

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1613 Session of
2017

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JUNE 23, 2017

SENATOR BAKER, HEALTH AND HUMAN SERVICES, IN SENATE, AS AMENDED,
JUNE 21, 2018

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.

- 1 3301. Short title of chapter.
2 3302. Definitions.
3 3303. Health Care Cost Containment Council.
4 3304. Powers and duties of council.
5 3305. Data submission and collection.
6 3306. Data dissemination and publication.
7 3307. Mandated health benefits.
8 3308. Right-to-Know Law and access to council data.
9 3309. Special studies and reports.
10 3310. Enforcement and penalty.
11 3311. Research and demonstration projects.
12 3312. Grievances and grievance procedures.
13 3313. Antitrust provisions.
14 3314. Contracts with vendors.
15 3315. Reporting.
16 3316. Severability.
17 § 3301. Short title of chapter.

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

20 § 3302. Definitions.

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

24 "Ambulatory service facility." A facility licensed in this
25 Commonwealth which is not part of a hospital and which provides
26 medical, diagnostic or surgical treatment to patients not
27 requiring hospitalization, including ambulatory surgical
28 facilities, ambulatory imaging or diagnostic centers, birthing
29 centers, freestanding emergency rooms and any other facilities
30 providing ambulatory care which charge a separate facility

1 charge. The term does not include the offices of private
2 physicians or dentists, whether for individual or group
3 practices.

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

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

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

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

20 "Data source." The term includes a health care payor data
21 source and a provider.

22 "Health care facility." A general or special hospital,
23 including:

24 (1) Psychiatric hospitals.

25 (2) Kidney disease treatment centers, including
26 freestanding hemodialysis units.

27 (3) Ambulatory service facilities.

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

30 "Health care insurer." A person, corporation or other entity

1 that offers administrative, indemnity or payment services for
2 health care in exchange for a premium or service charge under a
3 program of health care benefits, including, but not limited to:

4 (1) An insurance company, association or exchange
5 issuing health insurance policies in this Commonwealth
6 governed by the act of May 17, 1921 (P.L.682, No.284), known
7 as The Insurance Company Law of 1921.

8 (2) A hospital plan corporation as defined in 40 Pa.C.S.
9 Ch. 61 (relating to hospital plan corporations).

10 (3) A professional health service corporation as defined
11 in 40 Pa.C.S. Ch. 63 (relating to professional health
12 services plan corporations).

13 (4) A health maintenance organization governed by the
14 act of December 29, 1972 (P.L.1701, No.364), known as the
15 Health Maintenance Organization Act.

16 (5) A third-party administrator governed by Article X of
17 the act of May 17, 1921 (P.L.789, No.285), known as The
18 Insurance Department Act of 1921.

19 The term does not include employers, labor unions or health and
20 welfare funds jointly or separately administered by employers or
21 labor unions that purchase or self-fund a program of health care
22 benefits for their employees or members and their 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 Health
27 Maintenance Organization Act.

28 "Hospital." An institution licensed in this Commonwealth
29 which is:

30 (1) A general, mental, chronic disease or other type of

1 hospital.

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

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

14 "Medical procedure incidence variations." The variation in
15 the incidence in the population of specific medical, surgical
16 and radiological procedures in any given year, expressed as a
17 deviation from the norm, as these terms are defined in the
18 classical statistical definition of "variation," "incidence,"
19 "deviation" and "norm."

20 "Payment." The payments that providers actually accept for
21 their services, exclusive of charity care, rather than the
22 charges they bill.

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

26 "Physician." An individual licensed under the laws of this
27 Commonwealth to practice medicine and surgery within the scope
28 of the act of October 5, 1978 (P.L.1109, No.261), known as the
29 Osteopathic Medical Practice Act, or the act of December 20,
30 1985 (P.L.457, No.112), known as the Medical Practice Act of

1 1985.

2 "Preferred provider organization." Any arrangement between a
3 health care insurer and providers of health care services which
4 specifies rates of payment to such providers which differ from
5 their usual and customary charges to the general public and
6 which encourages enrollees to receive health services from such
7 providers.

8 "Provider." A hospital, a health care facility, an
9 ambulatory service facility or a physician.

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

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

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

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

29 § 3303. Health Care Cost Containment Council.

30 (a) Establishment.--The Health Care Cost Containment Council

1 is established as an independent council.

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

5 (1) The Secretary of Health.

6 (2) The Secretary of Human Services.

7 (3) The Insurance Commissioner.

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

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

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

29 (7) Two representatives of hospitals, appointed by the
30 Governor from a list of five qualified hospital

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

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

14 (8.1) An individual appointed by the Governor who has
15 expertise in the application of continuous quality
16 improvement methods in hospitals.

17 (8.2) One representative of nurses, appointed by the
18 Governor from a list of three qualified representatives
19 recommended by the Pennsylvania State Nurses Association.

