

Appendix A: Press Releases and Speeches

NEW HEALTH INSURANCE PLAN WILL BE AVAILABLE FOR UNDER \$200

Connector Authority Board Will Vote On Re-submitted Bids Next Thursday

BOSTON- Saturday, March 3, 2007 - The average uninsured Massachusetts resident will be able to purchase health insurance for \$175 per month this spring based on new bids recently submitted to the Commonwealth Health Insurance Connector Authority.

"This is a big improvement from the first round of bids and a big step forward for health care reform," said Governor Deval Patrick. "I want to thank our insurance carriers for working with us to develop more affordable plans."

The Connector's board of directors is expected to issue its Seal of Approval to a range of health plans at its March 8 meeting. Hundreds of thousands of Massachusetts residents will be eligible to purchase these Commonwealth Choice plans through the Connector starting May 1, with a July 1 effective date.

"Offering affordable health insurance is critical to expanding coverage and realizing the promise of health care reform," said Leslie Kirwan, Secretary of Administration and Finance and Chair of the Commonwealth Health Insurance Connector Authority. "I am pleased that the Connector and our insurance carriers have risen to the occasion and provided a range of quality health insurance options for individuals throughout Massachusetts."

The Connector will offer different benefit levels for buyers to choose from with premiums that vary by plan design, network of providers and cost sharing. There will also be even lower-priced Young Adults Plans specifically tailored for uninsured individuals between the ages of 19 and 26.

"The Legislature charged the Connector with the difficult task of negotiating affordable health insurance plans that give uninsured residents a range of innovative choices," said Senate President Robert E. Travaglini. "These bids are evidence that the Connector is making tremendous progress towards implementing health care reform in the Commonwealth."

"Today marks the approach of another milestone on the road to affordable, quality and accessible health care for everyone in Massachusetts. As the historic health reform became law, we knew implementation would require our unwavering commitment and best efforts. I applaud everyone who worked so hard to make today possible," House Speaker Sal DiMasi said. "From the outset, the House of Representatives knew that no one will benefit from our hard work if there weren't good options and affordable products. Today's announcement is a huge step toward making affordable health care a reality for people who really need it."

"As always, though, there is no time for resting on our accomplishments. As the Connector Board proceeds with the critically important task of approving plans of high value and good quality for our residents, we are mindful of the difficult work ahead," DiMasi said.

"Choice and affordability will be the hallmark of these plans," said Connector Authority Executive Director Jon Kingsdale. "Individuals can select the plan that best suits their needs."

The majority of today's uninsured, typically those 37 years old or less, who select Commonwealth Choice coverage, will be able to purchase plans for about \$175 per month. If purchased on a pre-tax basis, the net cost of coverage is reduced to \$109 per month for someone earning \$50,000 per year. Specific prices for each individual vary based on plan, age and region.

The Connector is also developing regulations to encourage pre-tax payroll deduction to further reduce the cost for these plans.

"We are honored to be part of this historic undertaking," said Deborah Enos, President and CEO of Neighborhood Health Plan, which submitted the least expensive plan proposal. Access to affordable health care will benefit every citizen of Massachusetts."

The Connector Authority received bids from 10 insurance carriers. At the board meeting on Thursday, staff will recommend the Seal of Approval be given to seven of them. They are:

- Blue Cross and Blue Shield of Massachusetts
- ConnectiCare
- Fallon Community Health Plan
- Harvard Pilgrim Health Care
- Health New England
- Neighborhood Health Plan
- Tufts Health Plan

Aimed at individuals and businesses with fewer than 50 employees, Commonwealth Choice is also expected to attract many part-time workers and contract employees who historically have not been offered employer-based health insurance.

The three plan levels will all offer comprehensive coverage, including inpatient and outpatient medical care, emergency care, mental health and substance abuse services, rehabilitation services, hospice and vision care. Co-payments, deductibles and out-of-pocket contributions may vary among plans.

Today's announcement comes three months after the Connector Authority requested bids from insurance carriers. When initial bids came back too high, the Connector, and in some cases the governor himself, asked the carriers to sharpen their pencils and come back with more affordable proposals. For the past several weeks, the Connector and the carriers have been back and forth as part of the normal procurement process, resulting in the bids announced today.

Separately, the Connector Board is expected to decide on Minimum Creditable Coverage standards at its March 20 meeting. Minimum Creditable Coverage will define the minimum level of health insurance that will satisfy health care reform's requirement that residents of Massachusetts have health coverage.

"The Connector staff has done a tremendous job working to get this far, and I appreciate them. The citizens of Massachusetts came out ahead," said Patrick. "I am committed to working with Senate President Travaglini, Speaker DiMasi and the Connector Board to deliver on the promise of providing quality and affordable health care.

Health Insurance Enrollment Soars to Nearly 300,000

Lt. Governor Murray Announces More Opportunities to Avoid 2007 Tax Penalty

BOSTON - Wednesday, December 5, 2007 - Lieutenant Governor Tim Murray today joined legislators and other health care reform leaders to celebrate continued growth in the number of people signing up for health insurance, announcing that more than 300,000 Massachusetts residents will have signed up for health insurance by January 1. The Lieutenant Governor also announced that the state and its private insurance partners are extending enrollment opportunities to offer residents additional time to avoid 2007 tax penalties.

"We are making remarkable progress in an effort that no other state has been bold enough to tackle," said Lieutenant Governor Murray. "We are reinforcing our message today that our primary goal is to insure people, not penalize them. Health care reform is working in Massachusetts."

Approximately 293,000 people have enrolled in health insurance during the past year, of which roughly 160,000 have enrolled in Commonwealth Care, the subsidized health insurance program offered through the Commonwealth Health Insurance Connector Authority; an additional 70,000 residents have signed up for MassHealth, the state's Medicaid program. In addition, 63,000 have enrolled in private insurance either through the Health Connector or private carriers.

Lieutenant Governor Murray also noted that, of the more than 300,000 new enrollments projected January 1, private insurance enrollments will represent at least 100,000, as people sign up for health insurance to comply with the individual mandate and take advantage of employer open enrollment opportunities.

"Health care reform is working," Senate President Therese Murray (D-Plymouth) said. "With nearly 300,000 residents signed up for health insurance, we have exceeded any expectations from more than a year-and-a-half ago when we signed Health Care Reform into law. We all have a stake in health care, and our success today is the result of our shared responsibility and combined efforts to insure every resident in Massachusetts. That has been our goal from the beginning, and that day is coming soon."

"When people ask if our health care reform is a success, we now have nearly 300,000 men, women and children to stand with us to say, 'Yes it is,'" said House Speaker Salvatore F. DiMasi. "This law is working because we have shared the responsibilities for covering the uninsured and we have shared the labor of getting them enrolled. We must now redouble our efforts to insure everyone in the Commonwealth."

"People who need health insurance in Massachusetts are getting it," said Lieutenant Governor Murray. "The hundreds of thousands of people who have signed up for health insurance are enjoying improved access to care and greater financial security. Max and Amy Newell of Brookline were paying \$1,200 a month to cover themselves and their two children until they visited the Health Connector's web site. There they found and enrolled in a plan that had lower deductibles and better preventive care for \$640 a month."

"If we didn't live in Massachusetts, we couldn't be doing what we are doing," Max Newell said. "Both of us wanted to work for ourselves so that we could spend more time with our kids. But we knew we needed health insurance and couldn't pay an arm and a leg for it. Because of the Connector, our health care premiums are almost half what they were. We are able to work for ourselves and still have time to raise our family."

Lieutenant Governor Murray also announced that there are still a number of opportunities for people to enroll in a health insurance plan and avoid a tax penalty of \$219 in 2007.

Anyone who submits an application for MassHealth, the state Medicaid program, by December 31 and is eligible for benefits will be enrolled as of that date and will not be subject to the tax penalty.

Individuals who qualify for Commonwealth Care and earn less than \$15,315 per year (\$30,975 for a family of four) are not required to pay premiums. If already determined eligible for the program, they now have until December 28 to enroll and avoid a tax penalty. Low-income earners who make too much to qualify for free insurance but earn less than \$30,631 (\$61,951 for a family of four) pay a subsidized premium based on a sliding scale in relation to their income. Those who have already been determined eligible for the program now have until December 20 to complete their enrollment and pay the first month's premium in order to avoid the penalty.

For Commonwealth Choice, the unsubsidized program offered through the Health Connector, residents between the ages of 19 and 26 who are not offered employer-sponsored insurance may continue to enroll in Young Adult Plans in order to avoid a tax penalty. The enrollment must be completed and the premium paid by December 24.

In addition, all Massachusetts-based private insurance carriers will continue to enroll people of all ages during the month so their enrollment will be effective no later than December 31. Consumers should check with the individual carriers to determine when their specific deadlines apply.

Information and enrollment material is available online at www.MAhealthconnector.org or by calling the Health Connector's customer service center weekdays at 1-877-MA-ENROLL.

Patrick-Murray Administration Statement on the U.S. Census Bureau's Report: Income, Poverty, and Health Insurance Coverage in the United States: 2007

BOSTON - Tuesday, August 26, 2008 - The following is a statement from Joe Landolfi, spokesman for Governor Deval Patrick, on a report issued today by the U.S. Census Bureau showing significant progress in health reform in Massachusetts:

"Today's report is another indication of the tremendous success of health care reform. Survey after survey continues to demonstrate that more Massachusetts residents are enrolling in health insurance plans, giving them access to primary and preventative care and avoiding more costly treatment down the road. While each survey has its own unique methods and challenges, we are particularly encouraged to see that the U.S. Census Bureau has found that Massachusetts now has the lowest rate of uninsured residents in the nation. Working together with our partners in health reform, we will continue towards our goal of ensuring that all Massachusetts residents have quality, affordable health insurance."

To read the full report, go to <http://www.census.gov/prod/2008pubs/p60-235.pdf>

Governor Patrick Signs Bill Enhancing Quality, Cost-Effectiveness And Transparency Of Health Care

Senate President, Speaker Laud Governor's Support to Help Contain Health Care Costs

BOSTON- Sunday, August 10, 2008 - Governor Deval Patrick has signed into law a bill that will help contain the skyrocketing costs of health care, while ensuring transparency and continued quality of care for all Massachusetts residents.

"I applaud the many important initiatives that this legislation enacts to enhance the quality and cost-effectiveness of health care in the Commonwealth," said Governor Patrick.

Senate President Therese Murray and House Speaker Salvatore DiMasi commended Governor Patrick for supporting the bill.

"In order for health care reform to be successful, it is imperative that we increase access and quality, while decreasing the cost of care. This legislation through incentives for medical and nursing students, the adoption of uniform billing and electronic health records and increasing transparency for consumers, achieves those goals," said Senate President Therese Murray. "Massachusetts is known around the world for cutting-edge, top notch health care and medical research. We are leading the way, and this legislation allows us to continue that leadership, while providing the best health care possible for the people of the Commonwealth. I want to thank Senator Moore for his hard work on this legislation, as well as Governor Patrick and Speaker DiMasi for their dedication to health care reform."

"The ongoing success of our historic health care reform depends on our ability to continue to cut costs in the health care system while we increase quality and the number of insured," said House Speaker Salvatore F. DiMasi. "From increased transparency in rate-setting to expanded use of electronic records and a tough new code of conduct for gift-giving, this law charts a bold course to cut costs. This is also a true compromise between the House and Senate and I commend Governor Patrick for joining us to take this bold step to help reduce costs in our health care system."

An Act to Promote Cost Containment, Transparency and Efficiency in the Delivery of Quality Health Care includes many targeted measures intended to improve aspects of the health care system that affect quality of care and costs. Several cost-containing initiatives include:

- The development of quality improvement and cost containment goals and performance benchmarks
- The promotion of electronic health records systems
- The implementation of measures to increase the availability and accessibility of primary care and to improve the quality of chronic care

- The dissemination of health care quality and cost data to consumers, providers and insurers.

The legislation also includes a section requiring pharmaceutical and medical device manufacturing companies to report to the state Department of Public Health any payment or gift of more than \$50 made to a healthcare professional. Those gifts would be publicly reported on the state's Web site.

"This measure will set a marketing code of conduct to help ensure health care providers make choices about prescription drugs and medical devices for their patients based on therapeutic benefits and cost-effectiveness," said Governor Patrick. "I am confident the Department of Public Health, pursuant to its regulatory authority, will safeguard the confidentiality of companies' trade secrets and proprietary information and protect against roadblocks to medical research or the education of health care providers."

"This legislation is at least as significant as earlier health care reform efforts, and it creates a broader range of improvements to health care," said Senator Richard T. Moore, Senate Chair of the Health Care Financing Committee. "I commend the Governor for his courage and leadership to make this law a reality."

"I congratulate the Governor for his action today," said Representative Pat Walrath (D-Stow), House Chair of the Health Care Financing Committee. "This legislation lays a firm foundation for the serious kind of cost containment that is necessary if we are to realize the goals of health reform, and I look forward to a continued partnership with the administration as we implement the law."

"Biased marketing and financial inducements are destructive to the sacred doctor-patient relationship. Evidence based academic detailing enhances this relationship. Cost controls, disclosure and transparency are imperative as we demand universal access to quality healthcare. I commend the Governor for standing firmly on the side of the patient and taxpayer," said Senator Mark Montigny, author of the gift ban legislation and a former chair of the Health Care Committee.

Governor Patrick Announces \$21.2 Billion Medicaid Waiver Agreement

Sen. Kennedy hails "major achievement;" State gains \$4.3 billion in spending authority to ensure long-term sustainability of health care reform

BOSTON- Tuesday, September 30, 2008 - Governor Deval Patrick today announced the federal government will renew the Commonwealth's health care reform waiver, enabling the state to continue to expand access to affordable, quality care through its historic reform law. The three-year, \$21.2 billion agreement in principle, which is expected to be formalized with the Centers for Medicare and Medicaid Services (CMS) in the coming weeks, represents a stronger commitment to the principles of health care reform than the state's current waiver.

"In less than two years, health care reform in Massachusetts has made a difference. Nearly 440,000 adults and children are newly insured and total system costs have begun to level off. These are remarkable achievements," said Governor Patrick. "This new federal agreement ensures we can build on that success and continue to work toward universal coverage. I thank our partners in Washington, especially Senator Kennedy and Health and Human Services Secretary Michael Leavitt, for supporting our historic efforts to deliver to all our citizens the care that improves people's lives."

"Today's agreement is a major achievement for the people of Massachusetts, and I commend Governor Patrick and Secretary Leavitt for all they did to make it possible," said U.S. Senator Edward M. Kennedy. "The waiver enables the state to continue to provide good, affordable health care to families, and provides additional funding and flexibility to build on these early successes in the years to come. We've made major progress in the program's first two years, cutting the number of uninsured in half, and increasing employer-sponsored coverage. Our experience with health reform in the Commonwealth argues well for our debate on national health reform next year."

The \$21.2 billion agreement, a \$4.3 billion increase over the current waiver, fully preserves existing eligibility and benefit levels as well as federal matching funds for all programs, including Commonwealth Care at 300% of the federal poverty level. The agreement protects federal matching funds for MassHealth waiver programs for the long-term unemployed, the disabled, and people living with HIV. It also allows the state to meet all of its health care obligations for the current fiscal year.

Key features of the agreement include:

1. The total spending authority granted by the federal government is approximately \$21.2 billion, which is \$4.3 billion more than in the last three year term.
2. All eligibility and benefit levels are preserved. The Patrick Administration has secured the ability to claim federal financial participation (FFP) to match state spending on all programs as currently designed, including Commonwealth Care at 300% FPL.
3. The agreement allows the state to meet all of its health care obligations for Fiscal Year 2009. In Fiscal Year 2009, the state will be able to claim \$150 million for programs for which it was unable to claim matching funds for in Fiscal Year 2008.
4. The agreement expands the Patrick Administration's authority to bill for programs in the Safety Net Care Pool by \$1 billion over the current waiver period. The Safety Net Care Pool (SNCP) represents authority for federal reimbursement for Commonwealth Care payments, Health Safety Net (the "free care pool") spending and hospital supplemental payments.
5. A flexible Cap in the Safety Net Care Pool. The federal government has proposed a three-year cumulative cap on Safety Net Care Pool expenditures, instead of the current annual cap. This flexibility allows the state to meet all of its commitments for Fiscal Year 2009 and to plan ahead to meet all Fiscal Year 2010 and Fiscal Year 2011 commitments.

"The agreement builds on the Bush Administration's ongoing commitment of helping Massachusetts decrease the number of uninsured individuals while at the same time directing taxpayer dollars to beneficiaries. This helps provide patients with choice and responsibility in obtaining the coverage that best suits their health care needs," said Secretary Leavitt.

"The Massachusetts health care initiative is an example for the rest of the nation, and this new agreement allows the state to continue to lead the way toward broader reform in Washington. For the hundreds of thousands of Bay Staters who are newly insured under health reform, this waiver ensures that they will continue to receive the coverage they have come to rely upon," said U.S. Senator John F. Kerry. "I am incredibly grateful for the hard work of Governor Patrick, Senator Kennedy and everyone involved in these negotiations. This agreement brings us one step closer to achieving our goal of providing quality, affordable health insurance for everyone in Massachusetts."

"This waiver deal is the good news we've been waiting for," said Senate President Therese Murray. "It shows our strong commitment to health care reform and the federal government's belief in what we are

trying to achieve here in the Commonwealth. With this agreement in place, we can now move forward with our model plan for universal health care coverage and continue to focus on cost issues and quality care."

"This is a remarkable affirmation of the reform we crafted two years ago to provide health care to every man, woman and child in the Commonwealth through a bold plan of shared responsibility," said House Speaker Salvatore F. DiMasi. "This tremendous federal support is not only a fiscal relief to the Commonwealth but shows our reform continues to be a national model. I commend Governor Patrick, Senator Kennedy, Secretary Bigby and all who worked with us to make this law such an extraordinary success."

"This agreement means the Commonwealth will be able to continue our highly successful health reform model and that we will continue to provide health care coverage to individuals who had previously been uninsured," said Massachusetts Secretary of Health and Human Services Dr. JudyAnn Bigby.

Insurance enrollment has grown by nearly 440,000 since June 2006, including an increase of 72,000 whose primary coverage is through MassHealth. Overall, 1.1 million people have some level of MassHealth coverage. In addition, 176,000 individuals are newly insured through Commonwealth Care since the implementation of health care reform.

09.30.08 - Medicaid Waiver Passed

Governor Deval L. Patrick

Medicaid Waiver Announced

September 30, 2008

As Delivered

Governor Patrick

Good afternoon, everybody, and thank you for coming. I am very, very pleased to announce that we have reached agreement with the Bush Administration on the terms of a new three-year Medicaid waiver to support health care reform in Massachusetts.

Under this agreement, Massachusetts will receive 21.2 billion dollars in spending authority for health care reform, through fiscal year 2011; an increase of 4.3 billion dollars over what the State was authorized to spend during the previous three years.

This represents an increase of over 2 billion dollars in federal resources for Massachusetts. Given the strain on the current state budget, I'm especially glad to report that our health care obligations for fiscal year '09 are fully funded.

This is an exceptional outcome under any circumstances, especially so now. The American economy is in turmoil, and the future is uncertain. But, even in tough times, we can not afford to abandon our commitment to affordable, accessible, high-quality health care for every man, woman, and child in the Commonwealth. Thanks to this agreement we can keep our commitments.

GOVERNOR PATRICK UNVEILS REFORMS TO REDUCE HEALTH INSURANCE COSTS FOR SMALL BUSINESSES

Collaborative effort part of lead up to Governor's Economic Summit; Retailers Association of MA backs Governor's plan

QUINCY - Tuesday, October 20, 2009 - Standing alongside business leaders and small business owners, Governor Deval Patrick today unveiled key recommendations aimed at reducing health care costs for small employers while maintaining access to quality care for employees. The series of reforms address a top concern of small business owners - who in recent years have been burdened by double-digit premium increases - and reflect the administration's ongoing commitment to collaborate with the business community on solutions to speed the state's economic recovery.

The Governor and a cross-section of business, financial, education and public policy leaders will discuss additional opportunities for collaboration between the public and private sector during a day-long summit the Governor will convene at the Boston Federal Reserve Bank on October 27th.

"Skyrocketing premium increases put a stranglehold on small business growth and place a heavy burden on employers and employees alike," said Governor Patrick. "Today, with this series of recommendations, we are tackling these challenges head on and implementing reforms that will curb costs, maintain affordable care and strengthen the business climate in the Commonwealth."

"It is no secret that today's high cost of health insurance remains one of the most pressing issues facing any Massachusetts small business owner. Health insurance premiums are causing enormous frustration and pain for those struggling just to keep the doors open," said Jon Hurst, President of the Retailers Association of Massachusetts. "We are very pleased to hear Governor Patrick's announcement today of a package of initiatives that seeks to address the issues surrounding small business health insurance costs. These are welcome and important steps on the path to achieving premium cost fairness in the health insurance marketplace for small business owners and we look forward to continuing to work with the Governor and the Legislature toward that goal."

Responding directly to concerns raised by the small business community, the Governor directed members of his cabinet to investigate potential solutions to escalating premiums. The recommendations, compiled by the secretaries of Housing and Economic Development, Health and Human Services and Administration and Finance, consist of the following initiatives:

- The Division of Insurance will immediately hold hearings to examine small business premium increases, focusing specifically on work insurers are currently doing to reduce costs and future steps that may be necessary to eliminate the substantial increases impacting the small-group market.
- The administration will file legislation amending small-group rating rules, giving the Division of Insurance expanded power to annually eliminate any unnecessary administrative costs and align factors in ways that could reduce the premiums charged to most small businesses.

- The administration will file legislation to expand the Division of Insurance's authority over health insurance premiums, ensuring that company rates are reviewed before going into effect and allowing the agency to disapprove rates if they are deemed unreasonable in relation to the benefits provided.
- The Division of Insurance will immediately conduct special sessions with stakeholders to plan the development of open-access purchasing cooperatives. The creation of group purchasing cooperatives will allow small businesses and individuals to combine their purchasing power and seek out lower premiums through a larger entity. The cooperatives will not have membership restrictions, and the cooperatives will be able to choose and sponsor their own health products and health promotion programs.

"Small business owners are the entrepreneurs who help to drive our economy and create the jobs so vital to our future," said Housing and Economic Development Secretary Greg Bialecki. "By working in collaboration with the small business community, we have established a direction for reform that will offer much needed relief at a critical time."

"Small businesses face unique circumstances related to health care premium costs," said Dr. JudyAnn Bigby, Health and Human Services Secretary. "The best way to drive down costs for small businesses is to drive down the overall costs of health care. These actions are important interim steps towards helping to decrease their costs."

"These proposals help answer small businesses' call for relief from skyrocketing health care costs," said Administration and Finance Secretary Jay Gonzalez. "Containing health care costs strengthens the ability of small businesses to create jobs and offer comprehensive health coverage to their employees."

"It's critical that we take these necessary steps to help alleviate for small businesses and individuals the burden of escalating health insurance premiums," said Barbara Anthony, the Undersecretary of the Office of Consumer Affairs and Business Regulation and a member of the committee that studied the issue. "Everyone deserves access to quality health care, and these measures ensure that access isn't overly burdensome financially."

Governor Patrick Announces Plan to Support Small Businesses and Create Jobs

Bill includes tax credits for job creation, unemployment insurance freeze, tools to reduce health care costs

Photos from event (also available on our [Flickr account](#)):

BOSTON - Wednesday, February 10, 2010 - Building on his continued efforts to foster job creation and economic growth in the Commonwealth, Governor Deval Patrick today filed legislation to help small businesses hire new workers and reduce the cost of doing business.

The Governor's legislation provides tax credits for businesses that create new jobs, eases healthcare and unemployment insurance costs for employers and creates a new organization dedicated to providing businesses with the financial capital and resources they need to grow.

"Small businesses account for 85 percent of Massachusetts businesses, and for them this is an economic emergency," said Governor Patrick at an address this morning to the Greater Boston Chamber of Commerce. "If we want new jobs, we need to focus special attention to meeting the needs of small businesses. That means addressing their need for access to working capital and credit, helping deal with escalating health care costs in the short term, simplifying necessary and eliminating unnecessary regulation, fixing the unemployment insurance system and helping to train ready workers."

The Governor's plan builds on the job creation efforts undertaken over the last three years, and delivers on many of the initiatives outlined at the [Patrick-Murray Administration's Economic Summit held last October](#). Since the beginning of the Administration the Governor has prioritized significant investments in infrastructure, tax incentives for businesses, innovative financing for development, streamlined permitting and other initiatives. The Governor has also instituted policies to create jobs in emerging industries such as Life Sciences and Clean Energy, positioning Massachusetts as a global leader in these fields.

"Small businesses are the anchor for many of our regional economies," said Lieutenant Governor Timothy Murray. "This proposed legislation will not only provide support for their business needs, but also incentives to foster job creation and economic stability across all regions of the Commonwealth."

The plan includes the following elements:

Small Business Job Creation Tax Credit

A central piece of the Governor's proposal is a tax credit for small businesses that will help create thousands of new jobs this year. Small businesses that create and retain new full-time equivalent (FTE) jobs this year will be awarded a \$2,500 tax credit for each net new job they create.

The credit, capped at \$50 million, will be awarded on a first-come, first-served basis to small businesses defined as those with 50 or fewer employees. To qualify, companies must create a new FTE position and retain that position for at least one year.

Lowering Health Care Costs for Small Businesses

The Governor's initiative also includes tools for easing the burden of health care costs on small businesses. Under existing authority, the Governor is directing the Commissioner of Insurance to immediately file an emergency regulation requiring health insurance companies to file proposed changes in small business premiums with the Division of Insurance in advance of their taking effect so the Commissioner can review and disapprove rates that are excessive or unreasonable in relation to the benefit provided. His plan also includes legislation that would trigger a presumptive disapproval of health insurer rates that are significantly above the Consumer Price Index for Medical Services. The bill also provides for similar oversight of provider rates to ensure shared responsibility for controlling costs.

Additionally, the bill gives smaller companies the choice of more affordable plans beginning this July. It requires health insurance carriers in the small group market to offer at least one selective network plan with premiums that are at least 10 percent lower than the premiums for the full network product. It also allows insurers to set up bi-annual open enrollment periods to encourage people to get and keep health insurance.

The Governor's proposal also gives the Commissioner of Insurance authority to examine small business health insurance premiums and prevent any duplicative or unjustified administrative charges that drive up costs for small businesses. It empowers the Commissioner to protect small businesses from drastic increases in their premiums driven by changes in the composition of their workforces (particularly the age of their workforces).

Unemployment Insurance Reform and Rate Freeze

The Governor's proposal provides relief to employers by freezing the unemployment insurance (UI) rate increase schedule for 2010, minimizing cost increases on businesses. The rate freeze at Schedule E would save employers on average \$158 per employee, or \$391 million in total.

Additionally, the Governor's bill makes the Workforce Training Fund a Trust Fund in order to protect employer contributions and ensure that the money in the fund is used to fulfill its intended purpose. The Governor's bill also strengthens the Division of Unemployment Assistance's anti-fraud measures and includes protections for workers, reducing unfair barriers to eligibility.

Massachusetts Growth Capital Corporation

The Governor's bill consolidates the three agencies responsible for small business finance into the Massachusetts Growth Capital Corporation (MGCC), an umbrella organization that would function as a one-stop source for debt-equity and financing for small and mid-sized businesses. The MGCC would be funded by a \$25 million capital bond authorization and by a \$15 million transfer from the Emerging Technology Fund.

Additional Provisions

The Governor's bill also includes:

- \$50 million bond authorization to fund the Growth Districts Initiative, allowing for infrastructure improvements in specific areas identified as being promising locations for significant new commercial, residential or mixed-use growth;
- Extended permitting to encourage development; and
- Improvements to the District Improvement Financing Program.

Learn more about the Governor's small business plan and other job creation initiatives at mass.gov/governor/jobs

02.10.10 - Small Business Jobs Bill

Governor Deval L. Patrick

Small Business Jobs Bill Remarks

Greater Boston Chamber of Commerce, Copley Westin, Boston, MA

Wednesday, February 10, 2010

Address as prepared

Good morning and thank you for having me today.

I want to spend most of our time in conversation, but let me offer a few comments first about where we are as a Commonwealth and where we are going.

To say the obvious, this is the worst economy in living memory. People and businesses - perhaps some of yours - were hammered last year by economic forces beyond any of our control. Most state and local governments across the country have been managing through consequent fiscal crises of their own.

In the case of state government in Massachusetts, we faced \$9 billion in budget gaps. So, we cut many worthy programs and services, eliminated over 2,200 jobs (with more to come), got contract concessions from labor unions (the first administration ever to do so), imposed furloughs, froze pay, and otherwise managed costs down. In other words, we did what every business and family has had to do: make do with less.

But we closed that budget gap, and delivered three budgets that were responsible, balanced and on time - not something many other states can say. Our budget still keeps faith, as best as possible, with our commitment to help the people of Massachusetts weather these hard times and build a lasting recovery. Because that, especially in times like these, is what government is for.

Slowly but surely, the Massachusetts economy is coming around, with the innovation industries -- IT, biotech and life sciences, clean tech, health care -- leading the way. The business climate is improving: CNBC ranked us the 8th best state in the nation in which to do business (up from 15th a year ago). Business confidence has improved 10 of the last 11 months. All three national rating agencies - Standard & Poor's, Fitch and Moody's - have affirmed the state's AA bond rating and stable outlook for the future, expressly citing our successful management through this fiscal crisis. Independent economists predict that Massachusetts is recovering faster, sooner and stronger than the rest of the nation. And for the first time in 20 years, young people and families are moving into Massachusetts instead of moving out.

Meanwhile, many good things are happening, some in spite of the crisis and some because of it.

Our students rank first in the Nation on achievement standards for three years running, and number one in the world in science. Not by accident. And with the help of teachers, parents, policymakers and many of you in this room, I was proud to sign a sweeping education reform bill last month that will bring more innovation into our public schools -- especially those that have too often failed poor children -- and finally address the achievement gap.

We are first in the Nation in health care coverage for our residents, with over 97 percent insured. Again, not by accident. With the help of providers, insurers, unions and, once again, many in this room, we have developed the most far-reaching strategies in the country to bring costs down.

Our clean and alternative energy initiatives set national standards. We are on track to increase wind power 10-fold and solar power nearly 20-fold by next year. Not by accident. In the solar industry alone we have quadrupled the number of installation companies and more than doubled the number of jobs.

We have fixed some of the most intractable problems on Beacon Hill.

We ended decades of abuse and gamesmanship in the state pension system, like the "23-years-and-out" rule or the "king-for-a-day" rule.

We tightened the ethics and lobbying rules, so that people who are influencing legislation have to come clean to the public about what they are doing and on whose behalf.

We radically simplified the transportation system, abolishing the Turnpike Authority, consolidating the rest of the agencies into the new MassDOT, and saving the state over a quarter billion dollars already.

We brought competition to the auto insurance market, which has cut average premiums by nearly 10 percent, saved drivers \$270 million in the first year alone, and brought 11 new companies and hundreds of new jobs into the insurance market here.

We joined our peers in all 49 other states by putting civilian flaggers on state road projects.

And by the way, we cut the corporate tax rate -- from 9.5 percent to 8.75 percent starting this year. It will keep coming down to 8.0 percent over the next two years, a savings to some 35,000 Massachusetts companies. Add to that a host of tax credits and incentive programs and we have a set of stronger tools to encourage investment and growth.

The combination of state bonding authority and federal stimulus funds have enabled us to invest more in our infrastructure than any other administration in decades. And that's a good thing because the level of

neglect we inherited is shocking; economic and personal security as well as quality of life demand that we turn that around. So there are road, rail and bridge projects (nearly 500 of them underway right now), broadband expansion, public and affordable housing restoration, college campus renovations, open space preservation and more happening in every corner of the Commonwealth. We have cut the number of structurally deficient bridges by almost 10 percent already, and have doubled the highway reconstruction program in just the last two years. All of that means jobs right now and value over time.

And while we're at it, let's just clear up a couple of misperceptions about our management of federal stimulus funds. We have met or beaten every deadline in the law and are consistently ranked in the top ten states for effectiveness in moving the dollars out the door and on the ground. Over 25,000 teachers, firefighters, police officers, construction workers and other jobs have been saved or created in Massachusetts because of federal stimulus.

The other misperception out there is that the stimulus bill was just a big blank check payable to me, and that you just have to get me in a good mood to get some of it. In fact, most of it is limited to very specific uses. So we have used every opportunity to find ways to leverage the federal funds to generate private investment and create more jobs.

For example, some of you will know about the State Revolving Fund, which defrays the cost of municipal drinking water and wastewater systems. Before the Recovery Act, we had roughly \$400 million dollars for 71 projects in the queue this year. With the stimulus money, we took a little extra time and were able to leverage that \$400 million to nearly \$800 million, and those 71 projects to 115 projects, which means about 4,000 new construction jobs over the next year.

Another important example: we received over \$437 million in stimulus highway funds, all of it committed to specific projects. But instead of simply repaving roads, as valuable as that is, we prioritized as many road projects as possible that would leverage additional private investment, like the Assembly Square project in Somerville or the Quincy Concourse project in downtown Quincy. In addition to creating one or two hundred short-term road construction jobs, these improvements also spur commercial development and thousands of construction and permanent jobs for years.

Our new Life Sciences Center has leveraged more than \$180 million of public funding into \$680 million of additional investment, with the prospect of over 6,000 permanent and construction jobs. In December, the Center awarded \$25 million in tax incentives to 28 companies that will create more than 800 jobs in the Commonwealth this year alone. Because we have established our unequivocal global leadership, 1 in every 5 biotech venture capital dollars comes to the Commonwealth today, and 14 percent of the SBA's innovation research grants. Genzyme is adding at least 500 new workers this year in Massachusetts. Arteriocyte, a Hopkinton-based biotech company developing proprietary stem cell and tissue engineering based therapies, doubled in size last year and grew their revenue by 45 percent. And for those who think

these jobs are all in the lab, consider Systagenix, a UK-based medical device company, that recently created 27 jobs in Quincy when they opened their Headquarters for the Americas - none of those jobs in the lab, but in IT, human resources, customer care and sales and marketing. And we have major biotech construction projects underway on the Cape, in Metrowest, and in Worcester County -- jobs for today and tomorrow.

I mentioned the extraordinary progress we have made in the clean tech sector. Last week, we awarded \$21 million in stimulus money to Nexamp Inc. of North Andover and Florence Electric of Taunton to install solar-energy equipment at 12 public drinking water and wastewater treatment plants, the state's largest-ever contract for installation of solar power. That's another 100 jobs this year. In Watertown, A123 Systems is developing advanced batteries for electric and plug-in hybrid cars - and adding 150 jobs here in Massachusetts this year. Massachusetts will be the nation's leader in energy efficiency over the next three years, saving residents and businesses \$6 billion and creating an estimated 4,000 jobs for people modernizing light fixtures, replacing old furnaces and air conditioners, and weatherizing houses.

From the very beginning of our administration, our number one goal has been to create jobs and a stronger economic foundation for the people of Massachusetts. The economic crisis has not deterred us. There is a lot that's good going on in Massachusetts. But we need to do more.

Small businesses account for 85 percent of Massachusetts businesses, and for them this is an economic emergency. If we want new jobs, we need to focus special attention on meeting their needs. That means addressing their need for access to working capital and credit, helping to deal with escalating health care costs in the short term, simplifying necessary and eliminating unnecessary regulation, fixing the unemployment insurance system, and helping to train ready workers.

So today, we are announcing emergency measures to help small businesses stabilize and grow jobs. Our plan has 6 components.

First, businesses with 50 employees or fewer will receive a \$2,500 tax credit for each net new job created and retained for at least one year. Credits will be distributed on a first-come-first-serve basis up to a total value of \$50 million. We estimate that this will encourage the hiring of up to 20,000 people.

Second, through the merger of three existing quasi public agencies and a modest bond capitalization, we will establish a \$40 million Growth Capital Fund. The Growth Capital Fund will serve as a one-stop shop for the financing and technical assistance needs of small businesses. The Fund will have broad authority to use its resources to leverage private funds, including through loan guarantees, to ensure that the state's thousands of small businesses have the capital and advice they need to grow and start hiring.

Third, we will use existing powers - as well as additional tools - to hold down health insurance premiums

for small businesses.

Today, I am directing the Commissioner of Insurance, on an emergency basis, to require health insurance companies to file any increases or changes to rates before they take effect and to disapprove the increases if they are unreasonable or excessive. Any increases significantly higher than the current level of medical cost inflation, which today is 3.2 percent, will be challenged. This is aggressive, but we have to give small businesses some economic breathing room until we can implement the kind of payment reform that will curtail costs across the health care system.

Controlling health care costs is a shared responsibility, and we have to look at the market conduct of both carriers and providers. That is why we will also file legislation to implement an oversight plan to screen provider rate increases. It is essential that there be full transparency and accountability in what consumers pay for health care and what providers charge insurance companies.

Fourth, we will freeze unemployment insurance rates at the 2009 rate, schedule E, which is projected to save businesses \$391 million or an average of \$158 per employee. We will also seek to provide for the long-term solvency of the system and make some other changes that will benefit the system.

Fifth, we will segregate the workforce training funds that businesses contribute now into a separate trust, dedicated exclusively to the original mission, namely the training of workers. Last is a collection of additional supports for business, such as another \$50 million for the highly successful Growth Districts Initiative; extending existing land use permits for 3 years to enable developments to move forward as financial markets recover; increasing flexibility for tax-increment financings of the public infrastructure needed to support private development; and requiring state agencies to evaluate the impact on small business of any proposed regulation.

If anyone here has better ideas on ways we can help small businesses, I hope you will pass them on during the Q&A or by contacting the office. We welcome good ideas from any source.

I want to add that we are working closely with the Senate President on an initiative to consolidate many of the remaining quasi-public agencies and executive agencies responsible for economic development, and with the Speaker on workforce development.

Each and every one of these measures is about improving the commercial climate and creating jobs. They are also about restoring people's optimism, about opening new avenues of opportunity. We need to reach for this together.

That's why we brought together 150 corporate, academic and non-profit leaders for an Economic Summit last October and worked together on how we could best speed up recovery for Massachusetts. The bill I

have outlined this morning delivers on many of the ideas that came out of that discussion.

Our future is bright. I am confident of that. But I am not content to leave our future entirely to chance, and I have shown that I am willing to make the tough call if it's the right one, even if that risks upsetting powerful interests.

My grandmother used to say, "hope for the best; and work for it."

That's why we invest in education, pre-K through college, because education is our calling card around the world.

That's why we cultivate the life sciences and biotech, with a billion-dollar initiative over ten years that has made us an international hub and is well on its way to transforming both the future of human health and the economics of health care.

That's why we have grown the clean tech sector, by creating new incentives for solar and wind installations, building the largest wind-blade testing facility in the nation (now under construction in Charlestown), designating ocean areas for off-shore wind projects, implementing new efficiency measures for public buildings and private homes, and multiplying the skilled and unskilled jobs.

And that's why we keep trying to remake and open up state government, as an expression of the things we choose to do together, so that it serves the greater good.

A 9-year-old named Justin asked me recently whether I like being governor. When I answered "yes" without hesitation, the adults nearby giggled with disbelief. It is an honor to serve, even in the toughest of times. But I am not motivated by the usual things that motivate people in elected office. I am not motivated by ambition for higher or other office, or by entitlement or powerful connections urging me on. I am motivated by simple gratitude. I came here 40 years ago when I was 14 from a life of poverty on the South Side of Chicago. From that day forward, Massachusetts people and families and businesses and institutions have given me more opportunities to learn and grow and prosper than most kids from the South Side can even imagine. I owe something. Gratitude makes me want to give something back.

And the thing I want to give is a better chance for someone else. A better school. A better job. A better community. A better government. A better future. Work with me, and I am certain we can shape a brighter tomorrow.

Thank you again for having me. I look forward to your questions.

GOVERNOR PATRICK PUSHES TO LOWER HEALTH CARE COSTS FOR MASSACHUSETTS SMALL BUSINESSES, FAMILIES

Governor calls on Legislature to pass bill to provide relief from double-digit premium increases so small businesses can add jobs

BOSTON - Wednesday, March 10, 2010 - Continuing his efforts to provide relief to Massachusetts small businesses and families from skyrocketing health care increases, Governor Deval Patrick today called on the Legislature to pass his proposal to lower premiums and help small businesses create jobs in the Commonwealth. In [testimony](#) before the Joint Committees on Health Care Financing, and Community Development and Small Business on the health care provisions of his Jobs Bill, the Governor outlined personal stories from small business owners about the burden of escalating costs and detailed how his plan will provide emergency relief so that small businesses - which make up 85% of the state's economy - can start hiring.

"On the main streets of the Commonwealth, we have an emergency on our hands. We can debate the whys and the hows of health care increases, but the strivers who are investing their energy, their time and their money to help the Massachusetts economy flourish can wait for answers no longer," said Governor Patrick. "We filed our proposals in a Jobs Bill for one reason: Without small business, there will be no economic recovery. If they don't start hiring, complete economic recovery will elude us. Next to access to capital, soaring health care costs are the consistent reason given for why they can't see their way to add more jobs."

The Governor's proposal includes the following measures:

- Recognizing that controlling health care costs is a shared responsibility, the bill provides oversight of health insurance company and provider rates by the Division of Insurance and the Division of Health Care Finance and Policy, respectively. Oversight of the reasonableness of rates charged by both insurers and providers, a temporary two-year measure, is meant to exert downward pressures on escalating health care costs as the Governor and the Legislature continue to move toward systemic changes to the state's health care payment system. For a period of two years, this oversight triggers a presumptive disapproval for those health insurer and provider rate increases that exceed benchmarks based on the prior year's consumer price index for medical services (2009 medical CPI is 3.2%). These rates would be disapproved, unless there is a compelling reason not to.

- Requires the Commissioner of Insurance to examine small business health insurance rating factors and prevent any duplicative or unjustified administrative charges that may drive up costs for small businesses.
- The legislation also empowers the Commissioner of Insurance to protect small businesses from rate shock caused by drastic increases in premiums driven by changes in the composition of their workforces (particularly the age of their workforces).
- A two year moratorium on the adoption of any new mandated benefits.
- Beginning in July, the bill gives smaller companies the choice of more affordable plans by requiring health insurance carriers in the small group market to offer at least one selective network plan with premiums that are at least 10 percent lower than the premiums for the full network product.
- Requires insurers to establish bi-annual open enrollment periods for individuals who purchase individual coverage to encourage people to maintain their health insurance.

In addition to measures aimed at reducing health care costs, the Governor's Jobs Bill, which he filed last month, provides tax credits for businesses that create new jobs, eases unemployment insurance costs for employers and creates a new organization dedicated to providing businesses with the financial capital and resources they need to grow.

The Governor has also directed Insurance Commissioner Joseph Murphy to conduct a series of hearings to review the double-digit premium increases burdening small businesses across Massachusetts. Throughout these hearings, countless small business owners have shared stories about how premium increases are crippling their ability to do business in Massachusetts.

"People are angry. During our six hearings across the Commonwealth, we heard from dozens of small-business owners who are faced with unpleasant decisions that affect the future and stability of their businesses," said Commissioner Murphy. "The Governor's proposed legislation will reduce these high increases in health insurance costs, and create the flexibility for small businesses to grow and thrive in our recovering economy."

03.10.10 - Small Business Jobs Bill Testimony

Governor Deval L. Patrick

**Testimony Before the Joint Committees on Health Care Financing,
Community Development and Small Business**

State House, Boston, MA

Wednesday, March 10, 2010

Address as prepared

Chairwoman Stanley, Chairwoman Forry, Chairman Moore and members of the Joint Committees: Good afternoon, and thank you for promptly convening this hearing on our proposals to limit the rise in health care premiums for small businesses and families.

A woman wrote me from Hopkinton the other day. She told me about her husband's small business located here in Boston. His business's premiums just went up 41.17%. When they called the health insurance company, they were told that premiums increased because the insurer "didn't realize how popular the deductible plans would be and therefore, underpriced that product." She asked me in her letter, "How is a small business to grow and offer other employee benefits with staggering increases year after year?"

The owner of a physical therapy business on the Cape got notice her premium would increase by 35% this month.

In Pittsfield, a broker saw a health insurance premium increase of more than 90% this month.

In Lawrence, a self-employed, single mother's premium increased by 44%. Now, she has to pay the higher premium rather than perform home repairs, for which she had saved for years. In hearings conducted over the past four months by the Commissioner of Insurance, stories like this are everywhere.

Members of the Committee, enough is enough. On the main streets of the Commonwealth, we have an emergency on our hands. We can debate the whys and the hows of health care increases, but the strivers who are investing their energy, their time and their money to help the Massachusetts economy flourish can wait for answers no longer.

We filed our proposals in a Jobs Bill for one reason: Without small business, we will have no economic recovery. Small businesses and sole proprietorships make up 85% of businesses in our Commonwealth.

If they don't start hiring, complete economic recovery will elude us. Next to access to capital, soaring health care costs are the consistent reason given for why they can't see their way to add more jobs. Thanks to the recommendations of the Payment Reform Commission, we have a good path to a permanent and comprehensive fix to escalating health care costs. But small businesses and families need help now-as a bridge to payment reform.

We recognize that controlling health care costs is a shared responsibility between insurance companies, providers, businesses and government. But our goal is simple: lower health care costs now, freeing up resources for businesses to hire new workers and spark growth for our Commonwealth. Our bill does the following things.

First, it provides oversight of health insurance company AND provider rates by the Division of Insurance and the Division of Health Care Finance and Policy, respectively. Oversight of the reasonableness of rates charged by both insurers and providers is designed to be a temporary two-year measure that will hopefully exert some downward pressures on escalating health care costs as we continue to move toward systemic changes to our health care payment system. For a period of two years, this oversight triggers a presumptive disapproval for those health insurer and provider rate increases that exceed benchmarks based on the prior year's consumer price index for medical services (2009 medical CPI is 3.2%). These rates would be disapproved, unless there is a compelling reason not to.

Second, the legislation requires the Commissioner of Insurance to examine small business health insurance rating factors and prevent any duplicative or unjustified administrative charges that may drive up costs for small businesses.

Third, the legislation empowers the Commissioner of Insurance to protect small businesses from rate shock caused by drastic increases in premiums driven by changes in the composition of their workforces (particularly the age of their workforces).

Fourth, the bill includes a two year moratorium on the adoption of any new mandated benefits.

Fifth, beginning in July, the bill gives smaller companies the choice of more affordable plans by requiring health insurance carriers in the small group market to offer at least one selective network plan with premiums that are at least 10 percent lower than the premiums for the full network product.

Finally, our package requires insurers to establish bi-annual open enrollment periods for individuals who purchase individual coverage to encourage people to maintain their health insurance.

I have directed the Commissioner of Insurance to require health insurance companies to file proposed increases to small business premiums with the Division of Insurance 30 days in advance of their taking

effect (beginning with rates effective with April 1, 2010). Under existing authority, the Commissioner may review and disapprove rates that are excessive or unreasonable. Recently proposed rate hikes announced by the insurance industry-up to 39%-make implementing the emergency measures even more urgent. But we need the Legislature to enact the proposed regulation promptly in order to control the impact on insurers of runaway costs charged by hospitals.

Taken together, these steps will help bring health insurance costs under control for more businesses. They are a jumping off point for what I know is a larger discussion about additional ways we can get a handle on system costs through payment reform. I welcome your ideas. But the most urgent need is for action. We cannot hope that small businesses will start hiring while they are drowning under huge health care increases. I look forward to working with you to meet this important challenge and help create new jobs in Massachusetts.

Thank you again for having me here today. Secretaries Bialecki and Bigby, Assistant Secretary Glen Shor from Administration and Finance, Barbara Anthony, the Undersecretary of the Office of Consumer Affairs and Business Regulation and Joseph Murphy, the Commissioner of Insurance join me here and they will be happy to answer any of your specific questions about our proposals...

GOVERNOR PATRICK STATEMENT ON DIVISION OF INSURANCE ACTIONS

CHELSEA - Thursday, April 1, 2010 - The following are remarks from Governor Deval Patrick, as prepared for delivery this morning at a small business roundtable at Chelsea Clocks.

"Before we begin, I'd like you to know about actions we have taken this morning to help reduce the cost of health insurance for small businesses and working families. As you know, I directed the Commissioner of Insurance, under existing authority and starting today, to disapprove base health insurance rates that are unreasonable or excessive. Insurance companies have submitted 274 proposed base rate increases for small businesses - some as high as 34 percent or more. This morning the Commissioner disapproved 235 of them.

"The Commissioner's decision means that the rates that were in effect in April of last year will remain in effect for those companies that were disapproved. Small businesses that have already made a premium payment under the disapproved rate will receive either a refund check or a credit on their next statement.

"I support the Commissioner's decision. For me, this is about jobs and creating the conditions for small businesses to start hiring. Without that, we won't have an economic recovery. Right now, small business owners and working families are drowning in double-digit premium increases. By disapproving excessive and unreasonable base rates we are giving small businesses the economic breathing room they need to start hiring.

"Now, the big insurance companies will criticize this action. But the fact is that for three years now, both they and health care providers have sat around the table talking the issue of excessive cost to death and coming up with no solutions. Small businesses and working families can't wait any longer.

"I have no doubt this is the right thing to do. I understand this doesn't solve all of the challenges facing us or our health care system. For example, some businesses could still see increases due to other rating factors. And providers are not yet part of the solution.

"But that is why I filed an emergency jobs bill to further protect small businesses from "rate shock" and ensure that the providers share in the responsibility of bringing down costs.

"I am calling on the Legislature to act swiftly on the measures that I've put on the table. Small business owners like these people here need our help. I am also calling on hospitals and other providers of health care to do what they can do to lower the costs they are passing on to insurers. You don't have to wait for a change in law. Be part of the solution now.

"We have got to pull together and deal with the fact that health care costs that rise at unsustainable rates every year, year after year, are crushing our economy and most of all, our ability to recover.

"People need to get back to work and we need everyone to help us create the conditions for that to happen. Thank you."

HEALTH INSURANCE LEADER JON KINGSDALE TO DEPART CONNECTOR AUTHORITY, GOVERNOR PATRICK ANNOUNCES GLEN SHOR AS NEXT EXECUTIVE DIRECTOR

Under Kingsdale's leadership, Massachusetts a model for national health reform; 97 percent of residents insured today

BOSTON - Thursday, April 15, 2010 - Governor Deval Patrick today announced that after four years of exemplary leadership as the Executive Director of the Connector Authority, Jon Kingsdale will step down this June.

The Governor announced that Glen Shor, Assistant Secretary for Health Care Policy within the Executive Office for Administration and Finance, has been appointed by Board Chairman Jay Gonzalez as the Connector Authority's next Executive Director. Shor's appointment comes as Massachusetts enters the next phase of health reform focused on cost containment and implementing the Obama Administration's new federal health care law.

Kingsdale and the Connector Board, working closely with the Patrick-Murray Administration, have helped make Massachusetts a national model for health reform. Today, more than 97 percent of Massachusetts residents are insured and 400,000 individuals who previously went without coverage now have access to quality, affordable care.

"Jon is one of the most creative and innovative health care leaders in the nation. He has been a tremendous asset in our efforts to expand health care coverage to all Massachusetts residents," said Governor Patrick. "Thanks to our work, more than 97 percent of our residents have access to affordable care. I appreciate all Jon has done to make the Commonwealth a leader in this great undertaking and I wish him well in his future endeavors."

Kingsdale was selected in May 2006 to serve as Executive Director to build and manage the new Commonwealth Health Insurance Connector Authority, an independent authority established under the state's landmark health reform law to promote coverage for uninsured residents and set standards for affordable coverage. Kingsdale has worked with board members, insurers, providers, advocates and the business community to implement the law, develop and execute key new programs and build a strong and well-managed organization.

"We helped many people in Massachusetts secure coverage and access to care. In doing so, we also built the model for national reform," said Kingsdale. "I am enormously proud of what the Health Connector has accomplished and grateful for the opportunity to serve."

Within the first year of health reform implementation under Kingsdale's direction, the Connector launched Commonwealth Care and Commonwealth Choice, the state's subsidized and unsubsidized insurance

programs for individuals and families. About half of the 400,000 newly insured in Massachusetts have enrolled in health plans through the Connector.

More recently, the Connector has launched a new Business Express program saving small businesses hundreds of dollars per employee per year. Just this week, the Connector announced that it had worked successfully with state and community colleges on a new student health insurance program to offer improved benefits to students with virtually no cost increase.

Kingsdale is credited with helping build consensus among stakeholders, often resolving difficult challenges with unanimous consent in order to move health reform forward and ensure its continued success.

"Jon has done a great job during his tenure with the Connector and has helped put Massachusetts on the map as a leader in expanding health care coverage," said Board Chairman and Administration and Finance Secretary Jay Gonzalez. "On behalf of the board I thank him for his service and dedication to improving the health of Massachusetts residents."

Because of the Commonwealth's success in implementing health reform, federal officials included several of its components in their own reform package. In particular, the concept of "Exchanges" is based on the experience and success of the Connector. Earlier this year, representatives from 42 states attended a national conference in Boston to understand how such exchanges can be organized and other lessons learned from the Massachusetts experience.

Last year, the Connector won an Innovations in American Government Award from the Ash Center at the John F. Kennedy School of Government at Harvard University. In choosing the Connector, the Center noted the Connector's innovation in expanding access to health insurance and its role in promoting national debate on health coverage.

Kingsdale, who has spent more than 30 years as a leader in the health care industry, will step down from his role with the Connector effective June 4, 2010.

Gonzalez has named Glen Shor as the new Executive Director of the Connector. Shor has worked closely with the Connector Board and staff for the last three years as Assistant Secretary for Health Care Policy and Deputy General Counsel within the Executive Office for Administration and Finance. As a leading policy point person for Governor Patrick in implementing health reform, Shor has played a critical role in overseeing successful implementation of key cornerstones of health care reform by the Connector Authority.

"I have had the privilege of working closely with Glen over the last few years on health care policy and finance issues and he is absolutely the right leader for the Connector," said Governor Patrick. "Glen never shies away from a challenge and brings to the table passion, commitment and an innovative way of thinking that will be critical in our efforts to implement national health reform. I look forward to continuing to work with him in this new capacity."

"Glen has been deeply involved in every important decision at the Connector since the beginning and has been a critical part of the success of health reform," said Connector Board member Nancy Turnbull, a senior lecturer in health policy in the Department of Health Policy and Management and the Associate Dean for Educational Programs at the Harvard School of Public Health. "He is an extraordinarily skilled and creative consensus builder and widely respected by all of the stakeholder groups who have worked together on implementing health reform."

"Glen Shor is a terrific choice to succeed Jon Kingsdale as the executive director of the Connector," said Board member Richard Lord, president and CEO of the Associated Industries of Massachusetts, Inc. "Glen has been intimately involved with the issues and operation of the Connector for the past three years. He is very knowledgeable about Massachusetts health care reform and is the perfect person to lead us through the coming challenges of health care cost containment and federal health care reform."

Shor has had a significant hand in shaping many of the policies, programs and financial decisions of the Connector. In particular, Shor was a major contributor to developing and securing unanimous adoption of "affordability" and "minimum creditable coverage" policies needed to launch the insurance coverage mandate.

He also helped secure full funding for Commonwealth Care and structure affordable, fiscally responsible coverage under the program, including developing procurement strategies and establishing fair enrollee cost-sharing rules.

Moreover, Shor successfully led a team of Connector and Administration staff in the Governor's efforts to preserve funding for coverage for special status legal immigrants, leading to the creation of the Commonwealth Care Bridge program.

In addition to his contributions to expanding health insurance coverage, Shor has been instrumental in strategic planning around health care cost savings. Working with the Secretary of Administration and Finance co-leading the state's Special Commission on the Health Care Payment System, Shor helped develop and secure unanimous adoption of groundbreaking recommendations for health care payment reforms that would contain costs by promoting high-quality, coordinated care.

Over the last several months, Shor has helped promote enactment of national health care reform that rewards the Commonwealth's leadership in expanding coverage and has been an important voice in educating policy makers and the public on the fundamentals of the Commonwealth's reforms.

"I am deeply honored to be chosen to lead the Connector," said Shor. "The Connector has been a national model for expanding coverage, innovating in health care and making decisions in a collaborative manner. I am very excited to work with the Connector Board and staff to expand on these accomplishments, with a focus on helping to successfully implement national health care reform in Massachusetts and make health care more affordable for small businesses, individuals and families."

Prior to joining the Patrick-Murray Administration, Shor was a senior policy director and counsel for in the state Attorney General's office, where he focused on health care, energy and housing, among other areas.

Shor earned a law degree from Harvard Law and graduated from Yale University with a B.A. in History. He lives in Boston with his wife Ellen.

GOVERNOR PATRICK SIGNS LEGISLATION TO REDUCE HEALTH CARE COSTS FOR SMALL BUSINESSES

Law will ensure standard health care quality measures, promote health and wellness programs, and provide savings for small businesses

BOSTON - Tuesday, August 10, 2010 - Continuing his successful efforts to provide small businesses with relief from skyrocketing health care costs, Governor Deval Patrick today joined legislative leaders and small business owners to sign legislation that could save small employers up to 12 percent on insurance premiums, increase transparency among providers and insurers, and improve the quality of health care for residents across the Commonwealth. The law, which includes many of the provisions from the legislation the Governor filed in February, also makes small businesses eligible for savings on health care premiums, and will allow them to be able to pool their resources and establish cooperatives for the purpose of purchasing health insurance.

"Today's signing is a milestone in our commitment to cut health care costs for small businesses and working families," said Governor Patrick. "This helps give small businesses the breathing room they need to add jobs and brings us all closer to keeping health care as affordable as it is accessible here."

"As we continue to support individuals and families, our administration and the legislature have partnered together to deliver more affordable health care costs for small businesses," said Lieutenant Governor Timothy Murray. "Small businesses are the backbone of our economy so it is critical that we provide the right resources and tools to assist these companies."

"Small businesses are the main job producers in Massachusetts, and we need to give them the boost they need to stay open and grow as our economic recovery continues," said Senate President Therese Murray. "This Senate-led initiative is a good place to start, and will bring immediate results, but we must continue our work on long-term payment reform and cost-control measures. That will be at the top of my agenda next session, and I expect a strong commitment from everyone. Long-term reform is an absolute necessity for the future stability of health care and our economy."

"With health care premiums continuing to increase, this bill is a good step towards controlling costs to help small businesses across Massachusetts," said House Speaker Robert A. DeLeo. "As we strive to stimulate economic growth and increase employment in the Commonwealth, this new law will help the bottom line of the small businesses that help drive our state's economy."

"This legislation is an important phase of health care reform to reduce costs while promoting quality and efficiency through enhanced transparency in the marketplace," said Attorney General Martha Coakley. "The Attorney General's Office will continue to address rising health care costs to ease the burdens on consumers, businesses, and our cities and towns."

"This legislation includes many initiatives that the providers, insurers, and business communities agree will help to limit cost growth," said Health and Human Services Secretary Dr. JudyAnn Bigby.

"Small business is the engine that fuels the Massachusetts economy, and this legislation will help propel these employers more quickly through this recovery," said Secretary of Housing and Economic Development Greg Bialecki.

The new law includes the following provisions:

- **Savings of up to 12 % for small businesses and individuals.** Select network plans offered by carriers to small business owners and individuals must cover at least a 12% price differential between plans. The Division of Insurance (DOI) will determine the adequacy of insurer plans.
- **Open enrollment for eligible individuals.** Insurers must provide open enrollment periods twice a year in 2011 and once a year thereafter. This is designed to prevent individuals from purchasing coverage when expensive care is needed only to subsequently drop it.
- **Rate adjustments that will reduce costs for small businesses and consumers.** DOI will apply rate adjustments to address 'rate shock' fluctuations that occur when the demographics of an insured group change. DOI will apply one-year age increments to reduce impact on costs for small businesses.
- **The implementation of health care quality measures.** This mandates reporting by providers to the Department of Public Health (DPH) annually. A statewide committee will convene to develop the Standard Quality Measure Set, which will facilitate uniform reporting of a standard set of health care quality measures, to be used by all health providers.
- **Supports wellness programs within small businesses.** The Connector will coordinate with DPH to provide a small group wellness incentive program, which will expand the prevalence of employee wellness initiatives among small businesses. The program shall provide subsidies and technical assistance such as grant writing to small employers so that they implement evidence-based health and wellness programs. These programs are aimed at improving employee health, decreasing employer health costs, and increasing productivity. The Connector shall provide an annual subsidy to eligible employers, not to exceed 5% of their health care costs.

As part of his efforts to control skyrocketing health care costs, Governor Patrick has instructed the Division of Insurance to closely review rates from carriers using the Division's existing authority. Since then, and following the disapproval of 235 of 274 April 1 rate filings, the Patrick-Murray Administration has reached agreements that cover over 90 percent of small businesses and individuals -- over 720,000 people -- and provide significant savings and relief from rapidly increasing healthcare costs. Jerome Murphy, co-owner of M. Steinert and Sons located in Boston, has benefited from the Governor's work to negotiate lower premiums and attended today's bill signing ceremony at the State House.

"This bill will help small businesses which are the lifeblood of the Massachusetts economy by leveling the playing field on the purchase of insurance products," said Murphy. "The members of the Retailers Association of Massachusetts already have a self insured workers compensation group that has been

very effective at managing costs and care of our employees with work-related injuries. I look forward to being able to do the same with cooperative purchasing of group health care coverage."

"Small businesses have never had a seat at the table with big business, government, insurers or providers, and consequently have been hit with unaffordable and unfair health insurance premium increases," said Jon B. Hurst, President of the Retailers Association of Massachusetts. "This landmark legislation coupled with regulatory action at the Division of Insurance sets small employers and consumers on a path towards equal rights and premium parity with big purchasers. We believe this legislation will be a model for other states and indeed for the nation under the federal health care reform law."

"Health Care for All applauds the Governor and the Legislature for passing the small business health care costs bill," said Amy Whitcomb Slemmer, the Executive Director of Health Care for All. "The final bill will provide much-needed relief to small businesses and individuals by requiring transparency in insurance rates paid to providers, and by requiring that the annual review of insurance rates by the Division of Insurance is tied to how much money health insurers spend on medical care for consumers."

PATRICK-MURRAY ADMINISTRATION CELEBRATES 98% HEALTH CARE COVERAGE IN MASSACHUSETTS

Continued success of health care reform shows Commonwealth still leads the nation in coverage

BOSTON - Monday, December 13, 2010 - The Patrick-Murray Administration today announced that over 98 percent of Massachusetts residents have health insurance, demonstrating the ongoing success of health care reform in the Commonwealth. According to the state's annual household survey on health insurance, released by the Division of Health Care Finance and Policy, only 1.9 percent of state residents remain uninsured and nearly every major demographic group is within a few percentage points of universal coverage.

"Health care reform is working in Massachusetts," said Governor Deval Patrick. "Just as we lead the Nation on coverage, we will lead the Nation to new ways to control costs for small businesses and working families."

The report, *Health Insurance Coverage in Massachusetts: Results from the 2008 - 2010 Massachusetts Health Insurance Surveys*, show that only about 120,000 people in Massachusetts did not have coverage at the time of the survey, conducted between March and June 2010. The study, mandated by the Legislature as part of Chapter 58 health care reform law and conducted annually, shows that Massachusetts has continued to keep its uninsured rates steady at the lowest rate in the country.

"In just a few years, Massachusetts' achievements in health care reform have been nothing short of extraordinary," said Secretary of Health and Human Services Dr. JudyAnn Bigby. "With employers, government and individuals all sharing the responsibility of reform, we continue to have the highest insurance rate in the nation. Our success here demonstrates the impact that meaningful reform can have on improving access to quality care."

David Morales, Commissioner of the Division of Health Care Finance and Policy said, "In order to sustain the tremendous gains that Massachusetts has made in terms of access to care, the Division's efforts are now focused on understanding and containing the rising costs of health care while also maintaining the high quality of care."

Amy Whitcomb Slemmer, Executive Director of Health Care For All, added, "Just five years ago, Massachusetts took the bold step of extending health care to every person in the Commonwealth. Because of this historic law, families who once struggled between paying for food and rent or getting the care they need are no longer forced to choose. We are thrilled at the extraordinary finding that 99.8 percent of our children have coverage. HCFA has been leading a statewide effort to find and enroll uninsured kids, and these statistics show the tremendous progress we have made. The success of our reform is a victory for all of Massachusetts."

"That health coverage in Massachusetts continues to grow even with a difficult national economic climate is extraordinary, reflecting an unwavering commitment to reform by Governor Patrick, the Legislature and our entire health care and business communities," said Glen Shor, Executive Director of the state's Health Connector. "Health care reform has changed countless lives for the better. We now need to sustain it by tackling costs."

"Closing the gap in access to quality health care is an historic achievement in Massachusetts, and one that needs to be permanent," said Alan G. Macdonald, Executive Director of the Massachusetts Business Roundtable. "Massachusetts is now in a position to focus on health care capacity and cost issues, which we are as well prepared and determined to do as any other state in the nation."

In addition to maintaining this historic level of insurance coverage, the Patrick-Murray Administration is committed to lowering rising health care costs and transitioning to a health care system that prioritizes integrated, patient-centered and cost effective care. Earlier this year, Governor Patrick proposed a series of initiatives that led to lower premiums for small businesses and were later included in the small business health care cost bill, Chapter 288. Under the Governor's leadership, Secretary Bigby convened a sub-committee of the Health Care Quality and Cost Council to work on resolving the key issues of payment reform in order to inform legislation next year.

The study, conducted by the independent Urban Institute on behalf of the state's Division of Health Care Finance and Policy, indicates that insurance coverage is very strong for Massachusetts residents at all income levels, ranging from 96 percent for those with family income under 300 percent of the federal poverty level to over 99 percent of those with income above 500 percent of the federal poverty level.

The survey results also show that nearly all elderly adults (99 percent) and children (99 percent) are insured, as are 97 percent of non-elderly adults ages 19 to 64.

The survey, which was available in English, Spanish, and Portuguese, was completed by 4,478 households. The margin of error for these estimates is +/-1.71 percentage points. The full report, *Health Insurance Coverage in Massachusetts: Results from the 2008-2010 Massachusetts Health Insurance Surveys*, is available online.

PATRICK-MURRAY ADMINISTRATION PROPOSES COMPREHENSIVE HEALTH CARE COST-CONTAINMENT LEGISLATION

Bill will help control costs and improve patient care by reforming health care payment and delivery systems



Governor Patrick offers remarks at the Greater Boston Chamber of Commerce's Government Affairs Forum. (Photo credit: Matt Bennett/Governor's Office). [View additional photos.](#)

BOSTON - Thursday, February 17, 2011 - Governor Deval Patrick today announced comprehensive health care payment and delivery reform legislation designed to control rising health care costs and improve patient care. The Governor's proposal builds on the Patrick-Murray Administration's bold leadership in achieving universal access to health care by confronting the next frontier - ensuring that health care is universally affordable.

The bill, "An Act Improving the Quality of Health Care and Controlling Costs by Reforming Health Systems and Payments," establishes a structure and process to facilitate significant reforms to the Commonwealth's health care payment and service delivery systems over the next three years.

"Massachusetts led the nation on health care reform and is poised to lead again on health care cost containment," said Governor Patrick. "With 98 percent of the Commonwealth's residents insured, we have shown how government, consumers, insurers and providers can work together to realize the goals of health care reform. Our next major achievement in this arena will be controlling costs while ensuring that the people of Massachusetts continue to receive world-class care."

"We are dedicated to building a stronger Commonwealth, and that includes improving the health care system now and for future generations," said Lieutenant Governor Timothy Murray. "We have worked hard to increase access for our residents. This proposal is the critical next step that will provide higher quality and more affordable health care in Massachusetts."

"These reforms represent a first step in reforming how we pay for health care in Massachusetts, while maintaining access and ensuring quality of patient care," said Secretary of Health and Human Services Dr. JudyAnn Bigby. "By encouraging payments that basically recognize that doctors, nurses, and other providers want - first and foremost - to take care of their patients, this legislation will help ensure that patients receive the right care at the right time."

"The outline of the Governor's health care cost control reform is very encouraging for consumers, small businesses and taxpayers," said Jon B. Hurst, President of the Retailers Association of Massachusetts. "We should no longer tolerate premium increases which do not reflect the economic realities being faced every day on Main Street or in middle class families across the Commonwealth."

"We applaud the Governor for taking the next big step to reform health care and bring costs under control," said Dr. Gene Lindsey, President and CEO of Atrius Health. "As an organization that has been operating with global payments for 40 years, we at Atrius Health know the potential is there to give consumers the coordinated, patient-centered care they deserve. There will undoubtedly be bumps along the way and this transformation will not be easy, but we are ready to move forward with the Patrick Administration to make this new world of health care a reality. "

The legislation filed today encourages the growth of "integrated care organizations," (ICOs) comprised of groups of providers that work together to achieve improved health outcomes for patients at lower costs; provides benchmarks, standards and guidance for the transition to integrated care and global payments; and allows the Division of Insurance (DOI) to consider more criteria when making the decision to either approve or reject rate increase requests from both carriers and providers.

Improving the Quality of Health Care Service :

The existing fee-for-service payment system is outdated in the medical field. Providers who emphasize wellness or help individuals manage chronic medical issues both improve health and reduce system costs, but are not rewarded for those outcomes. Through this legislation, the Commonwealth will change incentives in the payment system by providing the necessary infrastructure and support for global and other alternative payment methods and innovations.

Specifically, this legislation:

- Encourages the formation of integrated care organizations (commonly referred to as Accountable Care Organizations or "ACOs") by providing standard criteria for ACOs;
- Requires that an ACO be certified by the Division of Health Care Finance and Policy (DHCFP), with financial oversight by the Division of Insurance (DOI), and directs DHCFP to standardize alternative payment methodologies;
- Requires that if contracts between payers and ACOs include shared savings, that savings must also be shared with consumers;
- Provides that the Attorney General will use existing authority to monitor ACOs to ensure no anti-trust violations occur;
- Aims to expand the use of alternative payment methods and significantly reduce fee-for-service payments by the end of 2015;
- Ensures transparency of payer and provider costs, provider payments, clinical outcomes, quality measures, and other information necessary to discern the value of health services which helps guarantee that consumers and businesses have accurate and available information about their health care

Lowering the Cost of Health Care :

Building on the Governor's successful strategy of directing the Commissioner of Insurance to disapprove excessive insurance rate increases for small businesses last year, this legislation clarifies the Commissioner's authority to reject premium increases where the underlying provider rates are excessive. Specifically, the Commissioner may disapprove rates that contain provider increases inconsistent with the following criteria:

- The rate of increase in the state's Gross Domestic Product;
- The rate of increase in total medical expenses in the region as reported by the Division of Health Care Finance and Policy;
- A provider's rate of reimbursement with a carrier, especially in relation to the carrier's statewide average relative price;
- Whether the carrier and a contracting provider are transitioning from a fee-for-service contract to an alternative payment contract.

As provider rates decline, carriers are required to factor such savings into the premiums charged to consumers.

Encouraging Further Innovations :

Governor Patrick's legislation recognizes the need to leave room for new ideas for lowering the cost of health care and improving the quality of services. Accordingly, this legislation facilitates the use of pilot

programs to test other solutions to reduce health care costs. Tapping into the wealth of talent and creativity in our medical community, this bill creates an advisory committee, consisting of 18 members from providers to carriers to organized labor, to ensure an ongoing dialogue about solutions and assess progress towards the goal of cost reduction to consumers.

Medical Malpractice Reform :

The Governor's legislation also reforms the medical malpractice liability system to emphasize prompt resolution, de-emphasize "defensive medicine," reduce the number of costly lawsuits and improve care. Specifically, the bill:

- Makes providers' apologies inadmissible in evidence. Many studies show that an apology can prevent a lawsuit, but due to the threat of litigation, providers remain silent;
- Establishes a 180-day cooling off period before a party may initiate suit;
- Amends the peer review laws to include ACOs;
- Creates a process for providers and aggrieved patients to communicate and exchange documents prior to litigation in the hope that more open communication by both parties will resolve disputes.

Massachusetts leads the nation in the percentage of residents with health insurance, with more than 98 percent of people covered. Since passage of health care reform legislation in 2006, the rate of insurance coverage has increased for all income levels and among all racial and ethnic groups. As of June 2010, more than 400,000 people in Massachusetts had insurance than had previously been uninsured. The Commonwealth has achieved near universal coverage for children, with 99.8 percent insured, including 20,000 more children enrolled in MassHealth during the past year alone.

While Massachusetts has shown national leadership in expanding access to health care, costs that are higher than the national average threaten the extraordinary progress we have made in ensuring access. The rate of increase in health care costs has outpaced growth in the economy and threatens the financial health of individuals and businesses. Left unchecked, per capita health care spending in Massachusetts would continue to outpace the annual rise in the GDP, and by 2020 total health care spending would reach \$123 billion.

[Read the Governor's remarks.](#)

02.17.11 Greater Boston Chamber of Commerce

**Governor Deval L. Patrick
Greater Boston Chamber of Commerce
InterContinental Hotel, Boston, MA
Thursday, February 17, 2011**

Address as prepared

Thank you, Bob Gallery and the Chamber Board, for the warm welcome, and thank you especially, Paul Guzzi, for your leadership on health care reform, about which I want to talk this morning. This is a good forum for that conversation because something must be done about cost -- and nothing will without the help of those of you in this room.

I hope you all know by now that I believe in governing for the long term, without kicking the can down the road. Throughout my time in office, I've challenged state government and I've challenged you to confront the big issues before us - in pension and ethics, in transportation, in education, in municipal government and more. I've challenged you to be bold, because what we do today, or fail to do, will matter for a generation to come. And as we do so, no matter how our opinions may collide, I challenged you to turn to each other, instead of on each other. Because now and in the end we are all in this together.

Together, we chose to invest in education, in health care, and in job creation, because we all know that educating our kids, securing our good health care, and having a job is the best path to a better future.

That's why today your Commonwealth is first in the Nation in student achievement and creating jobs faster than most other states in this country. That's why our unemployment rate is well below the national average, why we're coming out of recession faster than the rest of the country, and why CNBC has moved our state up to the fifth best place in America to do business. Our budget is in balance, our years-long structural deficit has been eliminated, and our bond rating remains high and strong, not something many other states can say. None of this happened by accident.

We are also first in the nation in providing health care coverage to our residents. That didn't happen by accident either.

In 2006 a Republican Governor, a Democratic legislature, a Democratic United States Senator, and many people in this room worked together to develop and pass a landmark health care reform law. It was, in fact, more than just a law. It was a statement of values, of who we are as a Commonwealth. What we codified was the fundamental belief that health care is a public good and that everyone in Massachusetts

deserves access to it. People may quarrel, and they do, about whether an exclusively private sector solution or an exclusively government one is better than the hybrid version we chose. But the bigger achievement is that we put a marker down as to the kind of state we wanted to live in - and then we worked towards it. That's important to remember. A broad range of interests came together to get a good bill, and then stuck together as we worked to implement and refine it - even in the face of an economic collapse.

And where are we today? More than 98 percent of our residents have health care coverage today, including 99.8 percent of our children. No state in America can touch that. More people are getting preventive care instead of waiting until they have to go to the emergency room. You no longer have to worry about a catastrophic illness forcing you into bankruptcy or being denied coverage because you are already sick. More private companies are offering health insurance to their employees now than were before the bill. We are the model for national health care reform because no one else was bold enough to try something different from the same old competing choices: a perfect solution or no solution at all.

The impact of expanded coverage on our state budget? About 1 percent. We paid for expanded coverage just as was forecast, by delivering more care in primary care settings than in emergency rooms. Universal health care coverage in Massachusetts has been a resounding success and rightly serves as a model of what's possible for the rest of the Nation.

But it costs too much. Health care in Massachusetts is now universally accessible, but it is not yet universally affordable. A report last year from the Division of Health Care Finance and Policy found that at the current pace of increase, health care spending will consume a third of median family income in Massachusetts by 2016. What health care threatens to do to family budgets it is already doing to government and business budgets. Compounded by the sharp downturn in the economy, health care costs account for 40 percent of state spending and have grown at nearly 8 percent annually the past three years while other areas of the budget have been flat or declining. That rate of increase pales in comparison to what small businesses have experienced. I have yet to meet a business owner in the state, especially a small business owner, who doesn't see health care costs as a major impediment to adding jobs. And with small businesses representing 85 percent of the businesses in this Commonwealth, we had better be paying attention to their impediments to hiring. Because if they don't hire, we don't get a recovery. It's as simple as that.

Growth in health care costs has outstripped growth in the rest of our economy. And while the debate about who should pay what share of health care costs, and how to shift costs from employers to employees, is important and timely, it should not distract us from the central issue of escalating cost in the system as a whole.

Now, let me assure you, the challenge of high health care costs is not unique to Massachusetts and has nothing to do with our health care reform. Escalating premiums, far outpacing the rate of economic growth or general inflation, are a challenge for businesses, governments and working families all over the country. Just as we devised the model for universal access, I believe we can crack the code on health care cost.

One of the main reasons for the high cost of health care is the way we deliver health care. Most health care is currently provided under a "fee-for-service" model that creates financial incentives for the quantity of care a patient receives, not the quality. We pay for individual procedures and appointments, not for coordinated care that treats the whole patient. Doctors who treat patients well or help them manage chronic medical problems are not rewarded for those outcomes. There is no financial incentive in the current system for good care, only for more care. What we have is an expensive system that fails to provide the best care to patients. In other words to create incentives to do so. That has to change.

A year ago, I stood before this Chamber an exasperated governor. So many here and elsewhere were telling me that the cost of health care was aggravating the economic crisis. It was stopping companies from hiring and crowding out investment in the economy. So I took what was an admittedly aggressive step: I directed the Division of Insurance to reject excessive increases in health insurance premiums. That move was not without its critics. But it had to be done. Not because health insurance companies are bad - they're not. Not because it was a permanent solution - it isn't. It had to be done because for all the good intentions and the broad consensus on the critical need to lower costs, the market wasn't doing it on its own. We needed something to prod the market forward. And it worked.

Just this week, the Division of Insurance approved health insurance rates for April. We are looking at single digit base rate increases - down from the twenty five to thirty percent increases that had become the norm and precisely the relief we sought by intervening last year.

We have seen other movement in the past year as well. Last summer I signed an economic development bill which gave companies new options to lower their health care cost. Small businesses can now pool their purchasing power to buy health insurance as part of a cooperative. Insurers can offer so-called "select network plans," which give small businesses another lower cost option. Last month, I filed a bill that would give cities and towns more flexibility to design the health plans they offer their employees. And in my budget, I have proposed cutting nearly a billion dollars of state spending by re-procuring the health care the state buys, leveraging the state's buying power to get better deals and change market behavior.

The private sector is trying lots of new things. Blue Cross Blue Shield is modeling a new global payment system that pays doctors for quality, not quantity. Mass General has a pilot program underway with Medicare that provides intensive management of some of their sickest patients; in a year, they've seen

healthier outcomes and markedly lower costs, and share those savings with Medicare. There are doctors in Springfield working in integrated care settings and patient-centered medical homes springing up around the state.

All of these different initiatives are important. None of them solves the problem on their own but each moves us closer to our goal and gives us models from which to learn what works best.

It's time to scale these efforts up.

So today, I will file legislation to hasten the market's movement to integrated, high quality care and lower costs to consumers. The bill proposes

- to provide a set of standards and benchmarks for the formation of integrated care organizations, commonly known as ACOs, and alternative payment methodologies;
- empowers the Commissioner of Insurance to consider a wider array of factors when considering whether to disapprove premium increases, including the underlying provider rates and how they compare to medical cost inflation and GDP growth;
- organizes an advisory council of stakeholders and consumer voices to monitor the progress of payment reform and other experiments in cost control; and
- modernizes the system of medical malpractice in favor of an apology and prompt resolution, to de-emphasize so-called "defensive medicine."

Many existing agencies have a role in the health care system we have today. But through this transition we propose to make the Department of Health Care Finance and Policy a one-stop shop for innovators in the medical community. This office will work closely with the community to expand the integrated care groups that are being formed now, to monitor the creation of new ones, and set up guidelines for insurers and providers.

We will lay out clear methodologies that caregivers can use to right-size costs and deliver the best quality care. And we will require that the savings generated benefit consumers -- those families and businesses paying the premiums -- not just improve the margins of the health care industry.

Under our plan, integrated care organizations and insurers that pay for healthy outcomes, not just service, will predominate in our Commonwealth by June of 2015.

I have a lot of people I want acknowledge here and thank some of the many thinkers and doers who have influenced our approach to this bill.

- Paul Guzzi and Jim Klocke of the Greater Boston Chamber.
- Lynn Nicholas of the Massachusetts Hospital Association.
- Rick Lord of the Associated Industries of Massachusetts.
- Alan Macdonald of the Massachusetts Business Roundtable.
- Andrew Dreyfus of Blue Cross Blue Shield of Massachusetts.
- Jim Roosevelt and Lora Pellegrini of the Massachusetts Association of Health Plans.
- Michael Widmer of the Massachusetts Taxpayers Association.
- Jon Hurst of the Retailers Association of Massachusetts.
- William Vernon of the National Federation of Independent Business.

My thinking has been influenced by leaders from organized labor, by consumer advocates such as Health Care for All and the Greater Boston Interfaith Organization, by hospital leaders like Gary Gottlieb of Partners Healthcare and David Phelps of Berkshire Health Systems. I have invited these and others to form a working group right now to help us to get the right bill out of the Legislature and on my desk this session. I look forward to starting that work formally later today.

Some in the industry, including some among those I just named in fairness, say that the state needs only to lay out a framework for reforming the way we deliver care, and the market will take care of the rest. But experience tells a different story. The market has made tremendous progress in the last year or so, but much of it only after the regulatory hammer came down and new legislation was passed. As exciting as the progress we have made is, it's not enough. We must maintain a sense of urgency to our work. If the legislation I file today feels like pressure on the market, good. Good. That's exactly what it's intended to do. The goal is not to punish any part of the industry or to return to the days of price regulation. I believe that everyone in the Massachusetts health care industry is sincere in their efforts and desire to deliver lower cost and better health care.

The goal of this proposal is to keep the pressure on all of us - including the state - to move as fast we need to move in order to bring the cost savings we need to keep our economy growing.

Taken as a whole, these measures make up the next phase for health care reform in Massachusetts. The details may be complicated, but our goals and our values are simple - even universal. Better, more affordable health care for us all. By most accounts, higher quality care -- meaning well-integrated, whole person care -- equates to lower cost. From now on, we propose to pay for that rather than the fragmented system we have today.

Every day I appreciate more and more the phenomenal accomplishment of the first round of health care reform. A broad coalition joined together to try something, to get off the dime and move. I also understand more clearly every day why they decided to put cost control off to another day: because if you think access was hard, wait until you take on cost control. But just like with the first round of health care reform, this is about what kind of Commonwealth we want to live in. The goal is more affordable care and higher quality care. The legislation I am filing gives us some tools to get us there. Once enacted, it is going to take partnership with you and commitment on the part of us all to make it real. We're going to have to work together, dealing with issues as they arise in a serious and thoughtful manner, without the drama, without the overheated rhetoric, and without the fear of change. We led the Nation to the most successful model for universal coverage ever. If anyone's going to crack the code on cost containment, it will be we here in the Commonwealth of Massachusetts.

In some fundamental way, solving this challenge has everything to do with fulfilling our generational responsibility - that old-fashioned idea that each of us in our time must do all we can to leave things better for those that come behind us. It's about building a better, stronger Commonwealth - not just for ourselves, but for generations to come. This is their health care as well. We owe it to their future to get this right. I look forward to working with you to do so.

Thank you all and I look forward to your questions.

03.01.11 Prepared Testimony to Congress on the Impact of Health Care Reform

Testimony of Massachusetts Governor Deval L. Patrick

**As prepared for delivery before the House Committee on Energy and Commerce United States Congress, Washington, DC
Tuesday, March 1, 2011**

Chairman Upton, Ranking Member Waxman and the Members of the Committee:

Thank you for the opportunity to appear before you today to discuss the impact of the Patient Protection and Affordable Care Act on states and the next steps in implementing national health care reform.

Like many successful federal programs, the origins of national health care reform can be found at the state level. In 2006 Massachusetts enacted a health care reform bill aimed at making health care universally accessible. Because that measure serves as a model for national health care reform, it may be helpful for me to offer some insights on the impact of our reform in Massachusetts and the process by which it was devised and implemented.

Today, thanks to effective implementation of our 2006 reform legislation, more than 98 percent of Massachusetts residents have health care coverage, including 99.8 percent of our children. We lead the nation in both categories. More people are getting preventive care instead of waiting until they have to go to the emergency room. Workers and their families no longer have to worry about a catastrophic illness forcing them into bankruptcy, or being denied coverage because they're already sick. The percent of private companies offering health insurance to their employees is up to 76% from 70% before the bill was passed. Health care reform is doing exactly what it was designed to do: expanding access to quality health care to all our residents.

We paid for expanded coverage as we said we would, by delivering more care in primary care settings than in emergency rooms. In 2005, Massachusetts paid over \$700 million for health care for the uninsured and underinsured. In 2011, we spent \$405 million - nearly \$300 million less. With 98% of our residents covered, universal coverage has required about 1% more of our state budget in state spending. Overall, Medicaid represents 32% of annual state spending today and has grown about 2% per capita since our reforms were enacted.

The process of developing our reform measures is something I am proud of, too. Then-Governor Mitt Romney, a Republican, working together with a Democratic state legislature, a Democratic United States

Senator, and a broad coalition of business, labor and health care leaders came together to invent our reform bill and then stuck together to adjust it as we implemented and refined it. That bill was an expression of shared values, our belief that health care is a public good and that everyone in Massachusetts deserves access to it.

Ours is a hybrid solution. Like the Affordable Care Act, it emphasizes private insurance purchased in the open market at competitive prices, and service delivered by private clinicians. People choose their own doctors, and there remains a lot of choice. We still have challenges, of course. For example, we don't have enough primary care physicians. The wide variance in the reimbursement rates of provider hospitals is another challenge. But these are challenges across the country that are not caused by our universal care law. The point is that in Massachusetts we stopped limiting ourselves to the same old two competing choices: a perfect solution or no solution at all. We chose to try something and we moved. And it worked.

So, for Massachusetts, the Affordable Care Act is familiar. Like our law, it improves health security for all citizens. It takes a hybrid approach that leverages the best of government, non-profits and private industry. And with President Obama's leadership, it was developed and supported by a broad coalition of stakeholders and advocates who understood that our public health and economic competitiveness demanded action.

Getting people insured, having them receive their care in primary care settings as opposed to emergency rooms, is good. It's also cost effective. According to the Congressional Budget Office, the Affordable Care Act will reduce the deficit by \$124 billion through 2019 and by more than \$1 trillion in the subsequent decade. National health reform is a critical piece of a responsible plan to control our national budget deficit and improve our fiscal outlook for the long term.

Based on our experience at home, national health reform is also good for our economic competitiveness. Matt McGinity, the CEO of a small technology company in Natick, outside of Boston, bought health insurance through a program created by the Commonwealth Connector, our version of the Health Exchange. The program, called Business Express, is an online service to help small businesses easily shop for private health care and find the best possible value. Using Business Express, Matt was able to compare health plans side-by-side and avoid a 23% premium increase his current insurer was proposing. He and his employees saved \$9,300.

I met a young entrepreneur recently who moved his business up to Massachusetts from Florida because, with a young family, he wanted to be able to start his venture without worrying that his children would not have health insurance. Universal coverage helps our competitiveness.

Federal reform is good for Massachusetts. It has given us an affordable way to extend the promise of coverage to Massachusetts residents who make between \$33,000 and \$44,000 a year, or families of four making \$67,000 to \$89,000 a year, by making those families newly eligible for tax credits that help them afford their premiums. And through the retooled Medicaid and Children's Health Insurance Program, Massachusetts taxpayers will save about \$450 million a year while allowing us to provide better care to our youngest and more vulnerable residents.

The next frontier for Massachusetts and for America is cost control. The framers of our Massachusetts reform purposefully addressed access first and put cost control off. We can wait no longer. Spending on health care makes up 17.6% of all spending in the United States - one of the largest single sectors of our economy. In recent years growth in health care costs has outstripped growth in GDP even as the share of Americans with health insurance has fallen. As spending on health care programs and emergency care grows, it weakens our ability to compete and slows job growth. Left unchecked, health care costs threaten our fiscal integrity and our ability to provide future generations with the same support that we have enjoyed. The generations before us made choices that preserved the critical services that we rely on. We need to follow their example and make responsible decisions on behalf of future generations.

So, while health insurance is universally accessible in Massachusetts, it is not yet universally affordable. My state is home to some of the world's best hospitals and health care providers, but our costs are far too high and they are growing at an unsustainable rate. The challenge of high health care costs is not unique to Massachusetts and has nothing to do with our health care reform. Escalating premiums, rising over 130% in America in the last decade, far outpacing the rate of economic growth or general inflation, are a challenge for businesses, governments and working families all over the country. With due respect to the Committee, this is where the Congress needs to turn its attention now.

And just as we in Massachusetts have provided the national model for universal access, I believe we can crack the code on cost control.

As a near term solution to rising premium costs for small businesses, last April I directed the Division of Insurance to reject excessive increases in health care premiums. This led to agreements with insurers to limit their rate increases and put pressure on providers to hold down their rates. That move was not without its critics. But it had to be done. Not because health insurance companies are bad - they're not. Not because it was a permanent solution - it isn't. It had to be done because for all the good intentions and the broad consensus on the critical need to lower costs, the market wasn't doing it on its own. We needed something to prod the market forward. And it worked.

Last week, the Massachusetts Division of Insurance approved health insurance rates for this year. Now

we are looking at single digit base rate increases - down from the twenty five to thirty percent increases that had become the norm and precisely the relief we sought by intervening last year.

Last summer, I signed legislation that made it possible for small businesses to form associations to pool their buying power when negotiating insurance rates with carriers, and mandated that insurers offer at least one select network product with premiums that are 12% lower than those without select networks. The legislation also required greater transparency in understanding the drivers of health care costs. These initiatives are being implemented right now.

Two weeks ago we launched the second phase of health care reform in Massachusetts, aimed at finally controlling costs and making health care as universally affordable as it is accessible. Right now, the current system rewards providers for the quantity of care they deliver, not the quality. For costs to come down, this has to change. We are working with the health care community in our state to accelerate their transition to innovative, improved models for delivering health care. In these new models incentives will be realigned to reward integrated care under a more rational price structure that emphasizes wellness and lowers costs for everyone. Our goal is for integrated, cost-efficient caregivers to predominate in Massachusetts by 2015.

The Affordable Care Act actually supports our efforts to bring down costs. We are using the authority of the national reform to develop guidelines and incentives for more integrated systems of care. The Act is helping us coordinate care for individuals who are eligible for both Medicaid and Medicare and thereby bring cost savings to the Medicare program. And it builds on the movement toward patient-centered medical homes where primary care providers are paid to care for people and not just for 15-minute appointments.

The Affordable Care Act has helped bring health insurance within reach of thousands of Massachusetts small businesses through tax credits. It will supplement some things we are already doing to allow small businesses to buy their health insurance in groups to increase their purchasing power. Just as our Massachusetts reform gives people freedom to move between jobs within the state without fear of losing health care, the Affordable Care Act permits that freedom across the Nation. It makes investments in the health care infrastructure that supports everything we do. And it reduces the deficit in the short run and over time. Just as our businesses rely on good roads, a modern electricity grid and access to broadband to thrive, having a strong health support system is another piece of the puzzle, making us an attractive destination for new businesses. The Affordable Care Act is good for America and deserves a chance to be implemented.

This is, above all, about people and what kind of country we want to live in. I remember meeting a young

woman named Jaclyn Michalos, a cancer survivor who got the affordable care she needed to save her life through our Commonwealth Connector. She had no other way before Massachusetts health care reform. This is about people, not abstract policy or politics. I urge you to remember that.

The remaining challenge before us all is cost control and again I urge you to turn your attention to that. In my state, businesspeople from companies large and small, new and old, often tell me that health care costs are the single greatest obstacle to job growth. Massachusetts ranks 4th in total jobs created since December 2009 and we rank 6th in private sector jobs created since December 2009. Our unemployment rate is well below the national average. Hiring at the national level has already started to come around. But neither at home nor nationally can anyone be satisfied with where we are. The Affordable Care Act has some useful tools to help businesses and governments control costs. But on this front there is much more to be done. I hope you will support what we are trying to do in this area in Massachusetts and in other states, and that we can provide some useful models for further national reform.

Again, thank you for inviting me today. I look forward to extending the progress we've already made expanding access to health care and to working with you on making that care more affordable. I am happy to take any questions you might have.

PATRICK-MURRAY ADMINISTRATION GATHERS INDUSTRY LEADERS, STAKEHOLDERS TO DISCUSS NEXT PHASE OF HEALTH CARE REFORM

Governor Patrick leads information session on how to address cost challenges in Massachusetts and promote cost-containment initiatives underway

BOSTON - Tuesday, April, 5, 2011 - Building on the Patrick-Murray Administration's efforts to control rising health care costs, Governor Deval Patrick and members of his Administration today led a forum to discuss the cost challenges facing Massachusetts and the initiatives already underway to help address these issues.

The health care cost-containment information session, held at the State House this morning, included participation from stakeholder groups ranging from health care providers, insurers and doctors, to legislators and consumers. Panelists during the forum included Secretary of Health and Human Services Dr. JudyAnn Bigby, Secretary of Administration and Finance Jay Gonzalez, Undersecretary of Consumer Affairs and Business Regulation Barbara Anthony, Executive Director of the Health Connector Glen Shor, and Executive Director of the Group Insurance Commission (GIC) Dolores Mitchell.

"Just as we have shown the Nation how to deliver care to everyone, we can and will be the ones to crack the code on cost containment," said Governor Patrick. "The details of health care reform may seem complex, but our goals and values are universal - better, more affordable health care for us all."

The discussion focused on several recent cost containment proposals and ongoing initiatives, including legislation filed by Governor Patrick in January to help cities and towns realize immediate cost savings in their municipal health insurance plans; the Administration's comprehensive health care payment and delivery reform legislation filed in February to control rising health care costs and improve patient care; and the Massachusetts Health Connector's procurement strategy to contain costs by promoting innovation and competition among the state's managed care organizations. In addition, the Group Insurance Commission's efforts to control rate increases and incent employees to move to lower cost plans panelists also reviewed.

"We are pleased the fight against rising health care costs continues to be the priority focus for the Patrick Administration," said Jon B. Hurst, President of the Retailers Association of Massachusetts. "The fight will not be over until small businesses can obtain comparable coverage for comparable premiums and equal rights in the health insurance marketplace."

Dr. Gene Lindsey, CEO of Atrius Health, added, "Our focus at Atrius Health is to give consumers the coordinated, patient-centered care they deserve and also be responsible stewards of our health care dollar. The Governor's legislation encourages us all to work together towards this same goal."

"Health care costs for municipal employees are growing at an unsustainable rate and are robbing money from our schools, public safety efforts, public works projects and other critical programs," said Salem Mayor Kim Driscoll. "The tools Governor Patrick has proposed will help cities and towns provide material and immediate savings to communities facing soaring health insurance costs and help us maintain basic city services."

Massachusetts leads the nation in the percentage of residents with health insurance, with more than 98 percent of people covered. Since passage of health care reform legislation in 2006, which served as a model for the national law, the rate of insurance coverage has increased for all income levels and among all racial and ethnic groups. As of June 2010, more than 400,000 people in Massachusetts had insurance than had previously been uninsured. The Commonwealth has achieved near universal coverage for children, with 99.8 percent insured, including 20,000 more children enrolled in MassHealth during the past year alone. While Massachusetts has shown national leadership in expanding access to health care, costs continue to be a challenge.

Governor Patrick took immediate action to address double-digit premium increases last year when he directed the Division of Insurance to reject unreasonable or excessive rate increases. Through settlements with insurers and subsequent rate filings subject to a more robust review process, this action has saved 800,000 people more than \$106 million. Governor Patrick also signed legislation last year to allow for group purchasing cooperatives, select or tiered network plans and enhanced financial and rate information from carriers. In addition, the Commonwealth Health Connector has initiated a new procurement effort that seeks to achieve cost savings in Commonwealth Care - the state subsidized health plan for low-income residents - by encouraging competition and innovation among health plans, enabling it to accommodate additional membership in Fiscal Year 2012 without adding to the bottom-line cost of the program.

04.05.11 Health Care Reform Forum

Governor Deval L. Patrick

Health Care Reform Forum

State House, Boston

Tuesday, April 5, 2011

Thank you, Mr. Secretary. Thank you, Madame Secretary.

I'm very glad you're here because we have a big big challenge, and it's not just my challenge and it's not just primarily a government challenge. It's our challenge as a community. So I'm glad you're here today, and I hope you brought your A game because we have a significant challenge to face together, a challenge that faces government, businesses and working families -- and we need to face it together. The challenge concerns the escalating cost of health care. And today, we want to talk about your ideas and ours to contain those costs.

It will seem daunting to some of you; I know it. But I believe that just as we have shown the Nation how to expand coverage to everyone. Massachusetts can and will be the ones to crack the code on cost containment. It won't be easy, but it will be done. And you will all be a part of that achievement.

My team will lead today's discussion in greater detail about the scope of the challenge and the range of proposed ways to meet it. This is meant to be interactive -- because this is more than a government problem; it's a problem facing the whole of the society. But let me take a minute at the outset to offer my own views about where we are, where we're going, and how we're going to get there.

First, where are we?

As you all know, Massachusetts leads the Nation in health care coverage for our residents. 98 percent of our neighbors have health insurance today. 99.8 percent of children. No other state in America can touch that. Many of you here are all part of producing that accomplishment. More people than ever get their care in lower cost primary care settings.

The 2006 health care reform is something of which I think we all can be proud. In addition to a successful piece of reform legislation, it is an expression of shared values, our belief that health is a public good and that everyone in Massachusetts deserves access to good care.

All things being equal, health care reform is affordable. It has only increased our costs by 1 percent of the total state budget. Both the Bush and the Obama administrations have allowed considerable flexibility

under Medicaid, which has helped enormously, and we are working together to get similar flexibility on the Medicare side of the ledger. Overall, Medicaid represents 32% of annual state spending today and has grown about 2% per capita since our reforms were enacted.

The problem is that all things are not equal. Health care premiums increase at an unsustainable rate. Having insurance premiums that rise sharply year after year, even during the Recession, is a national problem. Some of the conservative commentators want you to believe that this is happening because of health care reform, but they are wrong. They are wrong. Premiums increased across the Nation on average 130 percent over the last decade. A low-cost state like Mississippi, which has not moved to expand coverage as we have, is still experiencing projected premium increases of 114 percent.” As a result, across the Nation, just like across the Commonwealth, working families, small businesses and governments are being squeezed by cost increases that we can do little about.

In state government alone, between MassHealth, subsidized programs in the Connector and health insurance for our own employees, the cost of health care represents nearly 40 percent of the state budget. Statewide, the health care burden for local governments is 14 percent of spending and growing. In most cases we have no control on those costs, so that if they escalate it simply squeezes out education and public safety and other worthy public services. Let me be clear: state employees pay a fair share for their health insurance, comparable now to what employees pay in the private sector, and we are working with municipalities and their unions to re-balance that on the municipal side. But this challenge is not going to be met by cost shifting alone. We have to get a solution to system and premiums that are too high.

Businesses, too, are facing similar challenges just like us, especially small businesses. I meet many small business owners who are beginning to see their commercial activity pick up and are ready to start hiring again – until they get their bills increasing their annual premium. Double digit increases send them scrambling to find new carriers, with less coverage at the same price or the same coverage with higher deductibles, in an annual ring-around-the-rosy of shifting plans. I have yet to meet a business owner in the state, especially a small business owner, who doesn't see health care costs as a major roadblock to adding jobs. This is an urgent concern for all of us, because small businesses represent 85 percent of all businesses in our Commonwealth. If they don't hire, we don't get a recovery. It's as simple as that.

So, where do we need to go?

The good news is that there's an emerging consensus about solutions. By most accounts, higher quality care -- meaning well-integrated, whole person care -- equates to lower cost. Instead of the fragmented, fee-for-service system we have today, we ought to pay for integrated care. Paying for that kind of care will encourage different kinds of behaviors in the delivery of care – with the added benefit of restraining cost increases to about the rate of GDP growth. The legislation that we have proposed gives us some

new tools to get there. Secretary Bigby and Secretary Gonzales and I will lay out in more detail what is in the bill.

Many of you have already played a role in shaping the path we are on and have used your expertise to draw up the best practices that we are trying to scale up through this bill. Blue Cross Blue Shield has developed a version of outcome-based reimbursement they call the Alternative Quality Contract. Atrius Health is an example of a successful Accountable Care Organization. Our really remarkable network of community health care centers has long been a model for preventive care in lower cost settings. There are many good things happening in the market right now. But we need scale, we need a set of common expectations and standards, and we need the savings to be passed on to premium payers.

So, bringing working solutions to scale, setting standards and meeting expectations, and getting the savings down to the premium payers. That is where we are going. And we need to get there quickly.

Now, how are we going to get there?

In a minute, the panel will talk about the efforts currently underway to address these challenges, and as I said, I want you to get into it, refine it, tell us about what is working and what's not. I've heard so much of this conversation. So many layers of for so long. And even with this bill, I hear some people say that the government doesn't go far enough. I hear other people say we're going to have too much government. Let me tell you something. I am a private marketer. Not a market fundamentalist. I don't think the market always gets it right, and I don't think the market has got it right this year. We are going to have to solve this problem of health care—public and private, working together. And we have got to stop being defeated by the complexity of it because while we may not have all the answers there are small businesses and working families and local communities going under because of this unsustainable rate and you know it. You know it, how complicated it is to and how urgent it is. As we work together going forward, bear in mind two of the profoundly important lessons from the first round of health care reform.

First, don't let the perfect be the enemy of the good. One of the phenomenal accomplishments of the first round of health care reform is that we stopped limiting ourselves to the same old two competing choices: a perfect solution or no solution at all. We chose to try something and we moved. And it worked.

Second, stick together – with us and with each other. For years before the 2006 legislation, folks said that health reform would never happen. And for years it didn't. It took a broad coalition of business, labor and health care leaders, patient advocates and policy makers, working with a Democratic legislature and a Republican governor to get it done. They didn't get distracted by drama or overheated rhetoric. And not only did they come together to pass the bill, but they stuck together to adjust it as we implemented and refined it.

That, I think, must be the model for what we're doing now and this session is an important step in shaping that outcome. The details of health care reform may be complicated, but our goals and our values are simple – even universal. Better, more affordable health care for us all.

Lastly, and mindful that the health care industry parses everything I say with a fine tooth comb, like the ancient Greeks reading entrails, let me leave no doubt about this: we are moving. We are not going to let inertia stand in the way stand in the way of relief for working families and businesses. We have already used the regulatory authority of the Insurance Commissioner, and new tools in last summer's Economic Development legislation, to curb premium increases. But our communities and our neighbors need us to do more. And it's up to all of us to deliver.

Just as in the first round of health care reform, this is about what kind of Commonwealth we want to live in. If we want a better, stronger Commonwealth for ourselves and for the generations to come, we need to work together to get this right.

Thank you again for your participation today and going forward.

05.16.11 Testimony on Behalf of Health Care Cost-Containment Legislation

Testimony of Governor Deval Patrick

In support of House No. 1849

An Act Improving the Quality of Health Care and Controlling Costs by Reforming Health Systems and Payments

May 16, 2011

Chairman Moore, Chairman Walsh and Members of the Joint Committee:

Thank you for your commitment to this issue, for convening this hearing and the series that follow, and for permitting me to testify in support of our proposal to reduce health insurance premiums.

In 2006, Massachusetts enacted a landmark health care reform bill. Many of you here were part of that historic Act. The primary goal of that bill was to expand access to health insurance to everyone in the Commonwealth.

It has been a resounding success. You know the facts:

- 98% of residents now have insurance, including 99.8% of children.
- More private companies offer their employees insurance now than before the bill was passed.
- People no longer have to fear having their insurance cancelled when they got very sick and needed it most, or that a serious illness would leave them bankrupt.
- It's affordable, having added roughly 1% to state spending.
- And it stands as a values statement, that in Massachusetts we believe health is a public good and every man, woman and child deserves quality care.

But that bill was not an end in itself. It was a marker we put down about the kind of community we wanted to live in. That's why a broad range of interests came together to get a good bill, and then stuck together as we worked to implement and refine it - even in the face of an economic collapse.

Now it's time to do it again.

Health insurance premiums continue to increase at an unsustainable rate. This is not a challenge unique to Massachusetts and it has nothing to do with our 2006 reform. Premiums increased across the Nation on average 130 percent over the last decade. Mississippi, a state that has no public commitment to universal care, has seen premiums increase 113 percent in the same period. The point is that, across the

Nation, just like across the Commonwealth, working families, small businesses and governments alike are being squeezed every year by ever-higher premiums. If the first phase of reform was about reaching the 400,000 or more uninsured, this phase is about relief for all six and half million Massachusetts residents.

Secretary Bialecki will address the impact on our economy. I meet many small business owners all across the state who see their commercial activity picking up and are ready to start hiring again - until they get their annual health insurance hike. Double digit increases send them scrambling to find new carriers, with less coverage at the same price or the same coverage with higher deductibles, in an annual ring-around-the-rosy of shifting plans. I have yet to meet a business owner in the state, especially a small business owner, who doesn't see health care costs as a significant impediment to adding jobs. And with small businesses making up 85 percent of the businesses in this state, there is an unyielding economic truth we have to face: if they don't start hiring, we don't get a recovery.

This is to say nothing about the burden rising premiums place on municipal governments. Plan design, which the Legislature is grappling with now, is critical. But that is about cost shifting, not cost reduction. We must do both. I know that the Members understand and share this sense of urgency and I thank them for that. The challenge before is big but we cannot be defeated by its complexity. We have solved problems like this before and we can do it again.

The good news is that there's an emerging consensus about solutions. By most accounts, higher quality care -- meaning well integrated, "whole person" care -- equates to lower cost. Instead of the fragmented, fee-for-service system we have today, we ought to pay for integrated care. Paying for that kind of care will encourage different kinds of behaviors in the delivery of care - with the added benefit of restraining cost increases. We believe increases can and should be limited to about the rate of GDP growth. Secretary Bigby will cover this in more detail.

The bill I filed will to hasten the move to integrated, high quality care and lower costs to consumers. The bill proposes specifically

1. To provide a common set of standards and benchmarks for the formation of integrated care organizations, commonly known as ACOs, and alternative payment methodologies;
2. To clarify the authority of the Commissioner of Insurance to consider a wider array of factors when considering whether to disapprove excessive premium increases, including the underlying provider rates and how they compare to medical cost inflation and GDP growth;

3. To organize an advisory council of stakeholders and consumer voices to monitor the progress of this next stage of reform and other experiments in cost control; and

4. To modernize the system of resolving claims of medical malpractice in favor of an apology and prompt resolution, to de-emphasize so-called "defensive medicine."

Many existing agencies have a role today. But for simplicity through this transition we propose to make the Department of Health Care Finance and Policy a one-stop shop for innovators in the medical community. This Department would work closely with the community to expand the integrated care groups that are being formed now, monitor the creation of new ones, and set up guidelines for insurers and providers. And we will require that the savings generated benefit consumers -- those families and businesses paying the premiums -- not just improve the margins of the health care industry.

Under our plan, integrated care organizations and insurers that pay for healthy outcomes, not just the volume of service, will predominate in our Commonwealth by June of 2015.

I want to address two concerns that you may hear in the course of these proceedings, one concerning the powers of the Insurance Commissioner and the other concerning the salutary effects of the market. When the Insurance Commissioner disapproved proposed premium increases last spring, many objected. But after years of asking and even cajoling, it was the only option we had - - and it worked. That disapproval lowered premium rates to single digits last year and again this year. It also jumpstarted the movement we now see in the industry towards integrated care. While I hope that we can lower health insurance premiums through the other provisions in this bill and through a transition to integrated, accountable care, the Division of Insurance review remains a valuable and necessary tool to protect small businesses and individuals. The language in our bill makes the authority of the Commissioner more explicit to consider all of the relevant criteria in making his or her decision to disapprove excessive premium increases.

Some in the industry say that the state needs only to lay out a framework for reforming the way we deliver care, and the market will take care of the rest. And it is true that there are many good things happening in the market right now, in providers large and small, in care settings across Massachusetts. Blue Cross Blue Shield is modeling a new global payment system that pays doctors for quality, not quantity. Mass General has a pilot program underway with Medicare that provides intensive management of some of their sickest patients to avoid readmission; and in a year, they've seen healthier outcomes and markedly lower costs. There are doctors in Springfield and MetroWest working in integrated care settings, and patient-centered medical homes sprouting up around the state. These are good steps; but we need to scale these up, we need a set of common expectations and standards, and we need to assure that the savings are passed on to consumers and patients in the form of lower premiums. Legislation will maintain

a needed sense of urgency and accountability.

The goal is not to punish any part of the industry or to return to the days of price regulation. I believe that everyone in the Massachusetts health care industry is sincere in their efforts and desire to deliver lower cost and better health care. The goal of this proposal is to keep the pressure on all of us - including the state - to move as fast we can to bring the cost savings we need to keep our economy growing.

Taken as a whole, these measures make up the next phase for health care reform in Massachusetts. The details may be complicated, but let's not be defeated by complexity. Higher quality, well integrated, "whole person" care means lower cost. From now on, we propose to pay for that rather than the fragmented system we have today.

Every day I appreciate more the phenomenal accomplishment of the first round of health care reform. A broad coalition joined together to try something, to get off the dime and move. I also understand more clearly every day why cost control was put off to another day: because if you think access was hard, wait until you take on cost control. But just like with the first round of health care reform, this is about what kind of Commonwealth we want to live in. The goal is more affordable, higher quality care. The legislation I am filing gives us some tools to get there. Once enacted, it is going to take partnership with you and commitment on the part of the many important interests you will hear from to make it real.

