

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 841 Session of 2019

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

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 29, 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.
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11 3314. Contracts with vendors.
12 3315. Reporting.
13 3316. Severability.
14 3317. EXPIRATION. <--

15 § 3301. Short title of chapter.

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

18 § 3302. Definitions.

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

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

1 practices.

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

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

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

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

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

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

21 (1) Psychiatric hospitals.

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

24 (3) Ambulatory service facilities.

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

27 "Health care insurer." As follows:

28 (1) A person, corporation or other entity that offers
29 administrative, indemnity or payment services for health care
30 in exchange for a premium or service charge under a program

1 of health care benefits, including, but not limited to:

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

6 (ii) A hospital plan corporation as defined in 40
7 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

8 (iii) A professional health service corporation as
9 defined in 40 Pa.C.S. Ch. 63 (relating to professional
10 health services plan corporations).

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

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

17 (2) The term does not include:

18 (i) Employers, labor unions or health and welfare
19 funds jointly or separately administered by employers or
20 labor unions that purchase or self-fund a program of
21 health care benefits for their employees or members and
22 their dependents.

23 (ii) The following types of insurance or any
24 combination thereof:

25 (A) Accident only.

26 (B) Fixed indemnity.

27 (C) Hospital indemnity.

28 (D) Limited benefit.

29 (E) Credit.

30 (F) Dental.

- 1 (G) Vision.
- 2 (H) Specified disease.
- 3 (I) Medicare supplement.
- 4 (J) Civilian Health and Medical Program of the
5 Uniformed Services (CHAMPUS) supplement.
- 6 (K) Long-term care or disability income.
- 7 (L) Workers' compensation.
- 8 (M) Automobile medical payment insurance.

9 "Health maintenance organization." An organized system which
10 combines the delivery and financing of health care and which
11 provides basic health services to voluntarily enrolled
12 subscribers for a fixed prepaid fee, as defined in the Health
13 Maintenance Organization Act.

14 "Hospital." An institution licensed in this Commonwealth
15 which is:

16 (1) A general, mental, chronic disease or other type of
17 hospital.

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

21 "Major ambulatory service." Surgical or medical procedures,
22 including diagnostic and therapeutic radiological procedures,
23 commonly performed in hospitals or ambulatory service
24 facilities, which are not of a type commonly performed, or which
25 cannot be safely performed, in physicians' offices and which
26 require special facilities such as operating rooms or suites or
27 special equipment such as fluoroscopic equipment or computed
28 tomographic scanners, or a postprocedure recovery room or short-
29 term convalescent room.

30 "Medical procedure incidence variations." The variation in

1 the incidence in the population of specific medical, surgical
2 and radiological procedures in any given year, expressed as a
3 deviation from the norm, as these terms are defined in the
4 classical statistical definition of "variation," "incidence,"
5 "deviation" and "norm."

6 "Payment." The payments that providers actually accept for
7 their services, exclusive of charity care, rather than the
8 charges they bill.

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

12 "Physician." An individual licensed under the laws of this
13 Commonwealth to practice medicine and surgery within the scope
14 of the act of October 5, 1978 (P.L.1109, No.261), known as the
15 Osteopathic Medical Practice Act, or the act of December 20,
16 1985 (P.L.457, No.112), known as the Medical Practice Act of
17 1985.

18 "Preferred provider organization." Any arrangement between a
19 health care insurer and providers of health care services which
20 specifies rates of payment to such providers which differ from
21 their usual and customary charges to the general public and
22 which encourages enrollees to receive health services from such
23 providers.

24 "Provider." A hospital, a health care facility, an
25 ambulatory service facility or a physician.

26 "Provider quality." The extent to which a provider renders
27 care that, within the capabilities of modern medicine, obtains
28 for patients medically acceptable health outcomes and prognoses,
29 adjusted for patient severity, and treats patients
30 compassionately and responsively.

1 "Provider service effectiveness." The effectiveness of
2 services rendered by a provider, determined by measurement of
3 the medical outcome of patients grouped by severity receiving
4 those services.

5 "Purchaser." Corporations, labor organizations or other
6 entities that purchase benefits which provide covered services
7 for their employees or members, either through a health care
8 insurer or by means of a self-funded program of benefits, and a
9 certified bargaining representative that represents a group or
10 groups of employees for whom employers purchase a program of
11 benefits which provide covered services, but excluding any
12 entity defined in this section as a "health care insurer."