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

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

28 (11) One representative of health maintenance
29 organizations, appointed by the Governor, from a list of
30 three qualified persons recommended by the Managed Care

1 Association of Pennsylvania.

2 (12) Representatives from the General Assembly as
3 follows:

4 (i) One Senator appointed by the President pro
5 tempore of the Senate.

6 (ii) One Senator appointed by the Minority Leader of
7 the Senate.

8 (iii) One member of the House of Representatives
9 appointed by the Speaker of the House of Representatives.

10 (iv) One member of the House of Representatives
11 appointed by the Minority Leader of the House of
12 Representatives.

13 (13) In the case of each appointment to be made from a
14 list supplied by a specified organization, it is incumbent
15 upon that organization to consult with and provide a list
16 which reflects the input of other equivalent organizations
17 representing similar interests. Each appointing authority
18 will have the discretion to request additions to the list
19 originally submitted. Additional names will be provided not
20 later than 15 days after such request. Appointments shall be
21 made by the appointing authority no later than 90 days after
22 receipt of the original list. If, for any reason, any
23 specified organization supplying a list should cease to
24 exist, then the respective appointing authority shall specify
25 an equivalent organization to fulfill the responsibilities
26 set forth in this chapter.

27 (c) Chairperson and vice chairperson.--The members shall
28 annually elect, by a majority vote of the members, a chairperson
29 and a vice chairperson of the council from among the members the
30 council.

1 (d) Quorum.--Eleven members, at least four of whom shall be
2 council members under subsection ~~(b)(5)~~ (B)(4) through (12), <--
3 shall constitute a quorum for the transaction of any business,
4 and the act by the majority of the members present at any
5 meeting in which there is a quorum shall be deemed to be the act
6 of the council. A quorum may be met by members who are attending
7 by electronic means under subsection (e)(1).

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

12 (1) The council shall meet at least once every two
13 months and may provide for special meetings as it deems
14 necessary. Meeting dates shall be set by a majority vote of
15 the members of the council or by the call of the chairperson
16 upon seven days' notice to council members. Attendance at the
17 meeting may be accomplished by electronic means so long as
18 each council member attending via electronic means can
19 communicate in real time with the other members of the
20 council and the public.

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

28 (3) The council shall publish a schedule of its meetings
29 in the Pennsylvania Bulletin, on its publicly accessible
30 Internet website and as provided under 65 Pa.C.S. Ch. 7. The

1 notice shall be published at least once in each calendar
2 quarter and shall list the schedule of meetings of the
3 council to be held in the subsequent calendar quarter. The
4 notice shall specify the date, time and place of the meeting
5 and shall state that the council's meetings are open to the
6 general public, except that no notice shall be required for
7 executive sessions of the council.

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

13 (f) Bylaws.--The council shall adopt bylaws, not
14 inconsistent with this chapter, and may appoint such committees
15 or elect such officers subordinate to those provided for in
16 subsection (c) as it deems advisable.

17 (g) Technical advisory group.--

18 (1) The council shall appoint a technical advisory group
19 which shall, on an ad hoc basis, respond to issues presented
20 to it by the council or committees of the council and shall
21 make recommendations to the council. The technical advisory
22 group shall include:

23 (i) Physicians.

24 (ii) Researchers.

25 (iii) Biostatisticians.

26 (iv) One representative of the Hospital and
27 Healthsystem Association of Pennsylvania.

28 (v) One representative of the Pennsylvania Medical
29 Society.

30 (2) The Hospital and Healthsystem Association of

1 Pennsylvania and the Pennsylvania Medical Society
2 representatives shall not be subject to executive committee
3 approval. In appointing other physicians, researchers and
4 biostatisticians to the technical advisory group, the council
5 shall consult with and take nominations from the
6 representatives of:

7 (i) the Hospital Association of Pennsylvania;

8 (ii) the Pennsylvania Medical Society;

9 (iii) the Pennsylvania Osteopathic Medical Society;

10 or

11 (iv) other like organizations.

12 (3) At its discretion and in accordance with this
13 section, nominations shall be approved by the executive
14 committee of the council. If the subject matter of any
15 project exceeds the expertise of the technical advisory
16 group, physicians in appropriate specialties who possess
17 current knowledge of the issue under study may be consulted.
18 The technical advisory group shall also review the
19 availability and reliability of severity of illness
20 measurements as they relate to small hospitals and
21 psychiatric, rehabilitation and children's hospitals and
22 shall make recommendations to the council based upon this
23 review. Meetings of the technical advisory group shall be
24 open to the general public.

