

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 89 Session of 2009

INTRODUCED BY VANCE, FONTANA, ERICKSON, SCARNATI, PILEGGI, ALLOWAY, BAKER, BOSCOLA, BROWNE, CORMAN, COSTA, EARLL, FARNESE, FERLO, GORDNER, GREENLEAF, HUGHES, KASUNIC, LEACH, LOGAN, MELLOW, O'PAKE, ORIE, PICCOLA, PIPPY, RAFFERTY, ROBBINS, STACK, STOUT, TARTAGLIONE, WASHINGTON, WAUGH, YAW, M. WHITE AND WARD, JANUARY 29, 2009

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 7, 2009

AN ACT

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

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

16 Section 1. The title and section 1 of the act of July 8,
17 1986 (P.L.408, No.89), known as the Health Care Cost Containment
18 Act, reenacted and amended July 17, 2003 (P.L.31, No.14), are
19 reenacted to read:

AN ACT

1 Providing for the creation of the Health Care Cost Containment
2 Council, for its powers and duties, for health care cost
3 containment through the collection and dissemination of data,
4 for public accountability of health care costs and for health
5 care for the indigent; and making an appropriation.

6 Section 1. Short title.

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

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

11 [Section 2. Legislative finding and declaration.

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

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

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

27 (2) The present system of health care cost payments by
28 third parties.

29 (3) The increasing burden of indigent care which
30 encourages cost shifting.

1 (4) The absence of a concentrated and continuous effort
2 in all segments of the health care industry to contain health
3 care costs.

4 Therefore, it is hereby declared to be the policy of the
5 Commonwealth of Pennsylvania to promote health care cost
6 containment and to identify appropriate utilization practices by
7 creating an independent council to be known as the Health Care
8 Cost Containment Council.

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

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

21 Nothing in this act shall prohibit a purchaser from obtaining
22 from its third-party insurer, carrier or administrator, nor
23 relieve said third-party insurer, carrier or administrator from
24 the obligation of providing, on terms consistent with past
25 practices, data previously provided to a purchaser pursuant to
26 any existing or future arrangement, agreement or understanding.]
27 Section 3. Definitions.

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

1 "Allowance." The maximum allowed combined payment from a
2 payor and a patient to a provider for services rendered.

3 "Ambulatory service facility." A facility licensed in this
4 Commonwealth, not part of a hospital, which provides medical,
5 diagnostic or surgical treatment to patients not requiring
6 hospitalization, including ambulatory surgical facilities,
7 ambulatory imaging or diagnostic centers, birthing centers,
8 freestanding emergency rooms and any other facilities providing
9 ambulatory care which charge a separate facility charge. This
10 term does not include the offices of private physicians or
11 dentists, whether for individual or group practices.

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

15 "Committee." The Health Care Cost Containment Council Act
16 Review Committee.

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

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

27 "Data source." A [hospital] health care facility; ambulatory
28 service facility; physician; health maintenance organization as
29 defined in the act of December 29, 1972 (P.L.1701, No.364),
30 known as the Health Maintenance Organization Act; hospital,

1 medical or health service plan with a certificate of authority
2 issued by the Insurance Department, including, but not limited
3 to, hospital plan corporations as defined in 40 Pa.C.S. Ch. 61
4 (relating to hospital plan corporations) and professional health
5 services plan corporations as defined in 40 Pa.C.S. Ch. 63
6 (relating to professional health services plan corporations);
7 commercial insurer with a certificate of authority issued by the
8 Insurance Department providing health or accident insurance;
9 self-insured employer providing health or accident coverage or
10 benefits for employees employed in the Commonwealth;
11 administrator of a self-insured or partially self-insured health
12 or accident plan providing covered services in the Commonwealth;
13 any health and welfare fund that provides health or accident
14 benefits or insurance pertaining to covered service in the
15 Commonwealth; the Department of Public Welfare for those covered
16 services it purchases or provides through the medical assistance
17 program under the act of June 13, 1967 (P.L.31, No.21), known as
18 the Public Welfare Code, and any other payor for covered
19 services in the Commonwealth other than an individual.

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

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

1 issuing health insurance policies in this Commonwealth; hospital
2 plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to
3 hospital plan corporations); professional health services plan
4 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to
5 professional health services plan corporations); health
6 maintenance organization; preferred provider organization;
7 fraternal benefit societies; beneficial societies; and third-
8 party administrators; but excluding employers, labor unions or
9 health and welfare funds jointly or separately administered by
10 employers or labor unions that purchase or self-fund a program
11 of health care benefits for their employees or members and their
12 dependents.

