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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 387 Session of  
2003

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MARCH 3, 2003

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SENATE AMENDMENTS TO HOUSE AMENDMENTS, JULY 8, 2003

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AN ACT

1 Reenacting and amending the act of July 8, 1986 (P.L.408,  
2 No.89), entitled, as reenacted and amended, "An act providing  
3 for the creation of the Health Care Cost Containment Council,  
4 for its powers and duties, for health care cost containment  
5 through the collection and dissemination of data, for public  
6 accountability of health care costs and for health care for  
7 the indigent; and making an appropriation," further providing  
8 for the Health Care Cost Containment Council, for powers and  
9 duties of the council, for data submission and collection,  
10 for data dissemination, for mandated health benefits, for  
11 access to council data, for enforcement and penalty and for  
12 expiration; ~~and providing for penalties.~~ <—

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

15 Section 1. The title and sections 1, 2 and 3 of the act of  
16 July 8, 1986 (P.L.408, No.89), known as the Health Care Cost  
17 Containment Act, reenacted and amended June 28, 1993 (P.L.146,  
18 No.34), are reenacted to read:

AN ACT

20 Providing for the creation of the Health Care Cost Containment  
21 Council, for its powers and duties, for health care cost

containment through the collection and 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 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.

Therefore, it is hereby declared to be the policy of the

1 Commonwealth of Pennsylvania to promote health care cost  
2 containment and to identify appropriate utilization practices by  
3 creating an independent council to be known as the Health Care  
4 Cost Containment Council.

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

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

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

23 Section 3. Definitions.

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

27 "Ambulatory service facility." A facility licensed in this  
28 Commonwealth, not part of a hospital, which provides medical,  
29 diagnostic or surgical treatment to patients not requiring  
30 hospitalization, including ambulatory surgical facilities,

1 ambulatory imaging or diagnostic centers, birthing centers,  
2 freestanding emergency rooms and any other facilities providing  
3 ambulatory care which charge a separate facility charge. This  
4 term does not include the offices of private physicians or  
5 dentists, whether for individual or group practices.

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

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

10 "Covered services." Any health care services or procedures  
11 connected with episodes of illness that require either inpatient  
12 hospital care or major ambulatory service such as surgical,  
13 medical or major radiological procedures, including any initial  
14 and follow-up outpatient services associated with the episode of  
15 illness before, during or after inpatient hospital care or major  
16 ambulatory service. The term does not include routine outpatient  
17 services connected with episodes of illness that do not require  
18 hospitalization or major ambulatory service.

19 "Data source." A hospital; ambulatory service facility;  
20 physician; health maintenance organization as defined in the act  
21 of December 29, 1972 (P.L.1701, No.364), known as the Health  
22 Maintenance Organization Act; hospital, medical or health  
23 service plan with a certificate of authority issued by the  
24 Insurance Department, including, but not limited to, hospital  
25 plan corporations as defined in 40 Pa.C.S. Ch. 61 (relating to  
26 hospital plan corporations) and professional health services  
27 plan corporations as defined in 40 Pa.C.S. Ch. 63 (relating to  
28 professional health services plan corporations); commercial  
29 insurer with a certificate of authority issued by the Insurance  
30 Department providing health or accident insurance; self-insured

1 employer providing health or accident coverage or benefits for  
2 employees employed in the Commonwealth; administrator of a self-  
3 insured or partially self-insured health or accident plan  
4 providing covered services in the Commonwealth; any health and  
5 welfare fund that provides health or accident benefits or  
6 insurance pertaining to covered service in the Commonwealth; the  
7 Department of Public Welfare for those covered services it  
8 purchases or provides through the medical assistance program  
9 under the act of June 13, 1967 (P.L.31, No.21), known as the  
10 Public Welfare Code, and any other payor for covered services in  
11 the Commonwealth other than an individual.

12 "Health care facility." A general or special hospital,  
13 including tuberculosis and psychiatric hospitals, kidney disease  
14 treatment centers, including freestanding hemodialysis units,  
15 and ambulatory service facilities as defined in this section,  
16 and hospices, both profit and nonprofit, and including those  
17 operated by an agency of State or local government.

18 "Health care insurer." Any person, corporation or other  
19 entity that offers administrative, indemnity or payment services  
20 for health care in exchange for a premium or service charge  
21 under a program of health care benefits, including, but not  
22 limited to, an insurance company, association or exchange  
23 issuing health insurance policies in this Commonwealth; hospital  
24 plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to  
25 hospital plan corporations); professional health services plan  
26 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to  
27 professional health services plan corporations); health  
28 maintenance organization; preferred provider organization;  
29 fraternal benefit societies; beneficial societies; and third-  
30 party administrators; but excluding employers, labor unions or

1 health and welfare funds jointly or separately administered by  
2 employers or labor unions that purchase or self-fund a program  
3 of health care benefits for their employees or members and their  
4 dependents.

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

11 "Hospital." An institution, licensed in this Commonwealth,  
12 which is a general, tuberculosis, mental, chronic disease or  
13 other type of hospital, or kidney disease treatment center,  
14 whether profit or nonprofit, and including those operated by an  
15 agency of State or local government.

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

22 "Major ambulatory service." Surgical or medical procedures,  
23 including diagnostic and therapeutic radiological procedures,  
24 commonly performed in hospitals or ambulatory service  
25 facilities, which are not of a type commonly performed or which  
26 cannot be safely performed in physicians' offices and which  
27 require special facilities such as operating rooms or suites or  
28 special equipment such as fluoroscopic equipment or computed  
29 tomographic scanners, or a postprocedure recovery room or short-  
30 term convalescent room.

1 "Medical procedure incidence variations." The variation in  
2 the incidence in the population of specific medical, surgical  
3 and radiological procedures in any given year, expressed as a  
4 deviation from the norm, as these terms are defined in the  
5 classical statistical definition of "variation," "incidence,"  
6 "deviation" and "norm."

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

9 "Payment." The payments that providers actually accept for  
10 their services, exclusive of charity care, rather than the  
11 charges they bill.

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

15 "Physician." An individual licensed under the laws of this  
16 Commonwealth to practice medicine and surgery within the scope  
17 of the act of October 5, 1978 (P.L.1109, No.261), known as the  
18 Osteopathic Medical Practice Act, or the act of December 20,  
19 1985 (P.L.457, No.112), known as the Medical Practice Act of  
20 1985.

21 "Preferred provider organization." Any arrangement between a  
22 health care insurer and providers of health care services which  
23 specifies rates of payment to such providers which differ from  
24 their usual and customary charges to the general public and  
25 which encourage enrollees to receive health services from such  
26 providers.

27 "Provider." A hospital, an ambulatory service facility or a  
28 physician.