25 (h) Payment data advisory group.--

26 (1) In order to assure the technical appropriateness and
27 accuracy of payment data, the council shall establish a
28 payment data advisory group to produce recommendations
29 surrounding the collection of payment data, the analysis and
30 manipulation of payment data and the public reporting of

1 payment data. The payment data advisory group shall include
2 technical experts and individuals knowledgeable in payment
3 systems and claims data. The advisory group shall consist of
4 the following members appointed by the council:

5 (i) One member representing each plan under 40
6 Pa.C.S. Chs. 61 (relating to hospital plan corporations)
7 and 63 (relating to professional health services plan
8 corporations).

9 (ii) Two members representing commercial insurance
10 carriers.

11 (iii) Three members representing health care
12 facilities.

13 (iv) Three members representing physicians.

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

17 (3) The payment data advisory group shall review and
18 concur with the technical appropriateness of the use and
19 presentation of data and report its findings to the council
20 prior to any vote to publicly release reports. If the council
21 elects to release a report without addressing the technical
22 concerns of the advisory group, it shall prominently disclose
23 this in the public report and include the comments of the
24 advisory group in the public report.

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

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

29 (ii) Manipulation, adjustments and methods used with
30 payment data.

1 (iii) Public reporting of payment data by the
2 council.

3 (i) Compensation and expenses.--The members of the council
4 and any member of an advisory group appointed by the council
5 shall not receive a salary or per diem allowance for serving as
6 members or advisors of the council, but shall be reimbursed for
7 actual and necessary expenses incurred in the performance of
8 their duties. The expenses may include reimbursement of travel
9 and living expenses while engaged in council business.

10 (j) Terms of council members.--

11 (1) The terms of the Secretary of Health, the Secretary
12 of Human Services, the Insurance Commissioner and the
13 legislative representatives shall be concurrent with their
14 holding of public office. The council members under
15 subsection ~~(b) (5)~~ (B) (4) through (12) shall each serve for a <--
16 term of four years and shall continue to serve thereafter
17 until their successors are appointed.

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

29 (3) Except for the Secretary of Health, the Secretary of
30 Human Services, the Insurance Commissioner and the

1 legislative representatives, a member may be removed for just
2 cause by the appointing authority after recommendation by a
3 vote of at least 14 members of the council.

4 (4) No appointed member under subsection ~~(b)(5)~~ (B)(4) <--
5 through (12) shall be eligible to serve more than two full
6 consecutive terms of four years beginning on the effective
7 date of this paragraph.

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

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

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

27 § 3304. Powers and duties of council.

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

1 (1) To employ an executive director, investigators and
2 other staff necessary to comply with the provisions of this
3 chapter and regulations promulgated thereunder, to employ or
4 retain legal counsel and to engage professional consultants,
5 as it deems necessary to the performance of its duties. Any
6 consultants, other than sole source consultants, engaged by
7 the council shall be selected in accordance with the
8 provisions for contracting with vendors set forth in section
9 3314 (relating to contracts with vendors).

10 (2) To fix the compensation of all employees and to
11 prescribe their duties. Notwithstanding the independence of
12 the council under section 3303(a) (relating to Health Care
13 Cost Containment Council), employees under this paragraph
14 shall be deemed employees of the Commonwealth for the
15 purposes of participation in the Pennsylvania Employee
16 Benefit Trust Fund.

17 (3) To make and execute contracts and other instruments,
18 including those for purchase of services and purchase or
19 leasing of equipment and supplies, necessary or convenient to
20 the exercise of the powers of the council. Any such contract
21 shall be in accordance with the provision for contracting
22 with vendors set forth in section 3314.

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

28 (5) To provide hospitals with individualized data on
29 patient safety indicators under section 3305(c)(8) (relating
30 to data submission and collection). The data shall be risk

1 adjusted and made available to hospitals electronically and
2 free of charge on a quarterly basis within 45 days of receipt
3 of the corrected quarterly data from the hospitals. The data
4 is intended to provide the patient safety committee of each
5 hospital with information necessary to assist in conducting
6 patient safety analysis.

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

9 (b) Rules and regulations.--

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

12 (2) Regulations promulgated by the council shall be
13 promulgated in accordance with the act of June 25, 1982
14 (P.L.633, No.181), known as the Regulatory Review Act.

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

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

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

30 (2) Audits of information submitted by purchasers shall

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

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

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

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

14 (1) Develop a computerized system for the collection,
15 analysis and dissemination of data. The council may contract
16 with a vendor who will provide data processing services. The
17 council shall assure that the system will be capable of
18 processing all data required to be collected under this
19 chapter. Any vendor selected by the council shall be selected
20 in accordance with the provisions of section 3314, and the
21 vendor shall relinquish any and all proprietary rights or
22 claims to the database created as a result of implementation
23 of the data processing system.

