

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 841 Session of 2019

INTRODUCED BY MARTIN, GORDNER, YAW, MENSCH, KILLION, COSTA, MASTRIANO, BARTOLOTTA AND K. WARD, SEPTEMBER 3, 2019

SENATOR J. WARD, HEALTH AND HUMAN SERVICES, AS AMENDED, OCTOBER 28, 2019

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for the Health Care Cost
3 Containment Council, for its powers and duties, for health
4 care cost containment through the collection and
5 dissemination of data, for public accountability of health
6 care costs and for health care for the indigent.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 35 of the Pennsylvania Consolidated
10 Statutes is amended by adding a part to read:

11 PART II

12 REGULATED ENTITIES

13 Chapter

14 33. Health Care Cost Containment

15 CHAPTER 33

16 HEALTH CARE COST CONTAINMENT

17 Sec.

18 3301. Short title of chapter.

19 3302. Definitions.

- 1 3303. Health Care Cost Containment Council.
2 3304. Powers and duties of council.
3 3305. Data submission and collection.
4 3306. Data dissemination and publication.
5 3307. Mandated health benefits.
6 3308. Right-to-Know Law and access to council data.
7 3309. Special studies and reports.
8 3310. Enforcement and penalty.
9 3311. Research and demonstration projects.
10 3312. Grievances and grievance procedures.
11 3313. Antitrust provisions.
12 3314. Contracts with vendors.
13 3315. Reporting.
14 3316. Severability.
15 § 3301. Short title of chapter.

16 This chapter shall be known and may be cited as the Health
17 Care Cost Containment Act.

18 § 3302. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Ambulatory service facility." A facility licensed in this
23 Commonwealth which is not part of a hospital and which provides
24 medical, diagnostic or surgical treatment to patients not
25 requiring hospitalization, including ambulatory surgical
26 facilities, ambulatory imaging or diagnostic centers, birthing
27 centers, freestanding emergency rooms and any other facilities
28 providing ambulatory care which charge a separate facility
29 charge. The term does not include the offices of private
30 physicians or dentists, whether for individual or group

1 practices.

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

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

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

15 "Data." Data collected by the council under section 3305
16 (relating to data submission and collection). The term includes
17 raw data.

18 "Data source." The term includes a provider.

19 "Health care facility." A general or special hospital,
20 including:

21 (1) Psychiatric hospitals.

22 (2) Kidney disease treatment centers, including
23 freestanding hemodialysis units.

24 (3) Ambulatory service facilities.

25 (4) Hospices, including hospices operated by an agency
26 of State or local government.

27 ~~"Health care insurer." A person, corporation or other entity~~ <--

28 ~~"HEALTH CARE INSURER." AS FOLLOWS:~~ <--

29 ~~(1) A PERSON, CORPORATION OR OTHER ENTITY that offers~~
30 ~~administrative, indemnity or payment services for health care~~

in exchange for a premium or service charge under a program of health care benefits, including, but not limited to:

~~(1) An insurance company, association or exchange~~ <--

(I) AN INSURANCE COMPANY, ASSOCIATION OR EXCHANGE <--
issuing health insurance policies in this Commonwealth governed by the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

~~(2) A hospital plan corporation as defined in 40 Pa.C.S.~~ <--

(II) A HOSPITAL PLAN CORPORATION AS DEFINED IN 40 <--
PA.C.S. Ch. 61 (relating to hospital plan corporations).

~~(3) A professional health service corporation as defined~~ <--

(III) A PROFESSIONAL HEALTH SERVICE CORPORATION AS <--
DEFINED in 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).

~~(4) A health maintenance organization governed by the~~ <--

(IV) A HEALTH MAINTENANCE ORGANIZATION GOVERNED BY <--
THE act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

~~(5) A third party administrator governed by Article X of~~ <--

(V) A THIRD-PARTY ADMINISTRATOR GOVERNED BY ARTICLE <--
X OF the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

~~The term does not include employers, labor unions or health and~~ <--

(2) THE TERM DOES NOT INCLUDE: <--

(I) EMPLOYERS, LABOR UNIONS OR HEALTH AND welfare
funds jointly or separately administered by employers or labor unions that purchase or self-fund a program of health care benefits for their employees or members and their dependents.

(II) THE FOLLOWING TYPES OF INSURANCE OR ANY <--

1 COMBINATION THEREOF:

2 (A) ACCIDENT ONLY.

3 (B) FIXED INDEMNITY.

4 (C) HOSPITAL INDEMNITY.

5 (D) LIMITED BENEFIT.

6 (E) CREDIT.

7 (F) DENTAL.

8 (G) VISION.

9 (H) SPECIFIED DISEASE.

10 (I) MEDICARE SUPPLEMENT.

11 (J) CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
12 UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT.

13 (K) LONG-TERM CARE OR DISABILITY INCOME.

14 (L) WORKERS' COMPENSATION.

15 (M) AUTOMOBILE MEDICAL PAYMENT INSURANCE.

16 "Health maintenance organization." An organized system which
17 combines the delivery and financing of health care and which
18 provides basic health services to voluntarily enrolled
19 subscribers for a fixed prepaid fee, as defined in the Health
20 Maintenance Organization Act.

21 "Hospital." An institution licensed in this Commonwealth
22 which is:

23 (1) A general, mental, chronic disease or other type of
24 hospital.

25 (2) A kidney disease treatment center, including kidney
26 disease treatment centers operated by an agency of State or
27 local government.

