

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2708 Session of  
2008

INTRODUCED BY STERN, BOYD, REICHLEY, NAILOR, MAJOR, CAPPELLI,  
WATSON, SAINATO, MARSHALL, BAKER, PERRY, SAYLOR, CUTLER,  
RUBLEY, MILNE, ROHRER, TRUE, COX, FLECK, YOUNGBLOOD, HANNA,  
ADOLPH, PHILLIPS, SONNEY, McILHATTAN, MOYER, HERSHEY, MOUL,  
LONGIETTI, HESS, GRELL, CAUSER, COHEN AND MANN, JULY 9, 2008

REFERRED TO COMMITTEE ON INSURANCE, JULY 9, 2008

AN ACT

1 Reenacting and amending the act of July 8, 1986 (P.L.408,  
2 No.89), entitled, as reenacted, "An act providing for the  
3 creation of the Health Care Cost Containment Council, for its  
4 powers and duties, for health care cost containment through  
5 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 sunset.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9,  
12 10, 11, 12, 13, 14, 15, 16, 17.1 and 18 of the act of July 8,  
13 1986 (P.L.408, No.89), known as the Health Care Cost Containment  
14 Act, reenacted and amended July 17, 2003 (P.L.31, No.14), are  
15 reenacted to read:

AN ACT

16  
17 Providing for the creation of the Health Care Cost Containment  
18 Council, for its powers and duties, for health care cost  
19 containment through the collection and dissemination of data,

1 for public accountability of health care costs and for health  
2 care for the indigent; and making an appropriation.

3 Section 1. Short title.

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

6 Section 2. Legislative finding and declaration.

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

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

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

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

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

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

29 Therefore, it is hereby declared to be the policy of the  
30 Commonwealth of Pennsylvania to promote health care cost

1 containment and to identify appropriate utilization practices by  
2 creating an independent council to be known as the Health Care  
3 Cost Containment Council.

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

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

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

## 22 Section 3. Definitions.

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

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

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

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

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

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

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

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

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

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

1 employers or labor unions that purchase or self-fund a program  
2 of health care benefits for their employees or members and their  
3 dependents.

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

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

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

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

30 "Medical procedure incidence variations." The variation in

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

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

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

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

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

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

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

28 "Provider quality." The extent to which a provider renders  
29 care that, within the capabilities of modern medicine, obtains  
30 for patients medically acceptable health outcomes and prognoses,

1 adjusted for patient severity, and treats patients  
2 compassionately and responsively.

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

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

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

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

#### 20 Section 4. Health Care Cost Containment Council.

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

24 (b) Composition.--The council shall consist of voting  
25 members, composed of and appointed in accordance with the  
26 following:

27 (1) The Secretary of Health.

28 (2) The Secretary of Public Welfare.

29 (3) The Insurance Commissioner.

30 (4) Six representatives of the business community, at



1 least one of whom represents small business, who are  
2 purchasers of health care as defined in section 3, none of  
3 which is primarily involved in the provision of health care  
4 or health insurance, three of which shall be appointed by the  
5 President pro tempore of the Senate and three of which shall  
6 be appointed by the Speaker of the House of Representatives  
7 from a list of twelve qualified persons recommended by the  
8 Pennsylvania Chamber of Business and Industry. Three nominees  
9 shall be representatives of small business.

10 (5) Six representatives of organized labor, three of  
11 which shall be appointed by the President pro tempore of the  
12 Senate and three of which shall be appointed by the Speaker  
13 of the House of Representatives from a list of twelve  
14 qualified persons recommended by the Pennsylvania AFL-CIO.

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

21 (7) Two representatives of hospitals, appointed by the  
22 Governor from a list of five qualified hospital  
23 representatives recommended by the Hospital and Health System  
24 Association of Pennsylvania one of whom shall be a  
25 representative of rural hospitals. Each representative under  
26 this paragraph may appoint two additional delegates to act  
27 for the representative only at meetings of committees, as  
28 provided for in subsection (f).

29 (8) Two representatives of physicians, appointed by the  
30 Governor from a list of five qualified physician

1 representatives recommended jointly by the Pennsylvania  
2 Medical Society and the Pennsylvania Osteopathic Medical  
3 Society. The representative under this paragraph may appoint  
4 two additional delegates to act for the representative only  
5 at meetings of committees, as provided for in subsection (f).

6 (8.1) An individual appointed by the Governor who has  
7 expertise in the application of continuous quality  
8 improvement methods in hospitals.

9 (8.2) One representative of nurses, appointed by the  
10 Governor from a list of three qualified representatives  
11 recommended by the Pennsylvania State Nurses Association.