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

28 ~~(3) Establish a health care payor claims data submission~~
29 ~~manual for all health care payor data sources. The manual~~
30 ~~shall be utilized by all health care payor data sources to~~

~~submit data to be used by the council to establish and maintain a health care payer claims database. (RESERVED).~~

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~~(4) Collect and disseminate data, as specified in sections 3305 and 3306 (relating to data dissemination and publication), and other information from data sources to which the council is entitled, prepared according to formats, time frames and confidentiality provisions as specified in sections 3305 and 3308 (relating to Right-to-Know Law and access to council data), and by the council. The council shall begin collection of the data identified in paragraph (3) within 12 months of the effective date of this section.~~

<--

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

~~(6) Subject to the restrictions on access to raw data set forth in section 3308, issue special reports and make available raw data to a purchaser requesting it. Sale by a recipient or exchange or publication by a recipient, other than a purchaser, of council raw data to other parties without the express written consent of, and under terms approved by, the council shall be unauthorized use of data under section 3308(d).~~

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

1 (8) Promote competition in the health care and health
2 insurance markets.

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

5 (10) Provide information on the allowed and paid costs
6 of medical services in terminology that may be reasonably
7 understood by the average individual consumer of health care
8 services. The council shall present the cost information in
9 conjunction with information on quality of care delivery, if
10 quality information is reasonably available to the council,
11 so that the average individual consumer of health care
12 services may use the information to inform purchasing
13 decisions.

14 (11) Make annual reports to the General Assembly on the
15 rate of increase in the cost of health care in this
16 Commonwealth, including, but not limited to, the following:

17 (i) The rate of increase in health insurance
18 premiums in this Commonwealth.

19 (ii) Regional trends in cost of health care and
20 health insurance premiums.

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

23 (iv) The quality and effectiveness of health care
24 and access to health care for all citizens of this
25 Commonwealth.

26 (12) In the discretion of the council, make
27 recommendations on the need for further health care cost
28 containment legislation.

29 (13) Conduct studies and publish reports analyzing the
30 effects that outpatient, alternative health care delivery

1 systems have on health care costs. The systems shall include,
2 but are not limited to, health maintenance organizations
3 (HMOs); preferred provider organizations (PPOs); primary
4 health care facilities; home health care; attendant care;
5 ambulatory service facilities; freestanding emergency
6 centers; birthing centers; and hospice care. The reports
7 shall be submitted to the General Assembly and shall be made
8 available to the public.

9 (14) Conduct studies and make reports concerning the
10 utilization of experimental and nonexperimental transplant
11 surgery and other highly technical and experimental
12 procedures, including costs and mortality rates.

13 § 3305. Data submission and collection.

14 (a) Submission of data.--

15 (1) The council is authorized to collect and data
16 sources are required to submit, upon request of the council,
17 all data required in this section, according to uniform
18 submission formats, coding systems, ~~the health care payor~~ <--
19 ~~claims data submission manual~~ and other technical
20 specifications necessary to render the incoming data
21 substantially valid, consistent, compatible and manageable
22 using electronic data processing according to data submission
23 schedules. The schedules shall avoid, to the extent possible,
24 submission of identical data from more than one data source.
25 The uniform submission formats, coding systems and other
26 technical specifications may be established by the council
27 pursuant to its authority under section 3304(b) (relating to
28 powers and duties of council). If payor data is requested by
29 the council, it shall, to the extent possible, be obtained
30 from primary payor sources. The council shall not require any

1 data source to contract with any specific vendor for
2 submission of any specific data elements to the council.

3 (2) In carrying out its responsibilities, the council
4 shall not require health care facilities to report data
5 elements which are not included in the manual developed by
6 the National Uniform Billing Committee. The council shall
7 publish in the Pennsylvania Bulletin a list of no more than
8 35 diseases, procedures and medical conditions for which data
9 under subsections (c)(22) and (d) shall be required. The list
10 shall not represent more than 50% of total hospital
11 discharges, based upon the previous year's hospital discharge
12 data. Subsequent to the publication of the list, any data
13 submission requirements under subsections (c)(22) and (d)
14 previously in effect shall be null and void for diseases,
15 procedures and medical conditions not found on the list. All
16 other data elements under subsection (c) shall continue to be
17 required from data sources. The council shall review the list
18 and may add no more than a net of three diseases, procedures
19 or medical conditions per year over a five-year period. The
20 adjusted list of diseases, procedures and medical conditions
21 shall at no time be more than 50% of total hospital
22 discharges.

