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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 967 Session of  
2019

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INTRODUCED BY CUTLER, RYAN, PICKETT, ZIMMERMAN, FREEMAN,  
READSHAW, SCHMITT, MILLARD, MASSER, GABLER, B. MILLER,  
NEILSON, MENTZER, MACKENZIE AND SAYLOR, MARCH 26, 2019

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REFERRED TO COMMITTEE ON HEALTH, MARCH 26, 2019

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AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, providing for 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.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Title 35 of the Pennsylvania Consolidated  
10 Statutes is amended by adding a part to read:

11 PART II

12 REGULATED ENTITIES

13 Chapter

14 33. Health Care Cost Containment

15 CHAPTER 33

16 HEALTH CARE COST CONTAINMENT

17 Sec.

18 3301. Short title of chapter.

19 3302. Definitions.

- 1 3303. Health Care Cost Containment Council.  
2 3304. Powers and duties of council.  
3 3305. Data submission and collection.  
4 3306. Data dissemination and publication.  
5 3307. Mandated health benefits.  
6 3308. Right-to-Know Law and access to council data.  
7 3309. Special studies and reports.  
8 3310. Enforcement and penalty.  
9 3311. Research and demonstration projects.  
10 3312. Grievances and grievance procedures.  
11 3313. Antitrust provisions.  
12 3314. Contracts with vendors.  
13 3315. Reporting.  
14 3316. Severability.  
15 § 3301. Short title of chapter.

16 This chapter shall be known and may be cited as the Health  
17 Care Cost Containment Act.

18 § 3302. Definitions.

19 The following words and phrases when used in this chapter  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Ambulatory service facility." A facility licensed in this  
23 Commonwealth which is not part of a hospital and which provides  
24 medical, diagnostic or surgical treatment to patients not  
25 requiring hospitalization, including ambulatory surgical  
26 facilities, ambulatory imaging or diagnostic centers, birthing  
27 centers, freestanding emergency rooms and any other facilities  
28 providing ambulatory care which charge a separate facility  
29 charge. The term does not include the offices of private  
30 physicians or dentists, whether for individual or group

1 practices.

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

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

6 "Covered services." Any health care services or procedures  
7 connected with episodes of illness or injury that require either  
8 inpatient hospital care or major ambulatory service, including  
9 any initial and follow-up outpatient services associated with  
10 the episode of illness or injury before, during or after  
11 inpatient hospital care or major ambulatory service. The term  
12 does not include routine outpatient services connected with  
13 episodes of illness that do not require hospitalization or major  
14 ambulatory service.

15 "Data." Data collected by the council under section 3305  
16 (relating to data submission and collection). The term includes  
17 raw data.

18 "Data source." The term includes a provider.

19 "Health care facility." A general or special hospital,  
20 including:

21 (1) Psychiatric hospitals.

22 (2) Kidney disease treatment centers, including  
23 freestanding hemodialysis units.

24 (3) Ambulatory service facilities.

25 (4) Hospices, including hospices operated by an agency  
26 of State or local government.

27 "Health care insurer." A person, corporation or other entity  
28 that offers administrative, indemnity or payment services for  
29 health care in exchange for a premium or service charge under a  
30 program of health care benefits, including, but not limited to:

1           (1) An insurance company, association or exchange  
2 issuing health insurance policies in this Commonwealth  
3 governed by the act of May 17, 1921 (P.L.682, No.284), known  
4 as The Insurance Company Law of 1921.

5           (2) A hospital plan corporation as defined in 40 Pa.C.S.  
6 Ch. 61 (relating to hospital plan corporations).

7           (3) A professional health service corporation as defined  
8 in 40 Pa.C.S. Ch. 63 (relating to professional health  
9 services plan corporations).

10           (4) A health maintenance organization governed by the  
11 act of December 29, 1972 (P.L.1701, No.364), known as the  
12 Health Maintenance Organization Act.

13           (5) A third-party administrator governed by Article X of  
14 the act of May 17, 1921 (P.L.789, No.285), known as The  
15 Insurance Department Act of 1921.

16 The term does not include employers, labor unions or health and  
17 welfare funds jointly or separately administered by employers or  
18 labor unions that purchase or self-fund a program of health care  
19 benefits for their employees or members and their dependents.

20           "Health maintenance organization." An organized system which  
21 combines the delivery and financing of health care and which  
22 provides basic health services to voluntarily enrolled  
23 subscribers for a fixed prepaid fee, as defined in the Health  
24 Maintenance Organization Act.

25           "Hospital." An institution licensed in this Commonwealth  
26 which is:

27           (1) A general, mental, chronic disease or other type of  
28 hospital.

29           (2) A kidney disease treatment center, including kidney  
30 disease treatment centers operated by an agency of State or

1 local government.

2 "Major ambulatory service." Surgical or medical procedures,  
3 including diagnostic and therapeutic radiological procedures,  
4 commonly performed in hospitals or ambulatory service  
5 facilities, which are not of a type commonly performed, or which  
6 cannot be safely performed, in physicians' offices and which  
7 require special facilities such as operating rooms or suites or  
8 special equipment such as fluoroscopic equipment or computed  
9 tomographic scanners, or a postprocedure recovery room or short-  
10 term convalescent room.

11 "Medical procedure incidence variations." The variation in  
12 the incidence in the population of specific medical, surgical  
13 and radiological procedures in any given year, expressed as a  
14 deviation from the norm, as these terms are defined in the  
15 classical statistical definition of "variation," "incidence,"  
16 "deviation" and "norm."

17 "Payment." The payments that providers actually accept for  
18 their services, exclusive of charity care, rather than the  
19 charges they bill.

20 "Payor." Any person or entity, including, but not limited  
21 to, health care insurers and purchasers, that make direct  
22 payments to providers for covered services.

23 "Physician." An individual licensed under the laws of this  
24 Commonwealth to practice medicine and surgery within the scope  
25 of the act of October 5, 1978 (P.L.1109, No.261), known as the  
26 Osteopathic Medical Practice Act, or the act of December 20,  
27 1985 (P.L.457, No.112), known as the Medical Practice Act of  
28 1985.

29 "Preferred provider organization." Any arrangement between a  
30 health care insurer and providers of health care services which

1 specifies rates of payment to such providers which differ from  
2 their usual and customary charges to the general public and  
3 which encourages enrollees to receive health services from such  
4 providers.

5 "Provider." A hospital, a health care facility, an  
6 ambulatory service facility or a physician.

7 "Provider quality." The extent to which a provider renders  
8 care that, within the capabilities of modern medicine, obtains  
9 for patients medically acceptable health outcomes and prognoses,  
10 adjusted for patient severity, and treats patients  
11 compassionately and responsively.

12 "Provider service effectiveness." The effectiveness of  
13 services rendered by a provider, determined by measurement of  
14 the medical outcome of patients grouped by severity receiving  
15 those services.

