

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 327 Session of 2015

INTRODUCED BY FABRIZIO, SAMUELSON, PASHINSKI, YOUNGBLOOD, JAMES, O'BRIEN, THOMAS, FREEMAN, DeLUCA, GODSHALL, FRANKEL, LONGIETTI, KINSEY, BISHOP, ROZZI, D. COSTA, SCHLOSSBERG, C. PARKER, HARKINS, GIBBONS, GRELL, SONNEY, KORTZ, BROWNLEE, V. BROWN, DRISCOLL, COHEN, GOODMAN, MATZIE, McNEILL, GERGELY, DeLISSIO, BIZZARRO AND SABATINA, FEBRUARY 4, 2015

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 4, 2015

AN ACT

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

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

11 Section 1. The title and section 1 of the act of July 8,
12 1986 (P.L.408, No.89), known as the Health Care Cost Containment
13 Act, reenacted and amended June 10, 2009 (P.L.10, No.3), are
14 reenacted to read:

AN ACT

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

1 care for the indigent; and making an appropriation.

2 Section 1. Short title.

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

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

7 Section 3. Definitions.

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

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

13 "Ambulatory service facility." A facility licensed in this
14 Commonwealth, not part of a hospital, which provides medical,
15 diagnostic or surgical treatment to patients not requiring
16 hospitalization, including ambulatory surgical facilities,
17 ambulatory imaging or diagnostic centers, birthing centers,
18 freestanding emergency rooms and any other facilities providing
19 ambulatory care which charge a separate facility charge. This
20 term does not include the offices of private physicians or
21 dentists, whether for individual or group practices.

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

25 "Committee." The Health Care Cost Containment Council Act
26 Review Committee.

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

28 "Covered services." Any health care services or procedures
29 connected with episodes of illness that require either inpatient
30 hospital care or major ambulatory service such as surgical,

1 medical or major radiological procedures, including any initial
2 and follow-up outpatient services associated with the episode of
3 illness before, during or after inpatient hospital care or major
4 ambulatory service. The term does not include routine outpatient
5 services connected with episodes of illness that do not require
6 hospitalization or major ambulatory service.

7 "Data source." A health care facility; ambulatory service
8 facility; physician; health maintenance organization as defined
9 in the act of December 29, 1972 (P.L.1701, No.364), known as the
10 Health Maintenance Organization Act; hospital, medical or health
11 service plan with a certificate of authority issued by the
12 Insurance Department, including, but not limited to, hospital
13 plan corporations as defined in 40 Pa.C.S. Ch. 61 (relating to
14 hospital plan corporations) and professional health services
15 plan corporations as defined in 40 Pa.C.S. Ch. 63 (relating to
16 professional health services plan corporations); commercial
17 insurer with a certificate of authority issued by the Insurance
18 Department providing health or accident insurance; self-insured
19 employer providing health or accident coverage or benefits for
20 employees employed in the Commonwealth; administrator of a self-
21 insured or partially self-insured health or accident plan
22 providing covered services in the Commonwealth; any health and
23 welfare fund that provides health or accident benefits or
24 insurance pertaining to covered service in the Commonwealth; the
25 Department of [Public Welfare] Human Services for those covered
26 services it purchases or provides through the medical assistance
27 program under the act of June 13, 1967 (P.L.31, No.21), known as
28 the Public Welfare Code, and any other payor for covered
29 services in the Commonwealth other than an individual.

30 "Health care facility." A general or special hospital,

1 including psychiatric hospitals, kidney disease treatment
2 centers, including freestanding hemodialysis units, and
3 ambulatory service facilities as defined in this section, and
4 hospices, both profit and nonprofit, and including those
5 operated by an agency of State or local government.