23 (b) Pennsylvania Uniform Claims and Billing Form.--The
24 council shall maintain a Pennsylvania Uniform Claims and Billing
25 Form format. The council shall furnish the claims and billing
26 form format to all data sources, and the claims and billing form
27 shall be utilized and maintained by all data sources for all
28 services covered by this chapter. The Pennsylvania Uniform
29 Claims and Billing Form shall consist of the Uniform Hospital
30 Billing Form, as developed by the National Uniform Billing

1 Committee, with additional fields as necessary to provide all of
2 the data set forth in subsections (c) and (d).

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

6 (1) uniform patient identifier, continuous across
7 multiple episodes and providers;

8 (2) patient date of birth;

9 (3) patient sex;

10 (4) patient race, consistent with the method of
11 collection of race/ethnicity data by the United States Bureau
12 of the Census and the United States Standard Certificates of
13 Live Birth and Death;

14 (5) patient zip code number;

15 (6) date of admission;

16 (7) date of discharge;

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

20 (9) principal procedure by council-specified standard
21 code and date;

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

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

26 (12) uniform identifier of admitting physician, by
27 unique physician identification number established by the
28 council, continuous across episodes, patients and providers;

29 (13) uniform identifier of consulting physicians, by
30 unique physician identification number established by the

1 council, continuous across episodes, patients and providers;

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

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

10 (16) charges of each physician or professional rendering
11 service relating to an incident of hospitalization or
12 treatment in an ambulatory service facility;

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

15 (18) uniform identifier of primary payor;

16 (19) zip code number of facility where health care
17 service is rendered;

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

19 (21) patient discharge status; and

20 (22) provider service effectiveness and provider quality
21 under section 3304(d).

22 (d) Provider quality and provider service effectiveness data
23 elements.--In carrying out its duty to collect data on provider
24 quality and provider service effectiveness under subsection (c)
25 (22) and section 3304(d) (5), the council shall define a
26 methodology to measure provider service effectiveness, which may
27 include additional data elements to be specified by the council
28 sufficient to carry out its responsibilities under section
29 3304(d) (5). The council shall not require health care insurers
30 to report on data elements that are not reported to nationally

1 recognized accrediting organizations, to the Department of
2 Health, the Department of Human Services or the Insurance
3 Department, in quarterly or annual reports. The council shall
4 not require reporting by health care insurers in different
5 formats than are required for reporting to nationally recognized
6 accrediting organizations or on quarterly or annual reports
7 submitted to the Department of Health, the Department of Human
8 Services or the Insurance Department. The council may adopt the
9 quality findings as reported to nationally recognized
10 accrediting organizations. Additional quality data elements must
11 be defined and released for public comment prior to use.

12 (e) Reserve field utilization and addition or deletion of
13 data elements.--The council shall include in the Pennsylvania
14 Uniform Claims and Billing Form a reserve field. The council may
15 utilize the reserve field by adding other data elements beyond
16 those required to carry out its responsibilities under
17 subsections (c) and (d) and section 3304(d)(4) and (5), or the
18 council may delete data elements from the Pennsylvania Uniform
19 Claims and Billing Form only by a majority vote of the council
20 and only pursuant to the following procedure:

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

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

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

1 any additional information gained through the hearings or
2 other reports in making a final determination on the proposed
3 addition or deletion.

4 (f) Other data required to be submitted.--Each provider and
5 health care payor data source is hereby required to submit, and
6 the council is hereby authorized to collect, in accordance with
7 submission dates and schedules established by the council, the
8 following additional data in its possession, provided the data
9 is not available to the council from public records:

10 (1) Audited annual financial reports of all hospitals
11 and ambulatory service facilities providing covered services
12 as defined in section 3302.

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

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

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

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

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

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

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

29 (vi) morbidity rates for specified diagnoses and
30 treatments, grouped by severity, for individual

1 providers;

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

5 (viii) rate of incidence of postdischarge
6 professional care for selected diagnoses and procedures,
7 grouped by severity, for individual providers; and
8 (ix) data from other public sources.

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

11 (g) Review and correction of data.--The council shall
12 provide a reasonable period for data sources to review and
13 correct the data submitted under this section which the council
14 intends to prepare and issue in reports to the General Assembly,
15 to the general public or in special studies and reports under
16 section 3309 (relating to special studies and reports). When
17 corrections are provided, the council shall correct the
18 appropriate data in its data files and subsequent reports.

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

28 (i) Allowance for correction.--The council shall verify the
29 patient safety indicator data submitted by hospitals under
30 subsection (c) (8) within 60 days of receipt. The council may

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

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

14 § 3306. Data dissemination and publication.

15 (a) Public reports.--Subject to the restrictions on access
16 to council data set forth in section 3308 (relating to Right-to-
17 Know Law and access to council data) and utilizing the data
18 collected under section 3305 (relating to data submission and
19 collection), as well as other data, records and matters of
20 record available to it, the council shall prepare and issue
21 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 3305(h) 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 a
29 purchaser under section 3308(g). The council shall provide the
30 reports and computer-to-computer access, at its discretion, to

1 other parties under section 3308(i). The council shall provide
2 these special reports and computer-to-computer access in as
3 timely a fashion as the council's responsibilities to publish
4 the public reports required in this section will allow. Any
5 provision of special reports or computer-to-computer access by
6 the council shall be made only subject to the restrictions on
7 access to raw data set forth in section 3308(c) and only after
8 payment for costs of preparation or duplication under section
9 3308(g) or (i).