16 "Purchaser." Corporations, labor organizations or other  
17 entities that purchase benefits which provide covered services  
18 for their employees or members, either through a health care  
19 insurer or by means of a self-funded program of benefits, and a  
20 certified bargaining representative that represents a group or  
21 groups of employees for whom employers purchase a program of  
22 benefits which provide covered services, but excluding any  
23 entity defined in this section as a "health care insurer."

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

26 § 3303. Health Care Cost Containment Council.

27 (a) Establishment.--The Health Care Cost Containment Council  
28 is established as an independent council.

29 (b) Composition.--The council shall consist of voting  
30 members, composed of and appointed in accordance with the

1 following:

2 (1) The Secretary of Health.

3 (2) The Secretary of Human Services.

4 (3) The Insurance Commissioner.

5 (4) Six representatives of the business community, at  
6 least one of whom represents small business, who are  
7 purchasers of health care, none of which is primarily  
8 involved in the provision of health care or health insurance,  
9 three of which shall be appointed by the President pro  
10 tempore of the Senate and three of which shall be appointed  
11 by the Speaker of the House of Representatives from a list of  
12 12 qualified persons recommended by the Pennsylvania Chamber  
13 of Business and Industry. Three nominees shall be  
14 representatives of small business.

15 (5) Six representatives of organized labor, three of  
16 which shall be appointed by the President pro tempore of the  
17 Senate and three of which shall be appointed by the Speaker  
18 of the House of Representatives from a list of twelve  
19 qualified persons recommended by the Pennsylvania AFL-CIO.

20 (6) One representative of consumers who is not primarily  
21 involved in the provision of health care or health care  
22 insurance, appointed by the Governor from a list of three  
23 qualified persons recommended jointly by the Speaker of the  
24 House of Representatives and the President pro tempore of the  
25 Senate.

26 (7) Two representatives of hospitals, appointed by the  
27 Governor from a list of five qualified hospital  
28 representatives recommended by the Hospital and Health System  
29 Association of Pennsylvania one of whom shall be a  
30 representative of rural hospitals. Each representative under

1 this paragraph may appoint two additional delegates to act  
2 for the representative only at meetings of committees, as  
3 provided for in subsection (f).

4 (8) Two representatives of physicians, appointed by the  
5 Governor from a list of five qualified physician  
6 representatives recommended jointly by the Pennsylvania  
7 Medical Society and the Pennsylvania Osteopathic Medical  
8 Society. The representative under this paragraph may appoint  
9 two additional delegates to act for the representative only  
10 at meetings of committees, as provided for in subsection (f).

11 (8.1) An individual appointed by the Governor who has  
12 expertise in the application of continuous quality  
13 improvement methods in hospitals.

14 (8.2) One representative of nurses, appointed by the  
15 Governor from a list of three qualified representatives  
16 recommended by the Pennsylvania State Nurses Association.

17 (9) One representative of the Blue Cross and Blue Shield  
18 plans in Pennsylvania, appointed by the Governor from a list  
19 of three qualified persons recommended jointly by the Blue  
20 Cross and Blue Shield plans of Pennsylvania.

21 (10) One representative of commercial insurance  
22 carriers, appointed by the Governor from a list of three  
23 qualified persons recommended by the Insurance Federation of  
24 Pennsylvania, Inc.

25 (11) (Reserved).

26 (12) Representatives from the General Assembly as  
27 follows:

28 (i) One Senator appointed by the President pro  
29 tempore of the Senate.

30 (ii) One Senator appointed by the Minority Leader of

1 the Senate.

2 (iii) One member of the House of Representatives  
3 appointed by the Speaker of the House of Representatives.

4 (iv) One member of the House of Representatives  
5 appointed by the Minority Leader of the House of  
6 Representatives.

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

21 (c) Chairperson and vice chairperson.--The members shall  
22 annually elect, by a majority vote of the members, a chairperson  
23 and a vice chairperson of the council from the business and  
24 labor members of the council.

25 (d) Quorum.--The council shall establish in the council's  
26 bylaws the number of members necessary to constitute a quorum.

27 (e) Meetings.--All meetings of the council shall be  
28 advertised and conducted under 65 Pa.C.S. Ch. 7 (relating to  
29 open meetings), unless otherwise provided in this section. The  
30 following apply:

1       (1) The council shall meet at least once every two  
2 months and may provide for special meetings as it deems  
3 necessary. Meeting dates shall be set by a majority vote of  
4 the members of the council or by the call of the chairperson  
5 upon seven days' notice to council members. Attendance at the  
6 meeting may be accomplished by electronic means so long as  
7 each council member attending via electronic means can  
8 communicate in real time with the other members of the  
9 council and the public.

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

17       (3) The council shall publish a schedule of its meetings  
18 in the Pennsylvania Bulletin, on its publicly accessible  
19 Internet website and as provided under 65 Pa.C.S. Ch. 7. The  
20 notice shall be published at least once in each calendar  
21 quarter and shall list the schedule of meetings of the  
22 council to be held in the subsequent calendar quarter. The  
23 notice shall specify the date, time and place of the meeting  
24 and shall state that the council's meetings are open to the  
25 general public, except that no notice shall be required for  
26 executive sessions of the council.

27       (4) All action taken by the council shall be taken in  
28 open public session, and action of the council shall not be  
29 taken except upon the affirmative vote of a majority of the  
30 members of the council present during meetings at which a

1 quorum is present.

2 (f) Bylaws.--The council shall adopt bylaws, not  
3 inconsistent with this chapter, and may appoint such committees  
4 or elect such officers subordinate to those provided for in  
5 subsection (c) as it deems advisable.

6 (g) Technical advisory group.--

7 (1) The council shall appoint a technical advisory group  
8 which shall, on an ad hoc basis, respond to issues presented  
9 to it by the council or committees of the council and shall  
10 make recommendations to the council. The technical advisory  
11 group shall include:

12 (i) Physicians.

13 (ii) Researchers.

14 (iii) Biostatisticians.

15 (iv) One representative of the Hospital and  
16 Healthsystem Association of Pennsylvania.

17 (v) One representative of the Pennsylvania Medical  
18 Society.

19 (2) The Hospital and Healthsystem Association of  
20 Pennsylvania and the Pennsylvania Medical Society  
21 representatives shall not be subject to executive committee  
22 approval. In appointing other physicians, researchers and  
23 biostatisticians to the technical advisory group, the council  
24 shall consult with and take nominations from the  
25 representatives of:

26 (i) the Hospital Association of Pennsylvania;

27 (ii) the Pennsylvania Medical Society;

28 (iii) the Pennsylvania Osteopathic Medical Society;

29 or

30 (iv) other like organizations.