29 "Provider quality." The extent to which a provider renders  
30 care that, within the capabilities of modern medicine, obtains

1 for patients medically acceptable health outcomes and prognoses,  
2 adjusted for patient severity, and treats patients  
3 compassionately and responsively.

4 "Provider service effectiveness." The effectiveness of  
5 services rendered by a provider, determined by measurement of  
6 the medical outcome of patients grouped by severity receiving  
7 those services.

8 "Purchaser." All corporations, labor organizations and other  
9 entities that purchase benefits which provide covered services  
10 for their employees or members, either through a health care  
11 insurer or by means of a self-funded program of benefits, and a  
12 certified bargaining representative that represents a group or  
13 groups of employees for whom employers purchase a program of  
14 benefits which provide covered services, but excluding entities  
15 defined in this section as "health care insurers."

16 "Raw data" or "data." Data collected by the council under  
17 section 6 in the form initially received. No data shall be  
18 released by the council except as provided for in section 11.

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

21 Section 2. Sections 4, 5, 6 and 7 of the act are reenacted  
22 and amended to read:

23 Section 4. Health Care Cost Containment Council.

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

27 (b) Composition.--The council shall consist of [21] voting  
28 members, composed of and appointed in accordance with the  
29 following:

30 (1) The Secretary of Health.



1 (2) The Secretary of Public Welfare.

2 (3) The Insurance Commissioner.

3 ~~(3.1) Four members of the General Assembly, which shall~~ <—  
4 ~~consist of the chairman and minority chairman of the Public~~  
5 ~~Health and Welfare Committee of the Senate and the chairman~~  
6 ~~and minority chairman of the Health and Human Services~~  
7 ~~Committee of the House of Representatives. Members under this~~  
8 ~~paragraph may appoint a designee to act on behalf of the~~  
9 ~~member at meetings of the council and of committees, as~~  
10 ~~provided in subsection (f). Designees shall be counted for~~  
11 ~~purposes of determining a quorum.~~

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

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

27 (6) One representative of consumers who is not primarily  
28 involved in the provision of health care or health care  
29 insurance, appointed by the Governor from a list of three  
30 qualified persons recommended jointly by the Speaker of the

House of Representatives and the President pro tempore of the Senate.

~~(6.1) One representative of patient advocacy groups appointed by the Governor, who must be an employee of a not for profit patient safety advocacy organization.~~

(7) [One representative] Three TWO representatives of hospitals, appointed by the Governor from a list of [three] five qualified hospital representatives recommended by the Hospital and Health System Association of Pennsylvania ONE OF WHOM SHALL BE A REPRESENTATIVE OF RURAL HOSPITALS.

~~Representatives under this paragraph shall include one representative of academic teaching hospitals and one representative of rural hospitals.~~ [The] Each representative under this paragraph may appoint two additional delegates to act for the representative only at meetings of committees, as provided for in subsection (f).

(8) [One representative] Two representatives of physicians, appointed by the Governor from a list of [three] FIVE qualified physician representatives recommended jointly by the Pennsylvania Medical Society and the Pennsylvania Osteopathic Medical Society. The representative under this paragraph may appoint two additional delegates to act for the representative only at meetings of committees, as provided for in subsection (f).

(8.1) An individual appointed by the Governor who is certified in continuous quality improvement methods. HAS EXPERTISE IN THE APPLICATION OF CONTINUOUS QUALITY IMPROVEMENT METHODS IN HOSPITALS.

(8.2) One representative of nurses, appointed by the Governor from a list of three qualified representatives

1 recommended by the Pennsylvania State Nurses Association.

2 (9) One representative of the Blue Cross and Blue Shield  
3 plans in Pennsylvania, appointed by the Governor from a list  
4 of three qualified persons recommended jointly by the Blue  
5 Cross and Blue Shield plans of Pennsylvania.

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

10 (11) One representative of health maintenance  
11 organizations, appointed by the Governor from a list of three  
12 qualified persons recommended by the [Pennsylvania  
13 Association of Health Maintenance Organizations] Managed Care  
14 Association of Pennsylvania.

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

29 (c) Chairperson and vice chairperson.--The members shall  
30 annually elect, by a majority vote of the members, a chairperson

1 and a vice chairperson of the council from among the business  
2 and labor representatives on the council.

3 (d) Quorum.--[Eleven] ~~Seventeen~~ THIRTEEN members, [a <—  
4 majority of which in any combination shall] at least six of whom  
5 must be made up of representatives of business and labor, shall  
6 constitute a quorum for the transaction of any business, and the  
7 act by the majority of the members present at any meeting in  
8 which there is a quorum shall be deemed to be the act of the  
9 council.

10 (e) Meetings.--All meetings of the council shall be  
11 advertised and conducted pursuant to [the act of July 3, 1986  
12 (P.L.388, No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7  
13 (relating to open meetings), unless otherwise provided in this  
14 section.

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

20 (2) All meetings of the council shall be publicly  
21 advertised, as provided for in this subsection, and shall be  
22 open to the public, except that the council, through its  
23 bylaws, may provide for executive sessions of the council on  
24 subjects permitted to be discussed in such sessions under  
25 [the Sunshine Act] 65 Pa.C.S. Ch. 7. No act of the council  
26 shall be taken in an executive session.

27 (3) The council shall publish a schedule of its meetings  
28 in the Pennsylvania Bulletin and in at least one newspaper in  
29 general circulation in the Commonwealth. Such notice shall be  
30 published at least once in each calendar quarter and shall

1 list the schedule of meetings of the council to be held in  
2 the subsequent calendar quarter. Such notice shall specify  
3 the date, time and place of the meeting and shall state that  
4 the council's meetings are open to the general public, except  
5 that no such notice shall be required for executive sessions  
6 of the council.

7 (4) All action taken by the council shall be taken in  
8 open public session, and action of the council shall not be  
9 taken except upon the affirmative vote of a majority of the  
10 members of the council present during meetings at which a  
11 quorum is present.

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

<—

1 physicians, researchers and biostatisticians to the technical  
2 advisory group, the council shall consult with and take  
3 nominations from the representatives of the Hospital Association  
4 of Pennsylvania, the Pennsylvania Medical Society, the  
5 Pennsylvania Osteopathic Medical Society or other like  
6 organizations. At its discretion and in accordance with this  
7 section, nominations shall be approved by the executive  
8 committee of the council. If the subject matter of any project  
9 exceeds the expertise of the technical advisory group,  
10 physicians in appropriate specialties who possess current  
11 knowledge of the issue under study may be consulted. The  
12 technical advisory group shall also review the availability and  
13 reliability of severity of illness measurements as they relate  
14 to small hospitals and psychiatric, rehabilitation and  
15 children's hospitals and shall make recommendations to the  
16 council based upon this review.