12 (9) One representative of the Blue Cross and Blue Shield  
13 plans in Pennsylvania, appointed by the Governor from a list  
14 of three qualified persons recommended jointly by the Blue  
15 Cross and Blue Shield plans of Pennsylvania.

16 (10) One representative of commercial insurance  
17 carriers, appointed by the Governor from a list of three  
18 qualified persons recommended by the Insurance Federation of  
19 Pennsylvania, Inc.

20 (11) One representative of health maintenance  
21 organizations, appointed by the Governor from a list of three  
22 qualified persons recommended by the Managed Care Association  
23 of Pennsylvania.

24 (12) In the case of each appointment to be made from a  
25 list supplied by a specified organization, it is incumbent  
26 upon that organization to consult with and provide a list  
27 which reflects the input of other equivalent organizations  
28 representing similar interests. Each appointing authority  
29 will have the discretion to request additions to the list  
30 originally submitted. Additional names will be provided not

1 later than 15 days after such request. Appointments shall be  
2 made by the appointing authority no later than 90 days after  
3 receipt of the original list. If, for any reason, any  
4 specified organization supplying a list should cease to  
5 exist, then the respective appointing authority shall specify  
6 a new equivalent organization to fulfill the responsibilities  
7 of this act.

8 (c) Chairperson and vice chairperson.--The members shall  
9 annually elect, by a majority vote of the members, a chairperson  
10 and a vice chairperson of the council from among the business  
11 and labor representatives on the council.

12 (d) Quorum.--Thirteen members, at least six of whom must be  
13 made up of representatives of business and labor, shall  
14 constitute a quorum for the transaction of any business, and the  
15 act by the majority of the members present at any meeting in  
16 which there is a quorum shall be deemed to be the act of the  
17 council.

18 (e) Meetings.--All meetings of the council shall be  
19 advertised and conducted pursuant to 65 Pa.C.S. Ch. 7 (relating  
20 to open meetings), unless otherwise provided in this section.

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

26 (2) All meetings of the council shall be publicly  
27 advertised, as provided for in this subsection, and shall be  
28 open to the public, except that the council, through its  
29 bylaws, may provide for executive sessions of the council on  
30 subjects permitted to be discussed in such sessions under 65

1 Pa.C.S. Ch. 7. No act of the council shall be taken in an  
2 executive session.

3 (3) The council shall publish a schedule of its meetings  
4 in the Pennsylvania Bulletin and in at least one newspaper in  
5 general circulation in the Commonwealth. Such notice shall be  
6 published at least once in each calendar quarter and shall  
7 list the schedule of meetings of the council to be held in  
8 the subsequent calendar quarter. Such notice shall specify  
9 the date, time and place of the meeting and shall state that  
10 the council's meetings are open to the general public, except  
11 that no such notice shall be required for executive sessions  
12 of the council.

13 (4) All action taken by the council shall be taken in  
14 open public session, and action of the council shall not be  
15 taken except upon the affirmative vote of a majority of the  
16 members of the council present during meetings at which a  
17 quorum is present.

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

1 biostatisticians, one representative of the Hospital and  
2 Healthsystem Association of Pennsylvania and one representative  
3 of the Pennsylvania Medical Society. The Hospital and  
4 Healthsystem Association of Pennsylvania and the Pennsylvania  
5 Medical Society representatives shall not be subject to  
6 executive committee approval. In appointing other physicians,  
7 researchers and biostatisticians to the technical advisory  
8 group, the council shall consult with and take nominations from  
9 the representatives of the Hospital Association of Pennsylvania,  
10 the Pennsylvania Medical Society, the Pennsylvania Osteopathic  
11 Medical Society or other like organizations. At its discretion  
12 and in accordance with this section, nominations shall be  
13 approved by the executive committee of the council. If the  
14 subject matter of any project exceeds the expertise of the  
15 technical advisory group, physicians in appropriate specialties  
16 who possess current knowledge of the issue under study may be  
17 consulted. The technical advisory group shall also review the  
18 availability and reliability of severity of illness measurements  
19 as they relate to small hospitals and psychiatric,  
20 rehabilitation and children's hospitals and shall make  
21 recommendations to the council based upon this review.

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

28 (h) Terms of council members.--

29 (1) The terms of the Secretary of Health, the Secretary  
30 of Public Welfare and the Insurance Commissioner shall be

1 concurrent with their holding of public office. The council  
2 members under subsection (b)(4) through (11) shall each serve  
3 for a term of four years and shall continue to serve  
4 thereafter until their successor is appointed.

