

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 173 Session of 2009

INTRODUCED BY EACHUS, FEBRUARY 2, 2009

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 2, 2009

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 definitions, for the
 8 council and its powers and duties, for data submission,
 9 collection, dissemination and publication, for health care
 10 for the medically indigent, for mandated health benefits, for
 11 access to council data, for special studies and reports,
 12 enforcement and penalties, for research and demonstration
 13 projects, for grievances and grievance procedures, for
 14 antitrust, for contracts with vendors and for reporting;
 15 providing for establishment of a health care cost containment
 16 council act review committee; and further providing for
 17 severability and for sunset.

18 The General Assembly of the Commonwealth of Pennsylvania
 19 hereby enacts as follows:

20 Section 1. The title and sections 1 and 2 of the act of July
 21 8, 1986 (P.L.408, No.89), known as the Health Care Cost
 22 Containment Act, reenacted and amended July 17, 2003 (P.L.31,
 23 No.14), are reenacted to read:

24 AN ACT

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

1 containment through the collection and dissemination of data,
2 for public accountability of health care costs and for health
3 care for the indigent; and making an appropriation.

4 Section 1. Short title.

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

7 Section 2. Legislative finding and declaration.

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

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

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

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

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

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

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

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

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

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

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

23 Section 2. Sections 3, 4, 5 and 6 of the act are reenacted
24 and amended to read:

25 Section 3. Definitions.

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

29 "Ambulatory service facility." A facility licensed in this
30 Commonwealth, not part of a hospital, which provides medical,

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

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

11 "Committee." The Health Care Cost Containment Council Act
12 Review Committee.

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

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

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

1 plan corporations as defined in 40 Pa.C.S. Ch. 63 (relating to
2 professional health services plan corporations); commercial
3 insurer with a certificate of authority issued by the Insurance
4 Department providing health or accident insurance; self-insured
5 employer providing health or accident coverage or benefits for
6 employees employed in the Commonwealth; administrator of a self-
7 insured or partially self-insured health or accident plan
8 providing covered services in the Commonwealth; any health and
9 welfare fund that provides health or accident benefits or
10 insurance pertaining to covered service in the Commonwealth; the
11 Department of Public Welfare for those covered services it
12 purchases or provides through the medical assistance program
13 under the act of June 13, 1967 (P.L.31, No.21), known as the
14 Public Welfare Code, and any other payor for covered services in
15 the Commonwealth other than an individual.

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

22 "Health care insurer." Any person, corporation or other
23 entity that offers administrative, indemnity or payment services
24 for health care in exchange for a premium or service charge
25 under a program of health care benefits, including, but not
26 limited to, an insurance company, association or exchange
27 issuing health insurance policies in this Commonwealth; hospital
28 plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to
29 hospital plan corporations); professional health services plan
30 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to

1 professional health services plan corporations); health
2 maintenance organization; preferred provider organization;
3 fraternal benefit societies; beneficial societies; and third-
4 party administrators; but excluding employers, labor unions or
5 health and welfare funds jointly or separately administered by
6 employers or labor unions that purchase or self-fund a program
7 of health care benefits for their employees or members and their
8 dependents.

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

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

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

26 "Major ambulatory service." Surgical or medical procedures,
27 including diagnostic and therapeutic radiological procedures,
28 commonly performed in hospitals or ambulatory service
29 facilities, which are not of a type commonly performed or which
30 cannot be safely performed in physicians' offices and which

1 require special facilities such as operating rooms or suites or
2 special equipment such as fluoroscopic equipment or computed
3 tomographic scanners, or a postprocedure recovery room or short-
4 term convalescent room.

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

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

13 "Payment." The payments that providers actually accept for
14 their services, exclusive of charity care, rather than the
15 charges they bill.

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

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

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

1 "Provider." A hospital, an ambulatory service facility or a
2 physician.

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

8 "Provider service effectiveness." The effectiveness of
9 services rendered by a provider, determined by measurement of
10 the medical outcome of patients grouped by severity receiving
11 those services.

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

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

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

25 Section 4. Health Care Cost Containment Council.

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

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

1 following:

2 (1) The Secretary of Health.

3 (2) The Secretary of Public Welfare.

4 (3) The Insurance Commissioner.

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

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

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

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

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

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

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

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

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

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

25 (11) One representative of health maintenance
26 organizations, appointed by the Governor [from a list of
27 three qualified persons recommended by the Managed Care
28 Association of Pennsylvania].