1           (3) At its discretion and in accordance with this  
2 section, nominations shall be approved by the executive  
3 committee of the council. If the subject matter of any  
4 project exceeds the expertise of the technical advisory  
5 group, physicians in appropriate specialties who possess  
6 current knowledge of the issue under study may be consulted.  
7 The technical advisory group shall also review the  
8 availability and reliability of severity of illness  
9 measurements as they relate to small hospitals and  
10 psychiatric, rehabilitation and children's hospitals and  
11 shall make recommendations to the council based upon this  
12 review. Meetings of the technical advisory group shall be  
13 open to the general public.

14 (h) Payment data advisory group.--

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

24           (i) One member representing each plan under 40  
25 Pa.C.S. Chs. 61 (relating to hospital plan corporations)  
26 and 63 (relating to professional health services plan  
27 corporations).

28           (ii) Two members representing commercial insurance  
29 carriers.

30           (iii) Three members representing health care

1 facilities.

2 (iv) Three members representing physicians.

3 (2) The payment data advisory group shall meet at least  
4 four times a year and may provide for special meetings as may  
5 be necessary.

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

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

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

18 (ii) Manipulation, adjustments and methods used with  
19 payment data.

20 (iii) Public reporting of payment data by the  
21 council.

22 (i) Compensation and expenses.--The members of the council  
23 and any member of an advisory group appointed by the council  
24 shall not receive a salary or per diem allowance for serving as  
25 members or advisors of the council, but shall be reimbursed for  
26 actual and necessary expenses incurred in the performance of  
27 their duties. The expenses may include reimbursement of travel  
28 and living expenses while engaged in council business.

29 (j) Terms of council members.--

30 (1) The terms of the Secretary of Health, the Secretary

1 of Human Services, the Insurance Commissioner and the  
2 legislative representatives shall be concurrent with their  
3 holding of public office. The council members under  
4 subsection (b) (4), (5), (6), (7), (8), (8.1), (8.2), (9),  
5 (10), (11) and (12) shall each serve for a term of four years  
6 and shall continue to serve thereafter until their successors  
7 are appointed.

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

19 (3) Except for the Secretary of Health, the Secretary of  
20 Human Services, the Insurance Commissioner and the  
21 legislative representatives, a member may be removed for just  
22 cause by the appointing authority after recommendation by a  
23 vote of at least 14 members of the council.

24 (4) No appointed member under subsection (b) (4), (5),  
25 (6), (7), (8), (8.1), (8.2), (9), (10), (11) and (12) shall  
26 be eligible to serve more than three full consecutive terms  
27 of four years beginning on the effective date of this  
28 paragraph.

29 (k) Subsequent appointments.--Submission of lists of  
30 recommended persons and appointments of council members for

1 succeeding terms shall be made in the same manner as prescribed  
2 in subsection (b), except that:

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

6 (2) The officer required under subsection (b) to make  
7 appointments to the council shall make the appointments at  
8 least 30 days prior to expiration of the council members'  
9 terms. If the appointments are not made within the specified  
10 time, the council chairperson may make interim appointments  
11 from the lists of recommended individuals. An interim  
12 appointment shall be valid only until the appropriate officer  
13 under subsection (b) makes the required appointment. Whether  
14 the appointment is by the required officer or by the  
15 chairperson of the council, the appointment shall become  
16 effective immediately upon expiration of the incumbent  
17 member's term.

18 § 3304. Powers and duties of council.

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

22 (1) To employ an executive director, investigators and  
23 other staff necessary to comply with the provisions of this  
24 chapter and regulations promulgated thereunder, to employ or  
25 retain legal counsel and to engage professional consultants,  
26 as it deems necessary to the performance of its duties. Any  
27 consultants, other than sole source consultants, engaged by  
28 the council shall be selected in accordance with the  
29 provisions for contracting with vendors set forth in section  
30 3314 (relating to contracts with vendors).

1       (2) To fix the compensation of all employees and to  
2 prescribe their duties. Notwithstanding the independence of  
3 the council under section 3303(a) (relating to Health Care  
4 Cost Containment Council), employees under this paragraph  
5 shall be deemed employees of the Commonwealth for the  
6 purposes of participation in the Pennsylvania Employee  
7 Benefit Trust Fund.

8       (3) To make and execute contracts and other instruments,  
9 including those for purchase of services and purchase or  
10 leasing of equipment and supplies, necessary or convenient to  
11 the exercise of the powers of the council. Any such contract  
12 shall be in accordance with the provision for contracting  
13 with vendors set forth in section 3314.

14       (4) To conduct examinations and investigations, to  
15 conduct audits, under the provisions of subsection (c), and  
16 to hear testimony and take proof, under oath or affirmation,  
17 at public or private hearings, on any matter necessary to its  
18 duties.

19       (5) To provide hospitals with individualized data on  
20 patient safety indicators under section 3305(c)(8) (relating  
21 to data submission and collection). The data shall be risk  
22 adjusted and made available to hospitals electronically and  
23 free of charge on a quarterly basis within 45 days of receipt  
24 of the corrected quarterly data from the hospitals. The data  
25 is intended to provide the patient safety committee of each  
26 hospital with information necessary to assist in conducting  
27 patient safety analysis.

28       (6) To do all things necessary to carry out its duties  
29 under the provisions of this chapter.

30       (b) Rules and regulations.--

1       (1) The council may promulgate rules and regulations as  
2 necessary and appropriate to implement this act.

3       (2) Regulations promulgated by the council shall be  
4 promulgated in accordance with the act of June 25, 1982  
5 (P.L.633, No.181), known as the Regulatory Review Act.

6       (3) Rules and regulations in effect prior to the  
7 effective date of this section shall remain in effect.

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

12       (1) Audits of information submitted by providers or  
13 health care insurers shall be performed on a sample and  
14 issue-specific basis, as needed by the council, and shall be  
15 coordinated, to the extent practicable, with audits performed  
16 by the Commonwealth. All health care insurers and providers  
17 are hereby required to make those books, records of accounts  
18 and any other data needed by the auditors available to the  
19 council at a convenient location within 30 days of written  
20 notification by the council.

21       (2) Audits of information submitted by purchasers shall  
22 be performed on a sample basis, unless there exists  
23 reasonable cause to audit specific purchasers, but in no case  
24 shall the council have the power to audit financial  
25 statements of purchasers.

26       (3) All audits performed by the council shall be  
27 performed at the expense of the council.

28       (4) The results of audits of providers or health care  
29 insurers shall be provided to the audited providers and  
30 health care insurers on a timely basis, not to exceed 30 days

1 beyond presentation of audit findings to the council.

