
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 841 Session of
2019

INTRODUCED BY MARTIN, GORDNER, YAW, MENSCH, KILLION, COSTA AND
MASTRIANO, SEPTEMBER 3, 2019

REFERRED TO HEALTH AND HUMAN SERVICES, SEPTEMBER 3, 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.

20 3303. Health Care Cost Containment Council.

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

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

17 § 3302. Definitions.

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

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

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

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

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

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

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

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

20 (1) Psychiatric hospitals.

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

23 (3) Ambulatory service facilities.

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

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

30 (1) An insurance company, association or exchange

1 issuing health insurance policies in this Commonwealth
2 governed by the act of May 17, 1921 (P.L.682, No.284), known
3 as The Insurance Company Law of 1921.

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

6 (3) A professional health service corporation as defined
7 in 40 Pa.C.S. Ch. 63 (relating to professional health
8 services plan corporations).

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

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

15 The term does not include employers, labor unions or health and
16 welfare funds jointly or separately administered by employers or
17 labor unions that purchase or self-fund a program of health care
18 benefits for their employees or members and their dependents.

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

24 "Hospital." An institution licensed in this Commonwealth
25 which is:

26 (1) A general, mental, chronic disease or other type of
27 hospital.

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

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

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

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

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

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

28 "Preferred provider organization." Any arrangement between a
29 health care insurer and providers of health care services which
30 specifies rates of payment to such providers which differ from

1 their usual and customary charges to the general public and
2 which encourages enrollees to receive health services from such
3 providers.

4 "Provider." A hospital, a health care facility, an
5 ambulatory service facility or a physician.

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

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

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

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

25 § 3303. Health Care Cost Containment Council.

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

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

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

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

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

25 (7) Two representatives of hospitals, appointed by the
26 Governor from a list of five qualified hospital
27 representatives recommended by the Hospital and Health System
28 Association of Pennsylvania one of whom shall be a
29 representative of rural hospitals. Each representative under
30 this paragraph may appoint two additional delegates to act

1 for the representative only at meetings of committees, as
2 provided for in subsection (f).

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

10 (8.1) An individual appointed by the Governor who has
11 expertise in the application of continuous quality
12 improvement methods in hospitals.

13 (8.2) One representative of nurses, appointed by the
14 Governor from a list of three qualified representatives
15 recommended by the Pennsylvania State Nurses Association.

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

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

24 (11) (Reserved).

25 (12) Representatives from the General Assembly as
26 follows:

27 (i) One Senator appointed by the President pro
28 tempore of the Senate.

29 (ii) One Senator appointed by the Minority Leader of
30 the Senate.

1 (iii) One member of the House of Representatives
2 appointed by the Speaker of the House of Representatives.

3 (iv) One member of the House of Representatives
4 appointed by the Minority Leader of the House of
5 Representatives.

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

20 (c) Chairperson and vice chairperson.--The members shall
21 annually elect, by a majority vote of the members, a chairperson
22 and a vice chairperson of the council from the business and
23 labor members of the council.

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

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

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

1 months and may provide for special meetings as it deems
2 necessary. Meeting dates shall be set by a majority vote of
3 the members of the council or by the call of the chairperson
4 upon seven days' notice to council members. Attendance at the
5 meeting may be accomplished by electronic means so long as
6 each council member attending via electronic means can
7 communicate in real time with the other members of the
8 council and the public.

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

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

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

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

5 (g) Technical advisory group.--

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

11 (i) Physicians.

12 (ii) Researchers.

13 (iii) Biostatisticians.

14 (iv) One representative of the Hospital and
15 Healthsystem Association of Pennsylvania.

16 (v) One representative of the Pennsylvania Medical
17 Society.

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

25 (i) the Hospital Association of Pennsylvania;

26 (ii) the Pennsylvania Medical Society;

27 (iii) the Pennsylvania Osteopathic Medical Society;

28 or

29 (iv) other like organizations.

30 (3) At its discretion and in accordance with this

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

13 (h) Payment data advisory group.--

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

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

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

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

1 (iv) Three members representing physicians.

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

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

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

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

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

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

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

28 (j) Terms of council members.--

29 (1) The terms of the Secretary of Health, the Secretary
30 of Human Services, the Insurance Commissioner and the

1 legislative representatives shall be concurrent with their
2 holding of public office. The council members under
3 subsection (b) (4), (5), (6), (7), (8), (8.1), (8.2), (9),
4 (10), (11) and (12) shall each serve for a term of four years
5 and shall continue to serve thereafter until their successors
6 are appointed.