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

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

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

30 "Major ambulatory service." Surgical or medical procedures,

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

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

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

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

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

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

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

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

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

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

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

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

24 "Raw data" or "data." Data collected by the council under
25 section 6 [in the form initially received]. No data shall be
26 released by the council except as provided for in section 11.

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

29 Section 4. Health Care Cost Containment Council.

30 (a) Establishment.--The General Assembly hereby establishes

1 an independent council to be known as the Health Care Cost
2 Containment Council.

3 (b) Composition.--The council shall consist of voting
4 members, composed of and appointed in accordance with the
5 following:

6 (1) The Secretary of Health.

7 (2) The Secretary of Public Welfare.

8 (3) The Insurance Commissioner.

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

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

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

30 (7) Two representatives of hospitals, appointed by the

1 Governor from a list of five qualified hospital
2 representatives recommended by the Hospital and Health System
3 Association of Pennsylvania one of whom shall be a
4 representative of rural hospitals. Each representative under
5 this paragraph may appoint two additional delegates to act
6 for the representative only at meetings of committees, as
7 provided for in subsection (f).

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

15 (8.1) An individual appointed by the Governor who has
16 expertise in the application of continuous quality
17 improvement methods in hospitals.

18 (8.2) One representative of nurses, appointed by the
19 Governor from a list of three qualified representatives
20 recommended by the Pennsylvania State Nurses Association.

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

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

29 (11) One representative of health maintenance
30 organizations, appointed by the Governor [from a list of

1 three qualified persons recommended by the Managed Care
2 Association of Pennsylvania].

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

17 (c) Chairperson and vice chairperson.--The members shall
18 annually elect, by a majority vote of the members, a chairperson
19 and a vice chairperson of the council from among the business
20 and labor representatives on the council.

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

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

30 (1) The council shall meet at least once every two

1 months, and may provide for special meetings as it deems
2 necessary. Meeting dates shall be set by a majority vote of
3 the members of the council or by the call of the chairperson
4 upon seven days' notice to all council members.

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

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

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

27 (f) Bylaws.--The council shall adopt bylaws, not
28 inconsistent with this act, and may appoint such committees or
29 elect such officers subordinate to those provided for in
30 subsection (c) as it deems advisable. The council shall provide

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

1 of the technical advisory group shall be open to the general
2 public.

3 (f.1) Payment data advisory group.--

4 (1) In order to assure the technical appropriateness and
5 accuracy of payment data, the council shall establish a
6 payment data advisory group to produce recommendations
7 surrounding the collection of payment data, the analysis and
8 manipulation of payment data and the public reporting of
9 payment data. The payment data advisory group shall include
10 technical experts and individuals knowledgeable in payment
11 systems and discharge claims data. The advisory group shall
12 consist of the following members appointed by the council:

13 (i) One member representing each plan under 40
14 Pa.C.S. Ch. 61 (relating to hospital plan corporations)
15 and Ch. 63 (relating to professional health services plan
16 corporations).

17 (ii) Two members representing commercial insurance
18 carriers.

19 (iii) Three members representing health care
20 facilities.

21 (iv) Three members representing physicians.

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

25 (3) The payment data advisory group shall review and
26 concur with the technical appropriateness of the use and
27 presentation of data and report its findings to the council
28 prior to any vote to publicly release reports. If the council
29 elects to release a report without addressing the technical
30 concerns of the advisory group, it shall prominently disclose

1 this in the public report and include the comments of the
2 advisory group in the public report.

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

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

7 (ii) Manipulation, adjustments and methods used with
8 payment data.

9 (iii) Public reporting of payment data by the
10 council.

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

17 (h) Terms of council members.--

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

24 (2) Vacancies on the council shall be filled in the
25 manner designated under subsection (b), within 60 days of the
26 vacancy, except that when vacancies occur among the
27 representatives of business or organized labor, two
28 nominations shall be submitted by the organization specified
29 in subsection (b) for each vacancy on the council. If the
30 officer required in subsection (b) to make appointments to

1 the council fails to act within 60 days of the vacancy, the
2 council chairperson may appoint one of the persons
3 recommended for the vacancy until the appointing authority
4 makes the appointment.

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

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

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

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

19 (2) The officer required under subsection (b) to make
20 appointments to the council shall make said appointments at
21 least 30 days prior to expiration of the council members'
22 terms. If the appointments are not made within the specified
23 time, the council chairperson may make interim appointments
24 from the lists of recommended individuals. An interim
25 appointment shall be valid only until the appropriate officer
26 under subsection (b) makes the required appointment. Whether
27 the appointment is by the required officer or by the
28 chairperson of the council, the appointment shall become
29 effective immediately upon expiration of the incumbent
30 member's term.