2 (d) General duties and functions.--The council is hereby  
3 authorized to and shall perform the following duties and  
4 functions:

5 (1) Develop a computerized system for the collection,  
6 analysis and dissemination of data. The council may contract  
7 with a vendor who will provide data processing services. The  
8 council shall assure that the system will be capable of  
9 processing all data required to be collected under this  
10 chapter. Any vendor selected by the council shall be selected  
11 in accordance with the provisions of section 3314, and the  
12 vendor shall relinquish any and all proprietary rights or  
13 claims to the database created as a result of implementation  
14 of the data processing system.

15 (2) Establish a Pennsylvania Uniform Claims and Billing  
16 Form for all data sources and all providers, which shall be  
17 utilized and maintained by all data sources and all providers  
18 for all services covered under this chapter.

19 (3) (Reserved).

20 (4) Collect and disseminate data, as specified in  
21 sections 3305 and 3306 (relating to data dissemination and  
22 publication), and other information from data sources to  
23 which the council is entitled, prepared according to formats,  
24 time frames and confidentiality provisions as specified in  
25 sections 3305 and 3308 (relating to Right-to-Know Law and  
26 access to council data), and by the council.

27 (5) Adopt and implement a methodology to collect and  
28 disseminate data reflecting provider quality, provider  
29 service effectiveness, utilization and the cost of health  
30 care services under sections 3305 and 3306.

1       (6) Subject to the restrictions on access to raw data  
2 set forth in section 3308, issue special reports and make  
3 available raw data to a purchaser requesting it. Sale by a  
4 recipient or exchange or publication by a recipient, other  
5 than a purchaser, of council raw data to other parties  
6 without the express written consent of, and under terms  
7 approved by, the council shall be unauthorized use of data  
8 under section 3308(d).

9       (7) On an annual basis, publish in the Pennsylvania  
10 Bulletin a list of all the raw data reports it has prepared  
11 under section 3308(g) and a description of the data obtained  
12 through each computer-to-computer access it has provided  
13 under section 3308(g) and of the names of the parties to whom  
14 the council provided the reports or the computer-to-computer  
15 access during the previous month.

16       (8) Promote competition in the health care and health  
17 insurance markets.

18       (9) Assure that the use of council data does not raise  
19 access barriers to care.

20       (10) Provide information on the allowed and paid costs  
21 of medical services in terminology that may be reasonably  
22 understood by the average individual consumer of health care  
23 services. The council shall present the cost information in  
24 conjunction with information on quality of care delivery, if  
25 quality information is reasonably available to the council,  
26 so that the average individual consumer of health care  
27 services may use the information to inform purchasing  
28 decisions.

29       (11) In consultation with the Insurance Department and  
30 the Department of Health, make annual reports to the General

1 Assembly on the rate of increase in the cost of health care  
2 in this Commonwealth, including, but not limited to, the  
3 following:

4 (i) The rate of increase in health insurance  
5 premiums in this Commonwealth.

6 (ii) Regional trends in cost of health care and  
7 health insurance premiums.

8 (iii) The effectiveness of the council in carrying  
9 out the legislative intent of this chapter.

10 (iv) The quality and effectiveness of health care  
11 and access to health care for all citizens of this  
12 Commonwealth.

13 (12) In the discretion of the council, make  
14 recommendations on the need for further health care cost  
15 containment legislation.

16 (13) Conduct studies and publish reports analyzing the  
17 effects that outpatient, alternative health care delivery  
18 systems have on health care costs. The systems shall include,  
19 but are not limited to, health maintenance organizations;  
20 preferred provider organizations; primary health care  
21 facilities; home health care; attendant care; ambulatory  
22 service facilities; freestanding emergency centers; birthing  
23 centers; and hospice care. The reports shall be submitted to  
24 the General Assembly and shall be made available to the  
25 public.

26 (14) Conduct studies and make reports concerning the  
27 utilization of experimental and nonexperimental transplant  
28 surgery and other highly technical and experimental  
29 procedures, including costs and mortality rates.

30 § 3305. Data submission and collection.

1 (a) Submission of data.--

2 (1) The council is authorized to collect and data  
3 sources are required to submit, upon request of the council,  
4 all data required in this section, according to uniform  
5 submission formats, coding systems and other technical  
6 specifications necessary to render the incoming data  
7 substantially valid, consistent, compatible and manageable  
8 using electronic data processing according to data submission  
9 schedules. The schedules shall avoid, to the extent possible,  
10 submission of identical data from more than one data source.  
11 The uniform submission formats, coding systems and other  
12 technical specifications may be established by the council  
13 pursuant to its authority under section 3304(b) (relating to  
14 powers and duties of council). If payor data is requested by  
15 the council, it shall, to the extent possible, be obtained  
16 from primary payor sources. The council shall not require any  
17 data source to contract with any specific vendor for  
18 submission of any specific data elements to the council.

19 (2) In carrying out its responsibilities, the council  
20 shall not require health care facilities to report data  
21 elements which are not included in the manual developed by  
22 the National Uniform Billing Committee. The council shall  
23 publish in the Pennsylvania Bulletin a list of no more than  
24 35 diseases, procedures and medical conditions for which data  
25 under subsections (c) (22) and (d) shall be required. The list  
26 shall not represent more than 50% of total hospital  
27 discharges, based upon the previous year's hospital discharge  
28 data. Subsequent to the publication of the list, any data  
29 submission requirements under subsections (c) (22) and (d)  
30 previously in effect shall be null and void for diseases,

1 procedures and medical conditions not found on the list. All  
2 other data elements under subsection (c) shall continue to be  
3 required from data sources. The council shall review the list  
4 and may add no more than a net of three diseases, procedures  
5 or medical conditions per year over a five-year period. The  
6 adjusted list of diseases, procedures and medical conditions  
7 shall at no time be more than 50% of total hospital  
8 discharges.

9 (b) Pennsylvania Uniform Claims and Billing Form.--The  
10 council shall maintain a Pennsylvania Uniform Claims and Billing  
11 Form format. The council shall furnish the claims and billing  
12 form format to all data sources, and the claims and billing form  
13 shall be utilized and maintained by all data sources for all  
14 services covered by this chapter. The Pennsylvania Uniform  
15 Claims and Billing Form shall consist of the Uniform Hospital  
16 Billing Form, as developed by the National Uniform Billing  
17 Committee, with additional fields as necessary to provide all of  
18 the data set forth in subsections (c) and (d).