29 (12) In the case of each appointment to be made from a
30 list supplied by a specified organization, it is incumbent

1 upon that organization to consult with and provide a list
2 which reflects the input of other equivalent organizations
3 representing similar interests. Each appointing authority
4 will have the discretion to request additions to the list
5 originally submitted. Additional names will be provided not
6 later than 15 days after such request. Appointments shall be
7 made by the appointing authority no later than 90 days after
8 receipt of the original list. If, for any reason, any
9 specified organization supplying a list should cease to
10 exist, then the respective appointing authority shall specify
11 a new equivalent organization to fulfill the responsibilities
12 of this act.

13 (c) Chairperson and vice chairperson.--The members shall
14 annually elect, by a majority vote of the members, a chairperson
15 and a vice chairperson of the council from among the business
16 and labor representatives on the council.

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

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

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

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

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

18 (4) All action taken by the council shall be taken in
19 open public session, and action of the council shall not be
20 taken except upon the affirmative vote of a majority of the
21 members of the council present during meetings at which a
22 quorum is present.

23 (f) Bylaws.--The council shall adopt bylaws, not
24 inconsistent with this act, and may appoint such committees or
25 elect such officers subordinate to those provided for in
26 subsection (c) as it deems advisable. The council shall provide
27 for the approval and participation of additional delegates
28 appointed under subsection (b) (7) and (8) so that each
29 organization represented by delegates under those paragraphs
30 shall not have more than one vote on any committee to which they

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

29 (g) Compensation and expenses.--The members of the council
30 shall not receive a salary or per diem allowance for serving as

1 members of the council but shall be reimbursed for actual and
2 necessary expenses incurred in the performance of their duties.
3 Said expenses may include reimbursement of travel and living
4 expenses while engaged in council business.

5 (h) Terms of council members.--

6 (1) The terms of the Secretary of Health, the Secretary
7 of Public Welfare and the Insurance Commissioner shall be
8 concurrent with their holding of public office. The council
9 members under subsection (b) (4) through (11) shall each serve
10 for a term of four years and shall continue to serve
11 thereafter until their successor is appointed.

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

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

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

30 (j) Subsequent appointments.--Submission of lists of

1 recommended persons and appointments of council members for
2 succeeding terms shall be made in the same manner as prescribed
3 in subsection (b), except that:

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

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

19 Section 5. Powers and duties of the council.

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

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

1 16.

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

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

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

19 (4.1) To provide hospitals with individualized data on
20 patient safety indicators pursuant to section 6(c)(7). The
21 data shall be risk adjusted and made available to hospitals
22 electronically and free of charge on a quarterly basis within
23 45 days of receipt of the corrected quarterly data from the
24 hospitals. The data is intended to provide the patient safety
25 committee of each hospital with information necessary to
26 assist in conducting patient safety analysis.

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

29 (b) Rules and regulations.--The council shall promulgate
30 rules and regulations in accordance with the act of June 25,

1 1982 (P.L.633, No.181), known as the Regulatory Review Act,
2 necessary to carry out its duties under this act. This
3 subsection shall not apply to regulations in effect on June 30,
4 [2003] 2008.

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

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

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

23 (3) All audits performed by the council shall be
24 performed at the expense of the council.

25 (4) The results of audits of providers or health care
26 insurers shall be provided to the audited providers and
27 health care insurers on a timely basis, not to exceed 30 days
28 beyond presentation of audit findings to the council.

29 (d) General duties and functions.--The council is hereby
30 authorized to and shall perform the following duties and

1 functions:

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

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

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

21 (4) Adopt and implement a methodology to collect and
22 disseminate data reflecting provider quality and provider
23 service effectiveness pursuant to section 6.

24 (5) Subject to the restrictions on access to raw data
25 set forth in section 10, issue special reports and make
26 available raw data as defined in section 3 to any purchaser
27 requesting it. Sale by any recipient or exchange or
28 publication by a recipient, other than a purchaser, of raw
29 council data to other parties without the express written
30 consent of, and under terms approved by, the council shall be

1 unauthorized use of data pursuant to section 10(c).

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

9 (7) Promote competition in the health care and health
10 insurance markets.