6 "Health care insurer." Any person, corporation or other
7 entity that offers administrative, indemnity or payment services
8 for health care in exchange for a premium or service charge
9 under a program of health care benefits, including, but not
10 limited to, an insurance company, association or exchange
11 issuing health insurance policies in this Commonwealth; hospital
12 plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to
13 hospital plan corporations); professional health services plan
14 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to
15 professional health services plan corporations); health
16 maintenance organization; preferred provider organization;
17 fraternal benefit societies; beneficial societies; and third-
18 party administrators; but excluding employers, labor unions or
19 health and welfare funds jointly or separately administered by
20 employers or labor unions that purchase or self-fund a program
21 of health care benefits for their employees or members and their
22 dependents.

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

29 "Hospital." An institution, licensed in this Commonwealth,
30 which is a general, mental, chronic disease or other type of

1 hospital, or kidney disease treatment center, whether profit or
2 nonprofit, and including those operated by an agency of State or
3 local government.

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

10 "Major ambulatory service." Surgical or medical procedures,
11 including diagnostic and therapeutic radiological procedures,
12 commonly performed in hospitals or ambulatory service
13 facilities, which are not of a type commonly performed or which
14 cannot be safely performed in physicians' offices and which
15 require special facilities such as operating rooms or suites or
16 special equipment such as fluoroscopic equipment or computed
17 tomographic scanners, or a postprocedure recovery room or short-
18 term convalescent room.

19 "Medical procedure incidence variations." The variation in
20 the incidence in the population of specific medical, surgical
21 and radiological procedures in any given year, expressed as a
22 deviation from the norm, as these terms are defined in the
23 classical statistical definition of "variation," "incidence,"
24 "deviation" and "norm."

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

27 "Payment." The payments that providers actually accept for
28 their services, exclusive of charity care, rather than the
29 charges they bill.

30 "Payor." Any person or entity, including, but not limited

1 to, health care insurers and purchasers, that make direct
2 payments to providers for covered services.

3 "Physician." An individual licensed under the laws of this
4 Commonwealth to practice medicine and surgery within the scope
5 of the act of October 5, 1978 (P.L.1109, No.261), known as the
6 Osteopathic Medical Practice Act, or the act of December 20,
7 1985 (P.L.457, No.112), known as the Medical Practice Act of
8 1985.

9 "Preferred provider organization." Any arrangement between a
10 health care insurer and providers of health care services which
11 specifies rates of payment to such providers which differ from
12 their usual and customary charges to the general public and
13 which encourage enrollees to receive health services from such
14 providers.

15 "Provider." A hospital, an ambulatory service facility or a
16 physician.

17 "Provider quality." The extent to which a provider renders
18 care that, within the capabilities of modern medicine, obtains
19 for patients medically acceptable health outcomes and prognoses,
20 adjusted for patient severity, and treats patients
21 compassionately and responsively.

22 "Provider service effectiveness." The effectiveness of
23 services rendered by a provider, determined by measurement of
24 the medical outcome of patients grouped by severity receiving
25 those services.

26 "Purchaser." All corporations, labor organizations and other
27 entities that purchase benefits which provide covered services
28 for their employees or members, either through a health care
29 insurer or by means of a self-funded program of benefits, and a
30 certified bargaining representative that represents a group or

groups of employees for whom employers purchase a program of benefits which provide covered services, but excluding entities defined in this section as "health care insurers."

"Raw data" or "data." Data collected by the council under section 6. No data shall be released by the council except as provided for in section 11.

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

Section 4. Health Care Cost Containment Council.

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

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

(1) The Secretary of Health.

(2) The Secretary of [Public Welfare] Human Services.

(3) The Insurance Commissioner.

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

(5) Six representatives of organized labor, three of which shall be appointed by the President pro tempore of the

Senate and three of which shall be appointed by the Speaker of the House of Representatives from a list of twelve qualified persons recommended by the Pennsylvania AFL-CIO.

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

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

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

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

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

recommended by the Pennsylvania State Nurses Association.

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

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

(11) One representative of health maintenance organizations, appointed by the Governor .