10 § 3307. Mandated health benefits.

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

17 (1) The General Assembly hereby declares that proposals
18 for mandated health benefits or mandated health insurance
19 coverage should be accompanied by adequate, independently
20 certified documentation defining the social and financial
21 impact and medical efficacy of the proposal. To that end, the
22 council, upon receipt of such requests, is hereby authorized
23 to conduct a preliminary review of the material submitted by
24 both proponents and opponents concerning the proposed
25 mandated benefit. If, after this preliminary review, the
26 council is satisfied that both proponents and opponents have
27 submitted sufficient documentation necessary for a review
28 under paragraphs (3) and (4), the council is directed to
29 contract with individuals, pursuant to the selection
30 procedures for vendors set forth in section 3314 (relating to

1 contracts with vendors), who will constitute a Mandated
2 Benefits Review Panel to review mandated benefits proposals
3 and provide independently certified documentation, as
4 provided for in this section.

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

7 (i) one in health research;

8 (ii) one in biostatistics;

9 (iii) one in economic research;

10 (iv) one, a physician, in the appropriate specialty
11 with current knowledge of the subject being proposed as a
12 mandated benefit; and

13 (v) one with experience in insurance or actuarial
14 research.

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

17 (i) To review documentation submitted by a person
18 proposing or opposing mandated benefits within 90 days of
19 submission of the documentation to the panel.

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

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

24 (B) Whether or not the research cited in the
25 documentation meets professional standards.

26 (C) Whether or not all relevant research
27 respecting the proposed mandated benefit has been
28 cited in the documentation.

29 (D) Whether or not the conclusions and
30 interpretations in the documentation are consistent

1 with the data submitted.

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

9 (i) The extent to which the proposed benefit and the
10 services the proposed benefit would provide are needed
11 by, available to and utilized by the population of this
12 Commonwealth.

13 (ii) The extent to which insurance coverage for the
14 proposed benefit already exists or, if no coverage
15 exists, the extent to which the lack of coverage results
16 in inadequate health care or financial hardship for the
17 population of this Commonwealth.

18 (iii) The demand for the proposed benefit from the
19 public and the source and extent of opposition to
20 mandating the benefit.

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

23 (v) If the proposed benefit mandates coverage of a
24 particular therapy, the results of at least one
25 professionally accepted, controlled trial comparing the
26 medical consequences of the proposed therapy, alternative
27 therapies and no therapy.

28 (vi) If the proposed benefit mandates coverage of an
29 additional class of practitioners, the results of at
30 least one professionally accepted, controlled trial

1 comparing the medical results achieved by the additional
2 class of practitioners and those practitioners already
3 covered by benefits.

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

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

7 (A) The extent to which the proposed benefit
8 would increase or decrease cost for treatment or
9 service.

10 (B) The extent to which similar mandated
11 benefits in other states have affected charges, costs
12 and payments for services.

13 (C) The extent to which the proposed benefit
14 would increase the appropriate use of the treatment
15 or service.

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

18 (E) The impact of the proposed benefits on
19 benefits costs of purchasers.

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

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

24 (i) A person wishing to submit information on
25 proposed legislation mandating insurance benefits for
26 review by the panel must submit the documentation
27 specified under paragraph (4) to the council.

28 (ii) The council shall, within 30 days of receipt of
29 the documentation:

30 (A) Publish in the Pennsylvania Bulletin notice

1 of receipt of the documentation, a description of the
2 proposed legislation, provision for a period of 60
3 days for public comment and the time and place at
4 which a person may examine the documentation.

5 (B) Submit copies of the documentation to the
6 Secretary of Health, the Secretary of Human Services
7 and the Insurance Commissioner, who shall review and
8 submit comments to the council on the proposed
9 legislation within 30 days.

10 (C) Submit copies of the documentation to the
11 panel, which shall review the documentation and issue
12 their findings, subject to paragraph (3), within 90
13 days.

14 (iii) Upon receipt of the comments of the Secretary
15 of Health, the Secretary of Human Services and the
16 Insurance Commissioner and of the findings of the panel,
17 under subparagraph (ii), but no later than 120 days
18 following the publication required in subparagraph (ii),
19 the council shall submit the comments and findings,
20 together with the council's recommendations respecting
21 the proposed legislation, to the Governor, the President
22 pro tempore of the Senate, the Speaker of the House of
23 Representatives, the Secretary of Health, the Secretary
24 of Human Services, the Insurance Commissioner and the
25 person who submitted the information under subparagraph
26 (i).

27 § 3308. Right-to-Know Law and access to council data.

28 (a) Public access.--The information and data received by the
29 council shall be utilized by the council for the benefit of the
30 public and public officials. Subject to the specific limitations

1 set forth in this section and section 3101.1 of the act of
2 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
3 the council shall make determinations on requests for
4 information in favor of access.