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

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

22 (12) Conduct studies and publish reports thereon
23 analyzing the effects that noninpatient, alternative health
24 care delivery systems have on health care costs. These
25 systems shall include, but not be limited to: HMO's; PPO's;
26 primary health care facilities; home health care; attendant
27 care; ambulatory service facilities; freestanding emergency
28 centers; birthing centers; and hospice care. These reports
29 shall be submitted to the General Assembly and shall be made
30 available to the public.

1 (13) Conduct studies and make reports concerning the
2 utilization of experimental and nonexperimental transplant
3 surgery and other highly technical and experimental
4 procedures, including costs and mortality rates.

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

19 (i) One representative of the Hospital and
20 Healthsystem Association of Pennsylvania.

21 (ii) One representative of the Pennsylvania Medical
22 Society.

23 (iii) One representative of insurance.

24 (iv) One representative of labor.

25 (v) One representative of business.

26 (vi) Two representatives of the general public.

27 (15) The council shall execute a request for proposals
28 with third-party vendors for the purpose of demonstrating a
29 methodology for the collection, analysis and reporting of
30 hospital-specific complication rates. The results of this

1 demonstration shall be provided to the chairman and minority
2 chairman of the Public Health and Welfare Committee of the
3 Senate and the chairman and minority chairman of the Health
4 and Human Services Committee of the House of Representatives.

5 This methodology may be utilized by the council for public
6 reporting on comparative hospital complication rates.]

7 Section 6. Data submission and collection.

8 (a) [(1)] Submission of data.--

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

25 (1.1) Any data source shall comply with data submission
26 guidelines established in the report submitted under section
27 17.2. The council shall maintain a vendor list of at least
28 two vendors that may be chosen by any data source for
29 submission of any specific data elements.

30 (2) Except as provided in this section, the council may

1 adopt any nationally recognized methodology to adjust data
2 submitted under subsection (c) for severity of illness. Every
3 three years after the effective date of this paragraph, the
4 council shall solicit bids from third-party vendors to adjust
5 the data. The solicitation shall be in accordance with 62
6 Pa.C.S. (relating to procurement). Except as provided in
7 subparagraph (i), in carrying out its responsibilities, the
8 council shall not require health care facilities to report
9 data elements which are not included in the manual developed
10 by the national uniform billing committee. The [following
11 apply:

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

1 [(ii) If the current data vendor is unable to
2 achieve, on a per-chart basis, savings of at least 40% in
3 the cost of hospital compliance with the data abstracting
4 and submission requirements of this act by June 30, 2004,
5 as compared to June 30, 2003, then the council shall
6 disqualify the current vendor and reopen the bidding
7 process. The independent auditor shall determine the
8 extent and validity of the savings. In determining any
9 demonstrated cost savings, surveys of all hospitals in
10 this Commonwealth shall be conducted and consideration
11 shall be given at a minimum to:

12 (A) new costs, in terms of making the
13 methodology operational, associated with laboratory,
14 pharmacy and other information systems a hospital is
15 required to purchase in order to reduce hospital
16 compliance costs, including the cost of electronic
17 transfer of required data; and

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

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

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

28 (1) The council shall establish a data abstraction and
29 technology work group to produce recommendations for
30 improving and refining the data required by the council and

1 reducing, through innovative direct data collection
2 techniques, the cost of collecting required data. The work
3 group shall consist of the following members appointed by the
4 council:

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

7 (ii) one member representing the business community;

8 (iii) one member representing labor;

9 (iv) one member representing consumers;

10 (v) two members representing physicians;

11 (vi) two members representing nurses;

12 (vii) two members representing hospitals;

13 (viii) one member representing health underwriters;

14 and

15 (ix) one member representing commercial insurance
16 carriers.

17 (2) The work group, with approval of the council, may
18 hire an independent auditor to determine the value of various
19 data sets. The work group shall have no more than one year to
20 study current data requirements and methods of collecting and
21 transferring data and to make recommendations for changes to
22 produce a 50% overall reduction in the cost of collecting and
23 reporting required data to the council while maintaining the
24 scientific credibility of the council's analysis and
25 reporting. The work group recommendations shall be presented
26 to the council for a vote.]