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

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

19 (4) No appointed member under subsection (b)(4) through  
20 (11) shall be eligible to serve more than two full  
21 consecutive terms of four years beginning on the effective  
22 date of this paragraph.

23 (j) Subsequent appointments.--Submission of lists of  
24 recommended persons and appointments of council members for  
25 succeeding terms shall be made in the same manner as prescribed  
26 in subsection (b), except that:

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

30 (2) The officer required under subsection (b) to make

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

12 Section 5. Powers and duties of the council.

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

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

25 (2) To fix the compensation of all employees and to  
26 prescribe their duties. Notwithstanding the independence of  
27 the council under section 4(a), employees under this  
28 paragraph shall be deemed employees of the Commonwealth for  
29 the purposes of participation in the Pennsylvania Employee  
30 Benefit Trust Fund.

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

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

12          (4.1) To provide hospitals with individualized data on  
13 patient safety indicators pursuant to section 6(c)(7). The  
14 data shall be risk adjusted and made available to hospitals  
15 electronically and free of charge on a quarterly basis within  
16 45 days of receipt of the corrected quarterly data from the  
17 hospitals. The data is intended to provide the patient safety  
18 committee of each hospital with information necessary to  
19 assist in conducting patient safety analysis.

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

22          (b) Rules and regulations.--The council shall promulgate  
23 rules and regulations in accordance with the act of June 25,  
24 1982 (P.L.633, No.181), known as the Regulatory Review Act,  
25 necessary to carry out its duties under this act. This  
26 subsection shall not apply to regulations in effect on June 30,  
27 2003.

28          (c) Audit powers.--The council shall have the right to  
29 independently audit all information required to be submitted by  
30 data sources as needed to corroborate the accuracy of the



1 submitted data, pursuant to the following:

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

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

16 (3) All audits performed by the council shall be  
17 performed at the expense of the council.

18 (d) General duties and functions.--The council is hereby  
19 authorized to and shall perform the following duties and  
20 functions:

21 (1) Develop a computerized system for the collection,  
22 analysis and dissemination of data. The council may contract  
23 with a vendor who will provide such data processing services.  
24 The council shall assure that the system will be capable of  
25 processing all data required to be collected under this act.  
26 Any vendor selected by the council shall be selected in  
27 accordance with the provisions of section 16, and said vendor  
28 shall relinquish any and all proprietary rights or claims to  
29 the data base created as a result of implementation of the  
30 data processing system.

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

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

10          (4) Adopt and implement a methodology to collect and  
11 disseminate data reflecting provider quality and provider  
12 service effectiveness pursuant to section 6.

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

21          (6) On an annual basis, publish in the Pennsylvania  
22 Bulletin a list of all the raw data reports it has prepared  
23 under section 10(f) and a description of the data obtained  
24 through each computer-to-computer access it has provided  
25 under section 10(f) and of the names of the parties to whom  
26 the council provided the reports or the computer-to-computer  
27 access during the previous month.

28          (7) Promote competition in the health care and health  
29 insurance markets.

30          (8) Assure that the use of council data does not raise

1 access barriers to care.

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

11 (12) Conduct studies and publish reports thereon  
12 analyzing the effects that noninpatient, alternative health  
13 care delivery systems have on health care costs. These  
14 systems shall include, but not be limited to: HMO's; PPO's;  
15 primary health care facilities; home health care; attendant  
16 care; ambulatory service facilities; freestanding emergency  
17 centers; birthing centers; and hospice care. These reports  
18 shall be submitted to the General Assembly and shall be made  
19 available to the public.

20 (13) Conduct studies and make reports concerning the  
21 utilization of experimental and nonexperimental transplant  
22 surgery and other highly technical and experimental  
23 procedures, including costs and mortality rates.

24 (14) In order to ensure that the council adopts and  
25 maintains both scientifically credible and cost-effective  
26 methodology to collect and disseminate data reflecting  
27 provider quality and effectiveness, the council shall, within  
28 one year of the effective date of this paragraph, utilizing  
29 current Commonwealth agency guidelines and procedures, issue  
30 a request for information from any vendor that wishes to

1 provide data collection or risk adjustment methodology to the  
2 council to help meet the requirements of this subsection and  
3 section 6. The council shall establish an independent Request  
4 for Information Review Committee to review and rank all  
5 responses and to make a final recommendation to the council.  
6 The Request for Information Review Committee shall consist of  
7 the following members appointed by the Governor:

8 (i) One representative of the Hospital and  
9 Healthsystem Association of Pennsylvania.

10 (ii) One representative of the Pennsylvania Medical  
11 Society.

12 (iii) One representative of insurance.