28 "Major ambulatory service." Surgical or medical procedures,
29 including diagnostic and therapeutic radiological procedures,
30 commonly performed in hospitals or ambulatory service

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

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

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

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

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

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

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

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

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

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

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

22 § 3303. Health Care Cost Containment Council.

23 (a) Establishment.--The Health Care Cost Containment Council
24 is established as an independent council.

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

28 (1) The Secretary of Health.

29 (2) The Secretary of Human Services.

30 (3) The Insurance Commissioner.

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

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

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

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

30 (8) Two representatives of physicians, appointed by the

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

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

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

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

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

21 (11) (Reserved).

22 (12) Representatives from the General Assembly as
23 follows:

24 (i) One Senator appointed by the President pro
25 tempore of the Senate.

26 (ii) One Senator appointed by the Minority Leader of
27 the Senate.

28 (iii) One member of the House of Representatives
29 appointed by the Speaker of the House of Representatives.

30 (iv) One member of the House of Representatives

1 appointed by the Minority Leader of the House of
2 Representatives.

3 (13) 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 an equivalent organization to fulfill the responsibilities
16 set forth in this chapter.

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 the business and
20 labor members of the council.

21 (d) Quorum.--The council shall establish in the council's
22 bylaws the number of members necessary to constitute a quorum.

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

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

1 upon seven days' notice to council members. Attendance at the
2 meeting may be accomplished by electronic means so long as
3 each council member attending via electronic means can
4 communicate in real time with the other members of the
5 council and the public.

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

13 (3) The council shall publish a schedule of its meetings
14 in the Pennsylvania Bulletin, on its publicly accessible
15 Internet website and as provided under 65 Pa.C.S. Ch. 7. The
16 notice shall be published at least once in each calendar
17 quarter and shall list the schedule of meetings of the
18 council to be held in the subsequent calendar quarter. The
19 notice shall specify the date, time and place of the meeting
20 and shall state that the council's meetings are open to the
21 general public, except that no notice shall be required for
22 executive sessions of the council.

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

28 (f) Bylaws.--The council shall adopt bylaws, not
29 inconsistent with this chapter, and may appoint such committees
30 or elect such officers subordinate to those provided for in

1 subsection (c) as it deems advisable.

2 (g) Technical advisory group.--

3 (1) The council shall appoint a technical advisory group
4 which shall, on an ad hoc basis, respond to issues presented
5 to it by the council or committees of the council and shall
6 make recommendations to the council. The technical advisory
7 group shall include:

8 (i) Physicians.

9 (ii) Researchers.

10 (iii) Biostatisticians.

11 (iv) One representative of the Hospital and
12 Healthsystem Association of Pennsylvania.

13 (v) One representative of the Pennsylvania Medical
14 Society.

15 (2) The Hospital and Healthsystem Association of
16 Pennsylvania and the Pennsylvania Medical Society
17 representatives shall not be subject to executive committee
18 approval. In appointing other physicians, researchers and
19 biostatisticians to the technical advisory group, the council
20 shall consult with and take nominations from the
21 representatives of:

22 (i) the Hospital Association of Pennsylvania;

23 (ii) the Pennsylvania Medical Society;

24 (iii) the Pennsylvania Osteopathic Medical Society;

25 or

26 (iv) other like organizations.

27 (3) At its discretion and in accordance with this
28 section, nominations shall be approved by the executive
29 committee of the council. If the subject matter of any
30 project exceeds the expertise of the technical advisory

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

10 (h) Payment data advisory group.--

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

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

24 (ii) Two members representing commercial insurance
25 carriers.

26 (iii) Three members representing health care
27 facilities.

28 (iv) Three members representing physicians.

29 (2) The payment data advisory group shall meet at least
30 four times a year and may provide for special meetings as may

1 be necessary.

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

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

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

14 (ii) Manipulation, adjustments and methods used with
15 payment data.

16 (iii) Public reporting of payment data by the
17 council.

18 (i) Compensation and expenses.--The members of the council
19 and any member of an advisory group appointed by the council
20 shall not receive a salary or per diem allowance for serving as
21 members or advisors of the council, but shall be reimbursed for
22 actual and necessary expenses incurred in the performance of
23 their duties. The expenses may include reimbursement of travel
24 and living expenses while engaged in council business.

25 (j) Terms of council members.--

26 (1) The terms of the Secretary of Health, the Secretary
27 of Human Services, the Insurance Commissioner and the
28 legislative representatives shall be concurrent with their
29 holding of public office. The council members under
30 subsection (b)(4), (5), (6), (7), (8), (8.1), (8.2), (9),

1 (10), (11) and (12) shall each serve for a term of four years
2 and shall continue to serve thereafter until their successors
3 are 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) Except for the Secretary of Health, the Secretary of
16 Human Services, the Insurance Commissioner and the
17 legislative representatives, a member may be removed for just
18 cause by the appointing authority after recommendation by a
19 vote of at least 14 members of the council.

20 (4) No appointed member under subsection (b) (4), (5),
21 (6), (7), (8), (8.1), (8.2), (9), (10), (11) and (12) shall
22 be eligible to serve more than three full consecutive terms
23 of four years beginning on the effective date of this
24 paragraph.

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

29 (1) Organizations required under subsection (b) to
30 submit lists of recommended persons shall do so at least 60

1 days prior to expiration of the council members' terms.

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

14 § 3304. Powers and duties of council.