27 (b) Pennsylvania Uniform Claims and Billing Form.--The
28 council shall [adopt, within 180 days of the commencement of its
29 operations pursuant to section 4(i),] maintain a Pennsylvania
30 Uniform Claims and Billing Form format. The council shall

1 furnish said claims and billing form format to all data sources,
2 and said claims and billing form shall be utilized and
3 maintained by all data sources for all services covered by this
4 act. The Pennsylvania Uniform Claims and Billing Form shall
5 consist of the Uniform Hospital Billing Form UB-82/HCFB-1450,
6 and the HCFA-1500, or their successors, as developed by the
7 National Uniform Billing Committee, with additional fields as
8 necessary to provide all of the data set forth in subsections
9 (c) and (d).

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

- 13 (1) uniform patient identifier, continuous across
14 multiple episodes and providers;
- 15 (2) patient date of birth;
- 16 (3) patient sex;
- 17 (3.1) patient race, consistent with the method of
18 collection of race/ethnicity data by the United States Bureau
19 of the Census and the United States Standard Certificates of
20 Live Birth and Death;
- 21 (4) patient ZIP Code number;
- 22 (5) date of admission;
- 23 (6) date of discharge;
- 24 (7) principal and secondary diagnoses by standard code,
25 including external cause of injury, complication, infection
26 and childbirth;
- 27 (8) principal procedure by council-specified standard
28 code and date;
- 29 (9) up to three secondary procedures by council-
30 specified standard codes and dates;

1 (10) uniform health care facility identifier, continuous
2 across episodes, patients and providers;

3 (11) uniform identifier of admitting physician, by
4 unique physician identification number established by the
5 council, continuous across episodes, patients and providers;

6 (12) uniform identifier of consulting physicians, by
7 unique physician identification number established by the
8 council, continuous across episodes, patients and providers;

9 (13) total charges of health care facility, segregated
10 into major categories, including, but not limited to, room
11 and board, radiology, laboratory, operating room, drugs,
12 medical supplies and other goods and services according to
13 guidelines specified by the council;

14 (14) actual payments to health care facility,
15 segregated, if available, according to the categories
16 specified in paragraph (13);

17 (15) charges of each physician or professional rendering
18 service relating to an incident of hospitalization or
19 treatment in an ambulatory service facility;

20 (16) actual payments to each physician or professional
21 rendering service pursuant to paragraph (15);

22 (17) uniform identifier of primary payor;

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

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

26 (20) patient discharge status; and

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

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

1 quality and provider service effectiveness under section 5(d)(4)
2 and subsection (c)(21), the council shall define a methodology
3 to measure provider service effectiveness which may include
4 additional data elements to be specified by the council
5 sufficient to carry out its responsibilities under section 5(d)
6 (4). The council may adopt a nationally recognized methodology
7 of quantifying and collecting data on provider quality and
8 provider service effectiveness until such time as the council
9 has the capability of developing its own methodology and
10 standard data elements. The council shall include in the
11 Pennsylvania Uniform Claims and Billing Form a field consisting
12 of the data elements required pursuant to subsection (c)(21) to
13 provide information on each provision of covered services
14 sufficient to permit analysis of provider quality and provider
15 service effectiveness within 180 days of commencement of its
16 operations pursuant to section 4. In carrying out its
17 responsibilities, the council shall not require health care
18 insurers to report on data elements that are not reported to
19 nationally recognized accrediting organizations, to the
20 Department of Health or to the Insurance Department in quarterly
21 or annual reports. The council shall not require reporting by
22 health care insurers in different formats than are required for
23 reporting to nationally recognized accrediting organizations or
24 on quarterly or annual reports submitted to the Department of
25 Health or to the Insurance Department. The council may adopt the
26 quality findings as reported to nationally recognized
27 accrediting organizations. Additional quality data elements must
28 be defined and released for public comment prior to the
29 promulgation of regulations under section 5(b). The public
30 comment period shall be no less than 30 days from the release of

1 these elements.

2 (e) Reserve field utilization and addition or deletion of
3 data elements.--The council shall include in the Pennsylvania
4 Uniform Claims and Billing Form a reserve field. The council may
5 utilize the reserve field by adding other data elements beyond
6 those required to carry out its responsibilities under section
7 5(d) (3) and (4) and subsections (c) and (d), or the council may
8 delete data elements from the Pennsylvania Uniform Claims and
9 Billing Form only by a majority vote of the council and only
10 pursuant to the following procedure:

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

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

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

24 (f) Other data required to be submitted.--Providers are
25 hereby required to submit and the council is hereby authorized
26 to collect, in accordance with submission dates and schedules
27 established by the council, the following additional data,
28 provided such data is not available to the council from public
29 records:

30 (1) Audited annual financial reports of all hospitals

1 and ambulatory service facilities providing covered services
2 as defined in section 3.