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

- 22 (1) uniform patient identifier, continuous across  
23 multiple episodes and providers;
- 24 (2) patient date of birth;
- 25 (3) patient sex;
- 26 (4) patient race, consistent with the method of  
27 collection of race/ethnicity data by the United States Bureau  
28 of the Census and the United States Standard Certificates of  
29 Live Birth and Death;
- 30 (5) patient zip code number;

- 1           (6) date of admission;
- 2           (7) date of discharge;
- 3           (8) principal and secondary diagnoses by standard code,  
4 including external cause of injury, complication, infection  
5 and childbirth;
- 6           (9) principal procedure by council-specified standard  
7 code and date;
- 8           (10) up to three secondary procedures by council-  
9 specified standard codes and dates;
- 10           (11) uniform health care facility identifier, continuous  
11 across episodes, patients and providers;
- 12           (12) uniform identifier of admitting physician, by  
13 unique physician identification number established by the  
14 council, continuous across episodes, patients and providers;
- 15           (13) uniform identifier of consulting physicians, by  
16 unique physician identification number established by the  
17 council, continuous across episodes, patients and providers;
- 18           (14) total charges of health care facility, segregated  
19 into major categories, including, but not limited to, room  
20 and board, radiology, laboratory, operating room, drugs,  
21 medical supplies and other goods and services according to  
22 guidelines specified by the council;
- 23           (15) actual payments to health care facility,  
24 segregated, if available, according to the categories  
25 specified in paragraph (14);
- 26           (16) charges of each physician or professional rendering  
27 service relating to an incident of hospitalization or  
28 treatment in an ambulatory service facility;
- 29           (17) actual payments to each physician or professional  
30 rendering service under paragraph (16);

1           (18) uniform identifier of primary payor;  
2           (19) zip code number of facility where health care  
3           service is rendered;  
4           (20) uniform identifier for payor group contract number;  
5           (21) patient discharge status; and  
6           (22) provider service effectiveness and provider quality  
7           under section 3304(d).

8           (d) Provider quality and provider service effectiveness data  
9           elements.--In carrying out its duty to collect data on provider  
10           quality and provider service effectiveness under subsection (c)  
11           (22) and section 3304(d) (5), the council shall define a  
12           methodology to measure provider service effectiveness, which may  
13           include additional data elements to be specified by the council  
14           sufficient to carry out its responsibilities under section  
15           3304(d) (5). The council shall not require health care insurers  
16           to report on data elements that are not reported to nationally  
17           recognized accrediting organizations, to the Department of  
18           Health, the Department of Human Services or the Insurance  
19           Department, in quarterly or annual reports. The council shall  
20           not require reporting by health care insurers in different  
21           formats than are required for reporting to nationally recognized  
22           accrediting organizations or on quarterly or annual reports  
23           submitted to the Department of Health, the Department of Human  
24           Services or the Insurance Department. The council may adopt the  
25           quality findings as reported to nationally recognized  
26           accrediting organizations. Additional quality data elements must  
27           be defined and released for public comment prior to use.

28           (e) Reserve field utilization and addition or deletion of  
29           data elements.--The council shall include in the Pennsylvania  
30           Uniform Claims and Billing Form a reserve field. The council may

1 utilize the reserve field by adding other data elements beyond  
2 those required to carry out its responsibilities under  
3 subsections (c) and (d) and section 3304(d)(4) and (5), or the  
4 council may delete data elements from the Pennsylvania Uniform  
5 Claims and Billing Form only by a majority vote of the council  
6 and only pursuant to the following procedure:

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

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

14 (3) The council may hold additional hearings or request  
15 such other reports as it deems necessary and shall consider  
16 the comments received during the 60-day comment period and  
17 any additional information gained through the hearings or  
18 other reports in making a final determination on the proposed  
19 addition or deletion.

20 (f) Other data required to be submitted.--Each provider is  
21 hereby required to submit, and the council is hereby authorized  
22 to collect, in accordance with submission dates and schedules  
23 established by the council, the following additional data in its  
24 possession, provided the data is not available to the council  
25 from public records:

26 (1) Audited annual financial reports of all hospitals  
27 and ambulatory service facilities providing covered services  
28 as defined in section 3302.

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

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

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

5           (ii) physicians who provide covered services and  
6 accept medical assistance patients;

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

9           (iv) mortality rates for specified diagnoses and  
10 treatments, grouped by severity, for individual  
11 providers;

12           (v) rates of infection for specified diagnoses and  
13 treatments, grouped by severity, for individual  
14 providers;

15           (vi) morbidity rates for specified diagnoses and  
16 treatments, grouped by severity, for individual  
17 providers;

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

21           (viii) rate of incidence of postdischarge  
22 professional care for selected diagnoses and procedures,  
23 grouped by severity, for individual providers; and

24           (ix) data from other public sources.

25       (4) Any other data the council requires to carry out its  
26 responsibilities under section 3304(d).

27       (g) Review and correction of data.--The council shall  
28 provide a reasonable period for data sources to review and  
29 correct the data submitted under this section which the council  
30 intends to prepare and issue in reports to the General Assembly,

1 to the general public or in special studies and reports under  
2 section 3309 (relating to special studies and reports). When  
3 corrections are provided, the council shall correct the  
4 appropriate data in its data files and subsequent reports.

5 (h) Allowance for clarification or dissents.--The council  
6 shall maintain a file of written statements submitted by data  
7 sources who wish to provide an explanation of data that they  
8 feel might be misleading or misinterpreted. The council shall  
9 provide access to the file to any person and shall, where  
10 practical, in its reports and data files indicate the  
11 availability of such statements. When the council agrees with  
12 such statements, it shall correct the appropriate data and  
13 comments in its data files and subsequent reports.

14 (i) Allowance for correction.--The council shall verify the  
15 patient safety indicator data submitted by hospitals under  
16 subsection (c)(8) within 60 days of receipt. The council may  
17 allow hospitals to make changes to the data submitted during the  
18 verification period. After the verification period, but within  
19 45 days of receipt of the adjusted hospital data, the council  
20 shall risk adjust the information and provide reports to the  
21 patient safety committee of the relevant hospital.

22 (j) Availability of data.--Nothing in this chapter shall  
23 prohibit a purchaser from obtaining from its health care  
24 insurer, nor relieve the health care insurer from the obligation  
25 of providing the purchaser, on terms consistent with past  
26 practices, data previously provided or additional data not  
27 currently provided to the purchaser by the health care insurer  
28 pursuant to any existing or future arrangement, agreement or  
29 understanding.

30 § 3306. Data dissemination and publication.

1 (a) Public reports.--Subject to the restrictions on access  
2 to council data set forth in section 3308 (relating to Right-to-  
3 Know Law and access to council data) and utilizing the data  
4 collected under section 3305 (relating to data submission and  
5 collection), as well as other data, records and matters of  
6 record available to it, the council shall prepare and issue  
7 reports to the General Assembly and to the general public  
8 according to the following provisions:

9 (1) The council shall, for every provider of both  
10 inpatient and outpatient services within this Commonwealth  
11 and within appropriate regions and subregions, prepare and  
12 issue reports on provider quality and service effectiveness  
13 on diseases or procedures that, when ranked by volume, cost,  
14 payment and high variation in outcome, represent the best  
15 opportunity to improve overall provider quality, improve  
16 patient safety and provide opportunities for cost reduction.  
17 These reports shall provide comparative information on the  
18 following:

19 (i) Differences in mortality rates; differences in  
20 length of stay; differences in complication rates;  
21 differences in readmission rates; differences in  
22 infection rates; and other comparative outcome measures  
23 the council may develop that will allow purchasers,  
24 providers and consumers to make purchasing and quality  
25 improvement decisions based upon quality patient care and  
26 to restrain costs.