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

15 § 3303. Health Care Cost Containment Council.

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

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

21 (1) The Secretary of Health.

22 (2) The Secretary of Human Services.

23 (3) The Insurance Commissioner.

24 (4) Six representatives of the business community, at
25 least one of whom represents small business, who are
26 purchasers of health care, none of which is primarily
27 involved in the provision of health care or health insurance,
28 three of which shall be appointed by the President pro
29 tempore of the Senate and three of which shall be appointed
30 by the Speaker of the House of Representatives from a list of

1 12 qualified persons recommended by the Pennsylvania Chamber
2 of Business and Industry. Three nominees shall be
3 representatives of small business.

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

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

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

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

30 (8.1) An individual appointed by the Governor who has

1 expertise in the application of continuous quality
2 improvement methods in hospitals.

3 (8.2) One representative of nurses, appointed by the
4 Governor from a list of three qualified representatives
5 recommended by the Pennsylvania State Nurses Association.

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

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

14 (11) (Reserved).

15 (12) Representatives from the General Assembly as
16 follows:

17 (i) One Senator appointed by the President pro
18 tempore of the Senate.

19 (ii) One Senator appointed by the Minority Leader of
20 the Senate.

21 (iii) One member of the House of Representatives
22 appointed by the Speaker of the House of Representatives.

23 (iv) One member of the House of Representatives
24 appointed by the Minority Leader of the House of
25 Representatives.

26 (13) In the case of each appointment to be made from a
27 list supplied by a specified organization, it is incumbent
28 upon that organization to consult with and provide a list
29 which reflects the input of other equivalent organizations
30 representing similar interests. Each appointing authority

1 will have the discretion to request additions to the list
2 originally submitted. Additional names will be provided not
3 later than 15 days after such request. Appointments shall be
4 made by the appointing authority no later than 90 days after
5 receipt of the original list. If, for any reason, any
6 specified organization supplying a list should cease to
7 exist, then the respective appointing authority shall specify
8 an equivalent organization to fulfill the responsibilities
9 set forth in this chapter.

10 (c) Chairperson and vice chairperson.--The members shall
11 annually elect, by a majority vote of the members, a chairperson
12 and a vice chairperson of the council from the business and
13 labor members of the council.

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

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

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

29 (2) All meetings of the council shall be publicly
30 advertised, as provided for in this subsection, and shall be

1 open to the public, except that the council, through its
2 bylaws, may provide for executive sessions of the council on
3 subjects permitted to be discussed in such sessions under 65
4 Pa.C.S. Ch. 7. No act of the council shall be taken in an
5 executive session.

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

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

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

25 (g) Technical advisory group.--

26 (1) The council shall appoint a technical advisory group
27 which shall, on an ad hoc basis, respond to issues presented
28 to it by the council or committees of the council and shall
29 make recommendations to the council. The technical advisory
30 group shall include:

1 (i) Physicians.

2 (ii) Researchers.

3 (iii) Biostatisticians.

4 (iv) One representative of the Hospital and
5 Healthsystem Association of Pennsylvania.

6 (v) One representative of the Pennsylvania Medical
7 Society.

8 (2) The Hospital and Healthsystem Association of
9 Pennsylvania and the Pennsylvania Medical Society
10 representatives shall not be subject to executive committee
11 approval. In appointing other physicians, researchers and
12 biostatisticians to the technical advisory group, the council
13 shall consult with and take nominations from the
14 representatives of:

15 (i) the Hospital Association of Pennsylvania;

16 (ii) the Pennsylvania Medical Society;

17 (iii) the Pennsylvania Osteopathic Medical Society;

18 or

19 (iv) other like organizations.

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

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

3 (h) Payment data advisory group.--

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

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

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

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

21 (iv) Three members representing physicians.

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

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

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

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

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

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

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

11 (i) Compensation and expenses.--The members of the council
12 and any member of an advisory group appointed by the council
13 shall not receive a salary or per diem allowance for serving as
14 members or advisors of the council, but shall be reimbursed for
15 actual and necessary expenses incurred in the performance of
16 their duties. The expenses may include reimbursement of travel
17 and living expenses while engaged in council business.