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

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

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

19 (2) Any raw data of the council which could reasonably
20 be expected to reveal the identity of any purchaser, other
21 than a purchaser requesting data on the purchaser's own group
22 or an entity entitled to the purchaser's data under
23 subsection (g).

24 (3) Any raw data disclosing discounts or allowances
25 between identified payors and providers which is prejudicial
26 to an individual payor or provider.

27 (d) Unauthorized use of data.--A person who knowingly
28 releases council data violating raw data safeguards under this
29 section to an unauthorized person commits a misdemeanor of the
30 first degree and shall, upon conviction, be sentenced to pay a

1 fine of \$10,000 or to imprisonment for not more than five years,
2 or both. An unauthorized person who knowingly receives or
3 possesses the data commits a misdemeanor of the first degree.

4 (e) Unauthorized access to data.--If person inadvertently or
5 by council error gains access to data that violates the
6 safeguards under this section, the data must immediately be
7 returned, without duplication, to the council with proper
8 notification.

9 (f) Public access to records.--Each public report prepared
10 by the council shall be a public record and shall be available
11 to the public for a reasonable fee. Copies shall be provided,
12 upon request of the chair, to the Health and Human Services
13 Committee of the Senate and the Health Committee and Human
14 Services Committee of the House of Representatives.

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

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

27 (2) A means to enable computer-to-computer access by the
28 purchaser to raw data of the council shall be developed,
29 adopted and implemented by the council. The council shall
30 provide the access to the council's raw data to a purchaser

1 upon request.

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

16 (4) In providing for access to its raw data, the council
17 shall charge the purchasers which originally obtained the
18 access a fee sufficient to cover the council's costs to
19 prepare and provide special reports requested under paragraph
20 (1) or to provide computer-to-computer access to its raw data
21 requested under paragraph (2). If a second or subsequent
22 party requests the information under paragraph (3), the
23 council shall charge the party a reasonable fee.

24 (h) Access to council raw data by State agencies.--The
25 council shall develop and execute memoranda of understanding
26 with any State agency upon request of that agency, including the
27 Insurance Department, the Department of Health and the
28 Department of Human Services, to allow the agency access to the
29 data.

30 (i) Access to council raw data by other parties.--Subject to

1 the limitations on access to council raw data under subsection
2 (c), the council may provide special reports derived from the
3 council's raw data or computer-to-computer access to parties
4 other than purchasers provided access under subsection (g). The
5 council may publish regulations that set forth the criteria and
6 the procedure the council shall use in making determinations on
7 the access, pursuant to the powers vested in the council under
8 section 3304. In providing the access, the council shall charge
9 the party requesting the access a reasonable fee.

10 § 3309. Special studies and reports.

11 (a) Special studies.--A Commonwealth agency, the Senate or
12 the House of Representatives may direct the council to publish
13 or contract for publication of special studies, including, but
14 not limited to, a special study on diseases and the cost of
15 health care related to particular diseases in this Commonwealth.
16 A special study published under this subsection shall become a
17 public document.

18 (b) Special reports.--

19 (1) A Commonwealth agency, the Senate or the House of
20 Representative may study and issue a report on the special
21 medical needs, demographic characteristics, access or lack
22 thereof to health care services and need for financing of
23 health care services of:

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

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

29 (iii) Minority communities.

30 (iv) Women.

1 (v) Children.

2 (vi) Unemployed workers.

3 (vii) Veterans.

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

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

25 § 3310. Enforcement and penalty.

26 (a) Compliance enforcement.--The council shall have standing
27 to bring an action in law or in equity through private counsel
28 in any court of common pleas to enforce compliance with any
29 provision of this chapter, except section 3309 (relating to
30 special studies and reports), or any requirement or appropriate

1 request of the council made under this chapter. The Attorney
2 General is authorized and shall bring an enforcement action in
3 aid of the council in a court of common pleas at the request of
4 the council and in the name of the Commonwealth.

5 (b) Penalty.--

6 (1) Any person who fails to supply data under section
7 3305 (relating to data submission and collection) may be
8 assessed a civil penalty not to exceed \$1,000 for each day
9 the data is not submitted.

10 (2) Any person who knowingly submits inaccurate data
11 under section 3305 commits a misdemeanor of the third degree
12 and shall, upon conviction, be sentenced to pay a fine of
13 \$1,000 or to imprisonment for not more than one year, or
14 both.

15 § 3311. Research and demonstration projects.

16 The council shall actively encourage research and
17 demonstrations to design and test improved methods of assessing
18 provider quality, provider service effectiveness, efficiency and
19 cost containment. If no data submission requirements in a
20 mandated demonstration exceed the current reserve field on the
21 Pennsylvania Uniform Claims and Billing Form or the data
22 submission requirements of the Pennsylvania health care payor
23 claims data submission manual, the council may:

24 (1) Authorize contractors engaged in health services
25 research selected by the council, under section 3314
26 (relating to contracts with vendors), to have access to the
27 council's raw data files, if the entity assumes a contractual
28 obligation imposed by the council to assure patient identity
29 confidentiality.