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

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

(d) Quorum.--Thirteen members, at least six of whom must be

1 made up of representatives of business and labor, shall
2 constitute a quorum for the transaction of any business, and the
3 act by the majority of the members present at any meeting in
4 which there is a quorum shall be deemed to be the act of the
5 council.

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

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

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

21 (3) The council shall publish a schedule of its meetings
22 in the Pennsylvania Bulletin and in at least one newspaper in
23 general circulation in the Commonwealth. Such notice shall be
24 published at least once in each calendar quarter and shall
25 list the schedule of meetings of the council to be held in
26 the subsequent calendar quarter. Such notice shall specify
27 the date, time and place of the meeting and shall state that
28 the council's meetings are open to the general public, except
29 that no such notice shall be required for executive sessions
30 of the council.

1 (4) All action taken by the council shall be taken in
2 open public session, and action of the council shall not be
3 taken except upon the affirmative vote of a majority of the
4 members of the council present during meetings at which a
5 quorum is present.

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

1 section, nominations shall be approved by the executive
2 committee of the council. If the subject matter of any project
3 exceeds the expertise of the technical advisory group,
4 physicians in appropriate specialties who possess current
5 knowledge of the issue under study may be consulted. The
6 technical advisory group shall also review the availability and
7 reliability of severity of illness measurements as they relate
8 to small hospitals and psychiatric, rehabilitation and
9 children's hospitals and shall make recommendations to the
10 council based upon this review. Meetings of the technical
11 advisory group shall be open to the general public.

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

13 (1) In order to assure the technical appropriateness and
14 accuracy of payment data, the council shall establish a
15 payment data advisory group to produce recommendations
16 surrounding the collection of payment data, the analysis and
17 manipulation of payment data and the public reporting of
18 payment data. The payment data advisory group shall include
19 technical experts and individuals knowledgeable in payment
20 systems and discharge claims data. The advisory group shall
21 consist of the following members appointed by the council:

22 (i) One member representing each plan under 40
23 Pa.C.S. Chs. 61 (relating to hospital plan corporations)
24 and 63 (relating to professional health services plan
25 corporations).

26 (ii) Two members representing commercial insurance
27 carriers.

28 (iii) Three members representing health care
29 facilities.

30 (iv) Three members representing physicians.

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

4 (3) The payment data advisory group shall review and
5 concur with the technical appropriateness of the use and
6 presentation of data and report its findings to the council
7 prior to any vote to publicly release reports. If the council
8 elects to release a report without addressing the technical
9 concerns of the advisory group, it shall prominently disclose
10 this in the public report and include the comments of the
11 advisory group in the public report.

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

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

16 (ii) Manipulation, adjustments and methods used with
17 payment data.

18 (iii) Public reporting of payment data by the
19 council.

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

26 (h) Terms of council members.--

27 (1) The terms of the Secretary of Health, the Secretary
28 of [Public Welfare] Human Services and the Insurance
29 Commissioner shall be concurrent with their holding of public
30 office. The council members under subsection (b) (4) through

1 (11) shall each serve for a term of four years and shall
2 continue to serve thereafter until their successor is
3 appointed.

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

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

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

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

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

29 (2) The officer required under subsection (b) to make
30 appointments to the council shall make said appointments at

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

11 Section 3. Section 5 of the act is reenacted to read:

12 Section 5. Powers and duties of the council.

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

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

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

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

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

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

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

22 (b) Rules and regulations.--The council shall promulgate
23 rules and regulations in accordance with the act of June 25,
24 1982 (P.L.633, No.181), known as the Regulatory Review Act,
25 necessary to carry out its duties under this act. This
26 subsection shall not apply to regulations in effect on June 30,
27 2008.

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

submitted data, pursuant to the following:

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

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

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

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

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

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

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

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

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

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

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

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

1 access during the previous month.

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

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

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

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

24 (13) Conduct studies and make reports concerning the
25 utilization of experimental and nonexperimental transplant
26 surgery and other highly technical and experimental
27 procedures, including costs and mortality rates.