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

23 (h) Terms of council members.--

24 (1) The terms of the Secretary of Health, the Secretary  
25 of Public Welfare and the Insurance Commissioner shall be  
26 concurrent with their holding of public office. The [eighteen  
27 appointed] council members under subsection (b)(1), (2), (3) <—  
28 and (3.1) shall serve ex officio. The council members under  
29 subsection (b)(4) through (11) shall each serve for a term of  
30 [three] four years and shall continue to serve thereafter

1 until their successor is appointed[, except that, of the <—  
2 members first appointed:

3 (i) Two each of the representatives of business and  
4 organized labor and the representative of consumers shall  
5 serve for a term to expire on June 30 of the year  
6 following their appointment.

7 (ii) Two each of the representatives of business and  
8 organized labor and the representatives of the Blue Cross  
9 and Blue Shield plans of Pennsylvania and the commercial  
10 insurance carriers shall serve for a term to expire on  
11 June 30 of the second year following their appointment.

12 (iii) Two each of the representatives of business  
13 and organized labor and the representatives of hospitals,  
14 physicians and health maintenance organizations shall  
15 serve for a term to expire on June 30 of the third year  
16 following their appointment]. <—

17 (2) Vacancies on the council shall be filled in the  
18 [same] manner [in which they were originally] designated <—  
19 under subsection (b), within 60 days of the vacancy, except  
20 that when vacancies occur among the representatives of  
21 business or organized labor, two nominations shall be  
22 submitted by the organization specified in subsection (b) for  
23 each vacancy on the council. If the officer required in  
24 subsection (b) to make appointments to the council fails to  
25 act within 60 days of the vacancy, the council chairperson  
26 may appoint one of the persons recommended for the vacancy  
27 until the appointing authority makes the appointment.

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

1       (4) No appointed member under subsection (b)(4) through  
2       (11) shall be eligible to serve more than two full  
3       consecutive terms of four years beginning on July 1, 2003 THE <—  
4       EFFECTIVE DATE OF THIS PARAGRAPH.

5       [(i) Commencement of operations.-- <—

6           (1) Within 60 days after the effective date of this act,  
7       each organization or individual required to submit a list of  
8       recommended persons to the Governor, the President pro  
9       tempore of the Senate or the Speaker of the House of  
10      Representatives under subsection (b) shall submit said list.

11          (2) Within 90 days of the effective date of this act,  
12      the Governor, the President pro tempore of the Senate and the  
13      Speaker of the House of Representatives shall make all of the  
14      appointments called for in subsection (b), and the council  
15      shall begin operations immediately following these  
16      appointments.] <—

17      (j) Subsequent appointments.--Submission of lists of  
18      recommended persons and appointments of council members for [the <—  
19      second and] succeeding terms shall be made in the same manner as <—  
20      prescribed in subsection (b), except that:

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

24           (2) The officer required under subsection (b) to make  
25      appointments to the council shall make said appointments at  
26      least 30 days prior to expiration of the council members'  
27      terms. If the appointments are not made within the specified  
28      time, the council chairperson may make interim appointments  
29      from the lists of recommended individuals. An interim  
30      appointment shall be valid only until the appropriate officer



1 under subsection (b) makes the required appointment. Whether  
2 the appointment is by the required officer or by the  
3 chairperson of the council, the appointment shall become  
4 effective immediately upon expiration of the incumbent  
5 member's term.

6 [(k) Appointments of acting councilors.--Should any <—  
7 organization or individual fail to submit a list of recommended  
8 persons as required under subsection (b) within the time limits  
9 in subsection (i) or (j), the officer designated to make the  
10 appointment under subsection (b) shall appoint as many acting  
11 councilors as required under subsection (b) until such time as  
12 the list of recommended persons is submitted by the original  
13 organization as required in subsection (b).] <—

14 Section 5. Powers and duties of the council.

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

18 (1) To employ an executive director, investigators and  
19 other staff necessary to comply with the provisions of this  
20 act and regulations promulgated thereunder, to employ or  
21 retain legal counsel and to engage professional consultants,  
22 as it deems necessary to the performance of its duties. Any  
23 consultants, other than sole source consultants, engaged by  
24 the council shall be selected in accordance with the  
25 provisions for contracting with vendors set forth in section  
26 16.

27 (2) To fix the compensation of all employees and to  
28 prescribe their duties. Notwithstanding the independence of  
29 the council under section 4(a), employees under this  
30 paragraph shall be deemed employees of the Commonwealth for

1 the purposes of participation in the Pennsylvania Employee  
2 Benefit Trust Fund.

3 (3) To make and execute contracts and other instruments,  
4 including those for purchase of services and purchase or  
5 leasing of equipment and supplies, necessary or convenient to  
6 the exercise of the powers of the council. Any such contract  
7 shall be let only in accordance with the provision for  
8 contracting with vendors set forth in section 16.

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

14 (4.1) To provide hospitals with individualized data on  
15 ~~adverse medical events, complications and hospital infections~~ <—  
16 PATIENT SAFETY INDICATORS PURSUANT TO SECTION 6(C)(7). The <—  
17 data shall be risk adjusted and made available to hospitals  
18 electronically and free of charge on a quarterly basis within  
19 45 days of receipt of the corrected quarterly data from the  
20 hospitals. The data is intended to provide the patient safety  
21 committee of each hospital with information necessary to  
22 assist it in conducting ~~route-cause~~ PATIENT SAFETY analysis. <—

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

25 (b) Rules and regulations.--The council [may, in a manner  
26 provided by law, promulgate rules and regulations] shall  
27 promulgate rules and regulations in accordance with the act of  
28 June 25, 1982 (P.L.633, No.181), known as the Regulatory Review  
29 Act, necessary to carry out its duties under this act. This  
30 subsection shall not apply to regulations in effect on June 30,

1 2003.

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

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

15 (2) Audits of information submitted by purchasers shall  
16 be performed on a sample basis, unless there exists  
17 reasonable cause to audit specific purchasers, but in no case  
18 shall the council have the power to audit financial  
19 statements of purchasers.

20 (3) All audits performed by the council shall be  
21 performed at the expense of the council.

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

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

1 accordance with the provisions of section 16, and said vendor  
2 shall relinquish any and all proprietary rights or claims to  
3 the data base created as a result of implementation of the  
4 data processing system.

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

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

14 (4) Adopt and implement a methodology to collect and  
15 disseminate data reflecting provider quality and provider  
16 service effectiveness pursuant to section 6 [and to  
17 continuously study quality of care systems].

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

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

1 the council provided the reports or the computer-to-computer  
2 access during the previous month.

3 (7) Promote competition in the health care and health  
4 insurance markets.

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

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

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

1           (12) Conduct studies and publish reports thereon  
2 analyzing the effects that noninpatient, alternative health  
3 care delivery systems have on health care costs. These  
4 systems shall include, but not be limited to: HMO's; PPO's;  
5 primary health care facilities; home health care; attendant  
6 care; ambulatory service facilities; freestanding emergency  
7 centers; birthing centers; and hospice care. These reports  
8 shall be submitted to the General Assembly and shall be made  
9 available to the public.