1 Section 5. Powers and duties of the council.

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

5 (1) To employ an executive director, investigators and
6 other staff necessary to comply with the provisions of this
7 act and regulations promulgated thereunder, to employ or
8 retain legal counsel and to engage professional consultants,
9 as it deems necessary to the performance of its duties. Any
10 consultants, other than sole source consultants, engaged by
11 the council shall be selected in accordance with the
12 provisions for contracting with vendors set forth in section
13 16.

14 (2) To fix the compensation of all employees and to
15 prescribe their duties. Notwithstanding the independence of
16 the council under section 4(a), employees under this
17 paragraph shall be deemed employees of the Commonwealth for
18 the purposes of participation in the Pennsylvania Employee
19 Benefit Trust Fund.

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

26 (4) To conduct examinations and investigations, to
27 conduct audits, pursuant to the provisions of subsection (c),
28 and to hear testimony and take proof, under oath or
29 affirmation, at public or private hearings, on any matter
30 necessary to its duties.

1 (4.1) To provide hospitals with individualized data on
2 patient safety indicators pursuant to section 6(c)(7). The
3 data shall be risk adjusted and made available to hospitals
4 electronically and free of charge on a quarterly basis within
5 45 days of receipt of the corrected quarterly data from the
6 hospitals. The data is intended to provide the patient safety
7 committee of each hospital with information necessary to
8 assist in conducting patient safety analysis.

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

11 (b) Rules and regulations.--The council shall promulgate
12 rules and regulations in accordance with the act of June 25,
13 1982 (P.L.633, No.181), known as the Regulatory Review Act,
14 necessary to carry out its duties under this act. This
15 subsection shall not apply to regulations in effect on June 30,
16 [2003] 2008. ←

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

21 (1) Audits of information submitted by providers or
22 health care insurers shall be performed on a sample and
23 issue-specific basis, as needed by the council, and shall be
24 coordinated, to the extent practicable, with audits performed
25 by the Commonwealth. All health care insurers and providers
26 are hereby required to make those books, records of accounts
27 and any other data needed by the auditors available to the
28 council at a convenient location within 30 days of a written
29 notification by the council.

30 (2) Audits of information submitted by purchasers shall

1 be performed on a sample basis, unless there exists
2 reasonable cause to audit specific purchasers, but in no case
3 shall the council have the power to audit financial
4 statements of purchasers.

5 (3) All audits performed by the council shall be
6 performed at the expense of the council.

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

11 (d) General duties and functions.--The council is hereby
12 authorized to and shall perform the following duties and
13 functions:

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

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

28 (3) Collect and disseminate data, as specified in
29 section 6, and other information from data sources to which
30 the council is entitled, prepared according to formats, time

1 frames and confidentiality provisions as specified in
2 sections 6 and 10, and by the council.

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

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

14 (6) On an annual basis, publish in the Pennsylvania
15 Bulletin a list of all the raw data reports it has prepared
16 under section 10(f) and a description of the data obtained
17 through each computer-to-computer access it has provided
18 under section 10(f) and of the names of the parties to whom
19 the council provided the reports or the computer-to-computer
20 access during the previous month.

21 (7) Promote competition in the health care and health
22 insurance markets.

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

25 (10) Make annual reports to the General Assembly on the
26 rate of increase in the cost of health care in the
27 Commonwealth and the effectiveness of the council in carrying
28 out the legislative intent of this act. In addition, the
29 council may make recommendations on the need for further
30 health care cost containment legislation. The council shall

1 also make annual reports to the General Assembly on the
2 quality and effectiveness of health care and access to health
3 care for all citizens of the Commonwealth.

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

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

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

1 (i) One representative of the Hospital and
2 Healthsystem Association of Pennsylvania.

3 (ii) One representative of the Pennsylvania Medical
4 Society.

5 (iii) One representative of insurance.

6 (iv) One representative of labor.

7 (v) One representative of business.

8 (vi) Two representatives of the general public.

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

19 Section 6. Data submission and collection.

20 (a) (1) Submission of data.--The council is hereby
21 authorized to collect and data sources are hereby required to
22 submit, upon request of the council, all data required in
23 this section, according to uniform submission formats, coding
24 systems and other technical specifications necessary to
25 render the incoming data substantially valid, consistent,
26 compatible and manageable using electronic data processing
27 according to data submission schedules, such schedules to
28 avoid, to the extent possible, submission of identical data
29 from more than one data source, established and promulgated
30 by the council in regulations pursuant to its authority under

1 section 5(b). If payor data is requested by the council, it
2 shall, to the extent possible, be obtained from primary payor
3 sources. The council shall not require any data sources to
4 contract with any specific vendor for submission of any
5 specific data elements to the council.