27 (ii) The incidence rate of selected medical or  
28 surgical procedures, the quality and service  
29 effectiveness and the payments received for those  
30 providers, identified by the name and type or specialty,

1 for which these elements vary significantly from the  
2 norms for all providers.

3 (2) In preparing its reports under paragraph (1), the  
4 council shall ensure that factors which have the effect of  
5 either reducing provider revenue or increasing provider costs  
6 and other factors beyond a provider's control which reduce  
7 provider competitiveness in the marketplace are explained in  
8 the reports. The council shall also ensure that any  
9 clarifications and dissents submitted by individual providers  
10 under section 3305(h) are noted in any reports that include  
11 release of data on that individual provider.

12 (b) Raw data reports and computer access to council data.--  
13 The council shall provide special reports derived from raw data  
14 and a means for computer-to-computer access to its raw data to a  
15 purchaser under section 3308(g). The council shall provide the  
16 reports and computer-to-computer access, at its discretion, to  
17 other parties under section 3308(i). The council shall provide  
18 these special reports and computer-to-computer access in as  
19 timely a fashion as the council's responsibilities to publish  
20 the public reports required in this section will allow. Any  
21 provision of special reports or computer-to-computer access by  
22 the council shall be made only subject to the restrictions on  
23 access to raw data set forth in section 3308(c) and only after  
24 payment for costs of preparation or duplication under section  
25 3308(g) or (i).

26 § 3307. Mandated health benefits.

27 In relation to current law or proposed legislation, the  
28 council shall, upon the request of the appropriate committee  
29 chairman in the Senate and in the House of Representatives or  
30 upon the request of the Secretary of Health or the Secretary of

1 Human Services, provide information on the proposed mandated  
2 health benefit pursuant to the following:

3 (1) The General Assembly hereby declares that proposals  
4 for mandated health benefits or mandated health insurance  
5 coverage should be accompanied by adequate, independently  
6 certified documentation defining the social and financial  
7 impact and medical efficacy of the proposal. To that end, the  
8 council, upon receipt of such requests, is hereby authorized  
9 to conduct a preliminary review of the material submitted by  
10 both proponents and opponents concerning the proposed  
11 mandated benefit. If, after this preliminary review, the  
12 council is satisfied that both proponents and opponents have  
13 submitted sufficient documentation necessary for a review  
14 under paragraphs (3) and (4), the council is directed to  
15 contract with individuals, pursuant to the selection  
16 procedures for vendors set forth in section 3314 (relating to  
17 contracts with vendors), who will constitute a Mandated  
18 Benefits Review Panel to review mandated benefits proposals  
19 and provide independently certified documentation, as  
20 provided for in this section.

21 (2) The panel shall consist of the following senior  
22 researchers, each of whom shall be a recognized expert:

23 (i) one in health research;

24 (ii) one in biostatistics;

25 (iii) one in economic research;

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

29 (v) one with experience in insurance or actuarial  
30 research.

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

3           (i) To review documentation submitted by a person  
4 proposing or opposing mandated benefits within 90 days of  
5 submission of the documentation to the panel.

6           (ii) To report to the council, pursuant to the  
7 council's review under subparagraph (i), the following:

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

10          (B) Whether or not the research cited in the  
11 documentation meets professional standards.

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

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

18          (4) A person proposing or opposing legislation mandating  
19 benefits coverage should, to provide the Mandated Benefits  
20 Review Panel with sufficient information to carry out the  
21 Mandated Benefits Review Panel's duties and responsibilities  
22 under paragraph (3), submit documentation to the council,  
23 pursuant to the procedure established under paragraph (5),  
24 which demonstrates the following:

25          (i) The extent to which the proposed benefit and the  
26 services the proposed benefit would provide are needed  
27 by, available to and utilized by the population of this  
28 Commonwealth.

29          (ii) The extent to which insurance coverage for the  
30 proposed benefit already exists or, if no coverage

1 exists, the extent to which the lack of coverage results  
2 in inadequate health care or financial hardship for the  
3 population of this Commonwealth.

4 (iii) The demand for the proposed benefit from the  
5 public and the source and extent of opposition to  
6 mandating the benefit.

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

9 (v) If the proposed benefit mandates coverage of a  
10 particular therapy, the results of at least one  
11 professionally accepted, controlled trial comparing the  
12 medical consequences of the proposed therapy, alternative  
13 therapies and no therapy.

14 (vi) If the proposed benefit mandates coverage of an  
15 additional class of practitioners, the results of at  
16 least one professionally accepted, controlled trial  
17 comparing the medical results achieved by the additional  
18 class of practitioners and those practitioners already  
19 covered by benefits.

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

21 (viii) Evidence of the financial impact of the  
22 proposed legislation, including at least the following:

23 (A) The extent to which the proposed benefit  
24 would increase or decrease cost for treatment or  
25 service.

26 (B) The extent to which similar mandated  
27 benefits in other states have affected charges, costs  
28 and payments for services.

29 (C) The extent to which the proposed benefit  
30 would increase the appropriate use of the treatment

1           or service.

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

4           (E) The impact of the proposed benefits on  
5           benefits costs of purchasers.

6           (F) The impact of the proposed benefits on the  
7           total cost of health care within this Commonwealth.

8           (5) The procedure for review of documentation shall be  
9           as follows:

10           (i) A person wishing to submit information on  
11           proposed legislation mandating insurance benefits for  
12           review by the panel must submit the documentation  
13           specified under paragraph (4) to the council.

14           (ii) The council shall, within 30 days of receipt of  
15           the documentation:

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

21           (B) Submit copies of the documentation to the  
22           Secretary of Health, the Secretary of Human Services  
23           and the Insurance Commissioner, who shall review and  
24           submit comments to the council on the proposed  
25           legislation within 30 days.

26           (C) Submit copies of the documentation to the  
27           panel, which shall review the documentation and issue  
28           their findings, subject to paragraph (3), within 90  
29           days.

30           (iii) Upon receipt of the comments of the Secretary

1 of Health, the Secretary of Human Services and the  
2 Insurance Commissioner and of the findings of the panel,  
3 under subparagraph (ii), but no later than 120 days  
4 following the publication required in subparagraph (ii),  
5 the council shall submit the comments and findings,  
6 together with the council's recommendations respecting  
7 the proposed legislation, to the Governor, the President  
8 pro tempore of the Senate, the Speaker of the House of  
9 Representatives, the Secretary of Health, the Secretary  
10 of Human Services, the Insurance Commissioner and the  
11 person who submitted the information under subparagraph  
12 (i).