13 (iv) One representative of labor.

14 (v) One representative of business.

15 (vi) Two representatives of the general public.

16 (15) The council shall execute a request for proposals  
17 with third-party vendors for the purpose of demonstrating a  
18 methodology for the collection, analysis and reporting of  
19 hospital-specific complication rates. The results of this  
20 demonstration shall be provided to the chairman and minority  
21 chairman of the Public Health and Welfare Committee of the  
22 Senate and the chairman and minority chairman of the Health  
23 and Human Services Committee of the House of Representatives.  
24 This methodology may be utilized by the council for public  
25 reporting on comparative hospital complication rates.

26 Section 6. Data submission and collection.

27 (a) (1) Submission of data.--The council is hereby  
28 authorized to collect and data sources are hereby required to  
29 submit, upon request of the council, all data required in  
30 this section, according to uniform submission formats, coding

1 systems and other technical specifications necessary to  
2 render the incoming data substantially valid, consistent,  
3 compatible and manageable using electronic data processing  
4 according to data submission schedules, such schedules to  
5 avoid, to the extent possible, submission of identical data  
6 from more than one data source, established and promulgated  
7 by the council in regulations pursuant to its authority under  
8 section 5(b). If payor data is requested by the council, it  
9 shall, to the extent possible, be obtained from primary payor  
10 sources.

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

23 (i) Within 60 days of the effective date of this  
24 paragraph, the council shall publish in the Pennsylvania  
25 Bulletin a list of diseases, procedures and medical  
26 conditions, not to exceed 35, for which data under  
27 subsections (c)(21) and (d) shall be required. The chosen  
28 list shall not represent more than 50% of total hospital  
29 discharges, based upon the previous year's hospital  
30 discharge data. Subsequent to the publication of the

1 list, any data submission requirements under subsections  
2 (c)(21) and (d) previously in effect shall be null and  
3 void for diseases, procedures and medical conditions not  
4 found on the list. All other data elements pursuant to  
5 subsection (c) shall continue to be required from data  
6 sources. The council shall review the list and may add no  
7 more than a net of three diseases, procedures or medical  
8 conditions per year over a five-year period starting on  
9 the effective date of this subparagraph. The adjusted  
10 list of diseases, procedures and medical conditions shall  
11 at no time be more than 50% of total hospital discharges.

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

23 (A) new costs, in terms of making the  
24 methodology operational, associated with laboratory,  
25 pharmacy and other information systems a hospital is  
26 required to purchase in order to reduce hospital  
27 compliance costs, including the cost of electronic  
28 transfer of required data; and

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

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

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

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

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

(ii) one member representing the business community;

(iii) one member representing labor;

(iv) one member representing consumers;

(v) two members representing physicians;

(vi) two members representing nurses;

(vii) two members representing hospitals;

(viii) one member representing health underwriters;

and

(ix) one member representing commercial insurance carriers.

(2) The work group, with approval of the council, may hire an independent auditor to determine the value of various data sets. The work group shall have no more than one year to

1 study current data requirements and methods of collecting and  
2 transferring data and to make recommendations for changes to  
3 produce a 50% overall reduction in the cost of collecting and  
4 reporting required data to the council while maintaining the  
5 scientific credibility of the council's analysis and  
6 reporting. The work group recommendations shall be presented  
7 to the council for a vote.

8 (b) Pennsylvania Uniform Claims and Billing Form.--The  
9 council shall adopt, within 180 days of the commencement of its  
10 operations pursuant to section 4(i), a Pennsylvania Uniform  
11 Claims and Billing Form format. The council shall furnish said  
12 claims and billing form format to all data sources, and said  
13 claims and billing form shall be utilized and maintained by all  
14 data sources for all services covered by this act. The  
15 Pennsylvania Uniform Claims and Billing Form shall consist of  
16 the Uniform Hospital Billing Form UB-82/HCFA-1450, and the HCFA-  
17 1500, or their successors, as developed by the National Uniform  
18 Billing Committee, with additional fields as necessary to  
19 provide all of the data set forth in subsections (c) and (d).

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

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

25 (2) patient date of birth;

26 (3) patient sex;

27 (3.1) patient race, consistent with the method of  
28 collection of race/ethnicity data by the United States Bureau  
29 of the Census and the United States Standard Certificates of  
30 Live Birth and Death;



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

1 rendering service pursuant to paragraph (15);

2 (17) uniform identifier of primary payor;

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

5 (19) uniform identifier for payor group contract number;

6 (20) patient discharge status; and

7 (21) provider service effectiveness and provider quality  
8 pursuant to section 5(d)(4) and subsection (d).