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

18 (3) Except for the Secretary of Health, the Secretary of
19 Human Services, the Insurance Commissioner and the
20 legislative representatives, a member may be removed for just
21 cause by the appointing authority after recommendation by a
22 vote of at least 14 members of the council.

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

28 (k) Subsequent appointments.--Submission of lists of
29 recommended persons and appointments of council members for
30 succeeding terms shall be made in the same manner as prescribed

1 in subsection (b), except that:

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

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

17 § 3304. Powers and duties of council.

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

21 (1) To employ an executive director, investigators and
22 other staff necessary to comply with the provisions of this
23 chapter and regulations promulgated thereunder, to employ or
24 retain legal counsel and to engage professional consultants,
25 as it deems necessary to the performance of its duties. Any
26 consultants, other than sole source consultants, engaged by
27 the council shall be selected in accordance with the
28 provisions for contracting with vendors set forth in section
29 3314 (relating to contracts with vendors).

30 (2) To fix the compensation of all employees and to

1 prescribe their duties. Notwithstanding the independence of
2 the council under section 3303(a) (relating to Health Care
3 Cost Containment Council), employees under this paragraph
4 shall be deemed employees of the Commonwealth for the
5 purposes of participation in the Pennsylvania Employee
6 Benefit Trust Fund.

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

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

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

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

29 (b) Rules and regulations.--

30 (1) The council may promulgate rules and regulations as

1 necessary and appropriate to implement this act.

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

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

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

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

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

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

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

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

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

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

18 (3) (Reserved).

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

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

30 (6) Subject to the restrictions on access to raw data

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

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

15 (8) Promote competition in the health care and health
16 insurance markets.

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

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

28 (11) In consultation with the Insurance Department and
29 the Department of Health, make annual reports to the General
30 Assembly on the rate of increase in the cost of health care

1 in this Commonwealth, including, but not limited to, the
2 following:

3 (i) The rate of increase in health insurance
4 premiums in this Commonwealth.

5 (ii) Regional trends in cost of health care and
6 health insurance premiums.

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

9 (iv) The quality and effectiveness of health care
10 and access to health care for all citizens of this
11 Commonwealth.

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

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

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

29 § 3305. Data submission and collection.

30 (a) Submission of data.--

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

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

1 other data elements under subsection (c) shall continue to be
2 required from data sources. The council shall review the list
3 and may add no more than a net of three diseases, procedures
4 or medical conditions per year over a five-year period. The
5 adjusted list of diseases, procedures and medical conditions
6 shall at no time be more than 50% of total hospital
7 discharges.

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

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

21 (1) uniform patient identifier, continuous across
22 multiple episodes and providers;

23 (2) patient date of birth;

24 (3) patient sex;

25 (4) patient race, consistent with the method of
26 collection of race/ethnicity data by the United States Bureau
27 of the Census and the United States Standard Certificates of
28 Live Birth and Death;

29 (5) patient zip code number;

30 (6) date of admission;

- 1 (7) date of discharge;
- 2 (8) principal and secondary diagnoses by standard code,
3 including external cause of injury, complication, infection
4 and childbirth;
- 5 (9) principal procedure by council-specified standard
6 code and date;
- 7 (10) up to three secondary procedures by council-
8 specified standard codes and dates;
- 9 (11) uniform health care facility identifier, continuous
10 across episodes, patients and providers;
- 11 (12) uniform identifier of admitting physician, by
12 unique physician identification number established by the
13 council, continuous across episodes, patients and providers;
- 14 (13) uniform identifier of consulting physicians, by
15 unique physician identification number established by the
16 council, continuous across episodes, patients and providers;
- 17 (14) total charges of health care facility, segregated
18 into major categories, including, but not limited to, room
19 and board, radiology, laboratory, operating room, drugs,
20 medical supplies and other goods and services according to
21 guidelines specified by the council;
- 22 (15) actual payments to health care facility,
23 segregated, if available, according to the categories
24 specified in paragraph (14);
- 25 (16) charges of each physician or professional rendering
26 service relating to an incident of hospitalization or
27 treatment in an ambulatory service facility;
- 28 (17) actual payments to each physician or professional
29 rendering service under paragraph (16);
- 30 (18) uniform identifier of primary payor;

1 (19) zip code number of facility where health care
2 service is rendered;

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

4 (21) patient discharge status; and

5 (22) provider service effectiveness and provider quality
6 under section 3304(d).