3 (2) The Medicare cost report (OMB Form 2552 or
4 equivalent Federal form), or the AG-12 form for Medical
5 Assistance or successor forms, whether completed or partially
6 completed, and including the settled Medicare cost report and
7 the certified AG-12 form.

8 (3) Additional data, including, but not limited to, data
9 which can be used to provide at least the following
10 information:

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

13 (ii) physicians who provide covered services and
14 accept medical assistance patients;

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

17 (v) mortality rates for specified diagnoses and
18 treatments, grouped by severity, for individual
19 providers;

20 (vi) rates of infection for specified diagnoses and
21 treatments, grouped by severity, for individual
22 providers;

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

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

29 (ix) rate of incidence of postdischarge professional
30 care for selected diagnoses and procedures, grouped by

1 severity, for individual providers.

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

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

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

21 (g.1) Allowance for correction.--The council shall verify
22 the patient safety indicator data submitted by hospitals
23 pursuant to subsection (c)(7) within 60 days of receipt. The
24 council may allow hospitals to make changes to the data
25 submitted during the verification period. After the verification
26 period, but within 45 days of receipt of the adjusted hospital
27 data, the council shall risk adjust the information and provide
28 reports to the patient safety committee of the relevant
29 hospital.

30 (h) Availability of data.--Nothing in this act shall

1 prohibit a purchaser from obtaining from its health care
2 insurer, nor relieve said health care insurer from the
3 obligation of providing said purchaser, on terms consistent with
4 past practices, data previously provided or additional data not
5 currently provided to said purchaser by said health care insurer
6 pursuant to any existing or future arrangement, agreement or
7 understanding.

8 Section 3. Sections 7, 8 and 9 of the act are reenacted to
9 read:

10 Section 7. Data dissemination and publication.

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

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

27 (i) Differences in mortality rates; differences in
28 length of stay; differences in complication rates;
29 differences in readmission rates; differences in
30 infection rates; and other comparative outcome measures

1 the council may develop that will allow purchasers,
2 providers and consumers to make purchasing and quality
3 improvement decisions based upon quality patient care and
4 to restrain costs.

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

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

20 (b) Raw data reports and computer access to council data.--
21 The council shall provide special reports derived from raw data
22 and a means for computer-to-computer access to its raw data to
23 any purchaser, pursuant to section 10(f). The council shall
24 provide such reports and computer-to-computer access, at its
25 discretion, to other parties, pursuant to section 10(g). The
26 council shall provide these special reports and computer-to-
27 computer access in as timely a fashion as the council's
28 responsibilities to publish the public reports required in this
29 section will allow. Any such provision of special reports or
30 computer-to-computer access by the council shall be made only

1 subject to the restrictions on access to raw data set forth in
2 section 10(b) and only after payment for costs of preparation or
3 duplication pursuant to section 10(f) or (g).

4 Section 8. Health care for the medically indigent.

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

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

24 (1) Study and analyze the medically indigent population,
25 the magnitude of uncompensated care for the medically
26 indigent, the degree of access to and the result of any lack
27 of access by the medically indigent to appropriate care, the
28 types of providers and the settings in which they provide
29 indigent care and the cost of the provision of that care
30 pursuant to subsection (c).

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

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

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

20 (i) the needs and problems of indigent persons in
21 urban areas;

22 (ii) the needs and problems of indigent persons in
23 rural areas;

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

26 (iv) the needs and problems of indigent persons in
27 areas of high unemployment; and

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

29 (2) the degree of and any change in access of this
30 population to sources of health care, including hospitals,

1 physicians and other providers;

2 (3) the distribution and means of financing indigent
3 care between and among providers, insurers, government,
4 purchasers and consumers, and the effect of that distribution
5 on each;

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

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

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

17 (7) the provision of care to the indigent through
18 improvements in the primary health care system, including the
19 management of needed hospital care by primary care providers;

20 (8) innovative means to finance and deliver care to the
21 medically indigent; and

22 (9) reduction in the dependence of indigent persons on
23 hospital services through improvements in preventive health
24 measures.