6 (1.1) Any data source shall comply with data submission
7 guidelines established in the report submitted under section
8 17.2. The council shall maintain a vendor list of at least
9 two vendors that may be chosen by any data source for
10 submission of any specific data elements.

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

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

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

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

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

30 (B) the audited direct personnel and related

1 costs of data abstracting and submission required.

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

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

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

- 17 (i) one member representing the Office of Health
18 Care Reform;
- 19 (ii) one member representing the business community;
- 20 (iii) one member representing labor;
- 21 (iv) one member representing consumers;
- 22 (v) two members representing physicians;
- 23 (vi) two members representing nurses;
- 24 (vii) two members representing hospitals;
- 25 (viii) one member representing health underwriters;
- 26 and
- 27 (ix) one member representing commercial insurance
28 carriers.

29 (2) The work group, with approval of the council, may
30 hire an independent auditor to determine the value of various

1 data sets. The work group shall have no more than one year to
2 study current data requirements and methods of collecting and
3 transferring data and to make recommendations for changes to
4 produce a 50% overall reduction in the cost of collecting and
5 reporting required data to the council while maintaining the
6 scientific credibility of the council's analysis and
7 reporting. The work group recommendations shall be presented
8 to the council for a vote.]

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

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

- 25 (1) uniform patient identifier, continuous across
26 multiple episodes and providers;
- 27 (2) patient date of birth;
- 28 (3) patient sex;
- 29 (3.1) patient race, consistent with the method of
30 collection of race/ethnicity data by the United States Bureau

1 of the Census and the United States Standard Certificates of
2 Live Birth and Death;

3 (4) patient ZIP Code number;

4 (5) date of admission;

5 (6) date of discharge;

6 (7) principal and secondary diagnoses by standard code,
7 including external cause of injury, complication, infection
8 and childbirth;

9 (8) principal procedure by council-specified standard
10 code and date;

11 (9) up to three secondary procedures by council-
12 specified standard codes and dates;

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

15 (11) uniform identifier of admitting physician, by
16 unique physician identification number established by the
17 council, continuous across episodes, patients and providers;

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

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

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

29 (15) charges of each physician or professional rendering
30 service relating to an incident of hospitalization or

1 treatment in an ambulatory service facility;
2 (16) actual payments to each physician or professional
3 rendering service pursuant to paragraph (15);
4 (17) uniform identifier of primary payor;
5 (18) ZIP Code number of facility where health care
6 service is rendered;
7 (19) uniform identifier for payor group contract number;
8 (20) patient discharge status; and
9 (21) provider service effectiveness and provider quality
10 pursuant to section 5(d)(4) and subsection (d).

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

1 nationally recognized accrediting organizations, to the
2 Department of Health or to the Insurance Department in quarterly
3 or annual reports. The council shall not require reporting by
4 health care insurers in different formats than are required for
5 reporting to nationally recognized accrediting organizations or
6 on quarterly or annual reports submitted to the Department of
7 Health or to the Insurance Department. The council may adopt the
8 quality findings as reported to nationally recognized
9 accrediting organizations. Additional quality data elements must
10 be defined and released for public comment prior to the
11 promulgation of regulations under section 5(b). The public
12 comment period shall be no less than 30 days from the release of
13 these elements.

14 (e) Reserve field utilization and addition or deletion of
15 data elements.--The council shall include in the Pennsylvania
16 Uniform Claims and Billing Form a reserve field. The council may
17 utilize the reserve field by adding other data elements beyond
18 those required to carry out its responsibilities under section
19 5(d)(3) and (4) and subsections (c) and (d), or the council may
20 delete data elements from the Pennsylvania Uniform Claims and
21 Billing Form only by a majority vote of the council and only
22 pursuant to the following procedure:

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

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

30 (3) The council may hold additional hearings or request

1 such other reports as it deems necessary and shall consider
2 the comments received during the 60-day comment period and
3 any additional information gained through such hearings or
4 other reports in making a final determination on the proposed
5 addition or deletion.

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

12 (1) Audited annual financial reports of all hospitals
13 and ambulatory service facilities providing covered services
14 as defined in section 3.

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

20 (3) Additional data, including, but not limited to, data
21 which can be used [to provide at least the following
22 information] in reports about:

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

25 (ii) physicians who provide covered services and
26 accept medical assistance patients;

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

29 (v) mortality rates for specified diagnoses and
30 treatments, grouped by severity, for individual

1 providers;

2 (vi) rates of infection for specified diagnoses and
3 treatments, grouped by severity, for individual
4 providers;

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

8 (viii) readmission rates for specified diagnoses and
9 treatments, grouped by severity, for individual
10 providers; [and]

11 (ix) rate of incidence of postdischarge professional
12 care for selected diagnoses and procedures, grouped by
13 severity, for individual providers; and

14 (x) data from other public sources.