28 Section 4. Section 6 of the act is reenacted and amended to
29 read:

30 Section 6. Data submission and collection.

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

17 (1.1) Any data source shall comply with data submission
18 guidelines established in the report submitted under section
19 17.2. The council shall maintain a vendor list of at least
20 two vendors that may be chosen by any data source for
21 submission of any specific data elements.

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

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

20 (b) Pennsylvania Uniform Claims and Billing Form.--The
21 council shall maintain a Pennsylvania Uniform Claims and Billing
22 Form format. The council shall furnish said claims and billing
23 form format to all data sources, and said claims and billing
24 form shall be utilized and maintained by all data sources for
25 all services covered by this act. The Pennsylvania Uniform
26 Claims and Billing Form shall consist of the Uniform Hospital
27 Billing Form, as developed by the National Uniform Billing
28 Committee, with additional fields as necessary to provide all of
29 the data set forth in subsections (c) and (d).

30 (c) Data elements.--For each covered service performed in

Pennsylvania, the council shall be required to collect the following data elements:

- (1) uniform patient identifier, continuous across multiple episodes and providers;
- (2) patient date of birth;
- (3) patient sex;
- (3.1) patient race, consistent with the method of collection of race/ethnicity data by the United States Bureau of the Census and the United States Standard [Certificates] Certificate of Live Birth and United States Standard Certificate of Death;
- (4) patient [ZIP Code] zip code number;
- (5) date of admission;
- (6) date of discharge;
- (7) principal and secondary diagnoses by standard code, including external cause of injury, complication, infection and childbirth;
- (8) principal procedure by council-specified standard code and date;
- (9) up to three secondary procedures by council-specified standard codes and dates;
- (10) uniform health care facility identifier, continuous across episodes, patients and providers;
- (11) uniform identifier of admitting physician, by unique physician identification number established by the council, continuous across episodes, patients and providers;
- (12) uniform identifier of consulting physicians, by unique physician identification number established by the council, continuous across episodes, patients and providers;
- (13) total charges of health care facility, segregated

1 into major categories, including, but not limited to, room
2 and board, radiology, laboratory, operating room, drugs,
3 medical supplies and other goods and services according to
4 guidelines specified by the council;

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

8 (15) charges of each physician or professional rendering
9 service relating to an incident of hospitalization or
10 treatment in an ambulatory service facility;

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

13 (17) uniform identifier of primary payor;

14 (18) [ZIP Code] Zip code number of facility where health
15 care service is rendered;

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

17 (20) patient discharge status; and

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

20 (d) Provider quality and provider service effectiveness data
21 elements.--In carrying out its duty to collect data on provider
22 quality and provider service effectiveness under section 5(d)(4)
23 and subsection (c)(21), the council shall define a methodology
24 to measure provider service effectiveness which may include
25 additional data elements to be specified by the council
26 sufficient to carry out its responsibilities under section 5(d)
27 (4). The council shall not require health care insurers to
28 report on data elements that are not reported to nationally
29 recognized accrediting organizations, to the Department of
30 Health or to the Insurance Department in quarterly or annual

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

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

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

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

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

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

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

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

12 (2) The Medicare cost report for Medical Assistance or
13 successor forms, including the settled Medicare cost report.

14 (3) Additional data, including, but not limited to, data
15 which can be used in reports about:

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

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

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

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

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

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

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

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

7 (x) data from other public sources.

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

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

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

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

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

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

14 Section 5. Sections 7, 8 and 9 of the act are reenacted to
15 read:

16 Section 7. Data dissemination and publication.

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

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

1 These reports shall provide comparative information on the
2 following:

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

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

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

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

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

10 Section 8. Health care for the medically indigent.

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

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

30 (1) Study and analyze the medically indigent population,

1 the magnitude of uncompensated care for the medically
2 indigent, the degree of access to and the result of any lack
3 of access by the medically indigent to appropriate care, the
4 types of providers and the settings in which they provide
5 indigent care and the cost of the provision of that care
6 pursuant to subsection (c).