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

18 (1) To employ an executive director, investigators and
19 other staff necessary to comply with the provisions of this
20 chapter and regulations promulgated thereunder, to employ or
21 retain legal counsel and to engage professional consultants,
22 as it deems necessary to the performance of its duties. Any
23 consultants, other than sole source consultants, engaged by
24 the council shall be selected in accordance with the
25 provisions for contracting with vendors set forth in section
26 3314 (relating to contracts with vendors).

27 (2) To fix the compensation of all employees and to
28 prescribe their duties. Notwithstanding the independence of
29 the council under section 3303(a) (relating to Health Care
30 Cost Containment Council), employees under this paragraph

1 shall be deemed employees of the Commonwealth for the
2 purposes of participation in the Pennsylvania Employee
3 Benefit Trust Fund.

4 (3) To make and execute contracts and other instruments,
5 including those for purchase of services and purchase or
6 leasing of equipment and supplies, necessary or convenient to
7 the exercise of the powers of the council. Any such contract
8 shall be in accordance with the provision for contracting
9 with vendors set forth in section 3314.

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

15 (5) To provide hospitals with individualized data on
16 patient safety indicators under section 3305(c)(8) (relating
17 to data submission and collection). The data shall be risk
18 adjusted and made available to hospitals electronically and
19 free of charge on a quarterly basis within 45 days of receipt
20 of the corrected quarterly data from the hospitals. The data
21 is intended to provide the patient safety committee of each
22 hospital with information necessary to assist in conducting
23 patient safety analysis.

24 (6) To do all things necessary to carry out its duties
25 under the provisions of this chapter.

26 (b) Rules and regulations.--

27 (1) The council may promulgate rules and regulations as
28 necessary and appropriate to implement this act.

29 (2) Regulations promulgated by the council shall be
30 promulgated in accordance with the act of June 25, 1982

1 (P.L.633, No.181), known as the Regulatory Review Act.

2 (3) Rules and regulations in effect prior to the
3 effective date of this section shall remain in effect.

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

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

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

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

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

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

1 (1) Develop a computerized system for the collection,
2 analysis and dissemination of data. The council may contract
3 with a vendor who will provide data processing services. The
4 council shall assure that the system will be capable of
5 processing all data required to be collected under this
6 chapter. Any vendor selected by the council shall be selected
7 in accordance with the provisions of section 3314, and the
8 vendor shall relinquish any and all proprietary rights or
9 claims to the database created as a result of implementation
10 of the data processing system.

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

15 (3) (Reserved).

16 (4) Collect and disseminate data, as specified in
17 sections 3305 and 3306 (relating to data dissemination and
18 publication), and other information from data sources to
19 which the council is entitled, prepared according to formats,
20 time frames and confidentiality provisions as specified in
21 sections 3305 and 3308 (relating to Right-to-Know Law and
22 access to council data), and by the council.

23 (5) Adopt and implement a methodology to collect and
24 disseminate data reflecting provider quality, provider
25 service effectiveness, utilization and the cost of health
26 care services under sections 3305 and 3306.

27 (6) Subject to the restrictions on access to raw data
28 set forth in section 3308, issue special reports and make
29 available raw data to a purchaser requesting it. Sale by a
30 recipient or exchange or publication by a recipient, other

1 than a purchaser, of council raw data to other parties
2 without the express written consent of, and under terms
3 approved by, the council shall be unauthorized use of data
4 under section 3308(d).

5 (7) On an annual basis, publish in the Pennsylvania
6 Bulletin a list of all the raw data reports it has prepared
7 under section 3308(g) and a description of the data obtained
8 through each computer-to-computer access it has provided
9 under section 3308(g) and of the names of the parties to whom
10 the council provided the reports or the computer-to-computer
11 access during the previous month.

12 (8) Promote competition in the health care and health
13 insurance markets.

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

16 (10) Provide information on the allowed and paid costs
17 of medical services in terminology that may be reasonably
18 understood by the average individual consumer of health care
19 services. The council shall present the cost information in
20 conjunction with information on quality of care delivery, if
21 quality information is reasonably available to the council,
22 so that the average individual consumer of health care
23 services may use the information to inform purchasing
24 decisions.

25 (11) In consultation with the Insurance Department and
26 the Department of Health, make annual reports to the General
27 Assembly on the rate of increase in the cost of health care
28 in this Commonwealth, including, but not limited to, the
29 following:

30 (i) The rate of increase in health insurance

1 premiums in this Commonwealth.

2 (ii) Regional trends in cost of health care and
3 health insurance premiums.

4 (iii) The effectiveness of the council in carrying
5 out the legislative intent of this chapter.

6 (iv) The quality and effectiveness of health care
7 and access to health care for all citizens of this
8 Commonwealth.

9 (12) In the discretion of the council, make
10 recommendations on the need for further health care cost
11 containment legislation.

12 (13) Conduct studies and publish reports analyzing the
13 effects that outpatient, alternative health care delivery
14 systems have on health care costs. The systems shall include,
15 but are not limited to, health maintenance organizations;
16 preferred provider organizations; primary health care
17 facilities; home health care; attendant care; ambulatory
18 service facilities; freestanding emergency centers; birthing
19 centers; and hospice care. The reports shall be submitted to
20 the General Assembly and shall be made available to the
21 public.

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

26 § 3305. Data submission and collection.