10          (13) Conduct studies and make reports concerning the  
11 utilization of experimental and nonexperimental transplant  
12 surgery and other highly technical and experimental  
13 procedures, including costs and mortality rates.

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

28           ~~(i) Four members of the General Assembly, one each~~  
29 ~~to be appointed by the President Pro Tempore of the~~  
30 ~~Senate, the Minority Leader of the Senate, the Speaker of~~

~~the House of Representatives and the Minority Leader of  
the House of Representatives.~~

~~(ii) The following members appointed by the  
Governor:~~

~~(A) One representative of the Hospital and  
Healthsystem Association of Pennsylvania.~~

~~(B) One representative of the Pennsylvania  
Medical Society.~~

~~(C) One representative of insurance.~~

~~(D) One representative of labor.~~

~~(E) One representative of business.~~

~~(F) Two representatives of the general public.~~

THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF THE HOSPITAL AND  
HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA.

(II) ONE REPRESENTATIVE OF THE PENNSYLVANIA MEDICAL  
SOCIETY.

(III) ONE REPRESENTATIVE OF INSURANCE.

(IV) ONE REPRESENTATIVE OF LABOR.

(V) ONE REPRESENTATIVE OF BUSINESS.

(VI) TWO REPRESENTATIVES OF THE GENERAL PUBLIC.

(15) The council shall execute a request for quotations  
with a PROPOSALS WITH third-party vendor VENDORS for the  
purpose of demonstrating a methodology for the collection,  
analysis and reporting of hospital-specific complication  
rates. The results of this demonstration shall be shared with  
the General Assembly. The council may recommend that this  
PROVIDED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE PUBLIC  
HEALTH AND WELFARE COMMITTEE OF THE SENATE AND THE CHAIRMAN  
AND MINORITY CHAIRMAN OF THE HEALTH AND HUMAN SERVICES

1 COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THIS methodology  
2 be utilized for its MAY BE UTILIZED BY THE COUNCIL FOR public <—  
3 reporting on comparative hospital complication rates.

4 Section 6. Data submission and collection.

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

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



1           (i) Within 60 days of the effective date of this  
2           paragraph, the council shall publish in the Pennsylvania  
3           Bulletin a list of diseases, procedures and medical  
4           conditions, not to exceed 35, for which data under  
5           subsections (c)(21) and (d) shall be required. The chosen  
6           list shall not represent more than 50% of total hospital  
7           discharges, based upon the previous year's hospital  
8           discharge data. Subsequent to the publication of the  
9           list, any data submission requirements under subsections  
10           (c)(21) and (d) previously in effect shall be null and  
11           void for diseases, procedures and medical conditions not  
12           found on the list. All other data elements pursuant to  
13           subsection (c) shall continue to be required from data  
14           sources. The council shall review the list and may add no  
15           more than a net of three diseases, procedures or medical  
16           conditions per year over a five-year period starting on  
17           the effective date of this subparagraph. The adjusted  
18           list of diseases, procedures and medical conditions shall  
19           at no time be more than 50% of total hospital discharges.

20           (ii) If the current data vendor is unable to  
21           achieve, on a per-chart basis, savings of at least 40% in  
22           the cost of hospital compliance with the data abstracting  
23           and submission requirements of this act by June 30, 2004,  
24           as compared to June 30, 2003, then the council shall  
25           disqualify the current vendor and reopen the bidding  
26           process. The independent auditor shall determine the  
27           extent and validity of the savings. In determining any  
28           demonstrated cost savings, surveys of all hospitals in  
29           this Commonwealth shall be conducted and consideration  
30           shall be given at a minimum to:

1           (A) new costs, in terms of making the  
2           methodology operational, associated with laboratory,  
3           pharmacy and other information systems a hospital is  
4           required to purchase in order to reduce hospital  
5           compliance costs, including the cost of electronic  
6           transfer of required data; and

7           (B) the audited direct personnel and related  
8           costs of data abstracting and submission required.

9           (iii) Review by the independent auditor shall  
10          commence by March 1, 2004, and shall conclude with a  
11          report of findings by July 31, 2004. The report shall be  
12          delivered to the council, the Governor, the Health and  
13          Human Services Committee of the House of Representatives  
14          and the Public Health and Welfare Committee of the  
15          Senate.

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

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

24                  (i) one member representing the Office of Health  
25          Care Reform;

26                  (ii) one member representing the business community;

27                  (iii) one member representing labor;

28                  (iv) one member representing consumers;

29                  (v) two members representing physicians;

30                  (vi) two members representing nurses;

1            (vii) two members representing hospitals;  
2            ~~(viii) one member representing patient advocacy~~            <—  
3            groups;  
4            ~~(ix)~~ (VIII) one member representing health            <—  
5            underwriters; and  
6            ~~(x)~~ (IX) one member representing commercial            <—  
7            insurance carriers.  
8            (2) The work group, with approval of the council, may  
9            hire an independent evaluator AUDITOR to determine the value            <—  
10           of various data sets. The work group shall have no more than  
11           one year to study current data requirements and methods of  
12           collecting and transferring data and to make recommendations  
13           for changes to produce a 50% overall reduction in the cost of  
14           collecting and reporting required data to the council while  
15           maintaining the scientific credibility of the council's  
16           analysis and reporting. The work group recommendations shall  
17           be presented to the council for a vote.  
18           (c) Data elements.--For each covered service performed in  
19           Pennsylvania, the council shall be required to collect the  
20           following data elements:  
21                  (1) uniform patient identifier, continuous across  
22                  multiple episodes and providers;  
23                  (2) patient date of birth;  
24                  (3) patient sex;  
25                  (3.1) patient race, consistent with the method of  
26                  collection of race/ethnicity data by the United States Bureau  
27                  of the Census and the United States Standard Certificates of  
28                  Live Birth and Death;  
29                  (4) patient ZIP Code number;  
30                  (5) date of admission;

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

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

(19) uniform identifier for payor group contract number;

(20) patient discharge status; [and]

(21) provider service effectiveness and provider quality pursuant to section 5(d)(4) and subsection (d).{.};

~~(22) all external cause of injury codes, commonly called E codes;~~

~~(23) codes indicating complications;~~

~~(24) codes indicating infections; and~~

~~(25) baby and mother birth codes.~~

<—

(d) Provider quality and provider service effectiveness data elements.--In carrying out its duty to collect data on provider quality and provider service effectiveness under section 5(d)(4) and subsection (c)(21), the council shall define a methodology to measure provider service effectiveness which may include additional data elements to be specified by the council sufficient to carry out its responsibilities under section 5(d)(4). The council may adopt a nationally recognized methodology of quantifying and collecting data on provider quality and provider service effectiveness until such time as the council has the capability of developing its own methodology and standard data elements. The council shall include in the Pennsylvania Uniform Claims and Billing Form a field consisting of the data elements required pursuant to subsection (c)(21) to provide information on each provision of covered services sufficient to permit analysis of provider quality and provider service effectiveness within 180 days of commencement of its operations pursuant to section 4. In carrying out its responsibilities, the council shall not require health care

insurers to report on data elements that are not reported to nationally recognized accrediting organizations, to the Department of Health or to the Insurance Department in quarterly or annual reports. The council shall not require reporting by health care insurers in different formats than are required for reporting to nationally recognized accrediting organizations or on quarterly or annual reports submitted to the Department of Health or to the Insurance Department. The council may adopt the quality findings as reported to nationally recognized accrediting organizations.