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

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

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

26 (i) the needs and problems of indigent persons in
27 urban areas;

28 (ii) the needs and problems of indigent persons in
29 rural areas;

30 (iii) the needs and problems of indigent persons who

1 are members of racial or linguistic minorities;

2 (iv) the needs and problems of indigent persons in
3 areas of high unemployment; and

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

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

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

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

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

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

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

26 (8) innovative means to finance and deliver care to the
27 medically indigent; and

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

1 Section 9. Mandated health benefits.

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

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

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

- 27 (i) one in health research;
- 28 (ii) one in biostatistics;
- 29 (iii) one in economic research;
- 30 (iv) one, a physician, in the appropriate specialty

1 with current knowledge of the subject being proposed as a
2 mandated benefit; and

3 (v) one with experience in insurance or actuarial
4 research.

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

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

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

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

14 (B) Whether or not the research cited in the
15 documentation meets professional standards.

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

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

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

29 (i) The extent to which the proposed benefit and the
30 services it would provide are needed by, available to and

1 utilized by the population of the Commonwealth.

2 (ii) The extent to which insurance coverage for the
3 proposed benefit already exists, or if no such coverage
4 exists, the extent to which this lack of coverage results
5 in inadequate health care or financial hardship for the
6 population of the Commonwealth.

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

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

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

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

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

24 (viii) Evidence of the financial impact of the
25 proposed legislation, including at least:

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

29 (B) The extent to which similar mandated
30 benefits in other states have affected charges, costs

1 and payments for services.

2 (C) The extent to which the proposed benefit
3 would increase the appropriate use of the treatment
4 or service.

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

7 (E) The impact of the proposed benefits on
8 benefits costs of purchasers.

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

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

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

17 (ii) The council shall, within 30 days of receipt of
18 the documentation:

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

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

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

1 days.

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

13 Section 6. Section 10 of the act is reenacted and amended to
14 read:

15 Section 10. Right-to-Know Law and access to council data.

16 (a) Public access.--The information and data received by the
17 council shall be utilized by the council for the benefit of the
18 public and public officials. Subject to the specific limitations
19 set forth in this section and section 3101.1 of the act of
20 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
21 the council shall make determinations on requests for
22 information in favor of access. Payor discounts and allowances
23 are considered confidential proprietary information and, as
24 such, are not records subject to the requirements for public
25 access established under the Right-to-Know Law.

26 (a.1) Outreach programs.--The council shall develop and
27 implement outreach programs designed to make its information
28 understandable and usable to purchasers, providers, other
29 Commonwealth agencies and the general public. The programs shall
30 include efforts to educate through pamphlets, booklets, seminars

1 and other appropriate measures and to facilitate making more
2 informed health care choices.

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

8 (1) Any raw data of the council that does not
9 simultaneously disclose payment, as well as provider quality
10 and provider service effectiveness pursuant to sections 5(d)
11 (4) and 6(d) [or 7(a)(1)(iii)].

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

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

19 (4) Any raw data of the council relating to actual
20 payments to any identified provider made by any purchaser,
21 except that this provision shall not apply to access by a
22 purchaser requesting data on the group for which it purchases
23 or otherwise provides covered services or to access to that
24 same data by an entity entitled to the purchaser's data
25 pursuant to subsection (f).

26 (5) Any raw data disclosing discounts or allowances
27 between identified payors and providers unless the data is
28 released in a Statewide, aggregate format that does not
29 identify any individual payor or class of payors, directly or
30 indirectly through the use of a market share, and unless the

1 council assures that the release of such information is not
2 prejudicial or inequitable to any individual payor or
3 provider or group thereof. Payor data shall be released to
4 individual providers for purposes of verification and
5 validation prior to inclusion in a public report. An
6 individual provider shall verify and validate the payor data
7 within 30 days of its release to that specific individual
8 provider.