27 (a) Submission of data.--

28 (1) The council is authorized to collect and data
29 sources are required to submit, upon request of the council,
30 all data required in this section, according to uniform

1 submission formats, coding systems and other technical
2 specifications necessary to render the incoming data
3 substantially valid, consistent, compatible and manageable
4 using electronic data processing according to data submission
5 schedules. The schedules shall avoid, to the extent possible,
6 submission of identical data from more than one data source.
7 The uniform submission formats, coding systems and other
8 technical specifications may be established by the council
9 pursuant to its authority under section 3304(b) (relating to
10 powers and duties of council). If payor data is requested by
11 the council, it shall, to the extent possible, be obtained
12 from primary payor sources. The council shall not require any
13 data source to contract with any specific vendor for
14 submission of any specific data elements to the council.

15 (2) In carrying out its responsibilities, the council
16 shall not require health care facilities to report data
17 elements which are not included in the manual developed by
18 the National Uniform Billing Committee. The council shall
19 publish in the Pennsylvania Bulletin a list of no more than
20 35 diseases, procedures and medical conditions for which data
21 under subsections (c)(22) and (d) shall be required. The list
22 shall not represent more than 50% of total hospital
23 discharges, based upon the previous year's hospital discharge
24 data. Subsequent to the publication of the list, any data
25 submission requirements under subsections (c)(22) and (d)
26 previously in effect shall be null and void for diseases,
27 procedures and medical conditions not found on the list. All
28 other data elements under subsection (c) shall continue to be
29 required from data sources. The council shall review the list
30 and may add no more than a net of three diseases, procedures

1 or medical conditions per year over a five-year period. The
2 adjusted list of diseases, procedures and medical conditions
3 shall at no time be more than 50% of total hospital
4 discharges.

5 (b) Pennsylvania Uniform Claims and Billing Form.--The
6 council shall maintain a Pennsylvania Uniform Claims and Billing
7 Form format. The council shall furnish the claims and billing
8 form format to all data sources, and the claims and billing form
9 shall be utilized and maintained by all data sources for all
10 services covered by this chapter. The Pennsylvania Uniform
11 Claims and Billing Form shall consist of the Uniform Hospital
12 Billing Form, as developed by the National Uniform Billing
13 Committee, with additional fields as necessary to provide all of
14 the data set forth in subsections (c) and (d).

15 (c) Data elements.--For each covered service performed in
16 this Commonwealth, the council shall be required to collect the
17 following data elements:

- 18 (1) uniform patient identifier, continuous across
19 multiple episodes and providers;
- 20 (2) patient date of birth;
- 21 (3) patient sex;
- 22 (4) patient race, consistent with the method of
23 collection of race/ethnicity data by the United States Bureau
24 of the Census and the United States Standard Certificates of
25 Live Birth and Death;
- 26 (5) patient zip code number;
- 27 (6) date of admission;
- 28 (7) date of discharge;
- 29 (8) principal and secondary diagnoses by standard code,
30 including external cause of injury, complication, infection

1 and childbirth;

2 (9) principal procedure by council-specified standard
3 code and date;

4 (10) up to three secondary procedures by council-
5 specified standard codes and dates;

6 (11) uniform health care facility identifier, continuous
7 across episodes, patients and providers;

8 (12) uniform identifier of admitting physician, by
9 unique physician identification number established by the
10 council, continuous across episodes, patients and providers;

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

14 (14) total charges of health care facility, segregated
15 into major categories, including, but not limited to, room
16 and board, radiology, laboratory, operating room, drugs,
17 medical supplies and other goods and services according to
18 guidelines specified by the council;

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

22 (16) charges of each physician or professional rendering
23 service relating to an incident of hospitalization or
24 treatment in an ambulatory service facility;

25 (17) actual payments to each physician or professional
26 rendering service under paragraph (16);

27 (18) uniform identifier of primary payor;

28 (19) zip code number of facility where health care
29 service is rendered;

30 (20) uniform identifier for payor group contract number;

1 (21) patient discharge status; and
2 (22) provider service effectiveness and provider quality
3 under section 3304(d).

4 (d) Provider quality and provider service effectiveness data
5 elements.--In carrying out its duty to collect data on provider
6 quality and provider service effectiveness under subsection (c)
7 (22) and section 3304(d)(5), the council shall define a
8 methodology to measure provider service effectiveness, which may
9 include additional data elements to be specified by the council
10 sufficient to carry out its responsibilities under section
11 3304(d)(5). The council shall not require health care insurers
12 to report on data elements that are not reported to nationally
13 recognized accrediting organizations, to the Department of
14 Health, the Department of Human Services or the Insurance
15 Department, in quarterly or annual reports. The council shall
16 not require reporting by health care insurers in different
17 formats than are required for reporting to nationally recognized
18 accrediting organizations or on quarterly or annual reports
19 submitted to the Department of Health, the Department of Human
20 Services or the Insurance Department. The council may adopt the
21 quality findings as reported to nationally recognized
22 accrediting organizations. Additional quality data elements must
23 be defined and released for public comment prior to use.

24 (e) Reserve field utilization and addition or deletion of
25 data elements.--The council shall include in the Pennsylvania
26 Uniform Claims and Billing Form a reserve field. The council may
27 utilize the reserve field by adding other data elements beyond
28 those required to carry out its responsibilities under
29 subsections (c) and (d) and section 3304(d)(4) and (5), or the
30 council may delete data elements from the Pennsylvania Uniform

1 Claims and Billing Form only by a majority vote of the council
2 and only pursuant to the following procedure:

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

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

10 (3) The council may hold additional hearings or request
11 such other reports as it deems necessary and shall consider
12 the comments received during the 60-day comment period and
13 any additional information gained through the hearings or
14 other reports in making a final determination on the proposed
15 addition or deletion.