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

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

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

(3) The council may hold additional hearings or request such other reports as it deems necessary and shall consider the comments received during the 60-day comment period and any additional information gained through such hearings or

1 other reports in making a final determination on the proposed  
2 addition or deletion.

3 (f) Other data required to be submitted.--Providers are  
4 hereby required to submit and the council is hereby authorized  
5 to collect, in accordance with submission dates and schedules  
6 established by the council, the following additional data,  
7 provided such data is not available to the council from public  
8 records:

9 (1) Audited annual financial reports of all hospitals  
10 and ambulatory service facilities providing covered services  
11 as defined in section 3.

12 (2) The Medicare cost report (OMB Form 2552 or  
13 equivalent Federal form), or the AG-12 form for Medical  
14 Assistance or successor forms, whether completed or partially  
15 completed, and including the settled Medicare cost report and  
16 the certified AG-12 form.

17 (3) Additional data, including, but not limited to, data  
18 which can be used to provide at least the following  
19 information:

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

22 (ii) physicians who provide covered services and  
23 accept medical assistance patients;

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

26 (v) mortality rates for specified diagnoses and  
27 treatments, grouped by severity, for individual  
28 providers;

29 (vi) rates of infection for specified diagnoses and  
30 treatments, grouped by severity, for individual

1 providers;

2 (vii) morbidity rates for specified diagnoses and  
3 treatments, grouped by severity, for individual  
4 providers;

5 (viii) readmission rates for specified diagnoses and  
6 treatments, grouped by severity, for individual  
7 providers; and

8 (ix) rate of incidence of postdischarge professional  
9 care for selected diagnoses and procedures, grouped by  
10 severity, for individual providers.

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

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

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

30 (g.1) Allowance for correction.--The council shall verify



1 the PATIENT SAFETY INDICATOR data submitted by hospitals <—  
2 pursuant to subsection ~~(c)(22) through (25)~~ (C)(7) within 60 <—  
3 days of receipt. The council may allow hospitals to make changes  
4 to the data submitted during the verification period. After the  
5 verification period, but within 45 days of receipt of the <—  
6 adjusted hospital data, the council shall risk adjust the  
7 information and provide reports to the patient safety committee  
8 of the relevant hospital.

9 (h) Availability of data.--Nothing in this act shall  
10 prohibit a purchaser from obtaining from its health care  
11 insurer, nor relieve said health care insurer from the  
12 obligation of providing said purchaser, on terms consistent with  
13 past practices, data previously provided or additional data not  
14 currently provided to said purchaser by said health care insurer  
15 pursuant to any existing or future arrangement, agreement or  
16 understanding.

17 Section 7. Data dissemination and publication.

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

24 (1) The council shall, for every provider within the  
25 Commonwealth and within appropriate regions and subregions  
26 within the Commonwealth and for those inpatient and  
27 outpatient services which, when ranked by order of frequency,  
28 account for at least 65% of all covered services and which,  
29 when ranked by order of total payments, account for at least  
30 65% of total payments, prepare and issue reports that at

1 least provide information on the following:

2 (i) Comparisons among all providers of payments  
3 received, charges, population-based admission or  
4 incidence rates, and provider service effectiveness, such  
5 comparisons to be grouped according to diagnosis and  
6 severity, and to identify each provider by name and type  
7 or specialty.

8 (ii) Comparisons among all providers, except  
9 physicians, of inpatient and outpatient charges and  
10 payments for room and board, ancillary services, drugs,  
11 equipment and supplies and total services, such  
12 comparisons to be grouped according to provider quality  
13 and provider service effectiveness and according to  
14 diagnosis and severity, and to identify each health care  
15 facility by name and type.

16 (iii) Until and unless a methodology to measure  
17 provider quality and provider service effectiveness  
18 pursuant to sections 5(d)(4) and 6(c) and (d) is  
19 available to the council, comparisons among all  
20 providers, grouped according to diagnosis, procedure and  
21 severity, which identify facilities by name and type and  
22 physicians by name and specialty, of charges and payments  
23 received, readmission rates, mortality rates, morbidity  
24 rates and infection rates. Following adoption of the  
25 methodology specified in sections 5(d)(4) and 6(c) and  
26 (d), the council may, at its discretion, discontinue  
27 publication of this component of the report.

28 (iv) The incidence rate of selected medical or  
29 surgical procedures, the provider service effectiveness  
30 and the payments received for those providers, identified

1 by the name and type or specialty, for which these  
2 elements vary significantly from the norms for all  
3 providers.

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

13 (3) The council shall, for all providers within the  
14 Commonwealth and within appropriate regions and subregions  
15 within the Commonwealth, prepare and issue quarterly reports  
16 that at least provide information on the number of  
17 physicians, by specialty, on the staff of each hospital or  
18 ambulatory service facility and those physicians on the staff  
19 that accept Medicare assignment as full payment and that  
20 accept Medical Assistance patients.

21 (4) The council shall publish all reports required in  
22 this section in the Pennsylvania Bulletin and shall publish,  
23 in at least one newspaper of general circulation in each  
24 subregion within the Commonwealth, reports on the providers  
25 in that subregion and subregions adjacent to it. In addition,  
26 the council shall advertise annually the availability of  
27 these reports and the charge for duplication in the  
28 Pennsylvania Bulletin and in at least one newspaper of  
29 general circulation in each subregion within the Commonwealth  
30 at least once in each calendar quarter.]

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

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

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

25             (ii) The incidence rate of selected medical or  
26 surgical procedures, the quality and service  
27 effectiveness and the payments received for those  
28 providers, identified by the name and type or specialty,  
29 for which these elements vary significantly from the  
30 norms for all providers.