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

27 (e) Reserve field utilization and addition or deletion of
28 data elements.--The council shall include in the Pennsylvania
29 Uniform Claims and Billing Form a reserve field. The council may
30 utilize the reserve field by adding other data elements beyond

1 those required to carry out its responsibilities under
2 subsections (c) and (d) and section 3304(d)(4) and (5), or the
3 council may delete data elements from the Pennsylvania Uniform
4 Claims and Billing Form only by a majority vote of the council
5 and only pursuant to the following procedure:

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

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

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

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

25 (1) Audited annual financial reports of all hospitals
26 and ambulatory service facilities providing covered services
27 as defined in section 3302.

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

30 (3) Additional data, including, but not limited to, data

1 which can be used in reports about:

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

4 (ii) physicians who provide covered services and
5 accept medical assistance patients;

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

8 (iv) mortality rates for specified diagnoses and
9 treatments, grouped by severity, for individual
10 providers;

11 (v) rates of infection for specified diagnoses and
12 treatments, grouped by severity, for individual
13 providers;

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

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

20 (viii) rate of incidence of postdischarge
21 professional care for selected diagnoses and procedures,
22 grouped by severity, for individual providers; and

23 (ix) data from other public sources.

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

26 (g) Review and correction of data.--The council shall
27 provide a reasonable period for data sources to review and
28 correct the data submitted under this section which the council
29 intends to prepare and issue in reports to the General Assembly,
30 to the general public or in special studies and reports under

1 section 3309 (relating to special studies and reports). When
2 corrections are provided, the council shall correct the
3 appropriate data in its data files and subsequent reports.

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

13 (i) Allowance for correction.--The council shall verify the
14 patient safety indicator data submitted by hospitals under
15 subsection (c) (8) within 60 days of receipt. The council may
16 allow hospitals to make changes to the data submitted during the
17 verification period. After the verification period, but within
18 45 days of receipt of the adjusted hospital data, the council
19 shall risk adjust the information and provide reports to the
20 patient safety committee of the relevant hospital.

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

29 § 3306. Data dissemination and publication.

30 (a) Public reports.--Subject to the restrictions on access

1 to council data set forth in section 3308 (relating to Right-to-
2 Know Law and access to council data) and utilizing the data
3 collected under section 3305 (relating to data submission and
4 collection), as well as other data, records and matters of
5 record available to it, the council shall prepare and issue
6 reports to the General Assembly and to the general public
7 according to the following provisions:

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

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

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

1 norms for all providers.

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

11 (b) Raw data reports and computer access to council data.--
12 The council shall provide special reports derived from raw data
13 and a means for computer-to-computer access to its raw data to a
14 purchaser under section 3308(g). The council shall provide the
15 reports and computer-to-computer access, at its discretion, to
16 other parties under section 3308(i). The council shall provide
17 these special reports and computer-to-computer access in as
18 timely a fashion as the council's responsibilities to publish
19 the public reports required in this section will allow. Any
20 provision of special reports or computer-to-computer access by
21 the council shall be made only subject to the restrictions on
22 access to raw data set forth in section 3308(c) and only after
23 payment for costs of preparation or duplication under section
24 3308(g) or (i).

25 § 3307. Mandated health benefits.

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

1 health benefit pursuant to the following:

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

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

22 (i) one in health research;

23 (ii) one in biostatistics;

24 (iii) one in economic research;

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

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

30 (3) The Mandated Benefits Review Panel shall have the

1 following duties and responsibilities:

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

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

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

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

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

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

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

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

28 (ii) The extent to which insurance coverage for the
29 proposed benefit already exists or, if no coverage
30 exists, the extent to which the lack of coverage results

1 in inadequate health care or financial hardship for the
2 population of this Commonwealth.

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

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

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

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

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

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

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

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

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

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

3 (E) The impact of the proposed benefits on
4 benefits costs of purchasers.

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

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

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

13 (ii) The council shall, within 30 days of receipt of
14 the documentation:

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

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

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

29 (iii) Upon receipt of the comments of the Secretary
30 of Health, the Secretary of Human Services and the

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

12 § 3308. Right-to-Know Law and access to council data.

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

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

30 (c) Limitations on access.--Unless specifically provided for

1 under this chapter, neither the council nor any contracting
2 system vendor shall release and no data source, person, member
3 of the public or other user of any data of the council shall
4 gain access to:

5 (1) Any raw data of the council that does not
6 simultaneously disclose payment, as well as provider quality
7 and provider service effectiveness pursuant to sections
8 3304(d) (5) (relating to powers and duties of council) and
9 3305(d) (relating to data submission and collection).