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

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

25 (g) Allowance for clarification or dissents.--The council
26 shall maintain a file of written statements submitted by data
27 sources who wish to provide an explanation of data that they
28 feel might be misleading or misinterpreted. The council shall
29 provide access to such file to any person and shall, where
30 practical, in its reports and data files indicate the

1 availability of such statements. When the council agrees with
2 such statements, it shall correct the appropriate data and
3 comments in its data files and subsequent reports.

4 (g.1) Allowance for correction.--The council shall verify
5 the patient safety indicator data submitted by hospitals
6 pursuant to subsection (c)(7) within 60 days of receipt. The
7 council may allow hospitals to make changes to the data
8 submitted during the verification period. After the verification
9 period, but within 45 days of receipt of the adjusted hospital
10 data, the council shall risk adjust the information and provide
11 reports to the patient safety committee of the relevant
12 hospital.

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

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

23 Section 7. Data dissemination and publication.

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

30 (1) The council shall, for every provider of both

1 inpatient and outpatient services within this Commonwealth
2 and within appropriate regions and subregions, prepare and
3 issue reports on provider quality and service effectiveness
4 on diseases or procedures that, when ranked by volume, cost,
5 payment and high variation in outcome, represent the best
6 opportunity to improve overall provider quality, improve
7 patient safety and provide opportunities for cost reduction.
8 These reports shall provide comparative information on the
9 following:

10 (i) Differences in mortality rates; differences in
11 length of stay; differences in complication rates;
12 differences in readmission rates; differences in
13 infection rates; and other comparative outcome measures
14 the council may develop that will allow purchasers,
15 providers and consumers to make purchasing and quality
16 improvement decisions based upon quality patient care and
17 to restrain costs.

18 (ii) The incidence rate of selected medical or
19 surgical procedures, the quality and service
20 effectiveness and the payments received for those
21 providers, identified by the name and type or specialty,
22 for which these elements vary significantly from the
23 norms for all providers.

24 (2) In preparing its reports under paragraph (1), the
25 council shall ensure that factors which have the effect of
26 either reducing provider revenue or increasing provider costs
27 and other factors beyond a provider's control which reduce
28 provider competitiveness in the marketplace are explained in
29 the reports. The council shall also ensure that any
30 clarifications and dissents submitted by individual providers

1 under section 6(g) are noted in any reports that include
2 release of data on that individual provider.

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

17 Section 8. Health care for the medically indigent.

18 (a) Declaration of policy.--The General Assembly finds that
19 every person in this Commonwealth should receive timely and
20 appropriate health care services from any provider operating in
21 this Commonwealth; that, as a continuing condition of licensure,
22 each provider should offer and provide medically necessary,
23 lifesaving and emergency health care services to every person in
24 this Commonwealth, regardless of financial status or ability to
25 pay; and that health care facilities may transfer patients only
26 in instances where the facility lacks the staff or facilities to
27 properly render definitive treatment.

28 (b) Studies on indigent care.--To reduce the undue burden on
29 the several providers that disproportionately treat medically
30 indigent people on an uncompensated basis, to contain the long-

1 term costs generated by untreated or delayed treatment of
2 illness and disease and to determine the most appropriate means
3 of treating and financing the treatment of medically indigent
4 persons, the council, at the request of the Governor or the
5 General Assembly, may undertake studies and utilize its current
6 data base to:

7 (1) Study and analyze the medically indigent population,
8 the magnitude of uncompensated care for the medically
9 indigent, the degree of access to and the result of any lack
10 of access by the medically indigent to appropriate care, the
11 types of providers and the settings in which they provide
12 indigent care and the cost of the provision of that care
13 pursuant to subsection (c).

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

18 (c) Studies.--The council shall conduct studies pursuant to
19 subsection (b)(1) and thereafter report to the Governor and the
20 General Assembly the results of the studies and its
21 recommendations. The council may contract with an independent
22 vendor to conduct the study in accordance with the provisions
23 for selecting vendors in section 16. The study shall include,
24 but not be limited to, the following:

25 (1) the number and characteristics of the medically
26 indigent population, including such factors as income,
27 employment status, health status, patterns of health care
28 utilization, type of health care needed and utilized,
29 eligibility for health care insurance, distribution of this
30 population on a geographic basis and by age, sex and racial

1 or linguistic characteristics, and the changes in these
2 characteristics, including the following:

3 (i) the needs and problems of indigent persons in
4 urban areas;