You and I both know that some of those interests are powerful, and have deep stakes in maintaining the status quo. Our job is to balance all the interests, but always to strike the balance in favor of the public good. That's how, with the Speaker's and Senate President's partnership, we delivered meaningful reforms in transportation, the pension system, the ethics and lobbying rules, and education after decades of failed attempts. It's also how Massachusetts devised the most successful model yet in America for universal coverage. And that is how we here will be the ones to crack the code on cost control.

You all know by now how strongly I feel about bearing our generational responsibility - that old-fashioned idea that each of us in our time must do all we can to leave things better for those who come behind us. This is that challenge. I look forward to working with you to meet it.

Thank you.

06.23.11 Testimony before Senate Finance Committee on Health Entitlement Reform

Testimony of Massachusetts Governor Deval L. Patrick

Before the Senate Finance Committee

United States Congress, Washington, DC

Thursday, June 23, 2011

Chairman Baucus, Ranking Member Hatch and Members of the Committee:

Thank you for the opportunity to appear before this Committee to address the impact that proposed reforms of our health care entitlement programs would have on the states and our citizens.

Reforming the Medicare and Medicaid programs to ensure their long-term sustainability is a priority that I share with the members of this Committee, with many other governors, and with the Obama Administration. It's also a necessary element in the effort to reduce the national budget deficit, a goal I believe is both important and achievable. But how we reform these programs is about people, not abstract policies. It's about what kind of country we want to live in, and what kind of future we are building for the next generation.

My comments come from that perspective because I do my job with that perspective. And although Medicaid is a small part of the medical cost picture, I want to focus my comments mainly on that.

Like nearly every state in the last few years, in Massachusetts we have had to make tough choices to manage through the global economic collapse. We have cut billions of dollars in spending and thousands of state jobs. We have imposed furloughs and pay freezes, and negotiated concessions from public employee unions. We have also prudently used our "rainy day" funds, modestly increased our sales tax, and benefited, like every other state, from the support of the American Recovery and Reinvestment Act.

We have at the same time invested significantly in education, health care and job creation -- because we all know that educating our kids, securing people's health care, and putting people to work is the best way to climb out of our economic hole and build a better future.

Because we made those choices, on both the spending and the revenue side, the Massachusetts economy is now growing twice as fast as the Nation's. Our unemployment rate, at 7.6%, is well below the national average and declining. Our annual budgets have been responsible, balanced and on time; our decades-long structural deficit has been eliminated; and our bond rating has not only remained strong,

but gotten stronger. In fact, we are one of only three states in America whose fiscal outlook is currently positive.

The Massachusetts experience may offer a lesson for the national discussion today. We were able to cut spending, reform government and invest in a stronger future because we did not leave our values at the door, because we kept asking ourselves whether the choice before us moved us closer to the kind of community we wanted to be.

In that spirit, we have made a number of changes to enable us better to control costs in our Medicaid program. We are also working on an exciting strategy to reduce medical costs across the system, well beyond the Medicaid program, that will benefit all of our citizens, help our state's economy, and further improve our competitiveness. We have pursued these reforms and savings in the firm belief that health is a public good, and that everyone deserves access to quality care - including the poor and disabled.

Flexibility in the administration of the Medicaid program has made all the difference. So, first, like many of my fellow governors, I strongly support the states having the flexibility to innovate costs down. The current Medicaid program, as administered today, gives states precisely that: a high degree of flexibility to design a program that suits an individual state's needs.

Massachusetts has taken advantage of that and we have several innovative programs deployed right now that show a lot of promise. For example, "dual eligibles" - folks who fall under both Medicaid and Medicare -- account for 40 percent of Medicaid's national spending even though they only make up 15 percent of its members. When you add in Medicare, spending on this group alone accounts nationally for over \$300 billion per year. Because of the regulatory maze in which these patients are treated and the complexity of their conditions, dual eligibles are a major cost driver in Massachusetts -- just as in the rest of the country.

In partnership with the Obama administration and the Center for Medicare and Medicaid Innovation, we are creating a demonstration program that integrates the delivery of Medicare and Medicaid for dual eligibles, finding more cost effective pathways to get patients the care they need. The preliminary analysis suggests this will lead to decreased emergency visits, fewer unnecessary hospitalizations, and better access to and use of appropriate medications. That will translate into real savings for both the state and federal sides of the Medicaid equation. Under this strategy, we estimate at least a 2 percent savings on the \$4 billion we expect to spend on "dual eligibles" in the first year of the program.

Other working models for addressing dual eligibles are already in use. New Mexico and Texas, for example, use managed care programs to bring better coordination to services. Enrollment plans like PACE and Special Needs Plans, currently being used in Massachusetts as well as in New York, New Mexico and Wisconsin, are further examples of states using the considerable existing administrative

flexibility to achieve savings in the Medicaid program. Wider adoption by the states would help significantly curb Medicaid costs.

Rising costs in the health care system across the Nation are a serious national problem. In fact, Medicaid spending has been growing more slowly than the dramatic health care cost increases in the rest of the economy. For that reason, we have turned our attention there, to the broader question. Everyone has a stake in that solution. And just as Massachusetts is the home of the nation's most successful universal health care law, we are poised to crack the code on cost containment. To get there, we are doing more to encourage integrated, whole person care: paying providers for the quality of health care they deliver, not just the quantity. There are many good models being tried in the market today. We are working on scaling them up and making sure the savings are passed along to businesses, families and government in the form of lower premiums.

Medicaid currently allows us this flexibility. We need the Congress to encourage more states to take advantage of that flexibility, and embrace our role as policy laboratories -- not just around entitlements, but in health care spending generally. That is the larger policy challenge we face as a Nation. Fix that, and not only do the Medicaid and Medicare programs become fiscally sustainable, but the prospects for a strong, sustained economic recovery improve dramatically.

Second, let's stick with what works. The Affordable Care Act works. We know from experience with our own health care reform measure that getting people insured and having them receive their care in primary care settings as opposed to emergency rooms is cost effective and will reduce illness and death. According to the Congressional Budget Office, the Affordable Care Act will reduce the deficit by \$124 billion through 2019 and by more than \$1 trillion in the subsequent decade. Indeed, the ACA provides for even more Medicaid and Medicare flexibility than under current law. Efforts to repeal it take us in exactly the opposite direction from fiscal responsibility.

Third, put revenues on the table. Our federal government has been running two wars and a costly prescription drug benefit for nearly a decade with borrowed money. Meanwhile, thousands of industries and special constituencies -- from oil to agriculture -- find favorable treatment and loopholes in our tax code. I know small "mom and pop" stores and college students who pay more taxes than global companies with billions in revenue. Some of these loopholes ought to be closed. If we believe that even the poor and disabled -- the people Medicaid serves -- should get adequate health care, it is only fair to ask everyone to help close a gap other policy choices have created. We cannot and should not get out of the deficit hole with spending cuts alone.

Finally, I wish to respectfully object to the budget proposal that has come out of the House. That proposal represents a radically different set of values. It embraces a voucher program that effectively ends Medicare, and replaces it with minimal coverage security for seniors and the disabled. It would put

Medicaid on a path to denying coverage to millions of the poor. It would repeal the Affordable Care Act, denying coverage to millions of working American families. Yet it includes \$1.1 trillion in tax benefits for the wealthy, benefits they have not asked for and which recent history shows have not been effective in spurring economic growth.

Ultimately that is a vision for the future of our country that retreats from our values as Americans. It is about abstract policy or politics. But our job as leaders is to be about people.

Dispersing federal Medicaid funding in the form of block grants, as some have proposed, won't reform the system. It will starve it. By failing to account for changes over time in a state's economic needs or demographics, or innovations in how health care is delivered, the proposed block grants lock states into a fiscal bind that forces us to deny coverage or make other changes to services. It passes a burden from the federal government to the state level, knowing that states cannot carry the load. Block granting Medicaid would constitute nothing more than an accounting device for the federal budget, while dealing a crushing fiscal blow to states that are already struggling.

This latter point cannot be overstated. Right now 33 states are projecting a cumulative budget gap of \$75.1 billion or more in Fiscal Year 2012. The Kaiser Family Foundation estimated that Massachusetts would lose more than \$23 billion over ten years if Medicaid moves to a block grant formula. By 2021, this could mean denying close to 540,000 residents of the Commonwealth of their health care coverage. And the payment model that compensates hospitals for care would be gutted by more than 30% in the same period. In a state where 98% of our residents currently have access to health care, well ahead of other states, this would be a public health catastrophe and an utter failure of leadership. There is no way the Commonwealth would be able to absorb such a shift without seriously curtailing critical programs and services, including the most successful experiment in America in universal health care. And it would cost tens of thousands of jobs. Asking states to pick up more of the tab in a time of unprecedented fiscal challenges is unrealistic as well as unwise.

Some states advocate for block granting in the name of "flexibility" or repealing the Affordable Care Act as "the first step for a successful Medicaid transformation," as 29 Republican governors propose in a recent letter to Congressional leaders. But the data suggest that doing either is really a formula for limiting coverage, not sustaining the program. For states to sustain current eligibility for the Medicaid program, under these governors' proposal, would require states to spend approximately \$241 billion, or 71% more than current levels over the next ten years. No state is fiscally prepared to deal with that. Tactics like these will reduce the federal deficit on paper -- on the backs of the working families and small businesses who are making our economic recovery possible.

Medicare and Medicaid have helped generations of Americans help themselves. They are commitments that the federal government has made to the American people and they have contributed mightily to the

economic prosperity and success that our Nation has enjoyed.

Our challenge today is to modernize and refine these commitments, not to squeeze them out of existence with accounting tricks and political rhetoric. The strategies being proposed from some corners will not lead to better Medicare or Medicaid, but will simply mean less Medicare and Medicaid.

Working together we can meet our obligations to our most vulnerable citizens, put America on a fiscally sustainable path and build a better, stronger Nation for the next generation. That is the responsibility with which our constituents have entrusted each of us and I look forward to working with you and your colleagues to fulfill that obligation.

Thank you again for inviting me here today and I look forward to taking your questions.

GOVERNOR PATRICK SIGNS MUNICIPAL HEALTH CARE REFORM TO SAVE MILLIONS FOR MASSACHUSETTS COMMUNITIES

BOSTON - Tuesday, July 12, 2011 -- Governor Deval Patrick today signed municipal health care reform legislation that will provide significant and immediate savings to cities and towns, while preserving a meaningful role for organized labor in the process. This bill, "An Act Relative To Municipal Health Insurance," builds on the Patrick-Murray Administration's success in reducing rising health care costs for thousands of small businesses and working families across the Commonwealth, and is an important step in the Administration's efforts to bring health care system costs down.

"This is the biggest step yet in our efforts to deliver millions of dollars in savings to cities and towns, while assuring a meaningful role for labor in determining how to achieve those savings," said Governor Patrick. "This has been no small accomplishment, and it came with cooperation from leaders in the Legislature, labor, and municipalities all working together to get a positive result."

"This bill is a testament of our Administration's long-standing commitment to providing cities and towns with cost-saving measures," said Lieutenant Governor Timothy Murray. "By partnering with the state Legislature, labor, and municipal managers, this reform offers municipalities another tool in the toolbox that will help to support the continued delivery of critical local services."

"Everyone came together and made this work," said Senate President Therese Murray. "Municipal, business and labor leaders, along with the Legislature and the Administration, agreed that these improvements will further protect retirees from cost increases and support an ongoing voice for employees while maintaining the reform's primary goal of creating significant savings for cities and towns."

"In these difficult fiscal times we have to give cities and towns the tools they need to manage tight budgets," said House Speaker Robert A. DeLeo. "This major reform will provide municipalities with a process to effectively manage rising municipal healthcare costs. And, by spending less on the healthcare costs of municipal employees, our cities and towns will be able to fund vital municipal services like education and public safety."

The municipal health care reform law will help communities collectively save more than \$100 million, while protecting health care quality for retirees and municipal employees. Cities and towns will have the choice to implement health care plan design changes under a newly-created process. The process will

include expedited collective bargaining to negotiate a new health insurance benefit plan for employees. If the municipalities and unions fail to reach agreement within 30 days, the case is submitted to a three-person review panel, with one member appointed by unions, one by the municipality and one selected by the Secretary of Administration and Finance.

Municipalities will be able to use this process to adopt co-pays and deductibles, along with other cost-sharing health care plan design features that are not higher than those offered by the Group Insurance Commission (GIC). Alternatively, municipalities can transfer employees to the GIC if it would result in at least 5 percent more savings than could be achieved through a local health care plan. The law also allows a portion of savings to be returned to employees and includes protections for retirees and employees with existing health concerns, who are likely to incur higher co-pay and deductible costs.

"This reform will deliver material savings in health care costs to cities and towns at a time when they need it most," said Jay Gonzalez, Secretary of Administration and Finance. "This means that many teachers, firefighters, and other public employees will be able to keep their jobs and continue to deliver the critical local services taxpayers expect and deserve."

"Governor Patrick's municipal health insurance proposal offers cities and towns financial relief, while ensuring labor a meaningful seat at the negotiating table," said Joanne Goldstein, Secretary of the Executive Office of Labor and Workforce Development. "Unions representing municipal workers and municipalities will have the opportunity to collaborate on how to continue to provide quality health care for workers while ensuring meaningful savings for cities and towns."

"I am proud to have been able to work with Governor Patrick, Speaker DeLeo, and Senate President Murray to ensure meaningful reforms for our cities and towns while providing a seat for our labor leaders at the table. These reforms will help keep more teachers in classrooms, more police officers and firefighters on our streets, and will allow us to continue to provide services that keep our neighborhoods clean and vibrant," said Boston Mayor Thomas M. Menino.

"The landmark municipal health insurance reform in the FY 2012 budget was achieved through the hard work and good will of Governor Patrick, Speaker DeLeo, Senate President Murray and many legislators, municipal officials and labor leaders who have come together to deliver a reform package that will preserve essential local government jobs and services, while protecting taxpayers and employee alike," said Joshua Ostroff, President of the Massachusetts Municipal Association. "As a culmination of years of effort and debate, this is a proud moment for Massachusetts and its cities and towns and will be a cornerstone of our economic recovery."

"This reform is one of the most significant measures to assist cities and towns in the past 30 years," said Geoff Beckwith, Executive Director of the Massachusetts Municipal Association. "Thanks to the Governor,

Speaker, and Senate President, it is strong, fair, and balanced for all stakeholders. This is a good day for communities, taxpayers, and municipal employees."

The Public Employees' Coalition on Municipal Health Insurance released a statement recognizing the historic shared sacrifice pledged by a coalition of public employee unions and retirees. The statement notes that as a result of this legislation, Massachusetts cities and towns will save an estimated \$100 million in health insurance costs while preserving a voice for labor. The coalition believes that now that this distraction has been eliminated from the public debate, the focus can shift to the real crisis, which is the ever-spiraling cost of health care for all residents of Massachusetts. The coalition stands ready to work with the Legislature and governor to address this critical issue.

"The rising costs of municipal health insurance threaten the viability of every local government in the Commonwealth," said Scott W. Lang, Mayor of New Bedford and President of the Massachusetts Mayor's Association. "The Governor, Speaker and Senate President's bold leadership has created an equitable law that will help hold down the cost of health insurance for taxpayers while providing municipal employees and their families with the finest health care plans. This will stabilize municipal services throughout the state which will lead to new growth."

"The action by Governor Patrick and the Legislature provides meaningful reform to the municipal health insurance process and will ensure that local taxpayer dollars go more towards direct services instead of getting eaten up by employee overhead costs," said Jay Ash, City Manager for the city of Chelsea. "In this municipal finance environment, delivering cities and towns the potential for \$100 million in savings will surely save police jobs, keep libraries open and reduce the pressure to raise class sizes, all in the name of balancing the budget."

07.12.11 Municipal Health Care Reform Bill Signing

Governor Deval L. Patrick

Municipal Health Care Reform Bill Signing

Governor's Council Chambers, State House

Tuesday, July 12, 2011

Good Morning everyone, thank you all for coming. It is a great day.

We have the opportunity today to sign a bill which balances two very important interests to all of us. First of all, the need to deliver meaningful savings to cities and towns to enable them to maintain services for local residents and at the same time to preserve a meaningful role for labor and determining how those savings will be achieved.

It is fashionable in politics today, I have noticed to bully people; you say more about how you are going to stick it to somebody and that is what seems to attract all the attention, all the media attention, all the excitement about being reformed, so called.

What we have shown here in the Commonwealth time and time again is that we can make change meaningful, lasting, far-reaching change with all of the interest at the table and we have shown it over and over again. We have had labor at the table first round or two of pension reform. We have had teachers work with us on education reform. We have had labor at the table on transportation reform.

And in that same spirit today, we are delivering real savings to cities and towns through a municipal health reform.

I want to thank all of those who have shown the political courage to come to the table and stay at the table to move this bill, the Speaker and the Senate President, all the members of the House and Senate, the mayors and the municipal leaders who have participated from the outside, labor leaders who have come to the table, stayed at the table even at times when they knew the public was saying take it all and take it now.

They understood from the beginning that they needed to be a part of this reform. It is an example, I believe, of what distinguishes our brand and approach to politics in this Commonwealth and I am proud of it. I am proud to stand with all of those who have helped bring this day to bear.

GOVERNOR PATRICK ANNOUNCES \$26.75 BILLION MEDICAID WAIVER AGREEMENT

State gains additional \$5.69 billion in spending authority to support alternative payment models and integrated care; ensure ongoing success of reform

BOSTON – Tuesday, December 20, 2011 – Governor Deval Patrick today announced that the federal government will renew the Commonwealth's Medicaid waiver, setting the stage for a new round of innovations that build on the success of health care reform in Massachusetts. The three-year, \$26.75 billion agreement with the Centers for Medicare and Medicaid Services (CMS) will help the Patrick-Murray Administration's efforts to integrate and improve the quality of health care while controlling costs.

"Massachusetts has proven itself as a national leader in health care reform, with more than 98 percent of our residents insured, including 99.8 percent of children," said Governor Patrick. "This new federal agreement will help us build on our success and tackle the next phase of our work – cracking the code on health care costs. We are thankful for the strong support of our partners in Washington, D.C., particularly Secretary Sebelius, Senator Kerry and Congressman Markey, for sharing our commitment to health care reform."

The \$26.75 billion agreement, which represents a \$5.69 billion increase over the previous waiver, preserves existing eligibility and benefit levels in the Medicaid and Commonwealth Care programs and includes more than \$13.3 billion in revenue to the Commonwealth through federal financial participation. During the three-year waiver period, the Commonwealth will fully implement the federal Affordable Care Act, whose major provisions go into effect on January 1, 2014.

The waiver includes several innovative programs that expand services for certain children, develop integrated systems of care and alternative payment systems, and position the Commonwealth to reduce the cost of medical care and the rate of growth over time.

Key components of the agreement include:

- **Delivery System Transformation.** The waiver provides \$120 million annually in new federal funding to support investments in health care delivery systems that will transform Massachusetts' safety net hospitals and primary care providers into integrated care delivery systems, with the ultimate goal of transitioning away from fee-for-service payments toward alternative payment arrangements that reward high-quality, efficient and integrated systems of care. This feature of the waiver agreement reflects the principles outlined in the Governor's comprehensive health care cost containment bill, which he filed earlier this year.
- **Pediatric Asthma Bundled Payment Pilot.** This pilot will enable the Commonwealth to improve the quality and delivery of care a bundled payment methodology that includes services not traditionally

covered, such as home visits by community home health workers and supplies for mitigating environmental triggers in the home.

- **Health care reform remains fully funded.** The waiver includes more than \$500 million annually in federal support for Commonwealth Care and the Health Safety Net, and more than \$300 million annually in other federal support for services to low income and uninsured populations.
- **First-of-kind Express Lane Eligibility Program.** The Commonwealth will utilize streamlined eligibility procedures to renew eligibility for parents with children who are enrolled in the SNAP (food stamp) program. Approximately 140,000 MassHealth members may be eligible for Express Lane renewal to receive the vital safety net services they need.
- **Early Intervention.** The agreement includes enhanced services for early intervention programs including medically necessary Applied Behavioral Analysis-based (ABA) treatment services and programs that address the core symptoms of Autism Spectrum Disorders (ASD).

“The MassHealth Demonstration will be a strong step forward for Massachusetts’ health reform efforts,” said Cindy Mann, Deputy Administrator of the Centers for Medicare and Medicaid Services and Director of the Center for Medicaid and CHIP Services (CMCS). “The demonstration will support the Commonwealth’s delivery and payment reforms while also helping it to move forward on several innovative new programs. We are pleased to be able to support these important initiatives.”

“This is the result of one hell of a team effort. We all stayed at the table so Massachusetts received what we needed to keep revolutionizing quality, affordable care,” said Senator Kerry. “This couldn’t have happened without former CMS Administrator Don Berwick, Secretary Sebelius, our hospital CEOs, and our congressional delegation under the leadership of Governor Patrick coming together as stakeholders around an agreement that will strengthen coverage, protect safety-net providers, and support innovative approaches to improving payment systems and the value of health care.”

“I applaud the efforts of all parties—providers and the state—to negotiate the terms of Massachusetts’ Medicaid waiver, which is critical to ensuring the success of Massachusetts state health reform and access to care for every Bay Stater,” said Senator Scott Brown.

“The Medicaid waiver serves as the cornerstone of Massachusetts’s health reform, and I’m pleased that the agreement announced today will provide the resources our health care providers need to care for our residents and will allow the Commonwealth to continue leading the nation in innovative health care solutions,” said Congressman Edward Markey. “Governor Patrick and Secretary Sebelius are health care heavyweights, and I applaud their leadership in reaching an agreement that provides strong support to the safety-net hospitals that serve low-income and uninsured residents.”

“Massachusetts is already a national model for health care coverage and reform, with a strong track record of innovative programs,” said Congressman James McGovern. “We need to build on that success. The initiatives supported by this waiver will continue to provide affordable access to high quality care for all patients while containing costs.”

"This is good news for Massachusetts and will help our health care providers continue to deliver quality services, maintain access to care and find ways to reduce cost that maintain the excellent health care for which our state is so well-known," stated Congressman Michael Capuano.

"I commend the partnership between federal and Massachusetts state authorities in reaching the Medicaid grant waiver agreement," said Congressman Bill Keating. "At a time when we are increasingly seeing some of the neediest segments of our communities neglected, this agreement represents a silver lining for children and families throughout the Commonwealth. It successfully reaches a common ground between cost containment and the undeniable right to a healthy, happy, life – particularly for the 99.8 % of Massachusetts' youngest patients."

"This new waiver agreement helps Massachusetts maintain its commitment to achieving universal coverage and also provides several mechanisms for establishing more integrated systems of care and tying payments to improved outcomes," said Massachusetts Secretary of Health and Human Services Dr. JudyAnn Bigby. "We are grateful for the support of the Obama Administration and our congressional delegation throughout the waiver renewal process and look forward to working together to reform how we pay for health care, while maintaining access and ensuring high quality care."

"I applaud my colleagues and the Patrick-Murray Administration in finalizing the Medicaid waiver agreement," said House Speaker Robert A. DeLeo. "In these tough fiscal times, controlling health care costs while still providing the best quality health care remains of the utmost importance."

Insurance enrollment has grown by more than 411,000 since the passage of health care reform in June 2006, including an increase of 193,000 members whose primary coverage is through MassHealth. Overall, more than 1.3 million people have some level of Medicaid coverage. In addition, nearly 159,000 individuals are newly insured through Commonwealth Care since the implementation of health care reform.

Earlier this year, Governor Patrick filed comprehensive health care cost containment legislation that encourages the creation of "integrated care organizations" comprised of groups of providers that work together to achieve improved health outcomes for patients at lower costs; provides benchmarks, standards and guidance for the transition to integrated care and global payments; and allows the Division of Insurance to consider more criteria when making the decision to either approve or reject rate increase requests from both carriers and providers. Other innovative state payment and delivery system reform initiatives include the development of patient-centered medical homes, bundled payments, and accountable care organizations (ACOs).

MASSACHUSETTS CELEBRATES SIX YEARS OF HEALTH CARE REFORM

Governor Patrick joins diverse group of leaders at site of 2006 bill signing to discuss how law ensured near-universal access to quality health care, more employer-sponsored coverage and improved health outcomes for Massachusetts residents



Governor Patrick with business, health care and community leaders discussing why Health Care Reform is working for Massachusetts residents. (Photo credit: Eric Haynes / Governor's Office). View additional [photos](#). View a video from the event [here](#).

BOSTON – Wednesday, April 11, 2012 – In advance of the sixth anniversary of the Commonwealth's landmark health care reform law, Governor Deval Patrick today joined a diverse group of business, health care and community leaders to discuss why the law is working for Massachusetts residents. The group reconvened at historic Faneuil Hall, the location where the bill was signed into law on April 12, 2006.

"Health care reform is a values statement, and it is working in Massachusetts," said Governor Patrick. "As a result of our successful implementation of the 2006 law, more people are covered, more businesses are

offering insurance, we have healthier residents and we've done it all in a cost-effective and responsible manner."

"The Commonwealth is proud to have increased access to quality health care through the landmark reform of 2006," said Lieutenant Governor Timothy Murray. "This demonstrates a significant bi-partisan achievement that supports the health and well-being for all residents in Massachusetts."

Today's event included key stakeholders from the worlds of business, health care, patient advocacy, labor and government. Leaders focused on how the passage and implementation of the law has made Massachusetts number one in the nation for coverage, encouraged more businesses to offer employees insurance and made the public healthier, all while adding about one percent to state spending and encouraging the market to embrace cost-savings initiatives.

Also on Wednesday, the Massachusetts Health Care Connector - the state's version of the type of "exchange" created by the federal Affordable Care Act – announced that their Board will vote tomorrow on a plan to approve contracts with health insurers for 2013 – a plan which will provide private health insurance to a record number of people in 2013, with an average per-person cost five percent lower than 2012 levels, and ten percent lower than 2011 levels.

Health care reform has been a success in Massachusetts because:

More people have access to quality care:

More people are covered by health insurance in the Commonwealth than anywhere else in the country: 98.1 percent of the total population is covered, including 99.8 percent of children. While the number of people *without* health care in America grew by millions from 2006 to 2010, more than 400,000 people in Massachusetts *gained* coverage over the same period.

More businesses are offering coverage:

Massachusetts health care reform, like the federal Affordable Care Act, takes a hybrid approach to increasing coverage, encouraging people to get health insurance in the private market and subsidizing the cost for those who can't afford it. More businesses in Massachusetts offer their employees private health care today than did before the law was signed by Governor Romney in April 2006, and the 77 percent of the state's businesses who offer their employees private insurance is well above the national average.

People are healthier:

People in the Commonwealth are healthier and getting better treatment thanks to health care reform. More than 90 percent of residents have a primary care physician and four out of five have seen their doctor in the last 12 months. Preventative care has also increased, with more people receiving cancer screenings and more women receiving pre-natal care, while visits to emergency rooms have decreased.

150,000 people stopped smoking after Massachusetts expanded coverage for smoking cessation. A recent study published by the National Bureau of Economic Research documented improvements in

physical health, mental health, functional limitations and joint disorders as a result of the law. That study found the biggest health improvements in women, minorities and low-income residents.

Health Care Reform is cost-effective:

Massachusetts health care reform has proven to be cost effective. An independent analysis by the Massachusetts Taxpayers Foundation estimated the law was responsible for about a one percent increase in net spending. Spending on the uncompensated care pool is down since the law passed. Growth in health insurance premiums throughout the market has slowed from an average of about 16 percent two years ago to less than two percent today.

04.11.12 Health Care Reform Anniversary

Governor Deval L. Patrick

Health Care Reform Anniversary

Faneuil Hall

Wednesday, April 11, 2012

Thank you all for coming. We have had a robust conversation about our successes to date in health care reform and how to sustain that success going forward.

You see the people here today. We come from business and government, from community groups and non-profits, from hospitals, community health centers, insurance companies, unions and advocacy groups. There is a great diversity of opinion in this room on almost everything.

But we are joined today – just as we were in 2006 and have remained since – because we all believe that health is a public good and that everyone deserves access to affordable, high-quality health care.

Thanks to the law signed in this building in 2006, we are closer to that ideal in Massachusetts than anywhere else in America. That is a good thing and we are proud of it.

By any measure, health care reform has been a success in Massachusetts. We have virtually universal coverage. Businesses have embraced the law. Preventative care is up, emergency room visits are down and people are healthier. And all of this with a 1 percent impact on the state budget and a nation-leading drop in the growth of premiums.

Most important of all, I've met the people whose lives have been saved or improved because of the access to care our reforms made possible. If policy matters most where it touches people, this policy matters a whole lot. Health care reform is working in Massachusetts.

This is about making a real difference in people's lives. This is about confronting a challenging problem and finding a real solution.

There is more work to do, no doubt. The cost of health care is a national challenge – and while we've made much progress there, we must do more. We must also be open to new technologies and payment methods to continually improve the quality of care. We are tackling these challenges next, with help from the tools of the Affordable Care Act and the people in this room. But today is about celebrating a great success. I am proud to be here and I'd like to introduce someone who was instrumental in making this happen, my friend, Jack Connors.

05.15.12 Greater Boston Chamber of Commerce—CC11

Governor Deval L. Patrick

Greater Boston Chamber of Commerce - As Delivered

Seaport Hotel - One Seaport Lane

Tuesday, May 15, 2012

Thank you very, very much, Bob, for your leadership and for the warm introduction. Paul, to you and all of the team here at the Greater Boston Chamber, and ladies and gentlemen, thank you all for coming out this morning. I want to especially acknowledge the members of my cabinet and my team who are here. Two of whom, I should just say, are among the chamber's ten outstanding young leaders. Kate Cook is here, being outstanding in the back, and Secretary Richard Davey is here as well. Thank you both. Very proud of you guys. I think our whole team would qualify on a list of outstanding leaders, not all of them on a list of young outstanding leaders, but, so be it.

As I think about the last couple of times we have been together at a Chamber breakfast, I realize I seem to come here and talk about health care. It makes some sense to do so in this company. Health care reform is one of the most important public-private accomplishments in the history of the Commonwealth. Many of you helped create it, and now help sustain it, and all of you deal with the challenge of rising premium costs. So you will understand if I return to the subject again this morning, especially given the developments of the past two weeks – and the past two years, for that matter.

We have a lot to be proud of when it comes to health care reform. We started with the belief that health is a public good and that everyone, everyone deserves access to affordable, quality care. That, for us, is a basic value, an expression of the kind of Commonwealth we want to live in, meaningful enough to motivate a broad coalition of legislators, and business leaders and labor leaders and patient advocates and policy makers in 2006 to reform the way we access health care.

And that reform is working. I just want to review some of the facts:

Almost everyone has access to health insurance. 98.2 percent of our total population is insured. 99.8 percent of children. No other state in America can touch that. You should be proud of that. While the national trend between 2006 to 2010 was going in the other direction, we increased the number of people insured in Massachusetts by more than 400,000 people.

Over 90 percent of our residents have a primary care physician, and four out of five have seen their

physician in the last 12 months.

More businesses offer health insurance to their employees today than before our reforms took effect, some 78 percent of Massachusetts businesses as compared to the national average of about 69 percent.

We are healthier, too. Preventive care is up: more people are receiving cancer screenings, more women are getting pre-natal care, visits to emergency rooms have decreased. 150,000 people stopped smoking once we expanded coverage for smoking cessation programs. A recent study by the National Bureau of Economic Research documents improvements in physical health, mental health, functional limitations, and joint disorders as a result of increased access to care. Women, minorities and low-income people have experienced the biggest health improvements.

Expanding coverage added just over one percent to net state spending – meaning that the expansion of coverage has not busted the budget.

And it's popular. Nearly two-thirds of Massachusetts residents support our reforms.

Health care reform is working in Massachusetts. It's especially important to acknowledge that truth since we see a lot of misrepresentation about this on the national political scene these days.

Our approach favors the purchase of insurance through the private market with public subsidies for those unable to pay. But health care and health insurance remain costly, not just in overall terms but when compared to everything else. Nationally, spending on health care increased 6.5 percent annually in the last ten years, while real incomes fell in the period by more than seven percent over that period. In Massachusetts, per capita health care spending has grown almost three times as fast as median family income in that time. This problem predates and is unrelated to health care reform. And it is unsustainable.

It's also unnecessary. Experts estimate that as much as 20 to 30 percent of current health care spending is wasted on overtreatment, avoidable hospital readmissions, preventable errors, unnecessary administration and things like that. All in, spending on health care is \$67 billion every year here in Massachusetts; so, that means you and I spend somewhere between \$13 and \$20 billion that we do not have to every single year. The unhealthy choices we make in our own lives also add to cost. And we all pay for it -- with or without a system of universal access. A lot of good work has gone into identifying and addressing these issues over the years. There is clearly more to do.

Instead of just complaining about rapid premium or cost growth, we have started to do something about it. When I say "we," I mean we, all of us: government, insurers, the medical industry, business groups, doctors and other health professionals, patient advocates. Everyone has acknowledged the problem and

everyone has worked on a part of the solution. And it's working. We are certainly bending the cost curve here in the Commonwealth.

Small businesses and working families have saved over \$600 hundred million since 2010 as average increases in health insurance rates have dropped from about 16 percent on average to less than one percent today.

Providers and insurers have reopened contracts and reduced preset increases, cutting millions out of future cost growth.

The Coordinated Care Model at Tufts Health Plan and the Alternative Quality Contract at Blue Cross Blue Shield are new ways to encourage better and more cost effective care.

The intensive care-management program at Mass General that I highlighted here just last year has since been adopted by the Brigham, Faulkner Hospital and North Shore Medical Center.

Fallon and Steward came together with the Retailer's Association and created a small business purchasing cooperative to offer significantly lower cost options for small retailers across the state.

Sturdy Hospital has had all of its primary care practices certified as Level 3 Patient Centered Medical Homes. SouthCoast Health Systems has used lean management techniques to find \$20 million in operational efficiencies and waste reduction.

Of the 32 newly created so-called Pioneer ACO's in the United States – organizations pioneering cost-saving partnerships with the federal government – five of them are here in the Commonwealth. One other state has more, and that's six in California.

State government is modeling the move toward more efficient models of care. As a result, the Connector has reduced premiums in the past two years by 10 percent. Nearly a third of employees insured through the Group Insurance Commission opted for limited network plans, saving themselves and the state more than \$30 million. Through these and other moves we shaved nearly a billion dollars off of the projected growth in health care costs in the current fiscal year. We are projected to shave another \$700 million off next year's growth as well.

The point is that, in the past two years, a lot of very promising activity has been undertaken here in the Commonwealth. And that's very good news. The recession has played a part in some of it, there's no doubt about it. But most health care economists agree there is more to it than that. That's especially clear when you consider that most of the results I just cited measure from 2010 to the present. In other words, the results occurred not during the depth of the recession but during the time when we got serious about confronting this challenge together.

Since that time, as I am often assured, the market has been moving in the right direction. And that's true. But the market didn't start moving all on its own. Government took action. We started pushing back against insurance increases, yes, but we also worked hand-in-hand with insurers and businesses to create limited network plans and small business co-ops, and are working today with hospitals, community health centers, doctors and other providers to pilot patient-centered medical homes.

The fact is, we have seen progress because both the private sector and government are working at it. And that is critical to keep in mind.

I am a capitalist. I think I have told you that before, but let me remind you. I respect the opportunity of people to create jobs and wealth, and have spent most of my working life in the private sector. I can't imagine a world without the freedom of people to develop and test competing ideas. But I am not a market-fundamentalist. I don't believe the market always gets everything just right, at just the right time. And the health care industry is most certainly not a perfectly rational market. Consumers don't always know what they are buying, how much it actually costs, or what the intrinsic value or outcome will be. People just don't choose a surgeon the way they do soap. For the sellers in the market there are huge barriers to entry. Most of the major players are not-for-profits. And the product sold or resource allocated by this market is often not optional.

So, the question is not whether there is a role for government. The question is what is the proper role for government. Just as the public and private sectors came together to solve the challenge of health care access, we are going to find a solution together to containing health care costs. We have already shown we can. Now, we have to figure out how to sustain that progress for the next decade or more.

There's more than one way to "skin a cat," as they say, especially when it comes to public policy. I made a proposal last year. The House and Senate are preparing to debate their own approaches now. While I don't agree with everything in either bill, there is a lot to like in each of them. The Speaker and Chairman Walsh, the Senate President and Chairman Moore, and everyone else who played a role in crafting these bills, deserve to be recognized for the good and serious work they have done.

As they and we work together over the next few weeks, there are a few core principles that I expect to see reflected in a final bill. They are (1) a cost containment goal, (2) flexibility in how to achieve it, (3) accountability for failing to do so, and (4) sensible tort reform.

First, the goal. The House and the Senate bills set goals for total health care expenditures as a proportion of Gross State Product. Tying the goal to the overall growth of the state's economy makes sense to me, since all we're trying to do is make sure health care costs don't outgrow everything else. In business, they shouldn't crowd out the ability to add more people to the payroll or to invest in innovation. In government, that means that they shouldn't crowd out investments in education and public safety and

job creation.

Candidly, I'm not that interested in total health care expenditures as an end in itself. I care about what people are actually experiencing. How much of their take home pay is going to health care? How much of a small business's budget is devoted to higher premiums? How do premium increases effect a company's decision to hire somebody or a family's ability to meet their other household needs? Most of the experts involved seem to believe that "total health care expenditures" will serve as a reasonable proxy for achieving the results we want. If basing the goal on that helps make a difference in reducing premium, and other health care costs, then I will support it. If there is a better measure, let's hear it.

What goal is reasonable is a fair subject for debate. When you hear that per capita spending has grown three times as fast as median income and that 20 percent or more of current medical spending may be unnecessary. . . well, that suggests to me that an industry as dynamic and innovative as our health care industry should be able to find a way both to reduce costs and pass those savings on to you. In other words, an ambitious goal ought to be realistic. The Senate proposed limiting growth to growth in GSP. The House proposed GSP minus a half of a percent. The Associated Industries of Massachusetts and at least one Republican leader have pushed for keeping growth 2 percentage points below the growth in GSP.

I look forward to working with the Legislature and all of you on a final goal. I think the industry can do better than GSP. I certainly could not imagine accepting GSP plus anything, for three reasons: (1) the industry has already shown us they can do better than that; (2) they have shown they can do so without jeopardizing the quality of care; and (3) any goal that foresees increases above GSP just postpones the day when health care is all we can afford to buy.

Whatever the goal, the health care industry will need flexibility and may need new tools in order to meet it. The consensus among health practitioners is that transitioning to integrated care will improve the quality of care and also be more cost effective. The industry is moving in that direction and we have and will continue to help support these moves. But mandating global payments or any other specific means is unnecessarily limiting. The bill I filed required all state agencies to move away from fee-for-service (basically as a way to assure we are using the state's buying power to move the market and modeling the change that works), but we left room for fee-for-service in the private market so long as costs were controlled. I do think it is important to allow that kind of flexibility. It's lowering premiums and maintaining quality we care about, not necessarily the details of every method of care delivery.

Thirdly, it is critical that the industry be accountable for reaching the goal. Government has a role in that, obviously working with health care experts and allowing sufficient latitude and time to get there. I'm not interested in government intervention for the sake of government intervention. I am interested in completing the vision of health care in Massachusetts: accessible, high quality and affordable care for

everyone. That is the public's interest, and government's job is to serve the public interest.

The legislation I proposed last year had a relatively simple mechanism for government's role in the market. Currently, if insurance rate increases are unjustifiably high, the Commissioner can disapprove them. My bill would have given the Commissioner of Insurance explicit factors to consider in determining whether rate increases were justified. What is appealing about that is it focuses on the impact most of us care most about: how much premium costs are going up for individuals, families and businesses. My bill also gave the health care industry more tools and infrastructure to help facilitate a move toward higher-quality, lower-cost integrated care. In short, we proposed to use a familiar, existing framework and let the market figure out the means so long as, at the end of the day, insurance rates come down and quality goes up.

Both the House and the Senate bills propose new state agencies to do this. The bill I filed last February created no such agency and I have yet to be convinced that we need one. I am all for making things more efficient. There are a whole host of different touch points for the health care industry and state government today. I would support consolidating what we have under one umbrella, and sharpening the mission. That much makes sense to me. I am not convinced, however, that consolidation requires a new quasi-independent agency. Creating new quasi-independent agencies with less accountability to the public is a bad Massachusetts habit. If there is a new agency, it is vitally important that it be as accountable to the public as other branches of government or other successful quasies, like the Health Care Connector.

The fourth principle for the final bill is sensible tort reform. I don't think I need to say much about this because I think everyone is in agreement that we need it in this bill. We proposed a mechanism in our bill last year and the House and Senate have each proposed similar language.

So that's what I am looking for: a realistic goal, assured flexibility in how best to achieve it, a means to hold the industry accountable for meeting it, and a mechanism to reform medical malpractice. We can accomplish that within the framework of the various proposals pending before the Legislature today, and without, as one friend likes to put it, "killing the golden goose." Let me say a bit more about that.

The health care industry is important to Massachusetts, to me. It is a source of jobs and economic development, a source of healing and miracles, and a source of enormous civic pride for all of us. It stretches across all sorts of different disciplines and all corners of the state. No one wants to cause undue harm to the industry. The goal of the initiative to contain costs is to help bring balance and efficiency so that we can improve our economic competitiveness for everyone, not harm it. I have no doubt that the solutions to these challenges will come largely from the innovative, creative and caring women and men who work in the industry. I am proud of the strong partnership we have built and I am certain we will reach a good legislative conclusion together in the next few weeks. And I have no doubt

that the future of the health care business in Massachusetts is bright.

We have challenged each other to make a big change. That's what we do in the Commonwealth of Massachusetts. I know we can accomplish this. My confidence comes from the undeniable fact that, working together with many of you in this room, we have addressed problem after tough problem that had been talked about and yet left unresolved for decades.

From shutting down the Turnpike Authority, collapsing six different state agencies into one and saving a quarter billion dollars in transportation; to lifting the charter school cap and raising teacher and student performance; to eliminating the abuses and saving \$5 billion in the public pension system; to strengthening the municipal health care system and the ethics laws; to fixing the criminal records system so that a minor record doesn't serve as a life sentence; to putting civilian flaggers at construction sites, we have imagined a better Commonwealth, and then together we have reached for it. Time after time we have moved beyond stale and tired slogans, false choices and political expediency to meet our responsibility to leave the Commonwealth better for those who come behind us. We have more work to do but let's recognize how far we have come – and take some confidence from the fact that, as it turns out, our biggest challenges are not beyond our capacity to care about and to solve.

The point is this: we can solve problems when we hope – yes, hope – for the best and then work for it.

That's what I love about this job. That's why I ran for a second term and why I'm not going anywhere. That's why I'll be back in front of you next year and the year after that, with an equally ambitious agenda, pushing hard for more progress until I take my farewell walk down the front steps of the State House at the end of my term.

I am thankful to my Cabinet and staff, and to everyone here who has been a part of that work. And I ask you to keep working together and with us for a better future for our neighbors and our nation.

Thank you very much for having me.

05.15.12 Greater Boston Chamber of Commerce

Governor Deval L. Patrick

Greater Boston Chamber of Commerce - As Delivered

Seaport Hotel - One Seaport Lane

Tuesday, May 15, 2012

Thank you very, very much, Bob, for your leadership and for the warm introduction. Paul, to you and all of the team here at the Greater Boston Chamber, and ladies and gentlemen, thank you all for coming out this morning. I want to especially acknowledge the members of my cabinet and my team who are here. Two of whom, I should just say, are among the chamber's ten outstanding young leaders. Kate Cook is here, being outstanding in the back, and Secretary Richard Davey is here as well. Thank you both. Very proud of you guys. I think our whole team would qualify on a list of outstanding leaders, not all of them on a list of young outstanding leaders, but, so be it.

As I think about the last couple of times we have been together at a Chamber breakfast, I realize I seem to come here and talk about health care. It makes some sense to do so in this company. Health care reform is one of the most important public-private accomplishments in the history of the Commonwealth. Many of you helped create it, and now help sustain it, and all of you deal with the challenge of rising premium costs. So you will understand if I return to the subject again this morning, especially given the developments of the past two weeks – and the past two years, for that matter.

We have a lot to be proud of when it comes to health care reform. We started with the belief that health is a public good and that everyone, everyone deserves access to affordable, quality care. That, for us, is a basic value, an expression of the kind of Commonwealth we want to live in, meaningful enough to motivate a broad coalition of legislators, and business leaders and labor leaders and patient advocates and policy makers in 2006 to reform the way we access health care.

And that reform is working. I just want to review some of the facts:

Almost everyone has access to health insurance. 98.2 percent of our total population is insured. 99.8 percent of children. No other state in America can touch that. You should be proud of that. While the national trend between 2006 to 2010 was going in the other direction, we increased the number of people insured in Massachusetts by more than 400,000 people.

Over 90 percent of our residents have a primary care physician, and four out of five have seen their

physician in the last 12 months.

More businesses offer health insurance to their employees today than before our reforms took effect, some 78 percent of Massachusetts businesses as compared to the national average of about 69 percent.

We are healthier, too. Preventive care is up: more people are receiving cancer screenings, more women are getting pre-natal care, visits to emergency rooms have decreased. 150,000 people stopped smoking once we expanded coverage for smoking cessation programs. A recent study by the National Bureau of Economic Research documents improvements in physical health, mental health, functional limitations, and joint disorders as a result of increased access to care. Women, minorities and low-income people have experienced the biggest health improvements.

Expanding coverage added just over one percent to net state spending – meaning that the expansion of coverage has not busted the budget.

And it's popular. Nearly two-thirds of Massachusetts residents support our reforms.

Health care reform is working in Massachusetts. It's especially important to acknowledge that truth since we see a lot of misrepresentation about this on the national political scene these days.

Our approach favors the purchase of insurance through the private market with public subsidies for those unable to pay. But health care and health insurance remain costly, not just in overall terms but when compared to everything else. Nationally, spending on health care increased 6.5 percent annually in the last ten years, while real incomes fell in the period by more than seven percent over that period. In Massachusetts, per capita health care spending has grown almost three times as fast as median family income in that time. This problem predates and is unrelated to health care reform. And it is unsustainable.

It's also unnecessary. Experts estimate that as much as 20 to 30 percent of current health care spending is wasted on overtreatment, avoidable hospital readmissions, preventable errors, unnecessary administration and things like that. All in, spending on health care is \$67 billion every year here in Massachusetts; so, that means you and I spend somewhere between \$13 and \$20 billion that we do not have to every single year. The unhealthy choices we make in our own lives also add to cost. And we all pay for it -- with or without a system of universal access. A lot of good work has gone into identifying and addressing these issues over the years. There is clearly more to do.

Instead of just complaining about rapid premium or cost growth, we have started to do something about it. When I say "we," I mean we, all of us: government, insurers, the medical industry, business groups, doctors and other health professionals, patient advocates. Everyone has acknowledged the problem and

everyone has worked on a part of the solution. And it's working. We are certainly bending the cost curve here in the Commonwealth.

Small businesses and working families have saved over \$600 hundred million since 2010 as average increases in health insurance rates have dropped from about 16 percent on average to less than one percent today.

Providers and insurers have reopened contracts and reduced preset increases, cutting millions out of future cost growth.

The Coordinated Care Model at Tufts Health Plan and the Alternative Quality Contract at Blue Cross Blue Shield are new ways to encourage better and more cost effective care.

The intensive care-management program at Mass General that I highlighted here just last year has since been adopted by the Brigham, Faulkner Hospital and North Shore Medical Center.

Fallon and Steward came together with the Retailer's Association and created a small business purchasing cooperative to offer significantly lower cost options for small retailers across the state.

Sturdy Hospital has had all of its primary care practices certified as Level 3 Patient Centered Medical Homes. SouthCoast Health Systems has used lean management techniques to find \$20 million in operational efficiencies and waste reduction.

Of the 32 newly created so-called Pioneer ACO's in the United States – organizations pioneering cost-saving partnerships with the federal government – five of them are here in the Commonwealth. One other state has more, and that's six in California.

State government is modeling the move toward more efficient models of care. As a result, the Connector has reduced premiums in the past two years by 10 percent. Nearly a third of employees insured through the Group Insurance Commission opted for limited network plans, saving themselves and the state more than \$30 million. Through these and other moves we shaved nearly a billion dollars off of the projected growth in health care costs in the current fiscal year. We are projected to shave another \$700 million off next year's growth as well.

The point is that, in the past two years, a lot of very promising activity has been undertaken here in the Commonwealth. And that's very good news. The recession has played a part in some of it, there's no doubt about it. But most health care economists agree there is more to it than that. That's especially clear when you consider that most of the results I just cited measure from 2010 to the present. In other words, the results occurred not during the depth of the recession but during the time when we got serious about confronting this challenge together.

Since that time, as I am often assured, the market has been moving in the right direction. And that's true. But the market didn't start moving all on its own. Government took action. We started pushing back against insurance increases, yes, but we also worked hand-in-hand with insurers and businesses to create limited network plans and small business co-ops, and are working today with hospitals, community health centers, doctors and other providers to pilot patient-centered medical homes.

The fact is, we have seen progress because both the private sector and government are working at it. And that is critical to keep in mind.

I am a capitalist. I think I have told you that before, but let me remind you. I respect the opportunity of people to create jobs and wealth, and have spent most of my working life in the private sector. I can't imagine a world without the freedom of people to develop and test competing ideas. But I am not a market-fundamentalist. I don't believe the market always gets everything just right, at just the right time. And the health care industry is most certainly not a perfectly rational market. Consumers don't always know what they are buying, how much it actually costs, or what the intrinsic value or outcome will be. People just don't choose a surgeon the way they do soap. For the sellers in the market there are huge barriers to entry. Most of the major players are not-for-profits. And the product sold or resource allocated by this market is often not optional.

So, the question is not whether there is a role for government. The question is what is the proper role for government. Just as the public and private sectors came together to solve the challenge of health care access, we are going to find a solution together to containing health care costs. We have already shown we can. Now, we have to figure out how to sustain that progress for the next decade or more.

There's more than one way to "skin a cat," as they say, especially when it comes to public policy. I made a proposal last year. The House and Senate are preparing to debate their own approaches now. While I don't agree with everything in either bill, there is a lot to like in each of them. The Speaker and Chairman Walsh, the Senate President and Chairman Moore, and everyone else who played a role in crafting these bills, deserve to be recognized for the good and serious work they have done.

As they and we work together over the next few weeks, there are a few core principles that I expect to see reflected in a final bill. They are (1) a cost containment goal, (2) flexibility in how to achieve it, (3) accountability for failing to do so, and (4) sensible tort reform.

First, the goal. The House and the Senate bills set goals for total health care expenditures as a proportion of Gross State Product. Tying the goal to the overall growth of the state's economy makes sense to me, since all we're trying to do is make sure health care costs don't outgrow everything else. In business, they shouldn't crowd out the ability to add more people to the payroll or to invest in innovation. In government, that means that they shouldn't crowd out investments in education and public safety and

job creation.

Candidly, I'm not that interested in total health care expenditures as an end in itself. I care about what people are actually experiencing. How much of their take home pay is going to health care? How much of a small business's budget is devoted to higher premiums? How do premium increases effect a company's decision to hire somebody or a family's ability to meet their other household needs? Most of the experts involved seem to believe that "total health care expenditures" will serve as a reasonable proxy for achieving the results we want. If basing the goal on that helps make a difference in reducing premium, and other health care costs, then I will support it. If there is a better measure, let's hear it.

What goal is reasonable is a fair subject for debate. When you hear that per capita spending has grown three times as fast as median income and that 20 percent or more of current medical spending may be unnecessary. . . well, that suggests to me that an industry as dynamic and innovative as our health care industry should be able to find a way both to reduce costs and pass those savings on to you. In other words, an ambitious goal ought to be realistic. The Senate proposed limiting growth to growth in GSP. The House proposed GSP minus a half of a percent. The Associated Industries of Massachusetts and at least one Republican leader have pushed for keeping growth 2 percentage points below the growth in GSP.

I look forward to working with the Legislature and all of you on a final goal. I think the industry can do better than GSP. I certainly could not imagine accepting GSP plus anything, for three reasons: (1) the industry has already shown us they can do better than that; (2) they have shown they can do so without jeopardizing the quality of care; and (3) any goal that foresees increases above GSP just postpones the day when health care is all we can afford to buy.

Whatever the goal, the health care industry will need flexibility and may need new tools in order to meet it. The consensus among health practitioners is that transitioning to integrated care will improve the quality of care and also be more cost effective. The industry is moving in that direction and we have and will continue to help support these moves. But mandating global payments or any other specific means is unnecessarily limiting. The bill I filed required all state agencies to move away from fee-for-service (basically as a way to assure we are using the state's buying power to move the market and modeling the change that works), but we left room for fee-for-service in the private market so long as costs were controlled. I do think it is important to allow that kind of flexibility. It's lowering premiums and maintaining quality we care about, not necessarily the details of every method of care delivery.

Thirdly, it is critical that the industry be accountable for reaching the goal. Government has a role in that, obviously working with health care experts and allowing sufficient latitude and time to get there. I'm not interested in government intervention for the sake of government intervention. I am interested in completing the vision of health care in Massachusetts: accessible, high quality and affordable care for

everyone. That is the public's interest, and government's job is to serve the public interest.

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Both the House and the Senate bills propose new state agencies to do this. The bill I filed last February created no such agency and I have yet to be convinced that we need one. I am all for making things more efficient. There are a whole host of different touch points for the health care industry and state government today. I would support consolidating what we have under one umbrella, and sharpening the mission. That much makes sense to me. I am not convinced, however, that consolidation requires a new quasi-independent agency. Creating new quasi-independent agencies with less accountability to the public is a bad Massachusetts habit. If there is a new agency, it is vitally important that it be as accountable to the public as other branches of government or other successful quasies, like the Health Care Connector.

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The point is this: we can solve problems when we hope – yes, hope – for the best and then work for it.

That's what I love about this job. That's why I ran for a second term and why I'm not going anywhere. That's why I'll be back in front of you next year and the year after that, with an equally ambitious agenda, pushing hard for more progress until I take my farewell walk down the front steps of the State House at the end of my term.

I am thankful to my Cabinet and staff, and to everyone here who has been a part of that work. And I ask you to keep working together and with us for a better future for our neighbors and our nation.

Thank you very much for having me.

06.28.12 Remarks on the Affordable Care Act Decision

Governor Deval L. Patrick
Affordable Care Act Remarks - As Delivered
Room 157, State House
Thursday, June 28, 2012

Today's decision is a victory for the American people, a victory for the proper role of government and a victory for our system of constitutional checks and balances.

It's a victory for the American people because it sustains a law that gives families security, holds insurers accountable and helps Americans get the care they need.

- Thirty million Americans without health care will now have it.
- Over 5 million people on Medicare save more than \$3.7 billion on their medications.
- Over 3 million young adults get coverage through their parents' health plans.
- People – 130 million by some estimates – won't be locked out of the insurance market because of a preexisting health condition or go bankrupt because of a chronic illness.
- Health care costs for individuals, families, small business and local governments go down.

That's all good news for the American people.

This is also a victory for the role of government in helping people help themselves. High health care costs and inadequate access to care are significant national economic and social challenges in this country. Congress acted in 2009 for the same reasons our legislature and Governor Romney acted in 2006: because health is a public good and everyone deserves access to it, and because reforming the system brings costs down and improves care for everyone. Today the Court upheld that power.

And finally this is a victory for our system of constitutional government. Federal judges are often vetted these days for their political views. The Court's majority made an important point today by reaffirming that it is not the role of the Court to opine on whether they like what Congress has done, but rather whether Congress has the constitutional power to do what it has done. By affirming that principle, the system worked.

We have already shown here in Massachusetts how economically important and morally right health care reform can be. We live in a state right now where 99.8% of children have access to quality care – why should it be any other way?

Since Governor Romney signed health care reform here in Massachusetts, more private companies are offering health care to their employees, fewer people are getting primary care in an expensive emergency room setting and hundreds of thousands of our friends and neighbors have access to care they didn't have before. We're seeing improvements in health, especially among women and poor people. It has not busted the state budget. Massachusetts health care reform has become a competitive advantage, attracting young people and entrepreneurs who know they can come here and take a chance on a new company and still have access to the best care in the world. And premiums are stabilizing or are going down, not growing. In other words, each and every one of the list of horrors Governor Romney now says will happen in America because of Obamacare did not happen in Massachusetts because of Romneycare.

The Affordable Care Act gives Massachusetts tools to improve the quality of care and lower costs for everyone. One of the great outcomes of today's ruling is allowing that work to go forward. We are using the Affordable Care Act to improve health IT, enabling digital medical records that are easier to move through the system; we are using the Affordable Care Act to move to more integrated, higher quality, lower cost care; we are also using the Affordable Care Act today to streamline coverage for the working poor across Massachusetts.

Because of this law, and because of today's ruling, our work in Massachusetts and in this country will move forward.

Today's ruling I believe is an affirmation of basic American ideals. The Affordable Care Act is not ultimately about President Obama or Chief Justice Roberts or any other member of the Court or of the Congress. It's about Americans, all across this country, who are trying to make their way forward. It's about helping people help themselves. Because of this law, and because of today's ruling, this is a more perfect union.

GOVERNOR PATRICK SIGNS 'NEXT BIG STEP FORWARD' ON HEALTH CARE REFORM, MASSACHUSETTS POISED TO LEAD NATION ON COST CONTROL

At State House ceremony, Governor credits broad coalition for making landmark law possible; Cites better care at lower costs, savings of nearly \$200 billion over 15 years & increase in take home pay for workers, savings for families



Governor Patrick signs the health care reform bill in Nurses Hall at the State House. (Photo Credit: Eric Haynes / Governor's Office) View full size [photo](#).

BOSTON – Monday, August 6, 2012 – Governor Deval Patrick today launched the next phase of health care reform, signing legislation that builds on the Commonwealth's nation-leading access to care through landmark measures that will lower costs and make quality, affordable care a reality for all Massachusetts residents.

"Today, we take our next big step forward. Massachusetts has been a model to the nation for access to health care. Today we become the first to crack the code on cost. And we have come this far together," said Governor Patrick. "The law I have signed makes the link between better health and lower costs, that we need a real health care system in place of the sick care system we have today. What we're really doing is moving towards a focus on health outcomes, and a system to reward that. We are ushering in the end of fee-for-service care in Massachusetts in favor of better care at lower cost."[\(Read the Governor's full remarks here.\)](#)

During a ceremony at the State House, Governor Patrick joined medical, business and labor leaders, caregivers and patient advocates, and legislators and policy makers, crediting the broad coalition for delivering on the promise of the Commonwealth's 2006 health care reform law that expanded coverage to over 98% of residents, including 99.8% of children. The Governor noted that the first phase of health care reform, which the Patrick-Murray Administration successfully implemented, has led to more residents having a primary care physician, more businesses offering coverage and an increase in preventive care.

"Our Administration has worked to increase access to quality health care for Massachusetts residents, and we have built a strong partnership with providers, consumers, and other stakeholders to address the affordability of care within the system," said Lieutenant Governor Timothy Murray. "We thank the state legislature and all who have been dedicated to working with us as we prepare for the next phase of health care reform, reducing the rising cost within our health care system and easing the burden on Massachusetts families, businesses, and residents."

"By striking just the right balance, this bill will help slow the spiraling health care costs faced by businesses and individual consumers while also allowing the marketplace to grow and function," said Attorney General Martha Coakley. "We are proud to be part of this first-in-the-nation effort and are prepared to ensure the law's fair and effective implementation. I thank Governor Patrick for his leadership on this issue and applaud the Legislature, particularly the work of Chairmen Walsh and Moore, as well as Senate President Murray and Speaker DeLeo, for this landmark health care bill."

"Since we passed health care reform and became a model for the country, we have been working toward this moment," said Senate President Therese Murray. "Health care costs are a burden on businesses and many individuals and families, despite recent successes in bringing down premiums in some cases. With this bill, we are once again showing the nation that shared concerns and a willingness to work together can provide answers. This bill will reel in health care costs, removing a major roadblock to long-term job growth and allowing essential investments in education and transportation without harming our number one industry or patient care."

"I am proud of the health care cost containment legislation we worked together to craft. Our collective focus is on cutting health care costs for businesses and families," said House Speaker Robert A. DeLeo. "I am confident this bill will lower our health care costs in a way that maintains our historic strengths, among them high quality patient care and medical innovation. As we have done previously with municipal health care reform and the sound management of our state budget and other pieces of legislation, we are putting Massachusetts at the top of states for people to live and work."

The Governor also noted ways in which government and the private sector have worked together to make progress on controlling costs in advance of this bill becoming law. Small businesses and working families saved over \$600 million in the last two years as the Administration slowed the average annual increase in health insurance premiums from over 16% to less than 1%. Over the same period, the Health Connector reduced rates by 10% without sacrificing scale or quality of coverage. Providers and insurers reopened contracts and reduced preset increases to cut millions out of future cost growth. Thanks to legislation passed by the Legislature in 2010, small businesses can now band together into health insurance cooperatives to improve their buying power and limited network plans are available at up to 12% less than ordinary rates.

The legislation the Governor signed today makes this progress sustainable, advances the market innovation already on full display and strengthens the state's world-renowned health care sector so that patients receive better care at lower costs and businesses and working families benefit from long-term savings.

The new law will:

Achieve Billions in Savings:

- Sets a first-in-the-nation target for controlling the growth of health care costs. The law holds the annual increase in total health care spending to the rate of growth of the state's Gross State Product (GSP) for the first five years, through 2017, and then even lower for the next five years, to half a percentage point below the economy's growth rate, and then back to GSP.
- Results in nearly \$200 billion in health care cost savings over the next 15 years, which will lead to up to \$10,000 in additional take-home pay, per worker, over 15 years.
- The average family will see an estimated savings of \$40,000 on their health care premiums over 15 years.

Move to Alternative Payments:

- To control costs and improve quality of care, the law requires government agencies like MassHealth, the GIC and the Connector to use global and other alternative payments to achieve savings for taxpayers.
- Encourages alternative delivery systems across health care fields to deliver additional savings for patients, business owners and working families.

Increase Transparency:

- The law also gives consumers better information about the price of procedures and health care services by requiring health insurers to provide a toll-free number and website that enables consumers to request and obtain price information.

Address Market Power:

- To monitor and address the market power and price disparities that can lead to higher costs, the law allows a Health Policy Commission to conduct a cost and market impact review of any provider organization to ensure that they can justify price variations. The law identifies triggers for when a provider or provider organization will be referred to the attorney general for investigation. An independent Center for Health Information and Analysis will conduct data collection and reporting functions.

Promote Wellness:

- The law creates a Wellness Fund of \$60 million administered by the Massachusetts Department of Public Health for competitive grants to community-based organizations, health care providers and regional planning organizations.

Enact Malpractice Reform:

- The law includes malpractice provisions proposed by Governor Patrick, requiring a “cooling-off” period before a party may initiate a suit, while making providers’ apologies inadmissible as evidence. Many studies show that an apology can prevent a lawsuit but due to the threat of litigation, providers have oftentimes remained silent.

Support Health Information Technology

- Massachusetts is already a national leader in adopting electronic health records and health IT efforts. The law complements these efforts, by advancing several health information technology programs, including the Executive Office of Health and Human Services’ work with the Obama Administration to build and operate the statewide health information exchange.

Over 90% of Massachusetts residents have a primary care physician, and four out of five have seen their doctor in the last 12 months. 78% of Massachusetts businesses offer health insurance to their employees today, compared to the national average of about 69%. More people are receiving cancer screenings, more women are getting early prenatal care and visits to emergency rooms have decreased for non-emergencies.

SUPPORTIVE QUOTES

“The passage of today’s bill is all about seeing our health care system through the eyes of the patient,” said Representative Steven M. Walsh, House Chair of the Joint Committee on Health Care Financing.

“We have the highest quality medical system in the nation and the highest percentage of health care coverage, yet it is a struggle for families to afford their health insurance premiums. This legislation focuses on increasing efficiency and cutting costs within our system, while enhancing the quality of care that our patients receive and empowering them to make the best personal health decisions.”

“Today, we take another big step forward towards achieving affordable health care for all of our residents,” said Secretary of Health and Human Services Dr. JudyAnn Bigby. “We are moving towards a health care system that is more focused on better care and better health at lower cost. I am proud of Governor Patrick for signing this historic legislation.”

"This groundbreaking legislation takes on the biggest threat to fiscal sustainability for government, businesses and families - growth in health care costs," said Secretary of Administration and Finance Jay Gonzalez. "We're proud of the many successes we have had containing health care costs and today's announcement brings us one step closer to a permanent solution to that challenge."

"Making Massachusetts more affordable for businesses is a priority in the Patrick-Murray Administration's long-term economic plan, and this law signed by Governor Patrick is a significant step forward on this important issue," said Greg Bialecki, Secretary of Housing and Economic Development. "Small businesses are the driving force of our economic recovery, and business owners can be assured that we are doing everything we can to put the brakes on escalating health care costs now and in the future."

08.06.12 Health Care Bill Signing

AS DELIVERED

Governor Deval L. Patrick

Health Care Cost Containment Bill Signing

Monday, August 6, 2012

Nurse's Hall, The State House

In this Commonwealth, we believe that health is a public good, an expression of the kind of community we want to live in. Through the years, this central value has motivated a broad coalition of medical, business and labor leaders, caregivers and patient advocates, legislators and policy makers -- many of whom stand with us today -- to rethink and reshape our health care system in order to make quality, affordable care a reality for everyone.

By any measure, our progress has been impressive.

Today, over 98% of our residents are insured. 99.8% of children. No other state in America can touch that.

Over 90% of our residents have a primary care physician, and 4 out of 5 have seen their doctor in the last 12 months.

More businesses offer health insurance to their employees today than before our reforms took effect -- some 78% of Massachusetts businesses as compared to the national average of about 69%.

We are healthier, too. Preventive care is up: more people are receiving cancer screenings, more women are getting pre-natal care, and non-emergency visits to emergency rooms have decreased.

We've made progress containing cost in the last few years as well.

Average annual increases in health insurance rates have dropped from over 16% to less than 1% in the last two years, saving small businesses and working families over \$600 hundred million.

The Health Connector has reduced premiums by 10% in the past two years without sacrificing the scale or quality of coverage.

Providers and insurers have reopened contracts and reduced preset increases, cutting millions out of

future cost growth.

Small businesses can now band together into health insurance cooperatives to improve their buying power, and limited network and tiered plans are now available on the market at up to 12% less than ordinary rates; and those discounts improve with this new legislation.

Because of a robust collaboration between government and the private sector, there is a tremendous level of innovation in the Massachusetts market today, driving toward lower costs. And it's being noticed nationally: of the 32 newly-created organizations in the United States pioneering cost-saving partnerships under the Affordable Care Act, 5 of them are here in Massachusetts. Again, no other state quite like us.

Today, we take our next big step forward. And like the ones before this one, we take it together. The bill I am about to sign makes the link many have long recognized between better health and lower costs, that we need a real health care system in place of the sick care system that we have today. What we're really doing is moving towards a focus on health outcomes, and a system to reward that. We are ushering in the end of the fee-for-service care in Massachusetts in favor of better care at lower cost.

Through a series of tools ranging from enabling new care delivery models to capping the rate of overall cost growth to medical malpractice reform, this bill will result in nearly \$200 billion in health care cost savings over the next 15 years.

Massachusetts has been a model to the nation for access to health care. Today we become the first to crack the code on cost.

And importantly, we have come this far together.

I want to start by thanking Chairman Steve Walsh and Senator Dick Moore, and their staff, for the seriousness of purpose, thoughtfulness and flexibility that they each brought to this work. David Seltz of the Senate President's office deserves special mention for his consistent creativity.

From the start, Secretary Jay Gonzalez and Secretary JudyAnn Bigby showed exceptional leadership on this legislation and the thinking behind it. We would not have a bill this good without each of them. I want to also acknowledge Secretary Greg Bialecki and his team for their work on behalf of consumers and small businesses throughout this process.

The Attorney General stepped up and was critical to getting this bill over the finish line. Her enforcement role going forward will also be critical.

The Speaker and the Senate President pledged to get me a bill I could sign before the end of the Session. And while I did not think that would mean the very end of the Session, there was little nail biting

on my part because they brought us in and made my team a part of their team in working through the toughest issues. I thank you, Mr. Speaker, and the Senate President for your leadership and all the members for their votes.

And finally, I thank this coalition of leaders and advocates, of disparate and sometimes competing interests, for coming together and sticking together for the greater good. That's not only what it has taken and will take to lower health care costs. That's what it takes to make a real community – and it's one of which I am proud to be a part.

Congratulations, one and all.

10.18.12 Massachusetts Medical Society Leadership Forum Remarks

AS DELIVERED:

Governor Deval L. Patrick

Massachusetts Medical Society Leadership Forum Remarks

Waltham, MA

Thursday, October 18, 2012

Thank you, Judy, for that introduction. And thank you, Dick, for having me here today. I am grateful for the time and thoughtfulness you and Alice devoted to our recent health care legislation. Thanks to you both, it's a better bill.

In my six years in office, health care has been a central issue: how to expand access, how to improve quality, how to control cost. In one form or another, health care affects government, business and household budgets; people's ability to get a job; a child's readiness to learn. Given the significance of health care to every aspect of our lives, I think we have been right to pay attention to these issues. Six years in, let me give you my perspective on where we are and where we're going. I'll be brief so that we can spend most of our time in conversation.

Let's start with where we are. Six years after we passed the 2006 law, health care reform is working in Massachusetts. We have expanded coverage to 98.2 percent of our total population. 99.8 percent of children. No other state in the country can touch that. While the national trend was going in the other direction, we increased the number of insured in Massachusetts by more than 400,000 people. When you listen to all the tortuous debate about the wisdom of universal care around the country, step back and ask yourself: what can be wrong about 99.8% of children having health coverage? Why should it be any other way?

There was fear that our health care law would result in fewer employers offering coverage, but the opposite has happened. More businesses offer health insurance to their employees today than before our 2006 reforms took effect, some 78 percent of Massachusetts businesses as compared to the national average of about 69 percent.

So-called Minimum Creditable Coverage in Massachusetts includes not only primary care, but also cancer screenings, emergency care, mental health and substance abuse programs and lifesaving medications and treatments. This was the right approach both to help keep people healthy and to save

the system money in the long run. And we're healthier because of it.

Preventive care is up: more people are receiving cancer screenings, more women are getting pre-natal care and visits to emergency rooms have decreased. 150,000 people have stopped smoking because we expanded coverage for smoking cessation programs. A recent study by the National Bureau of Economic Research documents improvements in physical health, mental health, functional limitations, and joint disorders as a result of increased access to care in Massachusetts. Women, minorities and low-income people have experienced the biggest health improvements.

For example, among Hispanic males, a notably under-insured population in Massachusetts before health care reform, the detection of testicular cancer has more than doubled and the majority of cases are now detected at an early stage. And with wider access to screenings, we've seen a 36 percent decrease in cervical cancer in women.

By the way, the capacity shortage is real, but less profound than we expected. Over 90 percent of our residents have a primary care physician, and 4 out of 5 have seen their doctor in the last 12 months.

And I should add that expanding coverage to 98% of our residents added about 1% more of state spending to our budget.

Those are the stats. But even better are the stories. I remember meeting a young woman named Jaclyn Michalos, a cancer survivor who got the care she needed to save her life through the Commonwealth Connector. She had no affordable way before Massachusetts's health care reform – it saved her life.

A self-employed man named Ken Brynildsen ignored his gastrointestinal symptoms for 3 years because he could not afford to see a doctor or pay for possible treatments. Once insured, he was seen and treated for Stage III colon cancer and is cancer free today.

The expansion of access has been a policy success in Massachusetts, I believe, because we started with the belief that health is a public good and that everyone deserves access to affordable, quality care. For us, it's an expression of the kind of Commonwealth we want to live in. That understanding, that belief, was meaningful enough to compel a Republican Governor, a Democratic legislature and a Democratic United States Senator to work together with organized labor, business groups, medical professionals, and patient advocates to develop and pass a landmark health care reform law -- and then to stick together to refine it as we went along. So, in my view, it's a pretty good model for good politics, too.

I am also proud that what we have here in Massachusetts serves as the model for what the President and the Congress have done for the country. Over the next few years, the whole country will begin to see the benefits of what we pioneered here.

For all the success of health care reform in Massachusetts, there was and is still a separate challenge: the rising cost of health care, especially the rapid increases in premiums for families and small businesses. Having insurance premiums that rise sharply year after year, even during the Recession, is a national problem, not unique to us. Some of the conservative commentators want you to believe that this is happening because of our health care reform, but they are wrong. In Mississippi, a state with no commitment to universal care, premium rates increased faster in the last six years than they did here.

Nationally, spending on health care increased 6.5 percent annually in the last ten years, while real incomes fell by more than 7 percent over that period. Spending on health care makes up 18% of all spending in the United States -- one of the largest single sectors of our economy. In recent years, growth in health care costs has outstripped growth in GDP even as the share of Americans with health insurance has fallen. Across the Nation, just like across the Commonwealth, working families, small businesses and governments are being squeezed by cost increases that we could do little about. As spending on health care programs and emergency care grows, it weakens our ability to compete and slows job growth.

This problem predates and is unrelated to health care reform. And it is unsustainable.

This is especially true for small businesses. I meet many small business owners who are beginning to see their commercial activity pick up and are ready to start hiring again – until they get their annual health insurance hike. Double-digit increases sent businesses scrambling to find new carriers, with less coverage at the same price or the same coverage with higher deductibles, in an annual ring-around-the-rosy of shifting plans. I have yet to meet a business owner in Massachusetts, especially a small business owner, who didn't see health care costs as a significant impediment to adding jobs. And with small businesses making up 85 percent of the businesses in Massachusetts, if they don't start hiring, we don't get a recovery.

The growth in health care spending is also unnecessary. Experts estimate that as much as 20 to 30 percent of current health care spending is wasted on over-treatment, avoidable hospital re-admissions, preventable errors and unnecessary administration. All in, spending on health care is \$67 billion every year in Massachusetts; so, that means we spend somewhere between \$13 billion and \$20 billion annually that we need not be spending.

That's why we have been working hard to find new ways to lower health care spending without hurting the quality of care.

In April of 2010, I directed the Commissioner of Insurance to disapprove nearly all of the proposed rate increases put forward by private insurers. It was ham-fisted, I know, but it got the ball rolling. We simply couldn't accept another year of unexplained double-digit increases in premiums. That decision set in motion a series of negotiations and settlements that led to a \$106 million reduction in the base rates

carriers originally proposed.

Then, later that year, I signed a law creating limited network health plans to give consumers opportunities to get great care in neighborhood settings at lower cost. There are now new plans tailored for small businesses, an especially exposed part of our economy, that promise to be as much as 20 percent cheaper than current rates. We also worked to end administrative duplication by requiring common codes and forms from insurers and providers. And now hospitals and insurance carriers have reopened their contracts and cut rate increases, in some cases by more than half.

We've seen the savings already. Two years ago, average premium increases were over 16 percent. Today, they are less than 2 percent.

We worked hand-in-hand with insurers and businesses to create limited network plans and small business co-ops, and are working with hospitals, community health centers, doctors and other providers to pilot patient-centered medical homes.

I am a capitalist. I respect the opportunity of people to create jobs and wealth, and have spent most of my working life in the private sector. I can't imagine a world without the freedom of people to develop and test competing ideas. But I am not a market-fundamentalist. I don't believe the market always gets everything just right. And the health care industry is most certainly not a perfectly rational market. Consumers don't always know what they are buying, how much it actually costs, or what the intrinsic value or outcome will be. People just don't choose a surgeon the way they do soap. For the sellers in the market there are huge barriers to entry. Most of the major players are not-for-profits. And the product sold or resource allocated by this market is often not optional. The fact is, we made this progress because the private sector and government worked together. And that's critical to keep in mind.

With all that we had accomplished, we needed to find a way to sustain the savings we had created for the next decade or more.

I have heard, time and again, from doctors and patients, from economists and health care executives, that one of the main reasons for the high cost of health care is the way we deliver health care. Many of you and your colleagues have emphasized how a "fee-for-service" model creates financial incentives for the quantity of care a patient receives, not necessarily the quality. We pay for individual procedures and appointments, not for coordinated care that treats the whole patient. Doctors who treat patients well or help them manage chronic medical problems are not rewarded for those outcomes. There is no financial incentive in the current system for good care, only for more care. What we have is an expensive system that fails to provide the best care to patients or give doctors the tools they need to take control. That has to change. And I believe that the health care cost containment bill I signed this summer will help us make that change real.

First, we have established a cost containment goal. With families and small businesses being squeezed with health care costs, we needed to set a goal that was both ambitious and attainable. It made sense to tie the growth in health care costs to the growth of the state's economy since all we were trying to do was make sure health care costs don't outgrow everything else. And so that's what we did. The bill sets a goal for health care costs to rise at the same rate as the state economy for the next five years and then at half a percentage point below that for five years after that.

Second, whatever the goal, we understood that the health care industry needs flexibility and may need new tools in order to meet it. It's lowering premiums and maintaining quality we care about, not necessarily the details of every method of care delivery. So we kept faith with that principle in the final bill.

Third, it was, and still is critical that the industry be accountable for reaching these goals. Government has to have a role in that, obviously working with health care experts and allowing sufficient latitude and time to get there. I am not interested in government intervention for the sake of government intervention. I remain committed to completing the vision of health care in Massachusetts: accessible, high quality and affordable care for everyone. Doing so is in the public's interest, and that's what government is for. That's why the bill I signed gives my administration the ability to work with all the players to make sure they are doing what they need to do to meet our growth goal.

And finally, but importantly, we included sensible tort reform to reduce unnecessary costs for so-called "defensive medicine" in the system. That is one point I heard time and again from many of you in this room.

All of this remains about more than just laws. This is all still about values, about who we are as a Commonwealth. What we codified was the fundamental belief that health care is a public good and that everyone in Massachusetts deserves access to quality, affordable care.

Policy matters only at the point when it touches people. For Jaclyn and Ken and hundreds of thousands of others whose lives are better because of it, these policies matter.

GOVERNOR PATRICK FILES LEGISLATION TO FREEZE UNEMPLOYMENT INSURANCE RATES, LOWER HEALTH INSURANCE CONTRIBUTIONS FOR EMPLOYERS

Legislation will help align state health programs with Affordable Care Act to maintain quality, affordable care

BOSTON - Tuesday, January 8, 2013 – Governor Deval Patrick today filed legislation that will lower business costs and encourage job growth by freezing unemployment insurance rates for employers and reducing or eliminating the contributions they make to fund health care programs for low-income residents. Today's announcement, which was cheered by members of the business community, is part of a series of reforms the Patrick-Murray Administration is proposing to make government work better.

"This common sense legislation is good for businesses and good for the Commonwealth," said Governor Patrick. "Our people need jobs and these further measures will help employers create those jobs."

"We want all businesses to succeed in Massachusetts, and this legislation proposes resources that will provide relief and a supportive business climate for companies across the state," said Lieutenant Governor Timothy Murray.

Governor Patrick's legislation will:

Freeze the UI Contribution Rate

- Freezing the employer Unemployment Insurance (UI) contribution for 2013 at "E" will save employers an estimated \$500 million. This marks the fourth year in a row that Governor Patrick has advocated for freezing the UI rate in order to provide economic relief to employers. If passed, the Patrick-Murray Administration and the Legislature will have saved employers approximately \$1.7 billion over the last four years alone. Even with the freeze, the Unemployment Insurance Trust Fund balance will end 2013 with approximately \$600 million dollars.

Eliminate the Fair Share Contribution Program and Medical Security Program

- Effective June 30, 2013, the legislation will eliminate the Fair Share Contribution Program. The Fair Share Contribution program was established under the Commonwealth's 2006 health care reform law and mandates that employers with 11 or more full-time equivalent employees (FTE) make a "fair and reasonable" contribution toward the health care costs of its full-time workers, or pay a \$295 per FTE assessment. The federal Affordable Care Act (ACA) has a similar policy for employers with over 50 employees, effective in 2014, that could result in double-penalties if the two policies were to coexist.

- By eliminating the Fair Share Program, this bill will save significant administrative costs for Massachusetts employers; allow time to prepare for the implementation of the ACA provision; and ensure the state is streamlining possibly duplicative programs and assessments.
- The legislation will also eliminate the Medical Security Program (MSP) by the end of this calendar year. MSP provides qualifying individuals receiving unemployment insurance benefits health care coverage. Like the Fair Share Program, MSP will no longer be necessary under the ACA.
- Through the ACA, individuals currently enrolled under MSP will be able to access subsidized health coverage through our existing state insurance programs like MassHealth and those offered at the Health Connector.

Continue to Maintain Quality Health Care, Employer Contribution

- In order to ensure employers are contributing their share to maintain quality, affordable health care for all residents, the legislation creates an “employer responsibility contribution” for employers which will, starting in 2014, help finance the cost of subsidized care for low-income residents. Unlike previous programs, the employer responsibility contribution will be streamlined, efficient and less burdensome for both small and large businesses. This contribution will be lower than the current employer assessment funding level for the Medical Security Program. By retooling this contribution, the Commonwealth maintains an original tenet of the 2006 health care reform law – that everyone has a stake in its success - and continues the Commonwealth’s commitment to quality, affordable care for all residents.

“Today, this Administration struck the right balance between supporting Massachusetts employers and ensuring the fiscal stability of both our UI Trust Fund and subsidized health care insurance programs,” said Joanne F. Goldstein, Secretary of the Executive Office of Labor and Workforce Development.

Governor Patrick is committed to maintaining a strong business climate in Massachusetts for businesses to expand and grow. On Monday, Governor Patrick announced legislation to streamline and improve the licensing process and business climate for thousands of professional licensees throughout Massachusetts. The legislation is part of the Patrick-Murray Administration’s comprehensive regulatory reform effort to conduct a fresh analysis of existing regulations and determine what still makes sense in the 21st century. To date, the unprecedented effort has removed unnecessary barriers to starting a small business, enhanced efficiencies of state government operations and aligned state practices with widely accepted national models or best practices.

Supportive Quotes:

“Since 2009 I have worked closely with the Administration on the issues involved with the Fair Share contribution and its effects on businesses in the Commonwealth,” said Senator Michael Moore. “We have already passed many reforms to support our small business community and I am very pleased that the Governor has submitted this critical piece of legislation to address these concerns.”

"For the past six years, Governor Patrick has demonstrated his commitment to support small businesses and create jobs for our residents," said Rep. Linda Dorcena Forry, the House Chair of the Joint

Committee on Community Development and Small Business. “These initiatives are just one more example of positive changes he has made, in partnership with the legislature, to ensure Massachusetts remains a top place to do business.”

Appendix B:

Legislation and Other Government Documents



Acts
2008
CHAPTER 305 AN ACT TO PROMOTE COST CONTAINMENT, TRANSPARENCY AND EFFICIENCY IN THE DELIVERY OF QUALITY HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purposes, which is to expand forthwith access to health care for residents of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Subsection (d) of section 38C of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The division shall enter into interagency agreements as necessary with the office of Medicaid, the group insurance commission, the department of public health, the division of insurance, the health care quality and cost council, and other state agencies holding utilization, cost or claims data relevant to the division's review under this section.

SECTION 2. Section 16J of chapter 6A, as so appearing, is hereby amended by inserting after the definition of "Physician Group Practice" the following definition:—

"Third party administrator", an entity that administers payments for health care services on behalf of a client plan in exchange for an administrative fee.

SECTION 3. Chapter 6A of the General Laws is hereby amended by striking out sections 16K, as so appearing, and 16L, as amended by section 1 of chapter 205 of the acts of 2007, and inserting in place thereof the following 2 sections:-

Section 16K. (a) There shall be established a health care quality and cost council within, but not subject to control of, the executive office of health and human services. The council shall promote public transparency of the quality and cost of health care in the commonwealth, and shall seek to improve health care quality, reduce racial and ethnic health disparities and contain health care costs by: (i) disseminating health care quality and cost data to consumers, health care providers and insurers via a consumer health information website pursuant to subsection (e) and (g); (ii) establishing quality improvement and cost containment goals pursuant to subsection (h); and (iii) establishing standard performance measures, quality performance benchmarks and statewide

health information technology adoption goals for health care providers and insurers pursuant to subsection (i).

(b) The council shall consist of 16 members and shall be comprised of: (i) 9 ex-officio members, including the secretary of health and human services, who shall serve as the chair, the secretary of administration and finance, the state auditor, the inspector general, the attorney general, the commissioner of insurance, the commissioner of health care finance and policy, the commissioner of public health, and the executive director of the group insurance commission, or their designees; and (ii) 7 representatives of nongovernmental organizations be appointed by the governor, including 1 representative of a health care quality improvement organization recognized by the federal Centers for Medicare and Medicaid Services, 1 representative of the Institute for Healthcare Improvement recommended by the organization's board of directors, 1 representative of the Massachusetts Chapter of the National Association of Insurance and Financial Advisors, 1 representative of the Massachusetts Association of Health Underwriters, Inc., 1 representative of the Massachusetts Medicaid Policy Institute, Inc., 1 expert in health care policy from a foundation or academic institution, and 1 representative of a non-governmental purchaser of health insurance. At least 1 member of the council shall be a clinician licensed to practice in the commonwealth. Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties which may include reimbursement for reasonable travel and living expenses while engaged in council business. Chapter 268A shall apply to all council members; provided, however, that the council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in which any council member is in anyway interested or involved; provided further that such interest or involvement is disclosed in advance to the council and recorded in the minutes of the proceedings of the council; and provided further, that no council member having such interest or involvement may participate in any decision relating to such organization.

(c) All meetings of the council shall be in compliance with chapter 30A, except that the council, through its by-laws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

The council may, subject to chapter 30B and subject to appropriation, procure equipment, office space, goods and services.

The council shall receive staff assistance from the executive office of health and human services and may, subject to appropriation, appoint an executive director and employ such additional staff or consultants as it deems necessary. The executive office shall provide administrative support to the council as requested.

The council shall promulgate rules and regulations and may adopt by-laws necessary for the administration and enforcement of this section.

(d) The council shall disseminate the data it collects under this section to consumers, health care providers and insurers through: (i) a publicly-accessible consumer health information website; (ii)

reports on performance provided to health care providers; and (iii) any other analysis and reporting the council deems appropriate.

When collecting data, the council shall, to the extent possible, utilize existing public and private data sources and agency processes for data collection, analysis and technical assistance. The council may enter into an interagency service agreement with the division of health care finance and policy for data collection analysis and technical assistance.

The council may, subject to chapter 30B, contract with an independent health care organization for data collection, analysis or technical assistance related to its duties; provided, however, that the organization has a history of demonstrating the skill and expertise necessary to: (i) collect, analyze and aggregate data related to quality and cost across the health care system; (ii) identify quality improvement areas through data analysis; (iii) work with Medicare, MassHealth, and other insurers' data; (iv) collaborate in the design and implementation of quality improvement and clinical performance measures; (v) establish and maintain security measures necessary to maintain confidentiality and preserve the integrity of the data; and (vii) identify and, when necessary, develop appropriate measures of quality and cost for public reporting of quality and cost information.

Insurers and health care providers shall submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy, as required by the council's regulations. The council, through its rules and regulations, may determine what type of data may reasonably be required and the format in which it shall be provided.

The council may request that third-party administrators submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy. The council, through its rules and regulations, may determine the format in which the data shall be provided. The council shall publicly post a list of third-party administrators that refuse to submit requested data.

If any insurer or health care provider fails to submit required data to the council on a timely basis, the council shall provide written notice to the insurer or health care provider. An insurer or health care provider that fails, without just cause, to provide the required information within 2 weeks following receipt of the written notice may be required to pay a penalty of \$1,000 for each week of delay; provided, however, that the maximum annual penalty under this section shall be \$50,000.

(e) The council shall, in consultation with the advisory committee established by section 16L, establish and maintain a consumer health information website. The website shall contain information comparing the quality and cost of health care services and may also contain general health care information as the council deems appropriate. The website shall be designed to assist consumers in making informed decisions regarding their medical care and informed choices among health care providers. Information shall be presented in a format that is understandable to the average consumer. The council shall take appropriate action to publicize the availability of its website.

The council shall, in consultation with its advisory committee, develop and adopt, on an annual basis, a reporting plan specifying the quality and cost measures to be included on the consumer

health information website and the security measures used to maintain confidentiality and preserve the integrity of the data. In developing the reporting plan, the council, to the extent possible, shall collaborate with other organizations or state or federal agencies that develop, collect and publicly report health care quality and cost measures and the council shall give priority to those measures that are already available in the public domain. As part of the reporting plan, the council shall determine for each service the comparative information to be included on the consumer health information website, including whether to: (i) list services separately or as part of a group of related services; or (ii) combine the cost information for each facility and its affiliated clinicians and physician practices or to list facility and professional costs separately.

The council shall, after due consideration and public hearing, adopt or reject the reporting plan or any revisions. If the council rejects the reporting plan or any revisions, the council shall state its reasons for the rejection. The reporting plan and any revisions adopted by the council shall be promulgated by the council. The council shall submit the reporting plan and any periodic revisions to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing and the clerks of the house and senate.

The website shall provide updated information on a regular basis, at least annually, and additional comparative quality and cost information shall be published as determined by the council, in consultation with the advisory committee. To the extent possible, the website shall include: (i) comparative quality information by facility, clinician or physician group practice for each service or category of service for which comparative cost information is provided; (ii) general information related to each service or category of service for which comparative information is provided; (iii) comparative quality information by facility, clinician or physician practice that is not service-specific, including information related to patient safety and satisfaction; and (iv) data concerning healthcare-acquired infections and serious reportable events reported under section 51H of chapter 111.

(f) The council, through its rules and regulations, shall provide access to data it collects pursuant to this section under conditions that: (i) protect patient privacy; (ii) prevent collusion or anti-competitive conduct; and (iii) prevent the release of data that could reasonably be expected to increase the cost of health care. The council may limit access to data based on its proposed use, the credentials of the requesting party, the type of data requested or other criteria required to make a determination regarding the appropriate release of the data. The council shall also limit the requesting party's use and release of any data to which that party has been given access by the council. The council shall provide the division of health care finance and policy with a database of health care claims data submitted pursuant to this section under an interagency service agreement for the purpose of conducting data analysis and preparing reports to assist in the formulation of health care policy and the provision and purchase of health care services.

Data collected by the council under this section shall not be a public record under clause twenty-sixth of section 7 of chapter 4 or under chapter 66, except as specifically otherwise provided by the council.

The council shall, through interagency service agreements, allow the use of its data by other state

agencies, including division of health care finance and policy, for review and evaluation of mandated health benefit proposals as required by section 38C of chapter 3.

(g) The council, in consultation with its advisory committee, shall disseminate to health care providers their individualized de-identified data, including comparisons with other health care providers on the quality, cost and other data to be published on the consumer health information website.

(h) The council, in consultation with its advisory committee, shall develop annual health care quality improvement and cost containment goals. The goals shall be designed to promote high-quality, safe, effective, timely, efficient, equitable and patient centered health care. The council shall also establish goals that are intended to reduce racial and ethnic health care disparities and in so doing shall seek to incorporate the recommendations of the health disparities council and the office of health equity. For each goal, the council shall: identify the steps needed to achieve the goal; estimate the cost of implementation; project the anticipated short-term or long-term financial savings achievable by the health care providers, insurers or the commonwealth; and estimate the expected improvements in the health status of health care consumers in the commonwealth. The council may recommend legislation or regulatory changes to achieve these goals.

(i) The council, in consultation with its advisory committee, relevant state agencies, and public and private health care organizations, shall develop and annually publish: (i) standard performance measures, including, common and consistent reporting of quality measures and common use of measures used for pay-for-performance reimbursement; (ii) quality performance benchmarks for health care providers and insurers that: (1) are clinically important, evidence-based, standardized and timely; (2) include both process and outcome measures; (3) encourage health care providers and insurers to improve health care quality; and (4) are developed based on the work of national organizations, including the National Quality Forum and the Hospitals Quality Alliance; and (iii) goals for statewide adoption of health information technology.

(k) The council shall conduct annual public hearings at which health care providers, insurers, relevant state agencies, and public and private health care organizations shall report their progress towards achieving the quality improvement and cost containment goals, adopting the standard performance measures and meeting the quality performance benchmarks. The council shall provide health care providers, insurers, state agencies and the general court with the following, at least 60 days prior to the public hearings: (i) recommended action required by each entity to achieve the specified quality and cost containment goals; and (ii) recommendations for adoption of each standard performance measure, quality performance benchmark and health information technology adoption goal established by the council.

(l) The council shall file a report, not less than annually, with the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing and the clerks of the house and senate on its progress in achieving the goals of improving quality and containing or reducing health care costs data provided pursuant to chapter 111N. The report shall include, at a minimum, a review of the progress towards achieving the quality improvement and cost

containment goals, adoption of standard performance measures, meeting the quality performance benchmarks, and achieving the health information technology adoption goals.

The council shall provide its advisory committee with reasonable opportunity to review and comment on all reports before their public release.

Reports of the council shall be published on the consumer health information website.

Section 16L. (a) There shall be established an advisory committee to the health care quality and cost council, established by section 16K, to allow the broadest possible involvement of the health care industry and others concerned about health care quality and cost.

(b) The advisory committee shall consist of at least 29 members to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts Medical Society, 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts AFL-CIO Council, Inc., 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc., 1 of whom shall be a representative of Health Care For All, Inc., 1 of whom shall be a representative of the Massachusetts Public Health Association, 1 of whom shall be a representative of the Massachusetts Association of Behavioral Health Systems, Inc., 1 of whom shall be a representative of the Massachusetts Extended Care Federation, Inc., 1 of whom shall be a representative of the Massachusetts Council of Human Service Providers, Inc., 1 of whom shall be a representative of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a representative of Associated Industries of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Business Roundtable, Inc., 1 of whom shall be a representative of the Massachusetts Taxpayers Foundation, 1 of whom shall be a representative of the Massachusetts chapter of the National Federation of Independent Business, 1 of whom shall be a representative of the Retailers Association of Massachusetts, 1 of whom shall be a representative of the Massachusetts Biotechnology Council, Inc., 1 of whom shall be a representative of the Blue Cross Blue Shield of Massachusetts Foundation, Inc., 1 of whom shall be a representative of the Massachusetts chapter of the American Association of Retired Persons, 1 of whom shall be a representative of the Massachusetts Coalition of Taft-Hartley Trust Funds, Inc., and additional members including, but not limited to, a representative of the mental health field, a representative of pediatric health care, a representative of primary health care, a representative of medical education, a representative of racial or ethnic minority groups concerned with health care, a representative of hospice care, a representative of the nursing profession and a representative of the pharmaceutical field. Members of the advisory committee shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

(c) The members of the advisory committee shall annually elect a chair, vice chair and secretary and may adopt by-laws governing the affairs of the advisory committee.

(d) The advisory committee shall have the following duties: (i) advise the council on the consumer health information website and health care provider and insurer reports; (ii) advise the council on the annual health care quality improvement and cost containment goals, transparency standards and quality performance benchmarks; and (iii) review and comment on all reports of the council before public release, including the annual reporting plan and any revisions and the annual report to the general court.

(e) A written record of all meetings of the committee shall be maintained by the secretary and a copy filed within 15 days after each meeting with the council.

SECTION 4. Chapter 40J of the General Laws is hereby amended by inserting after section 6C the following 2 sections:-

Section 6D. (a) There shall be established an institute for health care innovation, technology and competitiveness, to be known as the Massachusetts e-Health Institute. The executive director of the corporation shall appoint a qualified individual to serve as the director of the institute, who shall be an employee of the corporation, report to the executive director and manage the affairs of the institute. The institute shall advance the dissemination of health information technology across the commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.

(b) There shall be established a health information technology council within the corporation. The council shall advise the institute on the dissemination of health information technology across commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.

The council shall consist of 9 members, as follows: 1 shall be the secretary of health and human services, who shall serve as the chair; 1 shall be the secretary of administration and finance, or a designee; 1 shall be the executive director of the health care quality and cost council; 1 shall be the director of the office of Medicaid; 5 shall be appointed by the governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an expert in law and health policy, and 1 shall be an expert in health information privacy and security. The council may consult with such parties, public or private, as it deems desirable in exercising its duties under this section, including persons with expertise and experience the development and dissemination of electronic health records systems, and the implementation of electronic health record systems by small physician groups or ambulatory care providers, as well as persons representing organizations within the commonwealth interested in and affected by the development of networks and electronic health records systems, including, but not limited to, persons representing local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, physicians, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with expertise in health information

technology and other stakeholders as identified by the secretary of health and human services. Appointive members of the council shall serve for terms of 2 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

The members of the council shall be deemed to be directors for purposes of the fourth paragraph of section 3. Chapter 268A shall apply to all council members except that the council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in which any council member is in anyway interested or involved; provided, however, that such interest or involvement shall be disclosed in advance to the council and recorded in the minutes of the proceedings of the council; and provided further, that no member shall be deemed to have violated section 4 of said chapter 268A because of his receipt of his usual and regular compensation from his employer during the time in which the member participates in the activities of the council.

(c) The institute, in consultation with the council, shall advance the dissemination of health information technology by: (i) facilitating the implementation and use of electronic health records systems by health care providers in order to improve health care delivery and coordination, reduce unwarranted treatment variation, eliminate wasteful paper-based processes, help facilitate chronic disease management initiatives and establish transparency; (ii) facilitating the creation and maintenance of a statewide interoperable electronic health records network that allows individual health care providers in all health care settings to exchange patient health information with other providers; and (iii) identifying and promoting an accelerated dissemination in the commonwealth of emerging health care technologies that have been developed and employed and that are expected to improve health care quality and lower health care costs, but that have not been widely implemented in the commonwealth.

(d) The institute director shall prepare and annually update a statewide electronic health records plan, and an annual update thereto. Each plan shall contain a budget for the application of funds from the E-Health Institute Fund for use in implementing each such plan. The institute director shall submit such plans and updates, and associated budgets, to the council for its approval. Each such plan and the associated budget shall be subject to approval of the board following action on it by the council.

Components of each such plan, as updated, shall be community-based implementation plans that assess a municipality's or region's readiness to implement and use electronic health record systems and an interoperable electronic health records network within the referral market for a defined patient population. Each such implementation plan shall address the development, implementation and dissemination of electronic health records systems among health care providers in the community or region, particularly providers, such as community health centers that serve underserved populations, including, but not limited to, racial, ethnic and linguistic minorities, uninsured persons, and areas with a high proportion of public payer care.

Each plan as updated shall: (i) allow seamless, secure electronic exchange of health information among health care providers, health plans and other authorized users; (ii) provide consumers with secure, electronic access to their own health information; (iii) meet all applicable federal and state

privacy and security requirements, including requirements imposed by 45 C.F.R. §§160, 162 and 164; (iv) meet standards for interoperability adopted by the institute with the approval of the council; (v) give patients the option of allowing only designated health care providers to disseminate their individually identifiable information; (vi) provide public health reporting capability as required under state law; and (vii) allow reporting of health information other than identifiable patient health information for purposes of such activities as the secretary of health and human services may from time to time consider necessary.

(e) The corporation may contract with implementing organizations to: (i) facilitate a public-private partnership that includes representation from hospitals, physicians and other health care professionals, health insurers, employers and other health care purchasers, health data and service organizations, and consumer organizations; (ii) provide resources and support to recipients of grants awarded under subsection (f) to implement each program within the designated community pursuant to the implementation plan; (iii) certify and disburse funds to subcontractors, when necessary; (iv) provide technical assistance to facilitate successful practice redesign, adoption of electronic health records, and utilization of care management strategies; (v) ensure that electronic health records systems are fully interoperable and secure and that sensitive patient information is kept confidential by exclusively utilizing electronic health records products that are certified by the Certification Commission for Healthcare Information Technology; and (vi) certify, with approval of the corporation and the council, a group of subcontractors who shall provide the necessary hardware and software for system implementation. Prior to the institute's issuing requests for proposals for contracts to be entered into pursuant to this section, the institute's director shall consult with the council with respect to the content of all such proposals. All contracts with implementing organizations entered into by the corporation must first be approved by the council.

(f) Funding for the institute and council's activities shall be through the E-Health Institute Fund, established in section 6E. The institute, in consultation with the council, shall develop mechanisms for funding health information technology, including a grant program to assist health care providers with costs associated with health information technologies, including electronic health records systems, and coordinated with other electronic health records projects seeking federal reimbursement.

The institute shall consult with the office of Medicaid to maximize all opportunities to qualify any expenditures for federal financial participation. Applications for funding shall be in the form and manner determined by the institute director and the council, and shall include the information and assurances required by the institute director and the council. The institute director and the council may consider, as a condition for awarding grants, the grantee's financial participation and any other factors it deems relevant.

All grants shall be recommended by the institute director and subsequently approved by both the executive director and the council. The institute director shall work with implementation organizations to oversee the grant-making process as it relates to an implementing organization's responsibilities under its contract with the corporation. Each recipient of monies from this program

shall: (i) capture and report certain quality improvement data, as determined by the institute in consultation with the health care quality and cost council; (ii) implement the system fully, including all clinical features, not later than the second year of the grant; and (iii) make use of the system's full range of features.

(g) The council shall receive staff assistance from the corporation.

(h) The institute shall file an annual report, not later than January 30, with the joint committee on health care financing, the joint committee on economic development and emerging technologies, and the house and senate committees on ways and means concerning the activities of the council in general and, in particular, describing the progress to date in implementing a statewide electronic health records system and recommending such further legislative action as it deems appropriate.

Section 6E. There shall be established and set up on the books of the corporation the E-Health Institute Fund, hereinafter referred to as the fund, for the purpose of supporting the advancement of health information technology in the commonwealth, including, but not limited to, the full deployment of electronic health records. There shall be credited to the fund any appropriations, proceeds of any bonds or notes of the commonwealth issued for the purpose, or other monies authorized by the general court and designated thereto; any federal grants or loans; any private gifts, grants or donations made available; and any income derived from the investment of amounts credited to the fund. The director of the institute shall seek, to the greatest extent possible, private gifts, grants and donations to the fund. The corporation shall hold the fund in an account or accounts separate from other funds. The fund shall be administered by the executive director without further appropriation; provided, however, that any disbursement or expenditure from the fund for grants or for contracts with implementing organizations, as provided in section 6D, shall be approved by the health information technology council established under said section 6D. Amounts credited to the fund shall be available for reasonable expenditure by the corporation, subject to the approval of the health information technology council where such approval is required under this chapter, for such purposes as the corporation determines are necessary to support the dissemination and development of health information technology in the commonwealth, including, but not limited to, for the grant program established in said section 6D and for contracts with implementing organizations provided for in said section 6D.

Section 6F. Any plan approved by the board and every grantee and implementing organization that receives monies for the adoption of health information technology shall:

(1) establish a mechanism to allow patients to opt-in to the health information network and to opt-out at any time;

(2) maintain identifiable health information in physically and technologically secure environments by means including, but not limited to: prohibiting the storage or transfer of unencrypted and non-password protected identifiable health information on portable data storage devices; requiring data encryption, unique alpha-numerical identifiers and password protection; and other methods to

prevent unauthorized access to identifiable health information;

(3) provide individuals the option of, upon request, obtaining a list of individuals and entities that have accessed their identifiable health information; and

(4) develop and distribute to authorized users of the health information network and to prospective network participants, written guidelines addressing privacy, confidentiality and security of health information and inform individuals of what information about them is available, who may access their information, and the purposes for which their information may be accessed.

Section 6G. In the event of an unauthorized access to or disclosure of individually identifiable patient health information by or through the statewide health information network or by or through any technology grantees or implementing organizations funded in whole or in part from the E-Health Institute Fund established pursuant to section 6E, the operator of such network or grantee or contractor shall: (i) report the conditions of such unauthorized access or disclosure as required by the Massachusetts e-Health Institute; and (ii) provide notice, as defined in section 1 of chapter 93H, as soon as practicable, but not later than 10 business days after such unauthorized access or disclosure, to any person whose patient health information may have been compromised as a result of such unauthorized access or disclosure, and shall report the conditions of such unauthorized access or disclosure.

SECTION 5. Chapter 111 of the General Laws is hereby amended by inserting after section 4M the following section:—

Section 4N. (a) The department shall, in cooperation with Commonwealth Medicine at the University of Massachusetts medical school, develop, implement and promote an evidence-based outreach and education program about the therapeutic and cost-effective utilization of prescription drugs for physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs. In developing the program, the department shall consult with physicians, pharmacists, private insurers, hospitals, pharmacy benefit managers, the MassHealth drug utilization review board and the University of Massachusetts medical school.

(b) The program shall arrange for physicians, pharmacists and nurses under contract with the department to conduct face-to-face visits with prescribers, utilizing evidence-based materials and borrowing methods from behavioral science, educational theory and, where appropriate, pharmaceutical industry data and outreach techniques; provided, however, that to the extent possible, the program shall inform prescribers about drug marketing that is intended to circumvent competition from generic or other therapeutically-equivalent pharmaceutical alternatives or other evidence-based treatment options.

The program shall include outreach to: physicians and other health care practitioners who participate in MassHealth, the subsidized catastrophic prescription drug insurance program authorized in section 39 of chapter 19A or the commonwealth care health insurance program; other

publicly-funded, contracted or subsidized health care programs; academic medical centers; and other prescribers.

The department shall, to the extent possible, utilize or incorporate into its program other independent educational resources or models proven effective in promoting high quality, evidenced-based, cost-effective information regarding the effectiveness and safety of prescription drugs, including, but not limited to: (i) the Pennsylvania PACE/Harvard University Independent Drug Information Service; (ii) the Academic Detailing Program of the University of Vermont College of Medicine Area Health Education Centers; (iii) the Oregon Health and Science University Evidence-based Practice Center's Drug Effectiveness Review project; and (iv) the North Carolina evidence-based peer-to-peer education program outreach program.

(c) The department may establish and collect fees for subscriptions and contracts with private payers. The department may seek funding from nongovernmental health access foundations and undesignated drug litigation settlement funds associated with pharmaceutical marketing and pricing practices.

SECTION 6. Section 25B of said chapter 111, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of "Expenditure minimum with respect to substantial capital expenditures."

SECTION 7. Said section 25B of said chapter 111, as so appearing, is hereby further amended by inserting after the definition of "Department" the following definitions: -

"Expenditure minimum with respect to substantial capital expenditures", with respect to expenditures and acquisitions made by or for: (1) acute care hospitals and comprehensive cancer centers as defined in section 1 of chapter 118G, only, \$7,500,000, except that expenditures for, or the acquisition of, major movable equipment not otherwise defined by the department as new technology or innovative services shall not require a determination of need and shall not be included in the calculation of the expenditure minimum; and (2) health care facilities, other than acute care hospitals, and facilities subject to licensing under chapter 111B, with respect to: (a) expenditures for, or the acquisition of, medical, diagnostic or therapeutic equipment, \$400,000; and (b) all other expenditures and acquisitions, \$800,000; provided, however, that expenditures for, or the acquisition of, any replacement of medical, diagnostic or therapeutic equipment defined as new technology or innovative services for which a determination of need has issued or which was exempt from determination of need, shall not require a determination of need and shall not be included in the calculation of the expenditure minimum; provided further, that expenditures and acquisitions concerned solely with outpatient services other than ambulatory surgery, not otherwise defined as new technology or innovative services by the department, shall not require a determination of need and shall not be included in the calculation of the expenditure minimum, unless the expenditures and acquisitions are at least \$25,000,000, in which case a determination of

need shall be required. Notwithstanding the above limitations, acute care hospitals only may elect at their option to apply for determination of need for expenditures and acquisitions less than the expenditure minimum.

SECTION 8. Said chapter 111 is hereby further amended by inserting after section 25K the following 3 sections:—

Section 25L. (a) There shall be in the department a health care workforce center to improve access to health care services. The center, in consultation with the health care workforce advisory council established by section 25M and the commissioner of labor and workforce development, shall: (i) coordinate the department's health care workforce activities with other state agencies and public and private entities involved in health care workforce training, recruitment and retention; (ii) monitor trends in access to primary care providers, nurse practitioners practicing as primary care providers, and other physician and nursing providers, through activities including: (1) review of existing data and collection of new data as needed to assess the capacity of the health care workforce to serve patients, including patient access and regional disparities in access to physicians or nurses and to examine physician and nursing satisfaction; (2) review existing laws, regulations, policies, contracting or reimbursement practices, and other factors that influence recruitment and retention of physicians and nurses; (3) making projections on the ability of the workforce to meet the needs of patients over time; (4) identifying strategies currently being employed to address workforce needs, shortages, recruitment and retention; (5) studying the capacity of public and private medical and nursing schools in the commonwealth to expand the supply of primary care physicians and nurse practitioners practicing as primary care providers; (iii) establish criteria to identify underserved areas in the commonwealth for administering the loan repayment program established under section 25N and for determining statewide target areas for health care provider placement based on the level of access; and (iv) address health care workforce shortages through the following activities, including: (1) coordinating state and federal loan repayment and incentive programs for health care providers; (2) providing assistance and support to communities, physician groups, community health centers and community hospitals in developing cost-effective and comprehensive recruitment initiatives; (3) maximizing all sources of public and private funds for recruitment initiatives; (4) designing pilot programs and make regulatory and legislative proposals to address workforce needs, shortages, recruitment and retention; and (5) making short-term and long-term programmatic and policy recommendations to improve workforce performance, address identified workforce shortages and recruit and retain physicians and nurses.

(c) The center shall maintain ongoing communication and coordination with the health care quality and cost council, established by section 16K of chapter 6A, and the health disparities council, established by section 16O of said chapter 6A.

(d) The center shall annually submit a report, not later than March 1, to the governor; the health care

quality and cost council established by section 16K of chapter 6A, the health disparities council established by section 16O of chapter 6A; and the general court, by filing the report with the clerk of the house of representatives, the clerk of the senate, the joint committee on labor and workforce development, the joint committee on health care financing, and the joint committee on public health. The report shall include: (i) data on patient access and regional disparities in access to physicians, by specialty and sub-specialty, and nurses; (ii) data on factors influencing recruitment and retention of physicians and nurses; (iii) short and long-term projections of physician and nurse supply and demand; (iv) strategies being employed by the council or other entities to address workforce needs, shortages, recruitment and retention; (v) recommendations for designing, implementing and improving programs or policies to address workforce needs, shortages, recruitment and retention; and (vi) proposals for statutory or regulatory changes to address workforce needs, shortages, recruitment and retention.