25 Section 9. Mandated health benefits.

26 In relation to current law or proposed legislation, the
27 council shall, upon the request of the appropriate committee
28 chairman in the Senate and in the House of Representatives or
29 upon the request of the Secretary of Health, provide information
30 on the proposed mandated health benefit pursuant to the

1 following:

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

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

21 (i) one in health research;

22 (ii) one in biostatistics;

23 (iii) one in economic research;

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

27 (v) one with experience in insurance or actuarial
28 research.

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

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

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

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

8 (B) Whether or not the research cited in the
9 documentation meets professional standards.

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

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

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

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

26 (ii) The extent to which insurance coverage for the
27 proposed benefit already exists, or if no such coverage
28 exists, the extent to which this lack of coverage results
29 in inadequate health care or financial hardship for the
30 population of the Commonwealth.

1 (iii) The demand for the proposed benefit from the
2 public and the source and extent of opposition to
3 mandating the benefit.

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

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

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

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

18 (viii) Evidence of the financial impact of the
19 proposed legislation, including at least:

20 (A) The extent to which the proposed benefit
21 would increase or decrease cost for treatment or
22 service.

23 (B) The extent to which similar mandated
24 benefits in other states have affected charges, costs
25 and payments for services.

26 (C) The extent to which the proposed benefit
27 would increase the appropriate use of the treatment
28 or service.

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

1 (E) The impact of the proposed benefits on
2 benefits costs of purchasers.

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

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

7 (i) Any person wishing to submit information on
8 proposed legislation mandating insurance benefits for
9 review by the panel should submit the documentation
10 specified in paragraph (4) to the council.

11 (ii) The council shall, within 30 days of receipt of
12 the documentation:

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

18 (B) Submit copies of the documentation to the
19 Secretary of Health and the Insurance Commissioner,
20 who shall review and submit comments to the council
21 on the proposed legislation within 30 days.

22 (C) Submit copies of the documentation to the
23 panel, which shall review the documentation and issue
24 their findings, pursuant to paragraph (3), within 90
25 days.

26 (iii) Upon receipt of the comments of the Secretary
27 of Health and the Insurance Commissioner and of the
28 findings of the panel, pursuant to subparagraph (ii), but
29 no later than 120 days following the publication required
30 in subparagraph (ii), the council shall submit said

1 comments and findings, together with its recommendations
2 respecting the proposed legislation, to the Governor, the
3 President pro tempore of the Senate, the Speaker of the
4 House of Representatives, the Secretary of Health, the
5 Insurance Commissioner and the person who submitted the
6 information pursuant to subparagraph (i).

7 Section 4. Section 10 of the act is reenacted and amended to
8 read:

9 Section 10. Access to council data.

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

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

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

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

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

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

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

15 (5) Any raw data disclosing discounts or differentials
16 between payments accepted by providers for services and their
17 billed charges obtained by identified payors from identified
18 providers unless the data is released in a Statewide,
19 aggregate format that does not identify any individual payor
20 or class of payors and the council assures that the release
21 of such information is not prejudicial or inequitable to any
22 individual payor or provider or group thereof. Payor data
23 shall be released to individual providers for purposes of
24 verification and validation prior to inclusion in a public
25 report. An individual provider shall verify and validate the
26 payor data within 30 days of its release to that specific
27 individual provider.

28 (c) Unauthorized use of data.--Any person who knowingly
29 releases council data violating the patient confidentiality,
30 actual payments, discount data or raw data safeguards set forth

1 in this section to an unauthorized person commits a misdemeanor
2 of the first degree and shall, upon conviction, be sentenced to
3 pay a fine of \$10,000 or to imprisonment for not more than five
4 years, or both. An unauthorized person who knowingly receives or
5 possesses such data commits a misdemeanor of the first degree.

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

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

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

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

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

30 (3) In the event that any employer obtains from the

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

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

24 (g) Access to raw council data by other parties.--Subject to
25 the limitations on access to raw council data set forth in
26 subsection (b), the council may, at its discretion, provide
27 special reports derived from its raw data or computer-to-
28 computer access to parties other than purchasers. The council
29 shall publish regulations that set forth the criteria and the
30 procedure it shall use in making determinations on such access,

1 pursuant to the powers vested in the council in section 4. In
2 providing such access, the council shall charge the party
3 requesting the access a reasonable fee.

4 Section 5. Sections 11, 12, 13, 14, 15, 16 and 17.1 of the
5 act are reenacted to read:

6 Section 11. Special studies and reports.

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

10 (b) Special reports.--

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

15 (i) Senior citizens, particularly low-income senior
16 citizens, senior citizens who are members of minority
17 groups and senior citizens residing in low-income urban
18 or rural areas.