18 (j) Terms of council members.--

19 (1) The terms of the Secretary of Health, the Secretary
20 of Human Services, the Insurance Commissioner and the
21 legislative representatives shall be concurrent with their
22 holding of public office. The council members under
23 subsection (b) (4), (5), (6), (7), (8), (8.1), (8.2), (9),
24 (10), (11) and (12) shall each serve for a term of four years
25 and shall continue to serve thereafter until their successors
26 are appointed.

27 (2) Vacancies on the council shall be filled in the
28 manner designated under subsection (b), within 60 days of the
29 vacancy, except that, when vacancies occur among the
30 representatives of business or organized labor, two

1 nominations shall be submitted by the organization specified
2 in subsection (b) for each vacancy on the council. If the
3 officer required in subsection (b) to make appointments to
4 the council fails to act within 60 days of the vacancy, the
5 council chairperson may appoint one of the persons
6 recommended for the vacancy until the appointing authority
7 makes the appointment.

8 (3) Except for the Secretary of Health, the Secretary of
9 Human Services, the Insurance Commissioner and the
10 legislative representatives, a member may be removed for just
11 cause by the appointing authority after recommendation by a
12 vote of at least 14 members of the council.

13 (4) No appointed member under subsection (b) (4), (5),
14 (6), (7), (8), (8.1), (8.2), (9), (10), (11) and (12) shall
15 be eligible to serve more than three full consecutive terms
16 of four years beginning on the effective date of this
17 paragraph.

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

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

25 (2) The officer required under subsection (b) to make
26 appointments to the council shall make the appointments at
27 least 30 days prior to expiration of the council members'
28 terms. If the appointments are not made within the specified
29 time, the council chairperson may make interim appointments
30 from the lists of recommended individuals. An interim

1 appointment shall be valid only until the appropriate officer
2 under subsection (b) makes the required appointment. Whether
3 the appointment is by the required officer or by the
4 chairperson of the council, the appointment shall become
5 effective immediately upon expiration of the incumbent
6 member's term.

7 § 3304. Powers and duties of council.

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

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

20 (2) To fix the compensation of all employees and to
21 prescribe their duties. Notwithstanding the independence of
22 the council under section 3303(a) (relating to Health Care
23 Cost Containment Council), employees under this paragraph
24 shall be deemed employees of the Commonwealth for the
25 purposes of participation in the Pennsylvania Employee
26 Benefit Trust Fund.

27 (3) To make and execute contracts and other instruments,
28 including those for purchase of services and purchase or
29 leasing of equipment and supplies, necessary or convenient to
30 the exercise of the powers of the council. Any such contract

1 shall be in accordance with the provision for contracting
2 with vendors set forth in section 3314.

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

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

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

19 (b) Rules and regulations.--

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

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

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

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

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

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

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

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

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

24 (1) Develop a computerized system for the collection,
25 analysis and dissemination of data. The council may contract
26 with a vendor who will provide data processing services. The
27 council shall assure that the system will be capable of
28 processing all data required to be collected under this
29 chapter. Any vendor selected by the council shall be selected
30 in accordance with the provisions of section 3314, and the

1 vendor shall relinquish any and all proprietary rights or
2 claims to the database created as a result of implementation
3 of the data processing system.

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

8 (3) (Reserved).

9 (4) Collect and disseminate data, as specified in
10 sections 3305 and 3306 (relating to data dissemination and
11 publication), and other information from data sources to
12 which the council is entitled, prepared according to formats,
13 time frames and confidentiality provisions as specified in
14 sections 3305 and 3308 (relating to Right-to-Know Law and
15 access to council data), and by the council.

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

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

28 (7) On an annual basis, publish in the Pennsylvania
29 Bulletin a list of all the raw data reports it has prepared
30 under section 3308(g) and a description of the data obtained

1 through each computer-to-computer access it has provided
2 under section 3308(g) and of the names of the parties to whom
3 the council provided the reports or the computer-to-computer
4 access during the previous month.

5 (8) Promote competition in the health care and health
6 insurance markets.

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

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

18 (11) In consultation with the Insurance Department and
19 the Department of Health, make annual reports to the General
20 Assembly on the rate of increase in the cost of health care
21 in this Commonwealth, including, but not limited to, the
22 following:

23 (i) The rate of increase in health insurance
24 premiums in this Commonwealth.