5 (ii) the needs and problems of indigent persons in
6 rural areas;

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

9 (iv) the needs and problems of indigent persons in
10 areas of high unemployment; and

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

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

15 (3) the distribution and means of financing indigent
16 care between and among providers, insurers, government,
17 purchasers and consumers, and the effect of that distribution
18 on each;

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

22 (5) the likely impact of changes in the health delivery
23 system, including managed care entities, and the effects of
24 cost containment in the Commonwealth on the access to,
25 availability of and financing of needed care for the
26 indigent, including the impact on providers which provide a
27 disproportionate amount of care to the indigent;

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

30 (7) the provision of care to the indigent through

1 improvements in the primary health care system, including the
2 management of needed hospital care by primary care providers;

3 (8) innovative means to finance and deliver care to the
4 medically indigent; and

5 (9) reduction in the dependence of indigent persons on
6 hospital services through improvements in preventive health
7 measures.

8 Section 9. Mandated health benefits.

9 In relation to current law or proposed legislation, the
10 council shall, upon the request of the appropriate committee
11 chairman in the Senate and in the House of Representatives or
12 upon the request of the Secretary of Health, provide information
13 on the proposed mandated health benefit pursuant to the
14 following:

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

1 certified documentation, as provided for in this section.

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

4 (i) one in health research;

5 (ii) one in biostatistics;

6 (iii) one in economic research;

7 (iv) one, a physician, in the appropriate specialty
8 with current knowledge of the subject being proposed as a
9 mandated benefit; and

10 (v) one with experience in insurance or actuarial
11 research.

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

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

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

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

21 (B) Whether or not the research cited in the
22 documentation meets professional standards.

23 (C) Whether or not all relevant research
24 respecting the proposed mandated benefit has been
25 cited in the documentation.

26 (D) Whether or not the conclusions and
27 interpretations in the documentation are consistent
28 with the data submitted.

29 (4) To provide the Mandated Benefits Review Panel with
30 sufficient information to carry out its duties and

1 responsibilities pursuant to paragraph (3), persons proposing
2 or opposing legislation mandating benefits coverage should
3 submit documentation to the council, pursuant to the
4 procedure established in paragraph (5), which demonstrates
5 the following:

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

9 (ii) The extent to which insurance coverage for the
10 proposed benefit already exists, or if no such coverage
11 exists, the extent to which this lack of coverage results
12 in inadequate health care or financial hardship for the
13 population of the Commonwealth.

14 (iii) The demand for the proposed benefit from the
15 public and the source and extent of opposition to
16 mandating the benefit.

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

19 (v) Where the proposed benefit would mandate
20 coverage of a particular therapy, the results of at least
21 one professionally accepted, controlled trial comparing
22 the medical consequences of the proposed therapy,
23 alternative therapies and no therapy.

24 (vi) Where the proposed benefit would mandate
25 coverage of an additional class of practitioners, the
26 results of at least one professionally accepted,
27 controlled trial comparing the medical results achieved
28 by the additional class of practitioners and those
29 practitioners already covered by benefits.

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

1 (viii) Evidence of the financial impact of the
2 proposed legislation, including at least:

3 (A) The extent to which the proposed benefit
4 would increase or decrease cost for treatment or
5 service.

6 (B) The extent to which similar mandated
7 benefits in other states have affected charges, costs
8 and payments for services.

9 (C) The extent to which the proposed benefit
10 would increase the appropriate use of the treatment
11 or service.

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

14 (E) The impact of the proposed benefits on
15 benefits costs of purchasers.

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

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

20 (i) Any person wishing to submit information on
21 proposed legislation mandating insurance benefits for
22 review by the panel should submit the documentation
23 specified in paragraph (4) to the council.

24 (ii) The council shall, within 30 days of receipt of
25 the documentation:

26 (A) Publish in the Pennsylvania Bulletin notice
27 of receipt of the documentation, a description of the
28 proposed legislation, provision for a period of 60
29 days for public comment and the time and place at
30 which any person may examine the documentation.

1 (B) Submit copies of the documentation to the
2 Secretary of Health and the Insurance Commissioner,
3 who shall review and submit comments to the council
4 on the proposed legislation within 30 days.

5 (C) Submit copies of the documentation to the
6 panel, which shall review the documentation and issue
7 their findings, pursuant to paragraph (3), within 90
8 days.

9 (iii) Upon receipt of the comments of the Secretary
10 of Health and the Insurance Commissioner and of the
11 findings of the panel, pursuant to subparagraph (ii), but
12 no later than 120 days following the publication required
13 in subparagraph (ii), the council shall submit said
14 comments and findings, together with its recommendations
15 respecting the proposed legislation, to the Governor, the
16 President pro tempore of the Senate, the Speaker of the
17 House of Representatives, the Secretary of Health, the
18 Insurance Commissioner and the person who submitted the
19 information pursuant to subparagraph (i).