Section 25M. (a) There shall be a healthcare workforce advisory council within, but not subject to the control of, the health care workforce center established by section 25L. The council shall advise the center on the capacity of the healthcare workforce to provide timely, effective, culturally competent, quality physician and nursing services.

(b) The council shall consist of 16 members who shall be appointed by the governor: 1 of whom shall be a representative of the Massachusetts Extended Care Federation; 1 of whom shall be a physician with a primary care specialty designation who practices in a rural area; 1 of whom shall be a physician with a primary care specialty who practices in an urban area; 1 of whom shall be a physician with a medical subspecialty; 1 of whom shall be an advanced practice nurse, authorized under section 80B of said chapter 112, who practices in a rural area; 1 of whom shall be an advanced practice nurse, authorized under said section 80B of said chapter 112, who practices in an urban area; 1 of whom shall be a representative of the Massachusetts Organization of Nurse Executives; 1 of whom shall be a representative of the Massachusetts Academy of Family Physicians; 1 of whom shall be a representative of the Massachusetts Workforce Board Association; 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc.; 1 of whom shall be a representative of the Massachusetts Medical Society; 1 of whom shall be a representative of the Massachusetts Center for Nursing, Inc.; 1 of whom shall be a representative of the Massachusetts Nurses Association; 1 of whom shall be a representative of the Massachusetts Association of Registered Nurses; 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc.; and 1 of whom shall be a representative of Health Care For All, Inc. Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties. Vacancies of unexpired terms shall be filled within 60 days by the appropriate appointing authority.

The members of the council shall annually elect a chair, vice chair and secretary and may adopt by-

laws governing the affairs of the council.

The council shall meet at least bimonthly, at other times as determined by its rules, and when requested by any 8 members.

(c) The council shall advise the center on: (i) trends in access to primary care and physician subspecialties and nursing services; (ii) the development and administration of the loan repayment program, established under section 25N, including criteria to identify underserved areas in the commonwealth; (iii) solutions to address identified health care workforces shortages; and (iv) the center's annual report to the general court.

Section 25N. (a) There shall be a health care workforce loan repayment program, administered by the health care workforce center established by section 25L. The program shall provide repayment assistance for medical school loans to participants who: (i) are graduates of medical or nursing schools; (ii) specialize in family health or medicine, internal medicine, pediatrics, psychiatry, or obstetrics/gynecology; (iii) demonstrate competency in health information technology, including use of electronic medical records, computerized physician order entry and e-prescribing; and (iv) meet other eligibility criteria, including service requirements, established by the board. Each recipient shall be required to enter into a contract with the commonwealth which shall obligate the recipient to perform a term of service of no less than 2 years in medically underserved areas as determined by the center.

(b) The center shall promulgate regulations for the administration and enforcement of this section which shall include penalties and repayment procedures if a participant fails to comply with the service contract.

The center shall, in consultation with the health care workforce advisory council and the public health council, establish criteria to identify medically underserved areas within the commonwealth. These criteria shall consist of quantifiable measures, which may include the availability of primary care medical services within reasonable traveling distance, poverty levels, and disparities in health care access or health outcomes.

(c) The center shall evaluate the program annually, including exit interviews of participants to determine their post-program service plans and to solicit program improvement recommendations.

(d) The center shall, not later than July 1, file an annual report with the governor, the clerk of the house of representatives, the clerk of the senate, the house committee on ways and means, the senate committee on ways and means, the joint committee on health care financing, the joint committee on mental health and substance abuse and the joint committee on public health. The report shall include annual data and historical trends of: (i) the number of applicants, the number accepted, and the number of participants by race, gender, medical or nursing specialty, medical or nursing school, residence prior to medical or nursing school, and where they plan to practice after program completion; (ii) the service placement locations and length of service commitments by participants; (iii) the number of participants who fail to fulfill the program requirements and the reason for the failures; (iv) the number of former participants who continue to serve in underserved

areas; and (v) program expenditures.

SECTION 9. Said chapter 111 is hereby further amended by inserting after section 51G the following section:-

Section 51H. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Facility”, a hospital, institution for the care of unwed mothers or clinic providing ambulatory surgery as defined by section 25.

“Healthcare-associated infection”, a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that: (i) occurs in a patient in a facility, (ii) was not present or incubating at the time of the admission during which the reaction occurs, and (iii) if occurring in a hospital, meets the criteria for a specific infection site as defined by the federal Centers for Disease Control and Prevention and its national health care safety network.

“Serious reportable event”, an event that results in a serious adverse patient outcome that is clearly identifiable and measurable, reasonably preventable, and that meets any other criteria established by the department in regulations.

(b) A facility shall report data and information about healthcare-associated infections and serious reportable events. A serious reportable event shall be reported by a facility no later than 15 working days after its discovery. Reports shall be made in the manner and form established by the department in its regulations. The department may require facilities to register in and report to nationally recognized quality and safety organizations.

(c) The department shall, through interagency service agreements, transmit data collected under this section to the Betsy Lehman center for patient safety and medical error reduction and to the health care quality and cost council for publication on its consumer health information website. Any facility failing to comply with this section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its license revoked or suspended by the department.

(d) The department shall promulgate regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a serious reportable event. A health care facility shall not charge or seek reimbursement for a serious reportable event that the facility has determined, through a documented review process, and under regulations promulgated by the department, was (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 10. Said chapter 111 is hereby further amended by inserting after section 51G the following section:-

Section 51H. (a) As used in this section the following words shall, unless the context clearly requires

otherwise, have the following meanings:

“Facility”, a hospital, institution for the care of unwed mothers or clinic providing ambulatory surgery as defined by section 25.

“Healthcare-associated infection”, a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that: (i) occurs in a patient in a facility, (ii) was not present or incubating at the time of the admission during which the reaction occurs, and (iii) if occurring in a hospital, meets the criteria for a specific infection site as defined by the federal Centers for Disease Control and Prevention and its national health care safety network.

“Serious adverse drug event”, any preventable event that causes inappropriate medication use in a hospital or ambulatory surgical center that leads to harm to a patient, as further defined in regulations of the department.

“Serious reportable event”, an event that results in a serious adverse patient outcome that is clearly identifiable and measurable, reasonably preventable, and that meets any other criteria established by the department in regulations.

(b) A facility shall report data and information about healthcare-associated infections, serious reportable events, and serious adverse drug events. A serious reportable event shall be reported by a facility no later than 15 working days after its discovery. Reports shall be made in the manner and form established by the department in its regulations. The department may require facilities to register in and report to nationally recognized quality and safety organizations.

(c) The department, through interagency service agreements, shall transmit data collected under this section to the Betsy Lehman center for patient safety and medical error reduction and to the health care quality and cost council for publication on its consumer health information website. Any facility failing to comply with this section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its license revoked or suspended by the department.

(d) The department shall promulgate regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a serious reportable event. A health care facility shall not charge or seek reimbursement for a serious reportable event that the facility has determined, through a documented review process, and under regulations promulgated by the department, was (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 11. Said chapter 111 is hereby further amended by inserting after section 53D the following 3 sections:-

Section 53E. The department shall promulgate regulations for the establishment of a patient and family advisory council at each hospital in the commonwealth. The council shall advise the hospital on matters including, but not limited to, patient and provider relationships, institutional review boards, quality improvement initiatives and patient education on safety and quality matters.

Members of a council may act as reviewers of publicly reported quality information, members of task forces, members of awards committees for patient safety activities, members of advisory boards, participants on search committees and in the hiring of new staff, and may act as co-trainers for clinical and nonclinical staff, in-service programs, and health professional trainees or as participants in reward and recognition programs.

Section 53F. The department shall require acute care hospitals to have a suitable method for health care staff members, patients and families to request additional assistance directly from a specially-trained individual if the patient's condition appears to be deteriorating. The acute care hospital shall have an early recognition and response method most suitable for the hospital's needs and resources, such as a rapid response team. The method shall be available 24 hours per day.

Section 53G. Any entity that is certified or seeking certification as an ambulatory surgical center by the Centers for Medicare and Medicaid Services for participation in the Medicare program shall be a clinic for the purpose of licensure under section 51, and shall be deemed to be in compliance with the conditions for licensure as a clinic under said section 51 if it is accredited to provide ambulatory surgery services by the Accreditation Association for Ambulatory Health Care, Inc., the Joint Commission on Accreditation of Healthcare Organizations, the American Association for Accreditation of Ambulatory Surgery Facilities or any other national accrediting body that the department determines provides reasonable assurances that such conditions are met. No original license shall be issued pursuant to said section 51 to establish any such ambulatory surgical clinic unless there is a determination by the department that there is a need for such a facility. For purposes of this section, "clinic" shall not include a clinic conducted by a hospital licensed under said section 51 or by the federal government or the commonwealth. The department shall promulgate regulations to implement this section.

SECTION 12. The first paragraph of section 70 of said chapter 111, as appearing in the 2006 Official Edition, is hereby amended by striking out the second and third sentences and inserting in place thereof the following 4 sentences:- These records may be handwritten, printed, typed or in electronic digital media or converted to electronic digital media as originally created by such hospital or clinic, by the photographic or microphotographic process, or any combination thereof. The hospital or clinic may destroy records only after the applicable retention period has elapsed and after notifying the department of public health, in accordance with its regulations, that the records will be destroyed. The department, through its regulations, shall establish an appropriate notification process. On the notice of privacy practices distributed to its patients, a hospital or clinic shall provide: (i) information concerning the provisions of this section and (ii) the hospital or clinic's records termination policy.

SECTION 13. Said section 70 of said chapter 111, as so appearing, is hereby further amended by

striking out, in line 66, the word “thirty” and inserting in place thereof the following figure:- 20.

SECTION 14. The General Laws are hereby amended by inserting after Chapter 111M the following chapter:-

CHAPTER 111N PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURER CONDUCT

Section 1. As used in this chapter, the following words shall have the following meanings:-

“Department”, the department of public health.

“Health care practitioner”, a person who prescribes prescription drugs for any person and is licensed to provide health care, or a partnership or corporation comprised of such persons, or an officer, employee, agent or contractor of such person acting in the course and scope of his employment, agency or contract related to or in support of the provision of health care to individuals.

“Marketing code of conduct” practices and standards that govern the marketing and sale of prescription drugs or medical devices by a pharmaceutical or medical device manufacturing company to health care practitioners.

“Medical device”, an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, which is: (1) recognized in the official National Formulary or the United States Pharmacopeia or any supplement thereto; (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, in persons or animals; or (3) intended to affect the structure or function of the body of a person or animal, and which does not achieve its primary intended purposes through chemical action within or on such body and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

“Person”, a business, individual, corporation, union, association, firm, partnership, committee or other organization.

“Pharmaceutical or medical device manufacturer agent”, a pharmaceutical or medical device marketer or any other person who for compensation or reward does any act to promote, oppose or influence the prescribing of a particular prescription drug, medical device, or category of prescription drugs or medical devices; provided, however, that “pharmaceutical or medical device manufacturer agent” shall not include a licensed pharmacist, licensed physician or any other licensed health care practitioner with authority to prescribe prescription drugs who is acting within the ordinary scope of the practice for which he is licensed.

“Pharmaceutical or medical device manufacturing company”, any entity that participates in a commonwealth health care program and which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs or medical devices, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, or any entity

engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription drugs; provided, however, that “pharmaceutical or medical device manufacturing company” shall not include a wholesale drug distributor licensed under section 36A of chapter 112 or a retail pharmacist registered under section 37 of said chapter 112.

“Pharmaceutical or medical device marketer”, a person who, while employed by or under contract with a pharmaceutical or medical device manufacturing company that participates in a commonwealth health care program, engages in detailing, promotional activities or other marketing of prescription drugs or medical devices in the commonwealth to any physician, hospital, nursing home, pharmacist, health benefits plan administrator, other health care practitioner or person authorized to prescribe, dispense or purchase prescription drugs; provided, however, that the “pharmaceutical or medical device marketer” shall not include a wholesale drug distributor licensed under section 36A of chapter 112, a representative of such a distributor who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug or a retail pharmacist registered under section 37 of said chapter 112 if such person is not engaging in such practices under contract with a manufacturing company.

“Physician”, a person licensed to practice medicine by the board of registration in medicine under section 2 of chapter 112 who prescribes prescription drugs, or the physician’s employees or agents.

“Prescription drugs”, drugs upon which the manufacturer or distributor has placed or is required by federal law and regulations to place the following or a comparable warning: “Caution federal law prohibits dispensing without prescription”.

Section 2. Notwithstanding any general or special law to the contrary, the department shall adopt a standard marketing code of conduct for all pharmaceutical or medical device manufacturing companies that employ a person to sell or market prescription drugs or medical devices in the commonwealth. The marketing code of conduct shall be based on applicable legal standards and incorporate principles of health care including, without limitation, requirements that the activities of the pharmaceutical or medical device manufacturer agents be intended to benefit patients, enhance the practice of medicine and not interfere with the independent judgment of health care practitioners. In promulgating regulations for a marketing code of conduct, the department adopt regulations that shall be no less restrictive than the most recent version of the Code on Interactions with Healthcare Professionals developed by the Pharmaceutical Research and Manufacturers of America and the Code on Interactions with Healthcare Professionals developed by the Advanced Medical Technology Association.

The marketing code of conduct adopted by the department shall not allow:

(1) the provision of or payment for meals for health care practitioners that:

(a) are part of an entertainment or recreational event;

(b) are offered without an informational presentation made by pharmaceutical marketing agent or without the pharmaceutical marketing agent being present;

(c) are offered, consumed, or provided outside of the health care practitioner’s office or hospital

setting; or

(d) are provided to a healthcare practitioner's spouse or other guest;

(2) the provision or payment of entertainment or recreational items of any value, including, but not limited to, tickets to the theater or sporting events, sporting equipment, or leisure or vacation trips, to any health care practitioner who is not a salaried employee of the company;

(3) sponsorship or payment for continuing medical education, in this section referred to as CME, also known as independent medical education, that does not meet the Accreditation Council for Continuing Medical Education Standards For Commercial Support, or that provides payment directly to a health care practitioner;

(4) financial support for the costs of travel, lodging or other personal expenses of non-faculty healthcare practitioners attending any CME event, third-party scientific or educational conference, or professional meetings, either directly to the individuals participating in the event or indirectly to the event's sponsor, except in cases as determined by the department.

(5) funding to compensate for the time spent by health care practitioners participating in any CME event, third-party scientific or educational conferences, or professional meetings;

(6) the provision of or payment for meals directly at any CME event, third-party scientific or educational conferences, or professional meetings;

(7) payments in cash or cash equivalents to healthcare practitioners either directly or indirectly, except as compensation for bona fide services;

(8) any grants, scholarships, subsidies, support, consulting contracts, or educational or practice related items to a healthcare practitioner in exchange for prescribing prescription drugs or using medical devices or for a commitment to continue prescribing prescription drugs or using medical devices.

The marketing code of conduct adopted by the department shall allow:

(1) the provision, distribution, dissemination or receipt of peer reviewed academic, scientific or clinical information;

(2) the purchase of advertising in peer reviewed academic, scientific or clinical journals;

(3) prescription drugs provided to a health care practitioner solely and exclusively for use by the health care practitioner's patients;

(4) compensation for the substantial professional or consulting services of a health care practitioner in connection with a genuine research project or a clinical trial;

(5) payment for reasonable expenses necessary for technical training on the use of a medical device if that expense is part of the vendor's purchase contract for the device.

The department shall update the marketing code of conduct no less than every two years. The department may promulgate regulations or other guidelines as necessary to implement this section.

Section 3. No pharmaceutical or medical device manufacturer company or pharmaceutical or medical device manufacturer agent shall knowingly and willfully violate the marketing code of

conduct as adopted by the department.

Section 4. (a) A pharmaceutical or medical device manufacturing company that employs a person to sell or market a drug, medicine, or medical device in the commonwealth shall adopt and comply with the most recent marketing code of conduct as adopted by the department.

(b) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall adopt a training program to provide regular training to appropriate employees including, without limitation, all sales and marketing staff, on the marketing code of conduct.

(c) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall conduct annual audits to monitor compliance with the marketing code of conduct.

(d) A pharmaceutical or medical device manufacturing company that employs a person to sell or market a prescription drugs or medical devices in the commonwealth shall adopt policies and procedures for investigating instances of noncompliance with the marketing code of conduct and take corrective action in response to noncompliance and the reporting of instances of noncompliance to the appropriate state authorities.

(e) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall identify a compliance officer responsible for operating and monitoring the marketing code of conduct.

Section 5. A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall annually submit to the department: (i) a description of its training program; (ii) a description of its investigation policies; (iii) the name, title, address, telephone number and electronic mail address of its compliance officer; and (iv) certification that it has conducted its annual audit and is in compliance with the marketing code of conduct.

Section 6. (1) By July 1 of each year, every pharmaceutical or medical device manufacturing company that employs a person to sell or market a drug, medicine, chemical, device or appliance in the commonwealth shall disclose to the department of public health the value, nature, purpose and particular recipient of any fee, payment, subsidy or other economic benefit with a value of at least \$50, which the company provides, directly or through its agents, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, health care practitioner or other person in the commonwealth authorized to prescribe, dispense, or purchase prescription drugs or medical devices in the commonwealth. The disclosure shall be accompanied by the payment of a fee, to be determined by the department, to pay the costs of administering this section.

(2) The department of public health shall make all disclosed data publicly available and easily searchable on its website.

(3) The department of public health shall report to the attorney general any payment, entertainment, meals, travel, honorarium, subscription, advance, services or anything of value provided in violation of the market code of conduct as adopted by the department of public health.

Section 7. This chapter shall be enforced by the attorney general, the district attorney with jurisdiction over a violation or the department of public health. A person that violates this chapter shall be punished by a fine of not more than \$5,000 for each transaction, occurrence or event that violates this chapter.

SECTION 15. The first paragraph of section 2 of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following after the second sentence of the first paragraph:- The board shall require, as a standard of eligibility for licensure, that applicants show a predetermined level of competency in the use of computerized physician order entry, e-prescribing, electronic health records and other forms of health information technology, as determined by the board.

SECTION 16. Section 9E of said chapter 112, as so appearing, is hereby amended by striking out, in line 6, the word “two” and inserting in place thereof the following figure:- 4.

SECTION 17. Said chapter 112 is hereby further amended by inserting after section 39C the following section:-

Section 39E. Stores or pharmacies engaged in the drug business, as defined in section 37, shall inform the department of public health of any improper dispensing of prescription drugs that results in serious injury or death, as defined by the department in regulations, as soon as is reasonably and practically possible, but not later than 15 working days after discovery of the improper dispensing. The department of public health shall promulgate regulations for the administration and enforcement of this section.

SECTION 18. Chapter 118E of the General Laws is hereby amended by adding the following section:-

Section 55. (a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, the executive office of health and human services and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted

pursuant to, and consistent with, the current Health Insurance Portability and Accountability Act compliant code sets as adopted by the Centers for Medicare and Medicaid Services; the International Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. The executive office and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing the coding standards.

(b) Subject to subsection (c), the executive office and its subcontractors shall, without local customization, use the standardized claim formats for processing health care claims as adopted by the National Uniform Claim Committee and the National Uniform Billing Committee and implemented pursuant to the federal Health Insurance Portability and Accountability Act. The executive office and its subcontractors shall, without local customization, adopt and routinely process all changes to such formats which shall be effective on the same date as the implementation date established by the entity implementing the formats.

(c) Except for the requirements for consistency and uniformity in coding patient diagnostic information and patient care service and procedure information, this section shall not modify or supersede the executive office's or its subcontractor's payment policy or utilization review policy. Nothing in this section shall preclude the executive office or a subcontractor thereof from adjudicating a claim pursuant to its billing guidelines, payment policies or provider contracts.

(d) The executive office and its subcontractors shall accept and recognize at least 85 per cent of all claims submitted by health care providers pursuant to this section.

SECTION 19. Section 55 of said chapter 118E, as inserted by section 19, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The executive office and its subcontractors shall accept and recognize all claims submitted by health care providers pursuant to this section.

SECTION 20. Section 1 of chapter 118G of the General Laws is hereby amended by inserting after the definition of "Pediatric specialty unit", as appearing in the 2006 Official Edition, the following definition:-

"Private health care payer", a carrier authorized to transact accident and health insurance under chapter 175, a nonprofit hospital service corporation licensed under chapter 176A, a nonprofit medical service corporation licensed under chapter 176B, a dental service corporation organized under chapter 176E, an optometric service corporation organized under chapter 176F, a self-insured plan, to the extent allowable under federal law governing health care provided by employers to employees, or a health maintenance organization licensed under chapter 176G.

SECTION 21. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of “Provider” the following definition:-

“Public health care payer”, the Medicaid program established in chapter 118E; any carrier or other entity that contracts with the office of Medicaid or the commonwealth health insurance connector to pay for or arrange the purchase of health care services on behalf of individuals enrolled in health coverage programs under Titles XIX or XXI, or under the commonwealth care health insurance program, including prepaid health plans subject to the provisions of section 28 of chapter 47 of the acts of 1997; the group insurance commission established under chapter 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

SECTION 22. Section 2 of said chapter 118G, as so appearing, is hereby amended by striking out the second paragraph, as most recently amended by section 38 of chapter 58 of the acts of 2006, and inserting in place thereof the following paragraph:-

The commissioner shall appoint and may remove such agents and subordinate officers as the commissioner may deem necessary and may establish such subdivisions within the division as he deems appropriate to fulfill the following duties: (i) to collect, analyze and disseminate health care data to assist in the formulation of health care policy and in the provision and purchase of health care services; (ii) to work with other state agencies including, but not limited to, the department of public health and the department of mental health, the health care quality and cost council, the division of medical assistance and the division of insurance to collect and publish data concerning the cost of health insurance in the commonwealth and the health status of individuals; (iii) to hold annual hearings concerning health care provider and payer costs and cost trends, and to provide an analysis of health care spending trends with recommendations for strategies to promote an efficient health delivery system; and (iv) to administer the health safety net office and trust fund established under sections 35 and 36.

SECTION 23. Section 6 of said chapter 118G, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following 4 paragraphs:-

The division may promulgate regulations necessary to ensure the uniform reporting of information from private and public health care payers that enables the division to analyze: (i) changes over time in health insurance premium levels; (ii) changes in the benefit and cost-sharing design of plans offered by these payers; and (iii) changes in measures of plan cost and utilization; provided that this analysis shall facilitate comparison among plans and between public and private payers.

The division shall require the submission of data and other information from each private health care payer offering small or large group health plans including, without limitation: (i) average annual

individual and family plan premiums for each payer's most popular plans for a representative range of group sizes, as further determined in regulations, and average annual individual and family plan premiums for the lowest cost plan in each group size that meets the minimum standards and guidelines established by the division of insurance under section 8H of chapter 26; (ii) information concerning the actuarial assumptions that underlie the premiums for each plan; (iii) summaries of the plan designs for each plan; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan; (v) information concerning the payer's current level of reserves and surpluses; and (vi) information on provider payment methods and levels.

The division shall require the submission of data and other information from public health care payers including, without limitation: (i) average premium rates for health insurance plans offered by public payers and information concerning the actuarial assumptions that underlie these premiums; (ii) average annual per-member per-month payments for enrollees in MassHealth primary care clinician and fee for service programs; (iii) summaries of plan designs for each plan or program; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan or program; (v) where appropriate, information concerning the payer's current level of reserves and surpluses; and (vi) information on provider payment methods and levels, including information concerning payment levels to each hospital for the 25 most common medical procedures provided to enrollees in these programs, in a form that allows payment comparisons between Medicaid programs and managed care organizations under contract to the office of Medicaid.

The division shall, before adopting regulations under this section, consult with other agencies of the commonwealth and the federal government, affected providers, and affected payers, as applicable, to ensure that the reporting requirements imposed under the regulations are not duplicative or excessive. If reporting requirements imposed by the division result in additional costs for the reporting providers, these costs may be included in any rates promulgated by the division for these providers. The division may specify categories of information which may be furnished under an assurance of confidentiality to the provider; provided that such assurance shall only be furnished if the information is not to be used for setting rates.

SECTION 24. Said chapter 118G is hereby further amended by inserting after section 6 the following section:—

Section 6½. (a) The division shall hold annual public hearings based on the information submitted under sections 6 and 6A concerning health care provider and private and public health care payer costs and cost trends, with particular attention to factors that contribute to cost growth within the commonwealth's health care system and to the relationship between provider costs and payer premium rates. The attorney general may intervene in such hearings.

(b) The attorney general may review and analyze any information submitted to the division under section 6 and 6A. The attorney general may require that any provider or payer produce documents

and testimony under oath related to health care costs and cost trends or documents that the attorney general deems necessary to evaluate factors that contribute to cost growth within the commonwealth's health care system and to the relationship between provider costs and payer premium rates. The attorney general shall keep confidential all nonpublic information and documents obtained under this section and shall not disclose such information or documents to any person without the consent of the provider or payer that produced the information or documents except in a public hearing under this section, a rate hearing before the division of insurance, or in a case brought by the attorney general, if the attorney general believes that such disclosure will promote the health care cost containment goals of the commonwealth and that such disclosure should be made in the public interest after taking into account any privacy, trade secret or anti-competitive considerations. Such confidential information and documents shall not be public records and shall be exempt from disclosure under section 10 of chapter 66.

(c) Hearings shall be held by the commissioner or a designee, or a hearings officer, if authorized by the commissioner. Public notice of any hearing shall be provided at least 60 days in advance.

(d) The division shall, 30 days before the date of any hearing, publish a preliminary report of its findings based on information provided under section 6. The division may contract with an outside organization with expertise in issues related to the topics of the hearings to produce this preliminary report. The division shall use this preliminary report as a basis for designing the format and content of the hearing.

(e) The division shall identify as witnesses for the public hearing a representative sample of providers and payers, including: (i) at least 3 academic medical centers, including the 2 acute hospitals with the highest level of net patient service revenue; (ii) at least 3 disproportionate share hospitals, including the 2 hospitals whose largest per cent of gross patient service revenue is attributable to Title XVIII and XIX of the federal Social Security Act or other governmental payers; (iii) community hospitals from at least 3 separate regions of the state; (iv) freestanding ambulatory surgical centers from at least 3 separate regions of the state; (v) community health centers from at least 3 separate regions of the state; (vi) the 5 private health care payers with the highest enrollments in the state; (vii) any managed care organization that provides health benefits under Title XIX or under the commonwealth care health insurance program; (viii) the group insurance commission; (ix) at least 3 municipalities that have adopted chapter 32B; and (x) any witness identified by the attorney general.

(f) Witnesses shall provide testimony under oath and subject to examination and cross examination by the division and the attorney general at the public hearing in a manner and form to be determined by the division, including without limitation: (i) in the case of providers, testimony concerning payment systems, payer mix, cost structures, administrative and labor costs, capital and technology costs, adequacy of public payer reimbursement levels, reserve levels, utilization trends, and cost-containment strategies, the relation of private payer reimbursement levels to public payer reimbursements for similar services, efforts to improve the efficiency of the delivery system, efforts to reduce the inappropriate or duplicative use of technology; and (ii) in the case of private and public

payers, testimony concerning factors underlying premium cost and rate increases, the relation of reserves to premium costs, the payer's efforts to develop benefit design and payment policies that enhance product affordability and encourage efficient use of health resources and technology, efforts by the payer to increase consumer access to health care information, and efforts by the payer to promote the standardization of administrative practices, and any other matters as determined by the division.

(g) The division shall compile an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system. The report shall be based on the division's analysis of information provided at the hearings by providers and insurers, data collected by the division under sections 6 and 6A of this chapter, and any other information the division considers necessary to fulfill its duties under this section, as further defined in regulations promulgated by the division. The division shall consult with the health care quality and cost council when developing any measures or criteria to be used in its analysis. The report shall be submitted to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on health care financing and shall be published and available to the public no later than December 31st.

SECTION 25. Section 36 of chapter 123 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 4 sentences:-

Each facility, subject to this chapter and section 19 of chapter 19, that provides mental health care and treatment shall maintain patient records, as defined in the first paragraph of section 70 of chapter 111, for at least 20 years after the closing of the record due to discharge, death or last date of service. A facility shall not destroy such records until after the retention period has elapsed and only upon notifying the department of public health that the records will be destroyed, provided that the department shall promulgate regulations further defining an appropriate notification process. On the notice of privacy practices distributed to its patients, each facility shall provide: (i) information concerning the provisions of this section; and (ii) the hospital or clinic's records termination policy.

SECTION 26. Chapter 176O of the General Laws is hereby amended by inserting after section 5 the following 2 sections:-

Section 5A. (a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, a carrier and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted pursuant to, and consistent with the current Health Insurance Portability and Accountability Act compliant code sets: the International

Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. A carrier and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing the coding standards.

(b) Subject to subsection (c), a carrier and its subcontractors shall, without local customization, use the standardized claim formats for processing health care claims as adopted by the National Uniform Claim Committee and the National Uniform Billing Committee and implemented pursuant to the Health Insurance Portability and Accountability Act. A carrier and its subcontractors shall, without local customization, adopt and routinely process all changes to such formats which shall be effective on the same date as the implementation date established by the entity implementing the formats.

(c) Except for the requirements for consistency and uniformity in coding patient diagnostic information and patient care service and procedure information, this section shall not modify or supersede a carrier's or its subcontractor's payment policy, utilization review policy or benefits under a health benefit plan. Nothing in this section shall further preclude a carrier or a subcontractor thereof from adjudicating a claim pursuant to its billing guidelines, payment policies, provider contracts or health benefit plans.

(d) Carriers and subcontractors thereof shall accept and recognize at least 85 per cent of all claims submitted by health care providers pursuant to this section.

Section 5B. To ensure uniformity and consistency in the submission and processing of claims for health care services pursuant to section 5A, the bureau of managed care within the division of insurance, after consultation with a statewide advisory committee including, but not limited to, representatives of the Massachusetts Hospital Association, the Massachusetts Medical Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health Information Management Association, the Massachusetts Health Data Consortium, a representative of America's Health Insurance Plans, a representative of a MassHealth contracted managed care organization, the executive office of health and human services, the division of health care finance and policy, the health care quality and cost council, the house of representatives and the senate, shall adopt policies and procedures to enforce said section 5A. The policies and procedures shall include a system for reporting inconsistencies related to a carrier's compliance with said section 5A. The bureau shall work jointly with the executive office of health and human services to resolve reports of noncompliance with the requirements of section 61 of chapter 118E. The bureau shall convene the advisory committee annually to review and discuss issues reported by health care providers pursuant to this section and to discuss further recommendations to improve the uniformity and consistency of the reporting of patient diagnostic information and patient care service and procedure information as it relates to the submission and

processing of health care claims.

SECTION 27. Section 5A of said chapter 176O, as appearing in section 23, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Carriers and their subcontractors shall accept and recognize all claims submitted by health care providers pursuant to this section.

SECTION 28. The General Laws are hereby amended by inserting after chapter 176Q the following chapter:-

CHAPTER 176R CONSUMER CHOICE OF NURSE PRACTITIONER SERVICES

Section 1. As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; an organization entering into a preferred provider arrangement under chapter 176I; a contributory group general or blanket insurance for persons in the service of the commonwealth under chapter 32A; a contributory group general or blanket insurance for persons in the service of counties, cities, towns and districts, and their dependents under chapter 32B; the medical assistance program administered by the division of medical assistance pursuant to chapter 118E and in accordance with Title XIX of the Social Security Act or any successor statute; and any other medical assistance program operated by a governmental unit for persons categorically eligible for such program.

“Commissioner”, the commissioner of insurance.

“Insured”, an enrollee, covered person, insured, member, policyholder or subscriber of a carrier.

“Nondiscriminatory basis”, a carrier shall be deemed to be providing coverage on a non-discriminatory basis if its plan does not contain any annual or lifetime dollar or unit of service limitation imposed on coverage for the care provided by a nurse practitioner which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the same services by other participating providers.

“Nurse practitioner”, a registered nurse who holds authorization in advanced nursing practice as a nurse practitioner under section 80B of chapter 112 and regulations promulgated thereunder.

“Participating provider”, a provider who, under the terms and conditions of a contract with the carrier or with its contractor or subcontractor, has agreed to provide health care services to an insured with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly

or indirectly from the carrier.

“Primary care provider”, a health care professional qualified to provide general medical care for common health care problems, supervises, coordinates, prescribes, or otherwise provides or proposes health care services, initiates referrals for specialist care, and maintains continuity of care within the scope of practice.

Section 2. The commissioner and the group insurance commission shall require that all carriers recognize nurse practitioners as participating providers subject to section 3 and shall include coverage on a nondiscriminatory basis to their insureds for care provided by nurse practitioners for the purposes of health maintenance, diagnosis and treatment. Such coverage shall include benefits for primary care, intermediate care and inpatient care, including care provided in a hospital, clinic, professional office, home care setting, long-term care setting, mental health or substance abuse program, or any other setting when rendered by a nurse practitioner who is a participating provider and is practicing within the scope of his professional license to the extent that such policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

Section 3. A participating provider nurse practitioner practicing within the scope of his license including all regulations requiring collaboration with a physician under section 80B of chapter 112, shall be considered qualified within the carrier’s definition of primary care provider to an insured.

Section 4. Notwithstanding any general or special law to the contrary, a carrier that requires the designation of a primary care provider shall provide its insured with an opportunity to select a participating provider nurse practitioner as a primary care provider or to change its primary care provider to a participating provider nurse practitioner at any time during their coverage period.

Section 5. Notwithstanding any general or special law to the contrary, a carrier shall ensure that all participating provider nurse practitioners are included on any publicly accessible list of participating providers for the carrier.

Section 6. A complaint for noncompliance against a carrier shall be filed with and investigated by the commissioner or the group insurance commission, whichever shall have regulatory authority over the carrier. The commissioner and the group insurance commission shall promulgate regulations to enforce this chapter.

SECTION 29. Notwithstanding any general or special law to the contrary, the first report of the health care workforce center required by section 25L of chapter 111 of the General Laws shall be filed on or before December 31, 2009 and shall focus on the primary care workforce, defined as physicians with a medical specialty in family medicine, internal medicine, pediatrics, and

obstetrics/gynecology or nurse practitioners practicing as primary care providers.

SECTION 30. Notwithstanding any general or special law to the contrary, the office of Medicaid, subject to appropriation and the availability of federal financial participation, and in consultation with the MassHealth payment policy advisory board, shall establish a medical home demonstration project. Within the demonstration project the office of Medicaid shall restructure its payment system to support primary care practices that use a medical home model and shall develop a program to support primary care providers in developing an organizational structure necessary to provide a medical home. The office of Medicaid shall work with Medicaid managed care organizations to develop and implement the project.

The office shall consider payment methodologies that support care-coordination through multi-disciplinary teams, including payment for care of patients with chronic diseases and the elderly, and that encourage services such as: (i) patient or family education for patients with chronic diseases; (ii) home-based services; (iii) telephonic communication; (iv) group care; and (v) culturally and linguistically appropriate care. Payment shall reward quality and improved patient outcomes.

The office shall identify practices, for participation in the project, that provide care to its patients using a medical home model, which at minimum shall include primary care practices with a multi-specialty team that provides patient-centered care coordination through the use of health information technology and chronic disease registries, across the patient's life-span and across all domains of the health care system and the patient's community.

The office shall promulgate regulations for the phase-in and implementation of this demonstration project.

The office, subject to appropriation and in coordination with the health care workforce center and the Massachusetts Academy of Family Physicians, shall develop a program to provide support to practices interested in developing an organizational structure necessary to provide a medical home. The office shall conduct an annual project evaluation including documentation of cost savings achieved through implementation; health care screening rates, outcomes and hospitalization rates for patients with chronic illnesses such as pediatric asthma, diabetes, heart disease, hospitalization and readmission rates for the frail elderly. The office shall submit a report of the evaluation to the senate and house chairs of the joint committee on health care financing and the chairs of the senate and house committees on ways and means.

SECTION 31. Notwithstanding any general or special law to the contrary, the trustees of the University of Massachusetts shall expand the entering class at its medical school and increase residencies for medical school graduates for students committed to entering the primary care field and to working in underserved regions of the commonwealth. The trustees shall develop a master plan for expanding medical student enrollment and increasing internships and residencies for medical school graduates who are committed to primary care and work in underserved regions without reducing academic quality, together with a financial plan to support such expansion, and

shall report that plan to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing and the house and senate committees on ways and means on or before January 1, 2009.

SECTION 32. Notwithstanding any general or special law to the contrary, the trustees of the University of Massachusetts, in conjunction with the state health education center at the University of Massachusetts medical center, shall establish and maintain an enhanced learning contract program available to medical students every academic year. The program shall provide full waivers of tuition and fees at the University of Massachusetts medical school. In exchange for the waivers, the contract shall require at least 4 years of service within the commonwealth in areas of primary care, public or community service or underserved areas, as determined by the health care workforce center established under section 25L of chapter 111 of the General Laws and the learning contract committee, in coordination with the area health education center and state and regional health planning agencies. If a student fails to perform the service required by an enhanced learning contract, that student shall pay the difference between the tuition paid and double the amount of the tuition charged together with an origination fee, interest per annum at prime rate as reported at the time of origination by the Federal Reserve, a margin and repayment fee as established by the board. No service or tuition loan repayment shall be required prior to the termination of any internship and residency requirements. Interest shall begin to accrue upon completion of the requirements for the degree. The commonwealth shall bear the cost of such tuition and fee waivers for enhanced learning contracts. The dean of the medical school shall report annually the number of students participating in enhanced learning contracts, the area of medicine within which payback is to be performed and the number of students utilizing the repayment option. The report shall also outline the effects of payback in the underserved areas of the commonwealth.

SECTION 33. (a) Notwithstanding any general or special law to the contrary, there shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Nursing and Allied Health Workforce Development Trust Fund to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, and additional funds, including federal grants or loans or private donations made available to the commissioner of higher education for this purpose. The department of higher education shall hold the fund in an account separate and apart from other funds or accounts. Amounts credited to the fund shall be expended by the commissioner of higher education to carry out subsection (b). Any balance in the fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund. (b) the fund shall be used to develop and support, in consultation with the Massachusetts Nursing and Allied Health Workforce Development Advisory Committee, short-term and long-term strategies to increase the number of public and private higher education faculty and students who participate in programs that support careers in fields related to nursing and allied health. The commissioner of

higher education may expend such funds as may be necessary for the administration of the Massachusetts Nursing and Allied Health Workforce Development Initiative. In furtherance of these public purposes, the commissioner of higher education shall expend funds in the fund for activities that are calculated to increase the number of qualified nursing and allied health faculty and students and improve the nursing and allied health educational offerings available in public higher education institutions. Grants and other disbursements and activities may involve, without limitation, the University of Massachusetts, state and community colleges, private higher education institutions, private higher education institutions in partnership with public higher education institutions, business and industry partnerships, regional alliances, workforce investment boards, organizations granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code and other community groups which promote the nursing profession. Grants and other disbursements and activities may support, without limitation: (i) the goal of rapidly increasing the number of nurses and allied health workers; (ii) enhancing the role of the system of public and private higher education, as institutions and in partnerships with other stakeholders, in meeting the short-term and long-term workforce challenges in the nursing and allied health professions; (iii) the development and use of innovative curricula, courses, programs and modes of delivering education in nursing and allied health professions for faculty and students in these fields; (iv) activities with the growing network of stakeholders in the nursing and allied health professions to create, implement, share and make broadly and publicly available best practices and innovative programs relative to instruction, development of partnerships and expanding and maintaining faculty and student involvement in careers in these fields; and (v) strengthening the institutional capacity to develop and implement long-term programs and policies to effectively respond to these challenges.

SECTION 34. Notwithstanding any general or special law to the contrary, the department of housing and community development, in consultation with the executive office of health and human services, the department of workforce development and the Massachusetts housing finance agency, shall establish a pilot grant or loan program to assist hospitals, community health centers, and physician practices in providing housing grants or loans for health care professionals who commit to practicing in underserved areas, identified by the health care workforce center, established under section 25L of chapter 111, and who meet income eligibility guidelines established by the department. Grants and loans may be used for: (i) purchasing a principal residence, including cooperative housing, that falls within price guidelines established by the department, including costs for down payments, mortgage interest rate buy-downs, closing costs and other costs determined to be eligible by the department; and (ii) payments for security deposits and advance payments for rental housing. The department, to the extent possible shall seek matching funds from hospitals and other private entities.

The department shall promulgate rules and regulations for the administration and enforcement of this section including, establishing provisions for eligibility, specifying the expenses for which grants and loans may be made, and determining the procedures necessary to qualify for assistance.

Two years after the commencement of the pilot program, the department shall report to the house and senate committees on ways and means, the joint committee on housing and the joint committee on health care financing, the results of the pilot program and shall recommend it for expansion, continuation or discontinuation.

SECTION 35. (a) Notwithstanding any general or special laws to the contrary, the division of health care finance and policy, in conjunction with the division of insurance, shall examine options and alternatives available to the commonwealth to provide regulation, oversight and disposition of the reserves, endowments and surpluses of health insurers and hospitals.

(b) The division shall conduct a study relative to health insurers, including health maintenance organizations and acute care and non-acute care hospitals. The study shall include, but not be limited to: (1) an analysis of the laws, regulations and other measures currently in effect in the commonwealth which regulate the amount, nature and disposition of surpluses held by or for the benefit of health insurers in excess of amounts reasonably anticipated to be required to pay claims, taking into account the level of such reserves and surpluses necessary to safeguard the solvency of health insurers against unanticipated events and other circumstances which may cause extraordinary medical losses; (2) an analysis of federal and state law, regulations and other measures currently in effect which regulate the amount, nature and disposition of surpluses and endowments held by or for the benefit of hospitals in excess of amounts reasonably anticipated to be required to perform and support services provided by the hospital and to guard against unanticipated events and other circumstances; (3) a review of recent fiscal practices and financial reporting by health insurers relative to reserves and surpluses and of hospital fiscal practices and financial reporting required by general or special law; (4) a comparison of the commonwealth's current statutes and regulations with those of other states which the commission deems to be reasonably comparable to those of the commonwealth; (5) a review and assessment of model acts and regulations and any other information which the commission finds to be relevant to its inquiry; and (6) a review of the method by which health insurers and hospitals fund community benefit programs including, but not limited to, the manner by which funding is regulated by other states as to the appropriate amount, monitoring and direction of such funding. In compiling this report, the division shall seek input from health plans and hospitals operating in the commonwealth, the attorney general, the executive office of health and human services, and the health care quality and cost council, established in section 16K of section 6A of the General Laws. In conducting its examination, the division shall, to the extent possible, obtain and use actual health plan and hospital data and such data shall be confidential and shall not be a public record under clause twenty-sixth of section 7 of chapter 4 of the General Laws or section 10 of chapter 66 of the General Laws.

(c) The division may contract with another entity with the requisite objective financial and actuarial expertise to assist the division in conducting its study.

(d) The division shall file a report of its findings and recommendations with the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint

committee on health care financing not later than July 1, 2009.

SECTION 36. Notwithstanding any general or special law to the contrary, on or before October 1, 2012, the department of public health shall adopt regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and renewal of licensure, to implement computerized physician order entry systems as defined by the department. The systems shall be certified by the Certification Commission for Healthcare Information Technology or a successor agency or organization established for the purpose of certifying that health information technology meets national interoperability standards.

SECTION 37. Notwithstanding any general or special law to the contrary, on or before October 1, 2015, the department of public health shall adopt regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and renewal of licensure, to implement interoperable electronic health records systems, as defined by the department. The system shall be certified by the Certification Commission for Healthcare Information Technology or a successor agency or organization established for the purpose of certifying that health information technology meets national interoperability standards.

SECTION 38. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall maximize enrollment of eligible persons in the MassHealth Senior Care Options program, the Program of All Inclusive Care for the Elderly, the Enhanced Community Options Program and the Community Choices program, or comparable successor programs, and shall develop dual eligible plans. For the purposes of this section, “dual eligible plans” shall be plans that offer similar coverage to Medicaid and Medicare-eligible disabled persons under age 65. Not later than 6 months after the effective date of this act, the executive office of health and human services shall prepare a report identifying clinical, administrative and financial barriers to expanded dual eligible plans, and shall recommend steps to remove the barriers and implement the plans. Before finalizing the report, the executive office shall hold a public consultative session that shall include organizations representing seniors, organizations representing disabled persons, organizations representing health care consumers, organizations representing racial and ethnic minorities, health delivery systems and health care providers. The report shall include consideration of changes in procurement standards and MassHealth payment methodologies to promote enrollment in dual eligible plans. The report shall include estimates of the costs and benefits of implementing steps to remove barriers to expanded enrollment in dual eligible plans, including financial savings and improved quality of care. The report shall be provided to the committee on health care financing and the house and senate committees on ways and means. Subject to appropriation, the executive office of health and human services shall implement any steps recommended by the report. Not later than 1 year after the filing

of the report, the executive office shall issue a progress statement on expanded enrollment in dual eligible plans.

SECTION 39. Notwithstanding any general or special law to the contrary, the division of insurance shall conduct an investigation and study of the costs of medical malpractice coverage for health care providers, as defined in section 193U of chapter 175 of the General Laws. The investigation and study shall include, but not be limited to, an examination and analysis of the following: (1) the availability and affordability of medical malpractice insurance; (2) the factors considered by medical malpractice insurers when increasing premiums; (3) options for decreasing premiums including, but not limited to, establishing a reinsurance pool with additional stop loss coverage, subsidizing premium payments of providers practicing in certain high-risk specialties or in specialties for which the cost of premiums represents a disproportionately high proportion of a health care provider's income, subsidizing premium payments of providers who do not qualify for group coverage rates and pay higher premiums for commercial market insurance and prorating premiums for providers who practice less than full-time; and (4) funding mechanisms that would facilitate the implementation of recommendations arising out of the study which may include, but shall not be limited to, charges borne by the health care industry or other entities. The division shall hold at least 2 public hearings to take testimony relating to the investigation and study, 1 of which shall be held outside the metropolitan Boston area. The division shall report its findings and recommendations to the clerk of the house of representatives who shall forward the same to the house and senate committee on ways and means and the joint committee on health care financing on or before January 1, 2009.

SECTION 40. Notwithstanding any general or special law to the contrary, the MassHealth payment policy advisory board, established in section 16M of chapter 6A of the General Laws, shall conduct a study of the need for an increase in Medicaid rates or bonuses for primary care physicians, nurse practitioners and subspecialists who provide primary care services, such as preventive care, certain evaluation and management procedures, early periodic screening, diagnosis and treatment and scheduled weekend and holiday services, in order to focus on prevention and wellness and delivery of primary care to identify illness earlier, to better manage chronic disease and to avoid costs associated with emergency room visits and hospitalizations. The committee shall report its findings, including recommendations for the amount of funding and the sources of funding, to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing, and the house and senate committees on ways and means on or before January 1, 2009.

SECTION 41. Notwithstanding any general or special law to the contrary, the executive office of health and human services, in consultation with the health care quality and cost council, commission on end-of-life care established by section 480 of chapter 159 of the Acts of 2000, and the Betsy Lehman Center for Patient Safety and the Reduction of Medical Errors, shall convene an expert panel on end-of-life care for patients with serious chronic illnesses. The panel shall investigate and

study health care delivery for these patients and the variations in delivery of such care among health care providers in the commonwealth. For the purposes of this investigation and study, "health care providers" shall mean facilities and health care professionals licensed to provide acute inpatient hospital care, outpatient services, skilled nursing, rehabilitation and long-term hospital care, home health care and hospice services. The panel shall identify best practices for end-of-life care, including those that minimize disparities in care delivery and variations in practice or spending among geographic regions and hospitals, and shall present recommendations for any legislative, regulatory, or other policy changes necessary to implement its recommendations.

SECTION 42. Notwithstanding any general or special law to the contrary, on or before January 1, 2009, the executive office of health and human services, in consultation with the commission on end-of-life care established by section 480 of chapter 159 of the acts of 2000, shall initiate a public awareness campaign to highlight the importance of end-of-life care planning. The campaign shall include, but not be limited to, dissemination of information and other activities that educate the public about existing options for care at the end of life and how to communicate their end-of-life care wishes to family members and health care providers.

SECTION 43. Notwithstanding any general or special law to the contrary, the executive office of health and human services, in consultation with the commission on end-of-life care established by section 480 of chapter 159 of the acts of 2000, shall establish a pilot program to test the implementation of the physician order for life-sustaining treatment paradigm program to assist individuals in communicating end-of-life care directives across care settings in at least 1 region of the commonwealth. The pilot program shall include educational outreach to patients, families, caregivers and health care providers regarding the physician order for life-sustaining treatment paradigm program. The executive office of health and human services, in conjunction with the end-of-life commission, shall develop measures to test the success of the pilot program and make recommendations for the establishment of a state-wide program.

SECTION 44. (a) Notwithstanding any general or special law to the contrary, there shall be a special commission on the health care payment system that shall investigate reforming and restructuring the system to provide incentives for efficient and effective patient-centered care and to reduce variations in the quality and cost of care.

(b) The commission shall consist of the secretary of administration and finance and the commissioner of health care finance and policy, who shall serve as co-chairs, the executive director of the group insurance commission, 1 person to be appointed by the senate president, 1 person to be appointed by the speaker of the house, and 5 members to be appointed by the Governor, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a

representative of the Massachusetts Medical Society, and 1 of whom shall be a health economist or expert in the area of payment methodology.

The commission shall adopt rules and establish procedures it considers necessary for the conduct of its business. The commission may expend funds as may be appropriated or made available for its purposes. No action of the commission shall be considered official unless approved by a majority vote of the commission.

(c) The commission (i) shall examine payment methodologies and purchasing strategies, including, but not limited to, alternatives to fee-for-service models such as blended capitation rates, episodes-of-care payments, medical home models, and global budgets; pay-for-performance programs; tiering of providers; and evidence-based purchasing strategies, (ii) recommend a common transparent payment methodology that promotes coordination of care and chronic disease management; rewards primary care physicians for improving health outcomes; reduces waste and duplication in clinical care; decreases unnecessary hospitalizations and use of ancillary services; and provides appropriate reimbursement for investment in health information technology that reduces medical errors and enables coordination of care, and (iii) recommend a plan for the implementation of the common payment methodology across all public and private payers in the commonwealth, including a plan under which the commonwealth shall seek a waiver from federal Medicare rules to facilitate the implementation of the common payment system.

(d) In making its investigation, the commission shall consult with the health care quality and cost council, the division of health care finance and policy, health care economists, and others individuals or organizations with expertise in state and federal health care payment methodologies and reforms. The commission shall use data and recommendations gathered in the course of these consultations as a basis for its findings and recommendations.

(e) The commission shall file a report of its findings and recommendations, including any proposed legislation needed to implement the recommendations.

(f) The attorney general shall, in consultation with the commissioner of health care finance and policy, adopt rules, regulations or guidelines necessary and appropriate to provide active state supervision for the administration of this section. The commissioner of health care finance and policy may terminate any action taken pursuant to this section that does not support the purposes of this section or the terms of the regulations promulgated pursuant to this section that provide oversight for the commission.

Before a final vote on any recommendations, the commission shall consult with a reasonable variety of parties likely to be affected by its recommendations, including, but not limited to, the office of Medicaid, the division of health care finance and policy, the commonwealth health insurance connector, the Massachusetts Council of Community Hospitals, Inc., the Massachusetts League of Community Health Centers, Inc., 1 or more academic medical centers, 1 or more hospitals with a high proportion of public payors, 1 or more Taft-Hartley plans, 1 or more self-insured plans with membership of more than 500, the Massachusetts Municipal Association, Inc. and organizations representing health care consumers.

The commission shall hold its first meeting no later than September 15, 2008 and shall file the report of its findings and recommendations together with legislation, if any, with the clerks of the senate and the house of representatives and with the governor no later than April 1, 2009.

Any person or entity acting under the authority of any rule, regulation or guideline adopted pursuant to this section shall be engaged in action under state policy and shall be immune from antitrust liability to the same degree and extent as the Commonwealth.

SECTION 45. Any entity providing ambulatory surgical center services which is in operation or under construction, as determined by the department of public health, on the effective date of this act shall be exempt from the determination of need requirement of section 53G of chapter 111 of the General Laws and shall be eligible, pursuant to said section 53G of said chapter 111, to make application to the department for a clinic license for up to 6 months after the effective date of regulations adopted by the department pursuant to said section 53G of said chapter 111.

SECTION 46. Section 7 shall apply to any project seeking written approval of final architectural plans, pursuant to section 51 of chapter 111 of the General Laws 6 months or more after the effective day of this act.

SECTION 47. Notwithstanding any general or special law to the contrary, the department of public health shall review the Mass COMM Percutaneous Coronary Intervention trial and shall determine any adjustments or changes the department may enact to accelerate the trial without jeopardizing the validity of the study. The department shall immediately take action to implement such changes and shall report its findings and any necessary legislative recommendations to the joint committee on health care financing and the house and senate committees on ways and means no later than October 31, 2008.

SECTION 48. Notwithstanding any general or special law to the contrary, the department of public health shall promulgate regulations necessary to implement, administration and enforcement of section 4N of chapter 111 of the General Laws in accordance with chapter 30A on or before October 1, 2008, and shall begin implementation of the outreach and education program established under said section 4N on or before January 1, 2009.

SECTION 49. Notwithstanding any general or special law to the contrary, the bureau of managed care within the division of insurance shall convene the first advisory committee required under section 5B of chapter 176O of the General Laws on or before January 1, 2009.

SECTION 50. Notwithstanding any general or special law to the contrary, the secretary of administration and finance and the secretary of health and human services shall prepare and submit a report to the general court about the allocation for and use of state funds by acute care hospitals,

non-acute care hospitals, Medicaid managed care organizations, other managed care organizations, community health centers and carriers contracting with the commonwealth health insurance connector authority to provide coverage under chapter 118H or any other publicly funded program. The report shall include: (1) a comprehensive review of the current manner, amount and purposes of annual state funding received by those entities, including a description of the source of the funding; (2) an assessment of the change in total state funding for those entities over the past 5 years, with particular attention paid to the impact of chapter 58 of the acts of 2006; (3) an assessment of how those entities use state funds; (4) an assessment of whether the current payment structure assures the delivery of quality health care in the most cost-effective way; (5) an analysis of financial and management practices of those entities by benchmarking performance with respect to quality and cost effectiveness against national performance levels and similar health care providers in the commonwealth; (6) identification of common factors that may contribute to the fiscal instability of those entities; (7) recommendations for the development of performance and operational benchmarks; (8) recommendations for ensuring that the entities are spending state and other funds in a fiscally-responsible manner and providing quality care; (9) recommendations for legislative and other action necessary to strengthen state oversight and ensure greater accountability of state resources; (10) an assessment of the manner in which hospitals seek payment from consumers, including an analysis of the impact that court filing fees have on their ability to collect payment; and (11) recommendations for regulations regarding the due diligence that facilities shall exercise in seeking to collect payment from consumers before seeking reimbursement from the commonwealth.

SECTION 51. Notwithstanding any general or special law to the contrary, on or before July 31, 2012, the e-Health institute, in consultation with the health information technology council established by section 6D of chapter 40J, shall submit a report to the joint committee on health care financing and the senate and house committees on ways and means on the status of health information technology in the commonwealth. The report shall include the status of: (i) the implementation and use of electronic health records systems, such as rate of provider participation; (ii) the statewide interoperable electronic health records network and its capacity to exchange health information between and among components of the health system, with special focus on ambulatory care providers; (iii) the security and privacy of health information technology developed and disseminated through activities of the council; and (iv) the impact of health information technology on health care quality, health outcomes of patients, and health care costs.

SECTION 52. Notwithstanding any general or special law to the contrary, the health e-Health institute and the health information technology oversight council, established by section 6D of chapter 40J of the General Laws, shall have as its goal full implementation of electronic health records systems and the statewide interoperable electronic health records network by January 1, 2015.

SECTION 53. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the health care quality and cost council, shall: (i) examine the feasibility of the commonwealth entering into an interstate compact with 1 or more states to establish an independent entity to research the comparative effectiveness of medical procedures, drugs, devices, and biologics, so that research results can be used as a basis for health care purchasing and payment decisions, and (ii) make recommendations concerning the entity's design. The secretary shall consider existing state and country models, including, but not limited to, the Washington State Health Care Authority's Health Technology Assessment program, the National Institute for Health and Clinical Excellence in Britain, and the Institut für Qualität und Wirtschaftlichkeit im Gesundheitswesen in Germany. The secretary shall file a report with the results of the study together with legislation, if any, with the clerk of the senate and the clerk of the house of representatives on or before March 30, 2009.

SECTION 54. Item 1599-2008 of chapter 182 of the acts of 2008 is hereby amended by striking the following words:- , inspector general's office.

SECTION 55. Chapter 182 of the acts of 2008 is hereby amended by striking out section 10.

SECTION 56. Chapter 182 of the acts of 2008 is hereby amended in section 87 by striking out the words:- "established in section 10 of this act".

SECTION 57. Section 10 shall take effect on October 1, 2012.

SECTION 58. Section 15 shall take effect on January 1, 2015.

SECTION 59. Subsection (d) of section 61 of chapter 118E of the General Laws, as appearing in section 18 shall take effect on January 1, 2011.

SECTION 60. Sections 19 and 27 shall take effect on July 1, 2012.

SECTION 61. Subsection (d) of section 5A of chapter 176O of the General Laws, as appearing in section 26 shall take effect on January 1, 2011.

SECTION 62. Sections 14, 28 and 42 shall take effect on January 1, 2009.

Approved August 10, 2008

Senate, No. 2585

[Senate, July 30, 2010-- Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill to promote cost containment, transparency and efficiency in the provision of quality health insurance for individuals and small businesses (Senate, No. 2447) (*amended by the House* by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4924”)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT TO PROMOTE COST CONTAINMENT, TRANSPARENCY AND EFFICIENCY IN THE PROVISION OF QUALITY HEALTH INSURANCE FOR INDIVIDUALS AND SMALL BUSINESSES

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the containment, transparency and efficiency in the provision of quality health insurance for individuals and small businesses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

- 1 SECTION 1. Section 38C of chapter 3 of the General Laws, as appearing in the 2008 Official
- 2 Edition, is hereby amended by adding the following subsection:-
- 3 (e) The division of health care finance and policy shall issue a comprehensive report at least once
- 4 every 4 years on the cost and public health impact of all existing mandated benefits. In conjunction with
- 5 this review, the division shall consult with the department of public health and the University of
- 6 Massachusetts Medical School in a clinical review of all mandated benefits to ensure that all mandated

benefits continue to conform to existing standards of care in terms of clinical appropriateness or evidence-based medicine. The division may file legislation that would amend or repeal existing mandated benefits that no longer meet these standards.

SECTION 2. Section 16K of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out subsections (a) to (c), inclusive, and inserting in place thereof the following 3 subsections:-

(a) There shall be established a health care quality and cost council, which shall be an independent public entity not subject to the supervision and control of any other executive office, department, commission, board, bureau, agency or political subdivision of the commonwealth. The council shall promote public transparency of the quality and cost of health care in the commonwealth, and shall seek to support the long-term sustainability of health care reform in the commonwealth by developing recommendations for containing health care costs, while facilitating access to information on health care quality improvement efforts. The council shall disseminate health care quality and cost data to consumers, health care providers and insurers through a consumer health information website under subsections (e) and (g); establish cost containment goals under subsection (h); and coordinate ongoing quality improvement initiatives under subsection (i).

(b) The council shall consist of 19 members and shall be comprised of: (1) 9 ex-officio members, including the secretary of health and human services, the secretary of administration and finance, the state auditor, the inspector general, the attorney general, the commissioner of insurance, the commissioner of health care finance and policy, the commissioner of public health and the executive director of the group insurance commission, or their designees; and (2) 10 representatives of nongovernmental organizations to be appointed by the governor, 1 of whom shall be a representative of a health care quality improvement organization recognized by the federal Centers for Medicare and Medicaid Services, 1 of whom shall be a representative of the Institute for Healthcare Improvement recommended by the organization's board of

31 directors, 1 of whom shall be a representative of the Massachusetts chapter of the National Association of
32 Insurance and Financial Advisors, 1 of whom shall be a representative of the Massachusetts Association
33 of Health Underwriters, Inc., 1 of whom shall be a representative of the Massachusetts Medicaid Policy
34 Institute, Inc., 1 of whom shall be a expert in health care policy from a foundation or academic institution,
35 1 of whom shall be a representative of a non-governmental purchaser of health insurance, 1 of whom shall
36 be an organization representing the interests of small businesses with fewer than 50 employees, 1 of
37 whom shall be an organization representing the interests of large businesses with 50 or more employees
38 and 1 of whom shall be a clinician licensed to practice in the commonwealth. At least 2 members of the
39 council shall be clinicians licensed to practice in the commonwealth. Members of the council shall vote
40 annually to elect a chair and an executive committee, which shall consist of 4 council members and the
41 chair. The executive committee shall meet as required to fulfill the mission of the council. Members of
42 the council shall be appointed for terms of 3 years and shall serve until the term is completed or until a
43 successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation,
44 but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their
45 duties which may include reimbursement for reasonable travel and living expenses while engaged in
46 council business. All council members shall be subject to chapter 268A; provided, however, that the
47 council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in
48 which any council member is in anyway interested or involved; provided further that such interest or
49 involvement shall be disclosed in advance to the council and recorded in the minutes of the proceedings
50 of the council; and provided further, that no council member having such interest or involvement may
51 participate in any decision relating to such organization.

52 (c) All meetings of the council shall comply with chapter 30A. The council may, subject to
53 chapter 30B and subject to appropriation, procure equipment, office space, goods and services.

54 The executive office of health and human services may provide staff and administrative support
55 as requested by the council; provided, however, that all work completed by the executive office of health

and human services shall be subject to approval by the council . The council shall appoint an executive director to oversee the operation and maintenance of the website, ensure compliance with the requirements of this section, and coordinate work completed by the executive office of health and human services and may, subject to appropriation, employ such additional staff or consultants as it deems necessary.

The council shall promulgate rules and regulations and may adopt by-laws necessary for the administration and enforcement of this section.

SECTION 3. Said section 16K of said chapter 6A, as so appearing, is hereby further amended by striking out subsections (h) and (i), as so appearing, and inserting in place thereof the following 2 subsections:-

(h) The council, in consultation with its advisory committee, shall develop annual health care cost containment goals. The goals shall be designed to promote affordable, high-quality, safe, effective, timely, efficient, equitable and patient centered health care. The council shall also establish goals that are intended to reduce health care disparities in racial, ethnic and disabled communities. In establishing cost containment goals, the council shall utilize claims data collected from carriers under this section, and information gathered as part of the division of health care finance and policy's public hearings on health care costs under section 6 ½ of chapter 118G. For each goal, the council shall identify: (i) the parties that will be impacted;(ii) the agencies, departments, boards or councils of the commonwealth responsible for overseeing and implementing the goals; (iii) the steps needed to achieve the goals;(iv) the projected costs associated with implementing the goals; (v) and the potential cost savings, both short and long-term, attributable to the goals. The council may recommend legislation or regulatory changes to achieve these goals. The council shall publish a report on the progress towards achieving the costs containment goals.

(i) The council, in consultation with its advisory committee, shall coordinate and compile data on quality improvement programs conducted by state agencies and public and private health care

80 organizations. The council shall consider programs designed to: (i) improve patient safety in all settings
81 of care; (ii) reduce preventable hospital readmissions; (iii) prevent the occurrence of and improve the
82 treatment and coordination of care for chronic diseases; and (iv) reduce variations in care. The council
83 shall make such information available on the council's consumer health information website. The council
84 may recommend legislation or regulatory changes as needed to further implement quality improvement
85 initiatives.

86 SECTION 4. Section 2 of chapter 32A of the General Laws, as amended by section 64 of
87 chapter 25 of the acts of 2009 , is hereby amended by adding the following subsection:-

88 (i) "Wellness program", a program designed to measure and improve individual health by
89 identifying risk factors, principally through diagnostic testing and establishing plans to meet specific
90 health goals which include appropriate preventive measures. Risk factors may include but shall not be
91 limited to demographics, family history, behaviors and measured biometrics.

92 SECTION 5. Said chapter 32A is hereby further amended by adding the following section:-

93 Section 25. The commission shall, subject to appropriation, negotiate with and purchase, on such
94 terms as it deems to be in the best interest of the commonwealth and its employees, from 1 or more
95 entities that can manage a wellness program covering persons in the service of the commonwealth and
96 their dependents, and shall execute all agreements or contracts pertaining to the program. The
97 commission may negotiate a contract for such term not exceeding 5 years as it may, in its discretion,
98 deem to be the most advantageous to the commonwealth; provided, however that the program shall be
99 able to evaluate individual and aggregate data, give employees access to their individual information
100 confidentially and allow the commission to receive collective reports summarizing baseline and ongoing
101 data regarding the behavior and well being of enrollees. The commission may reduce premiums or co-
102 payments or offer other incentives to encourage enrollees to comply with the wellness program goals.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall submit an annual report to the governor, the secretary of health and human services, the secretary of administration and finance, the chairs of the joint committee on health care financing, chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president. The report shall include the collective results, including, but not limited to, the level of participation among employees, incentives provided for participation, the number and type of screenings and diagnostic tests conducted, the instance of undiagnosed risks defined as out of range diagnostic tests and number of employees seeking and receiving preventative treatment. The commission shall use this information in the negotiating and purchasing, on such terms as it deems in the best interest of the commonwealth and its employees, from 1 or more insurance companies, savings banks or non-profit hospital or medical service corporations, of a policy or policies of group life and accidental death and dismemberment insurance covering persons in the service of the commonwealth and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits covering persons in the service of the commonwealth and their dependents.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall annually submit a report to the governor, secretary of administration and finance, the chairs of the joint committee on health care financing, the chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president on the savings that have been achieved in procuring such insurance policies since implementing the wellness program.

SECTION 6. Subsection (b) of section 9 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

This section shall not be construed to prohibit a physician or an optometrist from the in-office dispensing and sale of therapeutic contact lenses as long as the medication contained in such lenses is within the profession's designated scope of practice.

For the purposes of this section, "therapeutic contact lenses" shall mean contact lenses which contain 1 or more medications and which deliver such medication to the eye.

SECTION 7. Chapter 111 of the General Laws is hereby amended by inserting after section 25O the following section:-

Section 25P Every health care provider, as defined by section 1 or otherwise licensed under chapter 112, shall track and report quality information at least annually under regulations promulgated by the department.

SECTION 8. Section 217 of said chapter 111, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "plans", in line 33, the following words:- ; and

(7) administer and grant enrollment waivers under paragraph (4) of subsection (a) of section 4 of chapter 176J; provided, however, that the office of patient protection may grant a waiver to an eligible individual who certifies, under penalty of perjury, that such individual did not intentionally forego enrollment into coverage for which the individual is eligible and that is at least actuarially equivalent to minimum creditable coverage; provided further, that the office shall establish by regulation standards and procedures for enrollment waivers.

SECTION 9. Said chapter 111 is hereby further amended by adding the following section: -

Section 222. There shall be a commission on falls preventions within the department. The commission shall consist of the commissioner of public health or the commissioner's designee, who shall chair the commission; the secretary of elder affairs or the secretary's designee; the director of MassHealth

or the director's designee; and 8 members to be appointed by the governor, 1 of whom shall be a member of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a member of the AARP, 1 of whom shall be a member of the Massachusetts Senior Care Association, Inc., 1 of whom shall be a member of the Massachusetts Association of Councils on Aging, Inc. 1 of whom shall be a member of the Massachusetts Medical Society Alliance, Inc., 1 of whom shall be a member of the Massachusetts Assisted Living Facilities Association, 1 of whom shall be a member of Mass Home Care and 1 of whom shall be a member of the Massachusetts Pharmacists Association Foundation, Inc.

The commission on falls prevention shall make an investigation and comprehensive study of the effects of falls on older adults and the potential for reducing the number of falls by older adults. The commission shall monitor the effects of falls by older adults on health care costs, the potential for reducing the number of falls by older adults and the most effective strategies for reducing falls and health care costs associated with falls. The commission shall:

(1) consider strategies to improve data collection and analysis to identify fall risk, health care cost data and protective factors;

(2) consider strategies to improve the identification of older adults who have a high risk of falling;

(3) consider strategies to maximize the dissemination of proven, effective fall prevention interventions and identify barriers to those interventions;

(4) assess the risk and measure the incidence of falls occurring in various settings;

(5) identify evidence-based strategies used by long-term care providers to reduce the rate of falls among older adults and reduce the rate of hospitalizations related to such falls;

(6) identify evidence-based community programs designed to prevent falls among older adults;

(7) review falls prevention initiatives for community-based settings; and

(8) examine the components and key elements of the above falls prevention initiatives, consider their applicability in the commonwealth and develop strategies for pilot testing, implementation and evaluation.

The commission on falls prevention shall submit to the secretary of health and human services and the joint committee on health care financing, not later than September 22, annually, a report that includes findings from the commission's review along with recommendations and any suggested legislation to implement those recommendations. The report shall include recommendations for:

(1) intervention approaches, including physical activity, medication assessment and reduction of medication when possible, vision enhancement and home-modification strategies;

(2) strategies that promote collaboration between the medical community, including physicians, long-term care providers and pharmacists to reduce the rate of falls among their patients;

(3) programs that are targeted to fall victims who are at a high risk for second falls and that are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations;

(4) programs that encourage partnerships to prevent falls among older adults and prevent or reduce injuries when falls occur; and

(5) programs to encourage long-term care providers to implement falls- prevention strategies which use specific interventions to help all patients avoid the risks for falling in an effort to reduce hospitalizations and prolong a high quality of life.

SECTION 10. Section 66B of chapter 112 of the General Laws is hereby amended after the third paragraph by inserting the following:-

This section shall not be construed to prohibit an optometrist from the in-office dispensing and sale of therapeutic contact lenses as long as the medication contained in such lenses is within the profession's designated scope of practice.

For the purposes of this section, "therapeutic contact lenses" shall mean contact lenses which contain 1 or more medications and which deliver such medication to the eye.

SECTION 11. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Health maintenance organization" the following definition:-

"Health status adjusted total medical expenses", the total cost of care for the patient population associated with a provider group based on allowed claims for all categories of medical expenses and all non-claims related payments to providers, adjusted by health status, and expressed on a per member per month basis, as calculated under section 6 and the regulations promulgated by the commissioner.

SECTION 12. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Purchaser" the following definition:-

"Relative prices", the contractually negotiated amounts paid to providers by each private and public carrier for health care services, including non-claims related payments and expressed in the aggregate relative to the payer's network-wide average amount paid to providers, as calculated under section 6 of chapter 118G and regulations promulgated by the commissioner.

SECTION 13. Section 6 of said chapter 118G of the General Laws is hereby amended by striking out the fourth and fifth paragraphs, as so appearing, and inserting in place thereof the following 3 paragraphs: -

211 The division shall require the submission of data and other information from each private health
212 care payer offering small or large group health plans including, but not limited to: (i) average annual
213 individual and family plan premiums for each payer's most popular plans for a representative range of
214 group sizes, as further determined in regulations and average annual individual and family plan premiums
215 for the lowest cost plan in each group size that meets the minimum standards and guidelines established
216 by the division of insurance under section 8H of chapter 26; (ii) information concerning the actuarial
217 assumptions that underlie the premiums for each plan; (iii) summaries of the plan designs for each plan;
218 (iv) information concerning the medical and administrative expenses, including medical loss ratios for
219 each plan, using a uniform methodology, and collected under section 21 of chapter 176O; (v) information
220 concerning the payer's current level of reserves and surpluses; (vi) information on provider payment
221 methods and levels; (vii) health status adjusted total medical expenses by provider group and local
222 practice group and zip code calculated according to a uniform methodology; (viii) relative prices paid to
223 every hospital, physician group, ambulatory surgical center, freestanding imaging center, mental health
224 facility, rehabilitation facility, skilled nursing facility and home health provider in the payer's network, by
225 type of provider and calculated according to a uniform methodology; and (ix) hospital inpatient and
226 outpatient costs, including direct and indirect costs, according to a uniform methodology.

227 The division shall require the submission of data and other information from public health care
228 payers including, but not limited to: (i) average premium rates for health insurance plans offered by
229 public payers and information concerning the actuarial assumptions that underlie these premiums; (ii)
230 average annual per-member per-month payments for enrollees in MassHealth primary care clinician and
231 fee for service programs; (iii) summaries of plan designs for each plan or program; (iv) information
232 concerning the medical and administrative expenses, including medical loss ratios for each plan or
233 program; (v) where appropriate, information concerning the payer's current level of reserves and
234 surpluses; (vi) information on provider payment methods and levels, including information concerning
235 payment levels to each hospital for the 25 most common medical procedures provided to enrollees in

these programs, in a form that allows payment comparisons between Medicaid programs and managed care organizations under contract to the office of Medicaid; (vii) health status adjusted total medical expenses by provider group and local practice group and zip code calculated according to a uniform methodology; (viii) relative prices paid to every hospital, physician group, ambulatory surgical center, freestanding imaging center, mental health facility, rehabilitation facility, skilled nursing facility and home health provider in the payer's network, by type of provider and calculated according to a uniform methodology.

The division shall require the submission of data and other such information from each acute care hospital on hospital inpatient and outpatient costs, including direct and indirect costs, according to a uniform methodology.

The division shall publicly report and place on its website information on health status adjusted total medical expenses, relative prices and hospital inpatient and outpatient costs, including direct and indirect costs under this section on an annual basis; provided, however, that at least 10 days prior to the public posting or reporting of provider specific information the affected provider shall be provided the information for review. The division shall request from the federal Centers for Medicare and Medicaid Services the health status adjusted total medical expenses of provider groups that serve Medicare patients.

SECTION 14. Section 6C of said chapter 118G is hereby amended by striking out subsection (c), as amended by section 9 of chapter 65 of the acts of 2009, and inserting in place thereof the following subsection:-

(c) Information that identifies individual employees by name or health insurance status shall not be a public record, but the information shall be exchanged with the department of revenue, the commonwealth health insurance connector authority, and the health care access bureau in the division of insurance under an interagency services agreement for the purposes of enforcing this section, sections 3, 6B and 18B of chapter 118H, and sections 3 to 7A, inclusive, of chapter 176Q. An employer who

260 knowingly falsifies or fails to file with the division any information required by this section or by any
261 regulation promulgated by the division shall be punished by a fine of not less than \$1,000 not more than
262 \$5,000.

263 SECTION 15. Section 47H of chapter 175 of the General Laws, as appearing in the 2008
264 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the
265 following 2 sentences:- For purposes of this section, ‘infertility’ shall mean the condition of an individual
266 who is unable to conceive or produce conception during a period of 1 year if the female is age 35 or
267 younger or during a period of 6 months if the female is over the age of 35. For purposes of meeting the
268 criteria for infertility in this section, if a person conceives but is unable to carry that pregnancy to live
269 birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in
270 the calculation of the 1 year or 6 month period, as applicable.

271 SECTION 16. Section 8K of chapter 176A of the General Laws, as so appearing, is hereby
272 amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- For
273 purposes of this section, ‘infertility’ shall mean the condition of an individual who is unable to conceive
274 or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6
275 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this
276 section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she
277 attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1 year
278 or 6 month period, as applicable.

279 SECTION 17. Section 4J of chapter 176B of the General Laws, as so appearing, is hereby
280 amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- For
281 purposes of this section, ‘infertility’ shall mean the condition of an individual who is unable to conceive
282 or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6
283 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this

section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1 year or 6 month period, as applicable.

SECTION 18. Section 3 of chapter 176D of the General Laws, as so appearing, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) Boycott, coercion and intimidation: (a) entering into an agreement to commit, or by concerted action committing, an act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; (b) an refusal by a nonprofit hospital service corporation, medical service corporation, insurance or health maintenance organization to negotiate, contract or affiliate with a health care facility or provider because of such facility's or provider's contracts, type of provider licensure or affiliations with any other nonprofit hospital service corporation, medical service corporation, insurance company or health maintenance organization; or (c) an nonprofit hospital service corporation, medical service corporation, insurance company or health maintenance organization establishing the price to be paid to any health care facility or provider by reference to the price paid, or the average of prices paid, to such facility or provider under a contract or contracts with any other nonprofit hospital service corporation, medical service corporation, insurance company, health maintenance organization or preferred provider arrangement.

SECTION 19. Said chapter 176D is hereby further amended by striking out section 3A, as so appearing, and inserting in place thereof the following section:-

Section 3A. The following shall be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance by entities organized under chapters 176A, 176B, 176G and 176I or licensed under chapter 175: (i) entering into any agreement to commit or by any concerted action committing any act of, boycott, coercion, intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; (ii) refusal to enter into a contract with a health

care facility on the basis of the facility's religious affiliation; (iii) seeking to set the price to be paid to any health care facility or provider by reference to the price paid, or the average of prices paid, to that health care facility or provider under a contract or contracts with any other nonprofit hospital service corporation, medical service corporation, insurance company, health maintenance organization or preferred provider arrangement; (iv) refusal to contract or affiliate with a health care facility solely because the facility does not provide a specific service or range of services; (v) selecting or contracting with a health care facility or provider not based primarily on cost, availability and quality of covered services; (vi) refusal to enter into a contract with a health care facility solely on the basis of the facility's governmental affiliation; and (vii) arranging for an individual employee to apply for individual health insurance coverage, as defined in chapter 176J, for the purpose of separating that employee from group health insurance coverage to reduce costs for an employer sponsored health plan provided in connection with the employee's employment.

SECTION 20. Section 1 of said chapter 176J, as so appearing, is hereby amended by striking out the definition of "Eligible individual" and inserting in place thereof the following definition:-

"Eligible individual", an individual who is a resident of the commonwealth and who is not seeking individual coverage to replace an employer-sponsored health plan for which the individual is eligible and which provides coverage that is at least actuarially equivalent to minimum creditable coverage.

SECTION 21. Said section 1 of chapter 176J, as so appearing, is hereby further amended by inserting after the definition of "Prototype plan" the following definition:-

"Qualified association", a Massachusetts nonprofit or not-for-profit corporation or other entity organized and maintained for the purposes of advancing the occupational, professional, trade or industry interests of its association members, other than that of obtaining health insurance, and that has been in active existence for at least 5 years, that comprises at least 100 association members and membership in

which is generally available to potential association members of such occupation, profession, trade or industry without regard to the health condition or status of a prospective association member or the employees and dependents of a prospective association member.

SECTION 22. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by inserting after the definition of “Resident” the following definition:-

“Small business group purchasing cooperative”, or “group purchasing cooperative”, a Massachusetts nonprofit or not-for-profit corporation or association, approved as a qualified association by the commissioner under section 13, all the members of which are part of a qualified association which negotiates with 1 or more carriers for the issuance of health benefit plans that cover employees, and the employees’ dependents, of the qualified association’s members.

SECTION 23. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by adding the following definition:-

“Wellness program”, or “health management program”, an organized system designed to improve the overall health of participants through activities that may include, but shall not be limited to, education, health risk assessment, lifestyle coaching, behavior modification and targeted disease management.

SECTION 24. Subsection (a) of section 3 of said chapter 176J, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) A carrier may establish an age rate adjustment that applies to both eligible individuals and eligible small groups; provided, however, that the carrier applies the rate adjustment on a year-to-year basis for both eligible individuals and eligible small groups.

SECTION 25. Said section 3 of said chapter 176J, as so appearing, is hereby further amended by adding the following subsection:-

(f) The commissioner may conduct an examination of the rating factors used in the small group health insurance market in order to identify whether any expenses or factors inappropriately increase the cost in relation to the risks of the affected small group. The commissioner may adopt changes to the small group regulation each July 1 for rates effective each subsequent January 1 to modify the derivation of group base premium rates or of any factor used to develop individual group premiums.

SECTION 26. Subsection (a) of section 4 of said chapter 176J, as so appearing, is hereby amended by striking out paragraphs (2) to (4), inclusive, and inserting in place thereof the following 3 paragraphs:-

(2) A carrier shall enroll eligible individuals and eligible persons, as defined in section 2741 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. section 300gg-41(b), into a health plan if such individuals or persons request coverage within 63 days of termination of any prior creditable coverage. Coverage shall become effective within 30 days of the date of application, subject to reasonable verification of eligibility.

(3) A carrier shall enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the mandatory biannual open enrollment period for eligible individuals and the eligible dependents of those individuals. Each year, the first open enrollment period shall begin on January 1 and end on February 15. The second open enrollment period shall begin on July 1 and end on August 15. All coverage shall become effective on the first day of the month following enrollment. The commissioner shall promulgate regulations for the open enrollment periods. For a Trade Act/HCTC-eligible persons, a carrier may impose a pre-existing condition exclusion or waiting period of no more than 6 months following the individual's effective date of coverage if the Trade Act/HCTC-eligible person has had less than 3 months of continuous health coverage before becoming eligible for the health coverage tax credit; or a break in coverage of over 62 days immediately before the date of application for enrollment into the qualified health plan.

(4) No policy may require any waiting period if the eligible individual has not had any creditable coverage for the 18 months prior to the effective date of coverage. Notwithstanding paragraph (3), an eligible individual who does not meet the requirements of paragraph (2) may seek an enrollment waiver to permit enrollment not during a mandatory open enrollment period. Enrollment waivers shall be administered and granted by the office of patient protection established by section 217 of chapter 111.

SECTION 27. Said subsection (a) of said section 4 of said chapter 176J is hereby further amended by striking out paragraph (3), as appearing in section 26, and inserting in place thereof the following paragraph:-

(3) A carrier shall enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the mandatory annual open enrollment period for eligible individuals and their dependents. Each year, the open enrollment period shall begin on July 1 and end on August 15. A carrier shall only enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the open enrollment period. All coverage shall become effective on the first day of the month following enrollment. The commissioner shall promulgate regulations for the open enrollment period permissible under this section. With respect to Trade Act/Health Coverage Tax Credit Eligible Persons, a carrier may impose a pre-existing condition exclusion or waiting period of no more than 6 months following the individual's effective date of coverage if the Trade Act/Health Coverage Tax Credit Eligible Person has had less than 3 months of continuous health coverage before becoming eligible for the health care tax credit; or a break in coverage of over 62 days immediately before the date of application for enrollment into the qualified health plan.

SECTION 28. Subsection (b) of said section 4 of said chapter 176J, as appearing in the 2008 Official Edition, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:

(1) Notwithstanding any other provision in this section, a carrier may deny an eligible individual or eligible small group enrollment in a health benefit plan if the carrier certifies to the commissioner that the carrier intends to discontinue selling that health benefit plan to new eligible individuals or eligible small businesses. A health benefit plan closed to new members may be cancelled and discontinued to all members upon the approval of the commissioner of insurance when such plan has been closed to enrollment for new individuals and small groups and the carrier has complied with the requirements of 42 U.S.C. Sec. 300gg-12; provided, however, that cancellation of the plan shall be effective on the individual or small group's next enrollment anniversary after such cancellation is approved by the commissioner of insurance. The commissioner may promulgate regulations prohibiting a carrier from using this paragraph to circumvent the intent of this chapter.

SECTION 29. Said chapter 176J is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. (a) Notwithstanding any general or special law to the contrary, the commissioner may approve health insurance policies submitted to the division of insurance for the purpose of being provided to eligible individuals or eligible small businesses. These health insurance policies shall be subject to this chapter and may include networks that differ from those of a health plan's overall network. The commissioner shall adopt regulations regarding eligibility criteria. These eligibility criteria shall require that health insurance policies that exclude mandated benefits shall only be offered to small businesses which did not provide health insurance to its employees as of April 1, 1992. These eligibility criteria shall also provide that small businesses shall not have any health insurance policies that exclude mandated benefits for more than a 5-year period.

(b) Notwithstanding any general or special law to the contrary, the commissioner shall require carriers offering health benefit plans to eligible small businesses and eligible individuals to submit information as required by the commissioner, which shall include the current and projected medical loss

425 ratio for plans the components of projected administrative expenses and financial information, including,
426 but not limited to:

427 (i) underwriting, auditing, actuarial, financial analysis, treasury and investment expenses;

428 (ii) marketing and sales expenses, including, but not limited to, advertising, member relations,
429 member enrollment and all expenses associated with producers, brokers and benefit consultants;

430 (iii) claims operations expenses, including, but not limited to, adjudication, appeals, settlements
431 and expenses associated with paying claims;

432 (iv) medical administration expenses, including, but not limited to, disease management,
433 utilization review and medical management;

434 (v) network operations expenses, including, but not limited to, contracting, hospital and physician
435 relations and medical policy procedures;

436 (vi) charitable expenses, including, but not limited to, contributions to tax-exempt foundations
437 and community benefits;

438 (vii) state premium taxes;

439 (viii) board, bureau and association fees;

440 (ix) depreciation; and

441 (x) miscellaneous expenses described in detail by expense, including any expense not included in
442 clauses (i) to (ix), inclusive.

443 (c) Notwithstanding any general or special law to the contrary, the commissioner may require
444 carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A,
445 176B or 176G, to file all changes to small group product base rates and to small group rating factors at

least 90 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

(d) For base rate changes filed under this section, if a carrier files a base rate whose administrative expense loading component, not including taxes and assessments, increases by more than the most recent calendar year's percentage increase in the New England medical CPI or if a carrier's reported contribution to surplus exceeds 1.9 per cent or if the aggregate medical loss ratio for all plans offered under this chapter is less than 88 per cent, such carrier's rate, in addition to being subject to all other provisions of this chapter, shall be presumptively disapproved as excessive by the commissioner as set forth in this subsection, with the exception of any carrier whose Risk Based Capital Ratio falls below 300% for the most recent four consecutive quarters. For such carriers the reported contribution to surplus may not exceed 2.5 per cent.

If, however, a carrier's base rates are presumptively disapproved for failure to meet only the aggregate medical loss ratio threshold of 88 per cent, the carrier's base rates shall nevertheless not be presumptively disapproved as excessive by the commissioner if the carrier's aggregate medical loss ratio for all plans offered under this chapter is not less than 1 per cent greater than the carrier's equivalent medical loss ratio was 12-months prior to the carrier's present rate filing.

If the annual aggregate medical loss ratio for all plans offered under this chapter is less than 88 per cent, or less than the medical loss ratio that was not presumptively disapproved by the commissioner for being in excess of 1% of the carrier's prior year base rate, over the applicable 12-month period, the carrier shall refund the excess premium to its eligible individuals and eligible small groups. A carrier shall

communicate within 30 days to all individuals and small groups that were covered under plans during the relevant 12-month period that such individuals and small groups qualify for a refund to be issued under this paragraph, which may take the form of either a refund on the premium for the applicable 12-month period, or if the individual or groups are still covered by the carrier, a credit on the premium for the subsequent 12-month period. The total of all refunds issued shall equal the amount of a carrier's earned premium that exceeds that amount necessary to achieve a medical loss ratio of 88 per cent, calculated using data reported by the carrier as prescribed under regulations promulgated by the commissioner. The commissioner may authorize a waiver or adjustment of this requirement only if it is determined that issuing refunds would result in financial impairment for the carrier.

(e) If a proposed base rate change has been presumptively disapproved:

(1) A carrier shall communicate to all employers and individuals covered under a small group product that the proposed increase has been presumptively disapproved and is subject to a hearing at the division of insurance.

(2) The commissioner shall conduct a public hearing and shall advertise it in newspapers in the cities of Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and Lowell, or shall notify such newspapers of the hearing.

(3) The attorney general may intervene in a public hearing or other proceeding under this subsection and may require additional information as the attorney general consider necessary to ensure compliance with this subsection.

The commissioner shall adopt regulations to specify the scheduling of the hearings required pursuant to this section.

(f) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 45 days prior to the proposed effective date of the carrier's rate. The

carrier may submit a request for hearing with the division of insurance within 10 days of such notice of disapproval. The division must schedule a hearing within 15 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing. The carrier may not implement the disapproved rates, or changes at any time unless the commissioner reverses the disapproval after a hearing or unless a court vacates the commissioner's decision.

SECTION 30. Said section 6 of said chapter 176J, as appearing in section 29, is hereby further amended by striking out the figure "88", each time it appears, and inserting in place thereof the following figure:- 90.

SECTION 31. Said section 6 of said chapter 176J is hereby further amended by striking out clause (d), (e), and (f), as appearing in section 29, inserting in place thereof the following 2 subsections:-

(d) If a proposed base rate change has been disapproved:

(1) A carrier shall communicate to all employers and individuals covered under a small group product that the proposed increase has been presumptively disapproved and is subject to a hearing at the division of insurance.

(2) The commissioner shall conduct a public hearing and shall advertise it in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and Lowell, or shall notify such newspapers of the hearing.

(3) The attorney general may intervene in a public hearing or other proceeding under this subsection and may require additional information as the attorney general consider necessary to ensure compliance with this subsection.

(e) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 45 days prior to the proposed effective date of the carrier's rate. The carrier may submit a request for hearing with the division of insurance within 10 days of such notice of

disapproval. The division must schedule a hearing within 15 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing. The carrier may not implement the disapproved rates, or changes at any time unless the commissioner reverses the disapproval after a hearing or unless a court vacates the commissioner's decision.

SECTION 32. Said chapter 176J is hereby amended by adding the following section:-

Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic area at least one plan with either a reduced or selective network of providers, or a plan in which providers are tiered and member cost sharing is based on the tier placement of the provider.

The base premium for the reduced or selective network, or tiered network plan shall be at least 12 per cent lower than the base premium of the carrier's most actuarially similar plan with the carrier's non-selective or non-tiered network of providers.

(b) A tiered network plan shall only include variations on member cost-sharing between provider tiers, which are reasonable in relation to the premium charged, as long as the carrier provides adequate access to covered services at lower patient cost sharing levels.

(c) The commissioner shall determine network adequacy for a tiered network plan based on the availability of sufficient network providers in the carrier's overall tiered network plan .

(d) The commissioner shall determine network adequacy for a select network plan based on the availability of sufficient network providers in the carrier's select network of providers.

(e) In determining network adequacy under this section the commissioner may consider factors including: the location of providers participating in the plan; employers or members that enroll in the plan; the range of services provided by providers in the plan; and any plan benefits that recognize and provide for extraordinary medical needs of members that may not be adequately dealt with by the providers within the plan network.

(f) Carriers may: (i) reclassify provider tiers; or (ii) determine provider participation in selective and tiered plans no more than once per calendar year; provided, however, that carriers may reclassify providers from a higher cost tier to a lower cost tier or add new providers to its selective and tiered plans at any time. If the carrier reclassifies provider tiers or providers participating in a selective plan during the course of an account year, the carrier shall provide affected members of the account with information regarding the plan changes at least 30 days before the changes take effect. Carriers shall provide information on their websites about any tiered or selective plan, including, but not limited to, the providers participating in the plan, the selection criteria for those providers and if applicable, the tier in which each provider is classified.

(g) The division of insurance shall report annually on utilization trends of eligible employers and eligible individuals enrolled in plans offered under this section. The report shall include the number of members enrolled by plan type, de-identified aggregate demographic, and geographic information on all members and the average direct premium claims incurred for selective and tiered network plans compared to non-selective and non-tiered plans.

SECTION 33. Said chapter 176J is hereby further amended by striking out section 11, as inserted by section 23, and inserting in place thereof the following section:-

Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible

employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic area at least 1 plan with either a reduced or selective network of providers or a plan in which providers are tiered and member cost sharing is based on the tier placement of the provider.

The base premium for the reduced or selective or tiered network plan shall be at least 12 per cent lower than the base premium of the carrier's most actuarially similar plan with the carrier's non-selective or non-tiered network of providers. The savings may be achieved by means including, but not limited to: (i) the exclusion of providers with similar or lower quality based on the standard quality measure set with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G; or (ii) increased member cost-sharing for members who utilize providers for non-emergency services with similar or lower quality based on the standard quality measure set and with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G.

(b) A tiered network plan shall only include variations in member cost-sharing between provider tiers which are reasonable in relation to the premium charged and ensure adequate access to covered services. Carriers shall tier providers based on quality performance as measured by the standard quality measure set and by cost performance as measured by health status adjusted total medical expenses and relative prices. Where applicable quality measures are not available, tiering may be based solely on health status adjusted total medical expenses or relative prices or both.

The commissioner shall promulgate regulations requiring the uniform reporting of tiering information, including, but not limited to requiring, at least 90 days before the proposed effective date of any tiered network plan or any modification in the tiering methodology for any existing tiered network plan, the reporting of a detailed description of the methodology used for tiering providers, including: the

587 statistical basis for tiering; a list of providers to be tiered at each member cost-sharing level; a description
588 of how the methodology and resulting tiers will be communicated to each network provider, eligible
589 individuals and small groups; and a description of the appeals process a provider may pursue to challenge
590 the assigned tier level.

591 (c) The commissioner shall determine network adequacy for a tiered network plan based on the
592 availability of sufficient network providers in the carrier's overall network of providers.

593 (d) The commissioner shall determine network adequacy for a selective network plan based on
594 the availability of sufficient network providers in the carrier's selective network.

595 (e) In determining network adequacy under this section the commissioner of insurance may take
596 into consideration factors such as the location of providers participating in the plan and employers or
597 members that enroll in the plan, the range of services provided by providers in the plan and plan benefits
598 that recognize and provide for extraordinary medical needs of members that may not be adequately dealt
599 with by the providers within the plan network.

600 (f) Carriers may: (i) reclassify provider tiers; and (ii) determine provider participation in selective
601 and tiered plans no more than once per calendar year except that carriers may reclassify providers from a
602 higher cost tier to a lower cost tier or add providers to a selective network at any time. If the carrier
603 reclassifies provider tiers or providers participating in a selective plan during the course of an account
604 year, the carrier shall provide affected members of the account with information regarding the plan
605 changes at least 30 days before the changes take effect. Carriers shall provide information on their
606 websites about any tiered or selective plan, including but not limited to, the providers participating in the
607 plan, the selection criteria for those providers and where applicable, the tier in which each provider is
608 classified.

609 (g) The division of insurance shall report annually on utilization trends of eligible employers and
610 eligible individuals enrolled in plans offered under this section. The report shall include the number of

members enrolled by plan type, aggregate demographic, geographic information on all members and the average direct premium claims incurred, as defined in section 6, for selective and tiered network products compared to non-selective and non-tiered products.

SECTION 34. Said chapter 176J is hereby further amended by adding the following 2 sections:-

Section 12. (a) The commissioner shall promulgate regulations governing the establishment and oversight of small business group purchasing cooperatives. The regulations shall require: (i) that all state-mandated benefits are required under plans procured by approved small business group purchasing cooperatives; (ii) that all such plans offer its enrollees access to wellness programs which, at a minimum, shall be actuarially similar to wellness programs that may be offered through the commonwealth health insurance connector authority; (iii) that the group purchasing cooperative obtain a commitment from 33 per cent of its covered employees that the employees will enroll in the health management programs that the group purchasing cooperative provides; (iv) that the group purchasing cooperative establish reasonable systems, which shall comply with any applicable sections of the Americans with Disability Act and any other federal requirements, under which enrollees can record their participation in, and group purchasing cooperatives can monitor enrollees' participation in, available health management programs; (v) that denial of coverage due to the health condition, age, race or sex of the employees and dependents of qualified association members in a group purchasing cooperative is prohibited; and (vi) that no eligible qualified association member of a small business group purchasing cooperative may be charged a premium rate higher than what the carrier would charge to a similarly-situated eligible small business that is not a participant in a small business group purchasing cooperative.

(b) The commissioner shall promulgate regulations governing the application and certification process that a proposed small business group purchasing cooperative shall undergo before the commissioner may certify the group purchasing cooperative as a small business group purchasing cooperative approved to operate in accordance with this section; provided, however, that the

commissioner shall certify up to 6 group purchasing cooperatives to operate at any given time; provided further, that the commissioner shall certify any application that meets the requirements of this section up to and until the commissioner has certified 6 group purchasing cooperatives. The commissioner shall limit the number of applications that are approved for each small business group cooperative so that in a given year, the total number of covered lives, for each approved group purchasing cooperative, in the aggregate, shall not exceed 85,000 covered lives. Notwithstanding the provisions of this section, once the limit on covered lives is reached, the commissioner shall not approve the application of a new group purchasing cooperative until a previously approved group purchasing cooperative disbands or until the commissioner disapproves a group purchasing cooperative's annual renewal for failure to comply with the terms of this section and any regulations promulgated in accordance with this section.

(c) The commissioner shall annually certify that a small business group purchasing cooperative satisfies the requirements of this section. Only a small business group purchasing cooperative that has been certified by the commissioner may procure health care coverage for the benefit of qualified association members.

(d) The commissioner shall review the books and records of a small business group purchasing cooperative and the methodology which it confirms the status of qualified associations.

(e) Health care coverage procured by a small business group purchasing cooperative shall be sold to qualified association members and may be sold through duly licensed agents, the commonwealth health insurance connector authority or brokers.

(f) Member-employers of qualified associations purchasing health coverage within a group purchasing cooperative shall not have more than 50 eligible employees.

(g) The commissioner, in consultation with the division of health care finance and policy and the commonwealth health insurance connector authority, shall report and make recommendations, as necessary, on the cost savings to the qualified association members that participate in small business

group purchasing cooperatives, the impact, if any, on the establishment of small business group purchasing cooperatives to the risk pool and premium costs in the merged market, and whether the authority of the commissioner to certify small business group purchasing cooperatives should be renewed to the house and senate committees on ways and means and the joint committee on health care financing and financial services within 24 months of the first certification of a small business group purchasing cooperative as defined under this section.

Section 13. (a) As a condition of continued offer of small group health, a carrier that, as of the close of a preceding calendar year, has a combined total of at least 5,000 eligible individuals, eligible employees and eligible dependents who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals shall be annually required to file a plan with each group purchasing cooperative for its consideration if a group purchasing cooperative requests such health plan proposals for its next plan year.

(b) Health benefit plans offered by carriers to group purchasing cooperatives shall: (i) include all state-mandated benefits; (ii) apply preexisting condition limitations and waiting periods in the same manner as the carrier applies them to small group products offered outside the group purchasing cooperative; (iii) apply open enrollment periods for individuals in the same manner as the carrier applies them for individuals outside the group purchasing cooperative, provided, however that small business group purchasing cooperatives shall establish rules and open enrollment periods for qualified association members to enter or exit group purchasing cooperatives; (iv) apply continuation of coverage provisions in the same manner as the carrier applies those provisions to small group products offered outside the group purchasing cooperative; (v) apply managed care practices in the same manner as the carrier applies those practices to small group products offered outside the group purchasing cooperative; and (vi) apply rating rules, including rating bands, rating factors and the value of rating factors, in the same manner as the carrier applies those rules to small group products offered outside the group purchasing cooperative;

683 provided, that such plans may make limited deviations from these rating factors with the prior approval of
684 the commissioner.

685 (c) Carriers shall comply with a group purchasing cooperative's wellness program's data
686 processing systems to provide information that will enable the group purchasing cooperative to
687 effectively provide guidance to members on targeted wellness programs.

688 SECTION 35. Section 2 of chapter 176M of the General Laws, as appearing in the 2008 Official
689 Edition, is hereby amended by inserting after the word "renewal", in lines 28 and 39, each time it appears,
690 the following words:- , including renewal through the connector,.

691 SECTION 36. Section 3 of said chapter 176M, as so appearing, is hereby amended by striking
692 out subsection (d) and inserting in place thereof the following subsection:-

693 (d) A carrier shall no longer offer, sell or deliver a health plan to a person to whom it does not
694 have such an obligation under an individual policy, contract or agreement with an employer or through a
695 trust or association; provided, however, that a closed guaranteed issue plan or a closed health plan shall be
696 subject to all the other requirements of this chapter. A carrier shall be obligated to renew a closed
697 guarantee issue health plan and a closed plan. A carrier may discontinue a closed guarantee issue health
698 plan or a closed under regulations promulgated by the commissioner.

699 SECTION 37. Section 2 of chapter 176O of the General Laws, as so appearing, is hereby
700 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

701 (b) In establishing the minimum standards, the bureau shall consult and use, where appropriate,
702 standards established by national accreditation organizations. Notwithstanding the foregoing, the bureau
703 shall not be bound by the standards established by such organizations, provided, however, that wherever
704 the bureau promulgates standards different from the national standards, it shall: (1) be subject to chapter

30A; (2) state the reason for such variation; and (3) take into consideration any projected compliance costs for such variation. In order to reduce health care costs and improve access to health care services, the bureau shall establish by regulation as a condition of accreditation that carriers use uniform standards and methodologies for credentialing of providers, including any health care provider type licensed under chapter 112 that provide identical services. The division shall, before adopting regulations under this section, consult with the division of health care finance and policy, the department of public health, the group insurance commission, the Centers for Medicare and Medicaid Services and each carrier. Accreditation by the bureau shall be valid for a period of 24 months.

SECTION 38. Subsection (a) of section 7 of said chapter 176O, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) a list of health care providers in the carrier's network, organized by specialty and by location and summarizing on its internet website for each such provider: (i) the method used to compensate or reimburse such provider, including details of measures and compensation percentages tied to any incentive plan or pay for performance provision; (ii) the provider price relativity, as defined in and reported under section 6 of chapter 118G; (iii) the provider's health status adjusted total medical expenses, as defined in and reported under said section 6 of said chapter 118G; and (iv) current measures of the provider's quality based on measures from the Standard Quality Measure Set, as defined in the regulations promulgated by the department of public health under section 25P of chapter 111; provided, however, that if any specific providers or type of providers requested by an insured are not available in said network, or are not a covered benefit, such information shall be provided in an easily obtainable manner; provided, further, that the carrier shall prominently promote providers based on quality performance as measured by the standard quality measure set and cost performance as measured by health status adjusted total medical expenses and relative prices.

SECTION 39. Said chapter 176O is hereby further amended by inserting after section 9 the following section:-

Section 9A. A carrier shall not enter into an agreement or contract with a health care provider if the agreement or contract contains a provision that:

(a) (i) limits the ability of the carrier to introduce or modify a select network plan or tiered network plan by granting the health care provider a guaranteed right of participation; (ii) requires the carrier to place all members of a provider group, whether local practice groups or facilities, in the same tier of a tiered network plan; (iii) requires the carrier to include all members of a provider group, whether local practice groups or facilities, in a select network plan on an all-or-nothing basis; or (iv) requires a provider to participate in a new select network or tiered network plan that the carrier introduces without granting the provider the right to opt-out of the new plan at least 60 days before the new plan is submitted to the commissioner for approval; or

(b) requires or permits the carrier or the health care provider to alter or terminate a contract or agreement, in whole or in part, to affect parity with an agreement or contract with other carriers or health care providers or based on a decision to introduce or modify a select network plan or tiered network plan; or

(c) requires or permits the carrier to make any form of supplemental payment unless each supplemental payment is publicly disclosed to the commissioner as a condition of accreditation, including the amount and purpose of each payment and whether or not each payment is included within the provider's reported relative prices and health status adjusted total medical expenses under section 6 of chapter 118G.

SECTION 40. Said chapter 176O is hereby further amended by adding the following section: -

Section 21. (a) Each carrier shall submit an annual comprehensive financial statement to the division detailing carrier costs from the previous calendar year.

The annual comprehensive financial statement shall include all of the information in this section and shall be itemized, where applicable, by:

(i) market group size, including individual; small groups of 1 to 5, 6 to 10, 11 to 25 and 26 to 50; large groups of 50 to 100, 101 to 500, 501 to 1000 and greater than 1000; and

(ii) line of business, including individual, general, blanket or group policy of health, accident or sickness insurance issued by an insurer licensed under chapter 175; a hospital service plan issued by a nonprofit hospital service corporation under chapter 176A; a medical service plan issued by a nonprofit hospital service corporation under chapter 176B; a health maintenance contract issued by a health maintenance organization under chapter 176G; insured health benefit plan that includes a preferred provider arrangement issued under chapter 176I; and group health insurance plans issued by the commission under chapter 32A.

The statement shall include, but shall not be limited to, the following information:

(i) direct premiums earned, as defined in chapter 176J; direct claims incurred, as defined in said chapter 176J;

(ii) medical loss ratio;

(iii) number of members;

(iv) number of distinct groups covered;

(v) number of lives covered;

(vii) realized capital gains and losses;

- 771 (viii) net income;
- 772 (ix) accumulated surplus;
- 773 (x) accumulated reserves;
- 774 (xi) risk-based capital ratio, based on a formula developed by the National Association of
775 Insurance Commissioners;
- 776 (xii) financial administration expenses, including underwriting, auditing, actuarial, financial
777 analysis, treasury and investment expenses;
- 778 (xiii) marketing and sales expenses, including advertising, member relations, member enrollment
779 expenses;
- 780 (xiv) distributions expenses, including commissions, producers, broker and benefit consultant
781 expenses;
- 782 (xv) claims operations expenses, including adjudication, appeals, settlements and expenses
783 associated with paying claims;
- 784 (xvi) medical administration expenses, including disease management, utilization review and
785 medical management expenses;
- 786 (xvii) network operational expenses, including contracting, hospital and physician relations and
787 medical policy procedures;
- 788 (xviii) charitable expenses, including any contributions to tax-exempt foundations and
789 community benefits;
- 790 (xix) board, bureau or association fees;

(xx) any miscellaneous expenses described in detail by expense, including an expense not included in (i) to (xix), inclusive;

(xxi) payroll expenses and the number of employees on the carrier's payroll;

(xxii) taxes, if any, paid by the carrier to the federal government or to the commonwealth; and

(xxiii) any other information deemed necessary by the commissioner.

(b)(1) In this subsection, the following words shall have the following meanings:-

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; and an organization entering into a preferred provider arrangement under chapter 176I; or a third party administrator, a pharmacy benefit manager or other similar entity with claims data, eligibility data, provider files and other information relating to health care provided to residents of the commonwealth and health care provided by health care providers in the commonwealth; provided, however, that “carrier” shall include an entity that offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services.

“Self-insured customer”, a self-insured group for which a carrier provides administrative services.

“Self-insured group”, a self-insured or self-funded employer group health plan.

“Third-party administrator”, a person who, on behalf of a health insurer or purchaser of health benefits, receives or collects charges, contributions or premiums for, or adjusts or settles claims on or for residents of the commonwealth.

(2) Any carrier required to report under this section, which provides administrative services to 1 or more self-insured groups shall include, as an appendix to such report, the following information:

- 813 (i) the number of the carrier's self-insured customers;
- 814 (ii) the aggregate number of members, as defined in section 1 of chapter 176J, in all of
815 the carrier's self-insured customers;
- 816 (iii) the aggregate number of lives covered in all of the carrier's self-insured customers;
- 817 (iv) the aggregate value of direct premiums earned, as defined in said section 1 of said
818 chapter 176J, for all of the carrier's self-insured customers;
- 819 (v) the aggregate value of direct claims incurred, as defined in said section 1 of said
820 chapter 176J, for all of the carrier's self-insured customers;
- 821 (vi) the aggregate medical loss ratio, as defined in said section of said chapter 176J, for
822 all of the carrier's self-insured customers;
- 823 (vii) net income;
- 824 (viii) accumulated surplus;
- 825 (ix) accumulated reserves;
- 826 (x) the percentage of the carrier's self-insured customers that include each of the benefits
827 mandated for health benefit plans under chapters 175, 176A, 176B and 176G;
- 828 (xi) administrative service fees paid by each of the carrier's self-insured customers; and
- 829 (xii) any other information deemed necessary by the commissioner.
- 830 (c) A carrier who fails to file this report on or before April 1 shall be assessed a late penalty not to
831 exceed \$100 per day. The division shall make public all of the information collected under this section.
832 The division shall issue an annual summary report to the joint committee on financial services, the joint
833 committee on health care financing and the house and senate committees on ways and means of the

annual comprehensive financial statements by May 15. The information shall be exchanged with the division of health care finance and policy for use under section 6 of chapter 118G. The division shall, from time to time, require payers to submit the underlying data used in their calculations for audit.

The commissioner may adopt rules to carry out this subsection, including standards and procedures requiring the registration of persons or entities not otherwise licensed or registered by the commissioner, such as third-party administrators, and criteria for the standardized reporting and uniform allocation methodologies among carriers. The division shall, before adopting regulations under this subsection, consult with other agencies of the commonwealth and the federal government and affected carriers to ensure that the reporting requirements imposed under the regulations are not duplicative.

(d) If, in any year, a carrier reports a risk-based capital ratio on a combined entity basis under subsection (a) that exceeds 700 per cent, the division shall hold a public hearing within 60 days. The carrier shall submit testimony on its overall financial condition and the continued need for additional surplus. The carrier shall also submit testimony on how, and in what proportion to the total surplus accumulated, the carrier will dedicate any additional surplus to reducing the cost of health benefit plans or for health care quality improvement, patient safety or health cost containment activities not conducted in previous years. The division shall review such testimony and issue a final report on the results of the hearing.

SECTION 41. Section 1 of chapter 176Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Eligible individuals” and inserting in place thereof the following definition:-

“Eligible individual”, an individual who is a resident of the commonwealth and who is not seeking individual coverage to replace an employer sponsored health plan for which the individual is eligible and which provides coverage that is at least actuarially equivalent to minimum creditable coverage.

858 SECTION 42. Section 2 of said chapter 176Q, as so appearing, is hereby amended by striking
859 out subsection (b) and inserting in place thereof the following subsection:-

860 (b) There shall be a board, with duties and powers established by this chapter, which shall govern
861 the connector. The connector board shall consist of 11 members: the secretary for administration and
862 finance, or a designee, who shall serve as chairperson; the director of Medicaid or a designee; the
863 commissioner of insurance or a designee; the executive director of the group insurance commission; 4
864 members appointed by the governor, 1 of whom shall be a member in good standing of the American
865 Academy of Actuaries, 1 of whom shall be a health economist, 1 of whom shall represent the interests of
866 small businesses and 1 of whom shall be a member of the Massachusetts chapter of the National
867 Association of Health Underwriters ; and 3 members appointed by the attorney general, 1 of whom shall
868 be an employee health benefits plan specialist, 1 of whom shall be a representative of a health consumer
869 organization and 1 of whom shall be a representative of organized labor. No appointee shall be an
870 employee of any licensed carrier authorized to do business in the commonwealth. All appointments shall
871 serve a term of 3 years, but a person appointed to fill a vacancy shall serve only for the unexpired term.
872 An appointed member of the board shall be eligible for reappointment. The board shall annually elect 1 of
873 its members to serve as vice-chairperson.