25 (ii) Regional trends in cost of health care and
26 health insurance premiums.

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

29 (iv) The quality and effectiveness of health care
30 and access to health care for all citizens of this

1 Commonwealth.

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

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

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

19 § 3305. Data submission and collection.

20 (a) Submission of data.--

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

1 technical specifications may be established by the council
2 pursuant to its authority under section 3304(b) (relating to
3 powers and duties of council). If payor data is requested by
4 the council, it shall, to the extent possible, be obtained
5 from primary payor sources. The council shall not require any
6 data source to contract with any specific vendor for
7 submission of any specific data elements to the council.

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

28 (b) Pennsylvania Uniform Claims and Billing Form.--The
29 council shall maintain a Pennsylvania Uniform Claims and Billing
30 Form format. The council shall furnish the claims and billing

1 form format to all data sources, and the claims and billing form
2 shall be utilized and maintained by all data sources for all
3 services covered by this chapter. The Pennsylvania Uniform
4 Claims and Billing Form shall consist of the Uniform Hospital
5 Billing Form, as developed by the National Uniform Billing
6 Committee, with additional fields as necessary to provide all of
7 the data set forth in subsections (c) and (d).

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

11 (1) uniform patient identifier, continuous across
12 multiple episodes and providers;

13 (2) patient date of birth;

14 (3) patient sex;

15 (4) patient race, consistent with the method of
16 collection of race/ethnicity data by the United States Bureau
17 of the Census and the United States Standard Certificates of
18 Live Birth and Death;

19 (5) patient zip code number;

20 (6) date of admission;

21 (7) date of discharge;

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

25 (9) principal procedure by council-specified standard
26 code and date;

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

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

1 (12) uniform identifier of admitting physician, by
2 unique physician identification number established by the
3 council, continuous across episodes, patients and providers;

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

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

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

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

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

20 (18) uniform identifier of primary payor;

21 (19) zip code number of facility where health care
22 service is rendered;

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

24 (21) patient discharge status; and

25 (22) provider service effectiveness and provider quality
26 under section 3304(d).

27 (d) Provider quality and provider service effectiveness data
28 elements.--In carrying out its duty to collect data on provider
29 quality and provider service effectiveness under subsection (c)
30 (22) and section 3304(d) (5), the council shall define a

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

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

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

29 (2) The council shall publish notice of the proposed
30 addition or deletion, along with a copy or summary of the

1 cost-benefit analysis, in the Pennsylvania Bulletin, and the
2 notice shall include provision for a 60-day comment period.

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

9 (f) Other data required to be submitted.--Each provider is
10 hereby required to submit, and the council is hereby authorized
11 to collect, in accordance with submission dates and schedules
12 established by the council, the following additional data in its
13 possession, provided the data is not available to the council
14 from public records:

15 (1) Audited annual financial reports of all hospitals
16 and ambulatory service facilities providing covered services
17 as defined in section 3302.

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

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

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

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

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

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

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

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

7 (vii) readmission rates for specified diagnoses and
8 treatments, grouped by severity, for individual
9 providers;

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

13 (ix) data from other public sources.

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

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

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

1 such statements, it shall correct the appropriate data and
2 comments in its data files and subsequent reports.

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

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

19 § 3306. Data dissemination and publication.

20 (a) Public reports.--Subject to the restrictions on access
21 to council data set forth in section 3308 (relating to Right-to-
22 Know Law and access to council data) and utilizing the data
23 collected under section 3305 (relating to data submission and
24 collection), as well as other data, records and matters of
25 record available to it, the council shall prepare and issue
26 reports to the General Assembly and to the general public
27 according to the following provisions:

28 (1) The council shall, for every provider of both
29 inpatient and outpatient services within this Commonwealth
30 and within appropriate regions and subregions, prepare and

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

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

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

22 (2) In preparing its reports under paragraph (1), the
23 council shall ensure that factors which have the effect of
24 either reducing provider revenue or increasing provider costs
25 and other factors beyond a provider's control which reduce
26 provider competitiveness in the marketplace are explained in
27 the reports. The council shall also ensure that any
28 clarifications and dissents submitted by individual providers
29 under section 3305(h) are noted in any reports that include
30 release of data on that individual provider.