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

17 (d) Unauthorized access to data.--Should any person
18 inadvertently or by council error gain access to data that
19 violates the safeguards set forth in this section, the data must
20 immediately be returned, without duplication, to the council
21 with proper notification.

22 (e) Public access to records.--All public reports prepared
23 by the council shall be public records and shall be available to
24 the public for a reasonable fee, and copies shall be provided,
25 upon request of the chair, to the Public Health and Welfare
26 Committee of the Senate and the Health and Welfare Committee of
27 the House of Representatives.

28 (f) Access to raw council data by purchasers.--Pursuant to
29 sections 5(d)(5) and 7(b) and subject to the limitations on
30 access set forth in subsection (b), the council shall provide

1 access to its raw data to purchasers in accordance with the
2 following procedure:

3 (1) Special reports derived from raw data of the council
4 shall be provided by the council to any purchaser requesting
5 such reports.

6 (2) A means to enable computer-to-computer access by any
7 purchaser to raw data of the council as defined in section 3
8 shall be developed, adopted and implemented by the council,
9 and the council shall provide such access to its raw data to
10 any purchaser upon request.

11 (3) In the event that any employer obtains from the
12 council, pursuant to paragraph (1) or (2), data pertaining to
13 its employees and their dependents for whom said employer
14 purchases or otherwise provides covered services as defined
15 in section 3 and who are represented by a certified
16 collective bargaining representative, said collective
17 bargaining representative shall be entitled to that same
18 data, after payment of fees as specified in paragraph (4).
19 Likewise, should a certified collective bargaining
20 representative obtain from the council, pursuant to paragraph
21 (1) or (2), data pertaining to its members and their
22 dependents who are employed by and for whom covered services
23 are purchased or otherwise provided by any employer, said
24 employer shall be entitled to that same data, after payment
25 of fees as specified in paragraph (4).

26 (4) In providing for access to its raw data, the council
27 shall charge the purchasers which originally obtained such
28 access a fee sufficient to cover its costs to prepare and
29 provide special reports requested pursuant to paragraph (1)
30 or to provide computer-to-computer access to its raw data

1 requested pursuant to paragraph (2). Should a second or
2 subsequent party or parties request this same information
3 pursuant to paragraph (3), the council shall charge said
4 party a reasonable fee.

5 (g) Access to raw council data by other parties.--Subject to
6 the limitations on access to raw council data set forth in
7 subsection (b), the council may, at its discretion, provide
8 special reports derived from its raw data or computer-to-
9 computer access to parties other than purchasers. The council
10 shall publish regulations that set forth the criteria and the
11 procedure it shall use in making determinations on such access,
12 pursuant to the powers vested in the council in section 4. In
13 providing such access, the council shall charge the party
14 requesting the access a reasonable fee.

15 Section 7. Sections 11, 12, 13, 14, 15, 16, 17.1, 17.2 and
16 18 of the act are reenacted to read:

17 Section 11. Special studies and reports.

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

21 (b) Special reports.--

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

26 (i) Senior citizens, particularly low-income senior
27 citizens, senior citizens who are members of minority
28 groups and senior citizens residing in low-income urban
29 or rural areas.

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

1 (iii) Minority communities.

2 (iv) Women.

3 (v) Children.

4 (vi) Unemployed workers.

5 (vii) Veterans.

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

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

26 Section 12. Enforcement; penalty.

27 (a) Compliance enforcement.--The council shall have standing
28 to bring an action in law or in equity through private counsel
29 in any court of common pleas to enforce compliance with any
30 provision of this act, except section 11, or any requirement or

1 appropriate request of the council made pursuant to this act. In
2 addition, the Attorney General is authorized and shall bring any
3 such enforcement action in aid of the council in any court of
4 common pleas at the request of the council in the name of the
5 Commonwealth.

