

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1372** Session of
2008

INTRODUCED BY FONTANA, TARTAGLIONE, LAVALLE, MUSTO, C. WILLIAMS,
STOUT, M. WHITE, PIPPY, KASUNIC, BOSCOLA, BROWNE, O'PAKE,
RHOADES, COSTA, WOZNIAK, WASHINGTON, STACK, FERLO, REGOLA AND
A. WILLIAMS, APRIL 14, 2008

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,
JUNE 25, 2008

AN ACT

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

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

13 Section 1. Sections 4(f), 5(c) and (d), 6(a)(1) and (d), 10
14 (b)(5) and 19 of the act of July 8, 1986 (P.L.408, No.89), known
15 as the Health Care Cost Containment Act, reenacted and amended
16 July 17, 2003 (P.L.31, No.14), are amended to read:

17 Section 4. Health Care Cost Containment Council.

18 * * *

19 (f) Bylaws.--The council shall adopt bylaws, not
20 inconsistent with this act, and may appoint such committees or

1 elect such officers subordinate to those provided for in
2 subsection (c) as it deems advisable. The council shall provide
3 for the approval and participation of additional delegates
4 appointed under subsection (b)(7) and (8) so that each
5 organization represented by delegates under those paragraphs
6 shall not have more than one vote on any committee to which they
7 are appointed. The council shall also appoint a technical
8 advisory group which shall, on an ad hoc basis, respond to
9 issues presented to it by the council or committees of the
10 council and shall make recommendations to the council. The
11 technical advisory group shall include physicians, researchers,
12 biostatisticians, one representative of the Hospital and
13 Healthsystem Association of Pennsylvania and one representative
14 of the Pennsylvania Medical Society. The Hospital and
15 Healthsystem Association of Pennsylvania and the Pennsylvania
16 Medical Society representatives shall not be subject to
17 executive committee approval. In appointing other physicians,
18 researchers and biostatisticians to the technical advisory
19 group, the council shall consult with and take nominations from
20 the representatives of the Hospital Association of Pennsylvania,
21 the Pennsylvania Medical Society, the Pennsylvania Osteopathic
22 Medical Society or other like organizations. At its discretion
23 and in accordance with this section, nominations shall be
24 approved by the executive committee of the council. If the
25 subject matter of any project exceeds the expertise of the
26 technical advisory group, physicians in appropriate specialties
27 who possess current knowledge of the issue under study may be
28 consulted. The technical advisory group shall also review the
29 availability and reliability of severity of illness measurements
30 as they relate to small hospitals and psychiatric,

1 rehabilitation and children's hospitals and shall make
2 recommendations to the council based upon this review. Meetings
3 of the technical advisory group shall be open to the general
4 public.

5 * * *

6 Section 5. Powers and duties of the council.

7 * * *

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

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

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

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

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

1 beyond presentation of audit findings to the council.

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

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

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

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

24 (4) Adopt [and implement a methodology to collect and
25 disseminate data reflecting provider quality and provider
26 service effectiveness pursuant to section 6] methodologies
27 for risk-adjusting provider quality data.

28 (5) Subject to the restrictions on access to raw data
29 set forth in section 10, issue special reports and make
30 available raw data as defined in section 3 to any purchaser

1 requesting it. Sale by any recipient or exchange or
2 publication by a recipient, other than a purchaser, of raw
3 council data to other parties without the express written
4 consent of, and under terms approved by, the council shall be
5 unauthorized use of data pursuant to section 10(c).

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

13 (7) Promote competition in the health care and health
14 insurance markets.

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

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

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

1 care; ambulatory service facilities; freestanding emergency
2 centers; birthing centers; and hospice care. These reports
3 shall be submitted to the General Assembly and shall be made
4 available to the public.

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

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

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

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

27 (iii) One representative of insurance.

28 (iv) One representative of labor.

29 (v) One representative of business.

30 (vi) Two representatives of the general public.