874 SECTION 43. Section 3 of said chapter 176Q, as so appearing, is hereby amended by inserting
875 after the figure “111M”, in line 118, the following words:- ; provided, however, that notwithstanding
876 subsection (d) of section 2, no changes to the regulations defining minimum creditable coverage shall take
877 effect until 90 days after the connector gives notice of the changes to the joint committee on health care
878 finance, the joint committee on public health, the senate and house of representatives committees on ways
879 and means and the clerks of the senate and house of representatives.

880 SECTION 44. Said chapter 176Q is hereby further amended by inserting after section 7 the
881 following section:-

Section 7A. (a) There shall be a small group wellness incentive pilot program to expand the prevalence of employee wellness initiatives by small businesses. The program shall be administered by the board of the connector, in consultation with the department of public health. The program shall provide subsidies and technical assistance for eligible small groups to implement evidence-based employee health and wellness programs to improve employee health, decrease employer health costs, and increase productivity.

(b) An eligible small group shall be qualified to participate in the program if:-

(1) the eligible small group purchases group coverage through the connector;

(2) the eligible small group is eligible for federal health care tax credits under the federal Patient Protection and Affordable Care Act, Pub. L. 111-148 ;

(3) the eligible small group offers an evidence-based, employee wellness program, that meets certain minimum criteria, as determined by the connector board, in collaboration with the department of public health;

(4) the eligible small group meets certain minimum employee participation requirements in the qualified wellness program, as determined by the connector board, in collaboration with the department of public health;

(c) For eligible small groups participating in the program, the connector shall provide an annual subsidy not to exceed 5 per cent of eligible employer health care costs as calculated by the employer for credit by the federal government under the federal Patient Protection and Affordable Care Act. Aggregate expenditures made by the connector for the subsidy program shall not exceed \$15,000,000 in any fiscal year. If the director determines that funds are insufficient to meet the projected costs of enrolling new eligible employers, the director shall impose a cap on enrollment in the program.

(d) The connector shall coordinate with the department of public health to provide technical assistance, including grant-writing assistance, to participating eligible small groups in order to maximize federal grant funding provided under the federal Patient Protection and Affordable Care Act for the establishment of wellness initiatives by small employers.

(e) The connector shall seek to ensure that all necessary applications and filings coordinate with and conform to appropriate federal guidelines in order to minimize administrative burden on participating small groups.

(f) The connector shall report annually to the joint committee on community development and small business, the joint committee on health care financing and the house and senate committees on ways and means on the enrollment in the small business wellness incentive program and evaluate the impact of the program on expanding wellness initiatives for small groups.

(g) The connector shall promulgate regulations to implement this section.

SECTION 45. Section 8 of said chapter 176Q, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence: -

The connector shall not utilize any of the data received from the department of revenue for any solicitations or advertising.

SECTION 46. Paragraph (n) of section 5 of chapter 614 of the acts of 1968, as appearing in section 18 of chapter 777 of the acts of 1981, is hereby amended by striking out, in line 2, the words “its administrative” and inserting in place thereof the following words:- fees, administrative.

SECTION 47. Said section 5 of said chapter 614 is hereby further amended by inserting after paragraph (n), as so appearing, the following paragraph:-

(n1/2) to fund the capital reserves authorized under paragraph (g) of section 10 and to fund and administer loans and grant programs for community hospitals and community health centers under paragraph (g) of section 10 and to fund any reimbursement of the commonwealth required by paragraph (g)(xii) of section 10;.

SECTION 48. Section 10 of said chapter 614, as most recently amended by chapter 777 of the acts of 1981, is hereby further amended by adding the following paragraph:-

(g) (i) For the benefit of nonprofit community hospitals and nonprofit community health centers licensed by the department of public health and meeting the definition of a community health center under 114.6 CMR 13.00 as either a community health center or a hospital licensed health center, the authority may create and establish special funds to be known as Community Hospital and Community Health Center Capital Reserve Funds and, to the extent so created, shall pay into each such fund any monies appropriated and made available by the commonwealth for the purposes of such fund, any proceeds from the sale of notes or bonds to the extent provided in the resolution, trust agreement or indenture of the authority authorizing issuance thereof, any other monies or funds of the authority that the authority determines to deposit in the fund and any other monies which may be available to the authority only for the purpose of such fund from any other source or sources. All monies held in the fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority which are secured by any such fund as the same mature, which herein shall include becoming payable by sinking fund installment, the purchase of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided however, that, monies in a Community Hospital and Community Health Center Capital Reserve Fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the fund to less than the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on outstanding bonds which are secured by the fund, except for the purpose of paying the principal of and interest on such bonds maturing and becoming due or for the retirement of such bonds in

950 accordance with the terms of a contract between the authority and its bondholders and for the payment of
951 which other monies pledged to secure such bonds are not available. Any income or interest earned by, or
952 increment to, a Community Hospital and Community Health Center Capital Reserve Fund due to the
953 investment thereof shall be used by the authority for the purposes of the fund.

954 (ii) The authority shall not issue bonds which are secured by a Community Hospital and
955 Community Health Center Capital Reserve Fund at any time if the maximum amount of principal and
956 interest maturing or becoming due in a succeeding calendar year on such bonds then to be issued and on
957 all other outstanding bonds of the authority which are secured by a fund will exceed the amount of such
958 Community Hospital and Community Health Center Capital Reserve Fund at the time of issuance unless
959 the authority, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the
960 bonds so to be issued, or otherwise, an amount which, together with the amount then in the fund, will be
961 not less than the maximum amount of principal and interest maturing and becoming due in a succeeding
962 calendar year on such bonds then to be issued and on all other outstanding bonds of the authority which
963 are secured by any such fund.

964 (iii) To assure the continued operation and solvency of the authority for the carrying out of the
965 public purposes of this act, provision is made in subparagraph (i) for the accumulation in a Community
966 Hospital and Community Health Center Capital Reserve Fund of an amount equal to the maximum
967 amount of principal and interest maturing and becoming due in a succeeding calendar year on all
968 outstanding bonds which are secured by any such fund. In order to further assure the maintenance of a
969 Community Hospital and Community Health Center Capital Reserve Fund, there shall be appropriated
970 annually and paid to the authority for deposit in the fund such sum, if any, as shall be certified by the
971 executive director of the authority to the governor as necessary to restore the fund to an amount equal to
972 the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year
973 on the outstanding bonds which are secured by any such fund. The executive director of the authority
974 shall annually, on or before December 1, make and deliver to the governor a certificate stating the

975 amount, if any, required to restore a Community Hospital and Community Health Center Capital Reserve
976 Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the
977 authority during the then current fiscal year of the commonwealth.

978 (iv) For the purposes of this paragraph, in computing the amount of a Community Hospital and
979 Community Health Center Capital Reserve Fund, securities in which all or a portion of the fund are
980 invested shall be valued at par or, if purchased at less than par, at their cost to the authority unless
981 otherwise provided in the resolution, trust agreement or indenture authorizing the issuance of bonds
982 secured by the fund.

983 (v) For the purposes of this paragraph, the amount of a letter of credit, insurance contract, surety
984 bond or similar financial undertaking available to be drawn upon and applied to obligations to which
985 money in the Community Hospital and Community Health Center Capital Reserve Fund may be applied
986 shall be counted as money in the fund. For the purposes of this paragraph, in calculating the maximum
987 amount of interest due in the future on variable rate bonds or bonds with respect to which the interest rate
988 is not at the time of calculation determinable, the interest rate shall be calculated at the maximum interest
989 rate on such bonds or such lesser interest rate as shall be certified by the authority as an appropriate proxy
990 for such variable or non-determinable interest rate.

991 (vi) Bonds secured by a Community Hospital and Community Health Center Capital Reserve
992 Fund shall be issued by the authority solely for the benefit of nonprofit community hospitals and
993 nonprofit community health centers licensed by the department of public health.

994 (vii) Notwithstanding any provision of this act to the contrary, no loan shall be made by the
995 authority to a nonprofit community hospital or nonprofit community health center from the proceeds of
996 bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund established
997 under this paragraph unless: (a) the project to be financed by the loan has been approved by the secretary
998 of health and human services; and (b) the loan and the issuance and terms of the related bonds have been

approved by the secretary of administration and finance. In connection with any loan to a nonprofit community hospital or nonprofit community health center under this paragraph, the secretary of health and human services and the secretary of administration and finance may enter into an agreement with the authority and the nonprofit community hospital or nonprofit community health center to: (1) require that the nonprofit community hospital or nonprofit community health center provide financial statements or other information relevant to the financial condition of the nonprofit community hospital or nonprofit community health center and its compliance with the terms of the loan; (2) require that the nonprofit community hospital or nonprofit community health center reimburse the commonwealth for any amounts the commonwealth transfers to the fund under subparagraph (iii) to replenish the fund as a result of a loan payment default by the nonprofit community hospital or nonprofit community health center; and (3) require compliance by the nonprofit community hospital or nonprofit community health center or the authority with any other terms and conditions that the secretary of health and human services and the secretary of administration and finance considers appropriate in connection with the loan.

(viii) When the authority notifies the secretary of administration and finance in writing that an institution eligible to use the authority under this paragraph is in default as to the payment of principal or interest on any bonds issued by the authority on behalf of that institution or that the authority has reasonable grounds to believe that the institution will not be able to make a full payment when that payment is due, the secretary of administration and finance shall direct the comptroller to withhold any funds in the comptroller's custody that are due or payable to the institution until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or until the authority notifies the secretary of administration and finance that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subparagraph shall include, but not be limited to, federal and state grants, contracts, allocations and appropriations.

(ix) If the authority further notifies the secretary of administration and finance in writing that no other arrangements are satisfactory, the secretary shall direct the comptroller to make available to the authority without further appropriation any funds withheld from the institution under subparagraph (viii). The authority shall apply the funds to the costs incurred by the institution, including payments required to be made to the authority or trustee for any bondholders of debt service on any bonds issued by the authority for the institution or payments to replenish the Community Hospital and Community Health Center Capital Reserve Fund or required by the terms of any other law or contract to be paid to the holders or owners of bonds issued on behalf of the institution upon failure or default, or upon reasonable expectation of failure or default, of the institution to pay the principal or interest on its bonds when due.

(x) Concurrent with any notice from the authority to the secretary of administration and finance under this paragraph, the authority may notify any other agency, department or authority of state government that exercises regulatory, supervisory or statutory control over the operations of the institution. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the institution of the money due or the steps that the agencies of the commonwealth, other than the comptroller or the authority, should take to assure the continued prudent operation of the institution or provision of services to the people served by the institution.

(xi) Notwithstanding any general or special law to the contrary, in the event that a nonprofit community hospital or nonprofit community health center fails to reimburse the commonwealth for any transfers made by the commonwealth to the authority to replenish the Community Hospital and Community Health Center Capital Reserve Fund under subparagraph (iii) within 6 months after any such transfer and as otherwise provided under the terms of the agreement among the nonprofit community hospital or nonprofit community health center, the authority and the commonwealth authorized under subparagraph (vii), the secretary of administration and finance may, in the secretary's sole discretion, direct the comptroller to withhold any funds in the comptroller's custody that are due or payable to the

nonprofit community hospital or nonprofit community health center to cover all or a portion of the amount the nonprofit community hospital or nonprofit community health center has failed to pay to the commonwealth to reimburse the commonwealth for any such transfers. All contracts issued by the group insurance commission, the commonwealth health insurance connector authority and MassHealth to a third party for the purposes of providing health care insurance paid for by the commonwealth shall provide that, at the direction of the secretary of administration and finance, the third party shall withhold payments to a nonprofit community hospital or nonprofit community health center which fails to reimburse the commonwealth under the agreement authorized under subparagraph (vii) and shall transfer the withheld amount to the commonwealth. Any such withheld amounts shall be considered to have been paid to the nonprofit community hospital or nonprofit community health center for all other purposes of law and the nonprofit community hospital or nonprofit community health center shall be considered to have reimbursed the commonwealth for all or a portion of any such transfers to the Community Hospital and Community Health Center Capital Reserve Fund for purposes of the agreement authorized under said subparagraph (vii).

(xii) Notwithstanding any general or special law to the contrary, if the commonwealth has not been fully reimbursed the amount of any transfer made pursuant to this subsection (g) as of the one year anniversary of such transfer, the authority shall pay to the commonwealth an amount equal to that portion of the transfer for which the commonwealth has not yet received reimbursement as of said anniversary. The reimbursement shall be completed under a schedule determined by the secretary of administration and finance. The reimbursement shall not interfere with the obligations of a nonprofit community hospital or nonprofit community health center pursuant to subsection (g) (xi). Funds received by the commonwealth under subsection (g) (xi) which exceed the full reimbursement to the commonwealth from the authority required by this subsection (g) (xii), shall be paid to the authority.

(xiii) For the purposes of this paragraph, a community hospital or community health center shall not include a hospital where the ratio of the number of physician residents-in-training to the number of inpatient beds exceeds 0.25.

SECTION 49. Section 12 of said chapter 614 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Except as otherwise provided in paragraph (g) of section 10, the issuance of revenue bonds under this act shall not directly, indirectly or contingently obligate the commonwealth or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for payment of those bonds.

SECTION 50. Notwithstanding any special or general law to the contrary, the division of insurance, in consultation with the division of health care finance and policy, shall promulgate regulations on or before October 1, 2010 to establish a uniform methodology for calculating and reporting by carriers for the medical loss ratios of health benefit plans under section 6 of chapter 176J, section 21 of chapter 176O and section 6 of chapter 118G of the General Laws. The uniform methodology for calculating and reporting medical loss ratios shall, at a minimum, specify a uniform method for determining whether and to what extent an expenditure shall be considered a medical claims expenditure or an administrative costs expenditure, which shall include, but not be limited to, a determination of which of these classes of expenditures the following expenses fall into: (i) financial administration expenses; (ii) marketing and sales expenses; (iii) distribution expenses; (iv) claims operations expenses; (v) medical administration expenses, such as disease management, care management, utilization review and medical management activities; (vi) network operation expenses; (vii) charitable expenses; (viii) board, bureau or association fees; (ix) state and federal tax expenses, including assessments; (x) payroll expenses; and (xi) other miscellaneous expenses not included in one of the previous categories. The methodology shall conform with applicable federal statutes and regulations to the maximum extent possible. The division shall, before adopting regulations under this section, consult with: the group insurance commission; the Centers for Medicare and Medicaid Services; the national association of insurance commissioners; the attorney

general; representatives from the Massachusetts Association of Health Plans; the Massachusetts Medical Society Alliance, Inc.; the Massachusetts Hospital Association, Inc.; Health Care for All, Inc.; the Blue Cross and Blue Shield of Massachusetts; the Massachusetts Health Information Management Association; the Massachusetts Health Data Consortium; a representative from a small business association; and a representative from a health care consumer group.

SECTION 51. Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or before October 1, 2010 to establish a uniform methodology for calculating and reporting the health status adjusted total medical expenses, under section 6 of chapter 118G of the General Laws. The uniform methodology shall apply to a uniform list of provider groups and their constituent local practice groups and for each zip code in the commonwealth. The uniform methodology for calculating and reporting total medical expenses under this section shall, at a minimum:

(i) specify a uniform method for calculating total medical expenses based on allowed claims for all categories of medical expenses, including, but not limited to, acute inpatient, hospital outpatient, sub-acute such as skilled nursing and rehabilitation, professional, pharmacy, mental health and behavioral health and substance abuse, home health, durable medical equipment, laboratory, diagnostic imaging and alternative care such as chiropractic and acupuncture claims, incurred under all fully-insured and self-insured plans;

(ii) specify a uniform method for including in the calculation all non-claims related payments to providers, including supplemental payments of any type, such as pay-for-performance, care management payments, infrastructure payments, grants, surplus payments, lump sum settlements, signing bonuses and government payer shortfall payments; infrastructure, medical director and health information technology payments;

(iii) specify a uniform method for adjusting total medical expenses by health status;

1120 (iv) designate the minimum patient membership in a local practice group for individual reporting
1121 of total medical expenses by local practice group;

1122 (v) specify a uniform method for reporting total medical expenses in aggregate for all local
1123 practice groups that fall below the minimum patient membership; (vi) specify a uniform method for
1124 reporting total medical expenses by zip code separately for patient members whose plans require them to
1125 select a primary care provider, and patient members whose plans do not require them to select a primary
1126 care provider;

1127 (vii) designate and annually update the comprehensive list of provider groups and local practice
1128 groups and zip codes for which payers shall report total medical expenses; and

1129 (viii) specify a uniform format for reporting that includes the raw and adjusted health status score
1130 and patient membership for each local practice group and zip code.

1131 The division shall from time to time require payers to submit the underlying data used in their
1132 calculation of total medical expenses for audit.

1133 SECTION 52. Notwithstanding any special or general law to the contrary, the division of health
1134 care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or
1135 before October 1, 2010 to establish uniform methodology for calculating and reporting relative prices
1136 paid to hospitals, physician groups, other health care providers licensed under chapter 112 of the General
1137 Laws, freestanding surgical centers by each private and public health care payer under section 6 of
1138 chapter 118G of the General Laws. The uniform methodology for calculating and reporting relative
1139 prices under this section shall, at a minimum: (i) specify a method for basing the calculation on a uniform
1140 mix of products and services by payer that is case mix neutral; (ii) specify a uniform method for including
1141 in the calculation all non-claims related payments to providers, including supplemental payments of any
1142 type, such pay-for-performance, care management payments, infrastructure payments, grants, surplus
1143 payments, lump sum settlements, signing bonuses, and government payer shortfall payments; (iii) permit

reporting of relative price in the aggregate for all physician groups whose price equals the payer's standard fee schedule rates; and (vi) designate and annually update the comprehensive list of physician groups for which payers shall report relative prices.

SECTION 53. Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or before October 1, 2010 to establish uniform methodology for calculating and reporting inpatient and outpatient costs, including direct and indirect costs, for all hospitals under section 6 of chapter 118G of the General Laws. The division shall, as necessary and appropriate, promulgate regulations or amendments to its existing regulations to require hospitals to report cost and cost trend information in a uniform manner including, but not limited to, uniform methodologies for reporting the cost and cost trend for categories of direct labor, debt service, depreciation, advertising and marketing, bad debt, stop-loss insurance, malpractice insurance, health information technology, medical management, development, fundraising, research, academic costs, charitable contributions, and operating margins for all commercial business and for all state and federal government business, including but not limited to Medicaid, Medicare, insurance through the group insurance commission and federal Civilian Health and Medical Program of the Uniformed Services. The division shall, before adopting regulations under this section, consult with the group insurance commission, the Centers for Medicare and Medicaid Services, the attorney general and representatives from the Massachusetts Hospital Association, the Massachusetts Medical Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health Information Management Association the Massachusetts Health Data Consortium.

SECTION 54. The department of public health shall promulgate regulations under section 25P of chapter 111 of the General Laws by December 31, 2010 requiring the uniform reporting of a standard set of health care quality measures for each health care provider facility, medical group, or provider group in the commonwealth hereinafter referred to as the "Standard Quality Measure Set."

1169 The department of public health shall convene a statewide advisory committee which shall
1170 recommend to the department by November 1, 2010 the Standard Quality Measure Set. The statewide
1171 advisory committee shall consist of the commissioner of health care finance and policy or the
1172 commissioner's designee, who shall serve as the chair; and up to 8 members, including the executive
1173 director of the group insurance commission and the Medicaid director, or the directors designees; and up
1174 to 6 representatives of organizations to be appointed by the governor including at least 1 representative
1175 from an acute care hospital or hospital association, 1 representative from a provider group or medical
1176 association or provider association, 1 representative from a medical group, 1 representative from a private
1177 health plan or health plan association, 1 representative from an employer association and 1 representative
1178 from a health care consumer group.

1179 In developing its recommendation of the Standard Quality Measure Set, the advisory committee
1180 shall, after consulting with state and national organizations that monitor and develop quality and safety
1181 measures, select from existing quality measures and shall not select quality measures that are still in
1182 development or develop its own quality measures. The committee shall annually recommend to the
1183 department of public health any updates to the Standard Quality Measure Set by November 1. For its
1184 recommendation beginning in 2011, the committee may solicit for consideration and recommend other
1185 nationally recognized quality measures not yet developed or in use as of November 1, 2010, including
1186 recommendations from medical or provider specialty groups as to appropriate quality measures for that
1187 group's specialty. At a minimum, the Standard Quality Measure Set shall consist of the following quality
1188 measures: (i) the Centers for Medicare and Medicaid Services hospital process measures for acute
1189 myocardial infarction, congestive heart failure, pneumonia and surgical infection prevention; (ii) the
1190 Hospital Consumer Assessment of Healthcare Providers and Systems survey; (iii) the Healthcare
1191 Effectiveness Data and Information Set reported as individual measures and as a weighted aggregate of
1192 the individual measures by medical or provider group; and (iv) the Ambulatory Care Experiences Survey.

1193 SECTION 55. Notwithstanding and special or general law to the contrary, eligible individuals as
1194 defined in chapter 176J with existing coverage issued under said chapter 176J that will expire after the
1195 end of open enrollment in 2010 established under section 4 of said chapter 176J may renew coverage on
1196 the date that the eligible individual's coverage expires for a term of less than 1 year until the beginning of
1197 open enrollment period in 2011.

1198 SECTION 56. Notwithstanding any general or special law to the contrary, the secretary of
1199 health and human services shall convene an administrative simplification working group consisting of the
1200 following members: the secretary of consumer affairs and business regulation or the secretary's designee,
1201 the commissioner of health care finance and policy or the commissioner's designee, the commissioner of
1202 public health or the commissioner's designee, the commissioner of insurance or the commissioner's
1203 designee, the commissioner of revenue or the commissioner's designee, the director of the office of
1204 Medicaid or the director's designee, the attorney general or the attorney general's designee, the inspector
1205 general or the inspector general's designee, a representative of the Massachusetts Health Data
1206 Consortium, a representative of an association of health care providers licensed under chapter 112 who is
1207 not a medical doctor, a representative of the Health Care Quality and Cost Council, a representative of the
1208 Massachusetts Hospital Association, Inc., a representative of BC/BS of Massachusetts, a representative of
1209 the Massachusetts Association of Health Plans, a representative of the Massachusetts Medical Society,
1210 and the executive director of the commonwealth health insurance connector authority or the executive
1211 director's designee. The group shall identify ways to streamline state created or mandated administrative
1212 requirements in health care, including ways to reduce health care reporting requirements through
1213 maximizing the use of a single all-payer data base, as administered by the division of health care finance
1214 and policy. The group shall hold its first meeting not later than January 1, 2011 and shall issue a report on
1215 or before April 1, 2011. The report shall include specific steps to be taken by each agency and the
1216 agencies collectively to reduce administrative and filing requirements on health carriers and health care
1217 providers, which shall include, but not be limited to, an interagency agreement to use where necessary,

the all-payer claims data base, and to streamline and coordinate all requests for all other data requests from health care providers and health plans in the commonwealth.

SECTION 57. (a) Notwithstanding any special or general law to the contrary, the division of insurance, in consultation with the secretary of health and human services, shall promulgate regulations on or before December 1, 2011 to promote administrative simplification in the processing of claims for health care services under health benefit plans by carriers, as defined in section 1 of chapter 176O of the General Laws. At a minimum, the regulations shall: (1) establish uniform standards and processes for determining health benefit plan member eligibility by health care providers; (2) establish standards and processes for provider appeals of denied claims; and (3) establish a standard authorization form to be submitted by health care providers to obtain authorization to provide health care services to a member. The division shall, before adopting regulations under this section, consult with a statewide advisory commission charged with investigating and studying the relative value of a uniform claims administration system for all payers in the commonwealth.

(b) The commission shall be comprised of: the director of the office of Medicaid or a designee; the commissioner of insurance or a designee; the commissioner of health care finance and policy or a designee; 1 person appointed by the speaker of the house of representatives; 1 person appointed by the senate president; 1 person appointed by the minority leader of the house of representatives; 1 person appointed by the minority leader of the senate; 1 person designated by the Massachusetts Association of Health Plans, Inc.; 1 person designated by Blue Cross Blue Shield of Massachusetts, Inc.; 2 persons designated by the Massachusetts Hospital Association, Inc., 1 of whom shall represent teaching hospitals and 1 of whom shall represent community hospitals; 1 person designated by the Massachusetts Public Health Association; and 2 persons designated by the Massachusetts Medical Society. In addition, the regional administrator of the federal Centers for Medicare & Medicaid Services or a designee, and a member of the senior management of a Medicare administrative contractor will be invited to participate in the commission, but shall not have a vote.

(c) The commission shall undertake a study of the feasibility of mandating a single claims administration system for all payers in the commonwealth, other than Medicare, and of the potential savings to be derived from doing so. For purposes of this section, the term ‘payer’ shall mean both a private health care payer and a public health care payer, as those terms are defined in section 1 chapter 118G of the General Laws. In undertaking its responsibilities under this section, the commission shall (i) determine the feasibility of using a single claims administration system for all payers in the commonwealth, other than Medicare; (ii) undertake a detailed analysis of the merits and limits of the Medicare claims administration system; (iii) determine what models exist that might constitute the most efficient and effective consolidated claims administration system; (iv) identify potential challenges associated with implementation of a single claims administration system for all payers in the commonwealth other than Medicare and also identify proposed solutions for such challenges; (v) identify the costs being incurred by payers and providers as a result of multiple claims administration systems; (vi) estimate the potential cost savings to the commonwealth if the Medicaid program were to implement a uniform claims administration system based on Medicare’s system, using regional Medicare administrative contractors; (vii) estimate the potential cost savings if all private health care payers in the commonwealth implemented a uniform claims administration system based on Medicare’s system, using regional Medicare administrative contractors, including for their Medicare advantage programs; and (viii) determine the potential savings and costs associated with creating incentives or requiring ERISA plans, Taft-Hartley plans and other self-funded health benefit plans to use regional Medicare administrative contractors for claims management.

SECTION 58. Notwithstanding any general or special law to the contrary, there shall be a special commission to make an investigation and study relative to the impact of reducing the number of health benefit plans that a health care payer may maintain and offer to individuals and employers. The commission shall consist of the 13 members including: the commissioner of insurance, who shall serve as chair; the executive director of the commonwealth health insurance connector authority; a representative

of the Massachusetts Hospital Association, the Massachusetts Medicaid Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health Information Management Association, the Massachusetts Health Data Consortium, a MassHealth contracted managed care organization, Associated Industries of Massachusetts, a health care consumer group, and the Massachusetts chapter of the National Federation of Independent Business; and a representative of an association of health care providers licensed under chapter 112 of the General Laws who is not a medical doctor. In conducting its analysis, the commission shall examine:

(i) the administrative costs associated with paying claims and submitting claims for multiple health benefit plans on health care payers and providers;

(ii) the costs associated with reducing the number of health benefit plans on consumer and employer choice;

(iii) the impact of limiting the number of health benefit plans on competition between and among insurance payers, including but not limited to, tiered products, limited network products and products with a range of cost sharing options; and

(iv) the potential for disruption to the market resulting from closing a health care payer's existing health benefit plans.

The special commission shall convene not later than October 1, 2010 and shall submit a report to the clerks of the house and senate not later than December 31, 2010.

SECTION 59. Notwithstanding any special or general law to the contrary, in implementing this act, the executive office of health and human services, the department of public health, the division of health care finance and policy, the division of insurance, the group insurance commission and any other relevant governmental entities or commissions may consider the special needs of children and of pediatric patients. In developing or utilizing data standards, quality measurement systems, wellness initiatives or

making comparisons of costs and prices, policymakers shall consider the special needs of children and of pediatric patients and may require that comparative data and reports segregate pediatric patients and providers from adult patients and providers.

SECTION 60. There shall be a special commission to make an investigation and study relative to the capital needs of the community hospital sector with regard to use of technology and adequacy of facilities, the ability of the sector to meet the health care needs of the general population in the next decade and potential sources of capital to meet those needs. The commission shall also evaluate the role of public programs, payments and regulations in supporting capital accumulation and make recommendations to advance the ability of the community hospital sector to meet the expected demand. The commission shall be comprised of the secretary of health and human services, the commissioner of public health, the secretary of administration and finance, a representative of the Massachusetts Council of Community Hospitals, a representative of the Massachusetts Hospital Association, a representative of the Associated Industries of Massachusetts, a representative of the Massachusetts Business Roundtable, the chief executive officer of the Massachusetts health and educational facilities authority, the chief executive officer of the Massachusetts development finance agency, the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on health care financing, a member of the house of representatives who shall be chosen by the minority leader, a member of the senate who shall be chosen by the minority leader, a chief elected local official with a community hospital located in said community who shall be appointed by the governor, an individual knowledgeable about demographic trends and hospital utilization who shall be appointed by the governor and an individual knowledgeable about hospital finance and construction who shall be appointed by the governor.

The commission shall hold hearings and file a report with the clerks of the house and senate not later than December 31, 2011.

SECTION 61. Notwithstanding any general or special law to the contrary, the department of public health shall conduct a study of the commonwealth's community hospitals, with a particular focus on outmigration of patients and related trends, including but not limited to an examination of observed effects and their potential causes with respect to the following:

(i) the impact on individual community hospitals caused by the opening of additional health care services by providers within the primary service areas of such community hospital, in terms of changes in the number and types of procedures performed and changes in revenues;

(ii) recruitment and retention of personnel; and

(iii) changes in payer mix.

The department shall issue a report summarizing its findings and making recommendations with respect to strengthening community hospitals not later than December 31, 2010, and shall file such report with the joint committee on health care financing.

SECTION 62. Notwithstanding any general or special law to the contrary nothing in subsection (c) of section 6C of chapter 118G of the General Laws shall prevent the annual preparation of the public health access program beneficiary employer report under section 304 of chapter 149 of the acts of 2004.

SECTION 63. Notwithstanding the provisions of any general or special law to the contrary, the Division of Medical Assistance shall promulgate regulations on or before January 1, 2011 that are designed to conform the ordering of treatment related urine drug screens with both Chapter 160 of the Acts of 2006 governing independent clinical laboratory services and the Department of Public Health regulations at 105 CMR 164 et. seq. governing the provisions of substance abuse treatment services, by revising its definition of 'authorized prescriber' at 130 CMR 401.402 to separately include, for the purpose of ordering treatment related random urine drug screens, substance abuse treatment programs that are licensed by the Department of Public Health's Bureau of Substance Abuse Services.

SECTION 64. In order to facilitate the provision of cost effective health care services, enhance the quality of care and improve the coordination and efficiency of health care services in the commonwealth, the division of health care finance and policy, herein referred to as the division, shall undertake activities intended to foster the adoption by providers and payers in the commonwealth of arrangements by which providers will contract to accept payment on a bundled, rather than a fee-for-service, basis. To promote provider participation in such bundled payment arrangements, the division shall make technical support available to providers and payers, survey or undertake research concerning existing and proposed bundled payment models within the commonwealth and elsewhere and disseminate the results of such research; assess the effects of federal programs intended to promote use of bundled payment arrangements; and identify sources of funding to support providers in designing and implementing bundled payment initiatives. The division shall have as an objective, but not as a requirement, the implementation of pilot bundled payment programs relating to payment for at least 2 acute conditions or procedures commencing by no later than January 1, 2011, under the terms of which inpatient services, as well as certain services provided pre- and post-inpatient stay, will be paid on a bundled payment basis; and the implementation of pilot bundled payment programs relating to payment for at least 2 chronic conditions commencing by no later than July 1, 2011. The division shall file reports on the efforts it undertakes to provide support for providers and payers to enter into bundled arrangements and on the progress made toward implementing the goals described in the preceding sentence of this section. Such reports shall be filed with the clerks of the senate and the house of representatives and with the governor not later than January 31, 2011, not later than July 29, 2011 and not later than December 30, 2011.

SECTION 65. The division of insurance shall conduct a study to ensure that the carrier reporting deadlines included in subsections (b) and (c) of section 6 of chapter 176J of the General Laws are of the appropriate duration to enable carriers to collect sufficient information with which to ensure the accuracy of proposed plan changes. If the division determines that a reporting date of 90 days prior to the effective

date of plan changes is inappropriate, the division shall determine the appropriate length of time for carriers to report plan changes to the division of insurance and the attorney general and shall make such recommendation to the general court. The study shall be completed by July 31, 2011 and filed with the clerks of the house of representative and senate, the chairs of the joint committee on health care financing and the chairs of the house and senate committee on ways and means.

SECTION 66. For small group base rate factors applied under section 3 of chapter 176J between October 1, 2010 and June 30, 2012, a carrier shall limit the effect of the application of any single or combination of rate adjustment factors identified in paragraphs (2) to (6), inclusive, of subsection (a) of said chapter 3 of said chapter 176J of the General Laws that are used in the calculation of an individual's or small group's premium so that the final annual premium charged to an individual or small group does not increase by more than an amount established annually by the commissioner by regulation.

SECTION 66A. Notwithstanding any general or special law to the contrary, a participating provider, as defined in chapter 176O of the General Laws, may contract with a carrier, as defined in chapter 176J of the General Laws, to provide one-time supplemental funding for the purposes of issuing refunds for all health benefit plans issued to its current eligible individuals and small groups under said chapter 176J. The refund may take the form of either a refund on the premium for the applicable 12-month period or any other form determined by the parties by contract. The division of insurance may require the filing of such contracts after execution for the purposes of ensuring distribution as provided in the contracts. The division shall issue a public report by December 31, 2010 detailing the participating providers who have entered into such contracts in calendar year 2010, the amount of one-time supplemental funding by participating provider, and the estimated aggregate refunds to be provided to eligible individuals and small groups. The commissioner may issue further regulations as necessary to implement this section.

SECTION 67. (a) Notwithstanding any general or special law to the contrary, there shall be a special commission on provider price reform that shall investigate the rising cost of health care insurance and the impact of reimbursement rates paid by health insurers to providers. The commission shall examine policies aimed at enhancing competition, fairness and cost-effectiveness in the health care market though the reduction of reimbursement disparities. Any recommendations shall consider, and be consistent with, the recommendations of the special commission on payment system as authorized in section 44 of chapter 305 of the acts of 2008.

(b) The commission shall consist of the secretary of administration and finance and the commissioner of health care finance and policy, who shall serve as co-chairs, the executive director of the group insurance commission, 1 person to be appointed by the senate president, 1 person to be appointed by the speaker of the house, and 5 members to be appointed by the Governor, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Medical Society, and 1 of whom shall be a health economist or expert in the area of payment methodology. The commission shall adopt rules and establish procedures it considers necessary for the conduct of its business. The commission may expend funds as may be appropriated or made available for its purposes. No action of the commission shall be considered official unless approved by a majority vote of the commission members.

(c) The commission shall examine: (i) the variation in relative prices paid to providers within similar provider groups; (ii) the variation in costs of providers for services of comparable acuity, quality and complexity; (iii) the variation in volume of care provided at providers with low and high levels of relative prices or health status adjusted total medical expenses; (iv) the correlation between price paid to providers and (1) the quality of care, (2) the acuity of the patient population, (3) the provider's payor mix, (4) the provision of unique services, including specialty teaching services and community services, and

(5) operational costs, including labor costs; (iii) the correlation between price paid to providers and, in the case of hospitals, status as a disproportionate share hospital, a specialty hospital, a pediatric specialty hospital or as an academic teaching hospital; and (v) policies to promote the use of providers with low health status adjusted total medical expenses.

(d) In making its investigation, the commission shall consult with the attorney general, the health care quality and cost council, the division of health care finance and policy, health care economists, and other individuals or organizations with expertise in state and federal health care payment methodologies and reforms. The commission shall use data and recommendations gathered in the course of these consultations as a basis for its findings and recommendations.

(e) The commission shall file a report of its findings and recommendations.

Before a final vote on any recommendations, the commission shall consult with a reasonable variety of parties likely to be affected by its recommendations, including, but not limited to, the office of Medicaid, the division of health care finance and policy, the commonwealth health insurance connector, the Massachusetts Council of Community Hospitals, Inc., the Massachusetts League of Community Health Centers, Inc., 1 or more academic medical centers, 1 or more hospitals with a high proportion of public payors, 1 or more Taft-Hartley plans, 1 or more self-insured plans with membership of more than 500, the Massachusetts Municipal Association, Inc. and organizations representing health care consumers. The commission shall file the report of its findings and recommendations, with the clerks of the senate and the house of representatives and with the governor not later than February 1, 2011.

SECTION 68. Sections 1, 2, 3, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 36, 39, 43, 46, 47, 48, 49, 51, 60, 61, 65, 66 shall take effect on October 1, 2010.

SECTION 69. Section 30 shall take effect on October 1, 2011.

SECTION 70. Section 31 shall take effect on October 1, 2012.

1434 SECTION 71. Sections 14, 35, 41, 62 shall take effect on July 1, 2012.

1435 SECTION 72. Sections 38, 42, 44, 45 shall take effect on July 1, 2011.

1436 SECTION 73. Sections 32, 37, 40 shall take effect on January 1, 2011.



Acts

2011

CHAPTER 69 AN ACT RELATIVE TO MUNICIPAL HEALTH INSURANCEE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to authorize municipalities to implement local health insurance changes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. [Chapter 32B of the General Laws](#) is hereby amended by striking out section 2, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 2. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Appropriate public authority”, as to a county, except Worcester county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to a district, the governing board of the district and for the purposes of this chapter if a collective bargaining agreement is in place, as to a commonwealth charter school as defined by [section 89 of chapter 71](#), the board of trustees; and as to an education collaborative, as defined by section 4E of chapter 40, the board of directors.

“Commission”, the group insurance commission established by [section 3 of chapter 32A](#).

“Dependent”, an employee’s spouse, an employee’s unmarried children under 19 years of age and any child 19 years of age or over who is mentally or physically incapable of earning the child’s own living; provided, however, that any additional premium which may be required shall be paid for the coverage of such child 19 years of age or over; provided further, that “dependent” shall also include an unmarried child 19 years of age or over who is a full-time student in an educational or vocational institution and whose program of education has not been substantially interrupted by full-time gainful employment, excluding service in the armed forces; provided further, that any additional premium which may be required for the coverage of such student shall be paid in full by the employee. The standards for such full-time instruction and the time required to complete such a program of education shall be determined by the appropriate public authority.

“District”, any water, sewer, light, fire, veterans’ services or other improvement district or public unit created within 1 or more political subdivisions of the commonwealth to provide public services or conveniences.

“Employee”, any person in the service of a governmental unit or whose services are divided between 2 or more governmental units or between a governmental unit and the commonwealth, and who receives compensation for any such service, whether such person is employed, appointed or elected by popular vote, and any employee of a free public library maintained in a city or town to the support of which that city or town annually contributes not less than one-half of the cost; provided, however, that the duties of such person require not less than 20 hours, regularly, in the service of the governmental unit during the regular work week of permanent or temporary employment; provided further, that no seasonal employee or emergency employees shall be included, except that persons elected by popular vote may be considered eligible employees during the entire term for which they are elected regardless of the number of hours devoted to the service of the governmental unit. A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium. If an employee’s services are divided between governmental units, the employee shall, for the purposes of this chapter, be considered an employee of the governmental unit which pays more than 50 per cent of the employee’s salary. But, if no one governmental unit pays more than 50 per cent of that employee’s salary, the governmental unit paying the largest share of the salary shall consider the employee as its own for membership purposes, and that governmental unit shall contribute 50 per cent of the cost of the premium. If the payment of an employee’s salary is equally divided between governmental units, the governmental unit having the largest population shall contribute 50 per cent of the cost of the premium. If an employee’s salary is divided in any manner between a governmental unit and the commonwealth, the governmental unit shall contribute 50 per cent of the cost of the premium. An employee eligible for coverage under this chapter shall not be eligible for coverage as an employee under [chapter 32A](#). Teachers and all other public school employees shall be deemed to be employees during the months of July and August under this chapter; provided, however, that employee contributions for such health insurance for those 2 months are deducted from the compensation paid for services rendered during the previous school year. A determination by the appropriate public authority that a person is eligible for participation in the plan of insurance shall be final. Nothing in this paragraph shall apply to Worcester county or its employees.

“Employer”, the governmental unit.

“Governmental unit”, any political subdivision of the commonwealth.

“Health care flexible spending account”, a federally-recognized tax-exempt health benefit program

that allows an employee to set aside a portion of earnings to pay for qualified expenses as established in an employer's benefit plan.

"Health care organization", an organization for the group practice of medicine, with or without hospital or other medical institutional affiliations, which furnishes to the patient a specified or unlimited range of medical, surgical, dental, hospital and other types of health care services.

"Health reimbursement arrangement", a federally-recognized tax-exempt health benefit program funded solely by an employer to reimburse subscribers for qualified medical expenses.

"Optional Medicare extension", a program of hospital, surgical, medical, dental and other health insurance for such active employees and their dependents and such retired employees and their dependents, except elderly governmental retirees insured under section 11B, as are eligible or insured under the federal health insurance for the aged act, as may be amended from time to time.

"Political subdivision", any county, except Worcester county, city, town or district.

"Savings", for the purposes of sections 21, 22 and 23, shall mean the difference between the total projected premium costs for health insurance benefits provided by a political subdivision with changes made to health insurance benefits under section 22 or 23 for the first 12 months after the implementation of such changes and the total projected premium costs for health insurance benefits provided by that subdivision without such changes for the same 12 month period.

"Subscribers", employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision.

SECTION 2. [Section 12 of said chapter 32B](#) is hereby amended by adding the following paragraph:-

The board of a trust or joint purchase group established by 2 or more governmental units may vote to implement changes to co-payments, deductibles, tiered provider network copayments and other cost-sharing plan design features which do not exceed those which an appropriate public authority may offer under section 22; provided, however, that each governmental unit that is a member of a trust or group shall comply with the requirements set forth in section 21 before any such changes may be applied to the health insurance coverage of such governmental unit's subscribers. If such changes to the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features do not exceed those permitted under section 22, such changes shall be approved in accordance with the provisions of section 21.

SECTION 3. Said [chapter 32B](#) is hereby further amended by adding the following 9 sections:-

Section 21. (a) Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting. This section shall be binding on any political subdivision that implements changes to health insurance benefits pursuant to section 22 or 23.

(b) Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission. The appropriate public authority shall then notify its insurance advisory committee, or such committee's regional or district equivalent, of the estimated savings and provide any reports or other documentation with respect to the determination of estimated savings as requested by the insurance advisory committee. After discussion with the insurance advisory committee as to the estimated savings, the appropriate public authority shall give notice to each of its collective bargaining units to which the authority provides health insurance benefits and a retiree representative, hereafter called the public employee committee, of its intention to enter into negotiations to implement changes to health insurance benefits provided by the appropriate public authority. The retiree representative shall be designated by the Retired State, County and Municipal Employees Association. A political subdivision which has previously established a public employee committee under section 19 may implement changes to its health insurance benefits pursuant to this section and sections 22 and 23.

Notice to the collective bargaining units and retirees shall be provided in the same manner as prescribed in section 19. The notice shall detail the proposed changes, the appropriate public authority's analysis and estimate of its anticipated savings from such changes and a proposal to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected.

(c) The appropriate public authority and the public employee committee shall have not more than 30 days from the point at which the public employee committee receives the notice as provided in subsection (b) to negotiate all aspects of the proposal. An agreement with the appropriate public authority shall be approved by a majority vote of the public employee committee; provided, however, that the retiree representative shall have a 10 per cent vote. If after 30 days the appropriate public authority and public employee committee are unable to enter into a written agreement to implement changes under section 22 or 23, the matter shall be submitted to a municipal health insurance review panel. The panel shall be comprised of 3 members, 1 of whom shall be appointed by the

public employee committee, 1 of whom shall be appointed by the public authority and 1 of whom shall be selected through the secretary of administration and finance who shall forward to the appropriate public authority and the public employee committee a list of 3 impartial potential members, each of whom shall have professional experience in dispute mediation and municipal finance or municipal health benefits, from which the appropriate public authority and the public employee committee may jointly select the third member; provided, however, that if the appropriate public authority and the public employee committee cannot agree within 3 business days upon which person to select as the third member of the panel, the secretary of administration and finance shall select the final member of the panel. Any fee or compensation provided to a member for service on the panel shall be shared equally between the public employee committee and the appropriate public authority.

(d) The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 22; provided, however, that any increases to plan design features have been made in accordance with the provisions of section 22. The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 23; provided, that the panel confirms that the anticipated savings under those changes would be at least 5 per cent greater than the maximum possible savings under section 22. If the panel does not approve implementation of changes made pursuant to section 22 or section 23, the public authority may submit a new proposal to the public employee committee for consideration and confirmation under this section.

(e) Within 10 days of receiving any proposed changes under sections 22 or 23, the municipal health insurance review panel shall: (i) confirm the appropriate public authority's estimated monetary savings due to the proposed changes under section 22 or 23 and ensure that the savings is substantiated by documentation provided by the appropriate public authority; provided, however, that if the panel determines the savings estimate to be unsubstantiated, the panel may require the public authority to submit a new estimate or provide additional information to substantiate the estimate; (ii) review the proposal submitted by the appropriate public authority to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected; and (iii) concur with the appropriate public authority that the proposal is sufficient to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected or revise the proposal pursuant to subsection (f).

(f) The municipal health insurance review panel may determine the proposal to be insufficient and may require additional savings to be shared with subscribers, particularly those who would be disproportionately affected by changes made pursuant to sections 22 or 23, including retirees, low-

income subscribers and subscribers with high out-of-pocket costs. In evaluating the distribution of savings to retirees, the panel may consider any discrepancy between the percentage contributed by retirees, surviving spouses and their dependents to plans offered by the public authority as compared to other subscribers. In reaching a decision on the proposal under this subsection, the municipal health insurance review panel may consider an alternative proposal, with supporting documentation, from the public employee committee to mitigate, moderate or cap the impact of these changes for subscribers. The panel may require the appropriate public authority to distribute additional savings to subscribers in the form of health reimbursement arrangements, wellness programs, health care trust funds for emergency medical care or inpatient hospital care, out-of-pocket caps, Medicare Part B reimbursements or reimbursements for other qualified medical expenses; provided, however that in no case shall the municipal health insurance review panel designate more than 25 per cent of the estimated savings to subscribers. The municipal health insurance review panel shall not require a municipality to implement a proposal to mitigate, moderate or cap the impact of changes authorized under section 22 or 23 which has a total multi-year cost that exceeds 25 per cent of the estimated savings. All obligations on behalf of the appropriate public authority related to the proposal shall expire after the initial amount of estimated savings designated by the panel to be distributed to employees and retirees has been expended. The panel shall not impose any change to contribution ratios.

(g) The decision of the municipal health insurance review panel shall be binding upon all parties.

(h) The secretary of administration and finance shall promulgate regulations establishing administrative procedures for the negotiations with the public employee committee and the municipal health insurance review panel, and issue guidelines to be utilized by the appropriate public authority and the municipal health insurance review panel in evaluating which subscribers are disproportionately affected, subscriber income and subscriber out-of-pocket costs associated with health insurance benefits.

Section 22. (a) Upon meeting the requirements of section 21, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers not enrolled in a Medicare plan under section 18A, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a non-Medicare plan with the largest subscriber enrollment; provided, however, that for subscribers enrolled in a Medicare plan pursuant to section 18A the appropriate public authority may include, as part of the health plans that it offers to its subscribers, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in

dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a Medicare plan with the largest subscriber enrollment. The appropriate public authority shall not include a plan design feature which seeks to achieve premium savings by offering a health benefit plan with a reduced or selective network or providers unless the appropriate public authority also offers a health benefit plan to all subscribers that does not contain a reduced or selective network of providers.

(b) An appropriate public authority may increase the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features; provided that, for subscribers enrolled in a non-Medicare plan, such features do not exceed plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a non-Medicare plan with the largest subscriber enrollment and, for subscribers enrolled in a Medicare plan under section 18A, such features do not exceed plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a Medicare plan with the largest subscriber enrollment; provided, however, that the public authority need only satisfy the requirements of subsection (a) of section 21 the first time changes are implemented pursuant to this section; and provided, further that the public authority meet its obligations under subsections (b) to (h), inclusive, of section 21 each time an increase to a plan design feature is proposed.

Nothing herein shall prohibit an appropriate public authority from including in its health plans higher copayments, deductibles or tiered provider network copayments or other plan design features than those authorized by this section; provided, however, such higher copayments, deductibles, tiered provider network copayments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to section 19 or [chapter 150E](#).

(c) The decision to accept and implement this section shall not be subject to bargaining pursuant to [chapter 150E](#) or section 19. Nothing in this section shall preclude the implementation of plan design changes pursuant to this section in communities that have adopted section 19 of this chapter or by the governing board of a joint purchasing group established pursuant to section 12.

(d) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

(e) The first time a public authority implements plan design changes under this section or section 23, the public authority shall not increase before July 1, 2014, the percentage contributed by retirees, surviving spouses and their dependents to their health insurance premiums from the percentage that was approved by the public authority prior to and in effect on July 1, 2011; provided however,

that if a public authority approved of an increase in said percentage contributed by retirees before July 1, 2011, but to take effect on a date after July 1, 2011, said percentage increase may take effect upon the approval of the secretary of administration and finance based on documented evidence satisfactory to the secretary that the public authority approved the increase prior to July 1, 2011.

Section 23. (a) Upon meeting the requirements of section 21, an appropriate public authority which has undertaken to provide health insurance coverage to its subscribers may elect to provide health insurance coverage to its subscribers by transferring its subscribers to the commission and shall notify the commission of such transfer. The notice shall be provided to the commission by the appropriate public authority on or before December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to, family and personnel status changes, and shall report all changes to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at 3 year intervals from the date of transfer of subscribers to the commission.

The appropriate public authority shall provide notice of any withdrawal by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission and the political subdivision shall abide by all commission

requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under [sections 10B and 12 of chapter 32A](#) and, after withdrawal from the commission, those subscribers who received coverage from the commission under said [sections 10B and 12 of said chapter 32A](#) shall not pay more than 25 per cent of the cost of their health insurance premiums. In the event of withdrawal from the commission, the political subdivision and public employee unions shall return to governance of negotiations of health insurance under [chapter 150E](#) and this chapter; provided, however, that the political subdivision may transfer coverage to the commission again after complying with the requirements of subsections (b) to (h), inclusive, of section 21.

The commission shall issue rules and regulations consistent with this section related to the process by which subscribers shall be transferred to the commission.

(b) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

(c) A political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage pursuant to this section shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall, exclusively and not subject to collective bargaining under [chapter 150E](#), determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and payments and obligations excluding contribution ratios, including, but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers. The commission may issue rules and regulations consistent with this section and shall provide public notice, and notice at the request of the interested parties, of any proposed rules and regulations and provide an opportunity to review and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing; provided, however, that the commission shall not be subject to [chapter 30A](#).

(d) The commission shall negotiate and purchase health insurance coverage for subscribers

transferred under this section and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to [chapter 32A](#). The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said [chapter 32A](#). Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

(e) A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by [section 20 of chapter 59](#) requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation of coverage is for nonpayment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage to determine the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(f) If there is a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such

information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, the retiree shall no longer be eligible for the retiree's existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of the retiree's eligibility or ineligibility for Medicare part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

(g) The decision to implement this section shall not be subject to collective bargaining pursuant to [chapter 150E](#) or section 19.

(h) Nothing in this section shall relieve a political subdivision from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter or change eligibility standards for health insurance under the definition of "employee" in section 2.

Section 24. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter may provide health care flexible spending accounts to allow certain subscribers, as determined by the appropriate public authority, to set aside a portion of earnings to pay for qualified expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 25. Notwithstanding any general or special law or regulation to the contrary, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter or transfer its subscribers to the commission under this chapter may provide health reimbursement arrangements to reimburse subscribers for qualified medical expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 26. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter shall conduct an enrollment audit not less than once every 2 years. The audit shall be completed in order to ensure that members are appropriately eligible for coverage.

Section 27. An insurance carrier, third party purchasing group or administrator or the commission in the case of a governmental unit, which has undertaken to provide health insurance coverage to its

subscribers by acceptance of sections 19 or 23, shall, upon written request, provide the governmental unit or public employee committee with its historical claims data within 45 days of such request; provided, that all personally identifying information within such claims shall be redacted and released in a form and manner compliant with all applicable state and federal privacy statutes and regulations including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996.

Section 28. Nothing in section 21, 22 or 23 shall be construed to prevent 2 or more governmental units under a joint purchase or trust agreement from jointly negotiating and purchasing coverage as authorized in section 12.

Section 29. Each fiscal year, the commission shall prepare and place on its website a report delineating the dollar amount of the copayments, deductibles, tiered provider network co-payments and other design features offered by the commission in the non-Medicare plan with the largest subscriber enrollment and the dollar amount of the copayments, deductibles, tiered provider network copayments and other design features offered by the commission in the Medicare extension plan with the largest subscriber enrollment. The commission shall also provide information on its plans with the largest subscriber enrollment upon request of any appropriate public authority or political subdivision.

SECTION 4. Notwithstanding any general or special law to the contrary, an appropriate public authority that implements changes to health insurance benefits pursuant to sections 22 and 23 of chapter 32B of the General Laws shall delay implementation of such changes, as to those subscribers covered by a collective bargaining agreement or section 19 agreement that is in effect on the date of implementation of such changes, of any changes to the dollar amounts of copayments, deductibles or other cost-sharing plan design features that are inconsistent with any dollar limits on copayments, deductibles or other cost-sharing plan design features that are specifically included in the body of that collective bargaining agreement or section 19 agreement, until the initial term stated in that collective bargaining agreement or section 19 agreement has ended.

SECTION 5. Nothing in this act shall be construed to alter, amend or affect [chapter 36 of the acts of 1998](#), [chapter 423 of the acts of 2002](#), [chapter 27 of the acts of 2003](#) or [chapter 247 of the acts of 2004](#).

SECTION 6. Notwithstanding any general or special law to the contrary, the group insurance commission shall prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before January 1, 2012, if such political subdivision provides notice to the group insurance commission on or before

September 1, 2011, that it is transferring its subscribers to the group insurance commission under [sections 19 or 23 of chapter 32B of the General Laws](#); provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before April 1, 2012, if such political subdivision provides notice to the group insurance commission on or before December 1, 2011, that it is transferring its subscribers to the group insurance commission under said [sections 19 or 23 of said chapter 32B](#); provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before July 1, 2012, if such political subdivision provides notice to the group insurance commission on or before March 1, 2012, that it is transferring its subscribers to the group insurance commission under said [sections 19 or 23 of said chapter 32B](#).

SECTION 7. Notwithstanding any general or special law to the contrary, unless otherwise agreed, a governmental unit transferring its subscribers to the group insurance commission under [section 23 of chapter 32B of the General Laws](#) shall use current contribution ratios in existence for each class of plan for each collective bargaining unit in order to transfer to the commission. If a governmental unit was not offering both a preferred provider organization plan or an indemnity plan on the date of transfer to the commission, the governmental unit's initial contribution ratio toward the commission's preferred provider organization plans and indemnity plans shall be the ratio that the governmental unit was contributing toward its preferred provider organization plan or indemnity plan for each collective bargaining unit on that date. Except as specifically provided in this section, all contribution ratios shall remain subject to bargaining pursuant to [chapter 32B of the General Laws](#) and [chapter 150E of the General Laws](#).

Approved, July 12, 2011.

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SENATE No. 2400

The Commonwealth of Massachusetts

The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill improving the quality of health care and reducing costs through increased transparency, efficiency and innovation (Senate, No. 2270) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4155), reports, a Bill entitled "An Act improving the quality of health care and reducing costs through increased transparency, efficiency and innovation" (Senate, No. 2400).

RICHARD T. MOORE
ANTHONY PETRUCCELLI
BRUCE E. TARR

STEVEN M. WALSH
RONALD MARIANO
F. JAY BARROWS

SENATE No. 2400

Senate, July 31, 2012 – The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill improving the quality of health care and reducing costs through increased transparency, efficiency and innovation (Senate, No. 2270) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4155), reports, a Bill entitled “An Act improving the quality of health care and reducing costs through increased transparency, efficiency and innovation” (Senate, No. 2400).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act improving the quality of health care and reducing costs through increased transparency, efficiency and innovation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 38C of chapter 3 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out, in lines 25, 29, 32, 37, 39, 48 and 49, 54 and
3 55, and 86, the words “division of health care finance and policy” and inserting in place thereof,
4 in each instance, the following words:- center for health information and analysis.

5 SECTION 2. Said section 38C of said chapter 3, as so appearing, is hereby further
6 amended by striking out, in lines 35, 40, 44 and 45, 89 and 93, the word “division” and inserting
7 in place thereof, in each instance, the following word:- center.

8 SECTION 2A. Said section 38C of said chapter 3, as so appearing, is hereby further
9 amended by striking out, in line 47, the word “division’s” and inserting in place thereof the
10 following word:- center’s.

SECTION 3. Said section 38C of said chapter 3, as so appearing, is hereby amended by striking out, in line 43, the words “, the health care quality and cost council,”.

SECTION 4. Section 105 of chapter 6 of the General Laws is hereby amended by striking out, in lines 11 and 12, as so appearing, the words “commissioner of health care finance and policy” and inserting in place thereof the following words:- executive director of the center for health information and analysis.

SECTION 5. Section 16 of chapter 6A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 52, the words “pursuant to section 2A of chapter 118G” and inserting in place thereof the following words:— under section 13C of chapter 118E.

SECTION 6. Section 16E of said chapter 6A is hereby repealed.

SECTION 7. Sections 16J to 16L, inclusive, of said chapter 6A are hereby repealed.

SECTION 8. Section 16M of said chapter 6A, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words “commissioner of health care financing and policy” and inserting in place thereof the following words:- executive director of the center for health information and analysis.

SECTION 9. Said section 16M of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 23 and 39, the words “division of health care finance and policy” and inserting in place thereof, in each instance, the following words:- center for health information and analysis.

SECTION 10. Said section 16M of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 24, the word “118G” and inserting in place thereof the following word:- 12C.

SECTION 11. Said section 16M of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 32 and 43, the word “division” and inserting in place thereof, in each instance, the following word:- center.

SECTION 12. Section 16N of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “commissioner of health care finance and policy” and inserting in place thereof the following words:- executive director of the center for health information and analysis.

SECTION 13. The first paragraph of subsection (a) of section 16O of said chapter 6A, as so appearing, is hereby amended by striking out the fifth sentence.

SECTION 14. Said chapter 6A is hereby further amended by adding the following section:-

Section 16T.(a) There shall be a health planning council within the executive office of health and human services, consisting of the secretary of health and human services or a designee who shall serve as chair, the commissioner of public health or a designee, the director of the office of Medicaid or a designee, the commissioner of mental health or a designee, the secretary of elder affairs or a designee, the executive director of the center for health information and analysis or a designee, the executive director of the health policy commission or a designee and 3 members appointed by the governor, of whom shall be a health economist; 1 of whom shall have

experience in health policy and planning and 1 of whom shall have experience in health care market planning and service line analysis.

The council shall assemble an advisory committee of not more than 13 members who shall reflect a broad distribution of diverse perspectives on the health care system, including health care providers and provider organizations, third-party payers, both public and private, consumer representatives and labor organizations representing health care workers. The advisory committee shall review drafts and provide recommendations to the council during the development of the plan.

The executive office of health and human services, with the council, shall conduct at least 5 public hearings, in geographically diverse areas, on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. In addition, the executive office may create and maintain a website to allow members of the public to submit comments electronically and review comments submitted by others. The state health plan shall identify needs of the commonwealth in health care services, providers, programs and facilities; the resources available to meet those needs; and the priorities for addressing those needs.

(b) The state health plan developed by the council shall include the location, distribution and nature of all health care resources in the commonwealth and shall establish and maintain on a current basis an inventory of all such resources together with all other reasonably pertinent information concerning such resources. For purposes of this section, a health care resource shall include any resource, whether personal or institutional in nature and whether owned or operated by any person, the commonwealth or political subdivision thereof, the principal purpose of which is to provide, or facilitate the provision of, services for the prevention, detection, diagnosis

or treatment of those physical and mental conditions experienced by humans which usually are the result of, or result in, disease, injury, deformity or pain.

The plan shall identify certain categories of health care resources, including acute care units; non-acute care units; specialty care units, including, but not limited to, burn, coronary care, cancer care, neonatal care, post-obstetric and post operative recovery care, pulmonary care, renal dialysis and surgical, including trauma and intensive care units; skilled nursing facilities; assisted living facilities; long-term care facilities; home health, behavioral health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services; primary care resources; pharmacy and pharmacological services; family planning services; obstetrics and gynecology services; allied health services including, but not limited to, optometric care, chiropractic services, dental care and midwifery services; federally qualified health centers and free clinics; numbers of technologies or equipment defined as innovative services or new technologies by the department under section 25C of chapter 111; and health screening and early intervention services.

The plan shall also make recommendations for the appropriate supply and distribution of resources, programs, capacities, technologies and services identified in the second paragraph of this subsection on a state-wide or regional basis based on an assessment of need for the next 5 years and options for implementing such recommendations. The recommendations shall reflect at least the following goals: to maintain and improve the quality of health care services; to support the state's efforts to meet the health care cost growth benchmark established under section 9 of chapter 6D; to support innovative health care delivery and alternative payment models as identified by the commission; to reduce unnecessary duplication; to support universal access to community-based preventative and patient-centered primary health care; to reduce health

disparities; to support efforts to integrate mental health, behavioral and substance use disorder services with overall medical care; to reflect the latest trends in utilization and support the best standards of care; and to rationally distribute health care resources across geographic regions of state based on the needs of the population on a statewide basis, as well as, the needs of particular geographic areas of the state.

(c) The department shall issue guidelines, rules or regulations consistent with the state health plan for making determinations of need. If the commissioner determines that statutory changes are necessary to implement the plan, the commissioner shall submit legislative language to the joint committee on public health and the joint committee on health care financing.

(d) The department may require health care resources to provide information for the purposes of this section and may prescribe by regulation uniform reporting requirements. In prescribing such regulations the department shall strive to make any reports required under this section of mutual benefit to those providing, as well as, those using such information and shall avoid placing any burdens on such providers which are not reasonably necessary to accomplish this section. Agencies of the commonwealth which collect cost or other data concerning health care resources shall cooperate with the department in coordinating such data with information collected under this section.

The inventory compiled under subsection (b) and all related information shall be maintained in a form usable by the general public in a designated office of the department, shall constitute a public record and shall be coordinated with information collected by the department under other laws, federal census information and other vital statistics from reliable sources;

provided, however, that any item of information which is confidential or privileged in nature or under any other law shall not be regarded as a public record under this section.

(e) The department shall publish analyses, reports and interpretations of information collected under this section to promote awareness of the distribution and nature of health care resources in the commonwealth.

(f) In the performance of its duties, the department, subject to appropriation, may enter into such contracts with agencies of the federal government, the commonwealth or any political subdivision thereof and public or private bodies, as it considers necessary; provided, however, that no information received under such a contract shall be published or relied upon for any purpose by the department unless the department has determined such information to be reasonably accurate by statistical sampling or other suitable techniques for measuring the reliability of information-gathering processes.

SECTION 15. The General Laws are hereby amended by inserting after chapter 6C the following chapter:-

CHAPTER 6D

HEALTH POLICY COMMISSION

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actual costs”, all direct and indirect costs incurred by a hospital or a community health center in providing medically necessary care and treatment to its patients, determined under with generally accepted accounting principles.

139 “Acute hospital”, the teaching hospital of the University of Massachusetts Medical
140 School and any hospital licensed under section 51 of chapter 111 and which contains a majority
141 of medical-surgical, pediatric, obstetric and maternity beds, as defined by the department of
142 public health.

143 “Accountable care organization” or “ACO”, a provider organization certified under
144 section 15.

145 “ACO participant”, a health care provider that either integrates or contracts with an ACO
146 to provide services to ACO patients.

147 “ACO patient”, an individual who chooses or is attributed to an ACO for medical and
148 behavioral health care, for whom such services are paid by the payer to the ACO.

149 “After-hours care”, services provided in the office during regularly scheduled evening,
150 weekend or holiday office hours, in addition to basic service.

151 “Allowed amount”, the contractually agreed upon amount paid by a payer to a health care
152 provider for health care services provided to an insured.

153 “Alternative payment contract”, any contract between a provider or provider organization
154 and a health care payer which utilizes alternative payment methodologies.

155 “Alternative payment methodologies or methods”, methods of payment that are not solely
156 based on fee-for-service reimbursements; provided that, “alternative payment methodologies”
157 may include, but shall not be limited to, shared savings arrangement, bundled payments and
158 global payments; provided further, that “alternative payment methodologies” may include fee-
159 for-service payments, which are settled or reconciled with a bundled or global payment.

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; and an organization entering into a preferred provider arrangement under chapter 176I; provided, that this shall not include an employer purchasing coverage or acting on behalf of its employees or the employees of 1 or more subsidiaries or affiliated corporations of the employer; provided that, unless otherwise noted, the term “carrier” shall not include any entity to the extent it offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services.

“Center”, the center for health information and analysis established under chapter 12C.

“Charge”, the uniform price for specific services within a revenue center of a hospital.

“Child”, a person who is under 18 years of age.

“Community health centers”, health centers operating in conformance with the requirements of Section 330 of United States Public Law 95-626 and shall include all community health centers which file cost reports as requested by the commission.

“Commission”, health policy commission established by section 2.

“Comprehensive cancer center”, the hospital of any institution so designated by the national cancer institute under the authority of 42 U.S.C. sections 408(a) and 408(b) organized solely for the treatment of cancer, and offered exemption from the medicare diagnosis related group payment system under 42 C.F.R. 405.475(f).

180 “Dependent”, the spouse and children of any employee if such persons would qualify for
181 dependent status under the Internal Revenue Code or for whom a support order could be granted
182 under chapters 208, 209 or 209C.

183 “Disproportionate share hospital”, any acute hospital that exhibits a payer mix where a
184 minimum of 63 per cent of the acute hospital’s gross patient service revenue is attributable to
185 Title XVIII and Title XIX of the Federal Social Security Act, other government payors and free
186 care. “Emergency services”, medically necessary health care services provided to an individual
187 with an emergency medical condition.

188 “Employee”, a person who performs services primarily in the commonwealth for
189 remuneration for a commonwealth employer. A person who is self-employed shall not be
190 deemed to be an employee.

191 “Employer”, an employer as defined in section 1 of chapter 151A.

192 “Executive director”, the executive director of the health policy commission.

193 “Executive office”, executive office of health and human services.

194 “Facility”, a licensed institution providing health care services or a health care setting,
195 including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical
196 or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory
197 and imaging centers, and rehabilitation and other therapeutic health settings.

198 “Fee-for-service”, a payment mechanism in which all reimbursable health care activity is
199 described and categorized into discreet and separate units of service and each provider is
200 separately reimbursed for each discrete service rendered to a patient.

201 “Fiscal year”, the 12 month period during which a hospital keeps its accounts and which
202 ends in the calendar year by which it is identified.

203 “Global payment”, a payment arrangement where spending targets are established for a
204 comprehensive set of health care services for the care that a defined population of patients may
205 receive in a specified period of time.

206 “Governmental unit”, the commonwealth, any department, agency board or commission
207 of the commonwealth, and any political subdivision of the commonwealth.

208 “Gross patient service revenue”, the total dollar amount of a hospital’s charges for
209 services rendered in a fiscal year.

210 “Gross state product”, the total annual output of the Massachusetts economy as measured
211 by the U.S. Department of Commerce, Bureau of Economic Analysis, Gross Domestic Product
212 by State series.

213 “Growth rate of potential gross state product”, the long-run average growth rate of the
214 commonwealth’s economy, excluding fluctuations due to the business cycle, as established under
215 section 7H ½ of chapter 29.

216 “Health benefit plan”, as defined in section 1 of chapter 176J.

217 “Health care cost growth benchmark,” the projected annual percentage change in total
218 health care expenditures in the commonwealth, as established in section 9.

219 “Health care entity”, a provider, provider organization or carrier.

220 “Health care provider”, a provider of medical or health services or any other person or
221 organization that furnishes, bills or is paid for health care service delivery in the normal course
222 of business.

223 “Health care services”, supplies, care and services of medical, behavioral health,
224 substance use disorder, mental health, surgical, optometric, dental, podiatric, chiropractic,
225 psychiatric, therapeutic, diagnostic, preventative, rehabilitative, supportive or geriatric nature
226 including, but not limited to, inpatient and outpatient acute hospital care and services; services
227 provided by a community health center home health and hospice care provider, or by a
228 sanatorium, as included in the definition of “hospital” in Title XVIII of the federal Social
229 Security Act, and treatment and care compatible with such services or by a health maintenance
230 organization.

231 “Health insurance company”, a company, as defined in section 1 of chapter 175, which
232 engages in the business of health insurance.

233 “Health insurance plan”, the medicare program or an individual or group contract or other
234 plan providing coverage of health care services and which is issued by a health insurance
235 company, a hospital service corporation, a medical service corporation or a health maintenance
236 organization.

237 “Health maintenance organization”, a company which provides or arranges for the
238 provision of health care services to enrolled members in exchange primarily for a prepaid per
239 capita or aggregate fixed sum as further defined in section 1 of chapter 176G.

240 “Health status adjusted total medical expenses”, the total cost of care for the patient
241 population associated with a provider group based on allowed claims for all categories of

242 medical expenses and all non-claims related payments to providers, adjusted by health status,
243 and expressed on a per member per month basis, as calculated under section 8 of chapter 12C.

244 “Hospital”, any hospital licensed under section 51 of chapter 111, the teaching hospital of
245 the University of Massachusetts Medical School and any psychiatric facility licensed under
246 section 19 of chapter 19.

247 “Hospital service corporation”, a corporation established to operate a nonprofit hospital
248 service plan as provided in chapter 176A.

249 “Medicaid program”, the medical assistance program administered by the office of
250 Medicaid under chapter 118E and under Title XIX of the Federal Social Security Act or any
251 successor statute.

252 “Medical assistance program”, the medicaid program, the Veterans Administration health
253 and hospital programs and any other medical assistance program operated by a governmental
254 unit for persons categorically eligible for such program.

255 “Medical service corporation”, a corporation established for the purpose of operating a
256 nonprofit medical service plan as provided in chapter 176B.

257 “Medicare program”, the medical insurance program established by Title XVIII of the
258 Federal Social Security Act.

259 “Net cost of private health insurance”, the difference between health premiums earned
260 and benefits incurred, which shall consist of: (i) all categories of administrative expenditures, as
261 included in medical loss ratio regulations promulgated by the division of insurance; (ii) net

262 additions to reserves; (iii) rate credits and dividends; and (iv) profits or losses, or as otherwise
263 defined by regulations promulgated by the center under chapter 12C.

264 “Non-acute hospital”, any hospital which is not an acute hospital.

265 “Patient”, any natural person receiving health care services from a hospital.

266 “Patient-centered medical home”, a model of health care delivery designed to provide a
267 patient with a single point of coordination for all their health care, including primary, specialty,
268 post-acute and chronic care, which is (i) patient-centered; (ii) comprehensive, integrated and
269 continuous; and (iii) delivered by a team of health care professionals to manage a patient’s care,
270 reduce fragmentation and improve patient outcomes.

271 “Patient decision aid”, an interactive, written or audio-visual tool that provides a balanced
272 presentation of the condition and treatment or screening options, benefits and harms, with
273 attention to the patient’s preferences and values.

274 “Payer”, any entity, other than an individual, that pays providers for the provision of
275 health care services; provided, that “payer” shall include both governmental and private entities;
276 provided further, that “payer” shall not include excludes ERISA plans.

277 “Performance improvement plan,” a plan submitted to the commission by a carrier, a
278 provider or a provider organization under section 10.

279 “Performance incentive payment” or “pay-for-performance”, an amount paid to a
280 provider by a payer for achieving certain quality measures as defined in this chapter.

281 “Performance penalty”, a reduction in the payments made by a payer to a provider for
282 failing to achieve certain quality measures as defined in this chapter.

283 “Physician”, a medical or osteopathic doctor licensed to practice medicine in the
284 commonwealth.

285 “Primary care physician”, a physician who has a primary specialty designation of internal
286 medicine, general practice, family practice, pediatric practice or geriatric practice.

287 “Primary care provider”, a health care professional qualified to provide general medical
288 care for common health care problems, who supervises, coordinates, prescribes or otherwise
289 provides or proposes health care services, initiates referrals for specialist care and maintains
290 continuity of care within the scope of practice.

291 “Private health care payer”, (i) a carrier authorized to transact accident and health
292 insurance under chapter 175, (ii) a nonprofit hospital service corporation licensed under chapter
293 176A, (iii) a nonprofit medical service corporation licensed under chapter 176B, (iv) a dental
294 service corporation organized under chapter 176E, (v) an optometric service corporation
295 organized under chapter 176F, (vi) a self-insured plan, to the extent allowable under federal law
296 governing health care provided by employers to employees, or (vii) a health maintenance
297 organization licensed under chapter 176G.

298 “Provider”, any person, corporation, partnership, governmental unit, state institution or
299 any other entity qualified under the laws of the commonwealth to perform or provide health care
300 services.

301 “Provider organization”, any corporation, partnership, business trust, association or
302 organized group of persons, which is in the business of health care delivery or management,
303 whether incorporated or not that represents 1 or more health care providers in contracting with
304 carriers for the payments of health care services; provided, that “provider organization” shall

305 include, but not be limited to, physician organizations, physician-hospital organizations,
306 independent practice associations, provider networks, accountable care organizations and any
307 other organization that contracts with carriers for payment for health care services.

308 “Public health care payer”, the Medicaid program established in chapter 118E; any
309 carrier or other entity that contracts with the office of Medicaid or the commonwealth health
310 insurance connector to pay for or arrange the purchase of health care services on behalf of
311 individuals enrolled in health coverage programs under Titles XIX or XXI, or under the
312 commonwealth care health insurance program, including prepaid health plans subject to section
313 28 of chapter 47 of the acts of 1997; the group insurance commission established under chapter
314 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

315 “Quality measures”, the standard quality measure set as defined by the center under
316 section 14 of chapter 12C.

317 “Registered provider organization”, a provider organization that has been registered
318 under this chapter.

319 “Relative prices”, the contractually negotiated amounts paid to providers by each private
320 and public carrier for health care services, including non-claims related payments and expressed
321 in the aggregate relative to the payer’s network-wide average amount paid to providers, as
322 calculated under section 10 of chapter 12C.

323 “Resident”, a person living in the commonwealth, as defined by the commission by
324 regulation; provided, however, that such regulation shall not define a resident as a person who
325 moved into the commonwealth for the sole purpose of securing health insurance under this

326 chapter; provided further, that confinement of a person in a nursing home, hospital or other
327 medical institution shall not, in and of itself, suffice to qualify such person as a resident.

328 “Risk-bearing provider organization”, a provider organization that manages the treatment
329 of a group of patients and bears the downside risk according to the terms of an alternate payment
330 contract.

331 “Secretary”, the secretary of health and human services.

332 “Self-employed”, a person who, at common law, is not considered to be an employee and
333 whose primary source of income is derived from the pursuit of a bona fide business.

334 “Self-insurance health plan”, a plan which provides health benefits to the employees of a
335 business, which is not a health insurance plan, and in which the business is liable for the actual
336 costs of the health care services provided by the plan and administrative costs.

337 “Self-insured group”, a self-insured or self-funded employer group health plan.

338 “Shared decision-making”, a process in which the health care provider and patient or
339 patient’s representative discuss the patient’s condition or disease, the treatment options available
340 for that condition or disease, the benefits and harms of each treatment option, information on the
341 limits of scientific knowledge on patient outcomes from the treatment options, and the patient’s
342 values and preferences for treatment, and if available for said condition or disease, with the use
343 of a patient decision aid.

344 “State institution”, any hospital, sanatorium, infirmary, clinic and other such facility
345 owned, operated or administered by the commonwealth, which furnishes general health supplies,
346 care or rehabilitative services and accommodations.

“Surcharge payor”, an individual or entity that pays for or arranges for the purchase of health care services provided by acute hospitals and ambulatory surgical center services provided by ambulatory surgical centers; provided, however, that the term “surcharge payor” shall include a managed care organization; and provided further, that “surcharge payor” shall not include Title XVIII and Title XIX programs and their beneficiaries or recipients, other governmental programs of public assistance and their beneficiaries or recipients and the workers’ compensation program established under chapter 152.

“Third party administrator”, an entity that administers payments for health care services on behalf of a client in exchange for an administrative fee.

“Title XIX”, Title XIX of the Federal Social Security Act, 42 U.S.C. 1396 et seq., or any successor statute enacted into federal law for the same purposes as Title XIX.

“Total health care expenditures”, the annual per capita sum of all health care expenditures in the commonwealth from public and private sources, including: (i) all categories of medical expenses and all non-claims related payments to providers, as included in the health status adjusted total medical expenses reported by the center under subsection (d) of section 8 of chapter 12C; (ii) all patient cost-sharing amounts, such as, deductibles and copayments; and (iv) the net cost of private health insurance, or as otherwise defined in regulations promulgated by the center.

Section 2. (a) There shall be established within the executive office for administration and finance, but not under its control, a state agency known as the health policy commission. The commission shall be an independent public entity not subject to the supervision and control

368 of any other executive office, department, commission, board, bureau, agency or political
369 subdivision of the commonwealth.

370 (b) There shall be a board, with duties and powers established by this chapter, which shall
371 govern the commission. The board shall consist of 11 members: 1 of whom shall be the secretary
372 for administration and finance, ex officio; 1 of whom shall be the secretary of health and human
373 services, ex-officio; and 3 of whom shall be shall be appointed by the governor, 1 of whom shall
374 serve as chairperson; 3 of whom shall be appointed by the attorney general; and three members
375 shall be appointed by the auditor. All appointments after the initial term of appointment shall
376 serve a term of 5 years, but a person appointed to fill a vacancy shall serve only for the unexpired
377 term. An appointed member of the board shall be eligible for reappointment; however, no
378 appointed member shall hold full or part-time employment in the executive branch of state
379 government. The board shall annually elect 1 of its members to serve as vice-chairperson. Each
380 member of the board shall be a resident of the commonwealth. Each member of the board
381 serving ex officio may appoint a designee under section 6A of chapter 30.

382 The person appointed by the governor to serve as chairperson shall have demonstrated
383 expertise in health care delivery, health care management at a senior level or health care finance
384 and administration, including payment methodologies. The initial appointment of the
385 chairperson shall be for a term of 3 years; provided, however, that subsequent appointments shall
386 be for a term of 5 years. The second person appointed by the governor, shall have demonstrated
387 expertise in health plan administration and finance and shall be initially appointed for a term of 4
388 years. The third person appointed by the governor, shall be a primary care physician and shall be
389 initially appointed for a term of 5 years. Of those persons appointed by the attorney general,
390 I shall have demonstrated expertise in health care consumer advocacy and shall be initially

391 appointed for a term of 2 years; 1 shall be a health economist and shall be initially appointed for
392 a term of 3 years; and 1 shall have expertise in behavioral health, substance use disorder, mental
393 health services and mental health reimbursement systems and shall be initially appointed for a
394 term of 1 year. Of those persons appointed by the auditor, 1 shall have demonstrated expertise in
395 representing the health care workforce as a leader in a labor organization and shall be initially
396 appointed for a term of 4 years; 1 shall have demonstrated expertise as a purchaser of health
397 insurance representing business management or health benefits administration and shall be
398 initially appointed for a term of 3 years; and 1 shall have demonstrated expertise in the
399 development and utilization of innovative medical technologies and treatments for patient care
400 and shall be initially appointed for a term of 2 years.

401 (c) Six members of the board shall constitute a quorum, and the affirmative vote of 6
402 members of the board shall be necessary and sufficient for any action taken by the board. No
403 vacancy in the membership of the board shall impair the right of a quorum to exercise all the
404 rights and duties of the commission. Members shall serve without pay, but shall be reimbursed
405 for actual expenses necessarily incurred in the performance of their duties. A member of the
406 board shall not be employed by, a consultant to, a member of the board of directors of, affiliated
407 with, have a financial stake in or otherwise be a representative of a health care entity while
408 serving on the board.

409 (d) Any action of the commission may take effect immediately and need not be published
410 or posted unless otherwise provided by law. Meetings of the commission shall be subject to
411 sections 18 to 25, inclusive, of chapter 30A; provided however that said sections shall not apply
412 to any meeting of members of the commission serving ex officio in the exercise of their duties as
413 officers of the commonwealth if no matters relating to the official business of the commission

are discussed and decided at the meeting. The commission shall be subject to all other provisions of said chapter 30A, and records pertaining to the administration of the commission shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the commission shall be considered to be public funds for purposes of chapter 12A. Except as otherwise provided in this section, the operations of the commission shall be subject to chapter 268A and chapter 268B.

The commission shall not be required to obtain the approval of any other officer or employee of any executive agency in connection with the collection or analysis of any information; nor shall the commission be required, prior to publication, to obtain the approval of any other officer or employee of any executive agency with respect to the substance of any reports which the commission has prepared under this chapter.

(e) The board shall appoint an executive director by a majority vote. The executive director shall supervise the administrative affairs and general management and operations of the commission and also serve as secretary of the commission, ex officio. The executive director shall receive a salary commensurate with the duties of the office. The executive director may appoint other officers and employees of the commission necessary to the functioning of the commission.

The executive director shall not be required to obtain the approval of any other executive agency in connection with appointment of employees. Sections 9A, 45, 46 and 46C of chapter 30, chapter 31 and chapter 150E shall not apply to the executive director of the commission. Sections 45, 46 and 46C of chapter 30 shall not apply to any employee of the commission. The

435 executive director may establish personnel regulations for the officers and employees of the
436 commission.

437 The executive director shall file an annual personnel report not later than the first
438 Wednesday in February with the senate and house committees on ways and means containing the
439 job classifications, duties and salary of each officer and employee within the center together with
440 personnel regulations applicable to said officers and employees. The executive director shall file
441 amendments to such report with the senate and house committees on ways and means whenever
442 any changes become effective.

443 The executive director shall, with the approval of the board:

444 (i) plan, direct, coordinate and execute administrative functions in conformity with the
445 policies and directives of the board;

446 (ii) employ professional and clerical staff as necessary;

447 (iii) report to the board on all operations under their control and supervision;

448 (iv) prepare an annual budget and manage the administrative expenses of the
449 commission; and

450 (v) undertake any other activities necessary to implement the powers and duties under this
451 chapter.

452 The board may approve the use of funds from the Healthcare Payment Reform Fund to
453 support the annual budget of the commission, in addition to funds from any other source and any
454 funds appropriated therefor by the general court. The commission shall not be required to obtain

455 the approval of any other executive agency in connection with the development and
456 administration of its annual budget.

457 (f) Chapter 268A shall apply to all board members, except that the commission may
458 purchase from, sell to, borrow from, contract with or otherwise deal with any organization in
459 which any board member is in anyway interested or involved; provided, however, that such
460 interest or involvement shall be disclosed in advance to the board and recorded in the minutes of
461 the proceedings of the board; and provided further, that no member shall be deemed to have
462 violated section 4 of said chapter 268A because of such member's receipt of such member's usual
463 and regular compensation from such member's employer during the time in which the member
464 participates in the activities of the board.

465 (g) The executive director shall appoint and may remove such agents and subordinate
466 officers as the executive director may consider necessary and may establish such subdivisions
467 within the commission as the executive director considers appropriate to fulfill the purposes under
468 this chapter,.

469 The commission shall adopt and amend rules and regulations, under chapter 30A, for
470 the administration of its duties and powers and to effectuate this chapter.

471 Section 3. For the purposes of this chapter, the board shall be authorized and empowered
472 as follows:

473 (a) to develop a plan of operation for the commission. The plan of operation shall
474 include, but not be limited to:

475 (1) implementation of procedures for operations of the commission; and

476 (2) implementation of procedures for communications with the executive director;

477 (b) to make, amend and repeal rules and regulations for the management of its affairs;

478 (c) to make contracts and execute all instruments necessary or convenient for the carrying
479 on of its business;

480 (d) to acquire, own, hold, dispose of and encumber personal property and to lease real
481 property in the exercise of its powers and the performance of its duties;

482 (e) to seek and receive any grant funding from the federal government, departments or
483 agencies of the commonwealth, and private foundations;

484 (f) to enter into and execute instruments in connection with agreements or transactions
485 with any federal, state or municipal agency or other public institution or with any private
486 individual, partnership, firm, corporation, association or other entity, including contracts with
487 professional service firms as may be necessary in its judgment, and to fix their compensation;

488 (g) to maintain a prudent level of reserve funds to protect the solvency of any trust funds
489 under the operation and control of the commission;

490 (h) to enter into interdepartmental agreements with any other state agencies the board
491 considers necessary to implement this chapter.

492 (i) to adopt an official seal and alter the same;

493 (j) to sue and be sued in its own name, plead and be impleaded;

494 (k) to establish lines of credit, and establish 1 or more cash and investment accounts to
495 receive payments for services rendered, appropriations from the commonwealth and for all other

496 business activity granted by this chapter except to the extent otherwise limited by any applicable
497 provision of the Employee Retirement Income Security Act of 1974; and

498 (l) to approve the use of its trademarks, brand names, seals, logos and similar instruments
499 by participating carriers, employers or organizations.

500 Section 4. There shall be an advisory council to the commission. The council shall
501 advise on the overall operation and policy of the commission. The council shall be chosen by the
502 executive director and shall reflect a broad distribution of diverse perspectives on the health care
503 system, including health care professionals, educational institutions, consumer representatives,
504 medical device manufacturers, representatives of the biotechnology industry, pharmaceutical
505 manufacturers, providers, provider organizations, labor organizations and public and private
506 payers.

507 Section 5. The commission shall monitor the reform of the health care delivery and
508 payment system in the commonwealth under this chapter. The commission shall: (i) set health
509 care cost growth goals for the commonwealth; (ii) enhance the transparency of provider
510 organizations; (iii) monitor the development of ACOs and patient-centered medical homes; (iv)
511 monitor the adoption of alternative payment methodologies; (v) foster innovative health care
512 delivery and payment models that lower health care cost growth while improving the quality of
513 patient care; (vi) monitor and review the impact of changes within the health care marketplace
514 and (vii) protect patient access to necessary health care services.

515 Section 6. Each acute hospital, ambulatory surgical center and surcharge payor shall pay
516 to the commonwealth an amount for the estimated expenses of the commission.

517 The assessed amount for hospitals and ambulatory surgical centers shall be not less than
518 33 per cent of the amount appropriated by the general court for the expenses of the commission
519 minus amounts collected from: (i) filing fees; (ii) fees and charges generated by the commission;
520 and (iii) federal matching revenues received for these expenses or received retroactively for
521 expenses of predecessor agencies. Each acute hospital and ambulatory surgical center shall pay
522 such assessed amount multiplied by the ratio of the hospital's or ambulatory surgical center's
523 gross patient service revenues to the total of all such hospital's and ambulatory surgical center's
524 gross patient services revenues. Each acute hospital and ambulatory surgical center shall make a
525 preliminary payment to the commission on October 1 of each year in an amount equal to $\frac{1}{2}$ of
526 the previous year's total assessment. Thereafter, each hospital and ambulatory surgical center
527 shall pay, within 30 days notice from the commission, the balance of the total assessment for the
528 current year based upon its most current projected gross patient service revenue. The commission
529 shall subsequently adjust the assessment for any variation in actual and estimated expenses of the
530 commission and for changes in hospital or ambulatory surgical center gross patient service
531 revenue. Such estimated and actual expenses shall include an amount equal to the cost of fringe
532 benefits and indirect expenses, as established by the comptroller under section 5D of chapter 29.
533 In the event of late payment by any such hospital or ambulatory surgical center, the treasurer
534 shall advance the amount of due and unpaid funds to the commission prior to the receipt of such
535 monies in anticipation of such revenues up to the amount authorized in the then current budget
536 attributable to such assessments and the commission shall reimburse the treasurer for such
537 advances upon receipt of such revenues. This section shall not apply to any state institution or to
538 any acute hospital which is operated by a city or town.

539 The assessed amount for surcharge payors shall be not less than 33 per cent of the amount
540 appropriated by the general court for the expenses of the commission minus amounts collected
541 from (i) filing fees; (ii) fees and charges generated by the commission's publication or
542 dissemination of reports and information; and (iii) federal matching revenues received for these
543 expenses or received retroactively for expenses of predecessor agencies. The assessment on
544 surcharge payors shall be calculated and collected in the same manner as the assessment
545 authorized under section 68 of chapter 118E.

546 Section 7. (a) The commission, in consultation with the advisory council, shall administer
547 the Healthcare Payment Reform Fund, established under section 100 of chapter 194 of the acts of
548 2011. The fund shall be used for the following purposes: (1) to support the activities of the
549 commission; and (2) to foster innovation in health care payment and service delivery.

550 (b) The commission shall establish a competitive process for health care entities to
551 develop, implement or evaluate promising models in health care payment and health care service
552 delivery. Assistance from the commission may take the form of incentives, grants, technical
553 assistance, evaluation assistance or partnerships, as determined by the commission.

554 (c) Prior to making a request for proposals under subsection (b), the commission shall
555 solicit ideas for health care payment and service reforms directly from providers, provider
556 organizations, carriers, research institutions, health professionals, public institutions of higher
557 education, community-based organizations and private-public partnerships, or any combination
558 thereof. The commission shall review health care payment and service delivery models so
559 submitted and shall seek input from other relevant stakeholders in evaluating their potential.

(d) The commission shall consider proposals that achieve 1 or more of the following goals: (i) to support safety-net provider and disproportionate share hospital participation in new payment and health care payment and service delivery models; (ii) to support the successful implementation of performance improvement plans by health care entities under subsection (c) of section 10; (iii) to support cooperative efforts between representatives of employees and management that are focused on controlling costs and improving the quality of care through workforce engagement; (iv) to support the evaluation of mobile health and connected health technologies to improve health outcomes among under-served patients with chronic diseases; (v) to develop the capacity to safely and effectively treat chronic, common and complex diseases in rural and underserved areas and to monitor outcomes of those treatments; and (vi) any other goals as determined by the commission.

(e) All approved activities funded through the Healthcare Payment Reform Fund shall support the commonwealth's efforts to meet the health care cost growth benchmark established under section 9 , and shall include measurable outcomes in both cost reduction and quality improvement.

(f) To the maximum extent feasible, the commission shall seek to coordinate expenditures from the Healthcare Payment Reform Fund with other public expenditures from the Prevention and Wellness Trust Fund, the E-Health Institute Fund, the Massachusetts Health Information Exchange Fund, the Distressed Hospital Trust Fund, the Health Care Workforce Transformation Trust Fund, the executive office of health and human services, any funding available through the Medicare program and the CMS Innovation Center, established under the federal Patient Protection and Affordable Care Act and any funding expended under the Delivery

582 System Transformation Initiative Master Plan and hospital-specific plans approved in the
583 MassHealth section 1115 demonstration waiver.

584 (g) Activities funded through the Healthcare Payment Reform Fund that demonstrate
585 measurable success in improving care or reducing costs shall be shared with other providers,
586 provider organizations and payers as model programs which may be voluntarily adopted by such
587 other health care entities. The commission may also incorporate any successful models and
588 practices into its standards for ACO certification under section 15 and for alternative payment
589 methodologies established for state-funded programs.

590 (h) The commission shall, annually on or before January 31, report on expenditures from
591 the Healthcare Payment Reform Fund. The report shall include, but not be limited to: (i) the
592 revenue credited to the fund; (ii) the amount of fund expenditures attributable to the
593 administrative costs of the commission; (iii) an itemized list of the funds expended through the
594 competitive process and a description of the grantee activities; and (iv) the results of the
595 evaluation of the effectiveness of the activities funded through grants. The report shall be
596 provided to the chairs of the house and senate committees on ways and means and the joint
597 committee on health care financing and shall be posted on the commission's website.

598 Section 8. (a) Not later than October 1 of every year, the commission shall hold public
599 hearings based on the report submitted by the center for health information and analysis under
600 section 16 of chapter 12C comparing the growth in total health care expenditures to the health
601 care cost growth benchmark for the previous calendar year. The hearings shall examine health
602 care provider, provider organization and private and public health care payer costs, prices and

603 cost trends, with particular attention to factors that contribute to cost growth within the
604 commonwealth's health care system.

605 (b) The attorney general may intervene in such hearings.

606 (c) Public notice of any hearing shall be provided at least 60 days in advance.

607 (d) The commission shall identify as witnesses for the public hearing a representative
608 sample of providers, provider organizations, payers and others, including: (i) at least 3 academic
609 medical centers, including the 2 acute hospitals with the highest level of net patient service
610 revenue; (ii) at least 3 disproportionate share hospitals, including the 2 hospitals whose largest
611 per cent of gross patient service revenue is attributable to Title XVIII and XIX of the federal
612 Social Security Act or other governmental payers; (iii) community hospitals from at least 3
613 separate regions of the commonwealth; (iv) freestanding ambulatory surgical centers from at
614 least 3 separate regions of the commonwealth; (v) community health centers from at least 3
615 separate regions of the commonwealth; (vi) the 5 private health care payers with the highest
616 enrollments in the commonwealth; (vii) any managed care organization that provides health
617 benefits under Title XIX or under the commonwealth care health insurance program; (viii) the
618 group insurance commission; (ix) at least 3 municipalities that have adopted chapter 32B; (x) at
619 least 4 provider organizations, at least 2 of which shall be certified as accountable care
620 organizations, 1 of which has been certified as a model ACO, which shall be from diverse
621 geographic regions of the commonwealth; and (xi) any witness identified by the attorney general
622 or the center.

623 (e) Witnesses shall provide testimony under oath and subject to examination and cross
624 examination by the commission, the executive director of the center and the attorney general at

625 the public hearing in a manner and form to be determined by the commission, including, but not
626 limited to: (i) in the case of providers and provider organizations, testimony concerning payment
627 systems, care delivery models, payer mix, cost structures, administrative and labor costs, capital
628 and technology cost, adequacy of public payer reimbursement levels, reserve levels, utilization
629 trends, relative price, quality improvement and care-coordination strategies, investments in
630 health information technology, the relation of private payer reimbursement levels to public payer
631 reimbursements for similar services, efforts to improve the efficiency of the delivery system,
632 efforts to reduce the inappropriate or duplicative use of technology and the impact of price
633 transparency on prices; and (ii) in the case of private and public payers, testimony concerning
634 factors underlying premium cost and rate increases, the relation of reserves to premium costs,
635 efforts by the payer to reduce the use of fee-for-service payment mechanisms, the payer's efforts
636 to develop benefit design, network design and payment policies that enhance product
637 affordability and encourage efficient use of health resources and technology including utilization
638 of alternative payment methodologies, efforts by the payer to increase consumer access to health
639 care information, efforts by the payer to promote the standardization of administrative practices,
640 the impact of price transparency on prices and any other matters as determined by the
641 commission. The commission shall solicit testimony from any payer which has been identified
642 by the center's annual report under subsection (a) of section 16 of chapter 12C as (1) paying
643 providers more than 10 per cent above or more than 10 per cent below the average relative price
644 or (2) entering into alternative payment contracts that vary by more than 10 per cent. Any payer
645 identified by the center's report shall explain the extent of price variation between the payer's
646 participating providers and describe any efforts to reduce such price variation.

(f) In the event that the center's annual report under subsection (a) of section 16 of chapter 12C finds that the percentage change in total health care expenditures exceeded the health care cost benchmark in the previous calendar year, the commission may identify additional witnesses for the public hearing. Witnesses shall provide testimony subject to examination and cross examination by the commission, the executive director of the center and attorney general at the public hearing in a manner and form to be determined by the commission, including, but not limited to: (i) testimony concerning unanticipated events that may have impacted the total health care cost expenditures, including, but not limited to, a public health crisis such as an outbreak of a disease, a public safety event or a natural disaster; (ii) testimony concerning trends in patient acuity, complexity or utilization of services; (iii) testimony concerning trends in input cost structures, including, but not limited to, the introduction of new pharmaceuticals, medical devices and other health technologies; (iv) testimony concerning the cost of providing certain specialty services, including, but not limited to, the provision of health care to children, cancer-related health care and medical education; (v) testimony related to unanticipated administrative costs for carriers, including, but not limited to, costs related to information technology, administrative simplification efforts, labor costs and transparency efforts; (vi) testimony related to costs due the implementation of state or federal legislation or government regulation; and (vii) any other factors that may have led to excessive health care cost growth.

(g) The commission shall compile an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system. The report shall be based on the commission's analysis of information provided at the hearings by providers, provider organizations and insurers, registration data

670 collected under section 11, data collected by the center for health information and analysis under
671 sections 8, 9 and 10 of chapter 12C and any other information the commission considers
672 necessary to fulfill its duties under this section, as further defined in regulations promulgated by
673 the commission. The report shall be submitted to the chairs of the house and senate committees
674 on ways and means and the chairs of the joint committee on health care financing and shall be
675 published and available to the public not later than December 31 of each year. The report shall
676 include any legislative language necessary to implement the recommendations.

677 Section 9. (a) Not later than April 15 of every year, the board shall establish a health care
678 cost growth benchmark for the average growth in total health care expenditures in the
679 commonwealth for the next calendar year. The commission shall establish procedures to
680 prominently publish the annual health care cost growth benchmark on the commission's website.

681 (b) The commission shall establish the annual health care cost growth benchmark as
682 follows:

683 (1) For calendar years 2013 through 2017, the health care cost growth benchmark
684 shall be equal to the growth rate of potential gross state product established under section 7H½
685 of chapter 29; provided, however, that the growth rate of potential gross state product for
686 calendar year 2013 shall be 3.6 per cent.

687 (2) For calendar years 2018 through 2022, the health care cost growth benchmark
688 shall be equal to the growth rate of potential gross state product established under said section
689 7H½ of said chapter 29, minus 0.5 per cent.

690 (3) For calendar years 2023 and beyond, the health care cost growth benchmark
691 shall be equal to the growth rate of potential gross state product established under said section
692 7H½ of said chapter 29.

693 (c) For calendar years 2018 through 2022, if the commission determines that an
694 adjustment in the health care cost growth benchmark is reasonably warranted, having first
695 considered any testimony at the public hearing as required under subsection (f), the board of the
696 commission may modify the health care cost growth benchmark such that the health care cost
697 growth benchmark shall be set at an amount between minus 0.5 per cent of the growth of the
698 potential gross state product and an amount equal to the growth of the potential gross state
699 product.

700 (d) For calendar years 2018 through 2022, on or after January 15 but not later than
701 January 31 of the second year of a biennial session of the general court, the board shall submit
702 notice of its intention to modify the health care cost growth benchmark under subsection (c) to
703 the joint committee on health care financing. Within 30 days of such filing, the joint committee
704 shall hold a public hearing on the board's proposed modification to the health care cost growth
705 benchmark. The joint committee shall report its findings to the general court together with any
706 necessary legislation, including its recommendation, within 30 days of the public hearing and
707 provide a copy of its findings and legislation to the board. If the general court does not enact
708 legislation with respect to the board's recommended modification to the health care cost growth
709 benchmark within 45 days of the public hearing, the board's modification to the health care cost
710 growth benchmark shall take effect.

(e) For calendar years 2023 through 2032, if the commission determines that an adjustment in the health care cost growth benchmark is reasonably warranted, having first considered any testimony at a public hearing as required under subsection (f), the board of the commission may recommend a modification of the health care cost growth benchmark, in any amount as determined by the commission. On or after January 15 but not later than January 31 of the second year of a biennial session of the general court, the board shall submit notice of its recommendation for any modification to the joint committee on health care financing. Within 30 days of such filing, the joint committee may hold a public hearing on the board's proposed modification to the health care cost growth benchmark. The joint committee may report its findings, to the general court together with legislation, including its recommendation on whether to affirm or reject the board's recommendation, within 30 days of the public hearing and provide a copy of its findings and proposed legislation to the board.

(f) Prior to making any recommended modification to the health care cost growth benchmark under subsections (c), (d) and (e), the board shall hold a public hearing on any such recommended modification. The public hearing shall be based on the report submitted by the center under section 16 of chapter 12C comparing the growth in total health care expenditures to the health care cost growth benchmark for the previous calendar year, any other data provided by the center and such other pertinent information or data as may be available to the board. The hearings shall examine health care provider, provider organization and private and public health care payer costs, prices and cost trends, with particular attention to factors that contribute to cost growth within the commonwealth's health care system, and whether, based on the testimony, information and data, a modification in the health care cost growth benchmark is appropriate. The commission shall provide public notice of such hearing at least 45 days prior to the date of

the hearing, including notice to the joint committee on health care financing. The joint committee on health care financing may participate in the hearing. The commission shall identify as witnesses for the public hearing a representative sample of providers, provider organizations, payers and such other interested parties as the commission may determine. Any other interested parties may testify at the hearing.

(g) Any recommendation of the commission to modify the health care cost growth benchmark under subsections (d) or (e) shall be approved by a two thirds vote of the board.

Section 10. (a) For the purposes of this section, “health care entity” shall mean a clinic, hospital, ambulatory surgical center, physician organization, accountable care organization or payer; provided, however, that physician contracting units with a patient panel of 15,000 or fewer, or which represents providers who collectively receive less than \$25,000, 000 in annual net patient service revenue from carriers shall be exempt.

(b) The commission shall provide notice to all health care entities that have been identified by the center under section 18 of chapter 12C as exceeding the health care cost growth benchmark for any given year. Such notice shall state that the center may analyze the cost growth of individual health care entities and, beginning in calendar year 2016, the commission may require certain actions, as established in this section, from health care entities so identified.

(c) For calendar year 2015, if the commission finds, based on the center’s annual report, the commission’s annual cost trend hearings or any other pertinent information, that the average percentage change in cumulative total health care expenditures from 2013 to 2014 exceeded the average health care cost growth benchmark from 2013 to 2014, and in order to support the state’s efforts to meet future health care cost growth benchmarks, as established in section 9, the

commission shall establish procedures to assist health care entities to improve efficiency and reduce cost growth by requiring certain health care entities to file and implement a performance improvement plan.

Beginning in calendar year 2016, if the commission finds, based on the center's annual report, the commission's annual cost trend hearings or any other pertinent information, that the percentage change in total health care expenditures exceeded the health care cost growth benchmark in the previous calendar year, and in order to support the state's efforts to meet future health care cost growth benchmarks, as established in said section 9, the commission shall establish procedures to assist health care entities to improve efficiency and reduce cost growth by requiring certain health care entities to file and implement a performance improvement plan.

(d) In addition to the notice provided under subsection (b), the commission may require any health care entity that is identified by the center under section 16 of chapter 12C as exceeding the health care cost growth benchmark established under section 9 to file a performance improvement plan with the commission. The commission shall provide written notice to such health care entity that they are required to file a performance improvement plan. Within 45 days of receipt of such written notice, the health care entity shall either:

(1) file a performance improvement plan with the commission; or

(2) file an application with the commission to waive or extend the requirement to file a performance improvement plan.

(e) The health care entity may file any documentation or supporting evidence with the commission to support the health care entity's application to waive or extend the requirement to file a performance improvement plan. The commission shall require the health care entity to

submit any other relevant information it deems necessary in considering the waiver or extension application; provided, however, that such information shall be made public at the discretion of the commission.

(f) The commission may waive or delay the requirement for a health care entity to file a performance improvement plan in response to a waiver or extension request filed under subsection (b) in light of all information received from the health care entity, based on a consideration of the following factors:

(1) the costs, price and utilization trends of the health care entity over time, and any demonstrated improvement to reduce health status total medical expenses;

(2) any ongoing strategies or investments that the health care entity is implementing to improve future long-term efficiency and reduce cost growth;

(3) whether the factors that led to increased costs for the health care entity can reasonably be considered to be unanticipated and outside of the control of the entity. Such factors may include, but shall not be limited to, age and other health status adjusted factors and other cost inputs such as pharmaceutical expenses and medical device expenses;

(4) the overall financial condition of the health care entity;

(5) a significant difference between the growth rate of potential gross state product and the growth rate of actual gross state product, as determined under section 7H ½ of chapter 29; and

(6) any other factors the commission considers relevant.

798 (h) If the commission declines to waive or extend the requirement for the health care
799 entity to file a performance improvement plan, the commission shall provide written notice to the
800 health care entity that its application for a waiver or extension was denied and the health care
801 entity shall file a performance improvement plan.

802 (i) A health care entity shall file a performance improvement plan: (1) within 45 days of
803 receipt of a notice under subsection (c); (2) if the health care entity has requested a waiver or
804 extension, within 45 days of receipt of a notice that such waiver or extension has been denied; or
805 (3) if the health care entity is granted an extension, on the date given on such extension. The
806 performance improvement plan shall be generated by the health care entity and shall identify the
807 causes of the entity's cost growth and shall include, but not be limited to, specific strategies,
808 adjustments and action steps the entity proposes to implement to improve cost performance. The
809 proposed performance improvement plan shall include specific identifiable and measurable
810 expected outcomes and a timetable for implementation. The timetable for a performance
811 improvement plan shall not exceed 18 months.

812 (j) The commission shall approve any performance improvement plan that it determines
813 is reasonably likely to address the underlying cause of the entity's cost growth and has a
814 reasonable expectation for successful implementation.

815 (k) If the board determines that the performance improvement plan is unacceptable or
816 incomplete, the commission may provide consultation on the criteria that have not been met and
817 may allow an additional time period, up to 30 calendar days, for resubmission; provided,
818 however, that all aspects of the performance improvement plan shall be proposed by the health
819 care entity and the commission shall not require specific elements for approval.

820 (l) Upon approval of the proposed performance improvement plan, the commission shall
821 notify the health care entity to begin immediate implementation of the performance improvement
822 plan. Public notice shall be provided by the commission on its website, identifying that the
823 health care entity is implementing a performance improvement plan. All health care entities
824 implementing an approved performance improvement plan shall be subject to additional
825 reporting requirements and compliance monitoring, as determined by the commission. The
826 commission shall provide assistance to the health care entity in the successful implementation of
827 the performance improvement plan.

828 (m) All health care entities shall, in good faith, work to implement the performance
829 improvement plan. At any point during the implementation of the performance improvement
830 plan the health care entity may file amendments to the performance improvement plan, subject to
831 approval of the commission.

832 (n) At the conclusion of the timetable established in the performance improvement plan,
833 the health care entity shall report to the commission regarding the outcome of the performance
834 improvement plan. If the performance improvement plan was found to be unsuccessful, the
835 commission shall either: (i) extend the implementation timetable of the existing performance
836 improvement plan; (ii) approve amendments to the performance improvement plan as proposed
837 by the health care entity; (iii) require the health care entity to submit a new performance
838 improvement plan under subsection (c) or (iv) waive or delay the requirement to file any
839 additional performance improvement plans.

840 (o) Upon the successful completion of the performance improvement plan, the identity of
841 the health care entity shall be removed from the commission's website.

(p) The commission may submit a recommendation for proposed legislation to the joint committee on health care financing if the commission determines that further legislative authority is needed to achieve the health care quality and spending sustainability objectives of this act, assist health care entities with the implementation of performance improvement plans or otherwise ensure compliance with the provisions of this section.

(q) If the commission determines that a health care entity has: (i) willfully neglected to file a performance improvement plan with the commission within 45 days as required under subsection (d); (ii) failed to file an acceptable performance improvement plan in good faith with the commission; (iii) failed to implement the performance improvement plan in good faith; or (iv) knowingly failed to provide information required by this section to the commission or that knowingly falsifies the same, the commission may assess a civil penalty to the health care entity of not more than \$500,000. The commission shall seek to promote compliance with this section and shall only impose a civil penalty as a last resort.

(r) The commission shall promulgate regulations necessary to implement this section; provided, however, that notice of any proposed regulations shall be filed with the joint committee on state administration and regulatory oversight and the joint committee on health care financing at least 180 days before adoption.

or third-party administrators shall be excluded from this definition.

Section 11. (a) The commission shall develop and administer a registration program for provider organizations. A provider organization shall be registered for a term of 2 years and renewable under like terms. The commission shall coordinate with state agencies including, but not limited to, the center, the division of insurance, the executive office of health and human

864 services, the office of Medicaid and the department of public health to minimize duplicative
865 reporting requirements. The commission may enter interagency service agreements to perform
866 these functions including but not limited to the sharing of data collected. The commission, in
867 consultation with the center, shall promulgate such regulations as may be necessary to ensure the
868 uniform reporting of data collected under this section.

869 (b) The commission shall require that all provider organizations report the following
870 information for registration and renewal: (i) organizational charts showing the ownership,
871 governance and operational structure of the provider organization, including any clinical
872 affiliations, parent entities, corporate affiliates, and community advisory boards; (ii) the number
873 of affiliated health care professional full-time equivalents and the number of professionals
874 affiliated with or employed by the organization; (iii) the name and address of licensed facilities;
875 and (iv) such other information as the commission considers appropriate.

876 (c) Upon receiving an application for registration, the commission may, within 30 days,
877 require an applicant to provide additional information to complete or supplement the filing. The
878 commission shall determine whether an application is complete within 45 days of receipt of the
879 application and any supplementary information. The commission shall provide the applicant with
880 a written notice that provider organization's registration is complete and provide a copy of the
881 completed registration materials to the division of insurance. The commission may assess a
882 reasonable registration or administrative fee on the registration of provider organizations to
883 support the commission's operations and administration.

884 (d) The commission shall support the division of insurance in its review of risk-bearing
885 provider organizations under chapter 176U and the center in its efforts to collect and analyze

886 data. The commission shall promulgate regulations setting forth a process for provider
887 organizations to submit proposed changes to its structure.