6 (b) Penalty.--

7 (1) Any person who fails to supply data pursuant to
8 section 6 may be assessed a civil penalty not to exceed
9 \$1,000 for each day the data is not submitted.

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

14 Section 13. Research and demonstration projects.

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

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

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

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

4 Section 14. Grievances and grievance procedures.

5 (a) Procedures and requirements.--Pursuant to its powers to
6 publish regulations under section 5(b) and with the requirements
7 of this section, the council is hereby authorized and directed
8 to establish procedures and requirements for the filing, hearing
9 and adjudication of grievances against the council of any data
10 source. Such procedures and requirements shall be published in
11 the Pennsylvania Bulletin pursuant to law.

12 (b) Claims; hearings.--Grievance claims of any data source
13 shall be submitted to the council or to a third party designated
14 by the council, and the council or the designated third party
15 shall convene a hearing, if requested, and adjudicate the
16 grievance.

17 Section 15. Antitrust provisions.

18 Persons or entities required to submit data or information
19 under this act or receiving data or information from the council
20 in accordance with this act are declared to be acting pursuant
21 to State requirements embodied in this act and shall be exempt
22 from antitrust claims or actions grounded upon submission or
23 receipt of such data or information.

24 Section 16. Contracts with vendors.

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

1 (1) The council shall prepare specifications fully
2 describing the services to be rendered or equipment or
3 supplies to be provided by a vendor and shall make these
4 specifications available for inspection by any person at the
5 council's offices during normal working hours and at such
6 other places and such other times as the council deems
7 advisable.

8 (2) The council shall publish notice of invitations to
9 bid in the Pennsylvania Bulletin. The council shall also
10 publish such notice in at least four newspapers in general
11 circulation in the Commonwealth on at least three occasions
12 at intervals of not less than three days. Said notice shall
13 include at least the following:

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

18 (ii) The locations, dates and times during which
19 prospective vendors can examine the specifications
20 required in paragraph (1).

21 (iii) The date, time and place of the meeting or
22 meetings of the council at which bids will be opened and
23 accepted.

24 (iv) A statement to the effect that any person is
25 eligible to bid.

26 (3) Bids shall be accepted as follows:

27 (i) No council member who is affiliated in any way
28 with any bidder shall vote on the awarding of any
29 contract for which said bidder has submitted a bid, and
30 any council member who has an affiliation with a bidder

1 shall state the nature of the affiliation prior to any
2 vote of the council.

3 (ii) Bids shall be opened and reviewed by the
4 appropriate council committee, which shall make
5 recommendations to the council on approval. Bids shall be
6 accepted and such acceptance shall be announced only at a
7 public meeting of the council as defined in section 4(e),
8 and no bids shall be accepted at an executive session of
9 the council.

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

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

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

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

26 (iii) The council may require the selected vendor to
27 furnish, within 20 days after the contract has been
28 awarded, a bond with suitable and reasonable requirements
29 guaranteeing the services to be performed with sufficient
30 surety in an amount determined by the council, and upon

1 failure to furnish such bond within the time specified,
2 the previous award shall be void.

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

7 Section 17.1. Reporting.

8 The council shall provide an annual report of its financial
9 expenditures to the Appropriations Committee of the Senate and
10 the Appropriations Committee of the House of Representatives.

11 Section 17.2. Health Care Cost Containment Council Act Review
12 Committee.

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

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

18 (1) One member appointed by the Governor.

19 (2) Four members appointed by the General Assembly, one
20 of whom appointed by each of the following:

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

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

23 (iii) one by the Majority Leader of the House of
24 Representatives; and

25 (iv) one by the Minority Leader of the House of
26 Representatives.

27 (3) Two representatives of the business community, at
28 least one of whom represents small business, and neither of
29 whom is primarily involved in the provision of health care or
30 health insurance, one of whom appointed by the President pro

1 tempore of the Senate and one of whom appointed by the
2 Speaker of the House of Representatives from a list of four
3 qualified persons recommended by the Pennsylvania Chamber of
4 Business and Industry.