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

10       (b) Raw data reports and computer access to council data.--  
11       The council shall provide special reports derived from raw data  
12       and a means for computer-to-computer access to its raw data to  
13       any purchaser, pursuant to section 10(f). The council shall  
14       provide such reports and computer-to-computer access, at its  
15       discretion, to other parties, pursuant to section 10(g). The  
16       council shall provide these special reports and computer-to-  
17       computer access in as timely a fashion as the council's  
18       responsibilities to publish the public reports required in this  
19       section will allow. Any such provision of special reports or  
20       computer-to-computer access by the council shall be made only  
21       subject to the restrictions on access to raw data set forth in  
22       section 10(b) and only after payment for costs of preparation or  
23       duplication pursuant to section 10(f) or (g).

24       Section 3. Section 8 of the act is reenacted to read:

25       Section 8. Health care for the medically indigent.

26       (a) Declaration of policy.--The General Assembly finds that  
27       every person in this Commonwealth should receive timely and  
28       appropriate health care services from any provider operating in  
29       this Commonwealth; that, as a continuing condition of licensure,  
30       each provider should offer and provide medically necessary,

1 lifesaving and emergency health care services to every person in  
2 this Commonwealth, regardless of financial status or ability to  
3 pay; and that health care facilities may transfer patients only  
4 in instances where the facility lacks the staff or facilities to  
5 properly render definitive treatment.

6 (b) Studies on indigent care.--To reduce the undue burden on  
7 the several providers that disproportionately treat medically  
8 indigent people on an uncompensated basis, to contain the long-  
9 term costs generated by untreated or delayed treatment of  
10 illness and disease and to determine the most appropriate means  
11 of treating and financing the treatment of medically indigent  
12 persons, the council, at the request of the Governor or the  
13 General Assembly, may undertake studies and utilize its current  
14 data base to:

15 (1) Study and analyze the medically indigent population,  
16 the magnitude of uncompensated care for the medically  
17 indigent, the degree of access to and the result of any lack  
18 of access by the medically indigent to appropriate care, the  
19 types of providers and the settings in which they provide  
20 indigent care and the cost of the provision of that care  
21 pursuant to subsection (c).

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

26 (c) Studies.--The council shall conduct studies pursuant to  
27 subsection (b)(1) and thereafter report to the Governor and the  
28 General Assembly the results of the studies and its  
29 recommendations. The council may contract with an independent  
30 vendor to conduct the study in accordance with the provisions

1 for selecting vendors in section 16. The study shall include,  
2 but not be limited to, the following:

3 (1) the number and characteristics of the medically  
4 indigent population, including such factors as income,  
5 employment status, health status, patterns of health care  
6 utilization, type of health care needed and utilized,  
7 eligibility for health care insurance, distribution of this  
8 population on a geographic basis and by age, sex and racial  
9 or linguistic characteristics, and the changes in these  
10 characteristics, including the following:

11 (i) the needs and problems of indigent persons in  
12 urban areas;

13 (ii) the needs and problems of indigent persons in  
14 rural areas;

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

17 (iv) the needs and problems of indigent persons in  
18 areas of high unemployment; and

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

20 (2) the degree of and any change in access of this  
21 population to sources of health care, including hospitals,  
22 physicians and other providers;

23 (3) the distribution and means of financing indigent  
24 care between and among providers, insurers, government,  
25 purchasers and consumers, and the effect of that distribution  
26 on each;

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

30 (5) the likely impact of changes in the health delivery

1 system, including managed care entities, and the effects of  
2 cost containment in the Commonwealth on the access to,  
3 availability of and financing of needed care for the  
4 indigent, including the impact on providers which provide a  
5 disproportionate amount of care to the indigent;

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

8 (7) the provision of care to the indigent through  
9 improvements in the primary health care system, including the  
10 management of needed hospital care by primary care providers;

11 (8) innovative means to finance and deliver care to the  
12 medically indigent; and

13 (9) reduction in the dependence of indigent persons on  
14 hospital services through improvements in preventive health  
15 measures.

16 Section 4. Sections 9 and 10 of the act are reenacted and  
17 amended to read:

18 Section 9. Mandated health benefits.

19 In relation to current law or proposed legislation, the  
20 council shall, upon the request of the appropriate committee  
21 chairman in the Senate and in the House of Representatives or  
22 upon the request of the Secretary of Health, provide information  
23 on the proposed mandated health benefit pursuant to the  
24 following:

25 (1) The General Assembly hereby declares that proposals  
26 for mandated health benefits or mandated health insurance  
27 coverage should be accompanied by adequate, independently  
28 certified documentation defining the social and financial  
29 impact and medical efficacy of the proposal. To that end the  
30 council, upon receipt of such requests, is hereby authorized



1 to conduct a preliminary review of the material submitted by  
2 both proponents and opponents concerning the proposed  
3 mandated benefit. If, after this preliminary review, the  
4 council is satisfied that both proponents and opponents have  
5 submitted sufficient documentation necessary for a review  
6 pursuant to paragraphs (3) and (4), the council is directed  
7 to contract with individuals, pursuant to the selection  
8 procedures for vendors set forth in section 16, who will  
9 constitute a Mandated Benefits Review Panel to review  
10 mandated benefits proposals and provide independently  
11 certified documentation, as provided for in this section.

12 (2) The panel shall consist of [four] senior <—  
13 researchers, each of whom shall be a recognized expert:

14 (i) one in health research;

15 (ii) one in biostatistics;

16 (iii) one in economic research; [and]

17 (iv) one, a physician, in the appropriate specialty  
18 with current knowledge of the subject being proposed as a  
19 mandated benefit; and

20 (v) one with experience in insurance or actuarial  
21 research.

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

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

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

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

1 (B) Whether or not the research cited in the  
2 documentation meets professional standards.

3 (C) Whether or not all relevant research  
4 respecting the proposed mandated benefit has been  
5 cited in the documentation.

6 (D) Whether or not the conclusions and  
7 interpretations in the documentation are consistent  
8 with the data submitted.

9 (4) To provide the Mandated Benefits Review Panel with  
10 sufficient information to carry out its duties and  
11 responsibilities pursuant to paragraph (3), persons proposing  
12 or opposing legislation mandating benefits coverage should  
13 submit documentation to the council, pursuant to the  
14 procedure established in paragraph (5), which demonstrates  
15 the following:

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

19 (ii) The extent to which insurance coverage for the  
20 proposed benefit already exists, or if no such coverage  
21 exists, the extent to which this lack of coverage results  
22 in inadequate health care or financial hardship for the  
23 population of the Commonwealth.

24 (iii) The demand for the proposed benefit from the  
25 public and the source and extent of opposition to  
26 mandating the benefit.

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

29 (v) Where the proposed benefit would mandate  
30 coverage of a particular therapy, the results of at least

1 one professionally accepted, controlled trial comparing  
2 the medical consequences of the proposed therapy,  
3 alternative therapies and no therapy.

4 (vi) Where the proposed benefit would mandate  
5 coverage of an additional class of practitioners, the  
6 results of at least one professionally accepted,  
7 controlled trial comparing the medical results achieved  
8 by the additional class of practitioners and those  
9 practitioners already covered by benefits.