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

11 Section 6. Data submission and collection.

12 (a) (1) Submission of data.--The council is hereby
13 authorized to collect and data sources are hereby required to
14 submit, upon request of the council, all data required in
15 this section, according to uniform submission formats, coding
16 systems and other technical specifications necessary to
17 render the incoming data substantially valid, consistent,
18 compatible and manageable using electronic data processing
19 according to data submission schedules, such schedules to
20 avoid, to the extent possible, submission of identical data
21 from more than one data source, established and promulgated
22 by the council in regulations pursuant to its authority under
23 section 5(b). If payor data is requested by the council, it
24 shall, to the extent possible, be obtained from primary payor
25 sources. The council shall not require any data sources to
26 contract with any specific vendor for submission of any
27 specific data elements to the council.

28 * * *

29 (d) Provider quality [and provider service effectiveness
30 data elements].--In carrying out its duty to collect data on

1 provider quality [and provider service effectiveness] under
2 section 5(d)(4) [and subsection (c)(21)], the council shall
3 define a methodology to measure [provider service effectiveness]
4 quality, which may include additional data elements to be
5 specified by the council sufficient to carry out its
6 responsibilities under section 5(d)(4). [The council may adopt a
7 nationally recognized methodology of quantifying and collecting
8 data on provider quality and provider service effectiveness
9 until such time as the council has the capability of developing
10 its own methodology and standard data elements. The council
11 shall include in the Pennsylvania Uniform Claims and Billing
12 Form a field consisting of the data elements required pursuant
13 to subsection (c)(21) to provide information on each provision
14 of covered services sufficient to permit analysis of provider
15 quality and provider service effectiveness within 180 days of
16 commencement of its operations pursuant to section 4. In
17 carrying out its responsibilities, the council shall not require
18 health care insurers to report on data elements that are not
19 reported to nationally recognized accrediting organizations, to
20 the Department of Health or to the Insurance Department in
21 quarterly or annual reports. The council shall not require
22 reporting by health care insurers in different formats than are
23 required for reporting to nationally recognized accrediting
24 organizations or on quarterly or annual reports submitted to the
25 Department of Health or to the Insurance Department. The council
26 may adopt the quality findings as reported to nationally
27 recognized accrediting organizations.] Additional quality data
28 elements must be defined and released for public comment prior
29 to the promulgation of regulations pursuant to section 5(b).

30 * * *

1 Section 10. Access to council data.

2 * * *

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

8 * * *

9 (5) Any raw data disclosing discounts or differentials
10 between payments accepted by providers for services and their
11 billed charges obtained by identified payors from identified
12 providers unless the data is released in a Statewide,
13 aggregate format that does not identify any individual payor
14 or class of payors and the council assures that the release
15 of such information is not prejudicial or inequitable to any
16 individual payor or provider or group thereof. Payor data
17 shall be released to individual providers for purposes of
18 verification and validation prior to inclusion in a public
19 report.

20 * * *

21 Section 19. Sunset.

22 This act shall expire [June 30, 2008] June 30, 2013, unless
23 reenacted prior to that date. By September 1, [2007] 2012, a
24 written report by the Legislative Budget and Finance Committee
25 evaluating the management, visibility, awareness and performance
26 of the council shall be provided to the Public Health and
27 Welfare Committee of the Senate and the Health and Human
28 Services Committee of the House of Representatives. The report
29 shall include a review of the council's procedures and policies,

1 the availability and quality of data for completing reports [to
2 hospitals and outside vendor purchasers, the ability of the
3 council to become self-sufficient by selling data to outside
4 purchasers], whether there is a more cost-efficient way of
5 accomplishing the objectives of the council and the need for
6 reauthorization of the council.

7 Section 2. This act shall take effect ~~immediately~~. AS ←

8 FOLLOWS:

9 (1) THE AMENDMENT OF SECTIONS 5(D)(4) AND 6 OF THE ACT
10 SHALL TAKE EFFECT OCTOBER 1, 2009.

11 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
12 IMMEDIATELY.