20 Section 4. Section 10 of the act is reenacted and amended to
21 read:

22 Section 10. [Access] Right-to-Know Law and access to council
23 data.

24 (a) Public access.--The information and data received by the
25 council shall be utilized by the council for the benefit of the
26 public and public officials. Subject to the specific limitations
27 set forth in this section and section 3101.1 of the act of
28 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
29 the council shall make determinations on requests for
30 information in favor of access. Payor discounts and allowances

1 are considered confidential proprietary information and, as such
2 are not records subject to the requirements for public access
3 established under the Right-to-Know Law.

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

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

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

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

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

27 (4) Any raw data of the council relating to actual
28 payments to any identified provider made by any purchaser,
29 except that this provision shall not apply to access by a
30 purchaser requesting data on the group for which it purchases

1 or otherwise provides covered services or to access to that
2 same data by an entity entitled to the purchaser's data
3 pursuant to subsection (f).

4 (5) Any raw data disclosing discounts or [differentials
5 between payments accepted by providers for services and their
6 billed charges obtained by] allowances between identified
7 payors [from identified] and providers unless the data is
8 released in a Statewide, aggregate format that does not
9 identify any individual payor or class of payors, directly or
10 indirectly through the use of a market share, and unless the
11 council assures that the release of such information is not
12 prejudicial or inequitable to any individual payor or
13 provider or group thereof. Payor data shall be released to
14 individual providers for purposes of verification and
15 validation prior to inclusion in a public report. An
16 individual provider shall verify and validate the payor data
17 within 30 days of its release to that specific individual
18 provider.

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

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

1 with proper notification.

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

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

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

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

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

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

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

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

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

27 Section 11. Special studies and reports.

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

1 (b) Special reports.--

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

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

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

11 (iii) Minority communities.

12 (iv) Women.

13 (v) Children

14 (vi) Unemployed workers.

15 (vii) Veterans.

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

27 (2) The department may study and report on the short-
28 term and long-term fiscal and programmatic impact on the
29 health care consumer of changes in ownership of hospitals
30 from nonprofit to profit, whether through purchase, merger or

1 the like. The department may also study and report on factors
2 which have the effect of either reducing provider revenue or
3 increasing provider cost, and other factors beyond a
4 provider's control which reduce provider competitiveness in
5 the marketplace, are explained in the reports.

6 Section 12. Enforcement; penalty.

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

16 (b) Penalty.--

17 (1) Any person who fails to supply data pursuant to
18 section 6 may be assessed a civil penalty not to exceed
19 \$1,000 for each day the data is not submitted.

20 (2) Any person who knowingly submits inaccurate data
21 under section 6 commits a misdemeanor of the third degree and
22 shall, upon conviction, be sentenced to pay a fine of \$1,000
23 or to imprisonment for not more than one year, or both.

24 Section 13. Research and demonstration projects.

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

1 may:

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

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

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

14 Section 14. Grievances and grievance procedures.

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

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

27 Section 15. Antitrust provisions.

28 Persons or entities required to submit data or information
29 under this act or receiving data or information from the council
30 in accordance with this act are declared to be acting pursuant

1 to State requirements embodied in this act and shall be exempt
2 from antitrust claims or actions grounded upon submission or
3 receipt of such data or information.

4 Section 16. Contracts with vendors.

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

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

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

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

28 (ii) The locations, dates and times during which
29 prospective vendors can examine the specifications
30 required in paragraph (1).

1 (iii) The date, time and place of the meeting or
2 meetings of the council at which bids will be opened and
3 accepted.

4 (iv) A statement to the effect that any person is
5 eligible to bid.

6 (3) Bids shall be accepted as follows:

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

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

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

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

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

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

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

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

17 Section 17.1. Reporting.

18 The council shall provide an annual report of its financial
19 expenditures to the Appropriations Committee of the Senate and
20 the Appropriations Committee of the House of Representatives.

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

22 Section 17.2. Health Care Cost Containment Council Act Review
23 Committee.

24 (a) Establishment.--There is established an independent
25 committee to be known as the Health Care Cost Containment
26 Council Act Review Committee.

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

29 (1) One member appointed by the Governor.

30 (2) Four members appointed by the General Assembly, one

1 of whom appointed by each of the following:

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

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

4 (iii) one by the Majority Leader of the House of
5 Representatives; and

6 (iv) one by the Minority Leader of the House of
7 Representatives.