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

1 or annual reports. The council shall not require reporting by  
2 health care insurers in different formats than are required for  
3 reporting to nationally recognized accrediting organizations or  
4 on quarterly or annual reports submitted to the Department of  
5 Health or to the Insurance Department. The council may adopt the  
6 quality findings as reported to nationally recognized  
7 accrediting organizations.

8 (e) Reserve field utilization and addition or deletion of  
9 data elements.--The council shall include in the Pennsylvania  
10 Uniform Claims and Billing Form a reserve field. The council may  
11 utilize the reserve field by adding other data elements beyond  
12 those required to carry out its responsibilities under section  
13 5(d)(3) and (4) and subsections (c) and (d), or the council may  
14 delete data elements from the Pennsylvania Uniform Claims and  
15 Billing Form only by a majority vote of the council and only  
16 pursuant to the following procedure:

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

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

24 (3) The council may hold additional hearings or request  
25 such other reports as it deems necessary and shall consider  
26 the comments received during the 60-day comment period and  
27 any additional information gained through such hearings or  
28 other reports in making a final determination on the proposed  
29 addition or deletion.

30 (f) Other data required to be submitted.--Providers are

1 hereby required to submit and the council is hereby authorized  
2 to collect, in accordance with submission dates and schedules  
3 established by the council, the following additional data,  
4 provided such data is not available to the council from public  
5 records:

6 (1) Audited annual financial reports of all hospitals  
7 and ambulatory service facilities providing covered services  
8 as defined in section 3.

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

14 (3) Additional data, including, but not limited to, data  
15 which can be used to provide at least the following  
16 information:

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

19 (ii) physicians who provide covered services and  
20 accept medical assistance patients;

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

23 (v) mortality rates for specified diagnoses and  
24 treatments, grouped by severity, for individual  
25 providers;

26 (vi) rates of infection for specified diagnoses and  
27 treatments, grouped by severity, for individual  
28 providers;

29 (vii) morbidity rates for specified diagnoses and  
30 treatments, grouped by severity, for individual

1 providers;

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

5 (ix) rate of incidence of postdischarge professional  
6 care for selected diagnoses and procedures, grouped by  
7 severity, for individual providers.

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

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

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

27 (g.1) Allowance for correction.--The council shall verify  
28 the patient safety indicator data submitted by hospitals  
29 pursuant to subsection (c)(7) within 60 days of receipt. The  
30 council may allow hospitals to make changes to the data

1 submitted during the verification period. After the verification  
2 period, but within 45 days of receipt of the adjusted hospital  
3 data, the council shall risk adjust the information and provide  
4 reports to the patient safety committee of the relevant  
5 hospital.

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

#### 14 Section 7. Data dissemination and publication.

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

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

1 (i) Differences in mortality rates; differences in  
2 length of stay; differences in complication rates;  
3 differences in readmission rates; differences in  
4 infection rates; and other comparative outcome measures  
5 the council may develop that will allow purchasers,  
6 providers and consumers to make purchasing and quality  
7 improvement decisions based upon quality patient care and  
8 to restrain costs.

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

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

24 (b) Raw data reports and computer access to council data.--  
25 The council shall provide special reports derived from raw data  
26 and a means for computer-to-computer access to its raw data to  
27 any purchaser, pursuant to section 10(f). The council shall  
28 provide such reports and computer-to-computer access, at its  
29 discretion, to other parties, pursuant to section 10(g). The  
30 council shall provide these special reports and computer-to-

1 computer access in as timely a fashion as the council's  
2 responsibilities to publish the public reports required in this  
3 section will allow. Any such provision of special reports or  
4 computer-to-computer access by the council shall be made only  
5 subject to the restrictions on access to raw data set forth in  
6 section 10(b) and only after payment for costs of preparation or  
7 duplication pursuant to section 10(f) or (g).

8 Section 8. Health care for the medically indigent.

9 (a) Declaration of policy.--The General Assembly finds that  
10 every person in this Commonwealth should receive timely and  
11 appropriate health care services from any provider operating in  
12 this Commonwealth; that, as a continuing condition of licensure,  
13 each provider should offer and provide medically necessary,  
14 lifesaving and emergency health care services to every person in  
15 this Commonwealth, regardless of financial status or ability to  
16 pay; and that health care facilities may transfer patients only  
17 in instances where the facility lacks the staff or facilities to  
18 properly render definitive treatment.