5 (4) Two representatives of organized labor, one of whom
6 appointed by the President pro tempore of the Senate and one
7 of whom appointed by the Speaker of the House of
8 Representatives from a list of four qualified persons
9 recommended by the Pennsylvania AFL-CIO.

10 (5) One representative of consumers who is not primarily
11 involved in the provision of health care or health care
12 insurance, appointed by the Governor from a list of three
13 qualified persons recommended jointly by the President pro
14 tempore of the Senate and the Speaker of the House of
15 Representatives.

16 (6) One representative of a health care facility,
17 appointed by the Governor from a list of three qualified
18 hospital representatives recommended by the Hospital and
19 Health System Association of Pennsylvania.

20 (7) One representative of physicians, appointed by the
21 Governor from a list of three qualified physician
22 representatives recommended jointly by the Pennsylvania
23 Medical Society and the Pennsylvania Osteopathic Medical
24 Society.

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

28 (9) One representative of the Blue Cross and Blue Shield
29 plans in Pennsylvania, pursuant to 40 Pa.C.S. Ch. 61

30 (relating to Hospital Plan Corporations), appointed by the

1 Governor from a list of three qualified persons recommended
2 jointly by the Blue Cross and Blue Shield plans of
3 Pennsylvania.

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

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

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

14 (e) Meetings.--

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

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

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

29 (g) Commencement of committee.--

30 (1) Within 15 days after the effective date of this

1 section, each organization or individual required to submit a
2 list of recommended persons to the Governor, the President
3 pro tempore of the Senate or the Speaker of the House of
4 Representatives under subsection (b) shall submit the list.

5 (2) Within 30 days of the effective date of this
6 section, the Governor, the President pro tempore of the
7 Senate and the Speaker of the House of Representatives shall
8 make the appointments called for in subsection (b), and the
9 committee shall begin operations immediately following the
10 appointments.

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

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

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

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

19 (i) The establishment of an Internet database for
20 the general public showing Medicare reimbursement rates
21 for common covered services and treatment.

22 (ii) In consultation with experts in the fields of
23 quality data and outcome measures, the definition and
24 implementation of:

25 (A) A methodology by provider type for the
26 council to risk-adjust quality data.

27 (B) A methodology for the council to collect and
28 disseminate data reflecting provider quality and
29 provider service effectiveness.

30 (4) To submit the report approved under paragraph (3) to

1 the President pro tempore of the Senate and the Speaker of
2 the House of Representatives within six months after the
3 effective date of this section.

4 (i) Committee support.--The council shall offer staff and
5 administrative support from the council or its work groups
6 necessary for the committee to carry out its duties under this
7 section.

8 Section 18. Severability.

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

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

16 Section 19. Sunset.

17 This act shall expire June 30, [2014, unless reenacted prior
18 to that date] 2020. By September 1, [2013] 2019, a written
19 report by the Legislative Budget and Finance Committee
20 evaluating the management, visibility, awareness and performance
21 of the council shall be provided to the Public Health and
22 Welfare Committee of the Senate and the Health and Human
23 Services Committee of the House of Representatives. The report
24 shall include a review of the council's procedures and policies,
25 the availability and quality of data for completing reports ,
26 whether there is a more cost-efficient way of accomplishing the
27 objectives of the council and the need for reauthorization of
28 the council.

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

30 Section 20. Effective date.

1 This act shall take effect immediately.

2 Section 10. In accordance with section 11 of this act, the
3 following apply to the period from June 29, 2014, to the
4 effective date of this section:

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

7 (2) Any action taken by the council is validated.

8 (3) There shall be no lapse in the employment
9 relationship for employees of the council. This paragraph
10 includes salary, seniority, benefits and retirement
11 eligibility of the employees.

12 Section 11. This act shall apply retroactively to June 29,
13 2008.

14 Section 12. This act shall take effect immediately.