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

20 (iii) Minority communities.

21 (iv) Women.

22 (v) Children

23 (vi) Unemployed workers.

24 (vii) Veterans.

25 The reports shall include information on the current
26 availability of services to these targeted parts of the
27 population, and whether access to such services has increased
28 or decreased over the past ten years, and specific
29 recommendations for the improvement of their primary care and
30 health delivery systems, including disease prevention and

1 comprehensive health care services. The department may also
2 study and report on the effects of using prepaid, capitated
3 or HMO health delivery systems as ways to promote the
4 delivery of primary health care services to the underserved
5 segments of the population enumerated above.

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

15 Section 12. Enforcement; penalty.

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

25 (b) Penalty.--

26 (1) Any person who fails to supply data pursuant to
27 section 6 may be assessed a civil penalty not to exceed
28 \$1,000 for each day the data is not submitted.

29 (2) Any person who knowingly submits inaccurate data
30 under section 6 commits a misdemeanor of the third degree and

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

3 Section 13. Research and demonstration projects.

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

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

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

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

23 Section 14. Grievances and grievance procedures.

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

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

6 Section 15. Antitrust provisions.

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

13 Section 16. Contracts with vendors.

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

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

27 (2) The council shall publish notice of invitations to
28 bid in the Pennsylvania Bulletin. The council shall also
29 publish such notice in at least four newspapers in general
30 circulation in the Commonwealth on at least three occasions

1 at intervals of not less than three days. Said notice shall
2 include at least the following:

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

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

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

13 (iv) A statement to the effect that any person is
14 eligible to bid.

15 (3) Bids shall be accepted as follows:

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

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

29 (iii) The council may require that a certified
30 check, in an amount determined by the council, accompany

1 every bid, and, when so required, no bid shall be
2 accepted unless so accompanied.

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

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

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

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

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

26 Section 17.1. Reporting.

27 The council shall provide an annual report of its financial
28 expenditures to the Appropriations Committee of the Senate and
29 the Appropriations Committee of the House of Representatives.

30 Section 6. The act is amended by adding a section to read:

1 Section 17.2. Health Care Cost Containment Council Act Review
2 Committee.

3 (a) Establishment.--There is hereby established an
4 independent committee to be known as the Health Care Cost
5 Containment Council Act Review Committee.

6 (b) Composition.--The committee shall consist of the
7 following voting members composed of and appointed as follows:

8 (1) One member appointed by the Governor.

9 (2) Four members appointed by the General Assembly, one
10 of whom shall be appointed by each of the following:

11 (i) one by the President pro tempore of the Senate;

12 (ii) one by the Minority Leader of the Senate;

13 (iii) one by the Majority Leader of the House of
14 Representatives; and

15 (iv) one by the Minority Leader of the House of
16 Representatives.

17 (3) Two representatives of the business community, at
18 least one of whom represents small business, and neither of
19 whom is primarily involved in the provision of health care or
20 health insurance, one of whom shall be appointed by the
21 President pro tempore of the Senate and one of whom shall be
22 appointed by the Speaker of the House of Representatives from
23 a list of four qualified persons recommended by the
24 Pennsylvania Chamber of Business and Industry.

25 (4) Two representatives of organized labor, one of whom
26 shall be appointed by the President pro tempore of the Senate
27 and one of whom shall be appointed by the Speaker of the
28 House of Representatives from a list of four qualified
29 persons recommended by the Pennsylvania AFL-CIO.

30 (5) One representative of consumers who is not primarily

1 involved in the provision of health care or health care
2 insurance, appointed by the Governor from a list of three
3 qualified persons recommended jointly by the President pro
4 tempore of the Senate and the Speaker of the House of
5 Representatives.

6 (6) One representative of hospitals, appointed by the
7 Governor from a list of three qualified hospital
8 representatives recommended by the Hospital and Health System
9 Association of Pennsylvania.

10 (7) One representative of physicians, appointed by the
11 Governor from a list of three qualified physician
12 representatives recommended jointly by the Pennsylvania
13 Medical Society and the Pennsylvania Osteopathic Medical
14 Society.

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

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

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

26 (c) Chairperson.--The appointment made by the Governor under
27 subsection (b) (1) shall serve as chairman of the committee.