8 (3) Two representatives of the business community, at
9 least one of whom represents small business, and neither of
10 whom is primarily involved in the provision of health care or
11 health insurance, one of whom appointed by the President pro
12 tempore of the Senate and one of whom appointed by the
13 Speaker of the House of Representatives from a list of four
14 qualified persons recommended by the Pennsylvania Chamber of
15 Business and Industry.

16 (4) Two representatives of organized labor, one of whom
17 appointed by the President pro tempore of the Senate and one
18 of whom appointed by the Speaker of the House of
19 Representatives from a list of four qualified persons
20 recommended by the Pennsylvania AFL-CIO.

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

27 (6) One representative of ~~hospitals~~ A HEALTH CARE
28 FACILITY, appointed by the Governor from a list of three
29 qualified hospital representatives recommended by the
30 Hospital and Health System Association of Pennsylvania.



1 (7) One representative of physicians, appointed by the
2 Governor from a list of three qualified physician
3 representatives recommended jointly by the Pennsylvania
4 Medical Society and the Pennsylvania Osteopathic Medical
5 Society.

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

9 (9) One representative of the Blue Cross and Blue Shield
10 plans in Pennsylvania, PURSUANT TO 40 PA.C.S. CH. 61
11 (RELATING TO HOSPITAL PLAN CORPORATIONS), appointed by the
12 Governor from a list of three qualified persons recommended
13 jointly by the Blue Cross and Blue Shield plans of
14 Pennsylvania.

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

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

21 (d) Quorum.--Eleven members shall constitute a quorum for
22 the transaction of any business, and action by the majority of
23 the members present at any meeting in which there is a quorum
24 shall be deemed to be action of the committee.

25 (e) Meetings.--

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

29 (2) All action taken by the committee shall be taken in
30 open public session, and action of the committee shall not be

1 taken except upon the affirmative vote of a majority of the
2 members of the committee present during meetings at which a
3 quorum is present.

4 (f) Compensation and expenses.--The members of the committee
5 shall not receive a salary or per diem allowance for serving as
6 members of the committee but shall be reimbursed for actual and
7 necessary expenses incurred in the performance of their duties.
8 Expenses may include reimbursement of travel and living expenses
9 while engaged in committee business.

10 (g) Commencement of committee.--

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

16 (2) Within 30 days of the effective date of this
17 section, the Governor, the President pro tempore of the
18 Senate and the Speaker of the House of Representatives shall
19 make the appointments called for in subsection (b), and the
20 committee shall begin operations immediately following the
21 appointments.

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

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

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

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

30 (i) The establishment of an Internet database for

1 the general public showing Medicare reimbursement rates
2 for common covered services and treatment.

3 (ii) In consultation with experts in the fields of
4 quality data and outcome measures, the definition and
5 implementation of:

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

8 (B) A methodology for the council to collect and
9 disseminate data reflecting provider quality and
10 provider service effectiveness.

11 (4) To submit the report approved under paragraph (3) to
12 the President pro tempore of the Senate and the Speaker of
13 the House of Representatives within six months after the
14 effective date of this section.

15 (i) Committee support.--The council shall offer staff and
16 administrative support from the council or its work groups
17 necessary for the committee to carry out its duties under this
18 section.

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

20 Section 18. Severability.

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

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

28 Section 19. Sunset.

29 This act shall expire June 30, [2008] 2014, unless reenacted
30 prior to that date. By September 1, [2007] 2013, a written

1 report by the Legislative Budget and Finance Committee
2 evaluating the management, visibility, awareness and performance
3 of the council shall be provided to the Public Health and
4 Welfare Committee of the Senate and the Health and Human
5 Services Committee of the House of Representatives. The report
6 shall include a review of the council's procedures and policies,
7 the availability and quality of data for completing reports [to
8 hospitals and outside vendor purchasers, the ability of the
9 council to become self-sufficient by selling data to outside
10 purchasers], whether there is a more cost-efficient way of
11 accomplishing the objectives of the council and the need for
12 reauthorization of the council.

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

14 Section 20. Effective date.

15 This act shall take effect immediately.

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

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

21 (2) Eleven members constitute a quorum.

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

23 (4) There shall be no lapse in the employment
24 relationship for employees of the council. This paragraph
25 includes salary, seniority, benefits and retirement
26 eligibility of the employees.

27 Section 11. This act shall apply as follows:

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

30 (2) The reenactment of section 6 of the act shall apply

1 retroactively under paragraph (1), but the amendment of
2 section 6 of the act shall apply from the effective date of
3 the amendment under section 12(1) of this act.

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

5 (1) The amendment of section 6 of the act shall take
6 effect July 1, 2010.

7 (2) The remainder of this act shall take effect
8 immediately.