30 (2) Place data sources participating in research and

1 demonstrations on different data submission requirements from
2 other data sources in this Commonwealth.

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

6 § 3312. Grievances and grievance procedures.

7 (a) Procedures and requirements.--Pursuant to its powers to
8 publish regulations under section 3304 (relating to powers and
9 duties of council) and with the requirements of this section,
10 the council may establish procedures and requirements for the
11 filing, hearing and adjudication of grievances against the
12 council of a data source. The procedures and requirements shall
13 be published in the Pennsylvania Bulletin pursuant to law.

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

18 § 3313. Antitrust provisions.

19 A person or entity required or permitted to submit data or
20 information under this chapter or receiving data or information
21 from the council in accordance with this chapter are declared to
22 be acting pursuant to State requirements embodied in this
23 chapter and shall be exempt from antitrust claims or actions
24 grounded upon submission or receipt of the data or information.

25 § 3314. Contracts with vendors.

26 A contract with a vendor other than a sole source vendor for
27 purchase of services or for purchase or lease of supplies and
28 equipment related to the council's powers and duties shall be
29 let only after a public bidding process and only in accordance
30 with the following 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 the
4 specifications available for inspection by a person at the
5 council's offices during normal working hours and at other
6 places and other times as the council deems advisable.

7 (2) The council shall publish notice of invitations to
8 bid in the Pennsylvania Bulletin and on the council's
9 publicly accessible Internet website. The notice shall
10 include at least the following:

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

15 (ii) The locations, dates and times during which
16 prospective vendors may examine the specifications
17 required under paragraph (1).

18 (iii) The date, time and place of the meeting or
19 meetings of the council at which bids will be opened and
20 accepted.

21 (iv) A statement to the effect that any person is
22 eligible to bid.

23 (3) Bids shall be accepted as follows:

24 (i) A council member who is affiliated in any way
25 with a bidder may not vote on the awarding of a contract
26 for which the bidder has submitted a bid. A council
27 member who has an affiliation with a bidder shall state
28 the nature of the affiliation prior to a vote of the
29 council.

30 (ii) Bids shall be opened and reviewed by the

1 appropriate council committee, which shall make
2 recommendations to the council on approval. Bids shall be
3 accepted and the acceptance shall be announced only at a
4 public meeting of the council as defined in section
5 3303(e) (relating to Health Care Cost Containment
6 Council). A bid may not be accepted at an executive
7 session of the council.

8 (iii) The council may require that a certified
9 check, in an amount determined by the council, accompany
10 every bid. If required, a bid may not be accepted unless
11 accompanied by a certified check.

12 (4) In order to prevent a party from deliberately
13 underbidding contracts in order to gain or prevent access to
14 council data, the council may award a contract at the
15 council's discretion, regardless of the amount of the bid, as
16 follows:

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

19 (ii) A vendor selected by the council under this
20 paragraph must be found by the council to be of the
21 character and integrity as to assure, to the maximum
22 extent possible, adherence to this chapter in the
23 provision of contracted services.

24 (iii) The council may require the selected vendor to
25 furnish, within 20 days after the contract has been
26 awarded, a bond with suitable and reasonable requirements
27 guaranteeing the services to be performed with sufficient
28 surety in an amount determined by the council. If the
29 bond is not furnished within the time specified, the
30 previous award shall be void.

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

5 § 3315. Reporting.

6 The council shall provide an annual report of its financial
7 expenditures to the Appropriations Committee and ~~Public Health~~ <--
8 ~~and Welfare~~ HEALTH AND HUMAN SERVICES Committee of the Senate <--
9 and the Appropriations Committee, the Health Committee and the
10 Human Services Committee of the House of Representatives.

11 § 3316. Severability.

12 The provisions of this chapter are severable. If a provision
13 of this chapter or the provision's application to a person or
14 circumstance is held invalid, the invalidity shall not affect
15 other provisions or applications of this chapter which can be
16 given effect without the invalid provision or application.

17 Section 2. The following apply:

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

21 (2) New positions on the Health Care Cost Containment
22 Council created under 35 Pa.C.S. Ch. 33 shall be filled in
23 the manner designated under 35 Pa.C.S. § 3303(b) no later
24 than 60 days after the effective date of this section.
25 Organizations required under 35 Pa.C.S. § 3303(b) to submit
26 lists of recommended persons to fill new positions on the
27 council shall do so no later than 30 days after the effective
28 date of this section.

29 (3) There shall be no lapse in the employment
30 relationship for employees of the Health Care Cost

1 Containment Council, including salary, seniority, benefits
2 and retirement eligibility of the employees.
3 Section 3. This act shall take effect immediately.