16 (f) Other data required to be submitted.--Each provider is
17 hereby required to submit, and the council is hereby authorized
18 to collect, in accordance with submission dates and schedules
19 established by the council, the following additional data in its
20 possession, provided the data is not available to the council
21 from public records:

22 (1) Audited annual financial reports of all hospitals
23 and ambulatory service facilities providing covered services
24 as defined in section 3302.

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

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

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

1 (ii) physicians who provide covered services and
2 accept medical assistance patients;

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

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

8 (v) rates of infection for specified diagnoses and
9 treatments, grouped by severity, for individual
10 providers;

11 (vi) morbidity rates for specified diagnoses and
12 treatments, grouped by severity, for individual
13 providers;

14 (vii) readmission rates for specified diagnoses and
15 treatments, grouped by severity, for individual
16 providers;

17 (viii) rate of incidence of postdischarge
18 professional care for selected diagnoses and procedures,
19 grouped by severity, for individual providers; and

20 (ix) data from other public sources.

21 (4) Any other data the council requires to carry out its
22 responsibilities under section 3304(d).

23 (g) Review and correction of data.--The council shall
24 provide a reasonable period for data sources to review and
25 correct the data submitted under this section which the council
26 intends to prepare and issue in reports to the General Assembly,
27 to the general public or in special studies and reports under
28 section 3309 (relating to special studies and reports). When
29 corrections are provided, the council shall correct the
30 appropriate data in its data files and subsequent reports.

1 (h) Allowance for clarification or dissents.--The council
2 shall maintain a file of written statements submitted by data
3 sources who wish to provide an explanation of data that they
4 feel might be misleading or misinterpreted. The council shall
5 provide access to the file to any person and shall, where
6 practical, in its reports and data files indicate the
7 availability of such statements. When the council agrees with
8 such statements, it shall correct the appropriate data and
9 comments in its data files and subsequent reports.

10 (i) Allowance for correction.--The council shall verify the
11 patient safety indicator data submitted by hospitals under
12 subsection (c) (8) within 60 days of receipt. The council may
13 allow hospitals to make changes to the data submitted during the
14 verification period. After the verification period, but within
15 45 days of receipt of the adjusted hospital data, the council
16 shall risk adjust the information and provide reports to the
17 patient safety committee of the relevant hospital.

18 (j) Availability of data.--Nothing in this chapter shall
19 prohibit a purchaser from obtaining from its health care
20 insurer, nor relieve the health care insurer from the obligation
21 of providing the purchaser, on terms consistent with past
22 practices, data previously provided or additional data not
23 currently provided to the purchaser by the health care insurer
24 pursuant to any existing or future arrangement, agreement or
25 understanding.

26 § 3306. Data dissemination and publication.

27 (a) Public reports.--Subject to the restrictions on access
28 to council data set forth in section 3308 (relating to Right-to-
29 Know Law and access to council data) and utilizing the data
30 collected under section 3305 (relating to data submission and

1 collection), as well as other data, records and matters of
2 record available to it, the council shall prepare and issue
3 reports to the General Assembly and to the general public
4 according to the following provisions:

5 (1) The council shall, for every provider of both
6 inpatient and outpatient services within this Commonwealth
7 and within appropriate regions and subregions, prepare and
8 issue reports on provider quality and service effectiveness
9 on diseases or procedures that, when ranked by volume, cost,
10 payment and high variation in outcome, represent the best
11 opportunity to improve overall provider quality, improve
12 patient safety and provide opportunities for cost reduction.
13 These reports shall provide comparative information on the
14 following:

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

23 (ii) The incidence rate of selected medical or
24 surgical procedures, the quality and service
25 effectiveness and the payments received for those
26 providers, identified by the name and type or specialty,
27 for which these elements vary significantly from the
28 norms for all providers.

29 (2) In preparing its reports under paragraph (1), the
30 council shall ensure that factors which have the effect of

1 either reducing provider revenue or increasing provider costs
2 and other factors beyond a provider's control which reduce
3 provider competitiveness in the marketplace are explained in
4 the reports. The council shall also ensure that any
5 clarifications and dissents submitted by individual providers
6 under section 3305(h) are noted in any reports that include
7 release of data on that individual provider.

8 (b) Raw data reports and computer access to council data.--

9 The council shall provide special reports derived from raw data
10 and a means for computer-to-computer access to its raw data to a
11 purchaser under section 3308(g). The council shall provide the
12 reports and computer-to-computer access, at its discretion, to
13 other parties under section 3308(i). The council shall provide
14 these special reports and computer-to-computer access in as
15 timely a fashion as the council's responsibilities to publish
16 the public reports required in this section will allow. Any
17 provision of special reports or computer-to-computer access by
18 the council shall be made only subject to the restrictions on
19 access to raw data set forth in section 3308(c) and only after
20 payment for costs of preparation or duplication under section
21 3308(g) or (i).

22 § 3307. Mandated health benefits.