888 (e) A risk bearing provider organization shall provide the commission with a division of
889 insurance risk certificate under chapter 176U. The commission may suspend, revoke or refuse to
890 renew a risk-bearing provider organization's registration for failure to proffer a risk certificate.

891 Section 12. (a) No provider or provider organization may negotiate network contracts
892 with any carrier or third-party administrator except for a provider or provider organizations
893 which are registered under this chapter and regulations promulgated under this chapter; provided,
894 however, that nothing in this chapter shall require a provider or provider organization with a
895 patient panel of 15,000 or fewer or which represents providers who collectively receive, less than
896 \$25,000,000 in annual net patient service revenue from carriers or third-party administrators to
897 be registered if such provider or provider is not a risk-bearing provider organization.

898 (b) Nothing in this chapter shall require a carrier to negotiate a network contract with a
899 registered provider organization or with a registered provider or provider organization for all
900 providers that are part of, or represented by, a registered provider organization.

901 Section 13. (a) Every provider or provider organization shall, before making any
902 material change to its operations or governance structure, submit notice to the commission, the
903 center and the attorney general of such change, not fewer than 60 days before the date of the
904 proposed change. Material changes shall include, but not be limited to: a corporate merger,
905 acquisition or affiliation of a provider or provider organization and a carrier; mergers or
906 acquisitions of hospitals or hospital systems; acquisition of insolvent provider organizations; and

907 mergers or acquisitions of provider organizations which will result in a provider organization
908 having a near-majority of market share in a given service or region.

909 Within 30 days of receipt of a notice filed under the commission's regulations, the
910 commission shall conduct a preliminary review to determine whether the material change is
911 likely to result in a significant impact on the commonwealth's ability to meet the health care cost
912 growth benchmark, established in section 9, or on the competitive market. If the commission
913 finds that the material change is likely to have a significant impact on the commonwealth's
914 ability to meet the health care cost growth benchmark, or on the competitive market, the
915 commission may conduct a cost and market impact review under this section.

916 (b) In addition to the grounds for a cost and market impact review set forth in subsection
917 (a), if the commission finds, based on the center's annual report, that the percentage change in
918 total health care expenditures exceeded the health care cost growth benchmark in the previous
919 calendar year, the commission may conduct a cost and market impact review of any provider
920 organization identified by the center under section 16 of chapter 12C.

921 (c) The commission shall initiate a cost and market impact review by sending the
922 provider or provider organization notice of a cost and market impact review which shall explain
923 the basis for the review and the particular factors that the commission seeks to examine through
924 the review. The provider organization shall submit to the commission, within 21 days of the
925 commission's notice, a written response to the notice, including, but not limited to, any
926 information or documents sought by the commission which are described in the commission's
927 notice.

(d) A cost and market impact review may examine factors relating to the provider or provider organization's business and its relative market position, including, but not limited to:

(i) the provider or provider organization's size and market share within its primary service areas by major service category, and within its dispersed service areas; (ii) the provider or provider organization's prices for services, including its relative price compared to other providers for the same services in the same market; (iii) the provider or provider organization's health status adjusted total medical expense, including its health status adjusted total medical expense compared to similar providers; (iv) the quality of the services it provides, including patient experience; (v) provider cost and cost trends in comparison to total health care expenditures statewide; (vi) the availability and accessibility of services similar to those provided, or proposed to be provided, through the provider or provider organization within its primary service areas and dispersed service areas; (vii) the provider or provider organization's impact on competing options for the delivery of health care services within its primary service areas and dispersed service areas including, if applicable, the impact on existing service providers of a provider or provider organization's expansion, affiliation, merger or acquisition, to enter a primary or dispersed service area in which it did not previously operate; (viii) the methods used by the provider or provider organization to attract patient volume and to recruit or acquire health care professionals or facilities; (ix) the role of the provider or provider organization in serving at-risk, underserved and government payer patient populations, including those with behavioral, substance use disorder and mental health conditions, within its primary service areas and dispersed service areas; (x) the role of the provider or provider organization in providing low margin or negative margin services within its primary service areas and dispersed service areas; (xi) consumer concerns, including but not limited to, complaints or other

allegations that the provider or provider organization has engaged in any unfair method of competition or any unfair or deceptive act or practice; and (xii) any other factors that the commission determines to be in the public interest.

(e) The commission shall make factual findings and issue a preliminary report on the cost and market impact review. In the report, the commission shall identify any provider or provider organization that meets all of the following criteria: (i) the provider or provider organization has a dominant market share for the services it provides; (ii) the provider or provider organization charges prices for services that are materially higher than the median prices charged by all other providers for the same services in the same market; and (iii) the provider or provider organization has a health status adjusted total medical expense that is materially higher than the median total medical expense for all other providers for the same service in the same market.

(f) Within 30 days after issuance of a preliminary report, the provider or provider organization may respond in writing to the findings in the report. The commission shall then issue its final report. The commission shall refer to the attorney general its report on any provider organization that meets all 3 criteria under subsection (e).

(g) Nothing in this section shall prohibit a proposed material change under subsection (a); provided, however, that any proposed material change shall not be completed until at least 30 days after the commission has issued its final report.

(h) When the commission, under subsection (f), refers a report on a provider or provider organization to the attorney general, the attorney general may: (i) conduct an investigation to determine whether the provider or provider organization engaged in unfair methods of

973 competition or anti-competitive behavior in violation of chapter 93A or any other law; (ii) report
974 to the commission in writing the findings of the investigation and a conclusion as to whether the
975 provider or provider organization engaged in unfair methods of competition or anti-competitive
976 behavior in violation of chapter 93A or any other law; and (iii) if appropriate, take action under
977 chapter 93A or any other law to protect consumers in the health care market. The commission's
978 final report may be evidence in any such action.

979 (i) Nothing in this section shall limit the authority of the attorney general to protect
980 consumers in the health care market under any other law.

981 (j) The commission shall adopt regulations for conducting cost and market impact
982 reviews and for administering this section. These regulations shall include definitions of
983 material change and non-material change, primary service areas, dispersed service areas,
984 dominant market share, materially higher prices and materially higher health status adjusted total
985 medical expenses, and any other terms as necessary. All regulations promulgated by the
986 commission shall comply with chapter 30A.

987 (k) Nothing in this section shall limit the application of other laws or regulations that may
988 be applicable to a provider or provider organization, including laws and regulations governing
989 insurance.

990 Section 14. (a) By January 1, 2014, the commission, in consultation with the office of
991 Medicaid, shall develop and implement standards of certification for patient-centered medical
992 homes. In developing these standards, the commission shall consider existing standards by the
993 National Committee for Quality Assurance or other independent accrediting and medical home

994 organizations. The standards developed by the commission shall be based on the following
995 criteria:

996 (1) enhancing access to routine care, urgent care and clinical advice through means such
997 as implementing shared appointments, open scheduling and after-hours care;

998 (2) enabling utilization of a range of qualified health care professionals, including
999 dedicated care coordinators, which may include, but not be limited to, nurse practitioners,
1000 physician assistants and social workers, in a manner that enables providers to practice to the
1001 fullest extent of their license;

1002 (3) encouraging shared decision-making for preference-sensitive conditions such as
1003 chronic back pain, early stage of breast and prostate cancers, hip osteoarthritis, and cataracts;
1004 provided that shared decision-making shall be conducted on, but not be limited to, long-term care
1005 and supports and palliative care; and

1006 (4) ensuring that patient-centered medical homes develop and maintain appropriate
1007 comprehensive care plans for their patients with complex or chronic conditions, including an
1008 assessment of health risks and chronic conditions.

1009 (5) such other criteria as the commission deems appropriate.

1010 In developing these standards, the commission shall consult with national and local
1011 organizations working on medical home models, relevant state agencies, health plans,
1012 physicians, nurse practitioners, behavioral health providers, hospitals, social workers, other
1013 health care providers and consumers. Furthermore, the commission shall consult with the

1014 department of public health to maximize opportunities for administrative simplification and
1015 regulatory consistency.

1016 (b) Nothing in this section shall be construed as prohibiting a primary care provider,
1017 behavioral health provider or specialty care provider from being certified as a patient-centered
1018 medical home; provided, that such providers meet the standards set by the commission in
1019 accordance with this section or are recognized by the National Committee for Quality Assurance
1020 as a patient-centered medical home.

1021 (c) Certification as a patient-centered medical home is voluntary. Primary care providers,
1022 behavioral health providers and specialty care providers certified by the commission as a patient-
1023 centered medical home shall renew their certification every 2 years under like terms.

1024 (d) A primary care provider or specialty care provider certified as a patient-centered
1025 medical home shall have the ability to assess and provide or arrange for, and coordinate care
1026 with, mental health and substance abuse services, to the extent determined by the commission. A
1027 behavioral health provider or specialty care provider certified as a patient-centered medical home
1028 shall have the ability to assess and provide or arrange for, and coordinate care with, primary care
1029 services, to the extent determined by the commission.

1030 (e) By July 1, 2014, the commission, in consultation with the office of Medicaid, shall
1031 establish a patient-centered medical home training for patient-centered medical homes to learn
1032 the core competencies of the patient-centered medical home model. The commission may require
1033 participation in such training as a condition of certification.

1034 (f) For continued certification by the commission under this section, the commission may
1035 establish and monitor specific quality standards. Such quality standards shall be developed with
1036 reference to the standard quality measure set established by section 14 of chapter 12C.

1037 (g) In providing after-hours care, a patient-centered medical home may enter into a
1038 cooperative agreement with another patient-centered medical home, primary care practice,
1039 limited service clinic, as defined by the department of public health, Medicare-certified home
1040 health agency for those patients that receive home-health services, or urgent care center to
1041 provide after-hours care for their patients.

1042 (h) The commission shall develop a model payment system for patient-centered medical
1043 homes certified under this section or recognized by the National Committee for Quality
1044 Assurance as a patient-centered medical home. In developing the model payment system, the
1045 commission shall consider, but not be limited to, per-patient payments, payment levels based on
1046 care-complexity, and payments for care coordination, clinical management, quality performance
1047 and shared savings. Development of the model patient-centered medical home payment system
1048 shall be completed by January 1, 2014.

1049 (i) Payers may make patient-centered medical home payments to network providers
1050 certified as a patient-centered medical home under this section or recognized by the National
1051 Committee for Quality Assurance as a patient-centered medical home, or equivalent. Payers may
1052 use the model payment system developed by the commission or any other medical home
1053 payment system the carrier deems appropriate.

1054 (j) The commission shall develop and distribute a directory of key existing referral
1055 systems and resources that can assist patients in obtaining housing, food, transportation, child

1056 care, elder services, long-term care services, peer services and other community-based services.
1057 This directory shall be made available to patient-centered medical homes in order to connect
1058 patients to services in their community.

1059 (k) Nothing in this section shall preclude the continuation of existing patient-centered
1060 medical homes or medical home programs currently operating or under development.

1061 Section 15. (a) The commission shall establish a process for certain registered provider
1062 organizations to be certified as accountable care organizations, herein referred to as ACOs;
1063 provided that no provider organization is required to become an ACO. The ACO shall be
1064 certified for a term of 2 years and renewable under like terms. The purpose of the ACO
1065 certification process shall be to encourage the adoption of integrated delivery care systems in the
1066 commonwealth for the purpose of cost containment, quality improvement and patient protection.
1067 The commission shall create a common application form for provider organizations that wish to
1068 apply to the commission. Within 30 days of an application submission, the commission may
1069 require the applicant to provide additional information.

1070 (b) The commission shall establish minimum standards for certified ACOs. A certified
1071 ACO shall: (i) be organized or registered as a separate legal entity from its ACO participants;
1072 (ii) have a governance structure that includes an administrative officer, a medical officer, and
1073 patient or consumer representation; (iii) receive reimbursements or compensation from
1074 alternative payment methodologies; (iv) have functional capabilities to coordinate financial
1075 payments amongst its providers; (v) have significant implementation of interoperable health
1076 information technology, as determined by the commission, for the purposes of care delivery
1077 coordination and population management; (vi) develop and file an internal appeals plan as

1078 required for risk-bearing provider organizations under section 24 of chapter 176O; provided, that
1079 said plan shall be approved by the office of patient protection; provided further, that the plan
1080 shall be a part of a membership packet for newly enrolled individuals; (vii) provide medically
1081 necessary services across the care continuum including behavioral and physical health services,
1082 as determined by the commission through regulations, internally or through contractual
1083 agreements; provided, that any medically necessary service that is not internally available shall
1084 be provided to a patient through services outside the ACO; (viii) implement systems that allow
1085 ACO participants to report the pricing of services, as defined by the commission through
1086 regulations; further provided that ACO participants shall have the ability to provide patients with
1087 relevant price information when contemplating their care and potential referrals; (ix) obtain a
1088 risk certificate from the division of insurance under chapter 176U; and (x) shall engage patients
1089 in shared decision-making, including, but not limited to, shared-decision making on palliative
1090 care and long-term care services and supports.

1091 (c) The commission may establish additional standards for an ACO. In developing
1092 additional standards for ACO certification, the commission shall consider the following goals for
1093 ACOs:

1094 (1) to reduce the growth of health status adjusted total medical expenses over time,
1095 consistent with the state's efforts to meet the health care cost growth benchmark established
1096 under section 9;

1097 (2) to improve the quality of health services provided, as measured by the statewide
1098 quality measure set and other appropriate measures, as established by the commission;

1099 (3) to ensure patient access to health care services across the care continuum, including,
1100 but not limited to, access to: preventive and primary care services; emergency services;
1101 hospitalization services; ambulatory patient services; mental health, substance use disorder and
1102 behavioral health services; access to specialty care units, including, but are not limited to, burn,
1103 coronary care, cancer care, including the services of a comprehensive cancer center, neonatal
1104 care, post-obstetric and post operative recovery care, pulmonary care, renal dialysis and surgical,
1105 including trauma and intensive care units; pediatric services; obstetrics and gynecology services;
1106 diagnostic imaging and screening services; clinical laboratory and pathology services; maternity
1107 and newborn care services and related mental health outcomes; radiation therapy and treatment
1108 services; skilled nursing facilities; family planning services; home health services; treatment and
1109 prevention services for alcohol and other drug abuse; breakthrough technologies and treatments;
1110 allied health services including, but not limited to, advance practice nurses, optometric care,
1111 direct access to chiropractic services and physical therapy, occupational therapists, dental care,
1112 midwifery services, and end-of-life care services, including hospice and palliative care; and
1113 establishing mechanisms to protect patient provider choice, including parameters for out-of-ACO
1114 arrangements;

1115 (4) to promote alternative payment methodologies consistent with the standards
1116 developed by the commission and the adoption of payment incentives that improve quality and
1117 care coordination, including, but not limited to, incentives to reduce avoidable hospitalizations,
1118 avoidable readmissions, adverse events and unnecessary emergency room visits; incentives to
1119 reduce racial, ethnic and linguistic health disparities in the patient population; and in all cases
1120 ensuring that alternative payment methodologies do not create any incentive to deny or limit

1121 medically necessary care, especially for patients with high risk factors or multiple health
1122 conditions;

1123 (5) to improve access to certain primary care services, including, but not limited to, by
1124 having a demonstrated primary care and care coordination capacity and a minimum number of
1125 practices engaged in becoming patient centered medical homes including certified patient
1126 centered medical homes;

1127 (6) to improve access to health care services and quality of care for vulnerable
1128 populations including, but not limited to, children, the elderly, low-income individuals,
1129 individuals with disabilities, individuals with chronic illnesses and racial and ethnic minorities,
1130 including demonstrating an ability to provide culturally and linguistically appropriate care,
1131 patient education and outreach provided by community health workers.

1132 (7) to promote the integration of mental health, substance use disorder and behavioral
1133 health services with primary care services including, but not limited to, the establishment of
1134 behavioral health medical homes, recovery coaching and peer support and services provided by
1135 peer support workers, certified peer specialists and licensed alcohol and drug counselors;

1136 (8) to promote patient-centeredness by, including, but not limited to, establishing
1137 mechanisms to conduct patient outreach and education on the necessity and benefits of care
1138 coordination, including group visits and chronic disease self-management programs;
1139 demonstrating an ability to effectively involve patients in care transitions to improve the
1140 continuity and quality of care across settings, with case manager follow up; demonstrating an
1141 ability to engage and activate patients at home, through methods such as home visits or
1142 telemedicine, to improve self-management; establishing mechanisms to evaluate patient

1143 satisfaction with the access and quality of their care; establishing mechanisms between payers
1144 and the provider organization such that any shared savings between the provider and the payer
1145 shall contain a mechanism to return a percentage of the savings to the ACO patients; and
1146 establishing mechanisms to protect patient provider choice, including parameters for accessing
1147 care outside of the ACO;

1148 (9) to adopt certain health information technology, data analysis functions and
1149 performance management programs, including, but not limited to, the ability to aggregate and
1150 analyze clinical data; the ability to electronically exchange patient summary records across
1151 providers who are ACO participants and other providers in the community to ensure continuity
1152 of care; the ability to provide access to multi-payer claims data and performance reports and the
1153 ability to share performance feedback on a timely basis with participating providers; the ability
1154 to enable the beneficiary access to electronic health information, provided that the patient has
1155 provided consent; and the utilization of a proven performance management program, including,
1156 but not limited to, participation in the 2011 and 2012 Health Care Criteria for Performance
1157 Excellence as developed in conjunction with the Baldrige Criteria for Performance Excellence
1158 administered by the National Institutes of Standards and Technology of the United States
1159 Department of Commerce;

1160 (10) to demonstrate excellence in the area of managing chronic disease and care
1161 coordination, as managed by a physician, nurse practitioner, registered nurse, physician assistant
1162 or social worker, and as evidenced by the success of previous or existing care coordination, pay
1163 for performance, patient centered medical home, quality improvement or health outcomes
1164 improvement initiatives, including, but not limited to, a demonstrated commitment to reducing
1165 avoidable hospitalizations, adverse events and unnecessary emergency room visits;

1166 (11) to promote protocols for provider integration, both with providers within and outside
1167 of the provider organization, including, but not limited to, clinical integration of the medical
1168 director of the laboratory, accredited or certified under the federal Clinical Laboratory
1169 Improvements Act of 1988, providing these services to the organization;

1170 (12) to promote community-based wellness programs and community health workers,
1171 consistent with efforts funded by the department of public health through the Prevention and
1172 Wellness Trust Fund established in section 2G of chapter 111 and to promote other activities that
1173 integrate community public health interventions with an emphasis on the social determinants of
1174 health and which have been proven to improve health;

1175 (13) to promote the health and well being of children, including, but not limited to,
1176 improving access to pediatric care, providing access to mental and behavioral health services for
1177 children, developing and improving pediatric quality measures, developing and improving on
1178 pediatric risk adjustments.

1179 (14) to promote worker training programs and skills training opportunities for employees
1180 of the provider organization, consistent with efforts funded by the secretary of labor and
1181 workforce development through the Health Care Workforce Transformation Trust Fund;

1182 (15) to adopt certain governance structure standards, including standards related to
1183 financial conflicts of interest and transparency; and

1184 (16) any other requirements the commission considers necessary.

1185 (d) The commission shall update the standards for certification as an ACO at least every
1186 2 years, or at such other times as the commission determines necessary. The commission shall

1187 not deny an ACO certification based solely on the geographic location or size of the provider
1188 organization.

1189 (e) The commission shall create a designation process for Model ACOs only to be
1190 conferred on ACOs that have demonstrated excellence in adopting the best practices for quality
1191 improvement, cost containment and patient protections, as determined by the commission. In
1192 developing this standard of excellence, the commission shall review the standards set forth in
1193 subsection (c).

1194 (f) All ACOs shall publish the standards used by the ACO to determine which providers
1195 of free-standing ancillary services shall be approved to provide services to ACO patients. Free-
1196 standing ancillary services shall include, but shall not be limited to, durable medical equipment
1197 services, laboratory services, imaging services, dialysis centers, and services provided by free-
1198 standing diagnostic, non-hospital surgery centers. A provider of these services shall be informed
1199 in writing by the ACO of the standards by which they were accepted or rejected as an approved
1200 provider of these free-standing ancillary services for ACO patients.

1201 The commission shall create a review process for aggrieved providers under this
1202 subsection that are denied approval by an ACO as a provider of free-standing ancillary services
1203 for ACO patients. For such process, the commission may review the following: (1) a comparison
1204 of the costs of services between an aggrieved provider and the costs of services provided within
1205 the ACO; (2) a comparison of the quality of services between an aggrieved provider and the
1206 quality of services provided within the ACO; (3) a comparison of the efficiency of services
1207 between an aggrieved provider and efficiency of services provided within the ACO; and (4) the

1208 extent to which the aggrieved provider meets the published standards used by the ACO to
1209 determine inclusion as an approved provider for ACO patients.

1210 (g) The commission shall promulgate any necessary regulations to administer this
1211 section. In promulgating such regulations, the regulations shall, to the extent applicable and
1212 feasible, be consistent with federal law, regulations, demonstrations and rules governing
1213 accountable care organizations and shared savings programs.

1214 Section 16. (a) There is hereby established within the commission an office of patient
1215 protection. The office shall:- (1) have the authority to administer and enforce the standards and
1216 procedures established by sections 13, 14, 15 and 16 of chapter 176O. The commission shall
1217 promulgate such regulations to enforce this section. Such regulations shall protect the
1218 confidentiality of any information about a carrier or utilization review organization, as defined in
1219 said chapter 176O, which, in the opinion of the office, and in consultation with the division of
1220 insurance, is proprietary in nature and is not in the public interest to disclose. Utilization review
1221 criteria, medical necessity criteria and protocols must be made available to the public at no
1222 charge regardless of proprietary claims. The regulations authorized by this section shall be
1223 consistent with, and not duplicate or overlap with, regulations promulgated by the bureau of
1224 managed care established in the division of insurance pursuant to said chapter 176O;

1225 (2) make managed care information collected by the office readily accessible to
1226 consumers on the commission's website. The information shall, at a minimum, include (i) a
1227 chart, prepared by the office, comparing the information obtained on premium revenue expended
1228 for health care services as provided under paragraph (3) of subsection (b) of section 7 of chapter

1229 176O, for the most recent year for which information is available, and (ii) data collected under
1230 paragraph (c);

1231 (3) assist consumers with questions or concerns relating to managed care, including, but
1232 not limited to, exercising the grievance and appeals rights established by sections 13 and 14 of
1233 said chapter 176O;

1234 (4) monitor quality-related health insurance plan information relating to managed care
1235 practices;

1236 (5) regulate the establishment and functions of review panels established by section 14 of
1237 chapter 176O;

1238 (6) periodically advise the commission, the commissioner of insurance, the managed care
1239 oversight board, established by section 16D of chapter 6A, the joint committee on health care
1240 financing and the joint committee on financial services on actions, including legislation, which
1241 may improve the quality of managed care health insurance plans;

1242 (7) administer and grant enrollment waivers under paragraph (4) of subsection (a) of
1243 section 4 of chapter 176J; provided, however, that the office of patient protection may grant a
1244 waiver to an eligible individual who certifies, under penalty of perjury, that such individual did
1245 not intentionally forego enrollment into coverage for which the individual is eligible and that is
1246 at least actuarially equivalent to minimum creditable coverage; provided further, that the office
1247 shall establish, by regulation, standards and procedures for enrollment waivers; and

1248 (8) establish, by regulation, procedures and rules relating to appeals by consumers
1249 aggrieved by restrictions on patient choice, denials of services or quality of care resulting from

1250 any final action of an ACO, and to conduct hearings and issue rulings on appeals brought by
1251 ACO consumers that are not otherwise properly heard through the consumer's payer or provider.

1252 (b) The commission shall establish an external review system for the review of
1253 grievances submitted by or on behalf of insureds of carriers under section 14 of chapter 176O.
1254 The commission shall establish an external review process for the review of grievances
1255 submitted by or on behalf of ACO patients and shall specify the maximum amount of time for
1256 the completion of a determination and review after a grievance is submitted. The commission
1257 shall establish expedited review procedures applicable to emergency situations, as defined by
1258 regulation promulgated by the division.

1259 (c) Each entity that compiles the health plan employer data and information set, so-called,
1260 for the National Committee on Quality Assurance, or collects other information deemed by the
1261 entity as similar or equivalent thereto, shall, upon submitting said data and information sent to
1262 the commission concurrently submit to the office of patient protection a copy thereof, excluding,
1263 at the entity's option, proprietary financial data.

1264 Section 17. The commission shall keep an accurate account of all its activities and of all
1265 its receipts and expenditures and shall annually make a report thereof as of the end of its fiscal
1266 year to its board, to the governor, to the general court, and to the state auditor, such reports to be
1267 in a form prescribed by the board, with the written approval of the auditor. The auditor may
1268 investigate the affairs of the commission, may severally examine the properties and records of
1269 the commission, and may prescribe methods of accounting and of rendering of periodic reports
1270 in relation to projects undertaken by the commission. The commission shall be subject to
1271 biennial audit by the state auditor.

1272 Section 18. The commission may adopt regulations to implement this chapter.

1273 SECTION 16. The third sentence of subsection (c) of section 4R of chapter 7 of the
1274 General Laws, as inserted by section 15 of chapter 68 of the acts of 2011, is hereby amended by
1275 striking out the words “division of health care finance and policy” and inserting in place thereof
1276 the following words:- center for health information and analysis.

1277 SECTION 17. Section 22N of said chapter 7, as appearing in the 2010 Official Edition, is
1278 hereby amended by striking out, in lines 10 and 37, the word “118G” and inserting in place
1279 thereof, in each instance, the following word:- 118E.

1280 SECTION 18. Chapter 12 of the General Laws is hereby amended by inserting after
1281 section 11M the following section:-

1282 Section 11N. (a) The attorney general shall monitor trends in the health care market
1283 including, but not limited to, trends in provider organization size and composition, consolidation
1284 in the provider market, payer contracting trends and patient access and quality issues in the
1285 health care market. The attorney general may obtain the following information from a private
1286 health care payer, public health care payer, provider or provider organization, as those terms are
1287 defined in section 1 of chapter 6D: (i) any information that is required to be submitted under
1288 sections 8, 9 and 10 of chapter 12C, (ii) filings, applications and supporting documentation
1289 related to any cost and market impact review under section 13 of chapter 6D (iii) filings,
1290 applications and supporting documentation related to a determination of need application filed
1291 under section 25C of chapter 111; and (iv) filings, applications and supporting documentation
1292 submitted to the federal Centers for Medicare and Medicaid Services or the Office of the
1293 Inspector General for any demonstration project. Under section 17 of chapter 12C and section 8

1294 of chapter 6D and subject to the limitations stated in those sections, the attorney general may
1295 require that any provider, provider organization, private health care payer or public health care
1296 payer produce documents, answer interrogatories and provide testimony under oath related to
1297 health care costs and cost trends , the factors that contribute to cost growth within the
1298 commonwealth’s health care system and the relationship between provider costs and payer
1299 premium rates.

1300 (b) The attorney general may investigate any provider organization referred to the
1301 attorney general by the health policy commission under section 13 of chapter 6D to determine
1302 whether the provider organization engaged in unfair methods of competition or anti-competitive
1303 behavior in violation of chapter 93A or any other law, and, if appropriate, take action under
1304 chapter 93A or any other law to protect consumers in the health care market.

1305 (c) The attorney general may intervene or otherwise participate in efforts by the
1306 commonwealth to obtain exemptions or waivers from certain federal laws regarding provider
1307 market conduct, including, from the federal Office of the Inspector General, a waiver of, or
1308 expansion of, the “safe harbors” provided for under 42 U.S.C. section 1320a-7b and obtaining
1309 from the federal Office of the Inspector General a waiver of, or exemption from, 42 U.S.C.
1310 section 1395nn subsections (a) to (e).

1311 (d) Nothing in this section shall limit the authority of the attorney general to protect
1312 consumers in the health care market under any other law.

1313 SECTION 19. The General Laws are hereby further amended by inserting after chapter
1314 12B the following chapter:-

1315 Chapter 12C

1316 Center for Health Information and Analysis

1317 Section 1. As used in this chapter the following words shall, unless the context clearly
1318 requires otherwise, have the following meanings:-

1319 “Accountable care organization”, or “ACO”, a provider organization certified under
1320 section 15 of chapter 6D.

1321 “Actual costs”, all direct and indirect costs incurred by a hospital or a community health
1322 center in providing medically necessary care and treatment to its patients, determined in
1323 accordance with generally accepted accounting principles.

1324 “Acute hospital”, the teaching hospital of the University of Massachusetts Medical
1325 School and any hospital licensed under section 51 of chapter 111 and which contains a majority
1326 of medical-surgical, pediatric, obstetric and maternity beds, as defined by the department of
1327 public health.

1328 “Alternative payment contract”, any contract between a provider or provider organization
1329 and a public health care payer or a private health care payer which utilizes alternative payment
1330 methodologies.

1331 “Alternative payment methodologies or methods”, methods of payment that are not solely
1332 based on fee-for-service reimbursements; provided, that “alternative payment methodologies”
1333 may include, but not be limited to, shared savings arrangement, bundled payments, and global
1334 payments; provided further, that “alternative payment methodologies” may include fee-for-
1335 service payments, which are settled or reconciled with a bundled or global payment.

1336 “Ambulatory surgical center”, any distinct entity that operates exclusively to provide
1337 surgical services to patients not requiring hospitalization and meets the requirements of the
1338 federal Health Care Financing Administration for participation in the Medicare program.

1339 “Ambulatory surgical center services”, services described for purposes of the Medicare
1340 program under 42 USC § 1395k(a)(2)(F)(I); provided, that “ambulatory surgical center services”
1341 shall include facility services only and shall not include surgical procedures.

1342 “Carrier,” an insurer licensed or otherwise authorized to transact accident or health
1343 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
1344 176A; a nonprofit medical service corporation organized under chapter 176B; a health
1345 maintenance organization organized under chapter 176G; and an organization entering into a
1346 preferred provider arrangement under chapter 176I, but not including an employer purchasing
1347 coverage or acting on behalf of its employees or the employees of 1 or more subsidiaries or
1348 affiliated corporations of the employer; provided that, unless otherwise noted, the term “carrier”
1349 shall not include any entity to the extent it offers a policy, certificate or contract that provides
1350 coverage solely for dental care services or vision care services.

1351 “Case mix”, the description and categorization of a hospital’s patient population
1352 according to criteria approved by the center including, but not limited to, primary and secondary
1353 diagnoses, primary and secondary procedures, illness severity, patient age and source of
1354 payment.

1355 “Center”, the center for health information and analysis.

1356 “Charge”, the uniform price for specific services within a revenue center of a hospital.

1357 “Child”, a person who is under 18 years of age.

1358 “Clinical affiliation”, any relationship between a provider organization and another entity
1359 for the purpose of increasing the level of collaboration in the provision of health care services,
1360 including, but not limited to, sharing of physician resources in hospital or other ambulatory
1361 settings, co-branding, expedited transfers to advanced care settings, provision of inpatient
1362 consultation coverage or call coverage, enhanced electronic access and communication, co-
1363 located services, provision of capital for service site development, joint training programs, video
1364 technology to increase access to expert resources and sharing of hospitalists or intensivists.

1365 “Commission”, the health policy commission established in chapter 6D.

1366 “Community health centers”, health centers operating in conformance with Section 330
1367 of United States Public Law 95-626 and shall include all community health centers which file
1368 cost reports as requested by the center.

1369 “Dependent”, the spouse and children of any employee if such persons would qualify for
1370 dependent status under the Internal Revenue Code or for whom a support order could be granted
1371 under chapters 208, 209 or 209C.

1372 “Dispersed service area,” a geographic area of the commonwealth in which a provider
1373 organization delivers health care services; provided, however, that the center may by regulation
1374 establish standards to determine dispersed service areas based on the number of zip codes, towns,
1375 counties or primary service areas, which standards may vary based upon the population density
1376 of various regions of the commonwealth.

1377 “Eligible person”, a person who qualifies for financial assistance from a governmental
1378 unit in meeting all or part of the cost of general health supplies, care or rehabilitative services
1379 and accommodations.

1380 “Employee”, a person who performs services primarily in the commonwealth for
1381 remuneration for a commonwealth employer; provided, that “employee” shall not include a
1382 person who is self-employed.

1383 “Employer”, an employer as defined in section 1 of chapter 151A.

1384 “Executive director”, the executive director of the center.

1385 “Facility”, a licensed institution providing health care services or a health care setting,
1386 including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical
1387 or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory
1388 and imaging centers, and rehabilitation and other therapeutic health settings.

1389 “Fee-for-service”, a payment mechanism in which all reimbursable health care activity is
1390 described and categorized into discreet and separate units of service and each provider is
1391 separately reimbursed for each discrete service rendered to a patient.

1392 “Fiscal year”, the 12 month period during which a hospital keeps its accounts and which
1393 ends in the calendar year by which it is identified.

1394 “General health supplies, care or rehabilitative services and accommodations”, all
1395 supplies, care and services of medical, behavioral health, substance use disorder, mental health,
1396 optometric, dental, surgical, chiropractic, podiatric, psychiatric, therapeutic, diagnostic,
1397 rehabilitative, supportive or geriatric nature, including inpatient and outpatient hospital care and

1398 services, and accommodations in hospitals, sanatoria, infirmaries, convalescent and nursing
1399 homes, retirement homes, facilities established, licensed or approved under chapter 111B and
1400 providing services of a medical or health-related nature, and similar institutions including those
1401 providing treatment, training, instruction and care of children and adults; provided, however, that
1402 rehabilitative service shall include only rehabilitative services of a medical or health-related
1403 nature which are eligible for reimbursement under Title XIX of the Social Security Act.

1404 “Governmental unit”, the commonwealth, any department, agency board or commission
1405 of the commonwealth and any political subdivision of the commonwealth.

1406 “Gross patient service revenue”, the total dollar amount of a hospital’s charges for
1407 services rendered in a fiscal year.

1408 “Health care professional”, a physician or other health care practitioner licensed,
1409 accredited, or certified to perform specified health services consistent with law.

1410 “Health care cost growth benchmark”, the projected annual percentage change in total
1411 health care expenditures in the commonwealth, as established in section 9 of chapter 6D.

1412 “Health care services”, supplies, care and services of medical, behavioral health,
1413 substance use disorder, mental health, surgical, optometric, dental, podiatric, chiropractic,
1414 psychiatric, therapeutic, diagnostic, preventative, rehabilitative, supportive or geriatric nature
1415 including, but not limited to, inpatient and outpatient acute hospital care and services; services
1416 provided by a community health center or by a sanatorium, as included in the definition of
1417 “hospital” in Title XVIII of the federal Social Security Act, and treatment and care compatible
1418 with such services or by a health maintenance organization.

1419 “Health insurance company”, a company as defined in section 1 of chapter 175 which
1420 engages in the business of health insurance.

1421 “Health insurance plan”, the medicare program or an individual or group contract or other
1422 plan providing coverage of health care services and which is issued by a health insurance
1423 company, a hospital service corporation, a medical service corporation or a health maintenance
1424 organization.

1425 “Health maintenance organization”, a company which provides or arranges for the
1426 provision of health care services to enrolled members in exchange primarily for a prepaid per
1427 capita or aggregate fixed sum as further defined in section 1 of chapter 176G.

1428 “Health status adjusted total medical expenses”, the total cost of care for the patient
1429 population associated with a provider group based on allowed claims for all categories of
1430 medical expenses and all non-claims related payments to providers, adjusted by health status,
1431 and expressed on a per member per month basis, as calculated under section 9 and the
1432 regulations promulgated by the center.

1433 “Hospital”, any hospital licensed under section 51 of chapter 111, the teaching hospital of
1434 the University of Massachusetts Medical School and any psychiatric facility licensed under
1435 section 19 of chapter 19.

1436 “Hospital service corporation”, a corporation established to operate a nonprofit hospital
1437 service plan as provided in chapter 176A.

1438 “Major service category,” a set of service categories to be established by regulation,
1439 which may include: (i) acute hospital inpatient services, by major diagnostic category; (ii)

1440 outpatient and ambulatory services, by categories as defined by the Centers for Medicare and
1441 Medicaid, or as established by regulation, not to exceed 15, including a residual category for “all
1442 other” outpatient and ambulatory services that do not fall within a defined category; (iii)
1443 behavioral, substance use disorder and mental health services by categories as defined by the
1444 Centers for Medicare and Medicaid, or as established by regulation; (iv) professional services, by
1445 categories as defined by the Centers for Medicare and Medicaid, or as established by regulation;
1446 and (v) sub-acute services, by major service line or clinical offering, as defined by regulation.

1447 “Medicaid program”, the medical assistance program administered by the division of
1448 medical assistance under chapter 118E and in accordance with Title XIX of the Federal Social
1449 Security Act or any successor statute.

1450 “Medical assistance program”, the medicaid program, the Veterans Administration health
1451 and hospital programs and any other medical assistance program operated by a governmental
1452 unit for persons categorically eligible for such program.

1453 “Medical service corporation”, a corporation established to operate a nonprofit medical
1454 service plan as provided in chapter 176B.

1455 “Medicare program”, the medical insurance program established by Title XVIII of the
1456 Social Security Act.

1457 “Net cost of private health insurance”, the difference between health premiums earned
1458 and benefits incurred, which shall consist of: (i) all categories of administrative expenditures, as
1459 included in medical loss ratio regulations promulgated by the division of insurance; (ii) net
1460 additions to reserves; (iii) rate credits and dividends; and (iv) profits or losses, or as otherwise
1461 defined by regulations promulgate by the center.

1462 “Network contract”, a contract entered between a provider or provider organization and a
1463 carrier or third-party administrator concerning payment for the provision of health care services.

1464 “Non-acute hospital”, any hospital which is not an acute hospital.

1465 “Patient”, any natural person receiving health care services.

1466 “Patient-centered medical home”, a model of health care delivery designed to provide a
1467 patient with a single point of coordination for all their health care, including primary, specialty,
1468 post-acute and chronic care, which is (i) patient-centered; (ii) comprehensive, integrated and
1469 continuous; and (iii) delivered by a team of health care professionals to manage a patient’s care,
1470 reduce fragmentation, and improve patient outcomes.

1471 “Primary service area”, a geographic area of the commonwealth in which consumers are
1472 likely to travel to obtain health services; provided, however, that the center may by regulation
1473 establish standards to determine primary service areas by major service category, which
1474 standards may vary based upon the population density of various regions of the commonwealth.

1475 “Private health care payer”, a carrier authorized to transact accident and health insurance
1476 under chapter 175, a nonprofit hospital service corporation licensed under chapter 176A, a
1477 nonprofit medical service corporation licensed under chapter 176B, a dental service corporation
1478 organized under chapter 176E, an optometric service corporation organized under chapter 176F,
1479 a self-insured plan, to the extent allowable under federal law governing health care provided by
1480 employers to employees, or a health maintenance organization licensed under chapter 176G.

1481 “Provider”, any person, corporation partnership, governmental unit, state institution or
1482 any other entity qualified under the laws of the commonwealth to perform or provide health care
1483 services.

1484 “Provider organization”, any corporation, partnership, business trust, association or
1485 organized group of persons, which is in the business of health care delivery or management,
1486 whether incorporated or not that represents 1 or more health care providers in contracting with
1487 carriers for the payments of health care services, including but not limited to, physician
1488 organizations, physician-hospital organizations, independent practice associations, provider
1489 networks, accountable care organizations and any other organization that contracts with carriers
1490 for payment for health care services.

1491 “Public health care payer”, the Medicaid program established in chapter 118E; any
1492 carrier or other entity that contracts with the office of Medicaid or the commonwealth health
1493 insurance connector to pay for or arrange the purchase of health care services on behalf of
1494 individuals enrolled in health coverage programs under Titles XIX or XXI, or under the
1495 commonwealth care health insurance program, including prepaid health plans subject to the
1496 provisions of section 28 of chapter 47 of the acts of 1997; the group insurance commission
1497 established under chapter 32A; and any city or town with a population of more than 60,000 that
1498 has adopted chapter 32B.

1499 “Purchaser”, a natural person responsible for payment for health care services rendered
1500 by a hospital.

1501 “Quality measures”, the standard quality measure set as defined by the center in section
1502 14.

1503 “Registered provider organization,” a provider organization that has been registered in
1504 accordance with section 11 of chapter 6D.

1505 “Relative prices”, the contractually negotiated amounts paid to providers by each private
1506 and public carrier for health care services, including non-claims related payments and expressed
1507 in the aggregate relative to the payer’s network-wide average amount paid to providers, as
1508 calculated under section 9 and regulations promulgated by the center.

1509 “Revenue center”, a functioning unit of a hospital which provides distinctive services to a
1510 patient for a charge.

1511 “Resident”, a person living in the commonwealth, as defined by the center by regulation;
1512 provided, however, that such regulation shall not define a resident as a person who moved into
1513 the commonwealth for the sole purpose of securing health insurance under this chapter; and
1514 provided, further that confinement of a person in a nursing home, hospital or other medical
1515 institution shall not, in and of itself, suffice to qualify such person as a resident.

1516 “Secretary”, the secretary of health and human services.

1517 “Self-employed”, a person who, at common law, is not considered to be an employee and
1518 whose primary source of income is derived from the pursuit of a bona fide business.

1519 “Self-insurance health plan”, a plan which provides health benefits to the employees of a
1520 business, which is not a health insurance plan, and in which the business is liable for the actual
1521 costs of the health care services provided by the plan and administrative costs.

1522 “Self-insured group”, a self-insured or self-funded employer group health plan.

1523 “Specialty hospital”, an acute hospital which qualifies for an exemption from the
1524 medicare prospective payment system regulations or any acute hospital which limits its
1525 admissions to patients under active diagnosis and treatment of eyes, ears, nose and throat or to
1526 children or patients under obstetrical care.

1527 “State institution”, any hospital, sanatorium, infirmary, clinic and other such facility
1528 owned, operated or administered by the commonwealth, which furnishes general health supplies,
1529 care or rehabilitative services and accommodations.

1530 “Surcharge payor”, an individual or entity that pays for or arranges for the purchase of
1531 health care services provided by acute hospitals and ambulatory surgical center services provided
1532 by ambulatory surgical centers; provided, however, that the term “surcharge payor” shall include
1533 a managed care organization; and provided further, that “surcharge payor” shall not include Title
1534 XVIII and Title XIX programs and their beneficiaries or recipients, other governmental
1535 programs of public assistance and their beneficiaries or recipients and the workers’ compensation
1536 program established under chapter 152.

1537 “Third party administrator”, an entity that administers payments for health care services
1538 on behalf of a client in exchange for an administrative fee.

1539 “Third party payer”, an entity including, but not limited to, Title XVIII and Title XIX
1540 programs, other governmental payers, insurance companies, health maintenance organizations
1541 and nonprofit hospital service corporations; provided, that, “third party payer” shall not include a
1542 purchaser responsible for payment for health care services rendered by a hospital, either to the
1543 purchaser or to the hospital.

1544 “Title XIX”, Title XIX of the Social Security Act, 42 USC 1396 et seq., or any successor
1545 statute enacted into federal law for the same purposes as Title XIX.

1546 “Total health care expenditures”, the annual per capita sum of all health care expenditures
1547 in the commonwealth from public and private sources, including: (i) all categories of medical
1548 expenses and all non-claims related payments to providers, as included in the health status
1549 adjusted total medical expenses reported by the center under subsection (d) of section 8; (ii) all
1550 patient cost-sharing amounts, such as deductibles and copayments; and (iii) the net cost of
1551 private health insurance, or as otherwise defined in regulations promulgated by the center.

1552 Section 2. There is hereby established a center for health information and analysis. There
1553 shall be in the center an executive director, who shall be the administrative head of the center and
1554 who shall be appointed by a majority vote of the attorney general, the state auditor and the
1555 governor for a term of 5 years. The person so appointed shall be selected without regard to
1556 political affiliation and solely on the basis of expertise in health care policy, expertise in health
1557 care finance and such other educational requirements and experience that the attorney general,
1558 state auditor and governor determine are necessary.

1559 In the case of a vacancy in the position of executive director, a successor shall be
1560 appointed in the same manner as the original appointment for the unexpired term. No person
1561 shall be appointed for more than 2 consecutive 5-year terms.

1562 The person so appointed may be removed from office, for cause, by a majority vote of the
1563 attorney general, the state auditor and the governor. Such cause may include substantial neglect
1564 of duty, gross misconduct or conviction of a crime. The reasons for removal of the executive
1565 director shall be stated in writing and shall include the basis for such removal. The writing shall

be sent to the clerk of the senate, the clerk of the house of representative and to the governor at the time of the removal and shall be a public record.

Section 3. The executive director may appoint and remove, subject to appropriation, such agents and subordinate officers and employees as the executive director may consider necessary and may establish such subdivisions within the center as the executive director considers appropriate to fulfill the following duties: (i) to collect, analyze and disseminate health care information to assist in the formulation of health care policy and in the provision and purchase of health care services including, but not limited to, collecting, storing and maintaining data in a payer and provider claims database; (ii) to provide an analysis of health care spending trends as compared to the health care cost growth benchmark established by the health policy commission under section 9 of chapter 6D; (iii) to collect, analyze and disseminate information regarding providers, provider organizations and payers to increase the transparency and improve the functioning of the health care system; (iv) to provide information to, and work with, the general court and other state agencies including, but not limited to, the executive office of health and human services, the department of public health, the department of mental health, the health care policy commission, the office of Medicaid and the division of insurance to collect and disseminate data concerning the cost, price and functioning of the health care system in the commonwealth and the health status of individuals; (v) to participate in and provide data and data analysis for annual hearings conducted by the health policy commission concerning health care provider and payer costs, prices and cost trends; and (vi) report to consumers comparative health care cost and quality information through the consumer health information website established under section 20. The center shall make available actual costs and prices of health

1588 care services, as supplied by each provider, to the general public in a conspicuous manner on the
1589 consumer health information website.

1590 Section 4. The position of executive director shall be classified under section 45 of
1591 chapter 30 and the salary shall be determined under section 46C of said chapter 30.

1592 The total amount of all appointee salaries shall not exceed the sum appropriated therefor
1593 by the general court. Sections 9A, 45, 46, and 46C of chapter 30, chapter 31 and chapter 150E
1594 shall not apply to the executive director of the center. Sections 45, 46 and 46C of chapter 30
1595 shall not apply to any employee of the center.

1596 The executive director may establish personnel regulations for the officers and employees
1597 of the center. The executive director shall file an annual personnel report not later than the first
1598 Wednesday in February with the senate and house committees on ways and means containing the
1599 job classifications, duties and salary of each officer and employee within the center together with
1600 personnel regulations applicable to said officers and employees. The executive director shall file
1601 amendments to such report with the senate and house committees on ways and means whenever
1602 any changes become effective.

1603 Section 5. The center shall adopt and amend rules and regulations, in accordance with
1604 chapter 30A, for the administration of its duties and powers and necessary to effectuate this
1605 chapter; provided, however, that the rules or regulations shall not be construed to impair or in
1606 any way modify the authority of the executive office of health and human services to act,
1607 pursuant to section 16 of chapter 6A of the General Laws, as the single state agency authorized
1608 to supervise and administer the state programs under titles XIX and XXI of the Social Security
1609 Act. The regulations shall be adopted, after notice and hearing, only upon consultation with

1610 representatives of providers, provider organizations, private health care payers and public health
1611 care payers.

1612 The center shall, before adopting regulations under this chapter, consult with other
1613 agencies of the commonwealth and the federal government, affected providers, and affected
1614 payers, as applicable, to ensure that the reporting requirements imposed under the regulations are
1615 not duplicative or excessive. If reporting requirements imposed by the center result in additional
1616 costs for the reporting providers, these costs may be included in any rates promulgated by the
1617 executive office of health and human services or a governmental unit designated by the executive
1618 office for these providers. The center may specify categories of information which may be
1619 furnished under an assurance of confidentiality to the provider; provided, however, that such
1620 assurance shall only be furnished if the information is not to be used for setting rates.

1621 Section 6. In addition to the powers conferred on state agencies, the center shall have the
1622 following powers:

1623 (1) to make, amend and repeal rules and regulations for the management of its affairs;

1624 (2) to make contracts and execute all instruments necessary or convenient for the carrying
1625 on of its business;

1626 (3) to acquire, own, hold, dispose of and encumber personal property and to lease real
1627 property in the exercise of its powers and the performance of its duties; and

1628 (4) to enter into agreements or transactions with any federal, state or municipal agency or
1629 other public institution or with any private individual, partnership, firm, corporation, association
1630 or other entity.

1631 Section 7. Each acute hospital, ambulatory surgical center and surcharge payor shall pay
1632 to the commonwealth an amount for the estimated expenses of the center.

1633 The assessed amount for hospitals and ambulatory surgical centers shall be not less than
1634 33 per cent of the amount appropriated by the general court for the expenses of the center minus
1635 amounts collected from (1) filing fees; (2) fees and charges generated by the center's publication
1636 or dissemination of reports and information; and (3) federal matching revenues received for these
1637 expenses or received retroactively for expenses of predecessor agencies. Each acute hospital and
1638 ambulatory surgical center shall pay the assessed amount multiplied by the ratio of the hospital's
1639 or ambulatory surgical center's gross patient service revenues to the total of all such hospital's
1640 and ambulatory surgical center's gross patient services revenues. Each acute hospital and
1641 ambulatory surgical center shall make a preliminary payment to the center on October 1 of each
1642 year in an amount equal to $\frac{1}{2}$ of the previous year's total assessment. Thereafter, each hospital
1643 and ambulatory surgical center shall pay, within 30 days notice from the center, the balance of
1644 the total assessment for the current year based upon its most current projected gross patient
1645 service revenue. The center shall subsequently adjust the assessment for any variation in actual
1646 and estimated expenses of the center and for changes in hospital or ambulatory surgical center
1647 gross patient service revenue. The estimated and actual expenses shall include an amount equal
1648 to the cost of fringe benefits and indirect expenses, as established by the comptroller under
1649 section 5D of chapter 29. In the event of late payment by any such hospital or ambulatory
1650 surgical center, the treasurer shall advance the amount of due and unpaid funds to the center
1651 before the receipt of the monies in anticipation of the revenues up to the amount authorized in
1652 the then current budget attributable to the assessments and the center shall reimburse the

1653 treasurer for the advances upon receipt of the revenues. This section shall not apply to any state
1654 institution or to any acute hospital which is operated by a city or town.

1655 The assessed amount for surcharge payors shall be not less than 33 per cent of the amount
1656 appropriated by the general court for the expenses of the center minus amounts collected from
1657 (1) filing fees; (2) fees and charges generated by the center's publication or dissemination of
1658 reports and information; and (3) federal matching revenues received for these expenses or
1659 received retroactively for expenses of predecessor agencies. The assessment on surcharge
1660 payors shall be calculated and collected in the same manner as the assessment authorized under
1661 section 68 of chapter 118E.

1662 Section 8. (a) The center shall promulgate such regulations as necessary to ensure the
1663 uniform reporting of revenues, charges, costs, prices, and utilization of health care services and
1664 other such data as the center may require of institutional providers and their parent organizations
1665 and any other affiliated entities, non-institutional providers and provider organizations; provided,
1666 however, that the center may establish reporting thresholds through regulation. Such uniform
1667 reporting shall enable the center to identify, on a patient-centered and provider-specific basis,
1668 statewide and regional trends in the cost, price, availability and utilization of medical, surgical,
1669 diagnostic and ancillary services provided by acute hospitals, nursing homes, chronic care and
1670 rehabilitation hospitals, other specialty hospitals, clinics, including mental health clinics and the
1671 ambulatory care providers as the center may specify. The center shall also promulgate
1672 regulations to require providers to report any agreements through which 1 provider agrees to
1673 furnish another provider with a discount, rebate or any other type of refund or remuneration in
1674 exchange for, or in any way related to, the provision of health care services.

1675 (b) With respect to any acute or non-acute hospital, the center shall, by regulation,
1676 designate information necessary to effectuate this chapter including, but not be limited to, the
1677 filing of a charge book, the filing of cost data and audited financial statements and the
1678 submission of merged billing and discharge data. The center shall, by regulation, designate
1679 standard systems for determining, reporting and auditing volume, case-mix, proportion of low-
1680 income patients and any other information necessary to effectuate this chapter and to prepare
1681 reports comparing acute and non-acute care hospitals by cost, utilization and outcome. The
1682 regulations may require the hospitals to file required information and data by electronic means;
1683 provided, however, that the center shall allow reasonable waivers from the requirement. The
1684 center shall, at least annually, publish a report analyzing the comparative information to assist
1685 third-party payers and other purchasers of health services in making informed decisions. The
1686 report shall include comparative price and service information relative to outpatient mental
1687 health services.

1688 (c) The center shall also collect and analyze such data as it considers necessary in order to
1689 better protect the public's interest in monitoring the financial conditions of acute hospitals. The
1690 information shall be analyzed on an industry-wide and hospital-specific basis and shall include,
1691 but not be limited to: (1) gross and net patient service revenues; (2) sources of hospital revenue,
1692 including revenue excluded from consideration in the establishment of hospital rates and charges
1693 under section 13G of chapter 118E; (3) private sector charges; (4) trends in inpatient and
1694 outpatient case mix, payer mix, hospital volume and length of stay; (5) total payroll as a per cent
1695 of operating expenses, as well as the salary and benefits of the top 10 highest compensated
1696 employees, identified by position description and specialty; and (6) other relevant measures of
1697 financial health or distress.

1698 The center shall publish annual reports and establish a continuing program of
1699 investigation and study of financial trends in the acute hospital industry, including an analysis of
1700 systemic instabilities or inefficiencies that contribute to financial distress in the acute hospital
1701 industry. The reports shall include an identification and examination of hospitals that the center
1702 considers to be in financial distress, including any hospitals at risk of closing or discontinuing
1703 essential health services, as defined by the department of public health under section 51G of
1704 chapter 111, as a result of financial distress.

1705 The center may modify uniform reporting requirements established under subsections (a)
1706 and (b) and may require hospitals to report required information quarterly to effectuate this
1707 subsection.

1708 (d) The center shall publicly report and place on its website information on health status
1709 adjusted total medical expenses including a breakdown of the health status adjusted total medical
1710 expenses by major service category and by payment methodology, relative prices and hospital
1711 inpatient and outpatient costs, including direct and indirect costs under this chapter on an annual
1712 basis; provided, however, that at least 10 days before the public posting or reporting of provider
1713 specific information the affected provider shall be provided the information for review. The
1714 center shall request from the federal Centers for Medicare and Medicaid Services the health
1715 status adjusted total medical expenses of provider groups that serve Medicare patients.

1716 (e) When collecting information or compiling reports intended to compare individual
1717 health care providers, the center shall require that:

1718 (1) providers which are representative of the target group for profiling shall be
1719 meaningfully involved in the development of all aspects of the profile methodology, including
1720 collection methods, formatting and methods and means for release and dissemination;

1721 (2) the entire methodology for collecting and analyzing the data shall be disclosed
1722 to all relevant provider organizations and to all providers under review;

1723 (3) data collection and analytical methodologies shall be used that meet accepted
1724 standards of validity and reliability;

1725 (4) the limitations of the data sources and analytic methodologies used to develop
1726 provider profiles shall be clearly identified and acknowledged, including, but not limited to, the
1727 appropriate and inappropriate uses of the data;

1728 (5) to the greatest extent possible, provider profiling initiatives shall use standard-
1729 based norms derived from widely accepted, provider-developed practice guidelines;

1730 (6) provider profiles and other information that have been compiled regarding
1731 provider performance shall be shared with providers under review prior to dissemination;
1732 provided, however, that opportunity for corrections and additions of helpful explanatory
1733 comments shall be provided prior to publication; and, provided, further, that such profiles shall
1734 only include data which reflect care under the control of the provider for whom such profile is
1735 prepared;

1736 (7) comparisons among provider profiles shall adjust for patient case-mix and
1737 other relevant risk factors and control for provider peer groups, when appropriate;

1738 (8) effective safeguards to protect against the unauthorized use or disclosure of
1739 provider profiles shall be developed and implemented;

1740 (9) effective safeguards to protect against the dissemination of inconsistent,
1741 incomplete, invalid, inaccurate or subjective profile data shall be developed and implemented;
1742 and

1743 (10) the quality and accuracy of provider profiles, data sources and methodologies
1744 shall be evaluated regularly.

1745 Section 9. (a) The center shall promulgate regulations to require that provider
1746 organizations registered under section 11 of chapter 6D report the data as it considers necessary
1747 in order to better protect the public's interest in monitoring the financial conditions,
1748 organizational structure, business practices and market share of each registered provider
1749 organization. The center may assess administrative fees on provider organizations in an amount
1750 to help defray the center's costs in complying with this section. The center may specify in
1751 regulations uniform reporting standards and reporting thresholds as it determines necessary.

1752 (b) The center shall require registered provider organizations to report following
1753 information annually: (1) organizational charts showing the ownership, governance and
1754 operational structure of the provider organization, including any clinical affiliations and
1755 community advisory boards; (2) the number of affiliated health care professional full-time
1756 equivalents by license type, specialty, name and address of principal practice location and
1757 whether the professional is employed by the organization; (3) the name and address of licensed
1758 facilities by license number, license type and capacity in each major service category; (4) a
1759 comprehensive financial statement, including information on parent entities and corporate

1760 affiliates as applicable, and including details regarding annual costs, annual receipts, realized
1761 capital gains and losses, accumulated surplus and accumulated reserves; (5) information on stop-
1762 loss insurance and any non-fee-for-service payment arrangements; (6) information on clinical
1763 quality, care coordination and patient referral practices; (7) information regarding expenditures
1764 and funding sources for payroll, teaching, research, advertising, taxes or payments-in-lieu-of-
1765 taxes and other non-clinical functions; (8) information regarding charitable care and community
1766 benefit programs; (9) for any risk-bearing provider organization, certificate from the division of
1767 insurance under chapter 176U; and (10) such other information as the center considers
1768 appropriate as set forth in the center's regulations; provided, however, that the center shall
1769 coordinate with the commission and the division of insurance to obtain information directly from
1770 the commission and the division of insurance where available. The center may, in consultation
1771 with the division of insurance and the commission, merge similar reporting requirements where
1772 appropriate.

1773 (c) Annual reporting shall be in a form provided by the center. The center shall
1774 promulgate regulations that define criteria for waivers from certain annual reporting
1775 requirements of this section. Criteria for waivers may include operational size of the provider
1776 organization, the provider organization's annual net patient service revenue, the degree of risk
1777 assumed by the provider organization, and other criteria as the center considers appropriate.

1778 (d) Notwithstanding the annual reporting requirements of this section, the commission
1779 may require in writing, at any time, additional information reasonable and necessary to
1780 determine the financial condition, organizational structure, business practices or market share of
1781 a registered provider organization.

1782 Section 10.(a) The center shall promulgate regulations necessary to ensure the uniform
1783 reporting of information from private and public health care payers, including third-party
1784 administrators, that enables the center to analyze: (1) changes over time in health insurance
1785 premium levels; (2) changes in the benefit and cost-sharing design of plans offered by these
1786 payers; (3) changes in measures of plan cost and utilization; provided that this analysis shall
1787 facilitate comparison among plans and between public and private payers; and (4) changes in
1788 type of payment methods implemented by payers and the number of members covered by
1789 alternative payment methodologies; provided, however, that this analysis shall facilitate
1790 comparison among plans and plan types, including the self-insured. The center shall adopt
1791 regulations to require private and public health care payers to submit claims data, member data
1792 and provider data to develop and maintain a database of health care claims data under this
1793 chapter.

1794 (b) The center shall require the submission of data and other information from each
1795 private health care payer offering small or large group health plans including, but not limited to:
1796 (1) average annual individual and family plan premiums for each payer's most popular plans for
1797 a representative range of group sizes, as further determined in regulations, and average annual
1798 individual and family plan premiums for the lowest cost plan in each group size that meets the
1799 minimum standards and guidelines established by the division of insurance under section 8H of
1800 chapter 26; (2) information concerning the actuarial assumptions that underlie the premiums for
1801 each plan; (3) summaries of the plan and network designs for each plan, including whether
1802 behavioral, substance use disorder and mental health or other specific services are carved-out
1803 from any plans; (4) information concerning the medical and administrative expenses, including
1804 medical loss ratios for each plan, using a uniform methodology and collected under section 21 of

1805 chapter 176O; (5) information concerning the payer's current level of reserves and surpluses; (6)
1806 information on provider payment methods and levels; (7) health status adjusted total medical
1807 expenses by registered provider organization, provider group and local practice group and zip
1808 code calculated according to the method established under section 51 of chapter 288 of the acts
1809 of 2010; (8) relative prices paid to every hospital, registered provider organization, physician
1810 group, ambulatory surgical center, freestanding imaging center, mental health facility,
1811 rehabilitation facility, skilled nursing facility and home health provider in the payer's network, by
1812 type of provider, with hospital inpatient and outpatient prices listed separately and product type,
1813 including health maintenance organization and preferred provider organization products and
1814 determined using the method established under section 52 of chapter 288 of the acts of 2010; (9)
1815 hospital inpatient and outpatient costs, including direct and indirect costs, according to a uniform
1816 methodology; (10) the annual rate of growth, stated as a percentage, of the average relative price
1817 by provider type and product type for the payer's participating health care providers, whether
1818 that rate exceeds the rate of growth of the applicable producer price index as reported by the
1819 United States Bureau of Labor Statistics and identified by the commissioner of insurance and
1820 whether that rate exceeds the rate of growth in projected economic growth benchmark
1821 established under section 7H½ of chapter 29; and (11) a comparison of relative prices for the
1822 payer's participating health care providers by provider type which shows the average relative
1823 price, the extent of variation in price, stated as a percentage, and identifies providers who are
1824 paid more than 10 per cent, 15 per cent and 20 per cent above and more than 10 per cent, 15 per
1825 cent and 20 per cent below the average relative price.

1826 (c) The center shall require the submission of data and other information from public
1827 health care payers including, but not limited to: (1) average premium rates for health insurance

1828 plans offered by public payers and information concerning the actuarial assumptions that
1829 underlie these premiums; (2) average annual per-member per-month payments for enrollees in
1830 MassHealth primary care clinician and fee for service programs; (3) summaries of plan and
1831 network designs for each plan or program, including whether behavioral, substance use disorder
1832 and mental health or other specific services are carved-out from any plans; (4) information
1833 concerning the medical and administrative expenses, including medical loss ratios for each plan
1834 or program; (5) where appropriate, information concerning the payer's current level of reserves
1835 and surpluses; (6) information on provider payment methods and levels, including information
1836 concerning payment levels to each hospital for the 25 most common medical procedures
1837 provided to enrollees in these programs, in a form that allows payment comparisons between
1838 Medicaid programs and managed care organizations under contract to the office of Medicaid; (7)
1839 health status adjusted total medical expenses by registered provider organization, provider group
1840 and local practice group and zip code calculated according to the method established under
1841 section 51 of chapter 288 of the acts of 2010; and (8) relative prices paid to every hospital,
1842 registered provider organization, physician group, ambulatory surgical center, freestanding
1843 imaging center, mental health facility, rehabilitation facility, skilled nursing facility and home
1844 health provider in the payer's network, by type of provider, with hospital inpatient and outpatient
1845 prices listed separately, and product type and determined using the method established under
1846 section 52 of chapter 288 of the acts of 2010; (9) hospital inpatient and outpatient costs,
1847 including direct and indirect costs, according to a uniform methodology; () the annual rate of
1848 growth, stated as a percentage, of the average relative price by provider type and product type
1849 for the payer's participating health care providers, whether that rate exceeds the rate of growth of
1850 the applicable producer price index as reported by the United States Bureau of Labor Statistics

1851 and identified by the commissioner of insurance and whether that rate exceeds the rate of growth
1852 in projected economic growth benchmark established under section 7H½ of chapter 29; and (11)
1853 a comparison of relative prices for the payer's participating health care providers by provider
1854 type which shows the average relative price, the extent of variation in price, stated as a
1855 percentage and identifies providers who are paid more than 10 per cent, 15 per cent and 20 per
1856 cent above and more than 10 per cent, 15 per cent and 20 per cent below the average relative
1857 price.

1858 (d) The center shall require the submission of data and other information from public and
1859 private health care payers which utilize alternative payment contracts, including, but not limited
1860 to: (1) if applicable, the negotiated monthly or yearly budget for each alternative payment
1861 contract in the current contract year; (2) any applicable measures of provider performance in
1862 such alternative payment contracts; and (3) if applicable, the average negotiated monthly or
1863 yearly budget weighted by member months for each geographic region of the commonwealth as
1864 further defined in regulations promulgated by the center.

1865 For purposes of this subsection, payers shall report the negotiated budget assuming a
1866 neutral health status score of 1.0 using an industry accepted health status adjustment tool and
1867 shall, if applicable, separately report the budget allowances for: all medical and behavioral,
1868 substance use disorder and mental health care at both in and out-of-network providers; pharmacy
1869 coverage allowance; administrative expenses such as data analytics, health information
1870 technology, clinical program development and other program management fees; the purchase of
1871 reinsurance or stop-loss; and quality bonus monies, unit cost adjustments or other special
1872 allowances as may be required in regulations promulgated by the center. If out-of-network care,
1873 behavioral, substance use disorder and mental health, stop-loss insurance or any other clinical

1874 services are carved out of any global budget, bundled payments or other alternative payment
1875 methodologies such that there is no allowance included in the budget for those services, payers
1876 shall report actual claims costs of these items on a per member per month basis for the year
1877 immediately prior to the current contract year.

1878 (e) Except as specifically provided otherwise by the center or under this chapter, insurer
1879 data collected by the center under this section shall not be a public record under clause Twenty-
1880 sixth of section 7 of chapter 4 or under chapter 66.

1881 Section 11. The center shall ensure the timely reporting of information required under
1882 sections 8, 9 and 10. The center shall notify payers, providers and provider organizations of any
1883 applicable reporting deadlines. The center shall notify, in writing, a private health care payer,
1884 provider or provider organization, which has failed to meet a reporting deadline and that failure
1885 to respond within 2 weeks of the receipt of the notice may result in penalties. The center may
1886 assess a penalty against a private payer, provider or provider organization that fails, without just
1887 cause, to provide the requested information within 2 weeks following receipt of the written
1888 notice required under this paragraph, of up to \$1,000 per week for each week of delay after the 2
1889 week period following the private payer's, provider's or provider organization's receipt of the
1890 written notice; provided, however, that the maximum annual penalty against a private payer,
1891 provider or provider organization under this section shall be \$50,000. Amounts collected under
1892 this section shall be deposited in the Healthcare Payment Reform Fund, established under section
1893 100 of 194 of the acts of 2011.

1894 Section 12. (a) The center shall be the sole repository for health care data collected under
1895 sections 8, 9 and 10. The center shall collect, store and maintain such data in a payer and

1896 provider claims database. The center shall acquire, retain and oversee all information technology,
1897 infrastructure, hardware, components, servers and employees necessary to carry out this section.
1898 All other agencies, authorities, councils, boards and commissions of the commonwealth seeking
1899 health care data that is collected under this section shall, whenever feasible, utilize the data
1900 before requesting data directly from health care providers and payers. In order to ensure patient
1901 data confidentiality, the center shall not contract or transfer the operation of the database or its
1902 functions to a third-party entity, nonprofit organization or governmental entity; provided,
1903 however, that the center may enter into interagency services agreements for transfer and use of
1904 the data.

1905 The center shall, to the extent feasible, make data in the payer and provider claims
1906 database available to payers and providers in real-time; provided, however, that all data-sharing
1907 complies with applicable state and federal privacy laws The center may charge a fee for access to
1908 the data.

1909 To the maximum extent feasible, the center shall also make data available to health care
1910 consumers, on a timely basis and in an easily readable and understandable format, data on health
1911 care services they have personally received.

1912 (b) The center shall permit providers, provider organizations, public and private health
1913 care payers, government agencies and authorities and researchers access to de-identified data
1914 collected by the center for the purposes of lowering total medical expenses, coordinating care,
1915 benchmarking, quality analysis and other research, administrative or planning purposes,
1916 provided, however, that the data shall not include information that would allow the identification
1917 of the health information of an individual patient, except to the extent necessary for a

1918 government agency or authority to accomplish the public purposes for which access was given.
1919 The center shall also permit providers, provider organizations, and public and private health care
1920 payers access to data with patient identifiers solely for the purpose of carrying out treatment and
1921 coordinating care among providers. Access to data authorized under this section shall be deemed
1922 to comply with the requirements of chapter 66A. The center shall charge user fees sufficient to
1923 defray the center's cost of providing such access to non-governmental entities.

1924 Section 13. The center shall coordinate with the public health council and the boards of
1925 registration for health care providers to develop a uniform and interoperable electronic system of
1926 public reporting for providers as a condition of licensure. The uniform provider licensure
1927 reporting system shall include information designed for health resource planning and for analysis
1928 of market share by provider organization by primary service areas and dispersed service areas,
1929 including, but not limited to, reporting for each licensed provider its principal business locations;
1930 the categories of services provided; the provider organization with which the provider is
1931 affiliated for contracting purposes, or by which the provider is employed, if any; whether and to
1932 what extent the provider is practicing on license; and other factors as the center considers
1933 appropriate. The center may centralize the uniform provider licensure reporting system or create
1934 a central portal for public access to the uniform provider licensure information. The uniform
1935 provider licensure reporting system shall be accessible to other state agencies and authorities
1936 including, but not limited to, the commission, the executive office of health and human services,
1937 the department of public health and the office of Medicaid.

1938 Section 14. (a) The center shall develop the uniform reporting of a standard set of health
1939 care quality measures for each health care provider facility, medical group, or provider group in
1940 the commonwealth hereinafter referred to as the "standard quality measure set."

1941 (b) The center shall convene a statewide advisory committee which shall recommend to
1942 the center a standard quality measure set. The statewide advisory committee shall consist of the
1943 executive director of the center or designee, who shall serve as the chairperson; the executive
1944 director of the group insurance commission or designee, the Medicaid director or designee; and 7
1945 representatives of organizations to be appointed by the governor, 1 of whom shall be a
1946 representative from an acute care hospital or hospital association, 1 of whom shall be a
1947 representative from a provider group or medical association or provider association, 1 of whom
1948 shall be a representative from a medical group, 2 of whom shall be representatives of private
1949 health plans, 1 of whom shall be a representative from an employer association and 1 of whom
1950 shall be a representative from a health care consumer group.

1951 (c) In developing its recommendation of the standard quality measure set, the advisory
1952 committee shall, after consulting with state and national organizations that monitor and develop
1953 quality and safety measures, select from existing quality measures and shall not select quality
1954 measures that are still in development or develop its own quality measures. The committee shall
1955 annually recommend to the center any updates to the standard quality measure set on or before
1956 November 1. The committee may solicit for consideration and recommend other nationally
1957 recognized quality measures, including, but not limited to, recommendations from medical or
1958 provider specialty groups as to appropriate quality measures for that group's specialty. At a
1959 minimum, the standard quality measure set shall consist of the following quality measures: (1)
1960 the Centers for Medicare and Medicaid Services hospital process measures for acute myocardial
1961 infarction, congestive heart failure, pneumonia and surgical infection prevention; (2) the Hospital
1962 Consumer Assessment of Healthcare Providers and Systems survey; (3) the Healthcare
1963 Effectiveness Data and Information Set reported as individual measures and as a weighted

1964 aggregate of the individual measures by medical or provider group; and (4) the Ambulatory Care
1965 Experiences Survey. The standard quality measure set shall include outcome measures. The
1966 committee shall review additional appropriate outcome measures as they are developed.

1967 Section 15. (a) For the purposes of this section, the following words shall, unless the
1968 context clearly requires otherwise, have the following meanings:

1969 “Adverse event”, injury to a patient resulting from a medical intervention and not to the
1970 underlying condition of the patient.

1971 “Board”, the patient safety and medical errors reduction board.

1972 “Lehman center”, the Betsy Lehman center for patient safety and medical error reduction.

1973 “Incident”, an incident which, if left undetected or uncorrected, might have resulted in an
1974 adverse event.

1975 “Medical error”, the failure of medical management of a planned action to be completed
1976 as intended or the use of a wrong plan to achieve an outcome.

1977 “Patient safety”, freedom from accidental injury.

1978 (b) There shall be established within the center the Betsy Lehman center for patient safety
1979 and medical error reduction. The purpose of the Lehman center shall be to serve as a
1980 clearinghouse for the development, evaluation and dissemination, including, but not limited to,
1981 the sponsorship of training and education programs, of best practices for patient safety and
1982 medical error reduction. The Lehman center shall: (1) coordinate the efforts of state agencies
1983 engaged in the regulation, contracting or delivery of health care and those individuals or
1984 institutions licensed by the commonwealth to provide health care to meet their responsibilities

1985 for patient safety and medical error reduction; (2) assist all such entities to work as part of a total
1986 system of patient safety; and (3) develop appropriate mechanisms for consumers to be included
1987 in a statewide program for improving patient safety. The Lehman center shall coordinate state
1988 participation in any appropriate state or federal reports or data collection efforts relative to
1989 patient safety and medical error reduction. The Lehman center shall analyze available data,
1990 research and reports for information that would improve education and training programs that
1991 promote patient safety.

1992 (c) Within the Lehman center, there shall be established a patient safety and medical
1993 errors reduction board. The board shall consist of the secretary of health and human services, the
1994 executive director of the center, the director of consumer affairs and business regulations and the
1995 attorney general. The board shall appoint, in consultation with the advisory committee, the
1996 director of the Lehman center by a unanimous vote and the director shall, under the general
1997 supervision of the board, have general oversight of the operation of the Lehman center. The
1998 director may appoint or retain and remove expert, clerical or other assistants as the work of the
1999 Lehman center may require. The coalition for the prevention of medical errors shall serve as the
2000 advisory committee to the board. The advisory committee shall, at the request of the director,
2001 provide advice and counsel as it considers appropriate including, but not limited to, serving as a
2002 resource for studies and projects undertaken or sponsored by the Lehman center. The advisory
2003 committee may also review and comment on regulations and standards proposed or promulgated
2004 by the Lehman center, but the review and comment shall be advisory in nature and shall not be
2005 considered binding on the Lehman center.

2006 (d) The Lehman center shall develop and administer a patient safety and medical error
2007 reduction education and research program to assist health care professionals, health care facilities

2008 and agencies and the general public regarding issues related to the causes and consequences of
2009 medical error and practices and procedures to promote the highest standard for patient safety in
2010 the commonwealth. The Lehman center shall annually report to the governor and the general
2011 court relative to the feasibility of developing standards for patient safety and medical error
2012 reduction programs for any state department, agency, commission or board to reduce medical
2013 errors, and the statutory responsibilities of the commonwealth, for the protection of patients and
2014 consumers of health care together with recommendations to improve coordination and
2015 effectiveness of the programs and activities.

2016 (e) The Lehman center shall (1) identify and disseminate information about evidence-
2017 based best practices to reduce medical errors and enhance patient safety; (2) develop a process
2018 for determining which evidence-based best practices should be considered for adoption; (3) serve
2019 as a central clearinghouse for the collection and analysis of existing information on the causes of
2020 medical errors and strategies for prevention; and (4) increase awareness of error prevention
2021 strategies through public and professional education. The information collected by the Lehman
2022 center or reported to the Lehman center shall not be a public record as defined in section 7 of
2023 chapter 4, shall be confidential and shall not be subject to subpoena or discovery or introduced
2024 into evidence in any judicial or administrative proceeding, except as otherwise specifically
2025 provided by law.

2026 (f) The Lehman center shall report annually to the general court regarding the progress
2027 made in improving patient safety and medical error reduction. The Lehman center shall seek
2028 federal and foundation support to supplement state resources to carry out the Lehman center's
2029 patient safety and medical error reduction goals.

2030 Section 16. (a) The center shall publish an annual report based on the information
2031 submitted under sections 8, 9 and 10 concerning health care provider, provider organization and
2032 private and public health care payer costs and cost trends, section 13 of chapter 6D relative to
2033 market power reviews and section 15 relative to quality data. The center shall compare the costs
2034 and cost trends with the health care cost growth benchmark established by the health policy
2035 commission under section 9 of chapter 6D, analyzed by regions of the commonwealth, and shall
2036 detail: (1) baseline information about cost, price, quality, utilization and market power in the
2037 commonwealth's health care system; (2) cost growth trends for care provided within and outside
2038 of accountable care organizations and patient-centered medical homes; (3) cost growth trends by
2039 provider sector, including but not limited to, hospitals, hospital systems, non-acute providers,
2040 pharmaceuticals, medical devices and durable medical equipment; (4) factors that contribute to
2041 cost growth within the commonwealth's health care system and to the relationship between
2042 provider costs and payer premium rates; (5) the proportion of health care expenditures
2043 reimbursed under fee-for-service and alternative payment methodologies; (6) the impact of
2044 health care payment and delivery reform efforts on health care costs including, but not limited to,
2045 the development of limited and tiered networks, increased price transparency, increased
2046 utilization of electronic medical records and other health technology; (7) the impact of any
2047 assessments including, but not limited to, the health system benefit surcharge collected under
2048 section 68 of chapter 118E, on health insurance premiums; (8) trends in utilization of
2049 unnecessary or duplicative services, with particular emphasis on imaging and other high-cost
2050 services; (9) the prevalence and trends in adoption of alternative payment methodologies and
2051 impact of alternative payment methodologies on overall health care spending, insurance
2052 premiums and provider rates; (10) the development and status of provider organizations in the

2053 commonwealth including, but not limited to, acquisitions, mergers, consolidations and any
2054 evidence of excess consolidation or anti-competitive behavior by provider organizations; and
2055 (11) the impact of health care payment and delivery reform on the quality of care delivered in the
2056 commonwealth.

2057 As part of its annual report, the center shall report on price variation between health care
2058 providers, by payer and provider type. The center's report shall include: (1) baseline information
2059 about price variation between health care providers by payer including, but not limited to,
2060 identifying providers or provider organizations that are paid more than 10 per cent above or more
2061 than 10 per cent below the average relative price and identifying payers which have entered into
2062 alternative payment contracts that vary by more than 10 per cent; (2) the annual change in price
2063 variation, by payer, among the payer's participating providers; (3) factors that contribute to price
2064 variation in the commonwealth's health care system; (4) the impact of price variations on
2065 disproportionate share hospitals and other safety net providers; and (5) the impact of health
2066 reform efforts on price variation including, but not limited to, the impact of increased price
2067 transparency, increased prevalence of alternative payment contracts and increased prevalence of
2068 accountable care organizations and patient centered medical homes.

2069 The center shall publish and provide the report to health policy commission at least 30
2070 days before any hearing required under section 8 of chapter 6D. The center may contract with an
2071 outside organization with expertise in issues related to the topics of the hearings to produce this
2072 report.

2073 (b) The center shall participate in the annual hearing required by section 8 of chapter 6D
2074 and advise and assist the health policy commission in conducting such hearing including, but not

2075 limited to, identifying witnesses and examining and cross-examining providers, provider
2076 organizations and payers regarding any issues material to the subject of such hearings.

2077 (c) The center shall provide technical assistance to the health policy commission in
2078 compiling the annual report required by section 8 of chapter 6D including, but not limited to,
2079 providing access to any data collected by the center under section 8, 9 and 10 and providing
2080 analysis regarding spending trends and factors underlying the spending trends.

2081 Section 17. The attorney general may review and analyze any information submitted to
2082 the center under sections 8, 9 and 10 and the health policy commission under section 8 of chapter
2083 6D. The attorney general may require that any provider, provider organization, or payer produce
2084 documents, answer interrogatories and provide testimony under oath related to health care costs
2085 and cost trends, factors that contribute to cost growth within the commonwealth's health care
2086 system and the relationship between provider costs and payer premium rates. The attorney
2087 general shall keep confidential all nonpublic information and documents obtained under this
2088 section and shall not disclose the information or documents to any person without the consent of
2089 the provider or payer that produced the information or documents except in a public hearing
2090 under section 8 of chapter 6D, a rate hearing before the division of insurance or in a case brought
2091 by the attorney general, if the attorney general believes that such disclosure will promote the
2092 health care cost containment goals of the commonwealth and that the disclosure should be made
2093 in the public interest after taking into account any privacy, trade secret or anti-competitive
2094 considerations. The confidential information and documents shall not be public records and shall
2095 be exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 or section 10 of
2096 chapter 66.

2097 Section 18. The center shall perform ongoing analysis of data it receives under sections 8,
2098 9 and 10 to identify any payers, providers or provider organizations whose increase in health
2099 status adjusted total medical expense is considered excessive and who threaten the ability of the
2100 state to meet the health care cost growth benchmark established by the health care finance and
2101 policy commission under section 10 of chapter 6D. The center shall confidentially provide a list
2102 of the payers, providers and provider organizations to the health policy commission such that the
2103 authority may pursue further action under section 10 of chapter 6D.

2104 Section 19. The center shall review and comment upon all capital expenditure projects
2105 requiring a determination of need under section 25C of chapter 111, including, but not limited to,
2106 the availability and accessibility of services similar to those provided, or proposed to be
2107 provided, through the provider organization within its primary service areas and dispersed
2108 service areas; the provider organization's impact on competing options for the delivery of health
2109 care services within its primary service areas and dispersed service areas; less costly or more
2110 effective alternative financing methods for the projects; the immediate and long-term financial
2111 feasibility of the projects; the probable impact of the project on costs of and charges for services;
2112 and the availability of funds for capital and operating needs. The center may transmit to the
2113 department of public health its written recommendations on each project. The center shall
2114 appear and comment on any application for a determination of need where a public hearing is
2115 required under said section 25C of said chapter 111.

2116 Section 20. (a) The center, in consultation with commission, the executive office of
2117 health and human services, the department of public health and such other agencies or authorities
2118 as it deems appropriate, shall maintain a consumer health information website. The website shall
2119 contain information comparing the quality, price and cost of health care services. The website

2120 shall also provide information about provider and payer achievement of cost benchmarks and
2121 growth goals. The website may also contain general health care information as the center
2122 considers appropriate. The website shall be designed to assist consumers in making informed
2123 decisions regarding their medical care and informed choices among health care providers.
2124 Information shall be presented in a format that is understandable to the average consumer. The
2125 center shall publicize the availability of its website.

2126 (b) The website shall provide updated information on a regular basis, at least annually,
2127 and additional comparative quality, price and cost information shall be published as determined
2128 by the center. To the extent possible, the website shall include: (1) comparative price and cost
2129 information for the most common referral or prescribed services, as determined by the center,
2130 categorized by payer and listed by facility, provider, and provider organization or other
2131 groupings, as determined by the center ; (2) comparative quality information, as determined by
2132 the center, available by facility, provider, provider organization or any other provider grouping,
2133 as determined by the center, for each such service or category of service for which comparative
2134 price and cost information is provided; (3) general information related to each service or
2135 category of service for which comparative information is provided; (4) comparative quality
2136 information, as determined by the center, available by facility, provider, provider organization or
2137 other groupings, as determined by the center, that is not service-specific, including information
2138 related to patient safety and satisfaction; (5) data concerning healthcare-associated infections and
2139 serious reportable events reported under section 51H of chapter 111; (6) definitions of common
2140 health insurance and medical terms, including, but not limited to, those determined under
2141 sections 2715(g)(2) and (3) of the Public Health Service Act, so that consumers may compare
2142 health coverage and understand the terms of their coverage; (7) a list of health care provider

2143 types, including but not limited to primary care physicians, nurse practitioners and physician
2144 assistants, and what types of services they are authorized to perform in the commonwealth under
2145 applicable state and federal scope of practice laws; (8) factors consumers should consider when
2146 choosing an insurance product or provider group, including, but not limited to, provider network,
2147 premium, cost-sharing, covered services, and tiering; (9) patient decision aids, which are
2148 interactive, written or audio-visual tools that provide a balanced presentation of the condition and
2149 treatment or screening options, benefits and harms, with attention to the patient's preferences and
2150 values, and which may facilitate conversations between patients and their health care providers
2151 about preference-sensitive conditions or diseases such as chronic back pain, early stage of breast
2152 and prostate cancers, hip osteoarthritis, and cataracts; provided, however, that decision aids shall
2153 be made available on, but not be limited to, long-term care and supports and palliative care; (10)
2154 a list of provider services that are physically and programmatically accessible for people with
2155 disabilities; and (11) descriptions of standard quality measures, as determined by the center.

2156 (c) The center shall develop and adopt, on an annual basis, a reporting plan specifying
2157 the quality and cost measures to be included on the consumer health information website and the
2158 security measures used to maintain confidentiality and preserve the integrity of the data. In
2159 developing the reporting plan, the center, to the extent possible, shall collaborate with other
2160 organizations or state or federal agencies that develop, collect and publicly report health care
2161 quality and cost measures and the center shall give priority to those measures that are already
2162 available in the public domain. As part of the reporting plan, the center shall determine for each
2163 service the comparative information to be included on the consumer health information website.

2164 (d) In designing and maintaining the website, the center may conduct research regarding
2165 ease of use of the website by health care consumers, consult with organizations that represent

2166 health care consumers, and conduct focus groups that represent a cross section of health care
2167 consumers in the commonwealth, including low income consumers and consumers with limited
2168 literacy. The website shall comply with the Americans with Disabilities Act.

2169 Section 21. The center shall establish a continuing program of investigation and study of
2170 the uninsured and underinsured in the commonwealth, including the health insurance needs of
2171 the residents of the geographically isolated or rural areas of the commonwealth. Said continuing
2172 investigation and study shall examine the overall impact of programs developed by the center
2173 and the division of medical assistance on the uninsured, the underinsured and the role of
2174 employers in assisting their employees in affording health insurance.

2175 Section 22. (a) Any provider of health care services that receives reimbursement or
2176 payment for treatment of injured workers under chapter 152 and any provider of health care
2177 services other than an acute or non-acute hospital that receives reimbursement or payment from
2178 any governmental unit for general health supplies, care and rehabilitative services and
2179 accommodations, shall, as a condition of such reimbursement or payment: (1) permit the
2180 executive director, or the executive director's designated representative and the attorney general
2181 or a designee, to examine such books and accounts as may reasonably be required for the center
2182 to perform its duties; (2) file with the executive director from time to time or on request, such
2183 data, statistics, schedules or other information as the center may reasonably require, including
2184 outcome data and such information regarding the costs, if any, of the provider for research in the
2185 basic biomedical or health delivery areas or for the training of health care personnel which are
2186 included in the provider's charges to the public for health care services, supplies and
2187 accommodations; and (3) accept reimbursement or payment at the rates established by the
2188 secretary of health and human services or a governmental unit designated by the executive

2189 office, subject to a right of appeal under section 13E of chapter 118E, as discharging in full any
2190 and all obligations of an eligible person and the governmental unit to pay, reimburse or
2191 compensate the provider of health care services in any way for general health supplies, care and
2192 rehabilitative services or accommodations provided.

2193 (b) Any provider of health care services that knowingly fails to file with the center data,
2194 statistics, schedules or other information required under this section or by any regulation
2195 promulgated by the center or knowingly falsifies the same shall be punished by a fine of not less
2196 than \$100 nor more than \$500.

2197 (c) If, upon application by the center or its designated representative, the superior court
2198 upon summary hearing determines that a provider of health care services has, without justifiable
2199 cause, refused to permit any examination or to furnish information, as required in this section; it
2200 shall issue an order directing all governmental units to withhold payment for general health
2201 supplies, care and rehabilitative services and accommodations to such provider of services until
2202 further order of the court.

2203 (d) In addition, the appropriate licensing authority may suspend or revoke, after an
2204 adjudicatory proceeding under chapter 30A, the license of any provider of health care services
2205 that knowingly fails to file with the center data, statistics, schedules or other information required
2206 by this section or by any regulation of the center or that knowingly falsifies the same.

2207 SECTION 20. Section 18 of chapter 15A of the General Laws, as appearing in the 2010
2208 Official Edition, is hereby amended by striking out, in line 14 and in line 36, the words “division
2209 of health care finance and policy”, each time they appear, and inserting in place thereof, in each
2210 instance, the following words:- commonwealth health insurance connector.

2211 SECTION 21. Section 8H of chapter 26 of the General Laws, as so appearing, is hereby
2212 amended by striking out, in lines 60, 64, 71 and 72 and 73 and 74 the words “division of health
2213 care finance and policy”, each time they appear, and inserting in place thereof, in each instance,
2214 the following words:- center for health information and analysis.

2215 SECTION 22. Said section 8H of said chapter 26, as so appearing, is hereby further
2216 amended by striking out, in lines 55, 56, 77 and 78 the words “uncompensated care pool under
2217 section 18 of chapter 118G” and inserting in place thereof, in each instance, the following
2218 words:- health safety net under chapter 118E .

2219 SECTION 23. Chapter 26 of the General Laws is hereby amended by inserting after
2220 section 8J, as so appearing, the following section:-

2221 Section 8K. The commissioner of insurance may implement and enforce applicable
2222 provisions of the federal Mental Health Parity and Addiction Equity Act, section 511 of Public
2223 Law 110-343, and applicable state mental health parity laws, including section 22 of chapter
2224 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter 176B and
2225 sections 4, 4B and 4M of chapter 176G of the General Laws, in regard to any carrier licensed
2226 under chapters 175, 176A, 176B and 176G.

2227 SECTION 24. Section 2000 of chapter 29 of the General Laws, as so appearing, is
2228 hereby amended by striking out, in line 6, the words “18B of chapter 118G” and inserting in
2229 place thereof the following words:- 18 of chapter 176Q.

2230 SECTION 25. Said section 2000 of said chapter 29, as so appearing, is hereby further
2231 amended by striking out, in line 16, the words “established by section 18 of chapter 118G”.

2232 SECTION 26. Section 2PPP of said chapter 29, as so appearing, is hereby amended by
2233 striking out, in lines 16 and 17, the words “section 35 of chapter 118G” and inserting in place
2234 thereof the following words:- section 65 of chapter 118E.

2235 SECTION 27. Section 2RRR of said chapter 29, as so appearing, is hereby amended by
2236 striking out clauses (a) to (c), inclusive, and inserting in place thereof the following 2 clauses:-
2237 (a) any federal financial participation received by the commonwealth as a result of expenditures
2238 funded by such assessments, and (b) any interest thereon.

2239 SECTION 28. Said chapter 29 is hereby further amended striking out section 2FFFF,
2240 inserted by section 60 of chapter 139 of the acts of 2012 and inserting in place thereof the
2241 following section:-

2242 Section 2FFFF. There is hereby established and set up on the books of the
2243 commonwealth a separate fund to be known as the Health Care Workforce Transformation Fund,
2244 hereinafter called the fund. The fund shall be administered by the secretary of labor and
2245 workforce development in consultation with the Health Care Workforce Advisory Board,
2246 established in subsection (b) ; The secretary shall make expenditures from the Health Care
2247 Workforce Transformation Fund, without further appropriation; provided, however, that not
2248 more than 10 per cent of the amount held in the fund in any 1 year shall be used by the secretary
2249 for the combined cost of program administration, technical assistance to grantees and program
2250 evaluation. The secretary may contract with any appropriate entity to administer the fund or any
2251 portion therein.

2252 (b) There shall be a Health Care Workforce Trust Fund Advisory Board constituted to
2253 make recommendations to the director secretary concerning the administration and allocation of
2254 the fund and establishing evaluation criteria.

2255 The board shall consist of the following members: the secretary of labor and workforce
2256 development who shall serve as chairperson; the executive director of the commission or a
2257 designee; the commissioner of public health or a designee, and no more than 13 members who
2258 shall be appointed by the secretary and who shall reflect a broad distribution of diverse
2259 perspectives on the health care system and health care workforce needs, including health care
2260 providers, health care payers, health care employers, labor organizations, educational
2261 institutions, and consumer representatives.

2262 (c) The comptroller shall annually transfer not less than 20 per cent of available funds in
2263 the fund to the department of public health, without requiring the approval of the secretary of
2264 labor and workforce development, to be expended on the following programs:

2265 (1) The health care workforce loan repayment program, established under section
2266 25N of chapter 111, as administered by the healthcare workforce center;

2267 (2) The primary care residency grant program, established under section 25N $\frac{1}{2}$
2268 of chapter 111;

2269 (3) a primary care workforce development and loan forgiveness grant program at
2270 community health centers, established under section 25N $\frac{3}{4}$ of chapter 111.

2271 The secretary may also designate up to 10 per cent of available funds to be transferred by
2272 the comptroller to the Massachusetts Nursing and Allied Health Workforce Development Trust

2273 Fund established in section 33 of chapter 305 of the acts of 2008 to develop and support
2274 strategies that increase the number of public higher education faculty members and students who
2275 participate in programs that support careers in fields related to nursing and allied health. The
2276 secretary shall only designate funds for this purpose to the extent that the Massachusetts Nursing
2277 and Allied Health Workforce Development Trust Fund does not receive adequate funding in the
2278 annual appropriations bill approved by the general court.

2279 (d) Remaining monies from the fund shall be expended on programs that have 1 or more
2280 of the following purposes, with a focus on aligning expenditures with industry needs:

2281 (1) support the development and implementation of programs to enhance health
2282 care worker retention rates;

2283 (2) address critical health care workforce shortages;

2284 (3) improve employment in the health care industry for low-income individuals
2285 and low-wage workers;

2286 (4) provide training, educational, or career ladder services for currently employed
2287 or unemployed health care workers who are seeking new positions or responsibilities within the
2288 health care industry;

2289 (5) provide training or educational services for health care workers in emerging
2290 fields of care delivery models; or

2291 (6) fund rural health rotation programs, rural health clerkships, and rural health
2292 preceptorships at medical and nursing schools to expose students to practicing in rural and small
2293 town communities.

2294 (e) The secretary shall establish a competitive grant process for funds expended on
2295 programs under subsection (d). Eligible applicants shall include: employers and employer
2296 associations; local workforce investment boards; labor organizations; joint labor-management
2297 partnerships; community-based organizations; institutions of higher education; vocational
2298 education institutions; one-stop career centers; local workforce development entities; and any
2299 partnership or collaboration between eligible applicants. Expenditures from the fund for such
2300 purposes shall complement and not replace existing local, state, private, or federal funding for
2301 training and educational programs. All approved activities funded through the fund shall support
2302 the commonwealth's efforts to meet the health care cost growth benchmark established under
2303 section 9 of chapter 6D.

2304 (f) A grant proposal submitted under subsection (e) shall include, but not be limited to:

2305 (1) a plan that defines specific goals for health care workforce training and
2306 educational improvements;

2307 (2) the evidence-based programs the applicant shall use to meet the goals;

2308 (3) a budget necessary to implement the plan, including a detailed description of
2309 any funding or in-kind contributions the applicant or applicants will be providing in support of
2310 the proposal;

2311 (4) any other private funding or private sector participation the applicant
2312 anticipates in support of the proposal; and

2313 (5) the anticipated number of individuals who would receive a benefit due to the
2314 implementation of the plan.

2315 Priority may be given to proposals that target areas of critical labor needs for the health
2316 care industry or that are projected to be critical labor needs of the health care industry in the near
2317 future, consistent with the state health plan developed under section 16T of chapter 6A.

2318 Priority may also be given to proposals that target geographic areas with specific health care
2319 workforce needs or that target geographic areas with unemployment levels higher than the state
2320 average. If no proposals were offered in areas of particular need, the secretary may provide
2321 technical assistance and planning grant funding directly to eligible applicants in order to develop
2322 grant proposals.

2323 The secretary shall, in consultation with the Health Care Workforce Advisory Board,
2324 develop guidelines for an annual review of the progress being made by each grantee. Each
2325 grantee shall participate in any evaluation or accountability process implemented by or
2326 authorized by the secretary.

2327 (g) There shall be credited to the fund all monies payable pursuant to (1) funds that are
2328 paid to the health care workforce loan repayment program, established under section 25N of
2329 chapter 111 as a result of a breach of contract and private funds contributed from other sources;
2330 and (2) any revenue from appropriations or other monies authorized by the general court and
2331 specifically designated to be credited to the fund, and any gifts, grants, private contributions,
2332 investment income earned on the fund's assets and all other sources. Money remaining in the
2333 fund at the end of a fiscal year shall not revert to the General Fund and shall be available for
2334 expenditure in the following fiscal year.

2335 (h) The fund shall supplement and not replace existing publically-financed health care
2336 workforce development programs.

(i) The secretary shall annually report on its strategy for administration and allocation of the fund, including relevant evaluation criteria, and short-term and long-term programmatic and policy recommendations to improve workforce performance, and on expenditures from fund. The report shall include, but shall not be limited to: (1) the revenue credited to the fund; (2) the amount of fund expenditures attributable to administrative costs; (3) an itemized list of the funds expended through the competitive grant process, loan repayment program, and primary care residency program, and a description of the grantee activities; and; (4) the results of the evaluation of the effectiveness of the activities funded through grants. The report shall be provided to the secretary of administration and finance, the chairpersons of the house and senate committees on ways and means, the joint committee on public health, the joint committee on health care financing and the joint committee on labor and workforce development and shall be posted on the executive office of labor and workforce development's website.

(j) The secretary center shall promulgate regulations necessary to carry out this section.

SECTION 29. Said chapter 29 is hereby further amended by inserting after section 2FFFF the following section:—

Section 2GGGG. (a) There shall be established and set upon the books of the commonwealth a separate fund to be known as the Distressed Hospital Trust Fund to be expended, without further appropriation, by the health policy commission. The fund shall consist public and private sources such as gifts, grants and donations, interest earned on such revenues and any funds provided from other sources.

The board of the health policy commission, as trustee, shall administer the fund and shall make expenditures from the fund consistent with this section; provided, however, that not more

2359 than 10 per cent of the amounts held in the fund in any 1 year shall be used by the commission
2360 for the combined cost of program administration, technical assistance to grantees or program
2361 evaluation.

2362 (b) Revenues deposited in the fund that are unexpended at the end of the fiscal year shall
2363 not revert to the General Fund and shall be available for expenditure in the following fiscal year.

2364 (c) All expenditures from the Distressed Hospital Trust Fund shall support the state's
2365 efforts to meet the health care cost growth benchmark established in section 9 of chapter 6D and
2366 shall be consistent with any activities funded by the e-Health Institute, the Healthcare Payment
2367 Reform Fund, and any delivery system transformation initiative funds authorized by the federal
2368 government. All expenditures shall have 1 or more of the following purposes: (1) to improve
2369 and enhance the ability of community hospitals to serve populations efficiently and effectively;
2370 (2) to advance the adoption of health information technology, including interoperable electronic
2371 health records systems; (3) to accelerate the ability to electronically exchange information with
2372 other providers in the community to ensure continuity of care; (4) to support infrastructure
2373 investments necessary for the transition to alternative payment methodologies, including
2374 technology investments in data analysis functions and performance management programs,
2375 including systems to promote provider price transparency, necessary to aggregate and analyze
2376 clinical data on a population level; (5) to aid in the development of care practices and other
2377 operational standards necessary for certification as an ACO under section 15 and 6D; and (6) to
2378 improve the affordability and quality of care.

2379 (d) The commission shall annually award a grant by a competitive grant process to
2380 qualified acute hospitals. To be eligible to receive a grant under this subsection, a qualified acute

2381 hospital shall not include: (1) any hospital that is a teaching hospital; (2) any hospital whose
2382 relative prices are above the statewide median relative price, as determined by the center for
2383 health information analysis; or, (3) a for-profit hospital or a hospital that is part of a for-profit
2384 hospital system.

2385 (e) A grant proposal submitted under subsection (d) shall include, but not be limited to:
2386 (1) a plan that defines specific goals for improving the efficiency and affordability of hospital
2387 care over a multi-year period; (2) the evidence-based programs the applicant shall use to meet
2388 the goals; (3) a budget necessary to implement the plan, including a detailed description of any
2389 funding or in-kind contributions the applicant or applicants will be providing in support of the
2390 proposal; (4) a plan for sustaining any investments after the expiration of grant funds; and (5)
2391 any other private funding or private sector participation the applicant anticipates in support of the
2392 proposal.

2393 In reviewing the grant applications, the commission shall consider, among other factors:
2394 (1) the financial health of the qualified acute hospital and the demonstrated need for investment,
2395 taking into account all resources available to the particular provider including the relationship or
2396 affiliation of the particular provider to a health care delivery system and the capacity of the
2397 system to provide financial support for the acute hospital; (2) the anticipated return on
2398 investment, as measured by improved health care coordination and a reduction in health care
2399 costs; (3) whether the investment will support innovative health care delivery and payment
2400 models as identified by the health care policy commission; and (4) geographic need and
2401 population need. In assessing financial health, the commission shall, in consultation with the
2402 center for health information and analysis, take into account days cash on hand, net working
2403 capital and earnings before income tax, payer mix, uncompensated care, and depreciation and

2404 amortization, and access to working capital. If the commission determines that no suitable
2405 proposals have been received, such that the specific needs remain unmet, the commission may
2406 work directly with qualified acute hospitals to develop grant proposals.

2407 (f) All approved grants shall contain a limit on the amount an acute hospital may spend
2408 on administrative or overhead spending related to the approved project, as determined by the
2409 commission.

2410 (g) Funding for all approved interoperable health information technology projects for
2411 qualified acute hospitals shall be prioritized from any available funds in the Distressed Hospital
2412 Trust Fund before any funds from the e-Health Institute Trust Fund may be utilized.

2413 (h) As a condition of an award, the commission may require a qualified hospital to agree
2414 to an independent financial and operational audit to recommend steps to increase sustainability
2415 and efficiency of the acute hospital.

2416 (i) The commission shall develop guidelines for an annual review of the progress being
2417 made by each grantee. Each grantee shall participate in any evaluation or accountability process
2418 implemented or authorized by the commission. In the event that any recipient of grant monies
2419 from this trust does not utilize funding in a manner consistent with the approved grant
2420 application, the recipient shall be required to repay to the commission all or some portion, as
2421 determined by the commission, of the grant funds previously provided to the recipient under this
2422 section.

2423 (j) The commission shall, annually on or before January 31, report on expenditures from
2424 the Distressed Hospital Trust Fund. The report shall include, but not be limited to: (1) the
2425 revenue credited to the fund; (2) the amount of fund expenditures attributable to the

2426 administrative costs of the commission; (3) an itemized list of the funds expended through the
2427 competitive grant process and a description of the grantee activities; and (4) the results of the
2428 evaluation of the effectiveness of the activities funded through grants. The report shall be
2429 provided to the chairpersons of the house and senate committees on ways and means and the
2430 joint committee on health care financing and shall be posted on the commission's website.

2431 (k) The commission shall promulgate regulations necessary to carry out this section.

2432 SECTION 30. Said chapter 29 is hereby further amended by inserting after section 7H
2433 the following section:-

2434 Section 7H ½. (a) As used in this section the following words shall, unless the context
2435 clearly requires otherwise, have the following meanings:

2436 "Actual economic growth benchmark," the actual annual percentage change in the per
2437 capita state's gross state product, as established by the secretary of administration and finance
2438 under subsection (c).

2439 "Growth rate of potential gross state product", the long-run average growth rate of the
2440 commonwealth's economy, excluding fluctuations due to the business cycle.

2441 (b) On or before January 15, the secretary of administration and finance shall meet with
2442 the house and senate committees on ways and means and shall jointly develop a growth rate of
2443 potential gross state product for the ensuing calendar year which shall be agreed to by the
2444 secretary and the committees. In developing a growth rate of potential gross state product the
2445 secretary and the committees, or subcommittees of the committees, may hold joint hearings on
2446 the economy of the commonwealth; provided, however, that in the first year of the term of office

2447 of a governor who has not served in the preceding year, the parties shall agree to the growth rate
2448 of potential gross state product k not later than January 31 of that year. The secretary and the
2449 committees may agree to incorporate this hearing into any consensus tax revenue forecast
2450 hearing held under section 5B. The growth rate of potential gross state product shall be included
2451 with the consensus tax revenue forecast joint resolution under said section 5B and placed before
2452 the members of the general court for their consideration. The joint resolution, if passed by both
2453 branches of the general court, shall establish the growth rate of potential gross state product to be
2454 used by the health policy commission to establish the health care cost growth benchmark under
2455 section 9 of chapter 6D.

2456 (c) Not later than September 15 of each year, the secretary shall report the actual
2457 economic growth benchmark for the previous calendar year, based on the best information
2458 available at the time. The information shall be provided to the health policy commission
2459 established under chapter 6D.

2460 SECTION 31. Section 1 of chapter 29D of the General Laws, as appearing in the 2010
2461 Official Edition, is hereby amended by striking out, in line 13, the words “25 and 26 of chapter
2462 118G” and inserting in place thereof the following words:- 63 of chapter 118E.

2463 SECTION 32. Section 3 of said chapter 29D, as so appearing, is hereby amended by
2464 striking out, in line 18, the words “25 and 26 of chapter 118G” and inserting in place thereof the
2465 following words:- 63 of chapter 118E.

2466 SECTION 33. Said section 3 of said chapter 29D, as so appearing, is hereby further
2467 amended by striking out, in line 22, the words “25 and 26 of said chapter 118G” and inserting in
2468 place thereof the following words:- 63 of said chapter 118E.

2469 SECTION 34. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby
2470 amended by inserting after paragraph (h) the following paragraph:-

2471 (h 1/2) “Primary care provider”, a health care professional qualified to provide general
2472 medical care for common health care problems who; (1) supervises, coordinates, prescribes, or
2473 otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and
2474 (3) maintains continuity of care within the scope of practice.

2475 SECTION 35. Section 22 of said chapter 32A, as so appearing, is hereby amended by
2476 striking out, in line 36, the word “physician” and inserting in place thereof the following word:-
2477 provider.

2478 SECTION 36. Said chapter 32A is hereby amended by adding the following section:-

2479 Section 27. The commission shall require any carriers or third party administrators with whom it
2480 contracts to provide a toll-free telephone number and website that enables consumers to request
2481 and obtain from the carrier or third party administrator, within 2 working days, the estimated or
2482 maximum allowed amount or charge for a proposed admission, procedure or service and the
2483 estimated amount the insured will be responsible to pay for a proposed admission, procedure or
2484 service that is a medically necessary covered benefit, based on the information available to the
2485 carrier or third party administrator at the time the request is made, including any facility fee,
2486 copayment, deductible, coinsurance or other out of pocket amount for any covered health care
2487 benefits; provided, that the insured shall not be required to pay more than the disclosed amounts
2488 for the covered health care benefits that were actually provided; provided, however, that nothing
2489 in this section shall prevent carriers from imposing cost sharing requirements disclosed in the
2490 insured’s evidence of coverage for unforeseen services that arise out of the proposed admission,

2491 procedure or service; and provided further, that the carrier shall alert the insured that these are
2492 estimated costs, and that the actual amount the insured will be responsible to pay may vary due
2493 to unforeseen services that arise out of the proposed admission, procedure or service.

2494 SECTION 37. Section 27 of chapter 32A, as inserted by section 36, is hereby amended
2495 by striking out the words “within 2 working days” and inserting in place thereof the following
2496 words:- “in real time”.

2497 SECTION 38. Chapter 40J of the General Laws is hereby amended by striking out
2498 sections 6D and 6E, as so appearing, and inserting in place thereof the following 2 sections:-

2499 Section 6D. (a) There shall be established an institute for health care innovation,
2500 technology and competitiveness, to be known as the Massachusetts e-Health Institute. The
2501 executive director of the corporation shall appoint a qualified individual to serve as the director
2502 of the institute, who shall be an employee of the corporation, report to the executive director and
2503 manage the affairs of the institute. The institute shall advance the dissemination of health
2504 information technology across the commonwealth, including the deployment of interoperable
2505 electronic health records systems in all health care provider settings that are networked through a
2506 statewide health information exchange. The institute shall (1) conduct the regional extension
2507 center program for the coordination and implementation of electronic health records systems by
2508 providers; (2) fulfill its current and any future contract obligations with the Office of Medicaid to
2509 administer specific operational components of the MassHealth electronic health records incentive
2510 program; and (3) develop a plan to complete the implementation of electronic health records
2511 systems by all providers in the commonwealth.

2512 (b) The institute, in consultation with the health information technology council
2513 established under section 2 of chapter 118I of the General Laws, shall advance the dissemination
2514 of health information technology and support the state's efforts in meeting the health care cost
2515 growth benchmark established under section 9 of chapter 6D by: (1) facilitating the
2516 implementation and use of interoperable electronic health records systems by health care
2517 providers in order to improve health care delivery and coordination, reduce unwarranted
2518 treatment variation, eliminate wasteful paper-based processes, help facilitate chronic disease
2519 management initiatives and establish transparency; (2) supporting the council in the creation and
2520 maintenance of a statewide interoperable electronic health information exchange that allows
2521 individual health care providers in all health care settings to exchange patient health information
2522 with other providers; (3) identifying and promoting an accelerated dissemination in the
2523 commonwealth of emerging health care technologies that have been developed and employed
2524 and that are expected to improve health care quality and lower health care costs, but that have not
2525 been widely implemented in the commonwealth, including, but not limited to, evidence-based
2526 clinical decision support and image exchange tools for advanced diagnostic imaging services; (4)
2527 facilitating health care providers in achieving and maintaining compliance with the standards for
2528 meaningful use, beyond stage 1, established by regulation by the United States Department of
2529 Health and Human Services under the Health Information Technology for Economic and Clinical
2530 Health Act and referred to in this section as "meaningful use"; and (5) promoting to patients,
2531 providers and the general public, a broad understanding of the benefits of interoperable
2532 electronic health records systems for care delivery, care coordination, improved quality and
2533 ultimately greater cost efficiency in the health care delivery system.

2534 (c) The institute director shall prepare and annually update a statewide electronic health
2535 records plan. Each plan shall contain a budget for the application of funds from the e-Health
2536 Institute Fund for use in implementing each plan. The institute director shall submit the plans and
2537 updates, and associated budgets, to the council for its review and comment. Each plan and the
2538 associated budget shall be subject to approval of the board following review by the council. Each
2539 plan shall be consistent with the statewide health information exchange plan developed by the
2540 health information technology council under section 4 of chapter 118I.

2541 Components of each plan, as updated, shall be community-based implementation plans
2542 that assess a municipality's or region's readiness to implement and use electronic health record
2543 systems and an interoperable electronic health records network within the referral market for a
2544 defined patient population. Each implementation plan shall address the development,
2545 implementation and dissemination of interoperable electronic health records systems among
2546 health care providers in the community or region, particularly providers, such as community
2547 health centers and community-based behavioral health, substance use disorder and mental health
2548 care providers that serve underserved populations, including, but not limited to, racial, ethnic and
2549 linguistic minorities, uninsured persons and areas with a high proportion of public payer care.