19 (b) Studies on indigent care.--To reduce the undue burden on  
20 the several providers that disproportionately treat medically  
21 indigent people on an uncompensated basis, to contain the long-  
22 term costs generated by untreated or delayed treatment of  
23 illness and disease and to determine the most appropriate means  
24 of treating and financing the treatment of medically indigent  
25 persons, the council, at the request of the Governor or the  
26 General Assembly, may undertake studies and utilize its current  
27 data base to:

28 (1) Study and analyze the medically indigent population,  
29 the magnitude of uncompensated care for the medically  
30 indigent, the degree of access to and the result of any lack



1 of access by the medically indigent to appropriate care, the  
2 types of providers and the settings in which they provide  
3 indigent care and the cost of the provision of that care  
4 pursuant to subsection (c).

5 (2) Determine, from studies undertaken under paragraph  
6 (1), a definition of the medically indigent population and  
7 the most appropriate method for the delivery of timely and  
8 appropriate health care services to the medically indigent.

9 (c) Studies.--The council shall conduct studies pursuant to  
10 subsection (b)(1) and thereafter report to the Governor and the  
11 General Assembly the results of the studies and its  
12 recommendations. The council may contract with an independent  
13 vendor to conduct the study in accordance with the provisions  
14 for selecting vendors in section 16. The study shall include,  
15 but not be limited to, the following:

16 (1) the number and characteristics of the medically  
17 indigent population, including such factors as income,  
18 employment status, health status, patterns of health care  
19 utilization, type of health care needed and utilized,  
20 eligibility for health care insurance, distribution of this  
21 population on a geographic basis and by age, sex and racial  
22 or linguistic characteristics, and the changes in these  
23 characteristics, including the following:

24 (i) the needs and problems of indigent persons in  
25 urban areas;

26 (ii) the needs and problems of indigent persons in  
27 rural areas;

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

30 (iv) the needs and problems of indigent persons in

1 areas of high unemployment; and

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

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

6 (3) the distribution and means of financing indigent  
7 care between and among providers, insurers, government,  
8 purchasers and consumers, and the effect of that distribution  
9 on each;

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

13 (5) the likely impact of changes in the health delivery  
14 system, including managed care entities, and the effects of  
15 cost containment in the Commonwealth on the access to,  
16 availability of and financing of needed care for the  
17 indigent, including the impact on providers which provide a  
18 disproportionate amount of care to the indigent;

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

21 (7) the provision of care to the indigent through  
22 improvements in the primary health care system, including the  
23 management of needed hospital care by primary care providers;

24 (8) innovative means to finance and deliver care to the  
25 medically indigent; and

26 (9) reduction in the dependence of indigent persons on  
27 hospital services through improvements in preventive health  
28 measures.

29 Section 9. Mandated health benefits.

30 In relation to current law or proposed legislation, the

1 council shall, upon the request of the appropriate committee  
2 chairman in the Senate and in the House of Representatives or  
3 upon the request of the Secretary of Health, provide information  
4 on the proposed mandated health benefit pursuant to the  
5 following:

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

23 (2) The panel shall consist of senior researchers, each  
24 of whom shall be a recognized expert:

- 25 (i) one in health research;  
26 (ii) one in biostatistics;  
27 (iii) one in economic research;  
28 (iv) one, a physician, in the appropriate specialty  
29 with current knowledge of the subject being proposed as a  
30 mandated benefit; and

1           (v) one with experience in insurance or actuarial  
2           research.

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

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

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

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

12           (B) Whether or not the research cited in the  
13           documentation meets professional standards.

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

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

20           (4) To provide the Mandated Benefits Review Panel with  
21           sufficient information to carry out its duties and  
22           responsibilities pursuant to paragraph (3), persons proposing  
23           or opposing legislation mandating benefits coverage should  
24           submit documentation to the council, pursuant to the  
25           procedure established in paragraph (5), which demonstrates  
26           the following:

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

30           (ii) The extent to which insurance coverage for the

1 proposed benefit already exists, or if no such coverage  
2 exists, the extent to which this lack of coverage results  
3 in inadequate health care or financial hardship for the  
4 population of the Commonwealth.

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

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

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

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

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

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

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

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

30 (C) The extent to which the proposed benefit

1 would increase the appropriate use of the treatment  
2 or service.

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

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

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

9 (5) The procedure for review of documentation is as  
10 follows:

11 (i) Any person wishing to submit information on  
12 proposed legislation mandating insurance benefits for  
13 review by the panel should submit the documentation  
14 specified in paragraph (4) to the council.

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

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

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

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

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

of Health and the Insurance Commissioner and of the findings of the panel, pursuant to subparagraph (ii), but no later than 120 days following the publication required in subparagraph (ii), the council shall submit said comments and findings, together with its recommendations respecting the proposed legislation, to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives, the Secretary of Health, the Insurance Commissioner and the person who submitted the information pursuant to subparagraph (i).

