PERSONS RECOMMENDED JOINTLY BY THE BLUE  
8     CROSS AND BLUE SHIELD PLANS OF PENNSYLVANIA.

9             (10) ONE REPRESENTATIVE OF COMMERCIAL INSURANCE  
10    CARRIERS, APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
11    QUALIFIED PERSONS RECOMMENDED BY THE INSURANCE FEDERATION OF  
12    PENNSYLVANIA, INC.

13            (11) ONE REPRESENTATIVE OF HEALTH MAINTENANCE  
14    ORGANIZATIONS, APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
15    QUALIFIED PERSONS RECOMMENDED BY THE MANAGED CARE ASSOCIATION  
16    OF PENNSYLVANIA.

17    (C) CHAIRPERSON.--THE APPOINTMENT MADE BY THE GOVERNOR UNDER  
18    SUBSECTION (B)(1) SHALL SERVE AS CHAIRMAN OF THE COMMITTEE.

19    (D) QUORUM.--ELEVEN MEMBERS SHALL CONSTITUTE A QUORUM FOR  
20    THE TRANSACTION OF ANY BUSINESS AND THE ACT BY THE MAJORITY OF  
21    THE MEMBERS PRESENT AT ANY MEETING IN WHICH THERE IS A QUORUM  
22    SHALL BE DEEMED TO BE THE ACT OF THE COMMITTEE.

23    (E) MEETINGS.--

24            (1) ALL MEETINGS OF THE COMMITTEE SHALL BE ADVERTISED  
25    AND CONDUCTED PURSUANT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN  
26    MEETINGS).

27            (2) ALL ACTION TAKEN BY THE COMMITTEE SHALL BE TAKEN IN  
28    OPEN PUBLIC SESSION, AND ACTION OF THE COMMITTEE SHALL NOT BE  
29    TAKEN EXCEPT UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE  
30    MEMBERS OF THE COMMITTEE PRESENT DURING MEETINGS AT WHICH A

1 QUORUM IS PRESENT.

2 (F) COMPENSATION AND EXPENSES.--THE MEMBERS OF THE COMMITTEE  
3 SHALL NOT RECEIVE A SALARY OR PER DIEM ALLOWANCE FOR SERVING AS  
4 MEMBERS OF THE COMMITTEE BUT SHALL BE REIMBURSED FOR ACTUAL AND  
5 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.  
6 EXPENSES MAY INCLUDE REIMBURSEMENT OF TRAVEL AND LIVING EXPENSES  
7 WHILE ENGAGED IN COMMITTEE BUSINESS.

8 (G) COMMENCEMENT OF COMMITTEE.--

9 (1) WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THIS  
10 SECTION, EACH ORGANIZATION OR INDIVIDUAL REQUIRED TO SUBMIT A  
11 LIST OF RECOMMENDED PERSONS TO THE GOVERNOR, THE PRESIDENT  
12 PRO TEMPORE OF THE SENATE OR THE SPEAKER OF THE HOUSE OF  
13 REPRESENTATIVES UNDER SUBSECTION (B) SHALL SUBMIT THE LIST.

14 (2) WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS  
15 SECTION, THE GOVERNOR, THE PRESIDENT PRO TEMPORE OF THE  
16 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL  
17 MAKE THE APPOINTMENTS CALLED FOR IN SUBSECTION (B), AND THE  
18 COMMITTEE SHALL BEGIN OPERATIONS IMMEDIATELY FOLLOWING THE  
19 APPOINTMENTS.

20 (H) RESPONSIBILITIES OF THE COMMITTEE.--THE COMMITTEE SHALL  
21 HAVE THE FOLLOWING POWERS AND DUTIES:

22 (1) TO STUDY, REVIEW AND RECOMMEND CHANGES TO THIS ACT.

23 (2) TO ACCEPT AND REVIEW SUGGESTED CHANGES TO THIS ACT  
24 SUBMITTED BY MEMBERS OF THE COMMITTEE.

25 (3) TO APPROVE, BY A MAJORITY VOTE OF THE MEMBERS OF THE  
26 COMMITTEE, A REPORT RECOMMENDING STATUTORY CHANGES TO THIS  
27 ACT.

28 (4) TO SUBMIT THE REPORT APPROVED UNDER PARAGRAPH (3) TO  
29 THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF  
30 THE HOUSE OF REPRESENTATIVES BY APRIL 30, 2009.



1     (I) COMMITTEE SUPPORT.--THE COUNCIL SHALL OFFER STAFF AND  
2     ADMINISTRATIVE SUPPORT NECESSARY FOR THE COMMITTEE TO CARRY OUT  
3     ITS DUTIES UNDER THIS SECTION.

4     SECTION 4.   SECTION 19 OF THE ACT IS AMENDED TO READ:  
5     Section 19.   Sunset.

6     This act shall expire [June 30, 2008]~~October 31, 2008,~~                   <—  
7     unless reenacted prior to that date.] DECEMBER 31, 2018, UNLESS         <—  
8     THE GENERAL ASSEMBLY ACTS WITHIN 60 DAYS AFTER THE SUBMISSION OF  
9     THE REPORT UNDER SECTION 17.2(H)(4). By September 1, 2007, 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 ~~2~~ 5.   This act shall take effect immediately.                   <—