13 § 3308. Right-to-Know Law and access to council data.

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

24 (b) Outreach programs.--The council shall develop and  
25 implement outreach programs designed to make the council's  
26 information understandable and usable to purchasers, providers,  
27 other Commonwealth agencies and the general public. The programs  
28 shall include efforts to educate through pamphlets, booklets,  
29 seminars and other appropriate measures and to facilitate making  
30 more informed health care choices.

1 (c) Limitations on access.--Unless specifically provided for  
2 under this chapter, neither the council nor any contracting  
3 system vendor shall release and no data source, person, member  
4 of the public or other user of any data of the council shall  
5 gain access to:

6 (1) Any raw data of the council which could reasonably  
7 be expected to reveal the identity of an individual patient.

8 (2) Any raw data of the council which could reasonably  
9 be expected to reveal the identity of any purchaser, other  
10 than a purchaser requesting data on the purchaser's own group  
11 or an entity entitled to the purchaser's data under  
12 subsection (g).

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

26 (d) Unauthorized use of data.--A person who knowingly  
27 releases council data violating raw data safeguards under this  
28 section to an unauthorized person commits a misdemeanor of the  
29 first degree and shall, upon conviction, be sentenced to pay a  
30 fine of \$10,000 or to imprisonment for not more than five years,

1 or both. An unauthorized person who knowingly receives or  
2 possesses the data commits a misdemeanor of the first degree.

3 (e) Unauthorized access to data.--If person inadvertently or  
4 by council error gains access to data that violates the  
5 safeguards under this section, the data must immediately be  
6 returned, without duplication, to the council with proper  
7 notification.

8 (f) Public access to records.--Each public report prepared  
9 by the council shall be a public record and shall be available  
10 to the public for a reasonable fee. Copies shall be provided,  
11 upon request of the chair, to the Health and Human Services  
12 Committee of the Senate and the Health Committee and Human  
13 Services Committee of the House of Representatives.

14 (g) Access to council raw data by purchasers.--Pursuant to  
15 sections 3304(d)(6) (relating to powers and duties of council)  
16 and 3306(b) (relating to data dissemination and publication) and  
17 subject to the limitations on access under subsection (c), the  
18 council shall provide access to the council's raw data to  
19 purchasers, excluding purchasers that provide covered services  
20 other than through the purchase of fully funded insurance from a  
21 health care insurer but that are not elective health care payor  
22 data sources, in accordance with the following procedure:

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

26 (2) A means to enable computer-to-computer access by the  
27 purchaser to raw data of the council shall be developed,  
28 adopted and implemented by the council. The council shall  
29 provide the access to the council's raw data to a purchaser  
30 upon request.

1       (3) If an employer obtains from the council, under  
2 paragraph (1) or (2), data pertaining to the employer's  
3 employees and the employees' dependents for whom the employer  
4 purchases or otherwise provides covered services and who are  
5 represented by a certified collective bargaining  
6 representative, the collective bargaining representative  
7 shall be entitled to the data, after payment of fees under  
8 paragraph (4). If a certified collective bargaining  
9 representative obtains from the council, under paragraph (1)  
10 or (2), data pertaining to the employer's members and the  
11 member's dependents who are employed by and for whom covered  
12 services are purchased or otherwise provided by an employer,  
13 the employer shall be entitled to the data, after payment of  
14 fees under paragraph (4).

15       (4) In providing for access to its raw data, the council  
16 shall charge the purchasers which originally obtained the  
17 access a fee sufficient to cover the council's costs to  
18 prepare and provide special reports requested under paragraph  
19 (1) or to provide computer-to-computer access to its raw data  
20 requested under paragraph (2). If a second or subsequent  
21 party requests the information under paragraph (3), the  
22 council shall charge the party a reasonable fee.

23       (h) Access to council raw data by State agencies.--The  
24 council shall develop and execute memoranda of understanding  
25 with any State agency upon request of that agency, including the  
26 Insurance Department, the Department of Health and the  
27 Department of Human Services, to allow the agency access to the  
28 data.

29       (i) Access to council raw data by other parties.--Subject to  
30 the limitations on access to council raw data under subsection

1 (c), the council may provide special reports derived from the  
2 council's raw data or computer-to-computer access to parties  
3 other than purchasers provided access under subsection (g). The  
4 council may publish regulations that set forth the criteria and  
5 the procedure the council shall use in making determinations on  
6 the access, pursuant to the powers vested in the council under  
7 section 3304. In providing the access, the council shall charge  
8 the party requesting the access a reasonable fee.

9 § 3309. Special studies and reports.

10 (a) Special studies.--A Commonwealth agency, the Senate or  
11 the House of Representatives may direct the council to publish  
12 or contract for publication of special studies, including, but  
13 not limited to, a special study on diseases and the cost of  
14 health care related to particular diseases in this Commonwealth.  
15 A special study published under this subsection shall become a  
16 public document.

17 (b) Special reports.--

18 (1) A Commonwealth agency, the Senate or the House of  
19 Representative may study and issue a report on the special  
20 medical needs, demographic characteristics, access or lack  
21 thereof to health care services and need for financing of  
22 health care services of:

23 (i) Senior citizens, particularly low-income senior  
24 citizens, senior citizens who are members of minority  
25 groups and senior citizens residing in low-income urban  
26 or rural areas.

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

28 (iii) Minority communities.

29 (iv) Women.

30 (v) Children.

1           (vi) Unemployed workers.

2           (vii) Veterans.

3           (2) The reports under paragraph (1) shall include  
4 information on the current availability of services to the  
5 targeted parts of the population under paragraph (1), whether  
6 access to the services has increased or decreased over the  
7 past 10 years and specific recommendations for the  
8 improvement of the primary care and health delivery systems  
9 of targeted parts of the population under paragraph (1),  
10 including disease prevention and comprehensive health care  
11 services. The agency may study and report on the effects of  
12 using prepaid, capitated or health maintenance organization  
13 health delivery systems as ways to promote the delivery of  
14 primary health care services to the underserved segments of  
15 the population enumerated above.

16           (3) The agency may study and report on the short-term  
17 and long-term fiscal and programmatic impact on the health  
18 care consumer of changes in ownership of hospitals from  
19 nonprofit to profit, whether through purchase, merger or the  
20 like. The agency may study and report on factors which have  
21 the effect of either reducing provider revenue or increasing  
22 provider cost and other factors beyond a provider's control  
23 which reduce provider competitiveness in the marketplace.

24 § 3310. Enforcement and penalty.

25           (a) Compliance enforcement.--The council shall have standing  
26 to bring an action in law or in equity through private counsel  
27 in any court of common pleas to enforce compliance with any  
28 provision of this chapter, except section 3309 (relating to  
29 special studies and reports), or any requirement or appropriate  
30 request of the council made under this chapter. The Attorney

1 General is authorized and shall bring an enforcement action in  
2 aid of the council in a court of common pleas at the request of  
3 the council and in the name of the Commonwealth.