Section 10. Access to council data.

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

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

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

(1) Any raw data of the council that does not simultaneously disclose payment, as well as provider quality

1 and provider service effectiveness pursuant to sections  
2 5(d)(4) and 6(d) or 7(a)(1)(iii).

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

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

10 (4) Any raw data of the council relating to actual  
11 payments to any identified provider made by any purchaser,  
12 except that this provision shall not apply to access by a  
13 purchaser requesting data on the group for which it purchases  
14 or otherwise provides covered services or to access to that  
15 same data by an entity entitled to the purchaser's data  
16 pursuant to subsection (f).

17 (5) Any raw data disclosing discounts or differentials  
18 between payments accepted by providers for services and their  
19 billed charges obtained by identified payors from identified  
20 providers unless the data is released in a Statewide,  
21 aggregate format that does not identify any individual payor  
22 or class of payors and the council assures that the release  
23 of such information is not prejudicial or inequitable to any  
24 individual payor or provider or group thereof.

25 (c) Unauthorized use of data.--Any person who knowingly  
26 releases council data violating the patient confidentiality,  
27 actual payments, discount data or raw data safeguards set forth  
28 in this section to an unauthorized person commits a misdemeanor  
29 of the first degree and shall, upon conviction, be sentenced to  
30 pay a fine of \$10,000 or to imprisonment for not more than five



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

3 (d) Unauthorized access to data.--Should any person  
4 inadvertently or by council error gain access to data that  
5 violates the safeguards set forth in this section, the data must  
6 immediately be returned, without duplication, to the council  
7 with proper notification.

8 (e) Public access to records.--All public reports prepared  
9 by the council shall be public records and shall be available to  
10 the public for a reasonable fee, and copies shall be provided,  
11 upon request of the chair, to the Public Health and Welfare  
12 Committee of the Senate and the Health and Welfare Committee of  
13 the House of Representatives.

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

19 (1) Special reports derived from raw data of the council  
20 shall be provided by the council to any purchaser requesting  
21 such reports.

22 (2) A means to enable computer-to-computer access by any  
23 purchaser to raw data of the council as defined in section 3  
24 shall be developed, adopted and implemented by the council,  
25 and the council shall provide such access to its raw data to  
26 any purchaser upon request.

27 (3) In the event that any employer obtains from the  
28 council, pursuant to paragraph (1) or (2), data pertaining to  
29 its employees and their dependents for whom said employer  
30 purchases or otherwise provides covered services as defined

1 in section 3 and who are represented by a certified  
2 collective bargaining representative, said collective  
3 bargaining representative shall be entitled to that same  
4 data, after payment of fees as specified in paragraph (4).  
5 Likewise, should a certified collective bargaining  
6 representative obtain from the council, pursuant to paragraph  
7 (1) or (2), data pertaining to its members and their  
8 dependents who are employed by and for whom covered services  
9 are purchased or otherwise provided by any employer, said  
10 employer shall be entitled to that same data, after payment  
11 of fees as specified in paragraph (4).

12 (4) In providing for access to its raw data, the council  
13 shall charge the purchasers which originally obtained such  
14 access a fee sufficient to cover its costs to prepare and  
15 provide special reports requested pursuant to paragraph (1)  
16 or to provide computer-to-computer access to its raw data  
17 requested pursuant to paragraph (2). Should a second or  
18 subsequent party or parties request this same information  
19 pursuant to paragraph (3), the council shall charge said  
20 party a reasonable fee.

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

1 Section 11. Special studies and reports.

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

5 (b) Special reports.--

6 (1) Any Commonwealth agency may study and issue a report  
7 on the special medical needs, demographic characteristics,  
8 access or lack thereof to health care services and need for  
9 financing of health care services of:

10 (i) Senior citizens, particularly low-income senior  
11 citizens, senior citizens who are members of minority  
12 groups and senior citizens residing in low-income urban  
13 or rural areas.

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

15 (iii) Minority communities.

16 (iv) Women.

17 (v) Children

18 (vi) Unemployed workers.

19 (vii) Veterans.

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

(2) The department may study and report on the short-term and long-term fiscal and programmatic impact on the health care consumer of changes in ownership of hospitals from nonprofit to profit, whether through purchase, merger or the like. The department may also study and report on factors which have the effect of either reducing provider revenue or increasing provider cost, and other factors beyond a provider's control which reduce provider competitiveness in the marketplace, are explained in the reports.

Section 12. Enforcement; penalty.