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

11 (viii) Evidence of the financial impact of the  
12 proposed legislation, including at least:

13 (A) The extent to which the proposed benefit  
14 would increase or decrease cost for treatment or  
15 service.

16 (B) The extent to which similar mandated  
17 benefits in other states have affected charges, costs  
18 and payments for services.

19 (C) The extent to which the proposed benefit  
20 would increase the appropriate use of the treatment  
21 or service.

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

24 (E) The impact of the proposed benefits on  
25 benefits costs of purchasers.

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

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

30 (i) Any person wishing to submit information on

1 proposed legislation mandating insurance benefits for  
2 review by the panel should submit the documentation  
3 specified in paragraph (4) to the council.

4 (ii) The council shall, within 30 days of receipt of  
5 the documentation:

6 (A) Publish in the Pennsylvania Bulletin notice  
7 of receipt of the documentation, a description of the  
8 proposed legislation, provision for a period of 60  
9 days for public comment and the time and place at  
10 which any person may examine the documentation.

11 (B) Submit copies of the documentation to the  
12 Secretary of Health and the Insurance Commissioner,  
13 who shall review and submit comments to the council  
14 on the proposed legislation within 30 days.

15 (C) Submit copies of the documentation to the  
16 panel, which shall review the documentation and issue  
17 their findings, pursuant to paragraph (3), within 90  
18 days.

19 (iii) Upon receipt of the comments of the Secretary  
20 of Health and the Insurance Commissioner and of the  
21 findings of the panel, pursuant to subparagraph (ii), but  
22 no later than 120 days following the publication required  
23 in subparagraph (ii), the council shall submit said  
24 comments and findings, together with its recommendations  
25 respecting the proposed legislation, to the Governor, the  
26 President pro tempore of the Senate, the Speaker of the  
27 House of Representatives, the Secretary of Health, the  
28 Insurance Commissioner and the person who submitted the  
29 information pursuant to subparagraph (i).

30 Section 10. Access to council data.

1 (a) Public access.--The information and data received by the  
2 council shall be utilized by the council for the benefit of the  
3 public and public officials. Subject to the specific limitations  
4 set forth in this section, the council shall make determinations  
5 on requests for information in favor of access.

6 (a.1) Outreach programs.--The council shall develop and  
7 implement outreach programs designed to make its information  
8 understandable and usable to purchasers, providers, other  
9 Commonwealth agencies and the general public. The programs shall  
10 include efforts to educate through pamphlets, booklets, seminars  
11 and other appropriate measures and to facilitate making more  
12 informed health care choices.

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

18 (1) Any raw data of the council that does not  
19 simultaneously disclose payment, as well as provider quality  
20 and provider service effectiveness pursuant to sections  
21 5(d)(4) and 6(d) or 7(a)(1)(iii).

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

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

29 (4) Any raw data of the council relating to actual  
30 payments to any identified provider made by any purchaser,

1 except that this provision shall not apply to access by a  
2 purchaser requesting data on the group for which it purchases  
3 or otherwise provides covered services or to access to that  
4 same data by an entity entitled to the purchaser's data  
5 pursuant to subsection (f).

6 (5) Any raw data disclosing discounts or differentials  
7 between payments accepted by providers for services and their  
8 billed charges obtained by identified payors from identified  
9 providers unless [comparable data on all other payors is also  
10 released] the data is released in a Statewide, aggregate  
11 format that does not identify any individual payor or class  
12 of payors and the council [determines] assures that the  
13 release of such information is not prejudicial or inequitable  
14 to any individual payor or provider or group thereof. [In  
15 making such determination the council shall consider that it  
16 is primarily concerned with the analysis and dissemination of  
17 payments to providers, not with discounts.]

18 (c) Unauthorized use of data.--Any person who knowingly  
19 releases council data violating the patient confidentiality,  
20 actual payments, discount data or raw data safeguards set forth  
21 in this section to an unauthorized person commits a misdemeanor  
22 of the first degree and shall, upon conviction, be sentenced to  
23 pay a fine of \$10,000 or to imprisonment for not more than five  
24 years, or both. An unauthorized person who knowingly receives or  
25 possesses such data commits a misdemeanor of the first degree.

26 (d) Unauthorized access to data.--Should any person  
27 inadvertently or by council error gain access to data that  
28 violates the safeguards set forth in this section, the data must  
29 immediately be returned, without duplication, to the council  
30 with proper notification.

1 (e) Public access to records.--All public reports prepared  
2 by the council shall be public records and shall be available to  
3 the public for a reasonable fee, and copies shall be provided,  
4 upon request of the chair, to the Public Health and Welfare  
5 Committee of the Senate and the Health and Welfare Committee of  
6 the House of Representatives.

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

12 (1) Special reports derived from raw data of the council  
13 shall be provided by the council to any purchaser requesting  
14 such reports.

15 (2) A means to enable computer-to-computer access by any  
16 purchaser to raw data of the council as defined in section 3  
17 shall be developed, adopted and implemented by the council,  
18 and the council shall provide such access to its raw data to  
19 any purchaser upon request.

20 (3) In the event that any employer obtains from the  
21 council, pursuant to paragraph (1) or (2), data pertaining to  
22 its employees and their dependents for whom said employer  
23 purchases or otherwise provides covered services as defined  
24 in section 3 and who are represented by a certified  
25 collective bargaining representative, said collective  
26 bargaining representative shall be entitled to that same  
27 data, after payment of fees as specified in paragraph (4).

28 Likewise, should a certified collective bargaining  
29 representative obtain from the council, pursuant to paragraph  
30 (1) or (2), data pertaining to its members and their

1 dependents who are employed by and for whom covered services  
2 are purchased or otherwise provided by any employer, said  
3 employer shall be entitled to that same data, after payment  
4 of fees as specified in paragraph (4).

5 (4) In providing for access to its raw data, the council  
6 shall charge the purchasers which originally obtained such  
7 access a fee sufficient to cover its costs to prepare and  
8 provide special reports requested pursuant to paragraph (1)  
9 or to provide computer-to-computer access to its raw data  
10 requested pursuant to paragraph (2). Should a second or  
11 subsequent party or parties request this same information  
12 pursuant to paragraph (3), the council shall charge said  
13 party a reasonable fee.

14 (g) Access to raw council data by other parties.--Subject to  
15 the limitations on access to raw council data set forth in  
16 subsection (b), the council may, at its discretion, provide  
17 special reports derived from its raw data or computer-to-  
18 computer access to parties other than purchasers. The council  
19 shall publish regulations that set forth the criteria and the  
20 procedure it shall use in making determinations on such access,  
21 pursuant to the powers vested in the council in section 4. In  
22 providing such access, the council shall charge the party  
23 requesting the access a reasonable fee.