23 In relation to current law or proposed legislation, the
24 council shall, upon the request of the appropriate committee
25 chairman in the Senate and in the House of Representatives or
26 upon the request of the Secretary of Health or the Secretary of
27 Human Services, provide information on the proposed mandated
28 health benefit pursuant to the following:

29 (1) The General Assembly hereby declares that proposals
30 for mandated health benefits or mandated health insurance

1 coverage should be accompanied by adequate, independently
2 certified documentation defining the social and financial
3 impact and medical efficacy of the proposal. To that end, the
4 council, upon receipt of such requests, is hereby authorized
5 to conduct a preliminary review of the material submitted by
6 both proponents and opponents concerning the proposed
7 mandated benefit. If, after this preliminary review, the
8 council is satisfied that both proponents and opponents have
9 submitted sufficient documentation necessary for a review
10 under paragraphs (3) and (4), the council is directed to
11 contract with individuals, pursuant to the selection
12 procedures for vendors set forth in section 3314 (relating to
13 contracts with vendors), who will constitute a Mandated
14 Benefits Review Panel to review mandated benefits proposals
15 and provide independently certified documentation, as
16 provided for in this section.

17 (2) The panel shall consist of the following senior
18 researchers, each of whom shall be a recognized expert:

19 (i) one in health research;

20 (ii) one in biostatistics;

21 (iii) one in economic research;

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

25 (v) one with experience in insurance or actuarial
26 research.

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

29 (i) To review documentation submitted by a person
30 proposing or opposing mandated benefits within 90 days of

1 submission of the documentation to the panel.

2 (ii) To report to the council, pursuant to the
3 council's review under subparagraph (i), the following:

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

6 (B) Whether or not the research cited in the
7 documentation meets professional standards.

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

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

14 (4) A person proposing or opposing legislation mandating
15 benefits coverage should, to provide the Mandated Benefits
16 Review Panel with sufficient information to carry out the
17 Mandated Benefits Review Panel's duties and responsibilities
18 under paragraph (3), submit documentation to the council,
19 pursuant to the procedure established under paragraph (5),
20 which demonstrates the following:

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

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

30 (iii) The demand for the proposed benefit from the

1 public and the source and extent of opposition to
2 mandating the benefit.

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

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

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

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

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

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

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

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

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

30 (E) The impact of the proposed benefits on

1 benefits costs of purchasers.

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

4 (5) The procedure for review of documentation shall be
5 as follows:

6 (i) A person wishing to submit information on
7 proposed legislation mandating insurance benefits for
8 review by the panel must submit the documentation
9 specified under paragraph (4) to the council.

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

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

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

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

26 (iii) Upon receipt of the comments of the Secretary
27 of Health, the Secretary of Human Services and the
28 Insurance Commissioner and of the findings of the panel,
29 under subparagraph (ii), but no later than 120 days
30 following the publication required in subparagraph (ii),

1 the council shall submit the comments and findings,
2 together with the council's recommendations respecting
3 the proposed legislation, to the Governor, the President
4 pro tempore of the Senate, the Speaker of the House of
5 Representatives, the Secretary of Health, the Secretary
6 of Human Services, the Insurance Commissioner and the
7 person who submitted the information under subparagraph
8 (i).

9 § 3308. Right-to-Know Law and access to council data.

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

20 (b) Outreach programs.--The council shall develop and
21 implement outreach programs designed to make the council's
22 information understandable and usable to purchasers, providers,
23 other Commonwealth agencies and the general public. The programs
24 shall include efforts to educate through pamphlets, booklets,
25 seminars and other appropriate measures and to facilitate making
26 more informed health care choices.

27 (c) Limitations on access.--Unless specifically provided for
28 under this chapter, neither the council nor any contracting
29 system vendor shall release and no data source, person, member
30 of the public or other user of any data of the council shall

1 gain access to:

2 (1) Any raw data of the council that does not
3 simultaneously disclose payment, as well as provider quality
4 and provider service effectiveness pursuant to sections
5 3304(d)(5) (relating to powers and duties of council) and
6 3305(d) (relating to data submission and collection).

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

9 (3) Any raw data of the council which could reasonably
10 be expected to reveal the identity of any purchaser, other
11 than a purchaser requesting data on its own group or an
12 entity entitled to said purchaser's data pursuant to
13 subsection (g).

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

21 (5) Any raw data disclosing discounts or allowances
22 between identified payors and providers unless the data is
23 released in a Statewide, aggregate format that does not
24 identify any individual payor or class of payors, directly or
25 indirectly through the use of a market share, and unless the
26 council assures that the release of such information is not
27 prejudicial or inequitable to any individual payor or
28 provider or group thereof. Payor data shall be released to
29 individual providers for purposes of verification and
30 validation prior to inclusion in a public report. An

1 individual provider shall verify and validate the payor data
2 within 30 days of its release to that specific individual
3 provider.

4 (d) Unauthorized use of data.--A person who knowingly
5 releases council data violating raw data safeguards under this
6 section to an unauthorized person commits a misdemeanor of the
7 first degree and shall, upon conviction, be sentenced to pay a
8 fine of \$10,000 or to imprisonment for not more than five years,
9 or both. An unauthorized person who knowingly receives or
10 possesses the data commits a misdemeanor of the first degree.

11 (e) Unauthorized access to data.--If person inadvertently or
12 by council error gains access to data that violates the
13 safeguards under this section, the data must immediately be
14 returned, without duplication, to the council with proper
15 notification.

16 (f) Public access to records.--Each public report prepared
17 by the council shall be a public record and shall be available
18 to the public for a reasonable fee. Copies shall be provided,
19 upon request of the chair, to the Health and Human Services
20 Committee of the Senate and the Health Committee and Human
21 Services Committee of the House of Representatives.