2550 Each plan as updated shall: (1) allow seamless, secure electronic exchange of health
2551 information among health care providers, health plans and other authorized users; (2) provide
2552 consumers with secure, electronic access to their own health information; (3) meet all applicable
2553 federal and state privacy and security requirements, including requirements imposed by 45
2554 C.F.R. §§ 160, 162 and 164; (4) meet standards for interoperability adopted by the institute;
2555 provided that the standards are consistent with the statewide health information exchange plan
2556 developed by the health information technology council under section 5 of chapter 118I ; (5)

2557 give patients the option of allowing only designated health care providers to disseminate their
2558 individually identifiable information; (6) provide public health reporting capability as required
2559 under state law; (7) support any activities funded by the Healthcare Payment Reform Fund; and
2560 (8) allow reporting of health information other than identifiable patient health information for
2561 purposes of such activities as the secretary of health and human services may consider necessary.

2562 (d) The corporation may contract with implementing organizations to: (1) facilitate a
2563 public-private partnership that includes representation from hospitals, physicians and other
2564 health care professionals, health insurers, employers and other health care purchasers, health data
2565 and service organizations and consumer organizations; (2) provide resources and support to
2566 recipients of grants awarded under subsection (f) to implement each program within the
2567 designated community pursuant to the implementation plan; (3) certify and disburse funds to
2568 subcontractors, when necessary; (4) provide technical assistance to facilitate successful practice
2569 redesign, adoption of electronic health records and utilization of care management strategies; (5)
2570 ensure that electronic health records systems are fully interoperable and secure and that sensitive
2571 patient information is kept confidential by exclusively utilizing electronic health records
2572 products that are certified by the Office of the National Coordinator under the federal Health
2573 Information Technology for Economic and Clinical Health Act; and (6) certify, with approval of
2574 the corporation, a group of subcontractors who shall provide the necessary hardware and
2575 software for system implementation. Before to the institute's issuing requests for proposals for
2576 contracts to be entered into under this section, the institute's director shall consult with the
2577 council with respect to the content of all such proposals. Nothing in this section shall be
2578 construed to provide the corporation or the institute any authority with respect to any contract

2579 relating to the development and implementation of the statewide health information exchange by
2580 the executive office of health and human services under section 2 of chapter 118I.

2581 (e) Funding for the institute's activities shall be through the e-Health Institute Fund,
2582 established in section 6E. The institute, in consultation with the health information technology
2583 council, shall develop mechanisms for funding health information technology, including a grant
2584 program to assist health care providers with costs associated with health information
2585 technologies, including electronic health records systems, and coordinated with other electronic
2586 health records projects seeking federal reimbursement. Providers eligible for receipt of amounts
2587 from the Fund shall be limited to (1) any individual or institutional provider of health care
2588 services that is not in a category of individual or institutional provider eligible to receive
2589 Medicare or Medicaid incentive payments under the federal Health Information Technology for
2590 Economic and Clinical Health Act, such payments being referred to in this subsection as
2591 "incentive payments," and that lack access, as reasonably determined by the director of the
2592 institute, to resources needed to implement interoperable electronic health records systems that
2593 satisfy standards established by the institute; and (2) physicians, hospitals and community health
2594 centers that are eligible for incentive payments but lack access, as reasonably determined by the
2595 director of the institute, to resources needed to support their meeting meaningful use standards as
2596 determined in accordance with the federal Health Information Technology for Economic and
2597 Clinical Health Act. In the case of hospitals eligible for funding from the Distressed Hospital
2598 Trust Fund, established under section 2GGGG of chapter 29 and administered by the health
2599 policy commission under section 2 of chapter 6D, the institute shall first determine if there is
2600 available funding within the Distressed Hospital Fund to support their meeting meaningful use
2601 standards as determined in accordance with the federal Health Information Technology for

2602 Economic and Clinical Health Act. Individual or institutional providers under clause (1) may
2603 include, but shall not be limited to, mental health facilities and community-based behavioral
2604 health, substance use disorder and mental health care providers, chronic care and rehabilitation
2605 hospitals, skilled nursing facilities, visiting nursing associations, home health providers,
2606 registered nurses, licensed practical nurses, physicians, physician assistants, chiropractors,
2607 dentists, occupational therapists, physical therapists, optometrists, pharmacists, podiatrists,
2608 psychologists and social workers. In making the determinations regarding available resources as
2609 described in clauses (1) and (2), the director of the institute shall consider:

2610 (A) the demonstrated need for investment, taking into account all resources
2611 available to the particular provider including the relationship or affiliation of the particular
2612 provider to a health care delivery system and the capacity of such system to provide financial
2613 support for the provider's meeting the standards established by the institute or meaningful use
2614 standards;

2615 (B) the anticipated return on investment, as measured by improved health care
2616 coordination, reduction in health care costs, reduction in unwarranted treatment variation and
2617 elimination of wasteful paper-based processes;

2618 (C) the amount of financial or in-kind support the particular provider will commit
2619 to supplementing or supporting any investment by the corporation;

2620 (D) whether there is a reasonable likelihood that the provider's use of such
2621 amounts will achieve the long term benefits expected from implementing an interoperable
2622 electronic health records system;

2623 (E) whether the investment will support innovative health care delivery and
2624 payment models as identified by the health policy commission;

2625 (F) whether the investment will support efforts to integrate mental health,
2626 behavioral and substance use disorder services with overall medical care;

2627 (G) the extent to which the investment will support efforts to meet the health care
2628 cost growth benchmark established by the health policy commission;

2629 (H) whether the provider serves a high proportion of public payer clients; and

2630 (I) any other factors that the director determines are appropriate.

2631 The institute shall consult with the office of Medicaid to maximize all opportunities to
2632 qualify any expenditures for federal financial participation. Applications for funding shall be in
2633 the form and manner determined by the institute director, and shall include the information and
2634 assurances required by the institute director. The institute director may consider, as a condition
2635 for awarding grants, the grantee's financial participation and any other factors it deems relevant.

2636 All grants shall be recommended by the institute director and subsequently approved by
2637 the executive director. The institute director shall work with implementation organizations to
2638 oversee the grant-making process as it relates to an implementing organization's responsibilities
2639 under its contract with the corporation. Each recipient of monies from this program shall: (i)
2640 capture and report certain quality improvement data, as determined by the institute in
2641 consultation with the department of public health and the center for health information and
2642 analysis; (ii) fully implement an electronic health record system, including all clinical features,
2643 with the maximum feasible level of interoperability, not later than the second year of the grant;

2644 and (iii) make use of the system's full range of features. In the event that any recipient of grant
2645 monies from this program does not achieve installation of a fully functioning electronic health
2646 record system or does not achieve the appropriate level of interoperability within the 2 year grant
2647 period, such recipient shall be required to repay to the corporation all or some portion, as
2648 determined by the corporation, of the grant funds previously provided to such recipient under
2649 this section.

2650 (I) The institute shall establish a pilot partnership with community colleges or vocational
2651 technology schools in the commonwealth to support health information technology curriculum
2652 development and workforce development. Funding for the program shall be from the Health
2653 Care WorkForce Transformation Trust Fund established under section 2FFFF of chapter 29.

2654 (J) The institute shall encourage and promote the implementation by hospitals, clinics,
2655 and health care networks of evidence-based best practice clinical decision support tools for the
2656 ordering provider of advanced diagnostic imaging services by January 1, 2017. Advanced
2657 diagnostic imaging services shall include, but is not limited to, computerized tomography,
2658 magnetic resonance imaging, magnetic resonance angiography, positron emission tomography,
2659 nuclear medicine, and such other imaging services. The institute shall develop clinical decision
2660 support guidelines and protocols that may be incorporated into the provider order entry systems
2661 of hospitals and the electronic health records of providers, to the maximum extent possible for
2662 certified EHR technology. The use of such decision support tools shall meet the privacy and
2663 security standards promulgated pursuant to the federal Health Insurance Portability and
2664 Accountability Act of 1996 (Public Law 104-119).

2665 In addition, the institute shall advance the dissemination of innovative technologies,
2666 including, but not limited to, those technologies that would allow diagnostic imaging exams to be
2667 seamlessly processed and transferred electronically through means that may include, but shall
2668 not be limited to, cloud-based technologies.

2669 (K) The institute shall file an annual report, not later than January 30, with the joint
2670 committee on health care financing, the joint committee on economic development and emerging
2671 technologies and the house and senate committees on ways and means concerning the activities
2672 of the institute in general and, in particular, describing the progress to date in implementing
2673 interoperable provider electronic health records systems and recommending such further
2674 legislative action as it considers appropriate.

2675 Section 6E. (a) There shall be established and set up on the books of the corporation a
2676 separate fund to be known as the e-Health Institute Fund, referred to in this section as the fund.
2677 There shall be credited to the fund revenue from appropriations or other monies authorized by
2678 the general court and specifically designated to be credited to the fund, including but not limited
2679 to any investment income earned on the fund's assets and all other sources. The corporation
2680 shall hold the fund in an account or accounts separate from other funds, including other funds
2681 established under this chapter. Amounts credited to the fund shall be available for reasonable
2682 expenditure by the corporation, without further appropriation, for any and all activities consistent
2683 with this section and supportive of the purposes specified in section 6D, including but not limited
2684 to, in the form of grants, contracts, loans and such other vehicles as the corporation may
2685 determine are appropriate. Amounts credited to the fund shall be expended or applied only with
2686 the approval of the executive director of the corporation upon consultation with the health
2687 information technology council established under section 2 of chapter 118I of the General Laws.

2688 Amounts credited to the fund shall not be applied to the commonwealth's match for federal
2689 funds for which a state match is required unless the federal funds to be matched are allocated to
2690 the corporation for use to further the purposes set out in this section, as reasonably determined by
2691 the executive director of the corporation; provided, however, that there are no other sources of
2692 funds available to meet federal matching requirements in order to secure such federal funds, as
2693 reasonably determined by the executive director of the corporation. Revenues deposited in the
2694 fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and
2695 shall be available for expenditure in the following fiscal year.

2696 SECTION 39. Said chapter 40J is hereby further amended by inserting after section 6E
2697 the following section:-

2698 Section 6E ½. (a) There shall be established and set up on the books of the corporation
2699 the Massachusetts Health Information Technology Revolving Loan Fund, hereinafter referred to
2700 as the fund, the proceeds of which shall be used to provide zero-interest loans to health care
2701 providers and community-based behavioral health organizations to implement health information
2702 technology. There shall be credited to the fund any appropriations or other monies authorized by
2703 the general court and specifically designated to be credited to the fund; proceeds of any bonds or
2704 notes of the commonwealth issued for the purpose; any federal grants or loans; any private gifts,
2705 grants or donations made available; and any income derived from the investment of amounts
2706 credited to the fund. The director of the institute shall pursue and maximize all opportunities to
2707 qualify for federal financial participation. The institute shall seek, to the greatest extent possible,
2708 private gifts, grants and donations to the fund. The fund shall be held in an account or accounts
2709 separate from other funds. The fund shall be administered by the institute without further
2710 appropriation. Amounts credited to the fund shall be available for reasonable expenditure by the

2711 corporation, for purposes as the corporation determines are necessary to support the
2712 dissemination and development of health information technology in the commonwealth,
2713 including, but not limited to, the loan program established in this section. Any funds remaining
2714 in the fund at the end of a fiscal year shall be carried forward into the following fiscal year and
2715 shall remain available for expenditure without further appropriation.

2716 (b) The institute shall make available zero interest loan funding from the Massachusetts
2717 Health Information Technology Revolving Loan Fund to health care providers to assist with the
2718 development and implementation of an interoperable health information technology system that
2719 meets all federal and state requirements. The institute shall make the loans available through
2720 banks approved to do business in the commonwealth by the division of banks. The institute shall
2721 enter into agreements with the lenders to make loans. The institute, in consultation with the state
2722 treasurer, shall develop a lender partnership program and lender agreement that requires, at a
2723 minimum, (1) that a bank must be adequately capitalized, consistent with the requirements of
2724 209 CMR 47.00 et seq. and as defined under the prompt corrective action provisions of the
2725 Federal Deposit Insurance Act, 12 U.S.C. section 1831(o), and the Federal Deposit Insurance
2726 Corporation's Capital Adequacy Regulations, 12 CFR section 325.103; (2) the institute shall
2727 specify lending standards, including without limitation, those for determining eligibility,
2728 including the eligibility standards set forth in this subsection, size and number of loans, and (3)
2729 that all loans made under the program must be zero interest loans; provided, however, that the
2730 program may provide for reasonable application and administrative fees to be paid to lending
2731 banks under the program. A reasonable amount of administrative costs may be expended
2732 annually from the fund for the administration of the program. Any application or other fees
2733 imposed and collected under this program shall be deposited in the Massachusetts Health

2734 Information Technology Revolving Loan Fund for the duration of the loan program. The institute
2735 may make adjustments necessary to loan applications to account for reimbursements received
2736 under any other state or federal programs. To be eligible for a loan under this section, a health
2737 care provider, at a minimum, shall provide the participating lending institution with the
2738 following information: (A) the amount of the loan requested and a description of the purpose or
2739 project for which the loan proceeds will be used; (B) a price quote from a vendor; (C) a
2740 description of the health care provider or entities and other groups participating in the project;
2741 (D) evidence of financial condition and ability to repay the loan; and (E) a description of how the
2742 loan funds will be used to bring the health care provider into compliance with federal and state
2743 requirements. Loans shall be repaid over a 5-year term according to a schedule to be established
2744 through institute regulations. The attorney general shall enforce collection of any loans in
2745 default.

2746 The institute shall promulgate regulations necessary for the operation of this program.

2747 SECTION 40. Sections 6F and 6G of said chapter 40J are hereby repealed.

2748 SECTION 41. Chapter 62 of the General Laws is hereby amended by inserting after
2749 section 6M the following section:-

2750 Section 6N. (a) The purpose of this section shall be to provide incentives for business to
2751 recognize the benefits of wellness programs. Wellness programs implemented by business have
2752 resulted in both savings to their premiums as well as overall savings to the cost of health care.
2753 The goal of this tax credit is to provide smaller businesses with an expanded opportunity to
2754 implement these programs.

2755 (b) There is hereby established a Massachusetts wellness program tax credit. The total of
2756 all tax credits available to a taxpayer pursuant to this section or section 38FF of chapter 63 shall
2757 not exceed \$10,000 in any 1 tax year. A business that implements a wellness program shall be
2758 allowed a credit, to be computed as hereinafter provided, against taxes owed to the
2759 commonwealth under chapter 62 or chapter 63 or other applicable law. For the purposes of this
2760 section, "businesses" shall include professions, sole proprietorships, trades, businesses, or
2761 partnerships.

2762 (c) The credit allowed under this chapter shall be equal to 25 per cent of the costs
2763 associated with implementing a program certified under section 206A of chapter 111, with a
2764 maximum credit of \$10,000 per business in any 1 fiscal year. The department of public health
2765 shall determine the criteria for eligibility for the credit, the criteria to be set forth in regulations
2766 promulgated under this section and section 206A of chapter 111. The regulations shall require
2767 proof of using a wellness program qualified under section 206A of chapter 111. The department
2768 shall issue a certification to the taxpayer after the taxpayer submits documentation as required by
2769 the department. Such certification shall be acceptable as proof that the expenditures related to
2770 the implementation of a wellness program for the purposes of the credit allowed under this
2771 section.

2772 (d) Wellness program tax credits allowed to a business under this section shall be allowed
2773 for the taxable year in which the program is implemented; provided, however, that a tax credit
2774 allowed under this section shall not reduce the tax owed below zero. A taxpayer allowed a credit
2775 under this section for a taxable year may carry over and apply against such taxpayer's tax
2776 liability in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of
2777 those credits which exceed the tax for the taxable year.

2778 SECTION 41A. Section 6N of chapter 62 of the General Laws is hereby repealed.

2779 SECTION 43. Section 21 of said chapter 62C, as so appearing, is hereby amended by
2780 striking out, in lines 141 and 142, the words “division of health care finance and policy” and
2781 inserting in place thereof the following words:- executive office of health and human services.

2782 SECTION 44. Section 21 of said chapter 62C, as so appearing, is hereby further amended
2783 by striking out, in line 143, the word “118G” and inserting in place thereof the following word:-
2784 118E.

2785 SECTION 45. Section 21 of said chapter 62C, as so appearing, is hereby further amended
2786 by striking out, in line 145, the words “division of health care finance and policy” and inserting
2787 in place thereof the following words:- executive office of health and human services.

2788 SECTION 46. Said section 21 of said chapter 62C, as so appearing, is hereby further
2789 amended by striking out, in lines 148 and 149, the words “section 39 of chapter 118G” and
2790 inserting in place thereof the following words:- section 69 of chapter 118E.

2791 SECTION 47. Section 1 of chapter 62D of the General Laws, as appearing in the 2010
2792 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words “the division of
2793 health care finance and policy in the exercise of its duty to administer the uncompensated care
2794 pool pursuant to chapter 118G” and inserting in place thereof the following words:- the executive
2795 office of health and human services in the exercise of its duty to administer the Health Safety Net
2796 Trust Fund under chapter 118E.

2797 SECTION 48. Said section 1 of said chapter 62D, is hereby amended by striking out in
2798 lines 30 to 35, inclusive, as so appearing, the words “division of health care finance and policy

2799 on behalf of the uncompensated care pool by a person or a guarantor of a person who received
2800 free care services paid for in whole or in part by the uncompensated care pool or on whose behalf
2801 the uncompensated care pool paid for emergency bad debt, pursuant to subsection (m) of section
2802 18 of chapter 118G” and inserting in place thereof the following words:- executive office of
2803 health and human services on behalf of the Health Safety Net Trust Fund by a person or a
2804 guarantor of a person who received free care services paid for in whole or in part by the Health
2805 Safety Net Trust Fund or on whose behalf said fund paid for emergency bad debt.

2806 SECTION 49. Said section 1 of said chapter 62D is hereby amended by striking out, in
2807 line 55, as so appearing, the words “section 39 of chapter 118G” and inserting in place thereof
2808 the following words:- section 69 of chapter 118E.

2809 SECTION 50. Section 8 of said chapter 62D, as so appearing in the 2010 Official
2810 Edition, is hereby amended by striking out the second paragraph.

2811 SECTION 51. Section 10 of said chapter 62D, as so appearing, is hereby amended by
2812 striking out, in lines 8 and 9, the words “the division of medical assistance, the corporation, the
2813 office of the state comptroller, and the division of health care finance and policy” and inserting
2814 in place thereof the following words:- the office of medicaid, the corporation, the office of the
2815 state comptroller and the executive office of health and human services.

2816 SECTION 52. Section 13 of said chapter 62D, as so appearing, is hereby amended by
2817 striking out, in lines 11 and 12, the words “section 39 of chapter 118G” and inserting in place
2818 thereof the following words:- section 69 of chapter 118E.

2819 SECTION 53. Section 3 of chapter 62E of the General Laws, as so appearing, is hereby
2820 amended by striking out, in lines 7 and 8, the words “division of health care finance and policy”

2821 and inserting in place thereof the following words:- executive office of health and human
2822 services.

2823 SECTION 54. Section 12 of said chapter 62E, as so appearing, is hereby amended by
2824 striking out, in lines 19 and 20, the words “division of health care finance and policy” and
2825 inserting in place thereof the following words:- executive office of health and human services.

2826 SECTION 55. Said section 12 of said chapter 62E, as so appearing, is hereby further
2827 amended by striking out, in lines 21 and 22, the words “sections 34 to 39, inclusive, of chapter
2828 118G and sections 6B, 6C and 18B of chapter 118G” and inserting in place thereof the following
2829 words:- sections 64 to 69, inclusive, of chapter 118E and sections 17 and 18 of chapter 176Q.

2830 SECTION 56. Chapter 63 of the General Laws is hereby amended by inserting after
2831 section 38EE the following section:-

2832 Section 38FF. (a) The purpose of this section shall be to provide incentives for business
2833 to recognize the benefits of wellness programs. Wellness programs implemented by business
2834 have resulted in both savings to their premiums as well as overall savings to the cost of health
2835 care. The goal of this tax credit is to provide smaller businesses with an expanded opportunity to
2836 implement these programs.

2837 (b) There is hereby established a Massachusetts wellness program tax credit. The total of
2838 all tax credits available to a taxpayer pursuant to this section or section 6N of chapter 62 shall not
2839 exceed \$10,000 in any 1 tax year. A business that implements a wellness program shall be
2840 allowed a credit, to be computed as hereinafter provided, against taxes owed to the
2841 commonwealth under chapter 62 or chapter 63 or other applicable law. For the purposes of this

2842 section, “businesses” shall include professions, sole proprietorships, trades, businesses or
2843 partnerships.

2844 (c) The credit allowed under this chapter shall be equal to 25 per cent of the costs
2845 associated with implementing the program, with a maximum credit of \$10,000 per business in
2846 any 1 fiscal year. The department of public health shall determine the criteria for eligibility for
2847 the credit, such criteria to be set forth in regulations promulgated under this section. The
2848 regulations shall require proof of using a wellness program qualified under section 206A of
2849 chapter 111. The department shall issue a certification to the taxpayer after the taxpayer submits
2850 documentation as required by the department. The certification shall be acceptable as proof that
2851 the expenditures related to the implementation of a wellness program for the purposes of the
2852 credit allowed under this section.

2853 (d) The credit allowed in this chapter for any taxable year shall not reduce the excise to
2854 less than the amount due under subsection (b) of section 39, section 67 or any other applicable
2855 section.

2856 (e) Wellness program tax credits allowed to a business under this section shall be allowed
2857 for the taxable year in which the program is implemented. A taxpayer allowed a credit under this
2858 section for a taxable year may carry over and apply against the taxpayer’s tax liability in any of
2859 the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which
2860 exceed the tax for the taxable year.

2861 SECTION 56A. Section 38FF of chapter 63 of the General Laws is hereby repealed.

2862 SECTION 57. Section 17A of chapter 66 of the General Laws, as appearing in the 2010
2863 Official Edition, is hereby amended by striking out, in line 11, the word “118G” and inserting in
2864 place thereof the following word:- 118E.

2865 SECTION 58. Section 3 of chapter 71B of the General Laws, as so appearing, is hereby
2866 amended by striking out, in line 177, the words “2A of chapter 118G” and inserting in place
2867 thereof the following words:- 13C of chapter 118E.

2868 SECTION 59. Section 1 of chapter 111 of the General Laws, as so appearing, is hereby
2869 amended by inserting after the definition of “Nuclear reactor” the following definition:-

2870 “Primary care provider”, a health care professional qualified to provide general medical
2871 care for common health care problems who; (1) supervises, coordinates, prescribes, or otherwise
2872 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
2873 maintains continuity of care within the scope of practice.

2874 SECTION 60. Said chapter 111 is hereby amended by inserting after section 2F the
2875 following 2 sections:-

2876 Section 2G. (a) There shall be established and set upon the books of the commonwealth a
2877 separate fund to be known as the Prevention and Wellness Trust Fund to be expended, without
2878 further appropriation, by the department of public health. The fund shall consist of revenues
2879 collected by the commonwealth including: (1) any revenue from appropriations or other monies
2880 authorized by the general court and specifically designated to be credited to the fund; (2) any
2881 fines and penalties allocated to the fund under the General Laws; (3) any funds from public and
2882 private sources such as gifts, grants and donations to further community-based prevention

2883 activities; (4) any interest earned on such revenues; and (5) any funds provided from other
2884 sources.

2885 The commissioner of public health, as trustee, shall administer the fund. The
2886 commissioner, in consultation with the Prevention and Wellness Advisory Board established
2887 under section 2H, shall make expenditures from the fund consistent with subsections (d) and (e);
2888 provided, that not more than 15 per cent of the amounts held in the fund in any 1 year shall be
2889 used by the department for the combined cost of program administration, technical assistance to
2890 grantees or program evaluation.

2891 (b) Revenues deposited in the fund that are unexpended at the end of the fiscal year shall
2892 not revert to the General Fund and shall be available for expenditure in the following fiscal year.

2893 (c) All expenditures from the Prevention and Wellness Trust Fund shall support the
2894 state's efforts to meet the health care cost growth benchmark established in section 9 of chapter
2895 6D and any activities funded by the Healthcare Payment Reform Fund and 1 or more of the
2896 following purposes: (1) reduce rates of the most prevalent and preventable health conditions,
2897 including substance abuse; (2) increase healthy behaviors; (3) increase the adoption of
2898 workplace-based wellness or health management programs that result in positive returns on
2899 investment for employees and employers; (4) address health disparities; or (5) develop a stronger
2900 evidence-base of effective prevention programming.

2901 (d) The commissioner shall annually award not less than 75 per cent of the Prevention
2902 and Wellness Trust Fund through a competitive grant process to municipalities, community-
2903 based organizations, health care providers, regional-planning agencies, and health plans that
2904 apply for the implementation, evaluation and dissemination of evidence-based community

2905 preventive health activities. To be eligible to receive a grant under this subsection, a recipient
2906 shall be: (1) a municipality or group of municipalities working in collaboration; (2) a
2907 community-based organization working in collaboration with 1 or more municipalities; (3) a
2908 health care provider or a health plan working in collaboration with 1 or more municipalities and
2909 a community-based organization; or (4) a regional planning agency. Expenditures from the fund
2910 for such purposes shall supplement and not replace existing local, state, private or federal public
2911 health-related funding; or a community-based organization or group of community-based
2912 organizations working in collaboration.

2913 (e) A grant proposal submitted under subsection (d) shall include, but not be limited to:
2914 (1) a plan that defines specific goals for the reduction in preventable health conditions and health
2915 care costs over a multi-year period; (2) the evidence-based programs the applicant shall use to
2916 meet the goals; (3) a budget necessary to implement the plan, including a detailed description of
2917 any funding or in-kind contributions the applicant or applicants will be providing in support of
2918 the proposal; (4) any other private funding or private sector participation the applicant anticipates
2919 in support of the proposal; (5) a commitment to include women, racial and ethnic minorities and
2920 low income individuals; and (6) the anticipated number of individuals that would be affected by
2921 implementation of the plan.

2922 Priority may be given to proposals in a geographic region of the state with a higher than
2923 average prevalence of preventable health conditions, as determined by the commissioner of
2924 public health, in consultation with the Prevention and Wellness Advisory Board. If no proposals
2925 were offered in areas of the state with particular need, the department shall ask for a specific
2926 request for proposal for that specific region. If the commissioner determines that no suitable

2927 proposals have been received, such that the specific needs remain unmet, the department may
2928 work directly with municipalities or community-based organizations to develop grant proposals.

2929 The department of public health shall, in consultation with the Prevention and Wellness
2930 Advisory Board, develop guidelines for an annual review of the progress being made by each
2931 grantee. Each grantee shall participate in any evaluation or accountability process implemented
2932 or authorized by the department.

2933 (f) The commissioner of public health may annually expend not more than 10 per cent of
2934 the Prevention and Wellness Trust Fund to support the increased adoption of workplace-based
2935 wellness or health management programming. The department of public health shall expend
2936 such funds for activities including, but not limited to: (1) developing and distributing
2937 informational tool-kits for employers, including a model wellness guide developed by the
2938 department; (2) providing technical assistance to employers implementing wellness programs;
2939 (3) hosting informational forums for employers; (4) promoting awareness of wellness tax credits
2940 provided through the state and federal government, including the wellness subsidy provided by
2941 the commonwealth health connector authority; (5) public information campaigns that quantify
2942 the importance of healthy lifestyles, disease prevention, care management and health promotion
2943 programs; and (6) providing stipends or grants to employers for the implementation and
2944 administration of workplace wellness programs in an amount up to 50 per cent of the costs
2945 associated with implementing the plan, subject to a cap as established by the commissioner based
2946 on available funds; provided, however, that any grants offered in connection with a workplace
2947 wellness program eligible for a tax credit under section 6N of chapter 62 and section 38FF of
2948 chapter 63 shall not, in combination with such tax credit, exceed 50 per cent of the costs
2949 associated with implementing the plan.

2950 The department of public health shall develop guidelines to annually review progress
2951 toward increasing the adoption of workplace-based wellness or health management
2952 programming.

2953 (g) The department of public health shall, annually on or before January 31, report on
2954 expenditures from the Prevention and Wellness Trust Fund. The report shall include, but not be
2955 limited to: (1) the revenue credited to the fund; (2) the amount of fund expenditures attributable
2956 to the administrative costs of the department of public health; (3) an itemized list of the funds
2957 expended through the competitive grant process and a description of the grantee activities; (4)
2958 the results of the evaluation of the effectiveness of the activities funded through grants; and (5)
2959 an itemized list of expenditures used to support workplace-based wellness or health management
2960 programs. The report shall be provided to the chairpersons of the house and senate committees
2961 on ways and means and the joint committee on public health and shall be posted on the
2962 department of public health's website.

2963 (h) The department of public health shall, under the advice and guidance of the
2964 Prevention and Wellness Advisory Board, annually report on its strategy for administration and
2965 allocation of the fund, including relevant evaluation criteria. The report shall set forth the
2966 rationale for such strategy, including, but not limited to: (1) a list of the most prevalent
2967 preventable health conditions in the commonwealth, including health disparities experienced by
2968 populations based on race, ethnicity, gender, disability status, sexual orientation or socio-
2969 economic status; (2) a list of the most costly preventable health conditions in the commonwealth;
2970 (3) a list of evidence-based or promising community-based programs related to the conditions
2971 identified in clauses (1) and (2); and (4) a list of evidence-based workplace wellness programs or
2972 health management programs related to the conditions in clauses (1) and (2). The report shall

2973 recommend specific areas of focus for allocation of funds. If appropriate, the report shall
2974 reference goals and best practices established by the National Prevention and Public Health
2975 Promotion Council and the Centers for Disease Control and Prevention, including, but not
2976 limited to the national prevention strategy, the healthy people report and the community
2977 prevention guide.

2978 (i) The department of public health shall promulgate regulations necessary to carry out
2979 this section.

2980 Section 2H. There shall be a Prevention and Wellness Advisory Board to make
2981 recommendations to the commissioner concerning the administration and allocation of the
2982 Prevention and Wellness Trust Fund established in section 2G, establish evaluation criteria and
2983 perform any other functions specifically granted to it by law.

2984 The board shall consist of: the commissioner of public health or a designee, who shall
2985 serve as chairperson; the executive director of the institute of health care finance and policy
2986 established in chapter 12C or a designee; the secretary of health and human services or a
2987 designee; and 14 persons to be appointed by the governor, 1 of whom shall be a person with
2988 expertise in the field of public health economics; 1 of whom shall be a person with expertise in
2989 public health research; 1 of whom shall be a person with expertise in the field of health equity; 1
2990 of whom shall be a person from a local board of health for a city or town with a population
2991 greater than 50,000; 1 of whom shall be a person of a board of health for a city or town with a
2992 population of fewer than 50,000; 2 of whom shall be representatives of health insurance carriers;
2993 1 of whom shall be a person from a consumer health organization; 1 of whom shall be a person
2994 from a hospital association; 1 of whom shall be a person from a statewide public health

2995 organization; 1 of whom shall be a representative of the interest of businesses; 1 of whom shall
2996 administer an employee assistance program; 1 of whom shall be a public health nurse or a school
2997 nurse; and 1 of whom shall be a person from an association representing community health
2998 workers.

2999 SECTION 61. Section 4H of chapter 111 of the General Laws, as appearing in the 2010
3000 Official Edition, is hereby amended by striking out, in line 20, the words “division of health care
3001 finance and policy” and inserting in place thereof the following words:- executive office of
3002 health and human services, or a governmental unit designated by the executive office.

3003 SECTION 62. Section 25B of said chapter 111, as so appearing, is hereby amended by
3004 striking out, in lines 23 and 24, the words “1 of chapter 118G” and inserting in place thereof the
3005 following words:- 8A of chapter 118E.

3006 SECTION 63. Said section 25B of said chapter 111, as so appearing, is hereby further
3007 amended by inserting after the word “has”, in line 35, the following word:- been.

3008 SECTION 64. Said section 25B of said chapter 111, as so appearing, is hereby further
3009 amended by striking out, in lines 47 and 48, the words “, institution for the care of unwed
3010 mothers”.

3011 SECTION 65. Said section 25B of said chapter 111, as so appearing, is hereby further
3012 amended by striking out, in line 49, the words “, which is an infirmary maintained in a town”.

3013 SECTION 66. Said section 25B of said chapter 111, as so appearing, is hereby further
3014 amended by striking out, in line 54, the words “mentally ill or retarded” and inserting in place
3015 thereof the following words:- developmentally disabled or mentally ill.

3016 SECTION 67. Said section 25B of said chapter 111, as so appearing, is hereby further
3017 amended by inserting after the word “basis”, in line 85, the following words:- whether provided
3018 in a free standing ambulatory surgical center licensed as a clinic pursuant to section 51 or by a
3019 hospital.

3020 SECTION 68. Said section 25B of said chapter 111, as so appearing, is hereby further
3021 amended by striking out the definition “Innovative service” and inserting in place thereof the
3022 following definition:-

3023 “Innovative service”, a service or procedure, which for reasons of quality, access, or cost
3024 is determined to be innovative by the department.

3025 SECTION 69. Said section 25B of said chapter 111, as so appearing, is hereby further
3026 amended by striking out the definition “New technology” and inserting in place thereof the
3027 following definition:-

3028 “New technology”, equipment such as magnetic resonance imagers and linear
3029 accelerators, as defined by the department, or a service, as defined by the department, which for
3030 reasons of quality, access or cost is determined to be new technology by the department.

3031 SECTION 70. Said section 25B of said chapter 111, as so appearing, is hereby further
3032 amended by striking out, in lines 120 to 121, the words “A new technology or innovate” and
3033 inserting in place thereof the following words:- a new technology or innovative.

3034 SECTION 71. Said chapter 111 is hereby amended by striking out section 25C and
3035 inserting in place thereof the following section:-

3036 Section 25C. (a) Notwithstanding any general or special law to the contrary, except as
3037 provided in section 25 C½, a person or agency of the commonwealth or any political subdivision
3038 thereof shall not make substantial capital expenditures for construction of a health care facility or
3039 substantially change the service of the facility unless there is a determination by the department
3040 that there is need for the construction or change. A determination of need shall not be required
3041 for any substantial capital expenditure for construction or any substantial change in service
3042 which shall be related solely to the conduct of research in the basic biomedical or applied
3043 medical research areas and shall at no time result in any increase in the clinical bed capacity or
3044 outpatient load capacity of a health care facility and shall not be included within or cause an
3045 increase in the gross patient service revenue of a facility for health care services, supplies and
3046 accommodations, as such revenue shall be defined under section 31 of chapter 6A. Any person
3047 undertaking an expenditure related solely to that research which shall exceed or may reasonably
3048 be regarded as likely to exceed \$150,000 or any change in service solely related to the research,
3049 shall give written notice of the expenditure or change in service to the department the center for
3050 health information and analysis and the health policy commission, and the health policy
3051 commission at least 60 days before undertaking the expenditure or change in service. The notice
3052 shall state that the expenditure or change shall be related solely to the conduct of research in the
3053 basic biomedical or applied medical research areas and shall not be included within or result in
3054 any increase in the clinical bed capacity or outpatient load capacity of a facility and shall not
3055 cause an increase in the gross patient service revenue, as defined in under said section 31 of said
3056 chapter 6A, of a facility for health care services, supplies and accommodations; provided,
3057 however, that if it is subsequently determined that there was a violation of this section, the

3058 applicant may be punished by a fine of not more than 3 times the amount of the expenditure or
3059 value of the change of service.

3060 (b) Notwithstanding subsection (a), a determination of need shall be required for any such
3061 expenditure or change if the notice required by this section is not filed in accordance with the
3062 requirements of this section or if the department finds, after receipt of the notice, that the
3063 expenditure or change will not be related solely to research in the basic biomedical or applied
3064 medical research areas, will result in an increase in the clinical bed capacity or outpatient load
3065 capacity of a facility or will be included within or cause an increase in the gross patient service
3066 revenues of a facility. A research exemption granted under this section shall not be deemed to be
3067 evidence of need in any determination of need proceeding.

3068 (c) A person or agency of the commonwealth or any political subdivision thereof shall
3069 not provide an innovative service or use a new technology in any location other than in a health
3070 care facility, unless the person or agency first is issued a determination of need for the innovative
3071 service or new technology by the department.

3072 (d) A person or agency of the commonwealth or any political subdivision thereof shall
3073 not acquire for location in other than a health care facility a unit of medical, diagnostic, or
3074 therapeutic equipment, other than equipment used to provide an innovative service or which is a
3075 new technology, as such terms are defined in section 25B, with a fair market value in excess of
3076 \$250,000, to be adjusted in a similar fashion as section 25B1/2, unless the person or agency
3077 notifies the department of the person's or agency's intent to acquire the equipment and of the use
3078 that will be made of the equipment; provided, however, that maintenance or replacement of
3079 existing equipment defined as new technology shall not require a review. The notice shall be

3080 made in writing and shall be received by the department at least 30 days before contractual
3081 arrangements are entered into to acquire the equipment with respect to which notice is given. A
3082 determination by the department of need shall be required for any the acquisition (1) if the notice
3083 required by this paragraph is not filed in accordance with the requirements of this paragraph, and
3084 (2) if the requirements for exemption under subsection (a) of section 25C½ are not met;
3085 provided, however, that in no event shall any person who acquires a unit of new technology for
3086 location other than in a health care facility refer or influence any referrals of patients to the
3087 equipment, unless the person is a physician directly providing services with that equipment;
3088 provided, however, that for the purposes of this section, a public advertisement shall not be
3089 deemed a referral or an influence of referrals; and provided, further, that any person who has an
3090 ownership interest in the equipment, whether direct or indirect, shall disclose the interest to
3091 patients utilizing said equipment in a conspicuous manner.

3092 (e) Each person or agency operating a unit of equipment described in this section shall
3093 submit annually to the department information and data in connection with utilization and
3094 volume rates of said equipment on a form or forms prescribed by the department.

3095 (f) Except as provided in section 25 C½, a person or agency of the commonwealth or any
3096 political subdivision thereof shall not acquire an existing health care facility unless the person or
3097 agency notifies the department of the person's or agency's intent to acquire the facility and of
3098 the services to be offered in the facility and its bed capacity. The notice shall be made in writing
3099 and shall be received by the department at least 30 days before contractual arrangements are
3100 entered into to acquire the facility with respect to which the notice is given. A determination of
3101 need shall be required for any such acquisition if the notice required by this subsection is not
3102 filed in accordance with the requirements of this subsection or if the department finds, within 30

3103 days after receipt of notice under this subsection, that the services or bed capacity of the facility
3104 will be changed in being acquired.

3105 (g) The department, in making any determination of need, shall be guided by the state
3106 health plan, shall encourage appropriate allocation of private and public health care resources
3107 and the development of alternative or substitute methods of delivering health care services so
3108 that adequate health care services will be made reasonably available to every person within the
3109 commonwealth at the lowest reasonable aggregate cost, shall take into account any comments
3110 from the center for health information and analysis, the health policy commission, and any other
3111 state agency or entity, and may impose reasonable terms and conditions as the department
3112 determines are necessary to achieve the purposes and intent of this section. The department may
3113 also recognize the special needs and circumstances of projects that: (1) are essential to the
3114 conduct of research in basic biomedical or health care delivery areas or to the training of health
3115 care personnel; (2) are unlikely to result in any increase in the clinical bed capacity or outpatient
3116 load capacity of the facility; and (3) are unlikely to cause an increase in the total patient care
3117 charges of the facility to the public for health care services, supplies, and accommodations, as
3118 such charges shall be defined from time to time in accordance with section 5 of chapter 409 of
3119 the acts of 1976.

3120 (h) Applications for such determination shall be filed with the department, together with
3121 other forms and information as shall be prescribed by, or acceptable to, the department. A
3122 duplicate copy of any application together with supporting documentation for such application,
3123 shall be a public record and kept on file in the department. The department may require a public
3124 hearing on any application at its discretion or at the request of the attorney general. The attorney
3125 general may intervene in any hearing under this section. A reasonable fee, established by the

3126 department, shall be paid upon the filing of such application; provided, however, that in no event
3127 shall such fee exceed 0.2 per cent of the capital expenditures, if any, proposed by the applicant.
3128 The department may also require the applicant to provide an independent cost-analysis,
3129 conducted at the expense of the applicant, to demonstrate that the application is consistent with
3130 the commonwealth's efforts to meet the health care cost-containment goals established by the
3131 commission.

3132 (i) Except in the case of an emergency situation determined by the department as
3133 requiring immediate action to prevent further damage to the public health or to a health care
3134 facility, the department shall not act upon an application for such determination unless: (1) the
3135 application has been on file with the department for at least 30 days; (2) the center for health care
3136 information and analysis, the health policy commission, the state and appropriate regional
3137 comprehensive health planning agencies and, in the case of long-term care facilities only, the
3138 department of elder affairs, or in the case of any facility providing inpatient services for the
3139 mentally ill or developmentally disabled, the departments of mental health or developmental
3140 services, respectively, have been provided copies of such application and supporting documents
3141 and given reasonable opportunity to comment on such application; and (3) a public hearing has
3142 been held on such application when requested by the applicant, the state or appropriate regional
3143 comprehensive health planning agency or any 10 taxpayers of the commonwealth. If, in any
3144 filing period, an individual application is filed which would implicitly decide any other
3145 application filed during such period, the department shall not act only upon an individual.

3146 (j) The department shall so approve or disapprove in whole or in part each such
3147 application for a determination of need within 4 months after filing with the department;
3148 provided, however, that the department may, on 1 occasion only, delay the action for up to 2

3149 months after the applicant has provided information which the department reasonably has
3150 requested during the 8 month period. Applications remanded to the department by the health
3151 facilities appeals board under section 25E shall be acted upon by the department within the same
3152 time limits provided in this section for the department to approve or disapprove applications for a
3153 determination of need. If an application has not been acted upon by the department within such
3154 time limits, the applicant may, within a reasonable period of time, bring an action in the nature of
3155 mandamus in the superior court to require the department to act upon the application.

3156 (k) Determinations of need shall be based on the written record compiled by the
3157 department during its review of the application and on such criteria consistent with sections 25B
3158 to 25G, inclusive, as were in effect on the date of filing of the application. In compiling such
3159 record the department shall confine its requests for information from the applicant to matters
3160 which shall be within the normal capacity of the applicant to provide. In each case the action by
3161 the department on the application shall be in writing and shall set forth the reasons for such
3162 action; and every such action and the reasons for such action shall constitute a public record and
3163 be filed in the department.

3164 (l) The department shall stipulate the period during which a determination of need shall
3165 remain in effect, which in no event shall originally be longer than 3 years but which may be
3166 extended by the department for cause shown. Any such determination shall continue to be
3167 effective only upon the applicant: (1) making reasonable progress toward completing the
3168 construction or substantial change in services for which need was determined to exist; (2)
3169 complying with all other laws relating to the construction, licensure and operation of health care
3170 facilities; and (3) complying with such further terms and conditions as the department reasonably
3171 shall require.

3172 (m) The department shall notify the secretary of elder affairs forthwith of the pendency of
3173 any proceeding, of any public hearing and of any action to be taken under this section on any
3174 application submitted by or on behalf of any long-term care facility. In instances involving
3175 applications submitted on behalf of any facility providing inpatient services for the mentally ill
3176 or developmentally disabled, the department shall notify the appropriate commissioner.

3177 (n) A long-term care facility located in an under-bedded urban area shall not be replaced
3178 or the license for said facility transferred outside an under-bedded urban area. For the purposes
3179 of this subsection, an under-bedded urban area shall mean a city or town in which: (1) the per
3180 capita income is below the state average; (2) the percentage of the population below 100 per cent
3181 of the federal poverty level is above the state average; or (3) the percentage of the population
3182 below 200 per cent of the federal poverty level is above the state average.

3183 SECTION 72. Said chapter 111 is hereby further amended by striking out sections 25L,
3184 25M, and 25N and inserting in place thereof the following sections:-

3185 Section 25L. (a) There shall be in the department a health care workforce center to
3186 improve access to health and behavioral, substance use disorder and mental health care services.
3187 The center, in consultation with the health care workforce advisory council established by
3188 section 25M and the secretary of labor and workforce development, shall: (1) coordinate the
3189 department's health care workforce activities with other state agencies and public and private
3190 entities involved in health care workforce training, recruitment and retention, including with the
3191 activities of the Health Care Workforce Transformation Fund; (2) monitor trends in access to
3192 primary care providers, and nurse practitioners and physician assistants practicing as primary
3193 care providers, behavioral, substance use disorder and mental health providers, and other

3194 physician and nursing providers, through activities including (i) reviewing existing data and
3195 collection of new data as needed to assess the capacity of the health care and behavioral,
3196 substance use disorder and mental health care workforce to serve patients, including patients
3197 with disabilities whose disabilities may include but are not limited to intellectual and
3198 developmental disabilities, including patient access and regional disparities in access to
3199 physicians, nurses, physician assistants, and behavioral, substance use disorder and mental health
3200 care professionals and to examine physician, nursing and physician assistant, behavioral,
3201 substance use disorder and mental health professionals' satisfaction; (ii) reviewing existing laws,
3202 regulations, policies, contracting or reimbursement practices, and other factors that influence
3203 recruitment and retention of physicians, nurses, physician assistants, behavioral, substance use
3204 disorder and mental health professionals; (iii) projecting the ability of the workforce to meet the
3205 needs of patients over time; (iv) identifying strategies currently being employed to address
3206 workforce needs, shortages, recruitment and retention; (v) studying the capacity of public and
3207 private medical, nursing, physician assistant, behavioral, substance use disorder and mental
3208 health professional schools in the commonwealth to expand the supply of primary care
3209 physicians and nurse practitioners and physician assistants practicing as primary care providers
3210 and licensed behavioral, substance use disorder and mental health professionals; (3) establish
3211 criteria to identify underserved areas in the commonwealth for administering the loan repayment
3212 program established under section 25N and for determining statewide target areas for health care
3213 provider placement based on the level of access; and (4) address health care workforce shortages
3214 through the following activities, including: (i) coordinating state and federal loan repayment and
3215 incentive programs for health care providers; (ii) providing assistance and support to
3216 communities, physician groups, community health centers and community hospitals in

3217 developing cost-effective and comprehensive recruitment initiatives; (iii) maximizing all sources
3218 of public and private funds for recruitment initiatives; (iv) designing pilot programs and making
3219 regulatory and legislative proposals to address workforce needs, shortages, recruitment and
3220 retention; and (v) making short-term and long-term programmatic and policy recommendations
3221 to improve workforce performance, address identified workforce shortages and recruit and retain
3222 physicians, nurses, physician assistants and behavioral, substance use disorder and mental health
3223 professionals.

3224 (b) The center shall maintain ongoing communication and coordination with the health
3225 disparities council, established by section 16O of chapter 6A.

3226 (c) The center shall annually submit a report, not later than March 1, to the governor, the
3227 health disparities council, established by section 16O of chapter 6A; and the general court, by
3228 filing the same with the clerk of the house of representatives, the clerk of the senate, the joint
3229 committee on labor and workforce development, the joint committee on health care financing,
3230 and the joint committee on public health. The report shall include: (1) data on patient access and
3231 regional disparities in access to physicians, by specialty and sub-specialty, and nurses, physician
3232 assistants, behavioral, substance use disorder and mental health professionals; (2) data on factors
3233 influencing recruitment and retention of physicians, nurses, physician assistants, and behavioral,
3234 substance use disorder and mental health professionals; (3) short and long-term projections of
3235 physician, nurse, physician assistant and behavioral, substance use disorder and mental health
3236 professionals supply and demand; (4) strategies being employed by the council or other entities
3237 to address workforce needs, shortages, recruitment and retention; (5) recommendations for
3238 designing, implementing and improving programs or policies to address workforce needs,

3239 shortages, recruitment and retention; and (6) proposals for statutory or regulatory changes to
3240 address workforce needs, shortages, recruitment and retention.

3241 Section 25M. (a) There shall be a healthcare workforce advisory council within, but not
3242 subject to the control of, the health care provider workforce center established by section 25L.
3243 The council shall advise the center on the capacity of the healthcare workforce to provide timely,
3244 effective, culturally competent, quality physician, nursing, physician assistant, behavioral,
3245 substance use disorder and mental health services.

3246 (b) The council shall consist of: 19 members to be appointed by the governor: 1 of whom
3247 shall be a representative of the Massachusetts Extended Care Federation; 1 of whom shall be a
3248 physician with a primary care specialty designation who practices in a rural area; 1 of whom
3249 shall be a physician with a primary care specialty who practices in an urban area; 1 of whom
3250 shall be a physician with a medical subspecialty; 1 of whom shall be an advanced practice nurse,
3251 authorized under section 80B of said chapter 112, who practices in a rural area; 1 of whom shall
3252 be an advanced practice nurse, authorized under said section 80B of said chapter 112, who
3253 practices in an urban area; 1 of whom shall be a representative of the Massachusetts
3254 Organization of Nurse Executives; 1 of whom shall be a representative of the Massachusetts
3255 Academy of Family Physicians; 1 of whom shall be a representative of the Massachusetts
3256 Workforce Board Association; 1 of whom shall be a representative of the Massachusetts League
3257 of Community Health Centers, Inc.; 1 of whom shall be a representative of the Massachusetts
3258 Medical Society; 1 of whom shall be a representative of the Massachusetts Center for Nursing,
3259 Inc.; 1 of whom shall be a representative of the Massachusetts Nurses Association; 1 of whom
3260 shall be a representative of the Massachusetts Association of Registered Nurses; 1 of whom shall
3261 be a representative of the Massachusetts Hospital Association, Inc.; 1 of whom shall be a

3262 representative from the Massachusetts Association of Physician Assistants; 1 of whom shall be a
3263 representative of the Massachusetts Chiropractic Society; 1 of whom shall be a representative of
3264 Health Care For All, Inc.; and 1 of whom shall be a behavioral, substance use disorder and
3265 mental health professional. Members of the council shall be appointed for terms of 3 years or
3266 until a successor is appointed. Members shall be eligible to be reappointed and shall serve
3267 without compensation, but may be reimbursed for actual and necessary expenses reasonably
3268 incurred in the performance of their duties. Vacancies of unexpired terms shall be filled within
3269 60 days by the appropriate appointing authority.

3270 The council shall meet at least bimonthly, at other times as determined by its rules and
3271 when requested by any 8 members.

3272 (c) The council shall advise the center on: (1) trends in access to primary care and
3273 physician subspecialties, nursing, physician assistant and behavioral, substance use disorder and
3274 mental health services; (2) the development and administration of the loan repayment program,
3275 established under section 25N, including criteria to identify underserved areas in the
3276 commonwealth; and (3) solutions to address identified health care workforces shortages; and (iv)
3277 the center's annual report to the general court.

3278 Section 25N. (a) There shall be a health care workforce loan repayment program,
3279 administered by the health care workforce center established by section 25L. The program shall
3280 provide repayment assistance for graduate and medical school loans to participants who: (1) are
3281 graduates of medical, nursing, or physician assistant schools or accredited graduate schools; (2)
3282 specialize in family health or medicine, internal medicine, pediatrics, obstetrics/gynecology,
3283 psychiatry, behavioral health, mental health or substance use disorder treatment; (3) demonstrate

3284 competency in health information technology, at least equivalent to federal meaningful use
3285 standards as set forth in 45 C.F.R. Part 170, including use of electronic medical records,
3286 computerized physician order entry and e-prescribing; and (4) meet other eligibility criteria,
3287 including service requirements, established by the board.

3288 Each recipient shall be required to enter into a contract with the commonwealth which
3289 shall obligate the recipient to perform a term of service of not less than 2 years in medically
3290 underserved areas as determined by the center.

3291 (b) The center shall promulgate regulations for the administration and enforcement of this
3292 section which shall include penalties and repayment procedures if a participant fails to comply
3293 with the service contract.

3294 The center shall, in consultation with the health care workforce advisory council and the
3295 public health council, establish criteria to identify medically underserved areas within the
3296 commonwealth. These criteria shall consist of quantifiable measures, which may include the
3297 availability of primary care medical services or behavioral, substance use disorder and mental
3298 health services within reasonable traveling distance, poverty levels and disparities in health care
3299 access or health outcomes.

3300 (c) The center shall evaluate the program annually, including exit interviews of
3301 participants to determine their post-program service plans and to solicit program improvement
3302 recommendations.

3303 (d) The center shall file an annual report, not later than July 1, with the governor, the
3304 clerks of the house of representatives and the senate, the house and senate committees on ways
3305 and means, the joint committee on health care financing, the joint committee on mental health

3306 and substance abuse and the joint committee on public health. The report shall include annual
3307 data and historical trends of: (1) the number of applicants, the number accepted and the number
3308 of participants by race, gender, medical, nursing, physician assistant, behavioral health,
3309 substance use, and mental health specialty, graduate, physician assistant, medical or nursing
3310 school, residence prior to graduate, medical, nursing, or physician assistant school and where
3311 they plan to practice after program completion; (2) the service placement locations and length of
3312 service commitments by participants; (3) the number of participants who fail to fulfill the
3313 program requirements and the reason for the failures; (4) the number of former participants who
3314 continue to serve in underserved areas; and (5) program expenditures.

3315 Section 25N 1/2 . (a) As used in this section, “primary care provider”, shall mean a
3316 health care professional qualified to provide general medical care for common health care
3317 problems who: (1) supervises, coordinates, prescribes or otherwise provides or proposes health
3318 care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within
3319 the scope of practice.

3320 (b) Pursuant to regulations to be promulgated by the health care workforce center, there
3321 shall be established a primary care residency grant program for the purpose of financing the
3322 training of primary care providers at teaching community health centers. Eligible applicants shall
3323 include teaching community health centers accredited through affiliations with a commonwealth-
3324 funded medical school or licensed as part of a teaching hospital with a residency program in
3325 primary care or family medicine and teaching health centers that are the independently
3326 accredited sponsoring organization for the residency program and whose residents are employed
3327 by the health center. Eligible residency programs shall be accredited by the Accreditation
3328 Council for Graduate Medical Education.

3329 To receive funding, an applicant shall: (1) include a review of recent graduates of the
3330 community health center's residency program, including information regarding what type of
3331 practice said graduates are involved in 2 years following graduation from the residency program;
3332 and (2) achieve a threshold of at least 50 per cent for the percentage of graduates practicing
3333 primary care within 2 years after graduation. Graduates practicing more than 50 per cent
3334 inpatient care or more than 50 per cent specialty care as listed in the American Medical
3335 Association Masterfile shall not qualify as graduates practicing primary care.

3336 Awardees of the primary care residency grant program shall maintain their teaching
3337 accreditation as either an independent teaching community health center or as a teaching
3338 community health center accredited through affiliation with a commonwealth-funded medical
3339 school or licensed as part of a teaching hospital.

3340 The health care workforce center shall determine through regulation grant amounts per
3341 full-time resident. Funds for such grants shall come from the Health Care Workforce
3342 Transformation Fund established under section 2FFFF of chapter 29.

3343 Section 25N $\frac{3}{4}$. There shall be established a primary care workforce development and
3344 loan forgiveness grant program at community health centers, for the purpose of enhancing
3345 recruitment and retention of primary care physicians and other clinicians at community health
3346 centers throughout the commonwealth. The grant program shall be administered by the
3347 department of public health; provided, that the department may contract with an organization to
3348 administer the grant program. Funds may be matched by other public and private funds.

3349 SECTION 73. Section 25P of said chapter 111 is hereby repealed.

3350 SECTION 74. Section 51 of said chapter 111, as so appearing in the 2010 Official
3351 Edition, is hereby amended by striking out, in line 25 the words “division of health care policy
3352 and finance” and inserting in place thereof the following words:- executive office of health and
3353 human services.

3354 SECTION 75. Said section 51 of said chapter 111, as so appearing, is hereby further
3355 amended by striking out, in lines 36 and 46, the words “division of health care finance and
3356 policy”, each time they appear, and inserting in place thereof, in each instance, the following
3357 words:- center for health information and analysis.

3358 SECTION 76. Said section 51 of said chapter 111, as so appearing, is hereby further
3359 amended by striking out, in lines 27 and 28, the words “pursuant to section 18 of chapter 118G”.

3360 SECTION 77. Section 51G of said chapter 111, as so appearing, is hereby amended by
3361 inserting after the word “ services,” in line 38, the first time it appears, the following words:-
3362 conduct a public hearing on the closure of said essential services or of the hospital. The
3363 department shall.

3364 SECTION 78. Said section 51G of said chapter 111, as so appearing, is hereby further
3365 amended by striking out, in line 40, the word “area,” and inserting in place thereof the following
3366 words:- area and shall.

3367 SECTION 79. Section 51H of said chapter 111, as so appearing, is hereby amended by
3368 striking out subsection (c) and inserting in place thereof the following subsection:-

3369 (c) The department, through interagency service agreements, shall transmit data collected
3370 under this section to the Betsy Lehman center for patient safety and medical error reduction for

3371 publication on the center for health information and analysis consumer health information
3372 website and for reporting quality data to providers. Any facility failing to comply with this
3373 section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or
3374 suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its
3375 license revoked or suspended by the department.

3376 SECTION 80. Said chapter 111 is hereby further amended by inserting after section
3377 51H the following 2 sections:—

3378 Section 51I. (a) As used in this section the following words shall, unless the context
3379 clearly requires otherwise, have the following meanings:

3380 “Adverse event”, injury to a patient resulting from a medical intervention and not from
3381 the underlying condition of the patient.

3382 “Checklist of care”, pre-determined steps to be followed by a team of healthcare
3383 providers before, during and after a given procedure to decrease the possibility of adverse effects
3384 and other patient harm by articulating standards of care.

3385 “Facility,” a hospital, an institution maintaining an Intensive Care Unit, an institution
3386 providing surgical services or clinic providing ambulatory surgery.

3387 (b) The department shall encourage the development and implementation of checklists of
3388 care that prevent adverse events and reduce healthcare-associated infection rates. The department
3389 shall develop model checklists of care, which may be implemented by facilities; provided,
3390 however, that facilities may develop and implement checklists independently.

3391 (c) Facilities shall report data and information relative to the use or non-use of checklists
3392 to the department and the Betsy Lehman center for patient safety and medical error reduction.
3393 The department may consider facilities that use similar programs to be in compliance. Reports
3394 shall be made in the manner and form established by the department. The department shall
3395 publicly report on individual hospitals' compliance rates.

3396 Section 51J. The department shall promulgate regulations regarding limited services
3397 clinics. The regulations shall promote the availability of limited services clinics as a point of
3398 access for health care services within the full scope of practice of a nurse practitioner.

3399 Nothing in this section shall be interpreted to allow a limited service clinic to serve as a
3400 patient's primary care provider. Further, nothing in this section shall be interpreted to allow a
3401 limited service clinic to refer patients to a non-primary care provider, unless the limited service
3402 clinic is a satellite of, or is otherwise affiliated with, a health care facility licensed under section
3403 51 or other licensed practitioners and the non-primary care provider practice in the facility or is a
3404 licensed practitioner.

3405 SECTION 81. Section 52 of said chapter 111, as appearing in the 2010 Official Edition,
3406 is hereby amended by inserting after the definition of "Institution for unwed mothers" the
3407 following 2 definitions:-

3408 "Limited services", diagnosis, treatment, management and monitoring of acute and
3409 chronic disease, wellness and preventative services of a nature that may be provided within the
3410 scope of practice of a nurse practitioner using available facilities and equipment, including
3411 shared toilet facilities for point-of-care testing.

3412 "Limited services clinic", a clinic that provides limited services as defined by section 51J.

3413 SECTION 82. Said chapter 111 is hereby further amended by inserting, after section 53G, the
3414 following section:-

3415 Section 53H. No hospital shall enter into a contract or agreement which creates or
3416 establishes a partnership, employment or any other professional relationship with a licensed
3417 physician that would prohibit or limit the ability of that physician to provide testimony in an
3418 administrative or judicial hearing, including cases of medical malpractice.

3419 SECTION 83. Section 62M of said chapter 111, as appearing in the 2010 Official
3420 Edition, is hereby amended by striking out, in line 13, the words “division of health care finance
3421 and policy” and inserting in place thereof the following words:- executive office of health and
3422 human services or a governmental unit designated by the executive office.

3423 SECTION 84. Section 67C of said chapter 111, as so appearing, is hereby amended by
3424 striking out, in line 8, the words “division of health care finance and policy” and inserting in
3425 place thereof the following words:- executive office of health and human services.

3426 SECTION 85. Section 67F of said chapter 111, as so appearing, is hereby amended by
3427 striking out, in lines 15 and 19, the word “physician” and inserting in place thereof, in each
3428 instance, the following word:- provider.

3429 SECTION 86. Section 69H of said chapter 111, as so appearing, is hereby amended by
3430 striking out, in lines 2 and 3, the words “division of health care finance and policy” and inserting
3431 in place thereof the following words:- executive office of health and human services or a
3432 governmental unit designated by the executive office.

3433 SECTION 87. Chapter 111 of the General Laws is hereby amended by inserting after
3434 section 70G the following section:—

3435 Section 70H. Notwithstanding chapter 93A, sections 70E, 72E and 73 and 940 CMR
3436 section 4.09, a facility or institution licensed by the department of public health under section 71
3437 may move a resident to different living quarters or to a different room within the facility or
3438 institution if, as documented in the resident’s clinical record and as certified by a physician, the
3439 resident’s clinical needs have changed such that the resident either: (i) requires specialized
3440 accommodations, care, services, technologies or staffing not customarily provided in connection
3441 with the resident’s living quarters or room; or (ii) ceases to require the specialized
3442 accommodations, care, services, technologies or staffing customarily provided in connection
3443 with the resident’s living quarters or room; provided, however, that nothing in this section shall
3444 obviate a resident's notice and hearing rights when movement to different living quarters
3445 involves a resident moving from a Medicare-certified unit to a non-Medicare-certified unit or
3446 involves a resident moving from a non-Medicare-certified unit to a Medicare-certified unit; and
3447 provided further, that the resident shall have the right to appeal to the facility’s or institution’s
3448 medical director a decision to move the resident to a different living quarter or to a different
3449 room within the facility or institution.

3450 SECTION 88. Section 72P of said chapter 111, as appearing in the 2010 Official Edition,
3451 is hereby amended by striking out, in lines 20 and 21, the words “division of health care finance
3452 and policy” and inserting in place thereof the following words:- center for health information and
3453 analysis.

3454 SECTION 89. Section 72Q of said chapter 111, as so appearing, is hereby amended by
3455 striking out, in lines 2 and 3, the words “division of health care finance and policy” and inserting
3456 in place thereof the following words:- center for health information and analysis.

3457 SECTION 90. Section 72Y of said chapter 111, as so appearing, is hereby amended by
3458 striking out, in lines 43 and 47, the words “7 of chapter 118G” and inserting in place thereof, in
3459 each instance, the following words:- 13D of chapter 118E.

3460 SECTION 91. Section 78 of said chapter 111, as so appearing, is hereby amended by
3461 striking out, in lines 19 and 20, the words “division of health care finance and policy” and
3462 inserting in place thereof the following words:- executive office of health and human services or
3463 a governmental unit designated by the executive office.

3464 SECTION 92. Section 78A of said chapter 111, as so appearing, is hereby amended by
3465 striking out, in line 14, the words “division of health care finance and policy” and inserting in
3466 place thereof the following words:- executive office of health and human services or a
3467 governmental unit designated by the executive office.

3468 SECTION 93. Section 79 of said chapter 111, as so appearing, is hereby amended by
3469 striking out, in line 9, the words “division of health care finance and policy” and inserting in
3470 place thereof the following words:- executive office of health and human services or a
3471 governmental unit designated by the executive office.

3472 SECTION 94. Section 80 of said chapter 111, as so appearing, is hereby amended by
3473 striking out, in lines 5 and 6, the words “division of health care finance and policy” and inserting
3474 in place thereof the following words:- executive office of health and human services or a
3475 governmental unit designated by the executive office.

3476 SECTION 95. Said section 80 of said chapter 111, as so appearing, is hereby further
3477 amended by striking out, in line 8, the word “division” and inserting in place thereof the
3478 following words:- executive office.

3479 SECTION 96. Section 82 of said chapter 111, as so appearing, is hereby amended by
3480 striking out, in lines 22 and 23, the words “division of health care finance and policy” and
3481 inserting in place thereof the following words:- executive office of health and human services or
3482 a governmental unit designated by the executive office.

3483 SECTION 97. Said section 82 of said chapter 111, as so appearing, is hereby further
3484 amended by striking out, in line 24, the word “division” and inserting in place thereof the
3485 following words:- executive office.

3486 SECTION 98. Section 88 of said chapter 111, as so appearing, is hereby amended by
3487 striking out, in line 16, the words “division of health care finance and policy” and inserting in
3488 place thereof the following words:- executive office of health and human services or a
3489 governmental unit designated by the executive office.

3490 SECTION 99. Section 116A of said chapter 111, as so appearing, is hereby amended by
3491 striking out, in line 2, the words “division of health care finance and policy” and inserting in
3492 place thereof the following words:- executive office of health and human services or a
3493 governmental unit designated by the executive office.

3494 SECTION 100. Said chapter 111 is hereby further amended by inserting after section
3495 206 the following section:-

3496 Section 206A. (a) The department, in consultation with the division of insurance, shall
3497 provide a seal of approval to wellness programs implemented by businesses. In developing
3498 criteria for a wellness seal of approval, the department shall consider: (i) actuarial equivalency to
3499 programs under section 206; (ii) whether the program provides new or innovative services; (iii)
3500 the participation rate by employees; (iv) the quality of the health education being provided; (v)
3501 whether the program promotes health screenings and other preventive health care measures; and
3502 (vi) whether the program promotes a healthy workplace environment. For the purposes of this
3503 section, "businesses" shall include professions, sole proprietorships, trades, businesses or
3504 partnerships

3505 (b) The commissioner, in consultation with the commissioner of the department of
3506 revenue, shall create a form that indicates a business is using an approved wellness program.

3507 SECTION 101. Subsection (a) of section 217 of said chapter 111, as appearing in the
3508 2010 Official Edition, is hereby amended by striking out clause (2) and inserting in place thereof
3509 the following clause:-

3510 (2) establish a site on the internet and through other communication media in order to
3511 make managed care information collected by the office readily accessible to consumers. Said
3512 internet site shall, at a minimum, include: (i) a chart, prepared by the office, comparing the
3513 information obtained on premium revenue expended for health care services under clause (3) of
3514 subsection (b) of section 7 of chapter 176O, for the most recent year for which information is
3515 available; and (ii) data collected under subsection (c).

3516 SECTION 102. Said section 217 of said chapter 111, as so appearing, is hereby further
3517 amended by striking out, in lines 48 and 49, the words "the division of health care finance and

3518 policy pursuant to section 24 of chapter 118G” and inserting in place thereof the following
3519 words:- the center for health information and analysis.

3520 SECTION 103. Said chapter 111 is hereby further amended by adding the following 4
3521 sections:—

3522 Section 225. (a) For the purposes of this section, the following words shall, unless the
3523 context clearly requires otherwise, have the following meanings:

3524 “Anatomic pathology service”, histopathology, surgical pathology, cytopathology,
3525 hematology, subcellular pathology, molecular pathology and blood-banking services performed
3526 by a pathologist.

3527 “Charge”, the uniform price for specific services within a revenue center of a hospital.

3528 “Cytopathology”, the examination of cells from the following:

3529 (i) fluids;

3530 (ii) aspirates;

3531 (iii) washings;

3532 (iv) brushings; or

3533 (v) smears, including the pap test examination performed by a physician or under
3534 the supervision of a physician.

3535 “Hematology”, the microscopic evaluation of bone marrow aspirates and biopsies
3536 performed by a physician or under the supervision of a physician, and peripheral blood smears

3537 when the attending or treating physician or technologist requests that a blood smear be reviewed
3538 by a pathologist.

3539 “Histopathology” or “surgical pathology”, the gross and microscopic examination of
3540 organ tissue performed by a physician or under the supervision of a physician.

3541 “Patient”, any natural person receiving health care services.

3542 “Revenue center”, a functioning unit of a hospital which provides distinctive services to a
3543 patient for a charge.

3544 “Third party payer”, an entity including, but not limited to, Title XVIII and Title XIX of
3545 the federal Social Security Act programs, other governmental payers, insurance companies,
3546 health maintenance organizations and nonprofit hospital service corporations. Third party payer
3547 shall not include a purchaser responsible for payment for health care services rendered by a
3548 hospital, either to the purchaser or to the hospital.

3549 (b) A clinical laboratory or physician providing anatomic pathology services for patients
3550 in the commonwealth shall present or cause to be presented a claim, bill or demand for payment
3551 for these services only to the following:

3552 (i) the patient directly;

3553 (ii) the responsible insurer or other third-party payer;

3554 (iii) the hospital, public health clinic or nonprofit health clinic ordering such
3555 services;

3556 (iv) the referral laboratory or a physician's office laboratory when the physician
3557 of such laboratory performs the anatomic pathology service; or

3558 (v) the governmental agency or its specified public or private agent, agency or
3559 organization on behalf of the recipient of the services.

3560 (c) Except as provided under this section, no licensed practitioner shall, directly or
3561 indirectly, charge, bill or otherwise solicit payment for anatomic pathology services unless the
3562 services were rendered personally by the licensed practitioner or under the licensed practitioner's
3563 direct supervision under section 353 of the Public Health Service Act, 42 U.S.C. § 263a.

3564 (d) No patient, insurer, third party payer, hospital, public health clinic or non-profit health
3565 clinic shall be required to reimburse any licensed practitioner for charges or claims submitted in
3566 violation of this section.

3567 (e) Nothing in this section shall be construed to mandate the assignment of benefits for
3568 anatomic pathology services.

3569 (f) Nothing in this section shall prohibit billing between laboratories for anatomic
3570 pathology services in instances where a sample must be sent to another specialist. Nothing in this
3571 section shall authorize a physician's office laboratory to bill for anatomic pathology services
3572 when the physician of such laboratory has not performed the anatomic pathology service.

3573 (g) The board of registration in medicine may revoke, suspend or deny renewal of the
3574 license of a practitioner who violates this section.

3575 Section 226. For purposes of this section, "mandatory overtime" shall mean any hours
3576 worked by a nurse in a hospital setting to deliver patient care, beyond the predetermined and

3577 regularly scheduled number of hours that the hospital and nurse have agreed that the employee
3578 shall work, provided that in no case shall such predetermined and regularly scheduled number of
3579 hours exceed 12 hours in any 24 hour period.

3580 (b) Notwithstanding any general or special law to the contrary, a hospital shall not require
3581 a nurse to work mandatory overtime except in the case of an emergency situation where the
3582 safety of the patient requires its use and when there is no reasonable alternative.

3583 (c) Under subsection (b), whenever there is an emergency situation where the safety of a
3584 patient requires its use and when there is no reasonable alternative, the facility shall, before
3585 requiring mandatory overtime, make a good faith effort to have overtime covered on a voluntary
3586 basis. Mandatory overtime shall not be used as a practice for providing appropriate staffing for
3587 the level of patient care required.

3588 (d) Under subsection (c), the health policy commission established under section 2 of
3589 chapter 6D, shall develop guidelines and procedures to determine what constitutes an emergency
3590 situation for the purposes of allowing mandatory overtime. In developing those guidelines, the
3591 commission shall consult with those employees and employers who would be affected by such a
3592 policy. The Commission shall solicit comment from those same parties through a public hearing.

3593 (e) Hospitals shall report all instances of mandatory overtime and the circumstances
3594 requiring its use to the department of public health. Such reports shall be public documents.

3595 (f) A nurse shall not be allowed to exceed 16 consecutive hours worked in a 24 hour
3596 period. In the event a nurse works 16 consecutive hours, that nurse must be given at least 8
3597 consecutive hours of off-duty time immediately after the worked overtime.

3598 (g) This section is intended as a remedial measure to protect the public health and the
3599 quality and safety of patient care and shall not be construed to diminish or waive any rights of
3600 the nurse under other laws, regulations or collective bargaining agreements. The refusal of a
3601 nurse to accept work in excess of the limitations set forth in this section shall not be grounds for
3602 discrimination, dismissal, discharge or any other employment decision.

3603 (h) Nothing in this section shall be construed to limit, alter or modify the terms,
3604 conditions or provisions of a collective bargaining agreement entered into by a hospital and a
3605 labor organization.

3606 Section 227. (a) As used in this section the following terms shall, unless the context
3607 clearly requires otherwise, have the following meanings:

3608 “Appropriate”, consistent with applicable legal, health and professional standards, the
3609 patient’s clinical and other circumstances and the patient’s reasonably known wishes and beliefs.

3610 “Attending health care practitioner”, a physician or nurse practitioner who has primary
3611 responsibility for the care and treatment of the patient; provided that if more than 1 physician or
3612 nurse practitioner share that responsibility, each of them shall have a responsibility under this
3613 section, unless there is an agreement to assign that responsibility to 1 such person.

3614 “Palliative care”, a health care treatment, including interdisciplinary end-of-life care and
3615 consultation with patients and family members, to prevent or relieve pain and suffering and to
3616 enhance the patient’s quality of life, including hospice care.

3617 “Terminal illness or condition”, an illness or condition which can reasonably be expected
3618 to cause death within 6 months, whether or not treatment is provided.

3619 (b) The commissioner shall adopt regulations requiring each licensed hospital, skilled
3620 nursing facility, health center or assisted living facility to distribute to appropriate patients in its
3621 care information regarding the availability of palliative care and end-of-life options.

3622 (c) If a patient is diagnosed with a terminal illness or condition, the patient's attending
3623 health care practitioner shall offer to provide the patient with information and counseling
3624 regarding palliative care and end-of-life options appropriate for the patient, including, but not
3625 limited to: (i) the range of options appropriate for the patient; (ii) the prognosis, risks and
3626 benefits of the various options; and (iii) the patient's legal rights to comprehensive pain and
3627 symptom management at the end-of-life. The information and counseling may be provided orally
3628 or in writing. Where the patient lacks capacity to reasonably understand and make informed
3629 choices relating to palliative care, the attending health care practitioner shall provide information
3630 and counseling under this section to a person with authority to make health care decisions for
3631 that patient. The attending health care practitioner may arrange for information and counseling
3632 under this section to be provided by another professionally qualified individual.

3633 If the attending health care practitioner is not willing to provide the patient with
3634 information and counseling under this section, the attending health care practitioner shall arrange
3635 for another physician or nurse practitioner to do so or shall refer or transfer the patient to another
3636 physician or nurse practitioner willing to do so.

3637 Nothing in this section shall be construed to permit a healthcare professional to offer to
3638 provide information about assisted suicide or the prescribing of medication to end life.

3639 (d) The department shall consult with the Hospice and Palliative Care Federation of
3640 Massachusetts in developing educational documents, rules and regulations related to this section.

3641 Section 228. (a) Prior to an admission, procedure or service and upon request by a
3642 patient or prospective patient, a health care provider shall, within 2 working days, disclose the
3643 allowed amount or charge of the admission, procedure or service, including the amount for any
3644 facility fees required; provided, however, that if a health care provider is unable to quote a
3645 specific amount in advance due to the health care provider's inability to predict the specific
3646 treatment or diagnostic code, the health care provider shall disclose the estimated maximum
3647 allowed amount or charge for a proposed admission, procedure or service, including the amount
3648 for any facility fees required.

3649 (b) If a patient or prospective patient is covered by a health plan, a health care provider
3650 who participates as a network provider shall, upon request of a patient or prospective patient,
3651 provide, based on the information available to the provider at the time of the request, sufficient
3652 information regarding the proposed admission, procedure or service for the patient or prospective
3653 patient to use the applicable toll-free telephone number and website of the health plan established
3654 to disclose out-of-pocket costs, under section 23 of chapter 176O. A health care provider may
3655 assist a patient or prospective patient in using the health plan's toll-free number and website.

3656 (b) A health care provider referring a patient to another provider that is part of or
3657 represented by the same provider organization as defined in section 11 of chapter 6D shall
3658 disclose that the providers are part of or represented by the same provider organization.

3659 As used in this section, "allowed amount", shall mean the contractually agreed upon
3660 amount paid by a carrier to a health care provider for health care services provided to an insured.

3661 SECTION 104. Section 1 of chapter 111K of the General Laws, as appearing in the 2010
3662 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “established by
3663 section 18 of chapter 118G”.

3664 SECTION 105. Section 10 of said chapter 111K, as so appearing, is hereby amended by
3665 striking out, in lines 2 and 3, the words “division of health care finance and policy”, and inserting
3666 in place thereof the following words:- center for health information and analysis.

3667 SECTION 106. Section 3 of chapter 111M of the General Laws, as so appearing, is
3668 hereby amended by striking out, in line 10, the words “division of health care finance and
3669 policy” and inserting in place thereof the following words:- center for health information and
3670 analysis.

3671 SECTION 107. Said section 3 of said chapter 111M, as so appearing, is hereby further
3672 amended by striking out, in line 11, the word “division” and inserting in place thereof the
3673 following word:- center.

3674 SECTION 108. The first paragraph of section 2 of chapter 112 of the General Laws, as so
3675 appearing, is hereby amended by inserting after the second sentence the following 2 sentences:—
3676 The board shall require, as a standard of eligibility for licensure, that applicants demonstrate
3677 proficiency in the use of computerized physician order entry, e-prescribing, electronic health
3678 records and other forms of health information technology, as determined by the board. As used
3679 in this section, proficiency, at a minimum shall mean that applicants demonstrate the skills to
3680 comply with the “meaningful use” requirements, as set forth in 45 C.F.R. Part 170.

3681 SECTION 109. Said chapter 112 is hereby further amended by inserting, after section 2C,
3682 the following section:-

3683 Section 2D. No physician shall enter into a contract or agreement which creates or
3684 establishes a partnership, employment or any other form of professional relationship that
3685 prohibits a physician from providing testimony in an administrative or judicial hearing, including
3686 cases of medical malpractice.

3687 SECTION 110. Section 9C of said chapter 112, as appearing in the 2010 Official
3688 Edition, is hereby amended by striking out the definition of “Physician assistant” and inserting in
3689 place thereof the following definition:-

3690 “Physician assistant,” a person who is duly registered and licensed by the board.

3691 SECTION 111. The first paragraph of section 9E of said chapter 112 , as so appearing, is
3692 hereby amended by striking out the last sentence.

3693 SECTION 112. The third paragraph of said section 9E of said chapter 112, as so
3694 appearing, is hereby amended by striking out the last sentence.

3695 SECTION 113. Said chapter 112 is hereby further amended by inserting after section
3696 80H the following section:—

3697 Section 80I. When a law or rule requires a signature, certification, stamp, verification,
3698 affidavit or endorsement by a physician, when relating to physical or mental health, that
3699 requirement may be fulfilled by a nurse practitioner practicing under section 80B. Nothing in
3700 this section shall be construed to expand the scope of practice of nurse practitioners. This
3701 section shall not be construed to preclude the development of mutually agreed upon guidelines
3702 between the nurse practitioner and supervising physician under section 80E.

3703 SECTION 114. Section 8 of chapter 118E of the General Laws, as appearing in the 2010
3704 Official Edition, is hereby amended by inserting after clause e the following paragraph:-

3705 e1/2. “Primary care provider”, a health care professional qualified to provide general
3706 medical care for common health care problems who: (i) supervises, coordinates, prescribes or
3707 otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and
3708 (iii) maintains continuity of care within the scope of practice.

3709 SECTION 115. Said chapter 118E is hereby amended by inserting after section 8 the
3710 following section:—

3711 Section 8A. For the purposes of sections 13C to 13K, inclusive, and sections 64 to 70,
3712 inclusive, the following terms and phrases shall, unless the context clearly requires otherwise,
3713 have the following meanings:

3714 “Actual costs”, all direct and indirect costs incurred by a hospital or a community health
3715 center in providing medically necessary care and treatment to its patients, determined in
3716 accordance with generally accepted accounting principles.

3717 “Acute hospital”, the teaching hospital of the University of Massachusetts Medical
3718 School and any hospital licensed under section 51 of chapter 111 and which contains a majority
3719 of medical-surgical, pediatric, obstetric and maternity beds, as defined by the department of
3720 public health.

3721 “Case mix”, the description and categorization of a hospital’s patient population
3722 according to criteria approved by the center for health information and analysis including, but

3723 not limited to, primary and secondary diagnoses, primary and secondary procedures, illness
3724 severity, patient age and source of payment.

3725 “Charge”, the uniform price for specific services within a revenue center of a hospital.

3726 “Child”, a person who is under 18 years of age.

3727 “Community health centers”, health centers operating in conformance with Section 330
3728 of United States Public Law 95-626 and shall include all community health centers which file
3729 cost reports as requested by the center.

3730 “Comprehensive cancer center”, the hospital of any institution so designated by the
3731 national cancer institute organized solely for the treatment of cancer, and offered exemption from
3732 the Medicare diagnosis related group payment system.

3733 “Disproportionate share hospital”, an acute hospital that exhibits a payer mix where a
3734 minimum of 63 per cent of the acute hospital’s gross patient service revenue is attributable to
3735 Title XVIII and Title XIX of the federal Social Security Act, other government payers and free
3736 care.

3737 “Emergency medical condition”, a medical condition, whether physical or mental,
3738 manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of
3739 prompt medical attention could reasonably be expected by a prudent layperson who possesses an
3740 average knowledge of health and medicine, to result in placing the health of the person or
3741 another person in serious jeopardy, serious impairment to body function or serious dysfunction
3742 of any body organ or part or, with respect to a pregnant woman, as further defined in 42 U.S.C.
3743 section 1395dd(e)(1)(B).

3744 “Emergency services”, medically necessary health care services provided to an individual
3745 with an emergency medical condition.

3746 “Employee”, a person who performs services primarily in the commonwealth for
3747 remuneration for a commonwealth employer; provided, that “employee” shall not include a
3748 person who is self-employed.

3749 “Employer”, an employer as defined in section 1 of chapter 151A.

3750 “Enrollee”, a person who becomes a member of an insurance program of the division
3751 either individually or as a member of a family.

3752 “Financial requirements”, a hospital’s requirement for revenue which shall include, but
3753 not be limited to, reasonable operating, capital and working capital costs, the reasonable costs of
3754 depreciation of plant and equipment and the reasonable costs associated with changes in medical
3755 practice and technology.

3756 “Fiscal year”, the 12 month period during which a hospital keeps its accounts and which
3757 ends in the calendar year by which it is identified.

3758 “Free care”, the following medically necessary services provided to individuals
3759 determined to be financially unable to pay for care, in whole or in part, under applicable
3760 regulations of the executive office: (i) services provided by acute hospitals; (ii) services provided
3761 by community health centers; and (iii) patients in situations of medical hardship in which major
3762 expenditures for health care have depleted or can reasonably be expected to deplete the financial
3763 resources of the individual to the extent that medical services cannot be paid, as determined by
3764 regulations of the executive office.

3765 “General health supplies, care or rehabilitative services and accommodations”, all
3766 supplies, care and services of medical, optometric, dental, surgical, podiatric, psychiatric,
3767 therapeutic, diagnostic, rehabilitative, supportive or geriatric nature, including inpatient and
3768 outpatient hospital care and services and accommodations in hospitals, sanatoria, infirmaries,
3769 convalescent and nursing homes, retirement homes, facilities established, licensed or approved
3770 under chapter 111B and providing services of a medical or health-related nature and similar
3771 institutions including those providing treatment, training, instruction and care of children and
3772 adults; provided, however, that rehabilitative service shall include only rehabilitative services of
3773 a medical or health-related nature which are eligible for reimbursement under Title XIX of the
3774 federal Social Security Act.

3775 “Governmental mandate”, a state or federal statutory requirement, administrative rule,
3776 regulation, assessment, executive order, judicial order or other governmental requirement that
3777 directly or indirectly imposes an obligation and associated compliance cost upon a provider to
3778 take an action or to refrain from taking an action in order to fulfill the provider’s contractual duty
3779 to a procuring governmental unit.

3780 “Governmental unit”, the commonwealth, any department, agency board, commission or
3781 political subdivision of the commonwealth.

3782 “Gross patient service revenue”, the total dollar amount of a hospital’s charges for
3783 services rendered in a fiscal year.

3784 “Health care services”, supplies, care and services of a medical, surgical, optometric,
3785 dental, podiatric, chiropractic, psychiatric, therapeutic, diagnostic, preventative, rehabilitative,
3786 supportive or geriatric nature including, but not limited to, inpatient and outpatient acute hospital

3787 care and services, services provided by a community health center or by a sanatorium, included
3788 in the definition of “hospital” in Title XVIII of the federal Social Security Act and treatment and
3789 care compatible with such services or by a health maintenance organization.

3790 “Health insurance company”, a company as defined in section 1 of chapter 175 which
3791 engages in the business of health insurance.

3792 “Health insurance plan”, the Medicare program or an individual or group contract or
3793 other plan providing coverage of health care services and which is issued by a health insurance
3794 company, a hospital service corporation, a medical service corporation or a health maintenance
3795 organization.

3796 “Health maintenance organization”, a company which provides or arranges for health
3797 care services to enrolled members in exchange primarily for a prepaid per capita or aggregate
3798 fixed sum as defined in section 1 of chapter 176G.

3799 “Hospital”, a hospital licensed under section 51 of chapter 111, the teaching hospital of
3800 the University of Massachusetts Medical School and any psychiatric facility licensed under
3801 section 19 of chapter 19.

3802 “Medical assistance program”, the Medicaid program, the Veterans Administration health
3803 and hospital programs and any other medical assistance program operated by a governmental
3804 unit for persons categorically eligible for such program.

3805 “Medically necessary services”, medically necessary inpatient and outpatient services as
3806 mandated under Title XIX of the federal Social Security Act. Medically necessary services shall
3807 not include: (i) non-medical services, such as social, educational and vocational services; (ii)

3808 cosmetic surgery; (iii) canceled or missed appointments; (iv) telephone conversations and
3809 consultations; (v) court testimony; (vi) research or the provision of experimental or unproven
3810 procedures including, but not limited to, treatment related to sex-reassignment surgery and pre-
3811 surgery hormone therapy; and (vii) providing whole blood; provided, however, that
3812 administrative and processing costs associated with providing blood and its derivatives shall be
3813 payable.

3814 “Medicare program”, the medical insurance program established by Title XVIII of the
3815 federal Social Security Act.

3816 “Non-acute hospital”, a hospital which is not an acute hospital.

3817 “Patient”, a natural person receiving health care services from a hospital.

3818 “Pediatric hospital”, an acute care hospital which limits services primarily to children and
3819 which qualifies as exempt from the Medicare Prospective Payment system regulations.

3820 “Pediatric specialty unit”, a pediatric unit of an acute care hospital in which the ratio of
3821 licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20. In
3822 calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds
3823 and the total of all licensed hospital beds shall include the total of all licensed acute care hospital
3824 beds, consistent with Medicare’s acute care hospital reimbursement methodology as put forth in
3825 the Provider Reimbursement Manual Part 1, Section 2405.3G.

3826 “Provider”, any person, corporation partnership, governmental unit, state institution or
3827 any other entity qualified under the laws of the commonwealth to perform or provide health care
3828 services.

3829 “Publicly aided patient”, a person who receives hospital care and services for which a
3830 governmental unit is liable, in whole or in part, under a statutory program of public assistance.

3831 “Purchaser”, a natural person responsible for payment for health care services rendered
3832 by a hospital.

3833 “Resident”, a person living in the commonwealth, as defined by the executive office
3834 through a regulation; provided, however, that such regulation shall not define a resident as a
3835 person who moved into the commonwealth for the sole purpose of securing health insurance
3836 under this chapter; and provided, further that confinement of a person in a nursing home, hospital
3837 or other medical institution shall not in and of itself, suffice to qualify such person as a resident.

3838 “Revenue center”, a functioning unit of a hospital which provides distinctive services to a
3839 patient for a charge.

3840 “Self-employed”, a person who, at common law, is not considered to be an employee and
3841 whose primary source of income is derived from the pursuit of a bona fide business.

3842 “Self-insurance health plan”, a plan which provides health benefits to the employees of a
3843 business, which is not a health insurance plan and in which the business is liable for the actual
3844 costs of the health care services provided by the plan and administrative costs.

3845 “Social service program”, a social, mental health, developmental disabilities, habilitative,
3846 rehabilitative, substance abuse, residential care, adult or adolescent day care, vocational,
3847 employment and training or elder service program or accommodations purchased by a
3848 governmental unit or political subdivision of the executive office of health and human services,
3849 but excluding any program, service or accommodation that: (i) is reimbursable under a Medicaid

3850 waiver granted under section 1115 of Title XI of the federal Social Security Act; or (ii) is funded
3851 exclusively by a federal grant.

3852 “Social service program provider”, a provider of social service programs in the
3853 commonwealth.

3854 “Sole community provider”, any acute hospital which qualifies as a sole community
3855 provider under Medicare regulations or under regulations promulgated by the executive office.
3856 Those regulations shall consider factors including, but not limited to, isolated location, weather
3857 conditions, travel conditions, percentage of Medicare, Medicaid and free care provided and the
3858 absence of other reasonably accessible hospitals in the area; provided, that such hospitals shall
3859 include those which are located more than 25 miles from other such hospitals in the
3860 commonwealth and which provide services for at least 60 per cent of the primary service area.

3861 “Specialty hospital”, an acute hospital which qualifies for an exemption from the
3862 Medicare prospective payment system regulations or an acute hospital which limits its
3863 admissions to patients under active diagnosis and treatment of eyes, ears, nose and throat or to
3864 children or patients under obstetrical care.

3865 “State institution”, a hospital, sanatorium, infirmary, clinic and other such facility owned,
3866 operated or administered by the commonwealth which furnishes general health supplies, care or
3867 rehabilitative services and accommodations.

3868 “Third party payer”, an entity including, but not limited to, Title XVIII and Title XIX
3869 programs, other governmental payers, insurance companies, health maintenance organizations
3870 and nonprofit hospital service corporations; provided, however, that “third party payer” shall not

3871 include a purchaser responsible for payment for health care services rendered by a hospital,
3872 either to the purchaser or to the hospital.

3873 SECTION 116. Section 9C of said chapter 118E, as appearing in the 2010 Official
3874 Edition, is hereby amended by striking out, in line 145, the words “established by subsection (c)
3875 of section 18 of chapter 118G”.

3876 SECTION 117. Saidn chapter 118E is hereby further amended by inserting after section
3877 9E the following section:-

3878 Section 9F. (a) As used in this section, the following words shall, unless the context
3879 clearly requires otherwise, have the following meanings:

3880 “Dual eligible”, or “dually eligible person”, any person age 21 or older and under age 65
3881 who is enrolled in both Medicare and MassHealth.

3882 “Integrated care organization” or “ICO”, a comprehensive network of medical, health
3883 care and long-term services and supports providers that integrates all components of care, either
3884 directly or through subcontracts and has been contracted with by the executive office of health
3885 and human services and designated an ICO to provide services to dually eligible individuals
3886 under this section.

3887 (b) Members of the MassHealth dual eligible pilot program on ICOs or any successor
3888 program integrating care for dual eligible persons shall be provided an independent community
3889 care coordinator by the ICO or successor organization, who shall be a participant in the
3890 member’s care team. The community care coordinator shall assist in the development of a long-
3891 term support and services care plan. The community care coordinator shall:

3892 (1) participate in initial and ongoing assessments of the health and functional
3893 status of the member, including determining appropriateness for long-term care support and
3894 services, either in the form of institutional or community-based care plans and related service
3895 packages necessary to improve or maintain enrollee health and functional status;

3896 (2) arrange and, with the agreement of the member and the care team, coordinate
3897 appropriate institutional and community long-term supports and services, including assistance
3898 with the activities of daily living and instrumental activities of daily living, housing, home-
3899 delivered meals, transportation and, under specific conditions or circumstances established by
3900 the ICO or successor organization, authorize a range and amount of community-based services;
3901 and

3902 (3) monitor the appropriate provision and functional outcomes of community
3903 long-term care services, according to the service plan as deemed appropriate by the member and
3904 the care team; and track member satisfaction and the appropriate provision and functional
3905 outcomes of community long-term care services, according to the service plan as deemed
3906 appropriate by the member and the care team.

3907 (c) The ICO or successor organization shall not have a direct or indirect financial
3908 ownership interest in an entity that serves as an independent care coordinator. Providers of
3909 institutional or community based long-term services and supports on a compensated basis shall
3910 not function as an independent care coordinator; provided, however, that the secretary may grant
3911 a waiver of this restriction upon a finding that public necessity and convenience require such a
3912 waiver. For the purposes of this section, an organization compensated to provide only evaluation,

3913 assessment, coordination, skills training, peer supports and fiscal intermediary services shall not
3914 be considered a provider of long term services and supports.

3915 SECTION 118. Section 12 of said chapter 118E, as appearing in the 2010 Official
3916 Edition, is hereby amended by striking out, in lines 11 and 12, the words “division of health care
3917 finance and policy” and inserting in place thereof the following words:- center for health
3918 information and analysis.

3919 SECTION 119. Section 13 of said chapter 118E, as so appearing, is hereby amended by
3920 striking out, in lines 3 and 4, the words “division of health care finance and policy established by
3921 chapter one hundred and eighteen G, which shall be called the “division” only for the purposes
3922 of this section and inserting in place thereof the following words:- executive office of health and
3923 human services, which shall be called the “executive office” only for the purposes of this section
3924 or by a governmental unit designated by the executive office.

3925 SECTION 120. Said section 13 of said chapter 118E, as so appearing, is hereby further
3926 amended by striking out, in lines, 9, 15, 18, 20, 22 and 33 the word “division” and inserting in
3927 place thereof, in each instance, the following words:- executive office.

3928 SECTION 121. Said section 13 of said chapter 118E, as so appearing, is hereby further
3929 amended by striking out, in line 25, the word “division” and inserting in place thereof the
3930 following words:- center for health information and analysis.

3931 SECTION 122. Section 13B of said chapter 118E, as so appearing, is hereby further
3932 amended by striking out, in lines 11 and 12, the words “the Massachusetts health care quality and
3933 cost council, established under section 16K of chapter 6A and”.

3934 SECTION 123. Said chapter 118E is hereby amended by inserting after section 13B the
3935 following 10 sections:-

3936 Section 13C. The secretary of the executive office shall establish rates of payment for
3937 health care services; provided, that the secretary may designate another governmental unit to
3938 perform such ratemaking functions. The secretary of the executive office shall have the
3939 responsibility for establishing rates to be paid to providers for health care services by
3940 governmental units, including the division of industrial accidents. The rates shall be adequate to
3941 meet the costs incurred by efficiently and economically operated facilities providing care and
3942 services in conformity with applicable state and federal laws and regulations and quality and
3943 safety standards and which are within the financial capacity of the commonwealth.
3944 Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of
3945 the executive office shall have the responsibility for establishing fair and adequate charges to be
3946 used by state institutions for general health supplies, care and rehabilitative services and
3947 accommodations, which charges shall be based on the actual costs of the state institution
3948 reasonably related, in the circumstances of each institution, to the efficient production of the
3949 services in the institution and shall also have sole responsibility for determining rates paid for
3950 educational assessments conducted or performed by psychologists and trained, certified
3951 educational personnel under the tenth paragraph of section 3 of chapter 71B.

3952 The secretary of the executive office shall have the responsibility for establishing rates of
3953 payment for social service programs which are reasonable and adequate to meet the costs which
3954 are incurred by efficiently and economically operated social service program providers in
3955 providing social service programs in conformity with federal and state law, regulations and
3956 quality and safety standards; provided, that the secretary may designate another governmental

unit to perform such ratemaking functions. When establishing rates of payment for social service programs, the secretary of the executive office shall adjust rates to take into account factors, including, but not limited to: (i) the reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority; (ii) a cost adjustment factor to reflect changes in reasonable costs of goods and services of social service programs including those attributed to inflation; and (iii) geographic differences in wages, benefits, housing and real estate costs in each metropolitan statistical area of the commonwealth and in any city or town therein where such costs are substantially higher than the average cost within that area as a whole. The secretary of the executive office shall not consider any of the resources specified in section 13G when establishing, reviewing or approving rates of payment for social service programs.

Section 13D. The executive office, or a governmental unit designated to perform ratemaking functions by the executive office shall: (i) determine, after public hearing, at least annually for institutional providers, and at least biennially for non-institutional providers, the rates to be paid by each governmental unit to providers of health care services and social service programs, provided, however, that for the purposes of this section, social service program providers shall be treated as non-institutional providers; (ii) determine, after public hearing, at least annually, the rates to be charged by each state institution for general health supplies, care or rehabilitative services and accommodations; (iii) certify to each affected governmental unit the rates so determined; (iv) determine, after public hearing, at least annually, and certify to the division of industrial accidents of the department of labor and industries, rates of payment for general health supplies, care or rehabilitative services and accommodations, which rates shall be paid for services under chapter 152; (v) upon request of the division of insurance, assist the

3980 division of insurance in the performance of its duties as set forth in section 4 of chapter 176B;
3981 and (vi) may establish fair and reasonable classifications upon which any rates may be based for
3982 rest homes, nursing homes and convalescent homes; provided, however, that the executive office
3983 shall not cause a decrease in a rate or add a penalty to a rate because such home has an equity
3984 position which is less than 0.

3985 Such rates for nursing homes and rest homes, as defined under section 71 of chapter 111,
3986 shall be established as of October 1 of each year. In setting such rates, the executive office shall
3987 use as base year costs for rate determination purposes the reported costs of the calendar year not
3988 more than 4 years prior to the current rate year, adjusted for reasonableness and to incorporate
3989 any audit findings applicable to said base year costs. In any appeal of rates under section 13E,
3990 the petitioner shall not be permitted to introduce into the records of such an appeal evidence of
3991 costs for any year other than the base year used to establish the rate. Notwithstanding any other
3992 general or special law or regulation to the contrary, except as provided in this chapter, each
3993 governmental unit shall pay to a provider of services and each state institution shall charge as a
3994 provider of health care services, as the case may be, the rates for general health supplies, care
3995 and rehabilitative services and accommodations determined and certified by the executive office.
3996 In establishing rates of payment to providers of services, the executive office shall control rate
3997 increases and shall impose such methods and standards as are necessary to ensure reimbursement
3998 for those costs which must be incurred by efficiently and economically operated facilities and
3999 providers. Such methods and standards may include, but shall not be limited to, the following:
4000 peer group cost analyses; ceilings on capital and operating costs; productivity standards; caps or
4001 other limitations on the utilization of temporary nursing or other personnel services; use of
4002 national or regional indices to measure increases or decreases in reasonable costs; limits on

4003 administrative costs associated with the use of management companies; the availability of
4004 discounts for large volume purchasers; the revision of existing historical cost bases, where
4005 applicable, to reflect norms or models of efficient service delivery; and other means to encourage
4006 the cost-efficient delivery of services. Rates produced using these methods and standards shall be
4007 in conformance with Title XIX, including the upper limit on provider payments.

4008 In determining rates to be paid by governmental units to providers of services, the
4009 executive office shall include as an operating expense of a provider of services any contribution
4010 made in lieu of taxes by such provider of services to a city or town and shall establish by
4011 regulation those expenses treated as business deductions under the Internal Revenue Code, which
4012 shall be included as allowable operating expenses in determining rates of reimbursement. Except
4013 for ceilings or maximum rates of reimbursement, which are determined in accordance with rate
4014 determination methods imposed on nursing homes, any ceiling or maximum imposed by the
4015 executive office upon the rate of reimbursement to be paid to rest homes shall reflect the actual
4016 costs of rest home providers and shall not prevent any such rest home provider from receiving
4017 full payment for costs necessarily incurred in the provision of services in compliance with
4018 federal or state regulations and requirements.

4019 In determining rates to be paid by governmental units to acute-care hospitals, as defined
4020 in section 25B of chapter 111, and any hospital or separate unit of a hospital that provides acute
4021 psychiatric services, as defined in said section 25B, the executive office shall include as an
4022 operating expense the reasonable cost of providing competent interpreter services as required by
4023 section 25J of said chapter 111 or section 23A of chapter 123.

4024 No hospital shall receive reimbursement or payment from any governmental unit for
4025 amounts paid to employees, as salary, or to consultant or other firms, as fees, where the primary
4026 responsibility of the employees or consultants is, either directly or indirectly, to persuade or seek
4027 to persuade the employees of the hospital to support or oppose unionization. Attorney's fees for
4028 services rendered in dealing directly with a union, in advising hospital management of its
4029 responsibilities under the National Labor Relations Act, or for services at an administrative
4030 agency or court or for services by an attorney in preparation for the agency or in court
4031 proceeding shall not be support or opposition to unionization.

4032 The executive office shall establish rates on a prospective basis, subject to rules and
4033 regulations promulgated by the executive office.

4034 In establishing rates for nursing pools under section 72Y of chapter 111, the executive
4035 office shall establish annually the limit for the rate for service provided by nursing pools to
4036 licensed facilities. The executive office shall establish industry-wide class rates for such services
4037 and shall establish separate class rates for services provided to nursing facilities and hospitals.
4038 The executive office shall establish separate rates for registered nurses, licensed practical nurses
4039 and certified nursing assistants. The executive office may establish rates by geographic region.
4040 The rates shall include an allowance for wages, payroll taxes and fringe benefits, which shall be
4041 based upon, and shall not exceed, median wages, payroll taxes and fringe benefits paid to
4042 permanent medical personnel of the same type at health care facilities in the same geographic
4043 region. The rates shall also include an allowance for reasonable administrative expenses and a
4044 reasonable profit factor, as determined by the executive office. The executive office may exempt
4045 from the rates certain categories, as defined by the executive office, of fixed-term employees that
4046 work exclusively at a particular health care facility for a period of at least 90 days and for whose

4047 services there is a contract between a facility and a nursing pool registered with the department
4048 of public health. The executive office shall establish procedures by which nursing pools shall
4049 submit cost reports, which may be subject to audit, to the executive office to establish rates. The
4050 executive office shall determine the nursing pool rate contained in this paragraph by considering
4051 wage and benefit data collected from cost reports received from nursing pools and from health
4052 care facilities and other relevant information gathered through other collection tools or
4053 reasonable methodologies.

4054 Except as otherwise provided in this section any person aggrieved by any rate
4055 determination made under this section shall have a right of appeal as provided under section 13E.

4056 The executive office may enter into such contracts or agreements with the federal
4057 government, a political subdivision of the commonwealth or any public or private corporation or
4058 organization, as it deems necessary; provided, however, that the executive office shall not enter
4059 into any contract or agreement with a private corporation or organization to furnish information
4060 and statistical data to be used by said executive office as its sole basis for setting rates, if such
4061 private corporation or organization is to make or receive payments based upon the rates so set.

4062 Each governmental unit shall cooperate with the executive office at all times in the
4063 furtherance of the executive office's purposes. Each state institution shall permit the executive
4064 office or any designated representatives of the executive office, to examine its books and
4065 accounts and shall file with the executive office from time to time or upon request such data,
4066 statistics, schedules or other information as the executive office may reasonably require.

4067 Each rate established by the executive office shall be a regulation and shall be subject to
4068 review as hereinafter provided. The executive office shall promulgate rules and regulations for

4069 the administration of its duties and the determination of rates as are herein required subject to the
4070 procedures prescribed by chapter 30A. Every rate, classification and other regulation established
4071 by the executive office shall be consistent where applicable with the principles of reimbursement
4072 for provider costs in effect from time to time under Titles XVIII and XIX of the federal Social
4073 Security Act governing reimbursements or grants available to the commonwealth, its
4074 departments, agencies, boards, divisions or political subdivisions for general health supplies, care
4075 and rehabilitative services and accommodations.

4076 In the event that any aggregate rates certified by the executive office exceed the upper
4077 limit of payment in effect for any period under Titles XVIII or Title XIX of the Social Security
4078 Act or any other requirement of said Titles, where applicable, the executive office shall re-
4079 determine and recertify any such aggregate rates in order to bring them into compliance with
4080 such federal requirement for the entire period during which such upper limit is effective.

4081 This section shall not apply to acute or non-acute hospitals; provided, however, that this
4082 section shall apply to acute and non-acute hospitals for services under the workers'
4083 compensation act.

4084 Section 13E. Except for rates established under section 13F, any person, corporation or
4085 other party aggrieved by an interim rate or a final rate established by the executive office or a
4086 governmental unit designated to perform ratemaking functions by the executive office, or by
4087 failure of the executive office to set a rate or to take other action required by law and desiring a
4088 review thereof shall, within 30 days after said rate is filed with the state secretary or may, at any
4089 time, if there is a failure to determine a rate or take any action required by law, file an appeal
4090 with the division of administrative law appeals established by section 4H of chapter 7. Any

4091 appeal filed under this section shall be accompanied by a certified statement that said appeal is
4092 not interposed for delay. On appeal, the rate determined for any provider of services shall be
4093 adequate, fair and reasonable for such provider, based upon, the costs of such provider, but not
4094 limited thereto.

4095 On an appeal from an interim rate or a final rate the division of administrative law
4096 appeals shall conduct an adjudicatory proceeding under chapter 30A, and said division shall file
4097 its decision with the secretary of the executive office and the state secretary within 30 days after
4098 the conclusion of the hearing.

4099 Said decision shall contain a statement of the reasons for such decision, including a
4100 determination of each issue of fact or law upon which such decision was based. If such decision
4101 results in a recommendation for a rate different from that certified, the executive office shall
4102 establish a new rate based upon such statement of reasons. If the secretary of the executive office
4103 determines that the statement of reasons is inadequate to determine a fair, reasonable and
4104 adequate rate, it may remand the appeal to the hearing officer for further investigation. Any party
4105 aggrieved by a decision of the division may, within 30 days of the receipt of such decision, file a
4106 petition for review in superior court for the county of Suffolk, which shall have exclusive
4107 jurisdiction of such review.

4108 A provider may appeal as an aggrieved party under the preceding sentence, in the event
4109 that a remand by the executive office to a hearing officer does not result in a final decision by the
4110 executive office within 21 days of the date of remand.

4111 The petition shall set forth the grounds upon which the decision of the division should be
4112 set aside. The aggrieved party shall, within 7 days after the petition for review is filed, notify the

4113 executive office and all the parties to the appeal before said division that a petition for review has
4114 been filed by sending each a copy thereof. Within 40 days after the petition for review is filed, or
4115 within such further time as the court may allow, the division of administrative law appeals shall
4116 file in court the original or a certified copy of the record under review. The court may affirm,
4117 modify or set aside the decision of the executive office in whole or in part, remand the decision
4118 to the executive office for further proceedings or enter such other order as justice may require.
4119 Nothing in this section shall be construed to prevent the division from granting temporary relief
4120 if, in its discretion, such relief is justified nor, from informally adjusting or settling controversies
4121 with the consent of all parties.

4122 Judicial review shall be governed by section 14 of chapter 30A to the extent not
4123 inconsistent with this section.

4124 Section 13E ½. All purchasers and third party payers, excluding purchasers and payers
4125 under the workers' compensation act, except as provided in chapter 152, may enter into
4126 contractual arrangements with acute and non-acute hospitals for services. No such arrangement,
4127 including, but not limited to, prices or charges which may be charged for non-contracted services
4128 or which may be negotiated in individual contracts between such purchasers or third party payers
4129 and such acute or non-acute hospitals, shall be subject to prior approval by any public agency;
4130 provided, however, that nothing in this chapter shall limit the authority of the executive office to
4131 establish rates of payment for all health care services adjudged compensable under chapter 152,
4132 and provided, further, that charges established by an acute or non-acute hospital for health care
4133 services rendered shall be uniform for all patients receiving comparable services.

4134 Any acute or non-acute hospital that makes a charge or accepts payment based upon a
4135 charge in excess of that filed, required or approved by the executive office or that fails to file any
4136 data, statistics or schedules or other information required under this chapter or by any regulation
4137 promulgated by the executive office or which falsifies the same, shall be subject to a civil
4138 penalty of not more than \$1,000 for each day on which such violation occurs or continues, which
4139 penalty may be assessed in an action brought on behalf of the commonwealth in any court of
4140 competent jurisdiction. The attorney general shall bring any appropriate action, including
4141 injunctive relief, as may be necessary for the enforcement of this chapter.

4142 Section 13F. All rates of payment to acute hospitals and non-acute hospitals under Title
4143 XIX shall be established by contract between the provider of such hospital services and the
4144 office of Medicaid, except as provided in subsections (a) and (b), or otherwise permitted by law.
4145 All rates shall be subject to all applicable Title XIX statutory and regulatory requirements and
4146 shall include reimbursement for the reasonable cost of providing competent interpreter services
4147 under section 25J of chapter 111 or section 23A of chapter 123.

4148 All such rates for non-acute hospitals shall be effective as of the date specified in section
4149 13A, unless otherwise specified by law.

4150 (a) For disproportionate share hospitals, the executive office shall establish rates that
4151 equal the financial requirements of providing care to recipients of medical assistance.

4152 (b) The executive office, or governmental unit designated by the executive office, shall
4153 establish rates of payment which shall apply to emergency services and continuing emergency
4154 care provided in acute hospitals to medical assistance program recipients, including examination
4155 or treatment for an emergency medical condition or active labor in women or any other care

4156 rendered to the extent required by 42 USC 1395(dd), unless such services are provided under an
4157 agreement between the office of Medicaid and the acute hospital. Such rates of payment shall
4158 reflect the reasonable costs of providing such care, including the costs of providing competent
4159 interpreter services under section 25J of chapter 111 or section 23A of chapter 123 and shall take
4160 into account the characteristics of the hospital in which such care is provided, including, but not
4161 limited to, its status as a teaching hospital, specialty hospital, disproportionate share hospital,
4162 pediatric hospital, pediatric specialty unit or sole community provider. An acute hospital shall,
4163 when a medical assistance program recipient requires post emergency room care and, after
4164 screening and stabilizing the patient's condition, notify the office of Medicaid or its designated
4165 representative and assist said office, to the extent possible, in transferring the recipient to an
4166 appropriate medical setting under said office's direction. Nothing in this section shall be
4167 construed to require the hospital to breach its obligation under said 42 USC 1395(dd) or require
4168 the recipient to forego any right to refuse transfer under said 42 USC 1395(dd). If an acute
4169 hospital is unable or prohibited by law or regulation from transferring the patient under said
4170 office's direction, said executive office shall pay for any and all care associated with such
4171 patient's treatment including, but not limited to, care or services provided in the emergency room
4172 or in an inpatient or outpatient setting. Whenever said office is required to pay for such care
4173 rendered in a non-emergency room setting, said office shall pay all reasonable costs for such
4174 services in such hospital, as determined by the executive office under this chapter and consistent
4175 with Title XIX laws.