24 Section 5. Section 11 of the act is reenacted to read:

25 Section 11. Special studies and reports.

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

29 (b) Special reports.--

30 (1) Any Commonwealth agency may study and issue a report



1 on the special medical needs, demographic characteristics,  
2 access or lack thereof to health care services and need for  
3 financing of health care services of:

4 (i) Senior citizens, particularly low-income senior  
5 citizens, senior citizens who are members of minority  
6 groups and senior citizens residing in low-income urban  
7 or rural areas.

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

9 (iii) Minority communities.

10 (iv) Women.

11 (v) Children.

12 (vi) Unemployed workers.

13 (vii) Veterans.

14 The reports shall include information on the current  
15 availability of services to these targeted parts of the  
16 population, and whether access to such services has increased  
17 or decreased over the past ten years, and specific  
18 recommendations for the improvement of their primary care and  
19 health delivery systems, including disease prevention and  
20 comprehensive health care services. The department may also  
21 study and report on the effects of using prepaid, capitated  
22 or HMO health delivery systems as ways to promote the  
23 delivery of primary health care services to the underserved  
24 segments of the population enumerated above.

25 (2) The department may study and report on the short-  
26 term and long-term fiscal and programmatic impact on the  
27 health care consumer of changes in ownership of hospitals  
28 from nonprofit to profit, whether through purchase, merger or  
29 the like. The department may also study and report on factors  
30 which have the effect of either reducing provider revenue or

1 increasing provider cost, and other factors beyond a  
2 provider's control which reduce provider competitiveness in  
3 the marketplace, are explained in the reports.

4 Section 6. Section 12 of the act is reenacted and amended to  
5 read:

6 Section 12. Enforcement; penalty.

7 (a) Compliance enforcement.--The council shall have standing  
8 to bring an action in law or in equity through private counsel  
9 in any court of common pleas to enforce compliance with any  
10 provision of this act, except section 11, or any requirement or  
11 appropriate request of the council made pursuant to this act. In  
12 addition, the Attorney General is authorized and shall bring any  
13 such enforcement action in aid of the council in any court of  
14 common pleas at the request of the council in the name of the  
15 Commonwealth.

16 (b) Penalty.--

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

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

<—

conviction, be sentenced to pay a fine of \$1,000 or to imprisonment for not more than one year, or both.

Section 7. Sections 13, 14, 15, 16, 17.1 and 18 of the act are reenacted to read:

Section 13. Research and demonstration projects.

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

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

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

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

Section 14. Grievances and grievance procedures.

(a) Procedures and requirements.--Pursuant to its powers to publish regulations under section 5(b) and with the requirements of this section, the council is hereby authorized and directed to establish procedures and requirements for the filing, hearing and adjudication of grievances against the council of any data

1 source. Such procedures and requirements shall be published in  
2 the Pennsylvania Bulletin pursuant to law.

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

8 Section 15. Antitrust provisions.

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

15 Section 16. Contracts with vendors.

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

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

29 (2) The council shall publish notice of invitations to  
30 bid in the Pennsylvania Bulletin. The council shall also

1 publish such notice in at least four newspapers in general  
2 circulation in the Commonwealth on at least three occasions  
3 at intervals of not less than three days. Said notice shall  
4 include at least the following:

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

9 (ii) The locations, dates and times during which  
10 prospective vendors can examine the specifications  
11 required in paragraph (1).

12 (iii) The date, time and place of the meeting or  
13 meetings of the council at which bids will be opened and  
14 accepted.

15 (iv) A statement to the effect that any person is  
16 eligible to bid.

17 (3) Bids shall be accepted as follows:

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

24 (ii) Bids shall be opened and reviewed by the  
25 appropriate council committee, which shall make  
26 recommendations to the council on approval. Bids shall be  
27 accepted and such acceptance shall be announced only at a  
28 public meeting of the council as defined in section 4(e),  
29 and no bids shall be accepted at an executive session of  
30 the council.

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

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

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

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

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

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

#### Section 17.1. Reporting.

The council shall provide an annual report of its financial expenditures to the Appropriations Committee of the Senate and

1 the Appropriations Committee of the House of Representatives.

2 Section 18. Severability.

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

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

10 Section 19. Sunset.

11 This act shall expire June 30, [2003] 2008, unless reenacted  
12 prior to ~~{that date.} September 1, 2007. By March~~ BY SEPTEMBER <—  
13 1, 2007, a written report by the Legislative Budget and Finance  
14 Committee evaluating the management, visibility, awareness and  
15 performance of the council shall be provided to the Public  
16 Health and Welfare Committee of the Senate and the Health and  
17 Human Services Committee of the House of Representatives. The  
18 report shall include a review of the council's procedures and  
19 policies, the availability and quality of data for completing  
20 reports to hospitals and outside vendor purchasers; the ability  
21 of the council to become self-sufficient by selling data to  
22 outside purchasers; whether there is a more cost-efficient way  
23 of accomplishing the objectives of the council and the need for  
24 reauthorization of the council.

25 Section 9. Section 20 of the act is reenacted to read:

26 Section 20. Effective date.

27 This act shall take effect immediately.

28 SECTION 9.1. IN ACCORDANCE WITH SECTION 10 OF THIS ACT, THE <—  
29 FOLLOWING APPLY TO THE PERIOD FROM JUNE 30, 2003, TO THE DAY  
30 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION:

1           (1) THERE IS NO LAPSE IN MEMBERSHIP ON THE HEALTH CARE  
2 COST CONTAINMENT COUNCIL.

3           (2) ELEVEN MEMBERS CONSTITUTE A QUORUM.

4           (3) ANY ACTION TAKEN BY THE COUNCIL IS VALIDATED.

5           (4) THERE SHALL BE NO LAPSE IN THE EMPLOYMENT  
6 RELATIONSHIP FOR EMPLOYEES OF THE COUNCIL. THIS PARAGRAPH  
7 INCLUDES SALARY, SENIORITY, BENEFITS AND RETIREMENT  
8 ELIGIBILITY OF THE EMPLOYEES.

9       SECTION 9.2. NEW POSITIONS ON THE COUNCIL CREATED UNDER THIS  
10 ACT SHALL BE FILLED IN THE MANNER DESIGNATED UNDER SECTION 4(B)  
11 OF THE ACT NO LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF  
12 THIS ACT. ORGANIZATIONS REQUIRED UNDER SECTION 4(B) OF THE ACT  
13 TO SUBMIT LISTS OF RECOMMENDED PERSONS TO FILL NEW POSITIONS ON  
14 THE COUNCIL SHALL DO SO NO LATER THAN 30 DAYS AFTER THE  
15 EFFECTIVE DATE OF THIS ACT.

16       Section 10. This act shall apply retroactively to June 29,  
17 2003.

18       Section 11. This act shall take effect immediately.