22 (g) Access to council raw data by purchasers.--Pursuant to
23 sections 3304(d)(6) and 3306(b) (relating to data dissemination
24 and publication) and subject to the limitations on access under
25 subsection (c), the council shall provide access to the
26 council's raw data to purchasers, excluding purchasers that
27 provide covered services other than through the purchase of
28 fully funded insurance from a health care insurer but that are
29 not elective health care payor data sources, in accordance with
30 the following procedure:

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

4 (2) A means to enable computer-to-computer access by the
5 purchaser to raw data of the council shall be developed,
6 adopted and implemented by the council. The council shall
7 provide the access to the council's raw data to a purchaser
8 upon request.

9 (3) If an employer obtains from the council, under
10 paragraph (1) or (2), data pertaining to the employer's
11 employees and the employees' dependents for whom the employer
12 purchases or otherwise provides covered services and who are
13 represented by a certified collective bargaining
14 representative, the collective bargaining representative
15 shall be entitled to the data, after payment of fees under
16 paragraph (4). If a certified collective bargaining
17 representative obtains from the council, under paragraph (1)
18 or (2), data pertaining to the employer's members and the
19 member's dependents who are employed by and for whom covered
20 services are purchased or otherwise provided by an employer,
21 the employer shall be entitled to the data, after payment of
22 fees under paragraph (4).

23 (4) In providing for access to its raw data, the council
24 shall charge the purchasers which originally obtained the
25 access a fee sufficient to cover the council's costs to
26 prepare and provide special reports requested under paragraph
27 (1) or to provide computer-to-computer access to its raw data
28 requested under paragraph (2). If a second or subsequent
29 party requests the information under paragraph (3), the
30 council shall charge the party a reasonable fee.

1 (h) Access to council raw data by State agencies.--The
2 council shall develop and execute memoranda of understanding
3 with any State agency upon request of that agency, including the
4 Insurance Department, the Department of Health and the
5 Department of Human Services, to allow the agency access to the
6 data.

7 (i) Access to council raw data by other parties.--Subject to
8 the limitations on access to council raw data under subsection
9 (c), the council may provide special reports derived from the
10 council's raw data or computer-to-computer access to parties
11 other than purchasers provided access under subsection (g). The
12 council may publish regulations that set forth the criteria and
13 the procedure the council shall use in making determinations on
14 the access, pursuant to the powers vested in the council under
15 section 3304. In providing the access, the council shall charge
16 the party requesting the access a reasonable fee.

17 § 3309. Special studies and reports.

18 (a) Special studies.--A Commonwealth agency, the Senate or
19 the House of Representatives may direct the council to publish
20 or contract for publication of special studies, including, but
21 not limited to, a special study on diseases and the cost of
22 health care related to particular diseases in this Commonwealth.
23 A special study published under this subsection shall become a
24 public document.

25 (b) Special reports.--

26 (1) A Commonwealth agency, the Senate or the House of
27 Representative may study and issue a report on the special
28 medical needs, demographic characteristics, access or lack
29 thereof to health care services and need for financing of
30 health care services of:

1 (i) Senior citizens, particularly low-income senior
2 citizens, senior citizens who are members of minority
3 groups and senior citizens residing in low-income urban
4 or rural areas.

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

6 (iii) Minority communities.

7 (iv) Women.

8 (v) Children.

9 (vi) Unemployed workers.

10 (vii) Veterans.

11 (2) The reports under paragraph (1) shall include
12 information on the current availability of services to the
13 targeted parts of the population under paragraph (1), whether
14 access to the services has increased or decreased over the
15 past 10 years and specific recommendations for the
16 improvement of the primary care and health delivery systems
17 of targeted parts of the population under paragraph (1),
18 including disease prevention and comprehensive health care
19 services. The agency may study and report on the effects of
20 using prepaid, capitated or health maintenance organization
21 health delivery systems as ways to promote the delivery of
22 primary health care services to the underserved segments of
23 the population enumerated above.

24 (3) The agency may study and report on the short-term
25 and long-term fiscal and programmatic impact on the health
26 care consumer of changes in ownership of hospitals from
27 nonprofit to profit, whether through purchase, merger or the
28 like. The agency may study and report on factors which have
29 the effect of either reducing provider revenue or increasing
30 provider cost and other factors beyond a provider's control

1 which reduce provider competitiveness in the marketplace.

2 § 3310. Enforcement and penalty.

3 (a) Compliance enforcement.--The council shall have standing
4 to bring an action in law or in equity through private counsel
5 in any court of common pleas to enforce compliance with any
6 provision of this chapter, except section 3309 (relating to
7 special studies and reports), or any requirement or appropriate
8 request of the council made under this chapter. The Attorney
9 General is authorized and shall bring an enforcement action in
10 aid of the council in a court of common pleas at the request of
11 the council and in the name of the Commonwealth.

12 (b) Penalty.--

13 (1) Any person who fails to supply data under section
14 3305 (relating to data submission and collection) may be
15 assessed a civil penalty not to exceed \$1,000 for each day
16 the data is not submitted.

17 (2) Any person who knowingly submits inaccurate data
18 under section 3305 commits a misdemeanor of the third degree
19 and shall, upon conviction, be sentenced to pay a fine of
20 \$1,000 or to imprisonment for not more than one year, or
21 both.

22 § 3311. Research and demonstration projects.