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

(b) Penalty.--

(1) Any person who fails to supply data pursuant to section 6 may be assessed a civil penalty not to exceed \$1,000 for each day the data is not submitted.

(2) Any person who knowingly submits inaccurate data under section 6 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 13. Research and demonstration projects.

The council shall actively encourage research and demonstrations to design and test improved methods of assessing

1 provider quality, provider service effectiveness and efficiency.  
2 To that end, provided that no data submission requirements in a  
3 mandated demonstration may exceed the current reserve field on  
4 the Pennsylvania Uniform Claims and Billing Form, the council  
5 may:

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

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

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

18 Section 14. Grievances and grievance procedures.

19 (a) Procedures and requirements.--Pursuant to its powers to  
20 publish regulations under section 5(b) and with the requirements  
21 of this section, the council is hereby authorized and directed  
22 to establish procedures and requirements for the filing, hearing  
23 and adjudication of grievances against the council of any data  
24 source. Such procedures and requirements shall be published in  
25 the Pennsylvania Bulletin pursuant to law.

26 (b) Claims; hearings.--Grievance claims of any data source  
27 shall be submitted to the council or to a third party designated  
28 by the council, and the council or the designated third party  
29 shall convene a hearing, if requested, and adjudicate the  
30 grievance.

1 Section 15. Antitrust provisions.

2 Persons or entities required to submit data or information  
3 under this act or receiving data or information from the council  
4 in accordance with this act are declared to be acting pursuant  
5 to State requirements embodied in this act and shall be exempt  
6 from antitrust claims or actions grounded upon submission or  
7 receipt of such data or information.

8 Section 16. Contracts with vendors.

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

15 (1) The council shall prepare specifications fully  
16 describing the services to be rendered or equipment or  
17 supplies to be provided by a vendor and shall make these  
18 specifications available for inspection by any person at the  
19 council's offices during normal working hours and at such  
20 other places and such other times as the council deems  
21 advisable.

22 (2) The council shall publish notice of invitations to  
23 bid in the Pennsylvania Bulletin. The council shall also  
24 publish such notice in at least four newspapers in general  
25 circulation in the Commonwealth on at least three occasions  
26 at intervals of not less than three days. Said notice shall  
27 include at least the following:

28 (i) The deadline for submission of bids by  
29 prospective vendors, which shall be no sooner than 30  
30 days following the latest publication of the notice as

1           prescribed in this paragraph.

2           (ii) The locations, dates and times during which  
3           prospective vendors can examine the specifications  
4           required in paragraph (1).

5           (iii) The date, time and place of the meeting or  
6           meetings of the council at which bids will be opened and  
7           accepted.

8           (iv) A statement to the effect that any person is  
9           eligible to bid.

10          (3) Bids shall be accepted as follows:

11           (i) No council member who is affiliated in any way  
12           with any bidder shall vote on the awarding of any  
13           contract for which said bidder has submitted a bid, and  
14           any council member who has an affiliation with a bidder  
15           shall state the nature of the affiliation prior to any  
16           vote of the council.

17           (ii) Bids shall be opened and reviewed by the  
18           appropriate council committee, which shall make  
19           recommendations to the council on approval. Bids shall be  
20           accepted and such acceptance shall be announced only at a  
21           public meeting of the council as defined in section 4(e),  
22           and no bids shall be accepted at an executive session of  
23           the council.

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

28          (4) In order to prevent any party from deliberately  
29          underbidding contracts in order to gain or prevent access to  
30          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 the Appropriations Committee of the House of Representatives.

#### Section 18. Severability.

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



1       Section 2.   Section 19 of the act is reenacted and amended to  
2 read:

3   Section 19.   Sunset.

4       This act shall expire June 30, [2008] 2009, unless reenacted  
5 prior to that date. By September 1, 2007, a written report by  
6 the Legislative Budget and Finance Committee evaluating the  
7 management, visibility, awareness and performance of the council  
8 shall be provided to the Public Health and Welfare Committee of  
9 the Senate and the Health and Human Services Committee of the  
10 House of Representatives. The report shall include a review of  
11 the council's procedures and policies, the availability and  
12 quality of data for completing reports [to hospitals and outside  
13 vendor purchasers], the ability of the council to become self-  
14 sufficient by selling data to outside purchasers, whether there  
15 is a more cost-efficient way of accomplishing the objectives of  
16 the council and the need for reauthorization of the council.

17       Section 3.   Section 20 of the act is reenacted to read:

18   Section 20.   Effective date.

19       This act shall take effect immediately.

20       Section 4.   This act shall take effect immediately.