Statement of

THE DELAWARE VALLEY HOSPITAL COUNCIL AND

THE HOSPITAL ASSOCIATION OF PENNSYLVANIA

before the

HOUSE JUDICIARY COMMITTEE PUBLIC HEARING ON HOUSE BILL 2849

presented by

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Chairman Gannon and Members of the Committee, my name is Andrew Wigglesworth and I am President of the Delaware Valley Hospital Council, a group that represents more than 70 hospitals and health systems in this region of the state and the patients and communities they serve. I am also a senior vice president of The Hospital Association of Pennsylvania, which represents some 250 acute care general hospitals and specialty hospitals across the commonwealth.

On behalf of Pennsylvania's hospitals, I appreciate this opportunity to appear before you and to offer our comments on House Bill 2849.

As you know, health care is undergoing major changes in Pennsylvania and across the nation.

In response to a rapidly changing marketplace and anticipation of state and national reforms, hospitals and health systems are rapidly creating new alliances, mergers, and other

arrangements with a goal of building community based integrated delivery systems. And, managed care organizations and insurance companies are assuming a much greater role in directing the delivery of care as opposed to just the financing of health care.

As Pennsylvania and the nation move through these changes in search of a more efficient and cost effective health care system, we must continue to strive for an appropriate balance between cost, access and quality of care. I believe there are increasing indications that we are in danger of losing this balance. In many ways the health care system is largely driven by the short term economic interests of a few key players who are not accountable to the community or motivated by a desire to improve the health status of our citizens.

While there are many excellent managed care organizations, all too often some organizations appear to be managing costs not care.....how to avoid risk as opposed to managing care.....and how to shift costs as opposed to how to improve the efficiency of the system.

The General Assembly has begun to take action to address these concern. In the past six months you have passed legislation dealing with the amount of time mothers should remain in a hospital after giving birth, legislation addressing the definition of a health care emergency for coverage of treatment in a hospital emergency room, and legislation is pending to help to eliminate abuses of the utilization management function. And in Congress the Health Insurance Reform Act was passed to eliminate preexisting condition limitations and provide for portability of benefits.

Pennsylvania's hospitals support these and other measures to address the problems that interfere with the ability of people to receive the health care services that they need.

We believe that the ideal health system is one which is community based and is committed to improving the health status of the people it serves. We strongly support appropriate managed

care as a means to help contain costs as well as improve the quality of care. But we must continue to work to achieve that balance between cost, access and quality of care...

The issues raised by House Bill 2849 are a significant concern to many health care consumers and providers. While we support the objectives of this bill, we cannot support House Bill 2849 as drafted. The bill attempts to define the characteristics of medically necessary care or the standard of care. As you know, the standard of care is constantly evolving as a result of new technology and advances in medical practice. We believe this bill could work to stifle necessary and appropriate changes in the standard of care as well as retard legitimate efforts to enhance the efficient and effective delivery of care.

In addition, as the criteria in the bill is subject to wide interpretation, we believe the bill could lead to tremendous increase in litigation, particularly when coupled with the bill's remedies. For this reason, we cannot support this legislation. However, we would suggest three steps that would help to achieve the sponsors objective.

First, this concern is one of many concerns under the general heading of utilization review and we urge you to support the Health Plan Accountability Act, House Bill 2797. The goal of the act is to encourage consistency in the procedures for interaction between insurers, utilization management entities, providers, and consumers, and to establish utilization management processes that cause minimal disruption and maximum efficiency in the health care delivery system. Specifically, the act would mandate that patients and providers be sufficiently informed of utilization review processes, criteria, and procedures. Without this information, patients and providers are at a distinct disadvantage in appealing a utilization review decision. The act also would establish a uniform process to appeal utilization review determinations.

Passage of House Bill 2797 would be a major stride toward solving many of the utilization management problems facing us today.

Second, we urge you to amend House Bill 2849 to establish a pilot project to evaluate the best ways to resolve disputes between clinicians and insurers. Under this concept, the Health Department would be charged with the responsibility to identify the top DRG's or conditions where disputes over medical necessity are occurring and then convene expert panels of representatives of appropriate physicians, hospitals, managed care organizations and insurers to develop model protocols. While these protocols would not have the force of law, the process would help to foster consensus between payors and providers on what constitutes medically necessary care. Further it would place a burden on those providers or payers who do not follow the model protocol to explain why their protocol or approach is more appropriate.

All of the utilization management activities should be guided by a commitment to ensure that quality is not jeopardized and to make the health care system more cost effective and efficient.

Finally, the pressure that exists to reduce costs rather than focus on quality concerns us. The objective of House Bill 2849 is to ensure that insurers cover and ultimately pay for medically necessary health care. Denial of payment for medically necessary services is but one of the many "false economy" measures that some insurers practice. Another is to play the "float" or to simply delay payment, often forcing a provider to resort to filing a formal legal grievance or pursuing payment directly from the patient. In addition to safeguards proposed in the Health Plan Accountability Act, the legislature could help resolve this problem by requiring insurers to make timely payments.

We would suggest that House Bill 2849 be amended to require insurers, HMO's and other

payors to pay claims within 30 days of their receipt. Unless there was a good faith dispute over the legitimacy of the claim or the medical necessity of the care rendered, any payor which failed to pay claims within 30 days would be required to pay an interest penalty of 1.5 percent for each month or portion of a month the claim is outstanding. Further, payor should be required to notify providers within 15 days of the receipt of a claim that they need additional information to process the claim or that they intend to dispute the claim. In addition to the interest penalty, any insurer who displays a pattern of late or delayed payments should be subject to sanctions under the Unfair Insurance Practices Act.

In Pennsylvania the average days in patient accounts receivable is approximately 60 days. This means that on any given day, Pennsylvania hospitals are financing $3 billion in care that has already been delivered. Given the pressure to reduce costs and the low margins, hospitals are increasingly unable to sustain this load. In this region, nearly all hospitals are reporting increases in accounts receivables. At one institution, the auditors reported nearly a 20% increase in accounts receivables from 1995 to 1996 or from 61 to 72 days.

Many states have adopted prompt pay legislation. We will be submitting to the chairman specific language in the form of an amendment to House Bill 2849.

I hope my comments are useful in helping the General Assembly focus on the many problems that will arise as the health care system evolves and the best way to use the power of the legislature to address these problems.

I appreciate this opportunity to appear before you today and will be pleased to respond to any questions you may have.