23 The council shall actively encourage research and
24 demonstrations to design and test improved methods of assessing
25 provider quality, provider service effectiveness, efficiency and
26 cost containment. If no data submission requirements in a
27 mandated demonstration exceed the current reserve field on the
28 Pennsylvania Uniform Claims and Billing Form ~~or the data~~ <--
29 submission requirements of the Pennsylvania health care payor
30 claims data submission manual, the council may:

1 (1) Authorize contractors engaged in health services
2 research selected by the council, under section 3314
3 (relating to contracts with vendors), to have access to the
4 council's raw data files, if the entity assumes a contractual
5 obligation imposed by the council to assure patient identity
6 confidentiality.

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

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

13 § 3312. Grievances and grievance procedures.

14 (a) Procedures and requirements.--Pursuant to its powers to
15 publish regulations under section 3304 (relating to powers and
16 duties of council) and with the requirements of this section,
17 the council may establish procedures and requirements for the
18 filing, hearing and adjudication of grievances against the
19 council of a data source. The procedures and requirements shall
20 be published in the Pennsylvania Bulletin pursuant to law.

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

25 § 3313. Antitrust provisions.

26 A person or entity required or permitted to submit data or
27 information under this chapter or receiving data or information
28 from the council in accordance with this chapter are declared to
29 be acting pursuant to State requirements embodied in this
30 chapter and shall be exempt from antitrust claims or actions

1 grounded upon submission or receipt of the data or information.

2 § 3314. Contracts with vendors.

3 A contract with a vendor other than a sole source vendor for
4 purchase of services or for purchase or lease of supplies and
5 equipment related to the council's powers and duties shall be
6 let only after a public bidding process and only in accordance
7 with the following provisions:

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

14 (2) The council shall publish notice of invitations to
15 bid in the Pennsylvania Bulletin and on the council's
16 publicly accessible Internet website. The notice shall
17 include at least the following:

18 (i) The deadline for submission of bids by
19 prospective vendors, which shall be no sooner than 30
20 days following the latest publication of the notice as
21 prescribed under this paragraph.

22 (ii) The locations, dates and times during which
23 prospective vendors may examine the specifications
24 required under paragraph (1).

25 (iii) The date, time and place of the meeting or
26 meetings of the council at which bids will be opened and
27 accepted.

28 (iv) A statement to the effect that any person is
29 eligible to bid.

30 (3) Bids shall be accepted as follows:

1 (i) A council member who is affiliated in any way
2 with a bidder may not vote on the awarding of a contract
3 for which the bidder has submitted a bid. A council
4 member who has an affiliation with a bidder shall state
5 the nature of the affiliation prior to a vote of the
6 council.

7 (ii) Bids shall be opened and reviewed by the
8 appropriate council committee, which shall make
9 recommendations to the council on approval. Bids shall be
10 accepted and the acceptance shall be announced only at a
11 public meeting of the council as defined in section
12 3303(e) (relating to Health Care Cost Containment
13 Council). A bid may not be accepted at an executive
14 session of the council.

15 (iii) The council may require that a certified
16 check, in an amount determined by the council, accompany
17 every bid. If required, a bid may not be accepted unless
18 accompanied by a certified check.

19 (4) In order to prevent a party from deliberately
20 underbidding contracts in order to gain or prevent access to
21 council data, the council may award a contract at the
22 council's discretion, regardless of the amount of the bid, as
23 follows:

24 (i) A bid accepted must reasonably reflect the
25 actual cost of services provided.

26 (ii) A vendor selected by the council under this
27 paragraph must be found by the council to be of the
28 character and integrity as to assure, to the maximum
29 extent possible, adherence to this chapter in the
30 provision of contracted services.

1 (iii) The council may require the selected vendor to
2 furnish, within 20 days after the contract has been
3 awarded, a bond with suitable and reasonable requirements
4 guaranteeing the services to be performed with sufficient
5 surety in an amount determined by the council. If the
6 bond is not furnished within the time specified, the
7 previous award shall be void.

8 (5) The council shall make efforts to assure that the
9 council's vendors have established affirmative action plans
10 to assure equal opportunity policies for hiring and promoting
11 employees.

12 § 3315. Reporting.

13 The council shall provide an annual report of its financial
14 expenditures to the Appropriations Committee and Health and
15 Human Services Committee of the Senate and the Appropriations
16 Committee, the Health Committee and the Human Services Committee
17 of the House of Representatives.

18 § 3316. Severability.

19 The provisions of this chapter are severable. If a provision
20 of this chapter or the provision's application to a person or
21 circumstance is held invalid, the invalidity shall not affect
22 other provisions or applications of this chapter which can be
23 given effect without the invalid provision or application.

24 Section 2. The following apply:

25 (1) Actions taken by the Health Care Cost Containment
26 Council from the period from June 30, 2014, to the effective
27 date of this section are validated.

28 (2) New positions on the Health Care Cost Containment
29 Council created under 35 Pa.C.S. Ch. 33 shall be filled in
30 the manner designated under 35 Pa.C.S. § 3303(b) no later

1 than 60 days after the effective date of this section.
2 Organizations required under 35 Pa.C.S. § 3303(b) to submit
3 lists of recommended persons to fill new positions on the
4 council shall do so no later than 30 days after the effective
5 date of this section.

6 (3) There shall be no lapse in the employment
7 relationship for employees of the Health Care Cost
8 Containment Council, including salary, seniority, benefits
9 and retirement eligibility of the employees.

10 Section 3. This act shall take effect immediately.