28 (d) Quorum.--Eleven members shall constitute a quorum for
29 the transaction of any business, and the act by the majority of
30 the members present at any meeting in which there is a quorum

1 shall be deemed to be the act of the committee.

2 (e) Meetings.--

3 (1) All meetings of the committee shall be advertised
4 and conducted pursuant to 65 Pa.C.S. Ch. 7 (relating to open
5 meetings).

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

11 (f) Compensation and expenses.--The members of the committee
12 shall not receive a salary or per diem allowance for serving as
13 members of the committee but shall be reimbursed for actual and
14 necessary expenses incurred in the performance of their duties.
15 Expenses may include reimbursement of travel and living expenses
16 while engaged in committee business.

17 (g) Commencement of committee.--

18 (1) Within 15 days after the effective date of this
19 section, each organization or individual required to submit a
20 list of recommended persons to the Governor, the President
21 pro tempore of the Senate or the Speaker of the House of
22 Representatives under subsection (b) shall submit the list.

23 (2) Within 30 days of the effective date of this
24 section, the Governor, the President pro tempore of the
25 Senate and the Speaker of the House of Representatives shall
26 make the appointments called for in subsection (b), and the
27 committee shall begin operations immediately following the
28 appointments.

29 (h) Responsibilities of the committee.--The committee shall
30 have the following powers and duties:

1 (1) To study, review and recommend changes to this act.

2 (2) To accept and review suggested changes to this act
3 submitted by members of the committee.

4 (3) To approve, by a majority vote of the members of the
5 committee, a report recommending statutory changes to this
6 act. The report shall include, at a minimum, the following:

7 (i) The establishment of an Internet database for
8 the general public showing Medicare reimbursement rates
9 for common covered services and treatment.

10 (ii) In consultation with experts in the fields of
11 quality data and outcome measures, the definition and
12 implementation of:

13 (A) A methodology by provider type for the
14 council to risk adjust quality data.

15 (B) A methodology for the council to collect and
16 disseminate data reflecting provider quality and
17 provider service effectiveness.

18 (4) To submit the report approved under paragraph (3) to
19 the President pro tempore of the Senate and the Speaker of
20 the House of Representatives by March 1, 2010.

21 (i) Committee support.--The council shall offer staff and
22 administrative support from the council or its work groups
23 necessary for the committee to carry out its duties under this
24 section.

25 Section 7. Section 18 of the act is reenacted to read:

26 Section 18. Severability.

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

1 the invalid provision or application.

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

4 Section 19. Sunset.

5 This act shall expire [June 30, 2008] December 31, 2014,
6 unless reenacted prior to that date. By [September 1, 2007]
7 December 31, 2013, a written report by the Legislative Budget
8 and Finance Committee evaluating the management, visibility,
9 awareness and performance of the council shall be provided to
10 the Public Health and Welfare Committee of the Senate and the
11 Health and Human Services Committee of the House of
12 Representatives. The report shall include a review of the
13 council's procedures and policies, the availability and quality
14 of data for completing reports [to hospitals and outside vendor
15 purchasers, the ability of the council to become self-sufficient
16 by selling data to outside purchasers], whether there is a more
17 cost-efficient way of accomplishing the objectives of the
18 council and the need for reauthorization of the council.

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

20 Section 20. Effective date.

21 This act shall take effect immediately.

22 Section 10. In accordance with section 11 of this act, the
23 following apply to the period from June 29, 2008, to the
24 effective date of this section:

25 (1) There is no lapse in membership on the Health Care
26 Cost Containment Council.

27 (2) Eleven members constitute a quorum.

28 (3) Any action taken by the council is validated.

29 (4) There shall be no lapse in the employment
30 relationship for employees of the council. This paragraph

1 includes salary, seniority, benefits and retirement
2 eligibility of the employees.

3 Section 11. This act shall apply as follows:

4 (1) Except as set forth in paragraph (2), this act shall
5 apply retroactively to June 29, 2008.

6 (2) The reenactment of section 6 of the act shall apply
7 retroactively under paragraph (1), but the amendment of
8 section 6 of the act shall apply from the effective date of
9 the amendment under section 12(1) of this act.

10 Section 12. This act shall take effect as follows:

11 (1) The amendment of section 6 of the act shall take
12 effect June 30, 2011.

13 (2) The remainder of this act shall take effect
14 immediately.