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

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

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

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

1 provider or group thereof. Payor data shall be released to
2 individual providers for purposes of verification and
3 validation prior to inclusion in a public report. An
4 individual provider shall verify and validate the payor data
5 within 30 days of its release to that specific individual
6 provider.

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

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

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

25 (g) Access to council raw data by purchasers.--Pursuant to
26 sections 3304(d) (6) and 3306(b) (relating to data dissemination
27 and publication) and subject to the limitations on access under
28 subsection (c), the council shall provide access to the
29 council's raw data to purchasers, excluding purchasers that
30 provide covered services other than through the purchase of

1 fully funded insurance from a health care insurer but that are
2 not elective health care payor data sources, in accordance with
3 the following procedure:

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

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

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

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

1 requested under paragraph (2). If a second or subsequent
2 party requests the information under paragraph (3), the
3 council shall charge the party a reasonable fee.

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

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

20 § 3309. Special studies and reports.

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

28 (b) Special reports.--

29 (1) A Commonwealth agency, the Senate or the House of
30 Representative may study and issue a report on the special

1 medical needs, demographic characteristics, access or lack
2 thereof to health care services and need for financing of
3 health care services of:

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

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

9 (iii) Minority communities.

10 (iv) Women.

11 (v) Children.

12 (vi) Unemployed workers.

13 (vii) Veterans.

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

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

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

5 § 3310. Enforcement and penalty.

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

15 (b) Penalty.--

16 (1) Any person who fails to supply data under section
17 3305 (relating to data submission and collection) may be
18 assessed a civil penalty not to exceed \$1,000 for each day
19 the data is not submitted.

20 (2) Any person who knowingly submits inaccurate data
21 under section 3305 commits a misdemeanor of the third degree
22 and shall, upon conviction, be sentenced to pay a fine of
23 \$1,000 or to imprisonment for not more than one year, or
24 both.

25 § 3311. Research and demonstration projects.

26 The council shall actively encourage research and
27 demonstrations to design and test improved methods of assessing
28 provider quality, provider service effectiveness, efficiency and
29 cost containment. If no data submission requirements in a
30 mandated demonstration exceed the current reserve field on the

1 Pennsylvania Uniform Claims and Billing Form or the data
2 submission requirements of the Pennsylvania health care payor
3 claims data submission manual, the council may:

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

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

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

16 § 3312. Grievances and grievance procedures.

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

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

28 § 3313. Antitrust provisions.

29 A person or entity required or permitted to submit data or
30 information under this chapter or receiving data or information

1 from the council in accordance with this chapter are declared to
2 be acting pursuant to State requirements embodied in this
3 chapter and shall be exempt from antitrust claims or actions
4 grounded upon submission or receipt of the data or information.
5 § 3314. Contracts with vendors.

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

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

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

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

25 (ii) The locations, dates and times during which
26 prospective vendors may examine the specifications
27 required under paragraph (1).

28 (iii) The date, time and place of the meeting or
29 meetings of the council at which bids will be opened and
30 accepted.

1 (iv) A statement to the effect that any person is
2 eligible to bid.

3 (3) Bids shall be accepted as follows:

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

10 (ii) Bids shall be opened and reviewed by the
11 appropriate council committee, which shall make
12 recommendations to the council on approval. Bids shall be
13 accepted and the acceptance shall be announced only at a
14 public meeting of the council as defined in section
15 3303(e) (relating to Health Care Cost Containment
16 Council). A bid may not be accepted at an executive
17 session of the council.

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

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

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

29 (ii) A vendor selected by the council under this
30 paragraph must be found by the council to be of the

1 character and integrity as to assure, to the maximum
2 extent possible, adherence to this chapter in the
3 provision of contracted services.

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

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

15 § 3315. Reporting.

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

21 § 3316. Severability.

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

27 Section 2. The following apply:

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

1 (2) New positions on the Health Care Cost Containment
2 Council created under 35 Pa.C.S. Ch. 33 shall be filled in
3 the manner designated under 35 Pa.C.S. § 3303(b) no later
4 than 60 days after the effective date of this section.
5 Organizations required under 35 Pa.C.S. § 3303(b) to submit
6 lists of recommended persons to fill new positions on the
7 council shall do so no later than 30 days after the effective
8 date of this section.

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

13 Section 3. This act shall take effect immediately.