4176 No acute hospital may charge to a governmental unit for services provided to publicly
4177 aided patients at a rate higher than the rate payable by the office of Medicaid under Title XIX for

4178 the same service, unless such service is provided by said office under a unique arrangement such
4179 as a selective contract or a managed care contract.

4180 Nothing in this chapter shall be construed to conflict with a waiver of otherwise
4181 applicable federal requirements which the office of Medicaid may obtain from the secretary of
4182 health and human services to implement a primary care case management system for delivering
4183 services, or to implement any other type of managed care service delivery system in which the
4184 eligible recipient is directed to obtain services exclusively from 1 provider or 1 group of
4185 providers.

4186 If the office of Medicaid, contracts with any third party payer for the provision of medical
4187 benefits for medical assistance recipients under Title XIX, said office shall assure that on a
4188 quarterly basis such contracted third party payers notify each acute hospital of the number of
4189 inpatient days of service provided by the hospital to such recipients covered by such contracts.

4190 (c) The executive office, or a governmental unit designated to perform ratemaking
4191 functions by the executive office, shall establish rates of payment which shall apply to
4192 community hospitals located in rural and isolated areas where access to other such providers is
4193 not reasonably available. Such hospitals, specially designated by the commonwealth as sole
4194 community providers, shall receive payment rates calculated to reflect the rural characteristics of
4195 such community hospital and the essential nature of the services provided, which rates shall not
4196 be less than 97 per cent of such hospitals' reasonable financial requirements.

4197 Section 13G. The executive office, or a governmental unit designated to perform
4198 ratemaking functions by the executive office, shall not consider the following as resources of
4199 such hospitals in the establishment, review or approval of acute and non-acute hospital rates and

4200 charges: restricted and unrestricted grants; gifts; contributions; bequests; fund principle; term
4201 endowments and endowment balances; restricted gifts; unrestricted gifts; and all income from
4202 any of the foregoing, including unrestricted income from endowment funds and income and
4203 gains from investment of unrestricted funds. The following words shall have the following
4204 meanings as used in this paragraph:

4205 “Income and gains from investment of unrestricted funds”, interest, dividends, rents or
4206 other income on investments, including net gains or losses resulting from investment
4207 transactions.

4208 “Term endowment”, funds available upon termination of restrictions.

4209 “Unrestricted gifts”, gifts, grants, contributions and bequests, upon which there are no
4210 restrictions imposed by the donor.

4211 “Unrestricted income from endowment funds”, income earned on investment of
4212 endowment funds which have no restrictions on income.

4213 An acute or non-acute care hospital aggrieved by any action or failure to act by the
4214 executive office under this chapter may file an appeal under section 13E.

4215 Section 13H. No acute hospital shall deny access to care and services which the hospital
4216 would provide under this chapter to recipients of benefits under chapter 117A.

4217 Section 13I. Notwithstanding any provisions of this chapter to the contrary, all costs and
4218 charges for patients who are residents of other countries shall, as provided herein, be exempted
4219 from the limitations imposed by this chapter. Any hospital shall be allowed to impose a
4220 surcharge on the normal charges that would otherwise be allowed for such residents of other

4221 countries. Such surcharges shall not be included in the calculation of gross patient service
4222 revenues. The normal charge and the patient discharge statistics shall otherwise be included
4223 under this chapter.

4224 Section 13J. A health maintenance organization organized under chapter 176G may; (i)
4225 negotiate directly with any hospital with respect to such health maintenance organization's rate
4226 of payment for hospital services; and (ii) enter into an agreement with such hospital reflecting
4227 such rate of payment without the approval of the executive office. The specification in this
4228 section of contracting rights of health maintenance organizations shall not be construed as
4229 affirming or denying such rights with respect to any other third party payer.

4230 Section 13K. Upon petition of a receiver appointed under section 72 N of chapter 111,
4231 the executive office shall, under regulations to be promulgated hereunder, adjust the facility's
4232 rate, if necessary, to insure compensation of the receiver and payment for a bond. Such
4233 adjustment shall not be in effect if the licensee is under the jurisdiction of the United States
4234 Bankruptcy Court.

4235 SECTION 124. Section 14 of said chapter 118E, as appearing in the 2010 Official
4236 Edition, is hereby amended by striking out, in lines 4 and 5 and 66, the words "division of health
4237 care finance and policy" and inserting in place thereof, in each instance, the following words:-
4238 executive office of health and human services or a governmental unit designated by the executive
4239 office.

4240 SECTION 125. Section 17A of said chapter 118E, as so appearing, is hereby amended by
4241 striking out, in lines 60 and 62, the word "physician" and inserting in place thereof, in each
4242 instance, the following word:- provider.

4243 SECTION 126. Subsection (e) of section 22 of said chapter 118E, as so appearing, is
4244 hereby amended by striking out, in lines 46 and 47, the words “36 of chapter 118G” and
4245 inserting in place thereof the following figure:- 66.

4246 SECTION 127. Subsection (k) of said section 22 of said chapter 118E, as so appearing, is
4247 hereby amended by striking out, in lines 93 and 96, the word “118G” and inserting in place
4248 thereof, in each instance, the following word:- 118E.

4249 SECTION 128. Said section 22 of said chapter 118E, as so appearing, is hereby further
4250 amended by striking out, in lines 44 and 45, 65, 71, 86 and 87 and 110, the words “division of
4251 health care finance and policy” and inserting in place thereof, in each instance, the following
4252 words:- executive office of health and human services.

4253 SECTION 129. Subsection (m) of said section 22 of said chapter 118E, as so appearing,
4254 is hereby amended by striking out, in lines 112 and 113, the words “39 of chapter 118G” and
4255 inserting in place thereof the following figure:- 69.

4256 SECTION 130. Section 23 of said chapter 118E, as so appearing, is hereby amended by
4257 striking out, in line 74, the words “39 of chapter 118G” and inserting in place thereof the
4258 following figure:- 69.

4259 SECTION 131. Said chapter 118E is hereby further amended by inserting after section 62
4260 the following 15 sections:—

4261 Section 63. (a) For the purposes of this section, the following words shall, unless the
4262 context clearly requires otherwise, have the following meanings:

4263 “Assessment”, the user fee imposed under this section; provided, that for all nursing
4264 homes, the user fee shall be imposed per non-Medicare reimbursed patient day; and provided,
4265 further that a Medicare-reimbursed patient day shall be a Medicare Part A patient day paid for
4266 under either an indemnity fee-for-service arrangement or a Medicare health maintenance
4267 organization contract.

4268 “Nursing home”, a nursing home or a distinct part of a nursing unit of a hospital or other
4269 facility licensed by the department of public health under section 71 of chapter 111.

4270 “Patient day”, a day of care provided to an individual patient by a nursing home.

4271 (b) Each nursing home shall pay an assessment per non-Medicare reimbursed patient day.
4272 The assessment shall be sufficient in the aggregate to generate \$145 million in each fiscal year.
4273 The assessment shall be implemented as a broad based health care-related fee as defined in 42
4274 U.S.C. § 1396b(w)(3)(B). The assessment shall be paid to the executive office quarterly. The
4275 executive office may promulgate regulations that authorize the assessment of interest on any
4276 unpaid liability at a rate not to exceed an annual percentage rate of 18 per cent and late fees at a
4277 rate not to exceed 5 per cent per month. The receipts from the assessment, any federal financial
4278 participation received by the commonwealth as a result of expenditures funded by these
4279 assessments and interest thereon shall be credited to the General Fund.

4280 (c) The secretary of the executive office shall prepare a form on which each nursing
4281 home shall report quarterly its total patient days and shall calculate the assessment due. The
4282 secretary of the executive office shall distribute the forms to each nursing home at least annually.
4283 The failure to distribute the form or the failure to receive a copy of the form shall not stay the
4284 obligation to pay the assessment by the date specified in this section. The executive office may

4285 require additional reports, including but not limited to, monthly census data, as it considers
4286 necessary to monitor collections and compliance.

4287 (d) The executive office shall have the authority to inspect and copy the records of a
4288 nursing home to audit its calculation of the assessment. In the event that the executive office
4289 determines that a nursing home has either overpaid or underpaid the assessment, the executive
4290 office shall notify the nursing home of the amount due or refund the overpayment. The executive
4291 office may impose per diem penalties if a nursing home fails to produce documentation as
4292 requested by the executive office.

4293 (e) In the event that a nursing home is aggrieved by a decision of the executive office as
4294 to the amount due, the nursing home may file an appeal to the division of administrative law
4295 appeals within 60 days of the date of the notice of underpayment or the date the notice was
4296 received, whichever is later. The division of administrative law appeals shall conduct each
4297 appeal as an adjudicatory proceeding under chapter 30A and a nursing home aggrieved by a
4298 decision of the division of administrative law appeals shall be entitled to judicial review under
4299 section 14 of said chapter 30A.

4300 (f) The secretary of the executive office may enforce this section by notifying the
4301 department of public health of unpaid assessments. Within 45 days after notice to a nursing home
4302 of amounts due, the department shall revoke licensure of a nursing home that fails to remit
4303 delinquent fees.

4304 (g) The executive office, in consultation with the office of Medicaid, shall promulgate
4305 regulations necessary to implement this section.

4306 Section 64. As used in sections 64 to 69, inclusive, the following words shall, unless the
4307 context clearly requires otherwise, have the following meanings:

4308 “Acute hospital”, the teaching hospital of the University of Massachusetts medical school
4309 and any hospital licensed under section 51 of chapter 111 and which contains a majority of
4310 medical-surgical, pediatric, obstetric and maternity beds, as defined by the department of public
4311 health.

4312 "Allowable reimbursement", payment to acute hospitals and community health centers
4313 for health services provided to uninsured or underinsured patients of the commonwealth under
4314 section 69 and any further regulations promulgated by the health safety net office.

4315 "Ambulatory surgical center", a distinct entity that operates exclusively to provide
4316 surgical services to patients not requiring hospitalization and meets the requirements of the
4317 federal Health Care Financing Administration for participation in the Medicare program.

4318 "Ambulatory surgical center services", services described for purposes of the Medicare
4319 program under 42 U.S.C. 1395k(a)(2)(F)(I); provided that “ambulatory surgical center services”
4320 shall include facility services only and shall not include surgical procedures.

4321 "Bad debt", an account receivable based on services furnished to a patient which: (i) is
4322 regarded as uncollectible, following reasonable collection efforts consistent with regulations of
4323 the office, which regulations shall allow third party payers to negotiate with hospitals to collect
4324 the bad debts of its enrollees; (ii) is charged as a credit loss; (iii) is not the obligation of a
4325 governmental unit or the federal government or any agency thereof; and (iv) is not a
4326 reimbursable health care service.

4327 "Community health center", a health center operating in conformance with the
4328 requirements of Section 330 of United States Public Law 95-626, including all community health
4329 centers which file cost reports as requested by the center for health information and analysis.

4330 "Director", the director of the health safety net office.

4331 "DRG", a patient classification scheme known as diagnosis related grouping, which
4332 provides a means of relating the type of patients a hospital treats, such as its case mix, to the cost
4333 incurred by the hospital.

4334 "Emergency bad debt", bad debt resulting from emergency services provided by an acute
4335 hospital to an uninsured or underinsured patient or other individual who has an emergency
4336 medical condition that is regarded as uncollectible, following reasonable collection efforts
4337 consistent with regulations of the office.

4338 "Emergency medical condition", a medical condition, whether physical, behavioral,
4339 related to a substance use disorder or mental, manifesting itself by symptoms of sufficient
4340 severity, including severe pain, that the absence of prompt medical attention could reasonably be
4341 expected by a prudent layperson who possesses an average knowledge of health and medicine to
4342 result in placing the health of the person or another person in serious jeopardy, serious
4343 impairment to body function or serious dysfunction of any body organ or part or, with respect to
4344 a pregnant woman.

4345 "Emergency services", medically necessary health care services provided to an individual
4346 with an emergency medical condition.

4347 "Financial requirements", a hospital's requirement for revenue which shall include, but
4348 not be limited to, reasonable operating, capital and working capital costs, the reasonable costs of
4349 depreciation of plant and equipment and the reasonable costs associated with changes in medical
4350 practice and technology.

4351 "Fund", the Health Safety Net Trust Fund established under section 66.

4352 "Fund fiscal year", the 12-month period starting in October and ending in September.

4353 "Gross patient service revenue", the total dollar amount of a hospital's charges for
4354 services rendered in a fiscal year.

4355 "Health services", medically necessary inpatient and outpatient services as mandated
4356 under Title XIX of the federal Social Security Act; provided, that "health services" shall not
4357 include: (i) nonmedical services, such as social, educational and vocational services; (ii)
4358 cosmetic surgery; (iii) canceled or missed appointments; (iv) telephone conversations and
4359 consultations; (v) court testimony; (vi) research or the provision of experimental or unproven
4360 procedures including, but not limited to, treatment related to sex-reassignment surgery and pre-
4361 surgery hormone therapy; and (vii) the provision of whole blood, but the administrative and
4362 processing costs associated with the provision of blood and its derivatives shall be payable.

4363 "Managed care organization", a managed care organization, as defined in 42 CFR 438.2,
4364 and any eligible health insurance plan, as defined in section 1 of chapter 118H, that contracts
4365 with MassHealth or the commonwealth health insurance connector authority; provided, however,
4366 that "managed care organization" shall not include a senior care organization, as defined in
4367 section 9D.

4368 "Payments subject to surcharge", all amounts paid, directly or indirectly, by surcharge
4369 payors to acute hospitals for health services and ambulatory surgical centers for ambulatory
4370 surgical center services; provided, however, that "payments subject to surcharge" shall not
4371 include: (i) payments, settlements and judgments arising out of third party liability claims for
4372 bodily injury which are paid under the terms of property or casualty insurance policies; and (ii)
4373 payments made on behalf of Medicaid recipients, Medicare beneficiaries or persons enrolled in
4374 policies issued under chapter 176K or similar policies issued on a group basis; provided further,
4375 that "payments subject to surcharge" shall include payments made by a managed care
4376 organization on behalf of: (1) Medicaid recipients under age 65; and (2) enrollees in the
4377 commonwealth care health insurance program; and provided further, that "payments subject to
4378 surcharge" may exclude amounts established under regulations promulgated by the division for
4379 which the costs and efficiency of billing a surcharge payor or enforcing collection of the
4380 surcharge from a surcharge payor would not be cost effective.

4381 "Pediatric hospital", an acute care hospital which limits services primarily to children and
4382 which qualifies as exempt from the Medicare Prospective Payment system regulations.

4383 "Pediatric specialty unit", a pediatric unit of an acute care hospital in which the ratio of
4384 licensed pediatric beds to total licensed hospital beds as of July 1, 1994 exceeded 0.20; provided
4385 that in calculating that ratio, licensed pediatric beds shall include the total of all pediatric service
4386 beds, and the total of all licensed hospital beds shall include the total of all licensed acute care
4387 hospital beds, consistent with Medicare's acute care hospital reimbursement methodology as put
4388 forth in the Provider Reimbursement Manual Part 1, Section 2405.3G.

4389 "Private sector charges", gross patient service revenue attributable to all patients less
4390 gross patient service revenue attributable to Titles XVIII and XIX, other public-aided patients,
4391 reimbursable health services and bad debt.

4392 "Reimbursable health services", health services provided to uninsured and underinsured
4393 patients who are determined to be financially unable to pay for their care, in whole or part, under
4394 applicable regulations of the office; provided that the health services are services provided by
4395 acute hospitals or services provided by community health centers; and provided further, that such
4396 services shall not be eligible for reimbursement by any other public or private third-party payer.

4397 "Resident", a person living in the commonwealth, as defined by the office by regulation;
4398 provided, however, that such regulation shall not define as a resident a person who moved into
4399 the commonwealth for the sole purpose of securing health insurance under this chapter.
4400 Confinement of a person in a nursing home, hospital or other medical institution shall not in and
4401 of itself, suffice to qualify such person as a resident.

4402 "Surcharge payor", an individual or entity that pays for or arranges for the purchase of
4403 health care services provided by acute hospitals and ambulatory surgical center services provided
4404 by ambulatory surgical centers, as defined in this section; provided, however, that the term
4405 "surcharge payor" shall include a managed care organization; and provided further, that
4406 "surcharge payor" shall not include Title XVIII and Title XIX programs and their beneficiaries or
4407 recipients, other governmental programs of public assistance and their beneficiaries or recipients
4408 and the workers' compensation program established under chapter 152.

4409 "Underinsured patient", a patient whose health insurance plan or self-insurance health
4410 plan does not pay, in whole or in part, for health services that are eligible for reimbursement

4411 from the health safety net trust fund, provided that such patient meets income eligibility
4412 standards set by the office.

4413 "Uninsured patient", a patient who is a resident of the commonwealth, who is not covered
4414 by a health insurance plan or a self-insurance health plan and who is not eligible for a medical
4415 assistance program.

4416 Section 65. (a) There shall be established within the office of Medicaid a health safety net
4417 office which shall be under the supervision and control of a director. The director shall be
4418 appointed by the secretary of the executive office and shall be a person of skill and experience in
4419 the field of health care finance and administration. The director shall be the executive and
4420 administrative head of the office and shall be responsible for administering and enforcing the law
4421 relative to the office and to each administrative unit of the office. The director shall receive such
4422 salary as may be determined by law, and shall devote full time to the duties of the office. In the
4423 case of an absence or vacancy in the office of the director, or in the case of disability as
4424 determined by the secretary of the executive office, the secretary of the executive office may
4425 designate an acting director to serve as director until the vacancy is filled or the absence or
4426 disability ceases. The acting director shall have all the powers and duties of the director and shall
4427 have similar qualifications as the director.

4428 (b) The office shall have the following powers and duties: (i) to administer the Health
4429 Safety Net Trust Fund, established under section 66, and to require payments to the fund
4430 consistent with acute hospitals' and surcharge payors' liability to the fund, as determined under
4431 sections 67 and 68, and any further regulations promulgated by the office; (ii) to set in
4432 consultation with the office of Medicaid, reimbursement rates for payments from the fund to

4433 acute hospitals and community health centers for reimbursable health services provided to
4434 uninsured and underinsured patients and to disburse monies from the fund consistent with such
4435 rates; provided that the office shall implement a fee-for-service reimbursement system for acute
4436 hospitals; (iii) to promulgate regulations further defining: (1) eligibility criteria for reimbursable
4437 health services; (2) the scope of health services that are eligible for reimbursement by the Health
4438 Safety Net Trust Fund; (3) standards for medical hardship; and (4) standards for reasonable
4439 efforts to collect payments for the costs of emergency care; provided that the office shall verify
4440 eligibility using the eligibility system of the office of Medicaid and other appropriate sources to
4441 determine the eligibility of uninsured and underinsured patients for reimbursable health services
4442 and shall establish other procedures to ensure that payments from the fund are made for health
4443 services for which there is no other public or private third party payer, including disallowance of
4444 payments to acute hospitals and community health centers for health services provided to
4445 individuals if reimbursement is available from other public or private sources; (iv) to develop
4446 programs and guidelines to encourage maximum enrollment of uninsured individuals who
4447 receive health services reimbursed by the fund into health care plans and programs of health
4448 insurance offered by public and private sources and to promote the delivery of care in the most
4449 appropriate setting, provided that the programs and guidelines are developed in consultation with
4450 the commonwealth health insurance connector, established under chapter 176Q; and provided
4451 further that these programs shall not deny payments from the fund because services should have
4452 been provided in a more appropriate setting if the hospital was required to provide the services
4453 under 42 U.S.C. 1395 dd; (v) to conduct a utilization review program designed to monitor the
4454 appropriateness of services for which payments were made by the fund and to promote the
4455 delivery of care in the most appropriate setting; and to administer demonstration programs that

4456 reduce health safety net trust fund liability to acute hospitals, including a demonstration program
4457 to enable disease management for patients with chronic diseases, substance abuse and psychiatric
4458 disorders through enrollment of patients in community health centers and community mental
4459 health centers and through coordination between these centers and acute hospitals, provided, that
4460 the office shall report the results of these reviews annually to the joint committee on health care
4461 financing and the house and senate committees on ways and means; (vi) to enter into agreements
4462 or transactions with any federal, state or municipal agency or other public institution or with a
4463 private individual, partnership, firm, corporation, association or other entity and to make
4464 contracts and execute all instruments necessary or convenient for the carrying on of its business;
4465 (vii) to secure payment, without imposing undue hardship upon any individual, for unpaid bills
4466 owed to acute hospitals by individuals for health services that are ineligible for reimbursement
4467 from the Health Safety Net Trust Fund which have been accounted for as bad debt by the
4468 hospital and which are voluntarily referred by a hospital to the department for collection;
4469 provided, however that such unpaid charges shall be considered debts owed to the
4470 commonwealth and all payments received shall be credited to the fund; and provided, further,
4471 that all actions to secure such payments shall be conducted in compliance with a protocol
4472 previously submitted by the office to the joint committee on health care financing; (viii) to
4473 require hospitals and community health centers to submit to the office data that it reasonably
4474 considers necessary; (ix) to make, amend and repeal rules and regulations to effectuate the
4475 efficient use of monies from the Health Safety Net Trust Fund; provided, however, that the
4476 regulations shall be promulgated only after notice and hearing and only upon consultation with
4477 the board of the commonwealth health insurance connector, representatives of the Massachusetts
4478 Hospital Association, the Massachusetts Council of Community Hospitals, the Alliance of

4479 Massachusetts Safety Net Hospitals, the Conference of Boston Teaching Hospitals and the
4480 Massachusetts League of Community Health Centers; and (x) to provide an annual report at the
4481 close of each fund fiscal year to the joint committee on health care financing and the house and
4482 senate committees on ways and means, evaluating the processes used to determine eligibility for
4483 reimbursable health services, including the Virtual Gateway. The report shall include, but not be
4484 limited to, the following: (1) an analysis of the effectiveness of these processes in enforcing
4485 eligibility requirements for publicly-funded health programs and in enrolling uninsured residents
4486 into programs of health insurance offered by public and private sources; (2) an assessment of the
4487 impact of these processes on the level of reimbursable health services by providers; and (3)
4488 recommendations for ongoing improvements that will enhance the performance of eligibility
4489 determination systems and reduce hospital administrative costs.

4490 Section 66. (a) There shall be established and set up on the books of the commonwealth
4491 a fund to be known as the Health Safety Net Trust Fund, in this section and in sections 67 to 69,
4492 inclusive, called the fund, which shall be administered by the office. Expenditures from the fund
4493 shall not be subject to appropriation unless otherwise required by law. The purposes of the fund
4494 shall be: (i) to maintain a health care safety net by reimbursing hospitals and community health
4495 centers for a portion of the cost of reimbursable health services provided to low-income,
4496 uninsured or underinsured residents; and (ii) to support a portion of the costs of the Medicaid
4497 program this chapter and the commonwealth care health insurance program under chapter 118H.
4498 The office shall administer the fund using such methods, policies, procedures, standards and
4499 criteria that it deems necessary for the proper and efficient operation of the fund and programs
4500 funded by it in a manner designed to distribute the fund resources as equitably as possible. The

4501 director of the health safety net office shall determine annually the estimated expenses of the
4502 office to administer the fund.

4503 (b) The fund shall consist of all amounts paid by acute hospitals and surcharge payors
4504 under sections 67 and 68; all appropriations for the purpose of payments to acute hospitals or
4505 community health centers for health services provided to uninsured and underinsured residents;
4506 any transfers from the Commonwealth Care Trust Fund, established under section 2000 of
4507 chapter 29; and all property and securities acquired by and through the use of monies belonging
4508 to the fund and all interest thereon. Amounts placed in the fund shall, except for amounts
4509 transferred to the Commonwealth Care Trust Fund, be expended by the office for payments to
4510 hospitals and community health centers for reimbursable health services provided to uninsured
4511 and underinsured residents of the commonwealth, consistent with the requirements of this
4512 section and section 69 and the regulations promulgated by the office; provided, however, that
4513 expenses of the health safety net office under subsection (a) shall be expended annually from the
4514 fund; and provided further, that not more than \$6,000,000 shall be expended annually from the
4515 fund for demonstration projects that use case management and other methods to reduce the
4516 liability of the fund to acute hospitals; and provided further, that any amounts collected from
4517 surcharge payors in any year in excess of \$160,000,000, adjusted to reflect applicable surcharge
4518 credits, shall be transferred to the General Fund to support a portion of the costs of the Medicaid
4519 and commonwealth care health insurance programs. Any annual balance remaining in the fund
4520 after these payments have been made shall be transferred to the Commonwealth Care Trust
4521 Fund. All interest earned on the amounts in the fund shall be deposited or retained in the fund.
4522 The director shall from time to time requisition from the fund amounts that the director considers

4523 necessary to meet the current obligations of the office for the purposes of the fund and estimated
4524 obligations for a reasonable future period.

4525 Section 67. (a) An acute hospital's liability to the fund shall equal the product of: (i) the
4526 ratio of its private sector charges to all acute hospitals' private sector charges; and (ii)
4527 \$160,000,000. Annually, before October 1, the office shall establish each acute hospital's
4528 liability to the fund using the best data available, as determined by the health safety net office
4529 and shall update each acute hospital's liability to the fund as updated information becomes
4530 available. The office shall specify by regulation an appropriate mechanism for interim
4531 determination and payment of an acute hospital's liability to the fund. An acute hospital's
4532 liability to the fund shall in the case of a transfer of ownership be assumed by the successor in
4533 interest to the acute hospital.

4534 (b) The office shall establish by regulation an appropriate mechanism for enforcing an
4535 acute hospital's liability to the fund in the event that an acute hospital does not make a scheduled
4536 payment to the fund. These enforcement mechanisms may include: (i) an offset by the office of
4537 Medicaid of payments on the Title XIX claims of any such acute hospital or any health care
4538 provider under common ownership with the acute care hospital or any successor in interest to the
4539 acute hospital; and (ii) the withholding by the office of Medicaid of the amount of payment owed
4540 to the fund, including any interest and late fees and the transfer of the withheld funds into the
4541 fund. If the office of Medicaid offsets claims payments as ordered by the office, it shall not be
4542 considered to be in breach of contract or any other obligation for the payment of non-contracted
4543 services and providers whose payment is offset under an order of the division shall serve all Title
4544 XIX recipients under the contract then in effect with the office of Medicaid, or, in the case of a
4545 non-contracting or disproportionate share hospital, under its obligation for providing services to

4546 Title XIX recipients under this chapter. In no event shall the office direct the office of Medicaid
4547 to offset claims unless an acute hospital has maintained an outstanding obligation to the fund for
4548 a period longer than 45 days and has received proper notice that the office of Medicaid intends to
4549 initiate enforcement actions under regulations promulgated by the office.

4550 Section 68. (a) Acute hospitals and ambulatory surgical centers shall assess a surcharge
4551 on all payments subject to surcharge as defined in section 64. The surcharge shall be distinct
4552 from any other amount paid by a surcharge payor for the services of an acute hospital or
4553 ambulatory surgical center. The surcharge amount shall equal the product of: (i) the surcharge
4554 percentage; and (ii) amounts paid for these services by a surcharge payor. The office shall
4555 calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate
4556 payments subject to the surcharge, excluding projected annual aggregate payments based on
4557 payments made by managed care organizations. The office shall determine the surcharge
4558 percentage before the start of each fund fiscal year and may re-determine the surcharge
4559 percentage before April 1 of each fund fiscal year if the office projects that the initial surcharge
4560 percentage established the previous October will produce less than \$150,000,000 or more than
4561 \$170,000,000 in surcharge payments, excluding payments made by managed care organizations.
4562 Before each succeeding October 1, the office shall re-determine the surcharge percentage
4563 incorporating any adjustments from earlier years. In each determination or redetermination of the
4564 surcharge percentage, the office shall use the best data available as determined by the office of
4565 Medicaid and may consider the effect on projected surcharge payments of any modified or
4566 waived enforcement under subsection (e). The office shall incorporate all adjustments, including,
4567 but not limited to, updates or corrections or final settlement amounts, by prospective adjustment
4568 rather than by retrospective payments or assessments.

4569 (b) Each acute hospital and ambulatory surgical center shall bill a surcharge payor an
4570 amount equal to the surcharge described in subsection (a) as a separate and identifiable amount
4571 distinct from any amount paid by a surcharge payor for acute hospital or ambulatory surgical
4572 center services. Each surcharge payor shall pay the surcharge amount to the office for deposit in
4573 the Health Safety Net Trust Fund on behalf of said acute hospital or ambulatory surgical center.
4574 Upon the written request of a surcharge payor, the office may implement another billing or
4575 collection method for the surcharge payor; provided, however, that the office has received all
4576 information that it requests which is necessary to implement such billing or collection method;
4577 and provided further, that the office shall specify by regulation the criteria for reviewing and
4578 approving such requests and the elements of such alternative method or methods.

4579 (c) The office shall specify by regulation appropriate mechanisms that provide for
4580 determination and payment of a surcharge payor's liability, including requirements for data to be
4581 submitted by surcharge payors, acute hospitals and ambulatory surgical centers.

4582 (d) A surcharge payor's liability to the fund shall in the case of a transfer of ownership be
4583 assumed by the successor in interest to the surcharge payor.

4584 (e) The office shall establish by regulation an appropriate mechanism for enforcing a
4585 surcharge payor's liability to the fund if a surcharge payor does not make a scheduled payment to
4586 the fund; provided, however, that the office may, for the purpose of administrative simplicity,
4587 establish threshold liability amounts below which enforcement may be modified or waived. Such
4588 enforcement mechanism may include assessment of interest on the unpaid liability at a rate not to
4589 exceed an annual percentage rate of 18 per cent and late fees or penalties at a rate not to exceed 5
4590 per cent per month. Such enforcement mechanism may also include notification to the office of

4591 Medicaid requiring an offset of payments on the claims of the surcharge payor, any entity under
4592 common ownership or any successor in interest to the surcharge payor, from the office of
4593 Medicaid in the amount of payment owed to the fund including any interest and penalties, and to
4594 transfer the withheld funds into said fund. If the office of Medicaid offsets claims payments as
4595 ordered by the office, the office of Medicaid shall be considered not to be in breach of contract
4596 or any other obligation for payment of non-contracted services, and a surcharge payor whose
4597 payment is offset under an order of the office shall serve all Title XIX recipients under the
4598 contract then in effect with the executive office of health and human services. In no event shall
4599 the office direct the office of Medicaid to offset claims unless the surcharge payor has
4600 maintained an outstanding liability to the fund for a period longer than 45 days and has received
4601 proper notice that the office intends to initiate enforcement actions under regulations
4602 promulgated by the office.

4603 (f) If a surcharge payor fails to file any data, statistics or schedules or other information
4604 required under this chapter or by any regulation promulgated by the office, the office shall
4605 provide written notice to the payor. If a surcharge payor fails to provide required information
4606 within 14 days after the receipt of written notice, or falsifies the same, the surcharge payor shall
4607 be subject to a civil penalty of not more than \$5,000 for each day on which the violation occurs
4608 or continues, which penalty may be assessed in an action brought on behalf of the
4609 commonwealth in any court of competent jurisdiction. The attorney general shall bring any
4610 appropriate action, including injunctive relief, necessary for the enforcement of this chapter.

4611 Section 69. (a) Reimbursements from the fund to hospitals and community health centers
4612 for health services provided to uninsured and underinsured individuals shall be subject to further
4613 rules and regulations promulgated by the office and shall be made in the following manner:-

4614 (1) Reimbursements made to acute hospitals shall be based on actual claims for
4615 health services provided to uninsured and underinsured patients that are submitted to the office,
4616 and shall be made only after determination that the claim is eligible for reimbursement under this
4617 chapter and any additional regulations promulgated by the office. Reimbursements for health
4618 services provided to residents of other states and foreign countries shall be prohibited and the
4619 office shall make payments to acute hospitals using fee-for-service rates calculated as provided
4620 in paragraphs (5) and (6).

4621 (2) The office shall, in consultation with the office of Medicaid, develop and
4622 implement procedures to verify the eligibility of individuals for whom health services are billed
4623 to the fund and to ensure that other coverage options are used fully before services are billed to
4624 the fund, including procedures adopted under section 66. The office may recover from a third
4625 party that is financially responsible for the costs attributable to services provided to an individual
4626 that were paid by the fund. A payment from the fund for such services shall be recoverable from
4627 the third party and the payment shall, after notice to the third party, operate as a lien under
4628 section 22 . The office shall review all claims billed to the fund to determine whether the patient
4629 is eligible for medical assistance under this chapter and whether any third party is financially
4630 responsible for the costs of care provided to the patient. In making these determinations, the
4631 office shall verify the insurance status of each individual for whom a claim is made using all
4632 sources of data available to the office. The office shall refuse to allow payments or shall disallow
4633 payments to acute hospitals and community health centers for free care provided to individuals if
4634 reimbursement is available from other public or private sources; provided, that payments shall
4635 not be denied from the fund because services should have been provided in a more appropriate
4636 setting if the hospital was required to provide these services under 42 U.S.C. 1395(dd).

4637 (3) The office shall require acute hospitals and community health centers to
4638 screen each applicant for reimbursed care for other sources of coverage and for potential
4639 eligibility for government programs and to document the results of that screening. If an acute
4640 hospital or community health center determines that an applicant is potentially eligible for
4641 Medicaid or for the commonwealth care health insurance program, established under chapter
4642 118H, or another assistance program, the acute hospital or community health center shall assist
4643 the applicant in applying for benefits under that program. The office shall audit the accounts of
4644 acute hospitals and community health centers to determine compliance with this section and shall
4645 deny payments from the fund for any acute hospital or community health center that fails to
4646 document compliance with this section.

4647 (4) Notwithstanding any general or special law to the contrary, an applicant for
4648 health safety net assistance shall, if eligible, be enrolled in MassHealth under section 9A or in the
4649 insurance reimbursement program, as provided in section 9C. An applicant deemed ineligible
4650 for either program and who is unable to make all or part of the payment for health services shall
4651 provide the name and address of the applicant's employer, if any, and the applicant's name,
4652 address, social security number and date of birth. The director of labor, in collaboration with the
4653 office, shall collaborate with the division of insurance and the department of revenue to
4654 implement this section and section 17 of chapter 176Q.

4655 (5) To pay community health centers for health services provided to uninsured
4656 individuals under this section, the office shall pay community health centers a base rate that shall
4657 be no less than the then-current Medicare Federally Qualified Health Center rate, and the office
4658 shall add payments for additional services not included in the base rate, including, but not limited
4659 to, EPSDT services, 340B pharmacy, urgent care and emergency room diversion services.

4660 (6) Reimbursements to acute hospitals and community health centers for bad debt
4661 shall be made upon submission of evidence, in a form to be determined by the office, that
4662 reasonable efforts to collect the debt have been made.

4663 (7) The office shall reimburse acute hospitals for health services provided to
4664 individuals based on the payment systems in effect for acute hospitals used by the United States
4665 Department of Health and Human Services Centers for Medicare & Medicaid Services to
4666 administer the Medicare Program under Title XVIII of the Social Security Act, including all of
4667 Medicare's adjustments for direct and indirect graduate medical education, disproportionate
4668 share, outliers, organ acquisition, bad debt, new technology and capital and the full amount of
4669 the annual increase in the Medicare hospital market basket index. The office shall, in
4670 consultation with the office of Medicaid and the Massachusetts Hospital Association, promulgate
4671 regulations necessary to modify these payment systems to account for: (i) the differences
4672 between the program administered by the office and the Title XVIII Medicare program,
4673 including the services and benefits covered; (ii) grouper and DRG relative weights for purposes
4674 of calculating the payment rates to reimburse acute hospitals at rates not less than the rates they
4675 are reimbursed by Medicare; (iii) the extent and duration of covered services; (iv) the
4676 populations served; and (v) any other adjustments to the payment methodology under this section
4677 as considered necessary by the office, based upon circumstances of individual hospitals.

4678 Following implementation of this section, the office shall ensure that the allowable
4679 reimbursement rates under this section for health services provided to uninsured individuals shall
4680 not thereafter be less than rates of payment for comparable services under the Medicare program,
4681 taking into account the adjustments required by this section.

4682 (b) By April 1 of the year preceding the start of the fund fiscal year, the office shall, after
4683 consultation with the office of Medicaid, and using the best data available, provide an estimate of
4684 the projected total reimbursable health services provided by acute hospitals and community
4685 health centers and emergency bad debt costs, the total funding available and any projected
4686 shortfall after adjusting for reimbursement payments to community health centers. If a shortfall
4687 in revenue exists in any fund fiscal year to cover projected costs for reimbursement of health
4688 services, the office shall allocate that shortfall in a manner that reflects each hospital's
4689 proportional financial requirement for reimbursements from the fund, including, but not limited
4690 to, the establishment of a graduated reimbursement system and under any additional regulations
4691 promulgated by the office.

4692 (c) The executive office of health and human services shall enter into interagency
4693 agreements with the department of revenue to verify income data for patients whose health care
4694 services are reimbursed by the Health Safety Net Trust Fund and to recover payments made by
4695 the fund for services provided to individuals who are ineligible to receive reimbursable health
4696 services or on whose behalf the fund has paid for emergency bad debt. The office shall
4697 promulgate regulations requiring acute hospitals to submit data to enable the department of
4698 revenue to pursue recoveries from individuals who are ineligible for reimbursable health services
4699 and on whose behalf the fund has made payments to acute hospitals for such services or
4700 emergency bad debt. Any amounts recovered, including amounts received under chapter 62D,
4701 shall be deposited in the Health Safety Net Trust Fund, established in section 66.

4702 (d) The office shall not at any time make payments from the fund for any period in excess
4703 of amounts that have been paid into or are available in the fund for that period, but the office
4704 may temporarily prorate payments from the fund for cash flow purposes.

4705 Section 70. As used in sections 70 to 75 inclusive, the following words shall, unless the
4706 context requires otherwise, have the following meanings:—

4707 “Consumer,” a person to whom a personal care attendant provides personal care services.

4708 “PCA quality home care workforce council”, “workforce council” or “the council”, the
4709 Personal Care Attendant quality home care workforce council established in section 71.

4710 “Personal care attendant,” a person, including a personal aide, who has been selected by a
4711 consumer or the consumer’s surrogate to provide personal care services to persons with
4712 disabilities or seniors under the MassHealth personal care attendant program or any successor
4713 program.

4714 “Surrogate”, a consumer’s legal guardian or person identified in a written agreement with
4715 the consumer as responsible for hiring, directing and firing on behalf of the consumer.

4716 Section 71. (a) There shall be a PCA quality home care workforce council which shall be
4717 within the executive office of health and human services but shall not be subject to the control of
4718 the executive office, to ensure the quality of long-term, in-home, personal care by recruiting,
4719 training and stabilizing the work force of personal care attendants.

4720 (b) The PCA quality home care workforce council shall consist of 9 members appointed
4721 under this section. A majority of the members of the council shall be consumers as defined in
4722 this chapter. In making appointments to the council, the governor shall appoint the secretary of
4723 the executive office of health and human services or a designee, who shall serve as chair, the
4724 secretary of labor and workforce development or a designee and 1 member from a slate of 3
4725 consumers recommended by the governor's special advisory commission on disability policy.

4726 The auditor shall appoint 1 member from a slate of 3 consumers recommended by the
4727 developmental disabilities council, 1 member from a slate of 3 consumers recommended by the
4728 Massachusetts office on disability, and 1 member from a slate of 3 consumers recommended by
4729 the statewide independent living council. The attorney general shall appoint 1 member from a
4730 slate of 3 consumers or consumer surrogates recommended by the Massachusetts home care
4731 association, 1 member from a slate of 3 consumers or consumer surrogates recommended by the
4732 Massachusetts council on aging and 1 member chosen by the attorney general. The secretary of
4733 health and human services or a designee and the secretary of labor and workforce development
4734 or a designee shall be permanent members during their term in office. Appointees to the council
4735 shall serve 3-year terms. If a vacancy occurs, the executive officer who made the original
4736 appointment shall appoint a new council member to serve the remainder of the unexpired term
4737 or, in the event that the vacancy occurs as the result of the completion of a term, to serve a full
4738 term, and such appointment shall become immediately effective upon the member taking the
4739 appropriate oath. If the departing council member was appointed under a recommendation made
4740 under this paragraph, the executive officer shall make the new appointment from a slate of 3
4741 recommendations put forth by the entity that originally recommended the departing council
4742 member. Members of the council may serve for successive terms of office. A majority of the
4743 council shall constitute a quorum for the transaction of any business. Members of the council
4744 shall not receive compensation for their council service but members shall be reimbursed for
4745 their actual expenses necessarily incurred in the performance of their duties.

4746 Section 72. (a) The workforce council shall carry out the following duties:

4747 (1) Undertake recruiting efforts to identify and recruit prospective personal care
4748 attendants;

4749 (2) Provide training opportunities, either directly or through contract, for personal
4750 care attendants and consumers;

4751 (3) Provide assistance to consumers and consumer surrogates in finding personal
4752 care attendants by establishing a referral directory of personal care attendants; provided that
4753 before placing a personal care attendant on the referral directory, the workforce council shall
4754 determine that the personal care attendant has met the requirements established by the executive
4755 office in its applicable regulations and has not stated in writing a desire to be excluded from the
4756 directory;

4757 (4) Provide routine, emergency and respite referrals of personal care attendants to
4758 consumers and consumer surrogates who are authorized to receive long-term, in-home personal
4759 care services through a personal care attendant;

4760 (5) Give preference in the recruiting, training, referral and employment of
4761 personal care attendants to recipients of public assistance or other low-income persons who
4762 would qualify for public assistance in the absence of such employment; and

4763 (6) Cooperate with state and local agencies on health and aging and other federal,
4764 state and local agencies to provide the services described and set forth in this section. If the PCA
4765 quality home care workforce council identifies concerns regarding the services being provided
4766 by a personal care attendant, the workforce council shall notify the relevant office.

4767 (b) In determining how best to carry out its duties, the PCA quality home care workforce
4768 council shall identify existing personal care attendant recruitment, training and referral resources
4769 made available to consumers or the consumer's surrogate by other state and local public, private
4770 and nonprofit agencies. The council may coordinate with the agencies to provide a local presence

4771 for the council and to provide consumers or the consumer's surrogate greater access to personal
4772 care attendant recruitment, training and referral resources in a cost-effective manner. Using
4773 requests for proposals or similar processes, the council may contract with the agencies to provide
4774 recruitment, training and referral. The council shall provide an opportunity for consumer
4775 participation in coordination efforts.

4776 (c) The commonwealth shall provide to the council a list of all personal care attendants
4777 who have been paid through the MassHealth personal care attendant program and shall update
4778 the list not less frequently than every 6 months to ensure that the council has a complete and
4779 accurate list at all times.

4780 Section 73. (a) Consumers or the consumer's surrogate shall retain the right to select,
4781 hire, schedule, train, direct, supervise and terminate any personal care attendant providing
4782 services to the consumer or consumer's surrogate. Consumers or the consumer's surrogate may
4783 elect to receive long-term, in-home personal care services from personal care attendants who are
4784 not referred to the consumer or consumer's surrogate by the council.

4785 (b) Personal care attendants shall be considered public employees, as defined by and
4786 solely for the purposes of, chapter 150E and section 17J of chapter 180. Said chapter 150E shall
4787 apply to personal care attendants except to the extent that chapter 150E is inconsistent with this
4788 section, in which case this section shall control. In addition, personal care attendants shall be
4789 treated as state employees solely for the purposes of sections 17A and 17G of chapter 180.
4790 Personal care attendants shall not be considered public employees or state employees for any
4791 purpose other than those set forth in this paragraph. The PCA quality home care workforce
4792 council shall be the employer, as defined by and solely for the purposes of said chapter 150E and

4793 said sections 17A, 17G and 17J of said chapter 180 and deductions under said sections 17A, 17G
4794 and 17J may be made by any entity authorized by the commonwealth to compensate personal
4795 care attendants through the MassHealth personal care attendant program. Personal care
4796 attendants shall not be eligible for benefits through the group insurance commission, the state
4797 board of retirement or the state employee workers' compensation program.

4798 (c) Personal care attendants who are employees of the council under this section shall not
4799 be considered, for that reason, public employees or employees of the council for any other
4800 purpose. Nothing in this chapter shall alter the obligations of the commonwealth or the consumer
4801 to provide their share of social security, federal and state unemployment taxes, Medicare and
4802 worker's compensation insurance under the Federal Insurance Contributions Act, federal and
4803 state unemployment law or the Massachusetts Workers' Compensation Act.

4804 (d) Consistent with section 9A of chapter 150E, no personal care attendant shall engage
4805 in a strike and no personal care attendant shall induce, encourage or condone any strike, work
4806 stoppage, slowdown or withholding of services by any personal care attendant.

4807 (e) The only bargaining unit appropriate for the purpose of collective bargaining shall be
4808 a statewide unit of all personal care attendants. The showing of interest required to request an
4809 election is 10 per cent of the bargaining unit. An intervener seeking to appear on the ballot must
4810 make the same showing of interest.

4811 (f) The council or its contractors, may not be held vicariously liable for the action or
4812 inaction of any personal care attendant, whether or not that personal care attendant was included
4813 on the council's referral directory or referred to a consumer or the consumer's surrogate.

4814 (g) The members of the council shall be immune from any liability resulting from
4815 implementation of sections 70 to 75, inclusive.

4816 Section 74. (a) The PCA quality home care workforce council may make and execute
4817 contracts and all other instruments necessary or convenient for the performance of its duties or
4818 exercise of its powers, including contracts with public and private agencies, organizations,
4819 corporations and individuals to pay them for services rendered or furnished.

4820 (b) The council may offer and provide recruitment, training and referral services to
4821 personal care attendants and consumers of long-term, in-home personal care services other than
4822 statutorily defined personal care attendants and consumers, for a fee to be determined by the
4823 council.

4824 (c) The council may issue rules or regulations, as necessary, for the purpose and policies
4825 of sections 70 to 75, inclusive.

4826 (d) Subject to appropriation, the chairperson of the council with the council's approval
4827 may establish offices, employ and discharge employees, agents and contractors as necessary and
4828 prescribe employees' duties and powers and fix the employees' compensation, incur expenses,
4829 and create such liabilities as are reasonable and proper for the administration of sections 70 to
4830 75, inclusive.

4831 (e) The council may solicit and accept for use any grant of money, services or property
4832 from the federal government, the state or any political subdivision or agency thereof, including
4833 federal matching funds under Title XIX of the federal Social Security Act, and do all things
4834 necessary to cooperate with the federal government, the state, or any political subdivision or
4835 agency thereof, in making an application for any grant.

4836 (f) The council may coordinate its activities and cooperate with similar agencies in other
4837 states.

4838 (g) The council may establish technical advisory committees to assist the council.

4839 (h) The council may keep records and engage in research and the gathering of relevant
4840 statistics.

4841 (i) The council may acquire, hold or dispose of real or personal property, or any interest
4842 therein, and construct, lease or otherwise provide facilities for the activities conducted under
4843 sections 70 to 75, inclusive, but the workforce council may not exercise any power of eminent
4844 domain.

4845 (j) The council may delegate to the appropriate persons the power to execute contracts
4846 and other instruments on its behalf and delegate any of its powers and duties, if consistent with
4847 sections 70 to 75, inclusive.

4848 (k) The council may perform other acts necessary or convenient to execute the powers
4849 expressly granted to it.

4850 Section 75. (a) The council shall conduct a performance review every 2 years, submit a
4851 report of the review to the legislature and the governor and make the report available to the
4852 public upon submission to the governor and the legislature.

4853 (b) The performance review and report shall include an evaluation of the health, welfare
4854 and satisfaction with services provided of the consumers receiving long-term in-home personal
4855 care services from personal care attendants under sections 70 to 75, inclusive, including the
4856 degree to which all required services have been delivered, the degree to which consumers

4857 receiving services from personal care attendants have ultimately required additional or more
4858 intensive services, such as home health care, or have been placed in other residential settings or
4859 nursing homes, the promptness of response to consumer complaints and any other issue
4860 considered to be relevant.

4861 (c) The performance review report shall provide an explanation of the full cost of
4862 personal care services, including the administrative costs of the council, unemployment
4863 compensation, Social Security and Medicare payroll taxes paid and any oversight costs.

4864 (d) The performance review report shall make recommendations to the legislature and the
4865 governor for any amendments to sections 70 to 75, inclusive to further ensure the well-being of
4866 consumers, and the most efficient means of delivering required services.

4867 Section 76. The secretary of the executive office may designate another governmental
4868 unit or units to perform any or all functions set forth in sections 13C to 13K, inclusive, and
4869 sections 64 to 75, inclusive. Such designee specifically may include the center for health
4870 information and analysis established under chapter 12C of the General Laws. The secretary may
4871 effectuate such designation through a memorandum of understanding, nonfinancial
4872 interdepartmental service agreement or similar instrument, and such designee shall be a party to
4873 any such instrument and perform the activities described therein.

4874 Section 77. To the maximum extent possible, the office of Medicaid shall attribute every
4875 member to a primary care provider. Members may change their primary care provider, provided
4876 that the member gives notice to the office of Medicaid.

4877 SECTION 132. Chapter 118G of the General Laws is hereby repealed.

4878 SECTION 133. Chapter 118H of the General Laws is hereby amended by adding the
4879 following section:-

4880 Section 7. To the maximum extent possible, the commonwealth care health insurance
4881 program shall attribute every member to a primary care provider. Members may change primary
4882 care providers, provided that the member gives notice to the commonwealth care health
4883 insurance program.

4884 SECTION 134. The General Laws are hereby amended by inserting after chapter 118H
4885 the following chapter:—

4886 CHAPTER 118L

4887 HEALTH INFORMATION TECHNOLOGY

4888 Section 1. As used in this chapter, the following words shall, unless the context clearly
4889 requires otherwise, have the following meanings:

4890 “Commission”, the health policy commission established in section 2 of chapter 6D.

4891 “Council”, the health information technology council established under section 2.

4892 “Electronic health record,” an electronic record of patient health information generated
4893 by 11 or more encounters in any care delivery setting.

4894 “Executive office”, the executive office of health and human services.

4895 “Health information exchange,” an electronic platform enabling the transmission of
4896 healthcare-related data among providers, payers, personal health records controlled by a patient

4897 and government agencies according to national standards, the reliable and secure transfer of data
4898 among diverse systems and access to and retrieval of data.

4899 “Longitudinal medical record”, a patient’s lifetime electronic health record whether
4900 located, maintained or stored on a provider server, at a central storage repository, or distributed
4901 in multiple locations but accessible with patient consent.

4902 “Massachusetts eHealth institute” or “institute”, the Massachusetts e-Health institute
4903 established under section 6D of chapter 40J.

4904 “Office of the National Coordinator” or “ONC”, the Office of the National Coordinator
4905 for Health Information Technology within the United States Department of Health and Human
4906 Services.

4907 “Statewide health information exchange”, a health information exchange established,
4908 operated or funded by a governmental entity or entities in the commonwealth.

4909 Section 2. (a) There shall be a health information technology council within the executive
4910 office of health and human services. The council shall coordinate with state agencies, including
4911 the commission, other governmental entities and private stakeholders to develop a statewide
4912 health information exchange. The council shall advise the executive office on design,
4913 implementation, operation and use of the statewide health information exchange and related
4914 infrastructure.

4915 (b) The council shall consist of the following 21 members: the secretary of health and
4916 human services or a designee, who shall serve as the chair; the secretary of administration and
4917 finance or a designee; the executive director of the health policy commission or a designee; the

4918 executive director of the center for health information analysis; the director of the Massachusetts
4919 e-Health Institute; the secretary of housing and economic development or a designee; the director
4920 of the office of Medicaid or a designee; and 14 members who shall be appointed by the governor,
4921 of whom at least 1 shall be an expert in health information technology; 1 shall be an expert in
4922 law and health policy; 1 shall be an expert in health information privacy and security; 1 shall be
4923 from an academic medical center; 1 shall be from a community hospital; 1 shall be from a
4924 community health center; 1 shall be from a long term care facility; 1 shall be a from large
4925 physician group practice; 1 shall be from a small physician group practice; 1 shall be a registered
4926 nurse; 1 shall be from a behavioral health, substance abuse disorder or mental health services
4927 organization; 1 shall represent health insurance carriers; and 2 additional members shall have
4928 experience or expertise in health information technology. The council may consult with all
4929 relevant parties, public or private, in exercising its duties under this section, including persons
4930 with expertise and experience in the development and dissemination of electronic health records
4931 systems, and the implementation of electronic health record systems by small physician groups
4932 or ambulatory care providers, as well as persons representing organizations within the
4933 commonwealth interested in and affected by the development of networks and electronic health
4934 records systems, including, but not limited to, persons representing local public health agencies,
4935 licensed hospitals and other licensed facilities and providers, private purchasers, the medical and
4936 nursing professions, physicians and health insurers, the state quality improvement organization,
4937 academic and research institutions, consumer advisory organizations with expertise in health
4938 information technology and other stakeholders as identified by the secretary of health and human
4939 services. Appointed members of the council shall serve for terms of 2 years or until a successor
4940 is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

4941 Chapter 268A shall apply to all council members, except that the council may purchase
4942 from, sell to, borrow from, contract with or otherwise deal with any organization in which any
4943 council member is in anyway interested or involved; provided, however, that such interest or
4944 involvement shall be disclosed in advance to the council and recorded in the minutes of the
4945 proceedings of the council; and provided, further, that no member shall be considered to have
4946 violated section 4 of said chapter 268A because of the member's receipt of usual and regular
4947 compensation from such member's employer during the time in which the member participates
4948 in the activities of the council.

4949 Section 3. (a) The executive office shall conduct procurements and enter into contracts
4950 for the purchase and development of all hardware and software in connection with the creation
4951 and implementation of the statewide health information exchange. The executive office may, in
4952 consultation with the council and the commission, oversee the technical aspects of the
4953 development, dissemination and implementation of the statewide health information exchange
4954 including any modules, applications, interfaces or other technology infrastructure necessary to
4955 connect provider electronic health records systems to the statewide health information exchange.

4956 (b) The executive office shall:

4957 (i) in consultation with the council, develop a health information exchange
4958 strategic and operating plan;

4959 (ii) implement, operate and maintain the statewide health information exchange;

4960 (iii) develop and implement statewide health information exchange infrastructure,
4961 including, without limitation, provider directories, certificate storage, transmission gateways,

4962 auditing systems and any components necessary to connect the statewide health information
4963 exchange to provider electronic health records systems; and

4964 (iv) take all actions necessary to directly manage the Office of the National
4965 Coordinator-HIE Cooperative Agreement and ONC Challenge Grant programs, including the
4966 termination of the current State Designated Entity delegation and the transfer of management
4967 responsibility of said ONC-HIE Cooperative Agreement from the Massachusetts e-Health
4968 Institute to the executive office.

4969 Section 4. In carrying out of this chapter, the council shall consult with various
4970 organizations of regional payers and providers in developing the health information exchange
4971 plan and annual updates and in designing, developing, disseminating and implementing the
4972 health information exchange.

4973 In carrying out this chapter, the executive office shall, to the maximum extent practicable,
4974 adopt policies that are consistent with those relating to similar subject matters adopted by the
4975 Office of the National Coordinator for Health Information Technology of the United States
4976 Department of Health and Human Services; provided, however, that nothing herein shall be
4977 construed to limit the executive office's ability to advance interoperability and other health
4978 information technology beyond the standards adopted by the ONC, including without limitation
4979 any applicable meaningful use standards.

4980 Section 5. (a) The council shall approve all expenditures from the Massachusetts Health
4981 Information Exchange Fund established under section 10. The council, in consultation with the
4982 executive office and institute, shall prepare and annually update a statewide health information

4983 exchange implementation plan. The plan shall contain a budget for the application of funds from
4984 the Massachusetts Health Information Exchange Fund.

4985 (b) Components of the plan, as updated, shall be community-based and shall assess a
4986 municipality's or region's readiness to implement an interoperable electronic health information
4987 exchange within the referral market for a defined patient population.

4988 (c) The plan as updated shall: (i) allow seamless, secure electronic exchange of health
4989 information among health care providers, health plans and other authorized users; (ii) provide
4990 consumers with secure, electronic access to their own health information; (iii) meet all applicable
4991 federal and state privacy and security requirements, including requirements imposed by the
4992 Health Insurance Portability and Accountability Act of 1996, P.L.104-191, the American
4993 Recovery and Reinvestment Act of 2009, P.L. 111-5, 42 C.F.R. §§2.11 et seq. and 45 C.F.R.
4994 §§160, 162, 164 and 170.; (iv) establish a method by which patients may choose which of their
4995 health care providers may disseminate their individually identifiable information; (v) provide
4996 public health reporting capability as required under state law; and (vi) allow reporting of health
4997 information other than identifiable patient health information for purposes of such activities as
4998 the executive office may consider necessary.

4999 (d) The plan as updated shall be consistent with the mandatory compliance date for
5000 implementation of the health information exchange under section 7 and all other requirements of
5001 this chapter. Each such plan shall be consistent with the statewide electronic health records plan
5002 developed by the institute under subsection (c) of section 6D of of chapter 40J.

5003 Section 6. Every patient shall have electronic access to such patient's health records.
5004 The executive office shall ensure that each patient will have secure electronic access to such

5005 patient's electronic health records with each of such patient's providers. The executive office
5006 shall ensure that the design of the statewide health information exchange includes the ability to
5007 transmit copies of electronic health records to patients directly or allow facilities to provide
5008 mechanisms for such patient to access such patient's own electronic health record.

5009 Section 7. All providers in the commonwealth shall implement fully interoperable
5010 electronic health records systems that connect to the statewide health information exchange. The
5011 executive office, in consultation with the institute, shall ensure that the statewide health
5012 information exchange and associated electronic health records systems comply with all state and
5013 federal privacy requirements, including those imposed by the Health Insurance Portability and
5014 Accountability Act of 1996, P.L.104-191, the American Recovery and Reinvestment Act of
5015 2009, P.L. 111-5, 42 C.F.R. §§2.11 et seq. and 45 C.F.R. §§160, 162 and 164.

5016 Section 8. The executive office shall prescribe by regulation penalties for non-
5017 compliance by healthcare providers with the requirements of section 7; provided, however, that
5018 the executive office may waive penalties for good cause, including, but not limited to lack of
5019 broadband internet access as provided in section 9. Penalties collected under this section shall be
5020 deposited into the Prevention and Wellness Trust Fund, established in section 2G of chapter 111.

5021 Section 9. If a provider is located in a geographic area of the commonwealth that does
5022 not have broadband internet access and, due to lack of such broadband internet access, such
5023 provider is unable to fully comply with the requirements of the health information exchange and
5024 any other health information technology requirements implemented by the executive office under
5025 this chapter, such provider may apply to the executive office for a temporary waiver of any
5026 specific requirement with which it is unable to comply. If the executive office determines that

5027 the provider is unable to comply with a requirement due to the lack of broadband internet access,
5028 the executive office may grant a waiver of such requirement; provided, however, that, upon a
5029 determination by the executive office that broadband internet access has become available to
5030 such provider since the date of the grant of the waiver, the executive office shall notify such
5031 provider of such availability. Within 180 days of such notice, such provider shall take such
5032 actions as are necessary to bring the provider into full compliance with the requirements of the
5033 health information exchange and any other health information technology requirements
5034 implemented by the executive office under this chapter.

5035 Section 10. There shall be established and set up on the books of the executive office the
5036 Massachusetts Health Information Exchange Fund, referred to in this section as the fund, for the
5037 purpose of developing a statewide health information exchange. There shall be credited to the
5038 fund any appropriations, proceeds of any bonds or notes of the commonwealth issued for the
5039 purpose, or other monies authorized by the general court and designated thereto; any federal
5040 grants or loans; any private gifts, grants or donations made available; and any income derived
5041 from the investment of amounts credited to the fund. The executive office shall seek, to the
5042 greatest extent possible, private gifts, grants and donations to the fund. The executive office shall
5043 hold the fund in an account or accounts separate from other funds. The fund shall be
5044 administered by the executive office without further appropriation. Amounts credited to the fund
5045 shall be available for reasonable expenditure by the executive office, subject to the approval of
5046 the council where such approval is required under this chapter, for such purposes as the
5047 executive office determines are necessary to support the dissemination and development of the
5048 statewide health information exchange. The secretary of administration and finance shall transfer
5049 a portion of (i) any money in the E-Health Institute Fund, (ii) any money from the ONC Health

5050 Information Exchange Cooperative Agreement, or (iii) the ONC Health Information Exchange
5051 Challenge Grant programs that is related to the implementation of the statewide health
5052 information exchange.

5053 Section 11. Any plan approved by the executive office and council or the e-Health
5054 institute, including every grantee and implementing organization that receives monies funded in
5055 whole or in part from the e-Health Institute Fund established in section 6E of chapter 40J or the
5056 Massachusetts Health Information Exchange Fund established under section 10, shall:

5057 (1) establish a mechanism to allow patients to opt-in to the health information exchange
5058 and to opt-out at any time;

5059 (2) maintain identifiable health information in physically and technologically secure
5060 environments by means including, but not limited to: prohibiting the storage or transfer of
5061 unencrypted and non-password protected identifiable health information on portable data storage
5062 devices; requiring data encryption, unique alpha-numerical identifiers and password protection;
5063 and other methods to prevent unauthorized access to identifiable health information;

5064 (3) provide patients the option of, upon request to a provider, obtaining a list of
5065 individuals and entities that have accessed their identifiable health information from that
5066 provider;

5067 (4) develop and distribute to authorized users of the health information exchange and to
5068 prospective exchange participants, written guidelines addressing privacy, confidentiality and
5069 security of health information and inform individuals: the information available through the
5070 exchange, who may access their information and the purposes for which their information may
5071 be accessed; and

5072 (5) ensure compliance with all state and federal privacy requirements, including those
5073 imposed by the Health Insurance Portability and Accountability Act of 1996, P.L.104-191, the
5074 American Recovery and Reinvestment Act of 2009, P.L. 111-5, 42 C.F.R. §§2.11 et seq. and 45
5075 C.F.R. §§160, 162 and 164.

5076 Section 12. In the event of an unauthorized access to or disclosure of individually
5077 identifiable patient health information by or through the statewide health information exchange
5078 or by or through any technology grantees or implementing organizations funded in whole or in
5079 part from the e-Health Institute Fund established in section 6E of chapter 40J or the
5080 Massachusetts Health Information Exchange Fund established in section 10, the operator of such
5081 exchange or grantee or contractor shall: (i) report the conditions of such unauthorized access or
5082 disclosure as required by the executive office; and (ii) provide notice, as defined in section 1 of
5083 chapter 93H, as soon as practicable, but not later than 10 business days after such unauthorized
5084 access or disclosure, to any person whose patient health information may have been
5085 compromised as a result of such unauthorized access or disclosure, and shall report the
5086 conditions of such unauthorized access or disclosure. Any unauthorized access or disclosures
5087 shall be punishable by the civil penalties under section 16.

5088 Section 13. The ability of any provider to transfer or access all or any part of a patient's
5089 electronic health record under this chapter shall be subject to the patient's election to participate
5090 in the electronic health information exchange as provided in section 11

5091 Section 14. The executive office, the council and the institute shall pursue and maximize
5092 all opportunities to qualify for federal financial participation under the matching grant program
5093 established under the Health Information Technology for Economic and Clinical Health Act of

5094 the American Recovery and Reinvestment Act of 2009, P.L. 111-5. The council shall consult
5095 with the office of Medicaid to maximize all opportunities to qualify any expenditure for any
5096 other federal financial participation.

5097 Section 15. The council shall file an annual report, not later than January 30, with the
5098 joint committee on health care financing, the joint committee on economic development and
5099 emerging technologies, the house and senate committees on ways and means and the clerks of
5100 the house and senate concerning the activities of the council in general and, in particular,
5101 describing the progress to date in developing a statewide health information exchange and
5102 recommending such further legislative action as it deems appropriate.

5103 Section 16. Unauthorized access to or disclosure of individually identifiable patient
5104 health information by or through the statewide health information exchange or by or through any
5105 technology grantees or implementing organizations funded in whole or in part from the from the
5106 e-Health Institute Fund established in section 6E of chapter 40J or the Massachusetts Health
5107 Information Exchange Fund established in section 10, or any associated businesses managing or
5108 in possession of such information, the operator of such exchange or grantee or contractor shall be
5109 subject to fines or penalties as determined by the executive office. The executive office shall
5110 promulgate regulations to assess fair and reasonable fines or penalties.

5111 SECTION 135. Section 14 of chapter 122 of the General Laws, as appearing in the 2010
5112 Official Edition, is hereby amended by striking out, in lines 17 and 18, the words “division of
5113 health care finance and policy” and inserting in place thereof the following words:- executive
5114 office of health and human services or a governmental unit designated by the executive office.

5115 SECTION 136. Section 32 of chapter 123 of the General Laws, as so appearing, is hereby
5116 amended by striking out, in lines 4 and 5, the words “division of health care finance and policy”
5117 and inserting in place thereof the following words:- executive office of health and human
5118 services or a governmental unit designated by the executive office.

5119 SECTION 137. Section 33 of said chapter 123, as so appearing, is hereby amended by
5120 striking out, in lines 20 and 25, the words “division of health care finance and policy” and
5121 inserting in place thereof, in each instance, the following words:- executive office of health and
5122 human services or a governmental unit designated by the executive office.

5123 SECTION 138. Section 16 of chapter 123B of the General Laws, as so appearing, is
5124 hereby amended by striking out, in lines 4 and 5, the words “division of health care finance and
5125 policy” and inserting in place thereof the following words:- executive office of health and human
5126 services or a governmental unit designated by the executive office.

5127 SECTION 139. Chapter 149 of the General Laws is hereby amended by striking out
5128 section 6D ½, as so appearing, and inserting in place thereof the following section:-

5129 Section 6D ½. No employee shall be penalized by an employer as a result of such
5130 employee’s filing of an application to the Health Safety Net Trust Fund or otherwise providing
5131 notice to the executive office of health and human services or to a health care provider in regard
5132 to the need for health care services for that employee that results in the employer being required
5133 to reimburse the fund in whole or in part.

5134 SECTION 140. Said chapter 149 is hereby further amended by striking out section 188,
5135 as so appearing, and inserting in place thereof the following section:—

5136 Section 188. (a) As used in this section, the following words, unless the context clearly
5137 requires otherwise, shall have the following meanings:--

5138 “Authority”, the commonwealth health insurance connector authority.

5139 "Contributing employer", an employer that offers a group health plan, as defined in 26
5140 U.S.C. 5000(b)(1), to which the employer makes a fair and reasonable premium contribution, as
5141 defined in regulation by the authority.

5142 "Department", the department of unemployment assistance.

5143 "Employee", an individual employed by an employer subject to this chapter for at least 1
5144 month, provided that for the purpose of this section self-employed individuals shall not be
5145 considered employees.

5146 "Employer", an employing unit as defined in section 1 of chapter 151A or in section 1 of
5147 chapter 152.

5148 (b) To more equitably distribute the costs of health care provided to uninsured residents
5149 of the commonwealth, each employer that: (1) employs 11 or more full-time equivalent
5150 employees in the commonwealth and (2) is not a contributing employer shall pay a per-employee
5151 contribution at a time and in a manner prescribed by the director of unemployment assistance, in
5152 this section called the fair share employer contribution. This contribution shall be pro-rated by a
5153 fraction which shall not exceed 1, the numerator of which is the number of hours worked in the
5154 quarter by all of the employer's employees and the denominator of which is the product of the
5155 number of employees employed by an employer during that quarter multiplied by 500 hours.

5156 (c) The executive director of the authority shall, in consultation with the director of
5157 unemployment assistance, annually determine the fair share employer contribution rate based on
5158 the best available data and under the following provisions:-

5159 (1) The per-user share of private sector liability shall be calculated annually by
5160 dividing the sum of hospital liability and third-party payor liability for uncompensated care, as
5161 defined by law, by the total number of individuals in the most recently completed fiscal year
5162 whose care was reimbursed in whole or in part by the health safety net.

5163 (2) The total number of employees in the most recent fiscal year on whose behalf
5164 health care services were reimbursed in whole or in part by the health safety net, shall be
5165 calculated. In calculating this number, the authority shall use all resources available to enable it
5166 to determine the employment status of individuals for whom reimbursements were made,
5167 including quarterly wage reports maintained by the department of revenue.

5168 (3) The total number of employees as calculated in paragraph (2) shall be adjusted
5169 by multiplying that number by the percentage of employers in the commonwealth that are not
5170 contributing employers, as determined by the authority.

5171 (4) The total cost of liability associated with employees of non- contributing
5172 employers shall be determined by multiplying the number of employees, as calculated in
5173 paragraph (3) by the per-user share of private sector liability as calculated in paragraph (1).

5174 (5) The fair share employer contribution shall be calculated by dividing the total
5175 cost of liability as calculated in paragraph (4) by the total number of employees of employers
5176 that are not contributing employers, as determined by the authority.

5177 (6) The fair share employer contribution, as determined in paragraph (5) shall be
5178 adjusted annually to reflect medical inflation, using an appropriate index as determined by the
5179 authority.

5180 (7) The total dollar amount of health care services provided by physicians to non-
5181 elderly, uninsured residents of the commonwealth for which no reimbursement is made from the
5182 Health Safety Net Trust Fund shall be calculated using a survey of physicians or other data
5183 source that the authority determines is most accurate.

5184 (8) The per-employee cost of uncompensated physician care shall be calculated
5185 by dividing the dollar amount of such services, as calculated in paragraph (7) by the total number
5186 of employees of contributing employers in the commonwealth, as estimated by the authority
5187 using the most accurate data source available, as determined by the authority.

5188 (9) The annual fair share employer contribution shall be calculated by adding the
5189 fair share employer contribution as calculated in paragraph (6) and the per-employee cost of
5190 unreimbursed physician care, as calculated in paragraph (8).

5191 (10) Notwithstanding this section, the total annual fair share employer
5192 contribution shall not exceed \$295 per employee which may be made in a single payment or in
5193 equal amounts semi-annually or quarterly, at the employer's discretion.

5194 (d) The director of unemployment assistance shall determine quarterly each employer's
5195 liability for its fair share employer contribution. The director shall assess each employer liable
5196 for a fair share employer contribution in a quarter an amount based on 25 per cent of the annual
5197 fair share employer contribution rate applicable to that quarterly period and shall implement
5198 penalties for employers who fail to make contributions as required by this section. In order to

5199 reduce the administrative costs of collection of contributions, the director shall, to the extent
5200 possible, use any existing procedures implemented by the department of unemployment
5201 assistance to make similar collections. Amounts collected pursuant to this section shall be
5202 deposited in the Commonwealth Care Trust Fund, established by section 2000 of chapter 29.
5203 Before depositing the amounts, the director may deduct all administrative costs incurred by the
5204 department of unemployment assistance as a result of this section, including an amount as
5205 determined by the United States Secretary of Labor in accordance with federal cost rules. Except
5206 where inconsistent with this section, the terms and conditions of chapter 151A which are
5207 applicable to the payment and collection of contributions shall apply to the same extent to the
5208 payment and collection of any obligation under this section. The department of unemployment
5209 assistance shall promulgate regulations necessary to implement this section.

5210 (e) In promulgating regulations defining the term "contribution" under this section, no
5211 proposed regulation by the authority, except an emergency regulation, shall take effect until 60
5212 days after the proposed regulations have been transmitted to the joint committee on health care
5213 financing and the joint committee on financial services.

5214 SECTION 141. Subsection (b) of said section 188 of said chapter 149, as appearing in
5215 section 140, is hereby amended by striking out the first sentence and inserting in place thereof
5216 the following sentence:-

5217 To more equitably distribute the costs of health care provided to uninsured residents of
5218 the commonwealth, each employer that: (1) employs 21 or more full-time equivalent employees
5219 in the commonwealth and (2) is not a contributing employer shall pay a per-employee

5220 contribution at a time and in a manner prescribed by the director of unemployment assistance, in
5221 this section called the fair share employer contribution.

5222 SECTION 142. Subsection (c) of said section 188 of said chapter 149, as so appearing, is
5223 hereby amended by adding the following clause:-

5224 (11) In calculating the fair share assessment, employees who have qualifying health
5225 insurance coverage from a spouse, parent, veteran's plan, Medicare, or a plan or plans due to
5226 disability or retirement shall not be included in the numerator or denominator for purposes of
5227 determining whether an employer is a contributing employer, as defined by 114.5 CMR 16.02.
5228 The employer shall keep and maintain proof of their employee's insurance status, in a reasonable
5229 manner as defined by the authority.

5230 SECTION 143. Section 1 of chapter 150E of the General Laws, as amended by section
5231 23 of chapter 93 of the acts of 2011, is hereby amended by striking out the words "28 of chapter
5232 118G" and inserting in place thereof the following words:- 70 of chapter 118E.

5233 SECTION 144. Said section 1 of said chapter 150E of the General Laws, as so amended,
5234 is hereby further amended by striking out the words "29 of chapter 118G" and inserting in place
5235 thereof the following words:- 71 of chapter 118E.

5236 SECTION 145. Subsection (c) of section 46 of chapter 151A of the General Laws, as
5237 appearing in the 2010 Official Edition, is hereby amended by striking out clause (7) and inserting
5238 in place thereof the following 2 clauses:-

5239 (7) to the commonwealth health insurance connector, information under an interagency
5240 agreement for the administration and enforcement of sections 17 and 18 of chapter 176Q and for

5241 the administration of the fair share employer contribution requirement under section 188 of
5242 chapter 149.

5243 (7 ½) to the executive office of health and human services, information under an
5244 interagency agreement for the administration and enforcement of paragraph (4) of subsection (a)
5245 of section 69 of chapter 118E.

5246 SECTION 146. Section 13 of chapter 152 of the General Laws, as so appearing, is hereby
5247 amended by striking out, in lines 3 and 4, the words “division of health care finance and policy
5248 under the provisions of chapter one hundred and eighteen G” and inserting in place thereof the
5249 following words:- executive office of health and human services under chapter 118E or a
5250 governmental unit designated by the executive office.

5251 SECTION 147. Said section 13 of said chapter 152, as so appearing, is hereby further
5252 amended by striking out, in lines 9, 10, 16 and 21, the word “division” and inserting in place
5253 thereof, in each instance, the following words:- executive office.

5254 SECTION 148. Said section 13 of said chapter 152, as so appearing, is hereby further
5255 amended by striking out, in lines 22 and 23, the words “one hundred and eighteen G” and
5256 inserting in place thereof the following word:- 118E.

5257 SECTION 149. Said section 13 of said chapter 152, as so appearing, is hereby further
5258 amended by striking out, in line 37 and 38, the words “one hundred and eighteen G” and
5259 inserting in place thereof, in each sentence, the following word:- 118E.

5260 SECTION 150. Section 1 of chapter 175 of the General Laws, as so appearing, is hereby
5261 amended by inserting after the definition of “Net value of policies” the following definition:-

5262 “Primary care provider”, a health care professional qualified to provide general medical
5263 care for common health care problems who; (1) supervises, coordinates, prescribes, or otherwise
5264 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
5265 maintains continuity of care within the scope of practice.

5266 SECTION 152. Section 47B of said chapter 175, as so appearing, is hereby amended by
5267 striking out, in line 46, the word “physician” and inserting in place thereof the following word:-
5268 provider.

5269 SECTION 153. Section 47U of said chapter 175, as so appearing, is hereby amended by
5270 striking out, in lines 62 and 64, the word “physician” and inserting in place thereof, in each
5271 instance, the following word :- provider.

5272 SECTION 154. Section 108 of said chapter 175, as so appearing, is hereby amended by
5273 adding the following clause:—

5274 13. Any policy of accident and sickness shall include a premium rate adjustment based on
5275 employee participation in a qualified wellness program. The division shall determine by
5276 regulation the criteria for a qualified wellness program to determine eligibility for the rate
5277 discount. The criteria may require (i) a minimum participation in the programs by percentage, (ii)
5278 promoting healthy workplace habits, (iii) promoting health screenings, (iv) promoting health
5279 education, and (v) any other criteria that the commissioner of insurance deems reasonable.

5280 SECTION 155. Said chapter 175 is hereby further amended by inserting after section
5281 108J the following 2 sections:—

5282 Section 108L. To the maximum extent possible, carriers that offer any policy of accident
5283 and sickness insurance or any general or blanket policy of insurance shall attribute every member
5284 to a primary care provider. Members may change their primary care provider, provided that the
5285 member gives notice to the carrier.

5286 Section 108M. To the extent permissible under applicable state and federal privacy laws,
5287 carriers shall disclose patient-level data to providers in their network solely for the purpose of
5288 carrying out treatment, coordinating care among providers and managing the care of their own
5289 patient panel; provided, that an individual provider shall only receive patient-level data related to
5290 patients treated by said provider. Patient-level data shall include, but not be limited to, health
5291 care service utilization, medical expenses, and demographics.

5292 The division of insurance shall develop procedures and a standard format for disclosing
5293 such patient-level information. The division may require carriers to disclose such information
5294 through the all-payer claims database established under section 12 of chapter 12C if the division
5295 and the center for health information and analysis determine that the all-payer claims database is
5296 an efficient means to provide such information.

5297 Carriers shall make available to any provider with whom they have entered into an
5298 alternative payment contract, the contracted prices of individual health care services within such
5299 payer's network for the purpose of referrals.

5300 SECTION 158. Chapter 175 of the General Laws is hereby amended by inserting after
5301 section 47AA, the following section:—

5302 Section 47BB. (a) For the purposes of this section, “telemedicine” as it pertains to the
5303 delivery of health care services, shall mean the use of interactive audio, video or other electronic

5304 media for the purpose of diagnosis, consultation or treatment. “Telemedicine” shall not include
5305 the use of audio-only telephone, facsimile machine or e-mail.

5306 (b) An insurer may limit coverage of telemedicine services to those health care providers
5307 in a telemedicine network approved by the insurer.

5308 (c) A contract that provides coverage for services under this section may contain a
5309 provision for a deductible, copayment or coinsurance requirement for a health care service
5310 provided through telemedicine as long as the deductible, copayment or coinsurance does not
5311 exceed the deductible, copayment or coinsurance applicable to an in-person consultation.

5312 (d) Coverage for health care services under this section shall be consistent with coverage
5313 for health care services provided through in-person consultation.

5314 SECTION 159. Section 5 of chapter 176A of the General Laws, as appearing in the 2010
5315 Official Edition, is hereby amended by striking out, in lines 34 and 35, the words “division of
5316 health care finance and policy, in this section called the division” and inserting in place thereof
5317 the following words:- executive office of health and human services, in this section called the
5318 executive office, or a governmental unit designated by the executive office.

5319 SECTION 160. Section 8A of chapter 176A of the General Laws, as so appearing, is
5320 hereby amended by striking out, in line 41, the word “physician” and inserting in place thereof
5321 the following word:- provider.

5322 SECTION 161. Subsection (c) of said section 8A of chapter 176A, as so appearing, is
5323 hereby amended by adding the following paragraph:-

5324 For the purposes of this subsection, the term “primary care provider” shall mean a health
5325 care professional qualified to provide general medical care for common health care problems
5326 who; (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care
5327 services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the
5328 scope of practice.

5329 SECTION 162. Paragraph (a) of section 8U of chapter 176A, as so appearing, is hereby
5330 amended by inserting after the definition of “Insured” the following definition:-

5331 “Primary care provider”, a health care professional qualified to provide general medical
5332 care for common health care problems who; (1) supervises, coordinates, prescribes, or otherwise
5333 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
5334 maintains continuity of care within the scope of practice.

5335 SECTION 163. Said section 8U of said chapter 176A, as so appearing, is hereby
5336 amended by striking out, in lines 64 and 66, the word “physician” and inserting in place thereof
5337 the following word in each instance:- provider.

5338 SECTION 164. Section 17 of said chapter 176A, as so appearing, is hereby amended by
5339 striking out, in lines 4 and 10, the words “division of health care finance and policy” and
5340 inserting in place thereof, in each instance, the following words:- center for health information
5341 and analysis.

5342 SECTION 165. Said chapter 176A is hereby further amended by adding the following 2
5343 sections:—

5344 Section 36. To the maximum extent possible, every non-profit hospital service
5345 corporation shall attribute every member to a primary care provider. Members may change their
5346 primary care provider, provided that the member gives notice to the carrier.

5347 Section 37. To the extent permissible under applicable state and federal privacy laws,
5348 every non-profit hospital service corporation shall disclose patient-level data to providers in their
5349 network solely for the purpose of carrying out treatment, coordinating care among providers and
5350 managing the care of their own patient panel; provided, that an individual provider shall only
5351 receive patient-level data related to patients treated by said provider. Patient-level data shall
5352 include, but not be limited to, health care service utilization, medical expenses, and
5353 demographics.

5354 The division of insurance shall develop procedures and a standard format for disclosing
5355 such patient-level information. The division may require every non-profit hospital service
5356 corporation to disclose such information through the all-payer claims database established under
5357 section 12 of chapter 12C if the division and the center for health information and analysis
5358 determine that the all-payer claims database is an efficient means to provide such information.

5359 Non-profit hospital service corporations shall make available to any provider with whom
5360 they have entered into an alternative payment contract, the contracted prices of individual health
5361 care services within such payer's network for the purpose of referrals.

5362 SECTION 166. Section 1 of chapter 176B of the General Laws, as appearing in the 2010
5363 Official Edition, is hereby amended by inserting after the definition of "Participating
5364 optometrist" the following definition:-

5365 “Primary care provider”, a health care professional qualified to provide general medical
5366 care for common health care problems who; (1) supervises, coordinates, prescribes, or otherwise
5367 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
5368 maintains continuity of care within the scope of practice.

5369 SECTION 167. Section 4A of said chapter 176B, as so appearing, is hereby amended by
5370 striking out, in line 43, the word “physician” and inserting in place thereof the following word:-
5371 provider.

5372 SECTION 168. Section 4U of said chapter 176B, as so appearing, is hereby amended by
5373 striking out, in lines 64 and 66, the word “physician” and inserting in place thereof the following
5374 word in each instance:- provider.

5375 SECTION 169. Said chapter 176B is hereby further amended by adding the following 2
5376 sections:-

5377 Section 23. To the maximum extent possible, every medical service corporation shall
5378 attribute every member to a primary care provider. Members may change their primary care
5379 provider, provided that the member gives notice to the carrier.

5380 Section 24. To the extent permissible under applicable state and federal privacy laws,
5381 every medical service corporation shall disclose patient-level data to providers in their network
5382 solely for the purpose of carrying out treatment, coordinating care among providers and
5383 managing the care of their own patient panel; provided, that an individual provider shall only
5384 receive patient-level data related to patients treated by said provider. Patient-level data shall
5385 include, but not be limited to, health care service utilization, medical expenses, and
5386 demographics.

5387 The division of insurance shall develop procedures and a standard format for disclosing
5388 such patient-level information. The division may require every medical service corporation to
5389 disclose such information through the all-payer claims database established under section 12 of
5390 chapter 12C if the division and the center for health information and analysis determine that the
5391 all-payer claims database is an efficient means to provide such information.

5392 Medical service corporations shall make available to any provider with whom they have
5393 entered into an alternative payment contract, the contracted prices of individual health care
5394 services within such payer's network for the purpose of referrals.

5395 SECTION 170. Section 1 of chapter 176G of the General Laws, as so appearing, is
5396 hereby amended by inserting after the definition of "Person" the following definition:-

5397 "Primary care provider", a health care professional qualified to provide general medical
5398 care for common health care problems who; (1) supervises, coordinates, prescribes, or otherwise
5399 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
5400 maintains continuity of care within the scope of practice.

5401 SECTION 171. Section 4M of said chapter 176G, as appearing in the 2010 Official
5402 Edition, is hereby amended by striking out, in line 40, the word "physician" and inserting in
5403 place thereof the following word:- provider.

5404 SECTION 172. Section 5 of said chapter 176G, as so appearing, is hereby amended by
5405 striking out, in lines 59 and 61, the word "physician" and inserting in place thereof, in each
5406 instance, the following word:- provider.

5407 SECTION 173. Chapter 176G of the General Laws is hereby amended by adding the
5408 following 2 sections:—

5409 Section 31. To the maximum extent possible, every health maintenance organization
5410 shall attribute every member to a primary care provider. Members may change their primary care
5411 provider, provided that the member gives notice to the carrier.

5412 Section 32. To the extent permissible under applicable state and federal privacy laws,
5413 every health maintenance organization shall disclose patient-level data to providers in their
5414 network solely for the purpose of carrying out treatment, coordinating care among providers and
5415 managing the care of their own patient panel; provided, that an individual provider shall only
5416 receive patient-level data related to patients treated by said provider. Patient-level data shall
5417 include, but not be limited to, health care service utilization, medical expenses, and
5418 demographics.

5419 The division of insurance shall develop procedures and a standard format for disclosing
5420 such patient-level information. The division may require every health maintenance organization
5421 to disclose such information through the all-payer claims database established under section 12
5422 of chapter 12C if the division and the center for health information and analysis determine that
5423 the all-payer claims database is an efficient means to provide such information.

5424 Health maintenance organizations shall make available to any provider with whom they
5425 have entered into an alternative payment contract, the contracted prices of individual health care
5426 services within such payer's network for the purpose of referrals.

5427 SECTION 174. Subsection (a) of section 3 of chapter 176J, as appearing in the 2010
5428 Official Edition, is hereby amended by striking out paragraph (5) and inserting in place thereof
5429 the following paragraph:-

5430 (5) A carrier shall apply a wellness program rate discount that applies to both eligible
5431 individuals and eligible small groups who follow those wellness programs that have been
5432 approved by the commissioner. If a carrier establishes a wellness program rate discount every
5433 eligible insured following the wellness program shall be subject to the applicable wellness
5434 program rate discount. The division shall determine by regulation the criteria for qualifying for
5435 the rate discount. The criteria may require (i) a minimum participation in the programs by
5436 percentage, (ii) promoting healthy workplace habits, (iii) promoting health screenings, (iv)
5437 promoting health education and (v) any other criteria that the commissioner of insurance deems
5438 reasonable.

5439 SECTION 175. Section 6 of said chapter 176J, as amended by section 20 of chapter 142
5440 of the acts of 2011, is hereby further amended by striking out the figure “90”, each time it
5441 appears, and inserting in place thereof the following figure:- 89.

5442 SECTION 176. Said section 6 of said chapter 176J, as so amended, is hereby further
5443 amended by striking out the figure “89”, as inserted by section 175, and inserting in place
5444 thereof, in each instance, the following figure:- 88.

5445 SECTION 177. Said chapter 176J is hereby further amended by striking out section 11,
5446 as appearing in the 2010 Official Edition, and inserting in place thereof the following:-

5447 Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for
5448 the delivery of health care services through a closed network of health care providers; and (ii) as

5449 of the close of any preceding calendar year, has a combined total of 5,000 or more eligible
5450 individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans
5451 sold, issued, delivered, made effective or renewed to qualified small businesses or eligible
5452 individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic
5453 area at least 1 plan with either:

5454 (1) a reduced or selective network of providers;

5455 (2) a smart tiering plan in which health services are tiered and member cost sharing is based
5456 on the tier placement of the services; or,

5457 (3) a plan in which providers are tiered and member cost sharing is based on the tier
5458 placement of the provider.

5459 The commissioner of insurance shall annually determine a base premium rate discount of
5460 at least 14 per cent for the reduced or selective or tiered network plan compared to the base
5461 premium of the carrier's most actuarially similar plan with the carrier's non-selective or non-
5462 tiered network of providers. The savings may be achieved by means including, but not limited to:
5463 (i) the exclusion of providers with similar or lower quality based on the standard quality measure
5464 set with higher health status adjusted total medical expenses or relative prices, as determined
5465 under section 10 of chapter 12C; or (ii) increased member cost-sharing for members who utilize
5466 providers for non-emergency services with similar or lower quality based on the standard quality
5467 measure set and with higher health status adjusted total medical expenses or relative prices, as
5468 determined under said section 10 of said chapter 12C.

5469 The commissioner may apply waivers to the base premium rate discount determined by
5470 the commissioner under this section to carriers who receive 80 per cent or more of their incomes

5471 from government programs or which have service areas which do not include either Suffolk or
5472 Middlesex counties and who were first admitted to do business by the division of insurance on
5473 January 1, 1988, as health maintenance organizations under chapter 176G.

5474 (b) A tiered network plan shall only include variations in member cost-sharing between
5475 provider tiers which are reasonable in relation to the premium charged and ensure adequate
5476 access to covered services. Carriers shall tier providers based on quality performance as
5477 measured by the standard quality measure set and by cost performance as measured by health
5478 status adjusted total medical expenses and relative prices. Where applicable quality measures are
5479 not available, tiering may be based solely on health status adjusted total medical expenses or
5480 relative prices or both. Smart tiering plans may take into account the number of services
5481 performed each year by the provider. For smart tiering plans, if a medically necessary and
5482 covered service is available at not more than 5 facilities in the state, as determined by the health
5483 policy commission, that service shall not be placed into the most expensive cost-sharing tier.

5484 The commissioner shall promulgate regulations requiring the uniform reporting of tiering
5485 information, including, but not limited to, requiring at least 90 days before the proposed effective
5486 date of any tiered network plan or any modification in the tiering methodology for any existing
5487 tiered network plan, the reporting of a detailed description of the methodology used for tiering
5488 providers, including: the statistical basis for tiering; a list of providers to be tiered at each
5489 member cost-sharing level; a description of how the methodology and resulting tiers will be
5490 communicated to each network provider, eligible individuals and small groups; and a description
5491 of the appeals process a provider may pursue to challenge the assigned tier level.

5492 (c) The commissioner shall determine network adequacy for a tiered network plan based
5493 on the availability of sufficient network providers in the carrier's overall network of providers.

5494 (d) The commissioner shall determine network adequacy for a selective network plan
5495 based on the availability of sufficient network providers in the carrier's selective network.

5496 (e) In determining network adequacy under this section the commissioner of insurance
5497 may take into consideration factors such as the location of providers participating in the plan and
5498 employers or members that enroll in the plan, the range of services provided by providers in the
5499 plan and plan benefits that recognize and provide for extraordinary medical needs of members
5500 that may not be adequately dealt with by the providers within the plan network.

5501 (f) Carriers may: (i) reclassify provider tiers; and (ii) determine provider participation in
5502 selective and tiered plans not more than once per calendar year except that carriers may
5503 reclassify providers from a higher cost tier to a lower cost tier or add providers to a selective
5504 network at any time. If the carrier reclassifies provider tiers or providers participating in a
5505 selective plan during the course of an account year, the carrier shall provide affected members of
5506 the account with information regarding the plan changes at least 30 days before the changes take
5507 effect. Carriers shall provide information on their websites about any tiered or selective plan,
5508 including but not limited to, the providers participating in the plan, the selection criteria for those
5509 providers and where applicable, the tier in which each provider is classified.

5510 (g) A smart tiering plan shall be a tiering product, which offers a cost-sharing differential
5511 based on services rather than facilities providing services. A service covered in a smart tiering
5512 plan may be reimbursed through bundled payments for acute and chronic diseases.

5513 (h) The division of insurance shall review smart tiering plans in a manner consistent with
5514 other products offered in the commonwealth. The division of insurance may disapprove a smart
5515 tiering plan if it determines that the carrier differentiated cost-sharing obligations solely based on
5516 the provider. There shall be a rebuttable presumption that a plan has violated this subsection if
5517 the cost-sharing obligation for all services provided by a provider, including a health care
5518 facility, accountable care organization, patient centered medical home, or provider organization,
5519 is the same.

5520 (i) The commissioner when reviewing smart tiering plans shall promote the following
5521 goals: (1) avoid creating consumer confusion; (2) minimize the administrative burdens on payers
5522 and providers in implementing smart tiering plans; and (3) allow patients to get their services in
5523 the proper locations.

5524 (j) The division of insurance shall report annually specific findings and legislative
5525 recommendations, including the following: (1) the utilization trends of eligible employers and
5526 eligible individuals enrolled in plans offered under this section; (2) the extent to which tiered
5527 product offerings have reduced health care costs for patients and employers; (3) the effects that
5528 tiered product offerings have on patient education relating to health care costs and quality; (4)
5529 the effects that tiered product offerings have on patient utilization of local hospitals and the
5530 resulting impact on overall state health care costs, including the state's compliance with the
5531 health care cost growth benchmark established under section 9 of chapter 6D; (5) opportunities
5532 to incentivize tiered product offerings for both health systems and employers. The report shall
5533 also include the number of members enrolled by plan type, aggregate demographic, geographic
5534 information on all members and the average direct premium claims incurred, as defined in
5535 section 6, for selective and tiered network products compared to non-selective and non-tiered

5536 products. The report shall be submitted to clerks of the house of representatives and the senate,
5537 the senate and house committees on ways and means and the joint committee on health care
5538 financing.

5539 SECTION 178. Section 12 of said chapter 176J, as appearing in the 2010 Official
5540 Edition, is hereby amended by striking out, in line 59 and 60, the words “division of health care
5541 finance and policy” and inserting in place thereof the following words:- center for health
5542 information and analysis.

5543 SECTION 179. Said section 12 of said chapter 176J, as so appearing, is hereby further
5544 amended by adding the following subsection:—

5545 (h) Any rates offered by a carrier to a certified group purchasing cooperative under this
5546 section shall be based on those group base premium rates that apply to individuals and small
5547 employer groups enrolling outside the group purchasing cooperative but may differ based on:

5548 (1) a benefit rate adjustment factor that would apply to the certified group
5549 purchasing cooperative product if its covered benefits are different than those that apply outside
5550 the certified group purchasing cooperative;

5551 (2) a cooperative adjustment factor that would reflect the relative difference in
5552 the projected experience of the members projected to be enrolled in health benefit plans through
5553 the certified group purchasing cooperative relative to the projected experience of the members
5554 projected to be enrolled in health benefit plans outside the certified group purchasing
5555 cooperative; or

5556 (3) any other rate adjustment factor resulting in a discount of up to 10 per cent.

5557 Any adjustment greater than 10 per cent shall require prior approval in writing from the
5558 commissioner.

5559 SECTION 180. Said chapter 176J is hereby further amended by adding the following 2
5560 sections:-

5561 Section 16. To the maximum extent possible, carriers shall attribute every member to a
5562 primary care provider. Members may change their primary care provider, provided that the
5563 member gives notice to the carrier.

5564 Section 17. To the extent permissible under applicable state and federal privacy laws,
5565 every carrier shall disclose patient-level data to providers in their network solely for the purpose
5566 of carrying out treatment, coordinating care among providers and managing the care of their own
5567 patient panel; provided, that an individual provider shall only receive patient-level data related to
5568 patients treated by said provider. Patient-level data shall include, but not be limited to, health
5569 care service utilization, medical expenses, and demographics.

5570 The division of insurance shall develop procedures and a standard format for disclosing
5571 such patient-level information. The division may require carriers to disclose such information
5572 through the all-payer claims database established under section 12 of chapter 12C if the division
5573 and the center for health information and analysis determine that the all-payer claims database is
5574 an efficient means to provide such information.

5575 Carriers shall make available to any provider with whom they have entered into an
5576 alternative payment contract, the contracted prices of individual health care services within such
5577 payer's network for the purpose of referrals.

5578 SECTION 181. Section 5 of chapter 176M of the General Laws, as appearing in the 2010
5579 Official Edition, is hereby amended by striking out, in lines 94 to 96, inclusive, the words
5580 “division of health care finance and policy established under chapter one hundred and eighteen
5581 G” and inserting in place thereof the following words:- center for health information and analysis
5582 established under chapter 12C.

5583 SECTION 182. Said section 5 of said chapter 176M, as so appearing, is hereby further
5584 amended by striking out, in line 99, the word “division” and inserting in place thereof the
5585 following word:- center.

5586 SECTION 183. Section 1 of said chapter 176O of the General Laws, as so appearing, is
5587 hereby amended by striking out the definition of “Behavioral health manager” and inserting in
5588 place thereof the following definition:-

5589 “Behavioral health manager”, a company, organized under the law of the commonwealth
5590 or organized under the laws of another state and qualified to do business in the commonwealth,
5591 that has entered into a contractual arrangement with a carrier to provide or arrange for the
5592 provision of behavioral, substance use disorder and mental health services to voluntarily enrolled
5593 member of the carrier.

5594 SECTION 184. Said section 1 of said chapter 176O , as so appearing, is hereby further
5595 amended by inserting after the definition of “Division” the following definition:

5596 “Downside risk”, the risk taken on by a provider organization as part of an alternate
5597 payment contract with a carrier or other payer where the provider organization is responsible for
5598 either the full or partial costs of treating a group of patients that exceeds a contract’s budgeted
5599 payment arrangements.

5600 SECTION 185. Said section 1 of said chapter 176O, as so appearing, is hereby further
5601 amended by striking out the definition of “Emergency medical condition” and inserting in place
5602 thereof the following definition:-

5603 “Emergency medical condition”, a medical condition, whether physical, behavioral,
5604 related to substance use disorder, or mental, manifesting itself by symptoms of sufficient
5605 severity, including severe pain, that the absence of prompt medical attention could reasonably be
5606 expected by a prudent layperson who possesses an average knowledge of health and medicine, to
5607 result in placing the health of the insured or another person in serious jeopardy, serious
5608 impairment to body function or serious dysfunction of any body organ or part or, with respect to
5609 a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42
5610 U.S.C. section 1395dd(e)(1)(B).

5611 SECTION 186. Said section 1 of said chapter 176O, as so appearing, is hereby further
5612 amended by striking out the definition of “Health care services” and inserting in place thereof
5613 the following definition:-

5614 “Health care services”, services for the diagnosis, prevention, treatment, cure or relief of
5615 a physical, behavioral, substance use disorder or mental health condition, illness, injury or
5616 disease.

5617 SECTION 187. Said section 1 of said chapter 176O, as so appearing, is hereby further
5618 amended by inserting after the definition of “Person” the following definition:-

5619 “Primary care provider”, a health care professional qualified to provide general medical
5620 care for common health care problems who: (i) supervises, coordinates, prescribes, or otherwise

5621 provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii)
5622 maintains continuity of care within the scope of practice.

5623 SECTION 188. Said section 1 of said chapter 176O, as so appearing, is hereby further
5624 amended by inserting after the definition of “Retrospective review” the following definition:-

5625 “Risk-Bearing Provider Organization,” a provider organization that manages the
5626 treatment of a group of patients and bears the downside risk according to the terms of an
5627 alternate payment contract.

5628 SECTION 189. Section 2 said of chapter 176O, as so appearing, is hereby amended by
5629 striking out, in line 22, the word “division” and inserting in place thereof the following word:-
5630 center.

5631 SECTION 190. Section 5B of said chapter 176O, as so appearing, is hereby amended by
5632 striking out, in lines 11 and 12, the words “the division of health care finance and policy, the
5633 health care quality and cost council” and inserting in place thereof the following words:- the
5634 center for health information and analysis.

5635 SECTION 191. Said chapter 176O is hereby amended by inserting after section 5B the
5636 following section:-

5637 Section 5C. If the commissioner determines that a carrier is neglecting to comply with the
5638 coding standards and guidelines under this chapter in the form and within the time required the
5639 commissioner shall notify the carrier of such neglect. If the carrier does not come into
5640 compliance within a period determined by the commissioner, the carrier shall be fined up to
5641 \$5000 for each day during which such neglect continues.

5642 SECTION 192. Subsection (a) of section 6 of said chapter 176O, as appearing in the
5643 2010 Official Edition, is hereby amended by striking out clauses (3) and (4) and inserting in
5644 place thereof the following 2 clauses:-

5645 (3) the limitations on the scope of health care services and any other benefits to be
5646 provided, including: (i) all restrictions relating to preexisting condition exclusions; (ii) an
5647 explanation of any facility fee, allowed amount, co-insurance, copayment, deductible or other
5648 amount that the insured may be responsible to pay to obtain covered benefits from network or
5649 out-of-network providers; and (iii) the toll-free telephone number and website established by the
5650 carrier under section 22 and an explanation of the information that an insured may obtain
5651 through such toll-free telephone number and website;

5652 (4) the locations where, and the manner in which, health care services and other benefits
5653 may be obtained, including: (i) an explanation that whenever a proposed admission, procedure or
5654 service that is a medically necessary covered benefit is not available to an insured within the
5655 carrier's network, the carrier shall cover the out-of-network admission, procedure or service and
5656 the insured will not be responsible to pay more than the amount which would be required for
5657 similar admissions, procedures or services offered within the carrier's network; and (ii) an
5658 explanation that whenever a location is part of the carrier's network, that the carrier shall cover
5659 medically necessary covered benefits delivered at that location and the insured shall not be
5660 responsible to pay more than the amount required for network services even if part of the
5661 medically necessary covered benefits are performed by out-of-network providers unless the
5662 insured has a reasonable opportunity to choose to have the service performed by a network
5663 provider.

5664 SECTION 193. Clause (1) of subsection (a) of section 7 of said chapter 176O, as so
5665 appearing, is hereby amended by striking out, in lines 18 and 19, the words “6 of chapter 118G”
5666 and inserting in place thereof the following words:- 10 of chapter 12C.

5667 SECTION 194. Said section 7 of said chapter 176O, as so appearing, is hereby further
5668 amended by striking out, in lines 20 and 21, the words “6 of said chapter 118G” and inserting in
5669 place thereof the following words:- 10 of said chapter 12C.

5670 SECTION 195. Said section 7 of said chapter 176O, as so appearing in the 2010 Official
5671 Edition, is hereby further amended by striking out, in line 48, the word “physician” and inserting
5672 in place thereof the following word:- provider.

5673 SECTION 196. Section 9A of said chapter 176O, as so appearing, is hereby amended by
5674 striking out, in line 25, the words “6 of chapter 118G” and inserting in place thereof the
5675 following words:- 10 of chapter 12C; and.

5676 SECTION 197. Said section 9A of said chapter 176O, as so appearing, is hereby
5677 amended by adding the following 2 subsections:—

5678 (d) limits the ability of either the carrier or the health care provider from disclosing the
5679 allowed amount and fees of services to an insured or insured’s treating health care provider.

5680 (e) limits the ability of either the carrier or the health care provider from disclosing out-
5681 of-pocket costs to an insured.

5682 SECTION 198. Said chapter 176O is hereby further amended by inserting after section
5683 9A the following section:-

5684 Section 9B. Carriers shall not be permitted to enter into or continue alternate payment
5685 arrangements involving downside risk with provider organizations that have not received a risk
5686 certificate under chapter 176U.

5687 SECTION 199. Section 12 of said chapter 176O, as appearing in the 2010 Official
5688 Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the
5689 following subsection:-

5690 (a) Utilization review conducted by a carrier or a utilization review organization shall be
5691 conducted under a written plan, under the supervision of a physician and staffed by appropriately
5692 trained and qualified personnel and shall include a documented process to: (i) review and
5693 evaluate its effectiveness; (ii) ensure the consistent application of utilization review criteria; and
5694 (iii) ensure the timeliness of utilization review determinations.

5695 A carrier or utilization review organization shall adopt utilization review criteria and
5696 conduct all utilization review activities under said criteria. The criteria shall be, to the maximum
5697 extent feasible, scientifically derived and evidence-based, and developed with the input of
5698 participating physicians, consistent with the development of medical necessity criteria under
5699 section 16. Utilization review criteria shall be applied consistently by a carrier or a utilization
5700 review organization and made easily accessible and up-to-date on a carrier or utilization review
5701 organization's website to subscribers, health care providers and the general public; provided,
5702 however, that a carrier shall not be required to disclose licensed, proprietary criteria purchased
5703 by a carrier or utilization review organization on its website, but must disclose such criteria to a
5704 provider or subscriber upon request. If a carrier or utilization review organization intends either
5705 to implement a new preauthorization requirement or restriction or amend an existing requirement

5706 or restriction, the carrier or utilization review organization shall ensure that the new or amended
5707 requirement or restriction shall not be implemented unless the carrier's or utilization review
5708 organization's website has been updated to reflect the new or amended requirement or
5709 restriction.

5710 Adverse determinations rendered by a program of utilization review or other denials of
5711 requests for health services, shall be made by a person licensed in the appropriate specialty
5712 related to such health service and, if applicable, by a provider in the same licensure category as
5713 the ordering provider.

5714 SECTION 200. Said section 12 of said chapter 176O, as so appearing, is hereby further
5715 amended by adding the following subsection:-

5716 (f) Upon request by an insured or insured's treating health care provider, a carrier or
5717 utilization review organization shall make a determination regarding whether a proposed
5718 admission, procedure or service is medically necessary within 7 working days of obtaining all
5719 necessary information, except that a carrier or utilization review organization may choose not to
5720 perform such a review if the carrier or utilization review organization determines that the
5721 admission, procedure or service will be covered. Nothing in this subsection shall:- (i) require a
5722 treating health care provider to obtain information regarding whether a proposed admission,
5723 procedure or service is medically necessary on behalf of an insured; (ii) restrict the ability of a
5724 carrier or utilization review organization to deny a claim for an admission, procedure or service
5725 if the admission, procedure or service was not medically necessary, based on information
5726 provided at the time of claim; or (iii) shall restrict the ability of a carrier or utilization review

5727 organization to deny a claim for an admission, procedure or service if other terms and conditions
5728 of coverage are not met at the time of service or time of claim.

5729 SECTION 201. Said chapter 176O is hereby further amended by striking out section 15,
5730 as so appearing, and inserting in place thereof the following section:—

5731 Section 15. (a) A carrier that allows or requires the designation of a primary care provider
5732 shall notify an insured at least 30 days before the disenrollment of such insured's primary care
5733 provider and shall permit such insured to continue to be covered for health services, consistent
5734 with the terms of the evidence of coverage, by such primary care provider for at least 30 days
5735 after said provider is disenrolled, other than disenrollment for quality-related reasons or for
5736 fraud. Such notice shall also include a description of the procedure for choosing an alternative
5737 primary care provider.

5738 (b) A carrier shall allow any female insured who is in her second or third trimester of
5739 pregnancy and whose provider in connection with her pregnancy is involuntarily disenrolled,
5740 other than disenrollment for quality-related reasons or for fraud, to continue treatment with said
5741 provider, consistent with the terms of the evidence of coverage, for the period up to and
5742 including the insured's first postpartum visit.

5743 (c) A carrier shall allow any insured who is terminally ill and whose provider in
5744 connection with said illness is involuntarily disenrolled, other than disenrollment for quality-
5745 related reasons or for fraud, to continue treatment with said provider, consistent with the terms of
5746 the evidence of coverage, until the insured's death.

5747 (d) A carrier shall provide coverage for health services for up to 30 days from the
5748 effective date of coverage to a new insured by a provider who is not a participating provider in

5749 the carrier's network if: (1) the insured's employer only offers the insured a choice of carriers in
5750 which said provider is not a participating provider, and (2) said provider is providing the insured
5751 with an ongoing course of treatment or is the insured's primary care provider. With respect to an
5752 insured in her second or third trimester of pregnancy, this subsection shall apply to services
5753 rendered through the first postpartum visit. With respect to an insured with a terminal illness, this
5754 subsection shall apply to services rendered until death.

5755 (e) A carrier may condition coverage of continued treatment by a provider under
5756 subsections (a) to (d), inclusive, upon the provider's agreeing: (1) to accept reimbursement from
5757 the carrier at the rates applicable prior to notice of disenrollment as payment in full and not to
5758 impose cost sharing with respect to the insured in an amount that would exceed the cost sharing
5759 that could have been imposed if the provider had not been disenrolled; (2) to adhere to the
5760 quality assurance standards of the carrier and to provide the carrier with necessary medical
5761 information related to the care provided; and (3) to adhere to such carrier's policies and
5762 procedures, including procedures regarding referrals, obtaining prior authorization and providing
5763 services under a treatment plan, if any, approved by the carrier. Nothing in this subsection shall
5764 be construed to require the coverage of benefits that would not have been covered if the provider
5765 involved remained a participating provider.

5766 (f) A carrier that requires an insured to designate a primary care provider shall allow such
5767 a primary care provider to authorize a standing referral for specialty health care provided by a
5768 health care provider participating in such carrier's network when (1) the primary care provider
5769 determines that such referrals are appropriate, (2) the provider of specialty health care agrees to a
5770 treatment plan for the insured and provides the primary care provider with all necessary clinical
5771 and administrative information on a regular basis, and (3) the health care services to be provided

5772 are consistent with the terms of the evidence of coverage. Nothing in this section shall be
5773 construed to permit a provider of specialty health care who is the subject of a referral to
5774 authorize any further referral of an insured to any other provider without the approval of the
5775 insured's carrier.

5776 (g) No carrier shall require an insured to obtain a referral or prior authorization from a
5777 primary care provider for specialty care provided by an obstetrician, gynecologist, certified
5778 nurse-midwife or family practitioner participating in such carrier's health care provider network
5779 for the following: (1) annual preventive gynecologic health examinations, including any
5780 subsequent obstetric or gynecological services determined by such obstetrician, gynecologist,
5781 certified nurse-midwife or family practitioner to be medically necessary as a result of such
5782 examination; (2) maternity care; and (3) medically necessary evaluations and resultant health
5783 care services for acute or emergency gynecological conditions. No carrier shall require higher
5784 copayments, coinsurance, deductibles or additional cost sharing arrangements for such services
5785 provided to such insureds in the absence of a referral from a primary care provider. Carriers may
5786 establish reasonable requirements for participating obstetricians, gynecologists, certified nurse-
5787 midwives or family practitioners to communicate with an insured's primary care provider
5788 regarding the insured's condition, treatment and need for follow-up care. Nothing in this section
5789 shall be construed to permit an obstetrician, gynecologist, certified nurse-midwife or family
5790 practitioner to authorize any further referral of an insured to any other provider without the
5791 approval of the insured's carrier.