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

15 § 3307. Mandated health benefits.

16 In relation to current law or proposed legislation, the
17 council shall, upon the request of the appropriate committee
18 chairman in the Senate and in the House of Representatives or
19 upon the request of the Secretary of Health or the Secretary of
20 Human Services, provide information on the proposed mandated
21 health benefit pursuant to the following:

22 (1) The General Assembly hereby declares that proposals
23 for mandated health benefits or mandated health insurance
24 coverage should be accompanied by adequate, independently
25 certified documentation defining the social and financial
26 impact and medical efficacy of the proposal. To that end, the
27 council, upon receipt of such requests, is hereby authorized
28 to conduct a preliminary review of the material submitted by
29 both proponents and opponents concerning the proposed
30 mandated benefit. If, after this preliminary review, the

1 council is satisfied that both proponents and opponents have
2 submitted sufficient documentation necessary for a review
3 under paragraphs (3) and (4), the council is directed to
4 contract with individuals, pursuant to the selection
5 procedures for vendors set forth in section 3314 (relating to
6 contracts with vendors), who will constitute a Mandated
7 Benefits Review Panel to review mandated benefits proposals
8 and provide independently certified documentation, as
9 provided for in this section.

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

12 (i) one in health research;

13 (ii) one in biostatistics;

14 (iii) one in economic research;

15 (iv) one, a physician, in the appropriate specialty
16 with current knowledge of the subject being proposed as a
17 mandated benefit; and

18 (v) one with experience in insurance or actuarial
19 research.

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

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

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

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

29 (B) Whether or not the research cited in the
30 documentation meets professional standards.

1 (C) Whether or not all relevant research
2 respecting the proposed mandated benefit has been
3 cited in the documentation.

4 (D) Whether or not the conclusions and
5 interpretations in the documentation are consistent
6 with the data submitted.

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

14 (i) The extent to which the proposed benefit and the
15 services the proposed benefit would provide are needed
16 by, available to and utilized by the population of this
17 Commonwealth.

18 (ii) The extent to which insurance coverage for the
19 proposed benefit already exists or, if no coverage
20 exists, the extent to which the lack of coverage results
21 in inadequate health care or financial hardship for the
22 population of this Commonwealth.

23 (iii) The demand for the proposed benefit from the
24 public and the source and extent of opposition to
25 mandating the benefit.

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

28 (v) If the proposed benefit mandates coverage of a
29 particular therapy, the results of at least one
30 professionally accepted, controlled trial comparing the

1 medical consequences of the proposed therapy, alternative
2 therapies and no therapy.

3 (vi) If the proposed benefit mandates coverage of an
4 additional class of practitioners, the results of at
5 least one professionally accepted, controlled trial
6 comparing the medical results achieved by the additional
7 class of practitioners and those practitioners already
8 covered by benefits.

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

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

12 (A) The extent to which the proposed benefit
13 would increase or decrease cost for treatment or
14 service.

15 (B) The extent to which similar mandated
16 benefits in other states have affected charges, costs
17 and payments for services.

18 (C) The extent to which the proposed benefit
19 would increase the appropriate use of the treatment
20 or service.

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

23 (E) The impact of the proposed benefits on
24 benefits costs of purchasers.

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

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

29 (i) A person wishing to submit information on
30 proposed legislation mandating insurance benefits for

1 review by the panel must submit the documentation
2 specified under paragraph (4) to the council.

3 (ii) The council shall, within 30 days of receipt of
4 the documentation:

5 (A) Publish in the Pennsylvania Bulletin notice
6 of receipt of the documentation, a description of the
7 proposed legislation, provision for a period of 60
8 days for public comment and the time and place at
9 which a person may examine the documentation.

10 (B) Submit copies of the documentation to the
11 Secretary of Health, the Secretary of Human Services
12 and the Insurance Commissioner, who shall review and
13 submit comments to the council on the proposed
14 legislation within 30 days.

15 (C) Submit copies of the documentation to the
16 panel, which shall review the documentation and issue
17 their findings, subject to paragraph (3), within 90
18 days.

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

1 (i).

2 § 3308. Right-to-Know Law and access to council data.