4 (b) Penalty.--

5 (1) Any person who fails to supply data under section  
6 3305 (relating to data submission and collection) may be  
7 assessed a civil penalty not to exceed \$1,000 for each day  
8 the data is not submitted.

9 (2) Any person who knowingly submits inaccurate data  
10 under section 3305 commits a misdemeanor of the third degree  
11 and shall, upon conviction, be sentenced to pay a fine of  
12 \$1,000 or to imprisonment for not more than one year, or  
13 both.

14 § 3311. Research and demonstration projects.

15 The council shall actively encourage research and  
16 demonstrations to design and test improved methods of assessing  
17 provider quality, provider service effectiveness, efficiency and  
18 cost containment. If no data submission requirements in a  
19 mandated demonstration exceed the current reserve field on the  
20 Pennsylvania Uniform Claims and Billing Form or the data  
21 submission requirements of the Pennsylvania health care payor  
22 claims data submission manual, the council may:

23 (1) Authorize contractors engaged in health services  
24 research selected by the council, under section 3314  
25 (relating to contracts with vendors), to have access to the  
26 council's raw data files, if the entity assumes a contractual  
27 obligation imposed by the council to assure patient identity  
28 confidentiality.

29 (2) Place data sources participating in research and  
30 demonstrations on different data submission requirements from

1 other data sources in this Commonwealth.

2 (3) Require data source participation in research and  
3 demonstration projects if this is the only testing method the  
4 council determines is promising.

5 § 3312. Grievances and grievance procedures.

6 (a) Procedures and requirements.--Pursuant to its powers to  
7 publish regulations under section 3304 (relating to powers and  
8 duties of council) and with the requirements of this section,  
9 the council may establish procedures and requirements for the  
10 filing, hearing and adjudication of grievances against the  
11 council of a data source. The procedures and requirements shall  
12 be published in the Pennsylvania Bulletin pursuant to law.

13 (b) Claims and hearings.--Grievance claims of a data source  
14 shall be submitted to the council or to a third party designated  
15 by the council. The council or the designated third party shall  
16 convene a hearing, if requested, and adjudicate the grievance.

17 § 3313. Antitrust provisions.

18 A person or entity required or permitted to submit data or  
19 information under this chapter or receiving data or information  
20 from the council in accordance with this chapter are declared to  
21 be acting pursuant to State requirements embodied in this  
22 chapter and shall be exempt from antitrust claims or actions  
23 grounded upon submission or receipt of the data or information.

24 § 3314. Contracts with vendors.

25 A contract with a vendor other than a sole source vendor for  
26 purchase of services or for purchase or lease of supplies and  
27 equipment related to the council's powers and duties shall be  
28 let only after a public bidding process and only in accordance  
29 with the following provisions:

30 (1) The council shall prepare specifications fully

1 describing the services to be rendered or equipment or  
2 supplies to be provided by a vendor and shall make the  
3 specifications available for inspection by a person at the  
4 council's offices during normal working hours and at other  
5 places and other times as the council deems advisable.

6 (2) The council shall publish notice of invitations to  
7 bid in the Pennsylvania Bulletin and on the council's  
8 publicly accessible Internet website. The notice shall  
9 include at least the following:

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

14 (ii) The locations, dates and times during which  
15 prospective vendors may examine the specifications  
16 required under paragraph (1).

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

20 (iv) A statement to the effect that any person is  
21 eligible to bid.

22 (3) Bids shall be accepted as follows:

23 (i) A council member who is affiliated in any way  
24 with a bidder may not vote on the awarding of a contract  
25 for which the bidder has submitted a bid. A council  
26 member who has an affiliation with a bidder shall state  
27 the nature of the affiliation prior to a vote of the  
28 council.

29 (ii) Bids shall be opened and reviewed by the  
30 appropriate council committee, which shall make

1 recommendations to the council on approval. Bids shall be  
2 accepted and the acceptance shall be announced only at a  
3 public meeting of the council as defined in section  
4 3303(e) (relating to Health Care Cost Containment  
5 Council). A bid may not be accepted at an executive  
6 session of the council.

7 (iii) The council may require that a certified  
8 check, in an amount determined by the council, accompany  
9 every bid. If required, a bid may not be accepted unless  
10 accompanied by a certified check.

11 (4) In order to prevent a party from deliberately  
12 underbidding contracts in order to gain or prevent access to  
13 council data, the council may award a contract at the  
14 council's discretion, regardless of the amount of the bid, as  
15 follows:

16 (i) A bid accepted must reasonably reflect the  
17 actual cost of services provided.

18 (ii) A vendor selected by the council under this  
19 paragraph must be found by the council to be of the  
20 character and integrity as to assure, to the maximum  
21 extent possible, adherence to this chapter in the  
22 provision of contracted services.

23 (iii) The council may require the selected vendor to  
24 furnish, within 20 days after the contract has been  
25 awarded, a bond with suitable and reasonable requirements  
26 guaranteeing the services to be performed with sufficient  
27 surety in an amount determined by the council. If the  
28 bond is not furnished within the time specified, the  
29 previous award shall be void.

30 (5) The council shall make efforts to assure that the

1 council's vendors have established affirmative action plans  
2 to assure equal opportunity policies for hiring and promoting  
3 employees.

4 § 3315. Reporting.

5 The council shall provide an annual report of its financial  
6 expenditures to the Appropriations Committee and Health and  
7 Human Services Committee of the Senate and the Appropriations  
8 Committee, the Health Committee and the Human Services Committee  
9 of the House of Representatives.

10 § 3316. Severability.

11 The provisions of this chapter are severable. If a provision  
12 of this chapter or the provision's application to a person or  
13 circumstance is held invalid, the invalidity shall not affect  
14 other provisions or applications of this chapter which can be  
15 given effect without the invalid provision or application.

16 Section 2. The following apply:

17 (1) Actions taken by the Health Care Cost Containment  
18 Council from the period from June 30, 2014, to the effective  
19 date of this section are validated.

20 (2) New positions on the Health Care Cost Containment  
21 Council created under 35 Pa.C.S. Ch. 33 shall be filled in  
22 the manner designated under 35 Pa.C.S. § 3303(b) no later  
23 than 60 days after the effective date of this section.  
24 Organizations required under 35 Pa.C.S. § 3303(b) to submit  
25 lists of recommended persons to fill new positions on the  
26 council shall do so no later than 30 days after the effective  
27 date of this section.

28 (3) There shall be no lapse in the employment  
29 relationship for employees of the Health Care Cost  
30 Containment Council, including salary, seniority, benefits

1 and retirement eligibility of the employees.

2 Section 3. This act shall take effect immediately.