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

13 (b) Outreach programs.--The council shall develop and
14 implement outreach programs designed to make the council's
15 information understandable and usable to purchasers, providers,
16 other Commonwealth agencies and the general public. The programs
17 shall include efforts to educate through pamphlets, booklets,
18 seminars and other appropriate measures and to facilitate making
19 more informed health care choices.

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

25 (1) Any raw data of the council that does not
26 simultaneously disclose payment, as well as provider quality
27 and provider service effectiveness pursuant to sections
28 3304(d)(5) (relating to powers and duties of council) and
29 3305(d) (relating to data submission and collection).

30 (2) Any raw data of the council which could reasonably

1 be expected to reveal the identity of an individual patient.

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

7 (4) Any raw data of the council relating to actual
8 payments to any identified provider made by any purchaser,
9 except that this provision shall not apply to access by a
10 purchaser requesting data on the group for which it purchases
11 or otherwise provides covered services or to access to that
12 same data by an entity entitled to the purchaser's data
13 pursuant to subsection (g).

14 (5) Any raw data disclosing discounts or allowances
15 between identified payors and providers unless the data is
16 released in a Statewide, aggregate format that does not
17 identify any individual payor or class of payors, directly or
18 indirectly through the use of a market share, and unless the
19 council assures that the release of such information is not
20 prejudicial or inequitable to any individual payor or
21 provider or group thereof. Payor data shall be released to
22 individual providers for purposes of verification and
23 validation prior to inclusion in a public report. An
24 individual provider shall verify and validate the payor data
25 within 30 days of its release to that specific individual
26 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) and 3306(b) (relating to data dissemination
17 and publication) and subject to the limitations on access under
18 subsection (c), the council shall provide access to the
19 council's raw data to purchasers, excluding purchasers that
20 provide covered services other than through the purchase of
21 fully funded insurance from a health care insurer but that are
22 not elective health care payor data sources, in accordance with
23 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, the council may:

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

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

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

4 § 3312. Grievances and grievance procedures.

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

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

16 § 3313. Antitrust provisions.

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

23 § 3314. Contracts with vendors.

24 A contract with a vendor other than a sole source vendor for
25 purchase of services or for purchase or lease of supplies and
26 equipment related to the council's powers and duties shall be
27 let only after a public bidding process and only in accordance
28 with the following provisions:

29 (1) The council shall prepare specifications fully
30 describing the services to be rendered or equipment or

1 supplies to be provided by a vendor and shall make the
2 specifications available for inspection by a person at the
3 council's offices during normal working hours and at other
4 places and other times as the council deems advisable.

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

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

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

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

19 (iv) A statement to the effect that any person is
20 eligible to bid.

21 (3) Bids shall be accepted as follows:

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

28 (ii) Bids shall be opened and reviewed by the
29 appropriate council committee, which shall make
30 recommendations to the council on approval. Bids shall be

1 accepted and the acceptance shall be announced only at a
2 public meeting of the council as defined in section
3 3303(e) (relating to Health Care Cost Containment
4 Council). A bid may not be accepted at an executive
5 session of the council.

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

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

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

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

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

29 (5) The council shall make efforts to assure that the
30 council's vendors have established affirmative action plans

1 to assure equal opportunity policies for hiring and promoting
2 employees.

3 § 3315. Reporting.

4 The council shall provide an annual report of its financial
5 expenditures to the Appropriations Committee and Health and
6 Human Services Committee of the Senate and the Appropriations
7 Committee, the Health Committee and the Human Services Committee
8 of the House of Representatives.

9 § 3316. Severability.

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

15 § 3317. EXPIRATION.

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16 THIS CHAPTER SHALL EXPIRE FIVE YEARS AFTER THE EFFECTIVE DATE
17 OF THIS SECTION.

18 Section 2. The following apply:

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

22 (2) New positions on the Health Care Cost Containment
23 Council created under 35 Pa.C.S. Ch. 33 shall be filled in
24 the manner designated under 35 Pa.C.S. § 3303(b) no later
25 than 60 days after the effective date of this section.

26 Organizations required under 35 Pa.C.S. § 3303(b) to submit
27 lists of recommended persons to fill new positions on the
28 council shall do so no later than 30 days after the effective
29 date of this section.

30 (3) There shall be no lapse in the employment

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