5792 (h) A carrier shall provide coverage of pediatric specialty care, including mental health
5793 care, by persons with recognized expertise in specialty pediatrics to insureds requiring such
5794 services.

5795 (i) A carrier, including a dental or vision carrier, shall provide health, dental or vision
5796 care providers applying to be participating providers who are denied such status with a written
5797 reason or reasons for denial of such application.

5798 (j) No carrier shall make a contract with a health care provider which includes a provision
5799 permitting termination without cause. A carrier shall provide a written statement to a provider of
5800 the reason or reasons for such provider's involuntary disenrollment.

5801 (k) A carrier, including a dental or vision carrier, shall provide insureds, upon request,
5802 interpreter and translation services related to administrative procedures.

5803 SECTION 202. Section 16 of said chapter 176O, as so appearing, is hereby amended by
5804 striking out subsection (b) and inserting in place thereof the following subsection:-

5805 (b) A carrier shall be required to pay for health care services ordered by a treating
5806 physician or a primary care provider if: (1) the services are a covered benefit under the insured's
5807 health benefit plan; and (2) the services are medically necessary. A carrier may develop
5808 guidelines to be used in applying the standard of medical necessity, as defined in this subsection.
5809 Any such medical necessity guidelines utilized by a carrier in making coverage determinations
5810 shall be: (i) developed with input from practicing physicians and participating providers in the
5811 carrier's or utilization review organization's service area; (ii) developed under the standards
5812 adopted by national accreditation organizations; (iii) updated at least biennially or more often as
5813 new treatments, applications and technologies are adopted as generally accepted professional
5814 medical practice; and (iv) evidence-based, if practicable. In applying such guidelines, a carrier
5815 shall consider the individual health care needs of the insured. Any such medical necessity
5816 guidelines criteria shall be applied consistently by a carrier or a utilization review organization

5817 and made easily accessible and up-to-date on a carrier or utilization review organization's
5818 website to subscribers, health care providers and the general public. If a carrier or utilization
5819 review organization intends either to implement a new medical necessity guideline or amend an
5820 existing requirement or restriction, the carrier or utilization review organization shall ensure that
5821 the new or amended requirement or restriction shall not be implemented unless the carrier's or
5822 utilization review organization's website has been updated to reflect the new or amended
5823 requirement or restriction.

5824 SECTION 203. Section 20 of said chapter 176O, as so appearing, is hereby amended by
5825 striking out, in lines 19 and 22, the words "care physician" and inserting in place thereof, in each
5826 instance, the following words:- "care provider".

5827 SECTION 204. Section 21 of said chapter 176O, as so appearing, is hereby amended by
5828 striking out, in lines 109 and 110, the words "division of health care finance and policy for use
5829 under section 6 of chapter 118G" and inserting in place thereof the following words:- center for
5830 health information and analysis for use under section 10 of chapter 12C.

5831 SECTION 205. Said section 21 of said chapter 176O, as so appearing, is hereby further
5832 amended by adding the following section:

5833 (e) The commissioner may waive specific reporting requirements in this section for
5834 classes of carriers for which the commissioner deems such reporting requirements to be
5835 inapplicable; provided, however, that the commissioner shall provide written notice of any such
5836 waiver to the joint committee of health care financing and the house and senate committees on
5837 ways and means.

5838 SECTION 206. Said chapter 176O is hereby further amended by adding the following 2
5839 sections:-

5840 Section 23. All carriers shall establish a toll-free telephone number and website that
5841 enables consumers to request and obtain from the carrier, within 2 working days, the estimated
5842 or maximum allowed amount or charge for a proposed admission, procedure or service and the
5843 estimated amount the insured will be responsible to pay for a proposed admission, procedure or
5844 service that is a medically necessary covered benefit, based on the information available to the
5845 carrier at the time the request is made, including any facility fee, copayment, deductible,
5846 coinsurance or other out of pocket amount for any covered health care benefits; provided, that
5847 the insured shall not be required to pay more than the disclosed amounts for the covered health
5848 care benefits that were actually provided; provided, however, that nothing in this section shall
5849 prevent carriers from imposing cost sharing requirements disclosed in the insured's evidence of
5850 coverage for unforeseen services that arise out of the proposed admission, procedure or service;
5851 and provided further, that the carrier shall alert the insured that these are estimated costs, and that
5852 the actual amount the insured will be responsible to pay may vary due to unforeseen services
5853 that arise out of the proposed admission, procedure or service.

5854 Section 24. (a) All risk-bearing provider organizations certified under chapter 176U
5855 shall create internal appeals processes. The appeals processes shall be available to the public in
5856 written format and, by request, in electronic format.

5857 (b) The internal appeals processes in subsection (a) shall be completed in a period not
5858 longer than 14 days; provided, however, that an expedited internal appeal shall be completed in a
5859 period not longer than 3 days for a patient with an urgent medical need including, but not limited

5860 to, terminal illness or emergency situations, as defined through regulations by the office of
5861 patient protection. During the appeals process, the risk-bearing provider organization shall not:
5862 (i) prevent a patient from seeking medical opinions outside of that organization; or (ii) terminate
5863 any medical services being provided to the patient, including medical services which began prior
5864 to the appeal and are the subject of such appeal. The decision on the appeal shall be in writing
5865 and shall notify the patient of the right to file a further external appeal.

5866 (c) Risk-bearing provider organizations shall inform any patient of the right to designate
5867 a third party to advocate on the patient's behalf during the appeals process including, but not
5868 limited to, a spouse or other family member, an attorney of record or a legal guardian. If the
5869 patient does not elect a person to serve as his or her advocate such provider organization shall
5870 offer to contact the office of patient protection and the office of patient protection may designate
5871 an ombudsman to advocate on the patient's behalf.

5872 (d) The office of patient protection shall establish by regulation an external review
5873 process for the review of grievances submitted by or on behalf of patients of risk-bearing
5874 provider organizations. The process shall specify the maximum amount of time for the
5875 completion of a determination and review after a grievance is submitted and shall include the
5876 right to have benefits continued pending appeal. The office of patient protection shall establish
5877 expedited review procedures applicable to emergency and urgent care situations

5878 (e) The office of patient protection shall promulgate regulations necessary to implement
5879 this section.

5880 SECTION 207. Section 23 of chapter 176O, inserted by section 206, is hereby amended
5881 by striking out the words “within 2 working days” and inserting in place thereof the following
5882 words:- in real time.

5883 SECTION 207A. Chapter 176O is hereby amended by adding the following 3 sections:—

5884 Section 25. (a) A payer or any entity acting for a payer under contract, when requiring
5885 prior authorization for a health care service or benefit, shall use and accept only the prior
5886 authorization forms designated for the specific types of services and benefits developed under
5887 subsection (c).

5888 (b) If a payer or any entity acting for a payer under contract fails to use or accept the
5889 required prior authorization form, or fails to respond within 2 business days after receiving a
5890 completed prior authorization request from a provider, pursuant to the submission of the prior
5891 authorization form developed as described in subsection (c), the prior authorization request shall
5892 be deemed to have been granted.

5893 (c) The division shall develop and implement uniform prior authorization forms for
5894 different health care services and benefits. The forms shall cover such health care services and
5895 benefits including, but not limited to, provider office visits, prescription drug benefits, imaging
5896 and other diagnostic testing, laboratory testing and any other health care services. The division
5897 shall develop forms for different kinds of services as it deems necessary or appropriate; provided
5898 that, all payers and any entities acting for a payer under contract shall use the uniform form
5899 designated by the division for the specific type of service. Six months after the full set of forms
5900 has been developed, every provider shall use the appropriate uniform prior authorization form to
5901 request prior authorization for coverage of the health care service or benefit and every payer or

5902 any entity acting for a payer under contract shall accept the form as sufficient to request prior
5903 authorization for the health care service or benefit.

5904 Nothing in this section shall prohibit a payer or any entity acting for a payer under
5905 contract from using a prior authorization methodology that utilizes an internet webpage, internet
5906 webpage portal, or similar electronic, internet, and web-based system in lieu of a paper form,
5907 provided that it is consistent with the paper form, developed pursuant to subsection (c).

5908 (d) The prior authorization forms developed under subsection (c) shall:

5909 (1) not exceed 2 pages;

5910 (2) be made electronically available; and

5911 (3) be capable of being electronically accepted by the payer after being
5912 completed.

5913 (e) The division, in developing the forms, shall:

5914 (1) seek input from interested stakeholders and shall seek to use forms that have
5915 been mutually agreed upon by payers and providers;

5916 (2) ensure that the forms are consistent with existing prior authorization forms
5917 established by the federal Centers for Medicare and Medicaid Services; and

5918 (3) consider other national standards pertaining to electronic prior authorization.

5919 (f) Nothing in this section shall limit a health plan from requiring prior authorization for
5920 services.

5921 Section 26. The commissioner shall establish standardized processes and procedures
5922 applicable to all health care providers and payers for the determination of a patient's health
5923 benefit plan eligibility at or prior to the time of service. As part of such processes and
5924 procedures, the commissioner shall (i) require payers to implement automated approval systems
5925 such as decision support software in place of telephone approvals for specific types of services
5926 specified by the commissioner and (ii) require establishment of an electronic data exchange to
5927 allow providers to determine eligibility at or prior to the point of care.

5928 Section 27. The division shall develop a common summary of payments form to be used
5929 by all health care payers in the commonwealth that is provided to health care consumers with
5930 respect to provider claims submitted to a payer and written in an easily readable and
5931 understandable format showing the consumer's responsibility, if any, for payment of any portion
5932 of a health care provider claim; provided that the division shall allow the development of forms
5933 to be exchanged through electronic means. The division shall consult with stakeholders to
5934 develop these forms.

5935 SECTION 208. Section 1 of chapter 176Q of the General Laws, as appearing in the 2010
5936 Official Edition, is hereby amended by inserting after the definition of "Connector seal of
5937 approval" the following definition:-

5938 "Dependent", the spouse and children of any employee if such persons would qualify for
5939 dependent status under the Internal Revenue Code or for whom a support order could be granted
5940 under chapters 208, 209 or 209C.

5941 SECTION 209. Said section 1 of said chapter 176Q, as so appearing, is hereby further
5942 amended by striking out the definition of "division".

5943 SECTION 210. Said section 1 of said chapter 176Q, as so appearing, is hereby further
5944 amended by inserting after the definition of “Eligible small groups” the following 2 definitions:-

5945 “Fiscal year”, the 12 month period during which a hospital keeps its accounts and which
5946 ends in the calendar year by which it is identified.

5947 “Free care”, the following medically necessary services provided to individuals
5948 determined to be financially unable to pay for their care, in whole or in part, under applicable
5949 regulations of the connector: (1) services provided by acute hospitals; (2) services provided by
5950 community health centers; and (3) patients in situations of medical hardship in which major
5951 expenditures for health care have depleted or can reasonably be expected to deplete the financial
5952 resources of the individual to the extent that medical services cannot be paid, as determined by
5953 regulations of the connector.

5954 SECTION 211. Said section 1 of said chapter 176Q, as so appearing, is hereby further
5955 amended by inserting after the definition of “Mandated benefits” the following 2 definitions:-

5956 “Medically necessary services”, medically necessary inpatient and outpatient services as
5957 mandated under Title XIX of the Federal Social Security Act; provided, that “medically
5958 necessary services” shall not include: (1) non-medical services, such as social, educational and
5959 vocational services; (2) cosmetic surgery; (3) canceled or missed appointments; (4) telephone
5960 conversations and consultations; (5) court testimony; (6) research or the provision of
5961 experimental or unproven procedures including, but not limited to, treatment related to sex-
5962 reassignment surgery and pre-surgery hormone therapy; and (7) the provision of whole blood;
5963 and provided, further, that “medically necessary services” shall include administrative and
5964 processing costs associated with the provision of blood and its derivatives.

5965 “Non-providing employer”, an employer of a state-funded employee, as defined in this
5966 section; provided, however, that the term “non-providing employer” shall not include: (i) an
5967 employer who complies with chapter 151F for such employee; (ii) an employer that is signatory
5968 to or obligated under a negotiated, bona fide collective bargaining agreement between such
5969 employer and bona fide employee representative which agreement governs the employment
5970 conditions of such person receiving free care; (iii) an employer who participates in the insurance
5971 reimbursement program; or (iv) an employer that employs not more than 10 employees;
5972 provided, further, that for the purposes of this definition, an employer shall not be considered to
5973 pay for or arrange for the purchase of health care services provided by acute hospitals and
5974 ambulatory surgical centers by making or arranging for any payments to the uncompensated care
5975 pool.

5976 SECTION 212. Said section 1 of said chapter 176Q, as so appearing, is hereby further
5977 amended by inserting after the definition of “Participating institution” the following definition:-

5978 “Payments from non-providing employers”, all amounts paid to the Uncompensated Care
5979 Trust Fund or the General Fund or any successor fund by non-providing employers.

5980 SECTION 213. Said section 1 of said chapter 176Q is hereby further amended by
5981 inserting after the definition of “Stand-alone vision plan”, inserted by section 39 of chapter 118
5982 of the acts of 2012, the following definition:-

5983 “State-funded employee”, any employed person, or dependent of such person, who
5984 receives, on more than 3 occasions during any hospital fiscal year, health services paid for as free
5985 care; or any employed persons, or dependents of such persons, of a company that has 5 or more
5986 occurrences of health services paid for as free care by all employees in aggregate during any

5987 fiscal year; provided, that an occurrence shall include all healthcare related services incurred
5988 during a single visit to a health care professional.

5989 SECTION 214. Said section 1 of said chapter 176Q, as appearing in the 2010 Official
5990 Edition, is hereby further amended by adding the following definition:-

5991 “Uninsured patient”, a patient who is not covered by a health insurance plan, a self-
5992 insurance health plan or a medical assistance program.

5993 SECTION 215. Said chapter 176Q is hereby further amended by adding the following 2
5994 sections:—

5995 Section 17. (a) The connector shall prepare a form, to be called the employer health
5996 insurance responsibility disclosure, on which an employer shall report whether it is in
5997 compliance with chapter 151F and any other information required by the connector relative to
5998 section 18 and paragraph (4) of subsection (a) of section 69 of chapter 118E. The form shall be
5999 completed, signed and returned to the connector by every employer with 11 or more full-time
6000 equivalent employees.

6001 (b) The connector shall prepare a form, to be called the employee health insurance
6002 responsibility disclosure, on which an employee of employers with 11 or more full-time
6003 equivalent employees who declines an employer-sponsored health plan shall report whether the
6004 employee has an alternative source of health insurance coverage. The form shall be completed
6005 and signed by the employee and shall be retained by the employer for 3 years. The connector
6006 may request a copy of the signed employee form.

6007 (c) Information that identifies individual employees by name or health insurance status
6008 shall not be a public record, but the information shall be exchanged with the department of
6009 revenue, the commonwealth health insurance connector authority and the health care access
6010 bureau in the division of insurance under an interagency services agreement to enforce this
6011 section, sections 3 to 7A, inclusive, and sections 3, 6B and 18B of chapter 118H. An employer
6012 who knowingly falsifies or fails to file with the connector any information required by this
6013 section or by any regulation promulgated by the connector shall be punished by a fine of not less
6014 than \$1,000 and not more than \$5,000.

6015 Section 18. (a) The authority shall, upon verification of the provision of services and
6016 costs to a state-funded employee, assess a free rider surcharge on the non-providing employer
6017 under regulations promulgated by the authority.

6018 (b) The amount of the free rider surcharge on non-providing employers shall be
6019 determined by the authority under regulations promulgated by the authority, and assessed by the
6020 authority not later than 3 months after the end of each hospital fiscal year, with payment by non-
6021 providing employers not later than 180 days after the assessment. The amount charged by the
6022 authority shall be greater than 10 per cent but not greater than 100 per cent of the cost to the state
6023 of the services provided to the state-funded employee, considering all payments received by the
6024 state from other financing sources for free care; provided, that the "cost to the state" for services
6025 provided to any state-funded employee may be determined by the authority as a percentage of
6026 the state's share of aggregate costs for health services. The free rider surcharge shall only be
6027 triggered upon incurring \$50,000 or more, in any hospital fiscal year, in free care services for
6028 any employer's employees, or dependents of such persons, in aggregate, regardless of how many
6029 state-funded employees are employed by that employer.

6030 (c) The formula for assessing free rider surcharges on non-providing employers shall be
6031 set forth in regulations promulgated by the authority that shall be based on factors including, but
6032 not limited to: (i) the number of incidents during the past year in which employees of the non-
6033 providing employer received services reimbursed by the health safety net office under section 69
6034 of chapter 118E; (ii) the number of persons employed by the non-providing employer; and (iii)
6035 the proportion of employees for whom the non-providing employer provides health insurance.

6036 (d) If a state-funded employee is employed by more than 1 non-providing employer at the
6037 time the state-funded employee receives services, the authority shall assess a free rider surcharge
6038 on each said employer consistent with the formula established by the authority under this section.

6039 (e) The authority shall specify by regulation appropriate mechanisms for implementing
6040 free rider surcharges on non-providing employers. Said regulations shall include, but not be
6041 limited to, the following provisions: (i) appropriate mechanisms that provide for determination
6042 and payment of the surcharge by a non-providing employer including requirements for data to be
6043 submitted by employers, employees, acute hospitals and ambulatory surgical centers, and other
6044 persons; and (ii) penalties for nonpayment or late payment by the non-providing employer,
6045 including assessment of interest on the unpaid liability at a rate not to exceed an annual
6046 percentage rate of 18 per cent and late fees or penalties at a rate not to exceed 5 per cent per
6047 month.

6048 (f) All surcharge payments made under this section shall be deposited into the
6049 Commonwealth Care Trust Fund, established under section 2000 of chapter 29.

6050 (g) A non-providing employer's liability to the Commonwealth Care Trust Fund shall, in
6051 the case of a transfer of ownership, be assumed by the successor in interest to the non-providing
6052 employer's interest.

6053 (h) If a non-providing employer fails to file any data, statistics or schedules or other
6054 information required under this chapter or by any regulation promulgated by the authority, the
6055 authority shall provide written notice of the required information. If the employer fails to provide
6056 information within 2 weeks of receipt of said notice, or if it falsifies the same, it shall be subject
6057 to a civil penalty of not more than \$5,000 for each week on which such violation occurs or
6058 continues, which penalty may be assessed in an action brought on behalf of the commonwealth
6059 in any court of competent jurisdiction.

6060 (i) The attorney general shall bring any appropriate action, including injunctive relief, as
6061 may be necessary for the enforcement of this chapter.

6062 (j) No employer shall discriminate against any employee on the basis of the employee's
6063 receipt of free care, the employee's reporting or disclosure of the employer's identity and other
6064 information about the employer, the employee's completion of a Health Insurance Responsibility
6065 Disclosure form, or any facts or circumstances relating to "free rider" surcharges assessed
6066 against the employer in relation to the employee. Violation of this subsection shall constitute a
6067 per se violation of chapter 93A.

6068 (k) A hospital, surgical center, health center or other entity that provides uncompensated
6069 care pool services shall provide an uninsured patient with written notice of the criminal penalties
6070 for committing fraud in connection with the receipt of uncompensated care pool services. The
6071 authority shall promulgate a standard written notice form to be made available to health care

6072 providers in English and other languages. The form shall further include written notice of every
6073 employee's protection from employment discrimination under this section.

6074 SECTION 216. The General Laws are hereby amended by inserting after chapter 176R
6075 the following 2 chapters:-

6076 CHAPTER 176S

6077 CONSUMER CHOICE OF PHYSICIAN ASSISTANT SERVICES

6078 Section 1. As used in this chapter, the following words shall, unless the context clearly
6079 requires otherwise, have the following meanings:-

6080 "Carrier", (1) an insurer licensed or otherwise authorized to transact accident or health
6081 insurance under chapter 175; (2) a nonprofit hospital service corporation organized under chapter
6082 176A; (3) a nonprofit medical service corporation organized under chapter 176B; (4) a health
6083 maintenance organization organized under chapter 176G; (5) an organization entering into a
6084 preferred provider arrangement under chapter 176I; (6) a contributory group general or blanket
6085 insurance for persons in the service of the commonwealth under chapter 32A; (7) a contributory
6086 group general or blanket insurance for persons in the service of counties, cities, towns and
6087 districts, and their dependents under chapter 32B; (8) the medical assistance program
6088 administered by the office of Medicaid pursuant to chapter 118E and in accordance with Title
6089 XIX of the Social Security Act or any successor statute; and (9) any other medical assistance
6090 program operated by a governmental unit for persons categorically eligible for such program.

6091 "Commissioner", the commissioner of insurance.

6092 “Insured”, an enrollee, covered person, insured, member, policyholder or subscriber of a
6093 carrier.

6094 “Nondiscriminatory basis”, a carrier shall be deemed to be providing coverage on a non-
6095 discriminatory basis if its plan does not contain any annual or lifetime dollar or unit of service
6096 limitation imposed on coverage for the care provided by a physician assistant which is less than
6097 any annual or lifetime dollar or unit of service limitation imposed on coverage for the same
6098 services by other participating providers.

6099 “Participating provider”, a provider who, under terms and conditions of a contract with
6100 the carrier or with its contractor or subcontractor, has agreed to provide health care services to an
6101 insured with an expectation of receiving payment, other than coinsurance, co-payments or
6102 deductibles, directly or indirectly from the carrier.

6103 “Physician assistant”, a person who is a graduate of an approved program for the training
6104 of physician assistants who is supervised by a registered physician in accordance with sections
6105 9C to 9H, inclusive, of chapter 112, and who has passed the Physician Assistant National
6106 Certifying Exam or its equivalent.

6107 “Primary care provider”, a health care professional qualified to provide general medical
6108 care for common health care problems who (1) supervises, coordinates, prescribes, or otherwise
6109 provides or proposes health care services; (2) initiates referrals for specialist care; and (3)
6110 maintains continuity of care within the scope of practice.

6111 Section 2. The commissioner and the group insurance commission shall require that all
6112 carriers recognize physician assistants as participating providers subject to section 3 and shall
6113 include coverage on a nondiscriminatory basis to their insureds for care provided by physician

6114 assistants for the purposes of health maintenance, diagnosis and treatment. Such coverage shall
6115 include benefits for primary care, intermediate care and inpatient care, including care provided in
6116 a hospital, clinic, professional office, home care setting, long-term care setting, mental health or
6117 substance abuse program, or any other setting when rendered by a physician assistant who is a
6118 participating provider and is practicing within the scope of his or her professional authority as
6119 defined by statute, rule and physician delegation to the extent that such policy or contract
6120 currently provides benefits for identical services rendered by a provider of health care licensed
6121 by the commonwealth.

6122 Section 3. A participating provider physician assistant practicing within the scope of such
6123 physician assistant's license, including all regulations requiring collaboration with or supervision
6124 by a physician under section 9E of chapter 112, shall be considered qualified within the carrier's
6125 definition of primary care provider to an insured.

6126 Section 4. Notwithstanding any general or special law to the contrary, a carrier that
6127 requires the designation of a primary care provider shall provide its insured with an opportunity
6128 to select a participating provider physician assistant as a primary care provider.

6129 Section 5. Notwithstanding any general or special law to the contrary, a carrier shall
6130 ensure that all participating provider physician assistants are included on any publicly accessible
6131 list of participating providers for the carrier.

6132 Section 6. A complaint for noncompliance against a carrier shall be filed with and
6133 investigated by the commissioner or the group insurance commission, whichever shall have
6134 regulatory authority over the carrier. The commissioner and the group insurance commission
6135 shall promulgate regulations to enforce this chapter.

CHAPTER 176T

RISK-BEARING PROVIDER ORGANIZATIONS

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Alternative payment contract”, any contract between a provider or provider organization and a health care payer payer which utilizes alternative payment methodologies.

“Alternative payment methodologies or methods”, methods of payment that are not solely based on fee-for-service reimbursements; provided, however, that “alternative payment methodologies” may include, but shall not be limited to, shared savings arrangement, bundled payments, and global payments; and further provided, that “alternative payment methodologies” may include fee-for-service payments, which are settled or reconciled with a bundled or global payment.

“Carrier,” an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; and an organization entering into a preferred provider arrangement under chapter 176I, but not including an employer purchasing coverage or acting on behalf of its employees or the employees of 1 or more subsidiaries or affiliated corporations of the employer; provided, however, that, unless otherwise noted, the term “carrier” shall not include any entity to the extent it offers a policy, certificate or contract that provides coverage solely for dental care services or vision care services.

6157 “Center”, the center for health information and analysis established in chapter 12C.

6158 “Commission”, the health policy commission established in chapter 6D.

6159 “Commissioner”, the commissioner of insurance.

6160 “Division”, the division of insurance.

6161 “Downside risk”, the risk taken on by a provider organization as part of an alternate
6162 payment contract with a carrier or other payer in which the provider organization is responsible
6163 for either the full or partial costs of treating a group of patients that may exceed the contracted
6164 budgeted payment arrangements.

6165 “Employer”, an employer as defined in section 1 of chapter 151A.

6166 “Health care services”, supplies, care and services of medical, surgical, optometric,
6167 dental, podiatric, chiropractic, psychiatric, therapeutic, diagnostic, preventative, rehabilitative,
6168 supportive or geriatric nature including, but not limited to, inpatient and outpatient acute hospital
6169 care and services, provided by a community health center, home health and hospice care
6170 provider, or by a sanatorium, as included in the definition of “hospital” in Title XVIII of the
6171 federal Social Security Act, and treatment and care compatible with such services or by a health
6172 maintenance organization.

6173 “Medicaid program”, the medical assistance program administered by the office of
6174 Medicaid under chapter 118E and in accordance with Title XIX of the Federal Social Security
6175 Act or any successor statute.

6176 “Medical assistance program”, the medicaid program, the Veterans Administration health
6177 and hospital programs and any other medical assistance program operated by a governmental
6178 unit for persons categorically eligible for such program.

6179 “Medical service corporation”, a corporation established to operate a nonprofit medical
6180 service plan as provided in chapter 176B.

6181 “Medicare program”, the medical insurance program established by Title XVIII of the
6182 Social Security Act.

6183 “Provider” or “health care provider”, any person, corporation, partnership, governmental
6184 unit, state institution or any other entity qualified under the laws of the commonwealth to
6185 perform or provide health care services.

6186 “Provider organization”, any corporation, partnership, business trust, association or
6187 organized group of persons in the business of health care delivery or management whether
6188 incorporated or not that represents 1 or more health care providers in contracting with carriers for
6189 the payments of health care services; provided, however, that “provider organization” shall
6190 include, but not be limited to, physician organizations, physician-hospital organizations,
6191 independent practice associations, provider networks, accountable care organizations and any
6192 other organization that contracts with carriers for payment for health care services.

6193 “Public health care payer”, the Medicaid program established in chapter 118E; any
6194 carrier or other entity that contracts with the office of Medicaid or the commonwealth health
6195 insurance connector to pay for or arrange the purchase of health care services on behalf of
6196 individuals enrolled in health coverage programs under Titles XIX or XXI, or under the
6197 commonwealth care health insurance program, including prepaid health plans subject to the

6198 provisions of section 28 of chapter 47 of the acts of 1997; the group insurance commission
6199 established under chapter 32A; and any city or town with a population of more than 60,000 that
6200 has adopted chapter 32B.

6201 “Registered provider organization”, a provider organization that has been registered in
6202 accordance with chapter 6D.

6203 “Risk-bearing provider organization”, a provider organization that manages the treatment
6204 of a group of patients and bears the downside risk according to the terms of an alternate payment
6205 contract.

6206 “Risk certificate”, a certificate of solvency issued by the division of insurance.

6207 “Self-insurance health plan”, a plan which provides health benefits to the employees of a
6208 business, which is not a health insurance plan, and in which the business is liable for the actual
6209 costs of the health care services provided by the plan and administrative costs.

6210 “Title XIX,” Title XIX of the Social Security Act, 42 USC 1396 et seq., or any successor
6211 statute enacted for the same purposes as Title XIX.

6212 Section 2. Except as hereinafter provided, a risk-bearing provider organization shall not
6213 be subject to chapters 175, 176A, 176B, 176C, 176E, 176F, 176G and 176J; provided, however,
6214 that a risk-bearing provider organization that enters into a contract with employers or individuals
6215 under which the provider organization would assume a significant portion of downside risk, as
6216 defined through division regulations, may be subject to the provisions of said chapters 175,
6217 176A, 176B, 176C, 176E, 176F, 176G and 176J for the purposes of such contracts.

6218 Section 3. (a) Each registered provider organization that enters into or renews an
6219 alternative payment contract with a carrier or public health care payer in which the provider
6220 organization accepts downside risk shall file an application for a risk certificate with the division;
6221 provided, however, that integrated care organizations or senior care organizations contracted
6222 under section 9D or 9E of chapter 118E which have undergone a financial solvency certification
6223 shall be deemed to be to have satisfied the risk certificate requirements for purposes of this
6224 chapter.

6225 (b) A risk-bearing provider organization may apply for a risk certificate waiver if it
6226 wishes to demonstrate that its alternative payment contracts do not contain significant downside
6227 risk. A risk-bearing provider organization may be deemed to be in compliance with the
6228 division's standards if the division determines that the provider organization's alternative
6229 payment contracts do not contain significant downside risk. The division shall forward such
6230 waiver in writing to the commission and the center.

6231 (c) The applicant for a risk certificate shall file such information as the commissioner
6232 shall by regulation require, in a form approved by the commissioner. A risk-bearing provider
6233 organization shall make an annual filing to renew its risk certificate. Such information shall
6234 include, but not be limited to:

6235 (1) the filing materials submitted to be registered as a provider organization,
6236 pursuant to chapter 6D;

6237 (2) a list of all carriers and public health payers with which the provider
6238 organization has entered into alternative payment contracts with downside risk;

6239 (3) financial statements showing the risk-bearing provider organization's assets,
6240 liabilities, reserves and sources of working capital and other sources of financial support and
6241 projections of the results of operations for the succeeding 3 years;

6242 (4) a financial plan, including a statement indicating the anticipated timing for
6243 receipt of income from alternative payment contracts with downside risk versus the incurrence
6244 of expenses, a statement of the applicant's plan to establish and maintain sufficient reserves or
6245 other resources that will protect the risk-bearing provider organization from the potential losses
6246 from downside risk, copies of insurance or other agreements which protect the risk-bearing
6247 provider organization from potential losses from downside risk, and a detailed description of
6248 mechanisms to monitor the financial solvency of any provider organization subcontracting with
6249 the applicant that assumes downside risk in its alternative payment arrangement with the risk-
6250 bearing provider organization;

6251 (5) a utilization plan describing the methods by which the risk-bearing provider
6252 organization will monitor inpatient and outpatient utilization under the alternative payment
6253 contracts with downside risk;

6254 (6) an actuarial certification that, after examining the terms of all the risk-bearing
6255 provider organization's alternative payment contracts with downside risk that the alternate
6256 payment contracts are not expected to threaten the financial solvency of the risk-bearing provider
6257 organization; and

6258 (7) such other information as the division may specify through regulation.

6259 (d) There shall be a fee for such application or renewal, in an amount determined by the
6260 commissioner.

6261 (e) A risk-bearing provider organization shall notify the commissioner of any material
6262 change to the information submitted in its initial or renewal application, in a form approved by
6263 the commissioner.

6264 Section 4. (a) The commissioner may make an examination of the affairs of a risk-
6265 bearing provider organization regarding its alternate payment arrangements with downside risk
6266 when the commissioner deems prudent but, not less frequently than once every 3 years. The
6267 focus of the examination shall be to ensure that a risk-bearing provider organization is not
6268 subject to adverse conditions which in the commissioner's determination have at least a
6269 moderate potential to impact a risk-bearing entity's ability to meet its risk-bearing
6270 responsibilities under any alternative payment contracts. The examination shall be conducted
6271 according to the procedures set forth in subsection (6) of section 4 of chapter 175.

6272 (b) The commissioner, a deputy or an examiner may conduct an on-site examination of
6273 each risk-bearing provider organization in the commonwealth to thoroughly inspect and examine
6274 its affairs and ascertain its financial condition in the context of its ability to fulfill its risk-bearing
6275 obligations.

6276 (c) The charge for each such examination shall be determined annually according to the
6277 procedures set forth in subsection (6) of section 4 of chapter 175.

6278 (d) The assets and liabilities of the risk-bearing provider organization shall be allowed
6279 and computed, in any report of an examination under this section, in accordance with generally
6280 accepted accounting principles or as the commissioner may otherwise deem appropriate.

6281 (e) No later than 60 days following completion of the examination, the examiner in
6282 charge shall file with the commissioner a verified written report of examination under oath.

6283 Upon receipt of the verified report, the commissioner shall transmit the report to the risk-bearing
6284 provider organization examined together with a notice which shall afford the risk-bearing
6285 provider organization examined a reasonable opportunity of not more than 30 days to make a
6286 written submission or rebuttal with respect to any matters contained in the examination report.
6287 Within 30 days of the end of the period allowed for the receipt of written submissions or
6288 rebuttals, the commissioner shall consider and review the reports together with any written
6289 submissions or rebuttals and any relevant portions of the examiner's work papers and enter an
6290 order:

6291 (i) adopting the examination report as filed with modifications or corrections and,
6292 if the examination report reveals that the risk-bearing provider organization is operating in
6293 violation of this section or any regulation or prior order of the commissioner, the commissioner
6294 may order the risk-bearing provider organization to take any action the commissioner considered
6295 necessary and appropriate to cure such violation;

6296 (ii) rejecting the examination report with directions to examiners to reopen the
6297 examination for the purposes of obtaining additional data, documentation or information and re-
6298 filing pursuant to the above provisions; or

6299 (iii) calling for an investigatory hearing with no less than 20 days notice to the
6300 risk-bearing provider organization for purposes of obtaining additional documentation, data,
6301 information and testimony.

6302 (f) Notwithstanding any other General Law to the contrary, including clause Twenty-
6303 sixth of section 7 of chapter 4 and chapter 66, the records of any such audit, examination or other
6304 inspection and the information contained in the records, reports or books of any risk-bearing

6305 provider organization examined pursuant to this section shall be confidential and open only to
6306 the inspection of the commissioner, or the examiners and assistants. Access to such confidential
6307 material may be granted by the commissioner to law enforcement officials of the commonwealth
6308 or any other state or agency of the federal government at any time, so long as the agency or
6309 office receiving the information agrees in writing to hold such material confidential. Nothing
6310 herein shall be construed to prohibit the required production of such records, and information
6311 contained in the reports of such company or organization before any court of the commonwealth
6312 or any master or auditor appointed by any such court, in any criminal or civil proceeding,
6313 affecting such risk-bearing provider organization, its officers, partners, directors or employees.
6314 The final report of any such audit, examination or any other inspection by or on behalf of the
6315 division of insurance shall be a public record.

6316 Section 5. (a) If upon examination or at any other time the commissioner determines that
6317 the risk-bearing provider organization's existing or proposed alternative payment contracts with
6318 downside risk are likely to threaten the financial solvency of the risk-bearing provider
6319 organization, the commissioner shall provide notice to the risk-bearing provider organization.

6320 (b) The commissioner may suspend, cancel, non-renew or refuse to issue a risk-bearing
6321 provider organization's risk certificate upon a determination that the risk-bearing provider
6322 organization has not cured a threat to financial solvency, that the risk-bearing provider
6323 organization's application for a risk certificate is incomplete or contains or is based on fraudulent
6324 information, or that the risk-bearing provider organization has otherwise failed to comply with
6325 the requirements of this chapter. The commissioner shall notify the risk-bearing provider
6326 organization and advise, in writing, of the reason for any refusal to issue or non-renew a risk
6327 certificate under this chapter. A copy of the notice shall be forwarded to the commission and

6328 center. The applicant or certified risk-bearing provider organization may make written demand
6329 upon the commissioner within 30 days of receipt of such notification for a hearing before the
6330 commissioner to determine the reasonableness of the commissioner's action. The hearing shall
6331 be held pursuant to chapter 30A.

6332 (c) The commissioner shall not suspend or cancel a risk certificate unless the
6333 commissioner has first afforded the risk-bearing provider organization an opportunity for a
6334 hearing pursuant to chapter 30A.

6335 (d) Upon a ruling by the commissioner to suspend or cancel a risk-bearing provider
6336 organization's certification, a written notice shall be forwarded to the commission and the center.

6337 Section 6. (a) For purposes of this section, "health care provider" shall mean any
6338 physician, hospital or other person or entity furnishing health services that has contracted to
6339 provide services according to its agreements with a risk-bearing provider organization.

6340 (b) A health care provider or any representative of a health care provider shall not
6341 maintain any action against a patient to collect or attempt to collect any money owed to the
6342 health care provider by a risk-bearing provider organization.

6343 (c) A risk-bearing provider organization shall include provisions within its contracts with
6344 health care providers that conspicuously prohibit health care providers from collecting or
6345 attempting to collect money from a patient that is owed to the health care provider by a risk-
6346 bearing provider organization.

6347 Section 7. All information provided by risk-bearing provider organizations to the
6348 division under this chapter shall be made available to the center and the commission.

6349 Section 8. Nothing in this chapter shall exempt any person from any applicable
6350 provisions of chapter 111, 112 or 176T including, but not limited to, provisions relating to
6351 determination of need, licensure and regulation of hospitals and clinics and registration of health
6352 professionals.

6353 Section 9. The commissioner shall promulgate rules and regulations as are necessary to
6354 carry out the provisions of this chapter. In developing the rules and regulations, including risk-
6355 bearing standards, certification and reporting requirements, the commissioner shall consider
6356 other rules and regulations applicable to such organizations and shall consult with the center and
6357 the commission regarding standards concerning provider organizations which enter into
6358 alternative payment contracts.

6359 SECTION 218. Section 8A of chapter 180 of the General Laws, as appearing in the 2010
6360 Official Edition, is hereby amended by striking out, in lines 100 and 101, the words “division of
6361 health care finance and policy pursuant to chapter 118G” and inserting in place thereof the
6362 following words:- center for health information and analysis under chapter 12C.

6363 SECTION 219. Section 9 of chapter 209C of the General Laws is hereby amended by
6364 striking out, in lines 36 and 37, as so appearing, the words “the division of medical assistance or
6365 division of health care finance and policy” and inserting in place thereof the following words:-
6366 the office of Medicaid or the executive office of health and human services.

6367 SECTION 220. Section 60K of chapter 231 of the General Laws, as so appearing, is
6368 hereby amended by striking out, in line 14, the figure “4” and inserting in place thereof the
6369 following figure:- 2.

6370 SECTION 221. Said chapter 231 is hereby further amended by inserting after section
6371 60K the following section:-

6372 Section 60L. (a) Except as otherwise provided in this section, a person shall not
6373 commence an action against a provider of health care as defined in the seventh paragraph of
6374 section 60B unless the person has given the health care provider 182 days written notice before
6375 the action is commenced.

6376 (b) The notice of intent to file a claim required under subsection (a) shall be mailed to the
6377 last known professional business address or residential address of the health care provider who is
6378 the subject of the claim.

6379 (c) The 182-day notice period in subsection (a) shall be shortened to 90 days if:

6380 (1) the claimant has previously filed the 182-day notice required against another
6381 health care provider involved in the claim; or

6382 (2) the claimant has filed a complaint and commenced an action alleging medical
6383 malpractice against any health care provider involved in the claim.

6384 (d) The 182 day notice of intent required in subsection (a) shall not be required if the
6385 claimant did not identify and could not reasonably have identified a health care provider to
6386 which notice shall be sent as a potential party to the action before filing the complaint;

6387 (e) The notice given to a health care provider under this section shall contain, but shall
6388 not be limited to, a statement including:

6389 (1) the factual basis for the claim;

6390 (2) the applicable standard of care alleged by the claimant;

6391 (3) the manner in which it is claimed that the applicable standard of care was

6392 breached by the health care provider;

6393 (4) the alleged action that should have been taken to achieve compliance with the

6394 alleged standard of care;

6395 (5) the manner in which it is alleged the breach of the standard of care was the

6396 proximate cause of the injury claimed in the notice; and

6397 (6) the names of all health care providers that the claimant intends to notify under

6398 this section in relation to a claim.

6399 (f) Not later than 56 days after giving notice under this section, the claimant shall allow

6400 the health care provider receiving the notice access to all of the medical records related to the

6401 claim that are in the claimant's control and shall furnish a release for any medical records related

6402 to the claim that are not in the claimant's control, but of which the claimant has knowledge.

6403 This subsection shall not restrict a patient's right of access to the patient's medical records under

6404 any other law.

6405 (g) Within 150 days after receipt of notice under this section, the health care provider or

6406 authorized representative against whom the claim is made shall furnish to the claimant or the

6407 claimant's authorized representative a written response that contains a statement including the

6408 following:

6409 (1) the factual basis for the defense, if any, to the claim;

6410 (2) the standard of care that the health care provider claims to be applicable to the
6411 action;

6412 (3) the manner in which it is claimed by the health care provider that there was or
6413 was not compliance with the applicable standard of care; and

6414 (4) the manner in which the health care provider contends that the alleged
6415 negligence of the health care provider was or was not a proximate cause of the claimant's alleged
6416 injury or alleged damage.

6417 (h) If the claimant does not receive the written response required under subsection (g)
6418 within the required 150-day time period, the claimant may commence an action alleging medical
6419 malpractice upon the expiration of the 150-day time period. If a provider fails to respond within
6420 150 days and that fact is made known to the court in the plaintiffs' complaint or by any other
6421 means then interest on any judgment against that provider shall accrue and be calculated from
6422 the date that the notice was filed rather than the date that the suit is filed. At any time before the
6423 expiration of the 150-day period, the claimant and the provider may agree to an extension of the
6424 150-day period.

6425 (i) If at any time during the applicable notice period under this section a health care
6426 provider receiving notice under this section informs the claimant in writing that the health care
6427 provider does not intend to settle the claim within the applicable notice period, the claimant may
6428 commence an action alleging medical malpractice against the health care provider, so long as the
6429 claim is not barred by the statutes of limitations or repose.

6430 (j) A lawsuit against a health care provider filed within 6 months of the statute of
6431 limitations expiring as to any claimant, or within 1 year of the statute of repose expiring as to any
6432 claimant, shall be exempt from compliance with this section.

6433 (k) Nothing in this section shall prohibit the filing of suit at any time in order to seek
6434 court orders to preserve and permit inspection of tangible evidence.

6435 SECTION 222. Section 85K of said chapter 231, as appearing in the 2010 Official
6436 Edition, is hereby amended by inserting after the word “costs”, in line 8, the following words:- ;
6437 and provided further, that in the context of medical malpractice claims against a nonprofit
6438 organization providing health care, such cause of action shall not exceed the sum of \$100,000,
6439 exclusive of interest and costs.

6440 SECTION 223. Chapter 233 of the General Laws is hereby amended by inserting after
6441 section 79K the following section:-

6442 Section 79L. (a) As used in this section, the following words shall, unless the context
6443 clearly requires otherwise, have the following meanings:

6444 “Facility”, a hospital, clinic, or nursing home licensed under chapter 111, a psychiatric
6445 facility licensed under chapter 19 or a home health agency; provided, however, that “facility”
6446 shall also include any corporation, professional corporation, partnership, limited liability
6447 company, limited liability partnership, authority or other entity comprised of such facilities.

6448 “Health care provider”, any of the following health care professionals licensed under
6449 chapter 112: a physician, podiatrist, physical therapist, occupational therapist, dentist, dental
6450 hygienist, optometrist, nurse, nurse practitioner, physician assistant, chiropractor, psychologist,

6451 independent clinical social worker, speech-language pathologist, audiologist, marriage and
6452 family therapist or mental health counselor; provided, however, that “health care provider” shall
6453 also include any corporation, professional corporation, partnership, limited liability company,
6454 limited liability partnership, authority, or other entity comprised of such health care providers.

6455 “Unanticipated outcome”, the outcome of a medical treatment or procedure, whether or
6456 not resulting from an intentional act, that differs from an intended result of such medical
6457 treatment or procedure.

6458 (b) In any claim, complaint or civil action brought by or on behalf of a patient allegedly
6459 experiencing an unanticipated outcome of medical care, all statements, affirmations, gestures,
6460 activities or conduct expressing benevolence, regret, apology, sympathy, commiseration,
6461 condolence, compassion, mistake, error or a general sense of concern which are made by a health
6462 care provider, facility or an employee or agent of a health care provider or facility, to the patient,
6463 a relative of the patient or a representative of the patient and which relate to the unanticipated
6464 outcome shall be inadmissible as evidence in any judicial or administrative proceeding, unless
6465 the maker of the statement, or a defense expert witness, when questioned under oath during the
6466 litigation about facts and opinions regarding any mistakes or errors that occurred, makes a
6467 contradictory or inconsistent statement as to material facts or opinions, in which case the
6468 statements and opinions made about the mistake or error shall be admissible for all purposes. In
6469 situations where a patient suffers an unanticipated outcome with significant medical
6470 complication resulting from the provider’s mistake, the health care provider, facility or an
6471 employee or agent of a health care provider or facility shall fully inform the patient and, when
6472 appropriate, the patient's family, about said unanticipated outcome.

6473 SECTION 224. Clause (2) of subsection (b) of section 3 of chapter 258C of the General
6474 Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subclause (A)
6475 and inserting in place thereof the following subclause:-

6476 (A) Expenses incurred for hospital services as the direct result of injury to the victim
6477 shall be compensable under this chapter; provided, however, that when claiming compensation
6478 for hospital expenses, the claimant shall demonstrate an out-of-pocket loss or a legal liability for
6479 payment of said expenses. No hospital expenses shall be paid if the expense is reimbursable by
6480 Medicaid or if the services are covered by chapter 118E. Every claim for compensation for
6481 hospital services shall include a certification by the hospital that the services are not
6482 reimbursable by Medicaid and that the services are not covered by chapter 118E. In no event
6483 shall the amounts awarded for hospital services exceed the rates for services established by the
6484 executive office of health and human services or a governmental unit designated by the executive
6485 office if rates have been established for such services.

6486 SECTION 225. Section 62 of chapter 177 of the acts of 2001 is hereby amended by
6487 inserting after the word “commission”, in line 2, the following words: - , the executive director
6488 of the commonwealth health insurance connector authority.

6489 SECTION 226. The first paragraph of section 271 of chapter 127 of the acts of 1999 is
6490 hereby amended by inserting after the word “affairs”, in line 3, the following words:- , the
6491 executive director of the commonwealth health insurance connector authority.

6492 SECTION 227. Said first paragraph of said section 271 of said chapter 127 is hereby
6493 further amended by striking out clause (i) and inserting in place thereof the following words:- (i)
6494 enrollees in Commonwealth Care under chapter 176Q of the General Laws.

6495 SECTION 228. Section 16 of chapter 257 of the acts of 2008, as amended by section 27
6496 of chapter 9 of the acts of 2011, is hereby further amended by striking out the words “section 7
6497 of chapter 118G” and inserting in place thereof the following words:- section 13D of chapter
6498 118E.

6499 SECTION 229. Section 17 of said chapter 257, as most recently amended by section 28
6500 of said chapter 9 of the acts of 2011, is hereby amended by striking out the words “7 of chapter
6501 118G” and inserting in place thereof the following words:- 13D of chapter 118E.

6502 SECTION 230. Section 18 of said chapter 257, as amended by section 29 of said chapter
6503 9, is hereby further amended by striking out the words “section 7 of chapter 118G” and inserting
6504 in place thereof the following words:- “section 13D of chapter 118E.

6505 SECTION 231. Section 15 of chapter 305 of the acts of 2008 is hereby repealed.

6506 SECTION 232. Section 31 of chapter 288 of the acts of 2010 is hereby repealed.

6507 SECTION 233. Section 54 of said chapter 288 is hereby repealed.

6508 SECTION 234. Said chapter 288 is hereby further amended by striking out section 66
6509 and inserting in place thereof the following section:—

6510 Section 66. For small group base rate factors applied under section 3 of chapter 176J of
6511 the General Laws between October 1, 2010 and July 1, 2015, a carrier shall limit the effect of the
6512 application of any single or combination of rate adjustment factors identified in clauses (2) to (6),
6513 inclusive, of subsection (a) of said chapter 3 of said chapter 176J that are used in the calculation
6514 of an individual’s or small group’s premium so that the final annual premium charged to an

6515 individual or small group does not increase by more than an amount established annually by the
6516 commissioner by regulation.

6517 SECTION 235. Section 70 of said chapter 288 is hereby repealed.

6518 SECTION 236. The first sentence of section 48 of chapter 9 of the acts of 2011 is hereby
6519 amended by striking out the words “7 of chapter 118G” and inserting in place thereof the
6520 following words:- 13D of chapter 118E.

6521 SECTION 237. Notwithstanding any general or special law to the contrary, no provision
6522 of this act shall be construed to impair or in any way modify the authority of the executive office
6523 of health and human services to act, pursuant to section 16 of chapter 6A of the General Laws, as
6524 the single state agency authorized to supervise and administer the state programs under titles
6525 XIX and XXI of the Social Security Act.

6526 SECTION 238. The commissioner of revenue, in consultation with the department of
6527 public health and the office of commonwealth performance, accountability and transparency,
6528 shall review the wellness program tax credit in section 6N of chapter 62 of the General Laws and
6529 section 38FF of chapter 63 of the General Laws and report on whether this tax credit achieved
6530 the desired outcome and stated public policy purpose of the tax credit and if the tax credit is the
6531 most cost effective means of achieving this public policy purpose and whether the tax credit
6532 should be subject to a recapture if certain conditions are not met. The commissioner shall file a
6533 report, together with any recommendations regarding whether there should be legislative changes
6534 to the tax credit or whether the goals of the tax credit can better be served through other means,
6535 to the governor and to the clerks of the house and senate who shall forward the same to the joint

6536 committee on revenue, the joint committee on health care financing, and the house and senate
6537 ways and means committees not later than January 1, 2017.

6538 SECTION 239. Notwithstanding any general or special law to the contrary, the
6539 commissioner of revenue, in consultation with the department of public health, shall authorize
6540 annually an amount not to exceed \$15,000,000 for the wellness program tax credit in section 6N
6541 of chapter 62 of the General Laws together with chapter 38FF of chapter 63 of the General Laws.

6542 SECTION 240. (a) The health information technology council, established in section 2
6543 of chapter 118I of the General laws, shall conduct an evaluation of the effectiveness of its
6544 expenditures under section 10 of said chapter 118I, and the Massachusetts e-health institute shall
6545 conduct an evaluation of the effectiveness of expenditures authorized under section 6D of
6546 chapter 40J of the General Laws and each shall submit a report thereon.

6547 (b) The reports by the council and the institute shall include an analysis of all relevant
6548 data so as to determine the effectiveness and return on investment of funding under section 6D of
6549 said chapter 40J and section 10 of chapter 118I. The reviews by the council and the institute shall
6550 each include specific findings and legislative recommendations including the following:-

6551 (1) to what extent their respective programs increased the adoption of
6552 interoperable electronic health records, including to what extent those programs increased the
6553 adoption of interoperable electronic health records for providers;

6554 (2) to what extent their respective programs reduced health care costs or the
6555 growth in health care cost trends on a provider-based net cost and health plan based premium
6556 basis, including an analysis of what entities benefitted from, or were disadvantaged by, any cost
6557 reductions and the specific impact of the funding mechanism;

6558 (3) to what extent their respective programs increased the number of health care
6559 providers in achieving and maintaining compliance with the standards for meaningful use,
6560 beyond stage 1, established by the United States Department of Health and Human Services;

6561 (4) to what extent their respective programs should be discontinued, amended or
6562 expanded and, if so, a timetable for implementation of the recommendations; and

6563 (5) to what extent additional public funding is needed for the implementation of
6564 their respective programs.

6565 (c) To the extent possible, the council and the institute shall obtain and use actual health
6566 plan data from the all-payer claims database as administered by the center for health information
6567 and analysis, but such data shall be confidential and shall not be a public record for any purpose.

6568 (d) The council and the institute shall report the results of their reviews and
6569 recommendations, if any, together with drafts of legislation necessary to carry out such
6570 recommendations by March 31, 2016. The report shall be provided to the chairs of the house
6571 and senate committees on ways and means and the chairs of the joint committee on health care
6572 financing and shall be posted on the council's and the institute's websites.

6573 SECTION 241. (a). Notwithstanding any special or general law to the contrary, the
6574 health policy commission shall establish a one-time surcharge assessment on all acute hospitals
6575 satisfying the requirements of subsection (b) to be deposited according to the requirements of
6576 subsection (f). The surcharge amount to be paid by each acute hospital shall equal the product
6577 of: (i) the surcharge percentage; and (ii) \$60,000,000. The commission shall calculate the
6578 surcharge percentage by dividing the operating surplus in fiscal year 2010 by the total operating
6579 surplus in fiscal year 2010 of all acute hospitals paying an assessment under this section. The

6580 commission shall determine the surcharge percentage for the assessment by December 31, 2012.
6581 In the determination of the surcharge percentage, the commission shall use the best data
6582 available as determined by the commission and may consider the effect on projected surcharge
6583 payments of any modified or waived enforcement pursuant to subsection (c). The commission
6584 shall incorporate all adjustments, including, but not limited to, updates or corrections or final
6585 settlement amounts, by prospective adjustment rather than by retrospective payments or
6586 assessments.

6587 (b) Only acute hospitals or acute hospital systems with more than \$1,000,000,000 in total
6588 net assets and less than 50 per cent of revenues from public payers shall be subject to the
6589 assessment. The commission may waive the assessment for certain acute hospitals, if the
6590 commission reasonably determines the hospital or hospital system lacks access to resources
6591 available to pay the assessment. The commission shall make a determination for waiver based
6592 on the following factors: (A) cash and investments on hand; (B) total revenues; (C) total cash and
6593 investments; (D) total reserves; (E) total profits, margins or surplus; (F) earnings before interest,
6594 depreciation and amortization; (G) administrative expense ratio; and (H) the compensation of
6595 executive managers and board members.

6596 (c) The commission may provide assessment mitigation up to 66 per cent of the surcharge
6597 assessment if an assessable provider meets either of the following:

6598 (1) any acute hospital or acute hospital system that receives more than 25 per cent
6599 of its reimbursements from Title XIX of the Social Security Act; or

6600 (2) any acute hospital or acute hospital system whose net assets do not exceed
6601 \$1,250,000,000.

6602 (d) Surcharge payors shall be assessed a surcharge to be paid to the commission in
6603 accordance with the provisions of subsection (e). The surcharge amount shall equal the product
6604 of: (i) the surcharge percentage; and (ii) \$165,000,000. The commission shall calculate the
6605 surcharge percentage by dividing the surcharge payor's payments for acute hospital services by
6606 the total payments for acute hospital services by all surcharge payors. The commission shall
6607 determine the surcharge percentage for the assessment by December 31, 2012. In the
6608 determination of the surcharge percentage, the commission shall use the best data available as
6609 determined by the commission and may consider the effect on projected surcharge payments of
6610 any modified or waived enforcement pursuant to subsection (c). The commission shall
6611 incorporate all adjustments, including, but not limited to, updates or corrections or final
6612 settlement amounts, by prospective adjustment rather than by retrospective payments or
6613 assessments.

6614 (e) Acute hospitals and surcharge payors shall pay the full amount of the surcharge
6615 amount as follows:

6616 (1) a single payment to be made no later than June 30, 2013; or

6617 (2) in 4 equal annual installments to be paid on or before June 30 of each year beginning
6618 on June 30, 2013.

6619 (f) The assessment shall be distributed as follows by the comptroller as such assessments
6620 are collected:

6621 (1) 60 per cent, for a 4-year a total of \$135,000,000 to the Distressed Hospital Trust
6622 Fund, established in section 2GGGG of chapter 29 of the General Laws; provided,

6623 however, that any reduced assessment under subsections (b) or (c) shall reduce this
6624 amount;

6625 (2) 26 and 2/3 per cent, for a 4-year total of \$60,000,000, to the Prevention and Wellness
6626 Trust Fund, established in section 2G of chapter 111 of the General Laws; and

6627 (3) 13 and 1/3 per cent, for a 4-year total of \$30,000,000 to the e-Health Institute Fund
6628 established in section 6E of chapter 40J.

6629 Prior to depositing the assessment in these funds, the comptroller shall deduct 5 per cent
6630 of each amount set forth in this subsection and transfer it to the Health Care Payment Reform
6631 Fund established in section 100 of chapter 194 of the acts of 2011 for the administration of the
6632 health policy commission.

6633 Deposits to the Prevention and Wellness Trust Fund and the e-Health Institute Fund shall
6634 not be reduced due to any waiver authorized by the commission under subsections (b) or (c).
6635 The total amount waived shall be reduced from the amount to be deposited in the Distressed
6636 Hospital Trust Fund.

6637 (g) The commission shall specify by regulation appropriate mechanisms that provide for
6638 determination and payment of an acute hospital, or a surcharge payor's liability, including
6639 requirements for data to be submitted by acute hospitals and surcharge payors.

6640 (h) A hospital's liability to the fund shall in the case of a transfer of ownership be
6641 assumed by the successor in interest to the hospital.

6642 (i) A surcharge payor's liability to the fund shall in the case of a transfer of ownership be
6643 assumed by the successor in interest to the surcharge payor.

6644 (j) The commission shall establish by regulation an appropriate mechanism for enforcing
6645 an acute hospital or surcharge payor's liability to the fund if an acute hospital or surcharge payor
6646 does not make a scheduled payment to the fund; provided, however, that the commission may,
6647 for the purpose of administrative simplicity, establish threshold liability amounts below which
6648 enforcement may be modified or waived. Such enforcement mechanism may include assessment
6649 of interest on the unpaid liability at a rate not to exceed an annual percentage rate of 18 per cent
6650 and late fees or penalties at a rate not to exceed 5 per cent per month. Such enforcement
6651 mechanism may also include notification to the office of Medicaid requiring an offset of
6652 payments on the claims of the acute hospital or surcharge payor, any entity under common
6653 ownership or any successor in interest to the acute hospital or surcharge payor, from the office of
6654 Medicaid in the amount of payment owed to the fund, including any interest and penalties, and to
6655 transfer the withheld funds into said fund. If the office of Medicaid offsets claims payments as
6656 ordered by the commission, the office of Medicaid shall be considered not to be in breach of
6657 contract or any other obligation for payment of non-contracted services, and an acute hospital or
6658 surcharge payor whose payment is offset under an order of the commission shall serve all Title
6659 XIX recipients under the contract then in effect with the executive office of health and human
6660 services. In no event shall the commission direct the office of Medicaid to offset claims unless
6661 the acute hospital or surcharge payor has maintained an outstanding liability to the fund for a
6662 period longer than 45 days and has received proper notice that the commission intends to initiate
6663 enforcement actions under regulations promulgated by the commission.

6664 (k) If an acute hospital or surcharge payor fails to file any data, statistics or schedules or
6665 other information required under this chapter or by any regulation promulgated by the
6666 commission, the commission shall provide written notice to the acute hospital or surcharge

6667 payor. If an acute hospital or surcharge payor fails to provide required information within 14
6668 days after the receipt of written notice, or falsifies the same, such hospital or payor shall be
6669 subject to a civil penalty of not more than \$5,000 for each day on which the violation occurs or
6670 continues, which penalty may be assessed in an action brought on behalf of the commonwealth
6671 in any court of competent jurisdiction. The attorney general shall bring any appropriate action,
6672 including injunctive relief, necessary for the enforcement of this chapter.

6673 (l) Acute hospitals shall not seek an increase in rates to pay for this assessment.

6674 (m) Surcharge payors shall not seek an increase in premiums to pay for this assessment.

6675 SECTION 242. Notwithstanding any general or special law to the contrary, to the extent
6676 permitted by federal law, every third-party administrator shall disclose to their self-insured or
6677 self-funded employer group health plan clients the contracted prices of services of in-network
6678 providers.

6679 SECTION 243. Any provider organization certified as an accountable care organization
6680 or a patient-centered medical home under chapter 6D of the General Laws and any risk-bearing
6681 provider organization shall have an interoperable electronic medical record system available for
6682 participants to coordinate care, share information and prescribe electronically by December 31,
6683 2016.

6684 SECTION 244. Notwithstanding any general or special law or rule or regulation to the
6685 contrary, the health care workforce center shall investigate the possibility of dedicating funds for
6686 joint appointments for clinicians with clinical agencies and universities. As part of the
6687 arrangement, clinicians pursuing doctoral education would receive tuition and fee reimbursement

6688 for maintaining a clinical position and teaching at the entry level of the academic program while
6689 pursuing their doctoral degree.

6690 SECTION 245. Notwithstanding any general or special law to the contrary, the executive
6691 office of health and human services shall seek from the secretary of the United States
6692 Department of Health and Human Services an exemption or waiver from the Medicare
6693 requirement set forth in 42 U.S.C. §1395x(i) that an admission to a skilled nursing facility be
6694 preceded by a 3-day hospital stay.

6695 SECTION 246. Notwithstanding any general or special law to the contrary, the office of
6696 Medicaid shall not terminate the coverage of any commonwealth care recipient, if: the office has
6697 requested documentation, including the eligibility review form; the recipient has provided such
6698 documentation on or before the date the office stated, in writing, that such documentation was to
6699 be submitted; and the office has acknowledged receipt of the documentation, until the office
6700 determines the eligibility for benefits based on the submitted information. The director of the
6701 office of Medicaid shall promulgate regulations to ensure the proper implementation of this
6702 section.

6703 SECTION 247. The secretary of administration and finance and the secretary of health
6704 and human services shall evaluate the feasibility of contracting for recycling durable medical
6705 equipment purchased and issued by the commonwealth through any and all of its medical
6706 assistance programs.

6707 Said evaluation shall include, but not be limited to, a request for qualifications or
6708 proposals from entities capable of developing, implementing and operating a system of recycling
6709 whereby an inventory of such equipment is developed and managed so as to maximize the

6710 quality of service delivery to equipment recipients and to minimize costs and losses attributable
6711 to waste, fraud or abuse.

6712 The secretary of administration and finance shall report the findings of the evaluation,
6713 together with cost estimates for the operation of a recycling program, estimates of the savings it
6714 would generate and legislative recommendation to the clerks of the house of representatives and
6715 the senate, one joint committee on health care financing, the house committee on ways and
6716 means and the senate committee on ways and means, not later than October 31, 2013.

6717 SECTION 248. Notwithstanding any general or special law to the contrary, the office of
6718 Medicaid and the department of unemployment assistance shall, in consultation with the
6719 executive office of health and human services, develop and implement a means by which the
6720 office of Medicaid may access information as to the status of or termination of unemployment
6721 benefits and the associated insurance coverage by the medical security plan, as administered by
6722 the executive office of labor and workforce development, for the purposes of determining
6723 eligibility for those individuals applying for benefits through health care insurance programs
6724 administered by the executive office of health and human services. The office and the
6725 department shall implement this system not later than February 1, 2013; provided, however, that
6726 if legislative action is required prior to implementation, recommendations for such action shall
6727 be filed with the clerks of the house of representatives and the senate and the joint committee on
6728 health care financing not later than January 1, 2013.

6729 SECTION 249. Notwithstanding any general or special law to the contrary, the division
6730 of insurance, in consultation with the board of registration in medicine, shall conduct a report on
6731 the potential for out-of-state physicians to practice telemedicine in the commonwealth. The

6732 report shall review the following: (i) licensure or authorization to practice medicine by an out-of-
6733 state physician; (ii) reimbursement of telemedicine services performed by out-of-state
6734 physicians; (iii) patient cost sharing responsibilities of telemedicine services performed by out-
6735 of-state physicians; (iv) any liability concerns associated with an out-of-state physician
6736 practicing medicine in the commonwealth, and the ability of patients to pursue medical
6737 malpractice claims; (v) the ability for out-of-state physicians to maintain an interoperable
6738 electronic health record; and (vi) the ability of out-of-state physicians to meet meaningful use
6739 standards associated with the commonwealth's health information exchange. To the extent
6740 possible, the division shall review and report on any national or regional licensure standards that
6741 exist or are being considered, and their implications on licensure of out-of-state physicians in the
6742 commonwealth. The report shall include recommendations for legislation to permit the use of
6743 out-of-state physicians for telemedicine. The report shall be submitted to clerks of the house of
6744 representatives and the senate, and the joint committees on health care financing and financial
6745 services by July 1, 2013.

6746 SECTION 250. Notwithstanding any special or general law to the contrary, the executive
6747 office of health and human services, in collaboration with the department of veterans' services
6748 and the office of Medicaid shall study methods to improve access to Department of Veterans'
6749 Affairs benefits for qualified veterans, survivors and dependents currently enrolled in the
6750 MassHealth program. The study shall include, but not be limited to: (i) identifying barriers to
6751 assisting these individuals in obtaining federal veteran health care benefits; and (ii) an
6752 examination of the feasibility, costs and benefits of utilizing the federal public assistance
6753 reporting information system (PARIS) to identify veterans and their dependents or surviving
6754 spouses who are enrolled in the MassHealth program. The study shall also examine the process

6755 and any projected information technology costs of exchanging information with the federal
6756 public assistance reporting information system. If the executive office of health and human
6757 services determines that the financial benefits outweigh the costs of utilizing the federal public
6758 assistance reporting information system, the executive office of health and human services shall
6759 be authorized to enter into any agreements and undertake such other measures as necessary to
6760 utilize such system to identify eligible veterans, dependents and survivors. The executive office
6761 may also, if it determines that the benefits outweigh the costs, enter into an agreement with the
6762 department of veterans' services to perform veterans outreach services to assist qualified
6763 veterans, survivors and dependents in obtaining benefits. Any such agreement shall contain
6764 performance standards that will allow the secretary of health and human services to measure the
6765 effectiveness of the program established by this section. The secretary of health and human
6766 services shall report the findings of this study and any actions taken pursuant this section to the
6767 joint committee on veterans and federal affairs, the joint committee on health care financing, and
6768 the house and senate committees on ways and means not later than April 1, 2013.

6769 SECTION 251. Notwithstanding any general or special law to the contrary, the office of
6770 the state auditor shall conduct a comprehensive review of the impact of this act on the health care
6771 payment and delivery system in the commonwealth and on health care consumers, the health
6772 care workforce and general public.

6773 The review shall include, but not be limited to, an investigation of:

6774 (1) The impact on health care costs, including the extent to which savings have
6775 reduced out-of-pocket costs to individuals and families, health insurance premium costs and
6776 health care costs borne by the commonwealth;

6777 (2) The impact on access to health care services and quality of care in different
6778 regions of the state and for different populations, particularly for children, the elderly, low-
6779 income individuals, individuals with disabilities and other vulnerable populations;

6780 (3) The impact on access and quality of care for specific services, particularly
6781 primary care, behavioral, substance use disorder and mental health services;

6782 (4) The impact on the health care workforce, including, but not limited to, health
6783 care worker recruitment and retention, health care worker shortages, training and education
6784 requirements and job satisfaction; and

6785 (5) The impact on public health, including, but not limited to, reducing the
6786 prevalence of preventable health conditions, improving employee wellness and reducing racial
6787 and ethnic disparities in health outcomes.

6788 The office of the state auditor shall, to the extent possible, obtain and use data from the
6789 center for health information and analysis, the health policy commission, and the department of
6790 public health to conduct its analysis; provided, however, that such data shall be confidential and
6791 shall not be a public record under clause twenty-sixth of section 7 of chapter 4 of the General
6792 Laws. The office of the state auditor may contract with an outside organization to conduct this
6793 review.

6794 The office of the state auditor shall report the results of such review and its
6795 recommendations, if any, together with drafts of legislation necessary to carry out such
6796 recommendations to the house and senate committees on ways and means and the joint
6797 committee on public health and post the results on the state auditor's website not later than
6798 March 31, 2017.

6799 SECTION 252. Nothing in this act shall be construed to preclude an individual from
6800 obtaining additional insurance or paying out of pocket for any medical service not covered by the
6801 individual's health plan.

6802 SECTION 253. Notwithstanding any general or special law to the contrary, the executive
6803 office of health and human services shall require Medicaid, any carrier or other entity which
6804 contracts with the office of Medicaid to pay for or arrange for the purchase of health care
6805 services, the commonwealth care health insurance program established under chapter 118H of
6806 the General Laws, any carrier or other entity which contracts with the commonwealth care health
6807 insurance program to pay for or arrange for the purchase of health care services, and any other
6808 state sponsored or state managed plan providing health care benefits to reimburse any licensed
6809 hospital facility operating in the commonwealth that has been designated as a critical access
6810 hospital under U.S.C. 1395i-4, in an amount equal to at least 101 per cent of allowable costs
6811 under each such program, as determined by utilizing the Medicare cost-based reimbursement
6812 methodology, for both inpatient and outpatient services.

6813 SECTION 254. Notwithstanding any general or special law, or rule or regulation to the
6814 contrary, the commissioner of insurance shall promulgate regulations requiring any carrier, as
6815 defined in section 1 of chapter 176O of the General Laws, and their contractors to comply with
6816 and implement the federal Mental Health Parity and Addiction Equity Act, section 511 of Public
6817 Law 110-343, and applicable state mental health parity laws, including section 22 of chapter
6818 32A of the General Laws, section 47B of chapter 175 of the General Laws, section 8A of chapter
6819 176A of the General Laws, section 4A of chapter 176B of the General Laws and sections 4, 4B
6820 and 4M of chapter 176G of the General Laws. The commissioner of insurance shall promulgate
6821 said regulations not later than January 1, 2013. The regulations shall be implemented as part of

6822 any provider contract and any carrier's health benefit plans delivered, issued, entered into,
6823 renewed, or amended on or after July 31, 2013.

6824 Starting on July 1, 2014, the commissioner of insurance shall require all carriers and their
6825 contractors, to submit an annual report to the division of insurance and to the attorney general,
6826 which shall be a public record, certifying and outlining how their health benefit plans comply
6827 with the federal Mental Health Parity and Addiction Equity Act, applicable state mental health
6828 parity laws, including said section 22 of said chapter 32A, said section 47B of chapter 175, said
6829 section 8A of chapter 176A, said section 4A of chapter 176B and said sections 4, 4B and 4M of
6830 chapter 176G, and this section. The division of insurance may, at the request of the attorney
6831 general, or in its own discretion, hold a public hearing relative to a carrier's or contractor's
6832 annual report.

6833 SECTION 255. Notwithstanding the provisions of any general or special law or
6834 regulation to the contrary, the provisions of section 16T of chapter 6A of the General Laws shall
6835 not apply to the review of an application for a determination of need that is filed with the
6836 department of public health under any applicable provision of said chapter 6A on or before
6837 December 31, 2013.

6838 SECTION 256. Notwithstanding any general or special law to the contrary, the health
6839 planning council shall submit a state health plan to the governor and the general court, as
6840 required by section 16T of chapter 6A of the General Laws, on or before January 1, 2014.

6841 SECTION 257. Notwithstanding subsection (d) of section 25C of chapter 111, health care
6842 providers that receive written notice from the department of public health, prior to December 31,

6843 2013, that they do not need a determination of need review for a project shall be exempt from the
6844 requirement to file a determination of need under said subsection for such project.

6845 SECTION 258. Notwithstanding any general or special law to the contrary, the board of
6846 registration in medicine, established under section 10 of chapter 13 of the General Laws, may
6847 promulgate regulations relative to the education and training of physicians in the early disclosure
6848 of adverse events including, but not limited to, continuing education requirements. Nothing in
6849 this section shall affect the total hours of continuing education required by the board, including
6850 the number of hours required relative to risk management.

6851 SECTION 259. Notwithstanding any general or special law to the contrary, the
6852 department of public health, in consultation with the division of insurance, shall examine and
6853 study best practices and successful models of private sector wellness and health management
6854 programs in order to create a model wellness guide for payers, employers and consumers. The
6855 department shall also issue a report that identifies those elements of said programs that should be
6856 promoted in support of the state's efforts to meet the health care cost growth benchmark
6857 established under section 9 of chapter 6D of the General Laws.

6858 The model guide shall provide the following information: (i) the importance of healthy
6859 lifestyles, disease prevention, care management and health promotion programs; (ii) financial
6860 and other incentives for brokers, payers and consumers to encourage health and wellness
6861 program offerings for consumers and to expand options for individuals who do not have access
6862 to these programs through their workplace; (iii) benefit designs that tie financial consequences to
6863 health care choices; (iv) use of technology to provide wellness information and services; (v) the
6864 benefits of participating in tobacco cessation programs and weight loss programs; (vi) the

6865 importance of chronic disease management, and complying with prescribed drug and follow up
6866 treatment regimens to reduce hospitalization for high-risk populations; (vii) a description of the
6867 discounts available to employees under the Affordable Care Act; and (viii) identifying qualitative
6868 and quantitative program measures to place real value on program results and track program
6869 effectiveness.

6870 In developing the report and model guide, the commissioner shall consult with health
6871 care stakeholders, including but not limited to: employers, including representatives of
6872 employers with more than 50 employees and representatives of employers with less than 50
6873 employees; providers and provider organizations; health carriers; public payers; researchers;
6874 community organizations; consumers; and other governmental entities. The report, along with
6875 any recommendations, shall be submitted to the clerks of the house of representatives and the
6876 senate, the joint committee on health care financing, the house and senate committees on ways
6877 and means and the secretary of health and human services by January 1, 2013. The
6878 recommendations shall assist in the development of strategies and programs supported by the
6879 Prevention and Wellness Trust Fund established under section 2G of chapter 111 of the General
6880 Laws.

6881 SECTION 260. Notwithstanding any general or special law to the contrary, the board of
6882 registration in nursing, established under section 13 of chapter 13 of the General Laws, may
6883 promulgate regulations relative to the education and training of advanced practice nurses
6884 authorized to practice under section 80B of chapter 112 of the General Laws, in the early
6885 disclosure of adverse events including, but not limited to, continuing education requirements.
6886 Nothing in this section shall affect the total hours of continuing education required by the board.

6887 SECTION 261. Notwithstanding and special or general law to the contrary, the office of
6888 Medicaid shall develop alternative payment methodologies including, but not limited to,
6889 bundled payments, global payments, shared savings and other innovative methods of paying for
6890 health care services. The office of Medicaid shall take actions necessary to amend its managed
6891 care organization and primary care clinician contracts as necessary to include such contracts in
6892 the innovation project. In developing the innovation project that employs alternative payment
6893 methodologies, the office of Medicaid shall consider payment and quality metric alignment with
6894 existing accountable care demonstrations implemented by the Centers for Medicare and
6895 Medicaid Services. The office of Medicaid shall consult with stakeholders including, but not
6896 limited to, the health care quality and cost commission, hospitals or hospital associations, carriers
6897 or carrier associations, consumer groups, physician or physician associations, and other health
6898 care providers, including safety net providers and high Medicaid and low-income public payer
6899 hospitals on developing alternative payment methodologies under this section. The office of
6900 Medicaid shall ensure that alternative payment methodologies: (i) support the state's efforts to
6901 meet the health care cost growth benchmark and to improve health, care delivery and cost-
6902 effectiveness; (ii) include incentives for high quality, coordinated care, including wellness
6903 services, primary care services and behavioral health services; (iii) include a risk adjustment
6904 element based on health status; (iv) to the extent possible, include a risk adjustment element that
6905 takes into account functional status, socioeconomic status or cultural factors; (v) preserve the use
6906 of intergovernmental transfer financing mechanisms by governmental acute public hospitals
6907 consistent with the Medical Assistance Trust Fund provisions in effect as of fiscal year 2012; and
6908 (vi) recognize the unique circumstances and reimbursement requirements of high Medicaid
6909 disproportionate share hospitals and other safety net providers with concentrated care in

6910 government programs. The office of Medicaid may also consider methodologies to account for
6911 the following costs: (1) medical education; (2) stand-by services and emergency services,
6912 including, but not limited to, trauma units and burn units; ; (3) services provided by
6913 disproportionate share hospitals or other providers serving underserved populations, including
6914 but not limited to, groups which suffer adverse health outcomes based on race, sex, ethnicity,
6915 disability, housing type, income level, primary language or educational attainment; (4) services
6916 provided to children; (5) research; (6) care coordination and community based services provided
6917 by allied health professionals, including, but not limited to, community health workers, legal
6918 advocates, medical interpreters, clinical prevention specialists, human services workers, social
6919 workers and licensed alcohol and drug counselors; (7) the greater integration of behavioral,
6920 substance use disorder and mental health; (8) the use and the continued advancement of new
6921 medical technologies, treatments, diagnostics or pharmacology products that offer substantial
6922 clinical improvements and represent a higher cost than the use of current therapies; (9) culturally
6923 and linguistically appropriate services; (10) interpreter services; (11) dedicated care management
6924 responsibilities and administrative responsibilities in alternative payment methodologies; and
6925 (12) costs associated with the services of a comprehensive cancer center, as defined in section
6926 8A of chapter 118E of the General Laws.

6927 In making the transition to alternative payment methodologies, the office of Medicaid
6928 shall achieve the following benchmarks, to the maximum extent feasible:

6929 (i) Not later than July 1, 2013, the office of Medicaid shall pay for health care
6930 utilizing alternative payment methodologies for no fewer than 25 per cent of its enrollees that are
6931 not also covered by other health insurance coverage, including Medicare and employer-
6932 sponsored or privately purchased insurance.

6933 (ii) Not later than July 1, 2014, the office of Medicaid shall pay for health care
6934 utilizing alternative payment methodologies for no fewer than 50 per cent of its enrollees that are
6935 not also covered by other health insurance coverage, including Medicare and employer-
6936 sponsored or privately purchased insurance.

6937 (iii) Not later than July 1, 2015, the office of Medicaid shall pay for health care
6938 utilizing alternative payment methodologies for no fewer than 80 per cent or the maximum
6939 percentage feasible of its enrollees that are not also covered by other health insurance coverage,
6940 including Medicare and employer-sponsored or privately purchased insurance.

6941 SECTION 262. Notwithstanding any special or general law to the contrary, in fiscal year
6942 2014, the secretary of health and human services shall provide an increase of 2 per cent to rates
6943 paid by the office of medicaid to acute care hospitals, non-acute care hospitals and to providers
6944 of primary care services that accept alternative payment methodologies from the office of
6945 Medicaid or any Medicaid managed care organization. The amount of the rate increase shall not
6946 exceed \$20,000,000 in the aggregate, and shall be in addition to any annual rate calculations,
6947 including updates for inflation, case-mix adjustments, base year updates and any other
6948 improvements to the rate methodology. The office of Medicaid shall only apply this rate increase
6949 to those hospitals and providers that have demonstrated to the satisfaction of MassHealth a
6950 significant transition to the use of alternative payment methodologies. The rate increase to
6951 qualifying hospitals and providers shall apply to all health care services provided to medical
6952 assistance recipients including outpatient, inpatient and behavioral health services, including, but
6953 not limited to, those under primary care clinician and mental health and substance abuse plans or
6954 through a Medicaid managed care organization. The office of Medicaid may establish by
6955 regulation what constitutes a significant use of alternative payment methodologies by a provider.

6956 The office of Medicaid shall not offset the rate increase by reducing Medicaid base rates to acute
6957 hospitals or providers of primary care. The office of Medicaid shall, to the greatest extent
6958 possible, seek federal financial participation to offset the cost of implementing this section

6959 SECTION 263. Notwithstanding any general or special law to the contrary, the health
6960 policy commission shall investigate and review methods of, and make recommendations relative
6961 to, increasing the use and adoption of flexible spending accounts, health reimbursement
6962 arrangements, health savings accounts and similar tax-favored health plans and developing and
6963 implementing incentives to increase the utilization of these types of plans. The health policy
6964 commission shall examine the feasibility of such accounts and plans for public payers and
6965 commercial insurers and the feasibility of a pilot program. The health policy commission shall
6966 submit a report of its findings and recommendations to the clerks of the house of representatives
6967 and the senate, the house and senate committees on ways and means and the joint committee on
6968 health care financing not later than April 1, 2013.

6969 SECTION 264. Notwithstanding any general or special law to the contrary, the
6970 department of revenue shall conduct a study to investigate the implementation of a pilot program
6971 to increase the adoption of health reimbursement arrangements, health savings accounts, flexible
6972 spending accounts and similar plans in the marketplace, including state employees and persons
6973 receiving subsidized health care. The study commission shall be chaired by the commissioner of
6974 revenue and shall include: 1 member representing consumers appointed by the governor; 1
6975 member who shall be appointed by the president of the senate; 1 member who shall be appointed
6976 by the minority leader of the senate; 1 member who shall be appointed by the speaker of the
6977 house of representatives; 1 member who shall be appointed by the minority leader of the house
6978 of representatives; the executive director of the group insurance commission, or a designee; 1

6979 member who shall represent the Massachusetts Bankers Association; 1 member who shall
6980 represent the Massachusetts Association of Health Underwriters; 1 member who shall represent
6981 the Massachusetts Association of Health Plans; 1 member who shall represent Blue Cross and
6982 Blue Shield of Massachusetts; and 1 member who shall represent the Associated Industries of
6983 Massachusetts. The commission shall file a report with recommendations, and any legislation
6984 that may be necessary for implementation, with the clerks of the house of representatives and
6985 senate, the senate and house committees on ways and means and the joint committee on health
6986 care financing not later than April 1, 2013.

6987 The scope of the study shall include, but not be limited to, identifying: (i) the barriers to
6988 full implementation of flexible spending accounts, health reimbursement accounts, health
6989 savings accounts and other tax-favored health plans; (ii) providing greater consumer choice; and
6990 (iii) incentives to increase utilization of flexible spending accounts, health reimbursement
6991 accounts, health savings accounts and other tax-favored health plans.

6992 SECTION 265. Notwithstanding any general or special law or rule or regulation to the
6993 contrary, the office of Medicaid shall promulgate regulations requiring any Medicaid health plan
6994 and managed care organization and their health plans and any behavioral health management
6995 firm and third party administrator under contract with a Medicaid managed care organization to
6996 comply with and implement the federal Mental Health Parity and Addiction Equity Act, section
6997 511 of Public Law 110-343, and applicable state mental health parity laws, including section 22
6998 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter
6999 176B and sections 4, 4B and 4M of chapter 176G of the General Laws. The office of Medicaid
7000 shall promulgate such regulations not later than January 1, 2013. The regulations shall be

7001 implemented as part of any provider contracts and any carrier's health benefit plans delivered,
7002 issued, entered into, renewed or amended on or after July 13, 2013.

7003 Starting on July 1, 2014, the office of Medicaid shall submit an annual report to the house
7004 and senate chairs of the joint committee on health care financing, the house and senate chairs of
7005 the joint committee on mental health and substance abuse, the clerk of the senate, the clerk of the
7006 house of representatives and the attorney general certifying and outlining how the health benefit
7007 plans under the office of Medicaid, and their contractors, comply with the federal Mental Health
7008 Parity and Addiction Equity Act, applicable state mental health parity laws, including said
7009 section 22 of said chapter 32A, said section 47B of said chapter 175, said section 8A of said
7010 chapter 176A, said section 4A of said chapter 176B, and said sections 4, 4B and 4M of said
7011 chapter 176G, and this section. The office of Medicaid may hold a hearing relative to a health
7012 benefit plan's or contractor's compliance with this section.

7013 SECTION 266. The office of Medicaid shall, within 6 months of the passage of this act,
7014 take any and all necessary actions to ensure that social security numbers are required on all
7015 medical benefits request forms to the extent permitted by federal law and that Social Security
7016 numbers are provided by all applicants who possess them. Further, the executive office of health
7017 and human services shall, within 6 months of the effective date of this act, ensure that the
7018 identity, age, residence and eligibility of all applicants are verified before payments, other than
7019 emergency bad debt payments, are made by the Health Safety Net Trust Fund;

7020 If for any reason the office of Medicaid or the executive office of health and human
7021 services determines that it is or will be unable to accomplish the foregoing within 6 months of
7022 the effective date of this act, said respective office shall submit a detailed report of the reasons

7023 for such inability to the clerks of the house of representatives and the senate within 6 months of
7024 the effective date of this act.

7025 SECTION 267. (a) Notwithstanding any general or special law to the contrary, the
7026 executive office of health and human services shall pursue all reasonable efforts to automatically
7027 renew eligible children and families into the MassHealth program, through the adoption of the
7028 express-lane eligibility option created under section 203 of the federal Children's Health
7029 Insurance Program Reauthorization Act of 2009, Public Law 111-3, as it pertains to renewals,
7030 and through the extension of that approach to all children and their eligible parents enrolled in
7031 medical assistance under chapter 118E of the General Laws. Specifically, the executive office
7032 shall seek federal authority under the section 1115 of the Social Security Act demonstration
7033 process or the state plan to automatically re-enroll all children and the eligible parents who are
7034 eligible for other state or federal assistance programs whose eligibility requirements are within
7035 the requirements for the applicable MassHealth program.

7036 (b) The executive office of health and human services shall provide families with renewal
7037 forms for all programs administered under said chapter 118E in which the fields have been pre-
7038 populated with the most current information known to the executive office. This subsection shall
7039 be effective not later than January 1, 2014.

7040 (c) There shall be a study committee to investigate the feasibility and cost of continuous
7041 MassHealth eligibility for children under the age of 19 to ensure that the same health care plans
7042 are offered through MassHealth and Commonwealth Care so that persons transitioning between
7043 different payers do not have to switch health plans. The committee shall consist of the following
7044 members: the director of the office of Medicaid, or a designee, who shall serve as chair; the

7045 secretary of health and human services, or a designee; the secretary of administration and
7046 finance, or a designee; the house chair of the joint committee on health care financing, or a
7047 designee; the senate chair of the joint committee on health care financing, or a designee; and a
7048 representative of health care consumers, to be appointed by the governor. The committee shall
7049 formulate relevant Medicaid state plan amendments, cost projections and information technology
7050 specifications necessary to implement continuous eligibility for children not later than June 30,
7051 2014.

7052 (d) Notwithstanding any general or special law to the contrary, the executive office of
7053 health and human services shall conduct an investigation of all federal and state assistance
7054 programs to determine which programs share eligibility requirements with MassHealth and
7055 which could feasibly share data with the MassHealth program for purposes of renewing eligible
7056 children and their eligible parents in MassHealth through the express-lane eligibility option
7057 created under said Children's Health Insurance Program Reauthorization Act of 2009, Public
7058 Law 111-3. The executive office shall submit a report on the results of such investigation by
7059 filing the same with the clerks of the house of representatives and the senate who shall forward
7060 the report to the house and senate committees on ways and means, the joint committee on health
7061 care financing and the joint committee on children and families and persons with disabilities not
7062 later than April 1, 2013."

7063 SECTION 268. Notwithstanding any general or special law to the contrary, to the extent
7064 that the office of Medicaid, the group insurance commission, the commonwealth health
7065 insurance connector authority and any other state funded insurance program determine that
7066 provider organizations organized as ACOs offer opportunities for cost-effective and high quality
7067 care, such state funded insurance programs shall prioritize provider organizations which have

7068 been certified by the board of the commission as ACOs, and designated as Model ACOs, for the
7069 delivery of publicly funded health services, provided that such ACOs, to the extent possible,
7070 assure the continuity of patient care.

7071 SECTION 269. Notwithstanding any special of general law to the contrary, for fiscal
7072 years 2013 through 2017 the center for health information and analysis and the health policy
7073 commission shall enter into an interagency agreement to transfer funds as necessary to support
7074 the transfer of functions from the center for health information and analysis to the health policy
7075 commission to supplement any funding needed in addition to those funds provided by the
7076 Healthcare Payment Reform Fund established in section 100 of chapter 194 of the acts of 2011.
7077 The executive director of the center for health information and analysis shall notify the
7078 comptroller of the amount to be transferred.

7079 SECTION 270. There shall be a special commission to review public payer
7080 reimbursement rates and payment systems for health care services and the impact of such rates
7081 and payment systems on health care providers and on health insurance premiums in the
7082 commonwealth. The commission shall consist of 13 members: 1 of whom shall be the secretary
7083 of health and human services or a designee, who shall serve as chair; 1 of whom shall be the
7084 director of the office of Medicaid; 1 of whom shall be the executive director of the center for
7085 health information and analysis; 1 of whom shall be appointed by the Massachusetts Hospital
7086 Association; 1 of whom shall be appointed by the Massachusetts Medical Society; 1 of whom
7087 shall be appointed by the Massachusetts Senior Care Association; 1 of whom shall be appointed
7088 by the Home Care Alliance of Massachusetts; 1 of whom shall be appointed by the
7089 Massachusetts League of Community Health Centers; 1 of whom shall be appointed by the
7090 Massachusetts Association for Behavioral Healthcare; 1 of whom shall represent a

7091 disproportionate share hospital; 1 of whom shall represent non-physician health care providers;
7092 and 2 of whom shall be appointed by the governor, 1 of whom shall be represent managed care
7093 organizations contracting with MassHealth and 1 of whom shall be an expert in medical payment
7094 methodologies from a foundation or academic institution.

7095 The commission shall examine whether public payer rates and rate methodologies
7096 provide fair compensation for health care services and promote high-quality, safe, effective,
7097 timely, efficient, culturally competent and patient-centered care. The commission's analysis shall
7098 include, but not be limited to, an examination of MassHealth rates and rate methodologies;
7099 current and projected federal financing, including Medicare rates; cost-shifting and the interplay
7100 between public payer reimbursement rates and health insurance premiums; possible funding
7101 sources for increased MassHealth rates including, but not limited to, utilizing increased federal
7102 Medicaid assistance percentage funds received under the Patient Protection and Affordable Care
7103 Act of 2010, Public Law 111-148, and section 1201 of the Health Care and Education
7104 Reconciliation Act of 2010, Public Law 111-152; and the degree to which public payer rates
7105 reflect the actual cost of care.

7106 To conduct its review and analysis, the commission may contract with an outside
7107 organization with expertise in the analysis of health care financing. The center for health
7108 information and analysis and the office of Medicaid shall provide the outside organization, to the
7109 extent possible, with any relevant data necessary for the evaluation; provided, however, that such
7110 data shall be confidential and shall not be a public record under clause Twenty-sixth of section 7
7111 of chapter 4 of the General Laws.

7112 The commission shall file the results of its study, together with drafts of legislation, if
7113 any, necessary to carry out its recommendations, by filing the same with the clerks of the house
7114 of representatives and the senate who shall forward a copy of the study to the house and senate
7115 committees on ways and means and the joint committee on health care financing not later than
7116 April 1, 2013.

7117 SECTION 271. Notwithstanding any law or rule the contrary, for fiscal year 2014, in
7118 establishing Medicaid reimbursement rates for inpatient services provided by chronic disease
7119 rehabilitation hospitals located in the commonwealth that serve solely children and adolescents,
7120 the department of health and human services shall apply a multiplier of 1.5 times the hospital's
7121 inpatient per diem rate in fiscal year 2012. For fiscal year 2015 and fiscal year 2016, such rates
7122 of reimbursement shall not be lower than the rates in effect for the prior fiscal year.

7123 SECTION 272. Notwithstanding any general or special law to the contrary, the
7124 department of public health, in consultation with the Betsy Lehman center for patient safety and
7125 medical error reduction, established under section 16E of chapter 6A of the General Laws, shall
7126 create an independent task force consisting of no more than 11 members from a broad
7127 distribution of diverse perspectives to study and reduce the practice of defensive medicine and
7128 medical overutilization in the commonwealth, including but not limited to the overuse of
7129 imaging and screening technologies. The task force shall issue a report on the financial and non-
7130 financial impacts of defensive medicine and the impact of overutilization on patient safety. The
7131 task force shall file a report of its study, including its recommendations and drafts of any
7132 legislation, if necessary, by filing the same with the clerks of the senate and house of
7133 representatives who shall forward a copy of the report to the joint committee on public health
7134 and the joint committee on health care financing within 1 year of the effective date of this act.

7135 SECTION 273. (a) There shall be a pharmaceutical cost containment commission
7136 established to study methods to reduce the cost of prescription drugs for both public and private
7137 payers. The commission shall consist of 16 members: 1 of whom shall be the senate chair of the
7138 joint committee on health care financing; 1 of whom shall be the house chair of the joint
7139 committee on health care financing; 1 of whom shall be the executive director of the group
7140 insurance commission or a designee; 1 of whom shall be the director of the division of insurance
7141 or a designee; 1 of whom shall be the director of the state office of pharmacy services or a
7142 designee; 1 of whom shall be the secretary of elder affairs or a designee; 1 of whom shall be the
7143 director of the Massachusetts Medicaid program or a designee; 3 of whom shall be appointed by
7144 the president of the senate, 1 of whom shall be appointed by the minority leader of the senate; 3
7145 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be
7146 appointed by the minority leader of the house of representatives; 1 of whom shall be a
7147 representative of the Massachusetts Association of Health Plans; 1 of whom shall be a
7148 representative of the Massachusetts Hospital Association; and 1 of whom shall be a
7149 representative of Health Care For All.

7150 (b) The commission shall examine and report on the following: (i) the ability of the
7151 commonwealth to enter into bulk purchasing agreements, including agreements that would
7152 require the secretary of elder affairs, the executive director of the group insurance commission,
7153 the director of the state office of pharmacy services, the commissioners of the departments of
7154 public health, mental health and mental retardation, and any other state agencies involved in the
7155 purchase or distribution of prescription pharmaceuticals, to renegotiate current contracts; (ii)
7156 aggregate purchasing methodologies designed to lower prescription pharmaceutical costs for
7157 state and non-state providers; (iii) the ability of the commonwealth to operate as a single payer

7158 prescription pharmaceutical provider; and (iv) the feasibility of creating a program to provide all
7159 citizens access to prescription pharmaceuticals at prices negotiated by the commonwealth.

7160 (c) The commission shall report the results of its findings, together with any
7161 recommendations for legislation, programs and funding by filing the same with the clerks of the
7162 house of representatives and the senate who shall forward copies of the report to the house and
7163 senate committees on ways and means and the joint committee on health care financing not later
7164 than 12 months after the passage of this act.

7165 SECTION 274. There shall be a special task force to study and investigate issues related
7166 to the accuracy of medical diagnosis in the commonwealth. The task force shall investigate and
7167 report on: (i) the extent to which diagnoses in the commonwealth are accurate and reliable,
7168 including the extent to which different diagnoses and inaccurate diagnoses arise from the
7169 biological differences between the sexes; (ii) the underlying systematic causes of inaccurate
7170 diagnoses; (iii) an estimation of the financial cost to the state, insurers and employers of
7171 inaccurate diagnoses; (iv) the negative impact on patients caused by inaccurate diagnoses; and
7172 (v) recommendations to reduce or eliminate the impact of inaccurate diagnoses.

7173 The Massachusetts diagnostic accuracy task force shall be comprised of 9 members: 1 of
7174 whom shall be the secretary of health and human services, who shall chair the task force; 1 of
7175 whom shall be the commissioner of public health or a designee; 1 of whom shall be the chair of
7176 the board of registration in medicine or a designee; 1 of whom shall be the chair of the board of
7177 registration in nursing or a designee; and 5 members chosen by the governor, 1 of whom shall be
7178 a provider with experience in the area of diagnostic accuracy, 1 of whom shall be a representative
7179 of a Massachusetts health plan, 1 of whom shall be an employer with experience in

7180 implementing programs to address diagnostic inaccuracy, 1 whom shall represent an
7181 organization based in the commonwealth with experience creating and supporting the
7182 implementation of programs on diagnostic accuracy and value-based benefit design, and 1 of
7183 whom shall be a non-physician health care provider.

7184 SECTION 275. There shall be a special task force to examine behavioral, substance use
7185 disorder, and mental health treatment, service delivery, integration of behavioral health with
7186 primary care, and behavioral, substance use disorder and mental health reimbursement systems.
7187 The task force shall consist of 19 members: 1 whom shall be the commissioner of mental health,
7188 who shall serve as the chair; 1 of whom shall be a representative of the Massachusetts
7189 Psychiatric Society; 1 of whom shall be a representative of the Massachusetts Psychological
7190 Association; 1 of whom shall be a representative of the National Association of Social Workers-
7191 Massachusetts Chapter; 1 of whom shall be a representative of the Massachusetts Mental Health
7192 Counselors Association; 1 of whom shall be a representative of the Nurses United for
7193 Responsible Services; 1 of whom shall be a representative of the Massachusetts Association for
7194 Registered Nurses; 1 of whom shall be a representative of the Massachusetts Association of
7195 Behavioral Health Systems; 1 of whom shall be a representative of the Association for
7196 Behavioral Healthcare ; 1 of whom shall be a representative of the Mental Health Legal Advisors
7197 Committee; 1 of whom shall be a representative of the National Alliance for the Mentally Ill; 1
7198 of whom shall be a representative of the Children's Mental Health Campaign; 1 of whom shall
7199 be a representative of the Home Care Alliance of Massachusetts; 1 of whom shall be a
7200 representative of the National Empowerment Center; 1 of whom shall be a representative of the
7201 Massachusetts Organization for Addiction Recovery; 1 of whom shall be a representative of the
7202 Recovery Homes Collaborative; 1 of whom shall be a representative of the Massachusetts

7203 Hospital Association; and 3 members chosen by the Governor: 1 of whom shall be a provider
7204 with experience serving difficult to reach populations; 1 of whom shall be a provider with
7205 experience in serving dually diagnosed patients; and 1 of whom shall be a school nurse. In its
7206 examination, the task force shall review: (i) the most effective and appropriate approach to
7207 including behavioral, substance use and mental health disorder services in the array of services
7208 provided by provider organizations, including risk-bearing providers and patient-centered
7209 medical homes, including transition planning and maintaining continuity of care; (ii) how current
7210 prevailing reimbursement methods and covered behavioral, substance use and mental health
7211 benefits may need to be modified to achieve more cost effective, integrated and high quality
7212 behavioral, substance use and mental health outcomes; (iii) the extent to which and how payment
7213 for behavioral health services should be included under alternative payment methodologies,
7214 including how mental health parity and patient choice of providers and services could be
7215 achieved and the design and use of medical necessity criteria and protocols; (iv) how best to
7216 educate all providers to recognize behavioral, substance use and mental health conditions and
7217 make appropriate decisions regarding referral to behavioral health services; (v) how best to
7218 educate all providers about the effects of cardiovascular disease, diabetes, and obesity on patients
7219 with serious mental illness; and (vi) the unique privacy factors required for the integration of
7220 behavioral, substance use and mental health information into interoperable electronic health
7221 records. The task force shall submit its report, findings, and recommendations, along with any
7222 proposed legislation and regulatory changes, to the health policy commission, the clerks of the
7223 senate and house of representatives, and the house and senate chairs of the joint committee on
7224 mental health and substance abuse, and the house and senate chairs of the joint committee on
7225 health care financing not later than July 1, 2013.

7226 SECTION 276. (a) There shall be a commission on prevention and wellness which shall
7227 evaluate the effectiveness of the program authorized under section 2G of chapter 111 of the
7228 General Laws. The commission shall consist of 20 members: 1 of whom shall be the
7229 commissioner of public health or a designee, who shall serve as the chair; 1 of whom shall be the
7230 executive director of the center for health information and analysis established in chapter 12C or
7231 a designee; 1 of whom shall be the secretary of health and human services or a designee; 2 of
7232 whom shall be the house and senate chairs of the joint committee on public health; 2 of whom
7233 shall be the house and senate chairs of the joint committee on health care financing; and 13 of
7234 whom shall be appointed by the governor, 1 of whom shall be a person with expertise in the field
7235 of public health economics, 1 of whom shall be a person with expertise in public health research,
7236 1 of whom shall be a person with expertise in the field of health equity, 1 of whom shall be a
7237 person from a local board of health for a city or town with a population greater than 50,000, 1 of
7238 whom shall be a person of a board of health for a city or town with a population less than 50,000,
7239 2 of whom shall be representatives of health insurance carriers, 1 of whom shall be a person from
7240 a consumer health organization, 1 of whom shall be a person from a hospital association, 1 of
7241 whom shall be a person from a statewide public health organization, 1 of whom shall be a
7242 representative of the interest of businesses, 1 of whom shall be a person representing frontline
7243 registered nurses and 1 of whom shall be a person from an association representing community
7244 health workers.

7245 (b) The commission shall review the program authorized under said section 2G of said
7246 chapter 111 and shall issue a report. The report shall include an analysis of all relevant data to
7247 determine the effectiveness and return on investment of the program including, but not limited
7248 to, an analysis of: (i) the extent to which the program impacted the prevalence of preventable

7249 health conditions; (ii) the extent to which the program reduced health care costs or the growth in
7250 health care cost trends; (iii) whether health care costs were reduced, and who benefitted from the
7251 reduction; (iv) the extent to which workplace-based wellness or health management programs
7252 were expanded, and whether those programs improved employee health, productivity and
7253 recidivism; (v) if employee health and productivity was improved or employee recidivism was
7254 reduced, the estimated statewide financial benefit to employers; (vi) recommendations for
7255 whether the program should be discontinued, amended or expanded, as well as a timetable for
7256 implementation of the recommendations; and (vii) recommendations for whether the funding
7257 mechanism for the Prevention and Wellness Trust Fund should be extended beyond 2016, or
7258 whether an alternative funding mechanism should be established

7259 (c) To conduct its evaluation, the commission shall contract with an outside organization
7260 with expertise in the analysis of health care financing. In conducting its evaluation, the outside
7261 organization shall, to the extent possible, obtain and use actual health plan data from the all-
7262 payer claims database as administered by the center for health information and analysis;
7263 provided, however, that such data shall be confidential and shall not be a public record under
7264 clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

7265 (d) The commission shall report the results of its investigation and study and its
7266 recommendation, if any, together with drafts of legislation necessary to carry out such
7267 recommendation to the house and senate committees on ways and means, the joint committee on
7268 public health and shall be posted on the department's website not later than June 30, 2015.

7269 SECTION 277. There shall be a special commission to examine the economic, social and
7270 educational value of graduate medical education in the commonwealth and to recommend a fair

7271 and sustainable model for the future funding of graduate medical education in the
7272 commonwealth.

7273 The commission shall consist of 13 members: 1 of whom shall be the secretary of health
7274 and human services or a designee, who shall serve as chair; 1 of whom shall be the secretary of
7275 administration and finance or a designee; 1 of whom shall be the secretary of labor and
7276 workforce development or a designee; 1 of whom shall be the commissioner of public health or a
7277 designee; and 9 whom shall be appointed by the secretary of health and human services, 1 of
7278 whom shall be a representative of the Massachusetts Hospital Association; 1 of whom shall be a
7279 representative of the Massachusetts Medical Society; 1 of whom shall be a representative of the
7280 Massachusetts League of Community Health Centers; 4 of whom shall represent the
7281 commonwealth's medical schools; 1 of whom shall be a representative of the Conference of
7282 Boston Teaching Hospitals; and 1 of whom shall be a resident in training at a Massachusetts
7283 hospital.

7284 The commission shall investigate and report on the following issues:

7285 (1) the role of residents and medical faculty in the provision of health care in the
7286 commonwealth and throughout the United States;

7287 (2) the relationship of graduate medical education to the state's physician workforce and
7288 emerging models of delivery of care;

7289 (3) the current availability and adequacy of all sources of revenue to support graduate
7290 medical education and potential additional or alternate sources of funding for graduate medical
7291 education. Such review shall include the availability of federal graduate medical education
7292 funding to different types of sites where training takes place; and

7293 (4) approaches taken by other states to fund graduate medical education through,
7294 including, but not limited to: (a) Medicaid programs, (b) the establishment of medical education
7295 trust funds and (c) efforts to link payments to state policy goals, including:

7296 (i) increasing the number of high demand specialties or fellowships;

7297 (ii) enhancing retention of physicians practicing in the commonwealth;

7298 (iii) promoting practice in medically underserved areas of the state and reducing
7299 disparities in health care;

7300 (iv) increasing the primary care workforce;

7301 (v) increasing the behavioral health care workforce; and

7302 (vi) increasing racial and ethnic diversity within the physician workforce.

7303 The commission shall file a report of its findings and recommendations, together with
7304 drafts of legislation, if any, necessary to carry out its recommendations by filing the report with
7305 the clerks of the house of representatives and the senate who shall forward a copy of the report to
7306 the house and senate committees on ways and means and the joint committee on health care
7307 financing not later than April 1, 2013.

7308 SECTION 278. Notwithstanding any general or special law to the contrary, beginning on
7309 or before July 1, 2014, the group insurance commission, MassHealth and any other state funded
7310 insurance program shall, to the maximum extent feasible, implement alternative payment
7311 methodologies, as defined in section 1 of chapter 12C of the General Laws.

7312 SECTION 279. There shall be a special commission to review variation in prices among
7313 providers. The commission shall consist of 18 members: 1 of whom shall be the executive
7314 director of the center of health information and analysis or a designee, who shall serve as co-
7315 chair; 1 of whom shall be the executive director of the health policy commission, who shall serve
7316 as co-chair; 1 of whom shall be the secretary of administration and finance or a designee; 1 of
7317 whom shall be the executive director of the group insurance commission or a designee; 1 of
7318 whom shall be the secretary of health and human services or a designee; 1 of whom shall be the
7319 attorney general or a designee; 6 of whom shall be appointed by the governor, 1 of whom shall
7320 be a health economist, 1 of whom shall represent a high Medicaid and low-income public payer
7321 disproportionate share hospital, 1 of whom shall represent a hospital with 200 beds or less, 1 of
7322 whom shall represent a pharmaceutical manufacturer who shall be headquartered in the
7323 commonwealth, 1 of whom shall be a representative of an employer with less than 50 employees,
7324 and 1 of whom shall be a representative of an employer with more than 50 employees; 1 of
7325 whom shall be a representative of the Massachusetts Council of Community Hospitals; 1 of
7326 whom shall be a representative of the Massachusetts Association of Health Plans, Inc.; 1 of
7327 whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc.; 1 of whom
7328 shall be a representative of the Massachusetts Hospital Association, Inc.; 1 of whom shall be a
7329 representative of the Massachusetts Medical Society; 1 of whom shall be a representative of a
7330 medical device manufacturer who shall be headquartered in the commonwealth; and 1 of whom
7331 shall be a representative of the Conference of Boston Teaching Hospitals. In making
7332 appointments, the governor shall, to the maximum extent feasible, ensure that the commission
7333 represents a broad distribution of diverse perspectives.

7334 The commission shall conduct a rigorous, evidence based analysis to identify the
7335 acceptable and unacceptable factors contributing to price variation in physician, hospitals,
7336 diagnostic testing and ancillary services. The analysis shall include, but not be limited to, an
7337 examination of the following factors: quality, medical education, stand-by service capacity,
7338 emergency service capacity, special services provided by disproportionate share hospitals and
7339 other providers serving underserved or unique populations, market share of individual providers
7340 and affiliated providers, provider size, advertising, location, research, costs, care coordination,
7341 community-based services provided by allied health professionals and use of and continued
7342 advancement of medical technology and pharmacology. The analysis shall also include a
7343 comparison of price variation between providers in the commonwealth and providers in other
7344 states and a review of the feasibility of requiring insurers to separately contract with all provider
7345 locations for a multi-location provider, rather than contracting only with the individual provider
7346 locations and a review of contracting practices that require payers to pay the same or similar
7347 prices to all provider locations for a multi-location health care provider where geographic
7348 differences in the provider's site do not support charging the same or similar prices.

7349 After identifying the factors contributing to price variation, the commission shall
7350 recommend steps to reduce provider price variation and shall recommend the maximum
7351 reasonable adjustment to a commercial insurer's median rate for individual or groupings of
7352 services for each acceptable factor. To conduct its review and analysis, the commission may
7353 contract with an outside organization with expertise in the analysis of health care financing and
7354 provider payment methodologies. The center for health information and analysis shall provide
7355 the commission and any contracted outside organization, to the extent possible, relevant data

7356 necessary for the evaluation; provided, however, that such data shall be confidential and shall not
7357 be a public record under clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

7358 The commission shall file the results of its study, together with drafts of legislation, if
7359 any, necessary to carry out its recommendations, by filing the study with the health policy
7360 commission and the clerks of the house of representatives and the senate who shall forward a
7361 copy of the study to the house and senate committees on ways and means and the joint
7362 committee on health care financing not later than January 1, 2014.

7363 SECTION 280. (a) Notwithstanding any general or special law to the contrary, the group
7364 insurance commission, the commonwealth health insurance connector authority, the office of
7365 Medicaid and any other state funded insurance program shall implement, to the maximum extent
7366 possible, alternative payment methodologies. The alternative payment methodologies shall be
7367 developed in consultation with all affected publically funded health plans, including, but not
7368 limited to, the Medicaid managed care organizations; provided, however, that any such agency or
7369 program shall be subject to any other implementation requirements provided for by law.

7370 (b) The executive office of health and human services shall seek a federal waiver of
7371 statutory provisions necessary to permit Medicare to participate in such alternative payment
7372 methodologies. Upon obtaining federal approval for Medicare participation, such participation
7373 shall be commenced and continued and the executive office shall seek extensions or additional
7374 approvals, as necessary. If federal approval cannot be obtained, or is revoked, then the
7375 requirements of this chapter, shall be conformed to federal standards for accountable care, shared
7376 savings, bundled payments, or alternative payment arrangements, to the greatest extent
7377 practicable.

7378 (c) Private health plans shall to the maximum extent feasible reduce the use of fee-for-
7379 service payment mechanisms in order to promote high quality, efficient care delivery.

7380 SECTION 281. (a) Notwithstanding any general or special law to the contrary, this
7381 section shall facilitate the orderly transfer of employees, proceedings, rules and regulations,
7382 property and legal obligations of the following functions of state government from the transferor
7383 agency to the transferee agency, defined as follows:

7384 (1) the functions of the division of health care finance and policy, as the transferor
7385 agency, to the center for health information analysis and the health policy commission, as the
7386 transferee agencies; provided however, that this section shall not apply to the functions of the
7387 division of health care finance and policy that relate to the administration of the health safety net
7388 fund and that relate to the administration of the fair share assessment;

7389 (2) the functions of the division of health care finance and policy related to the
7390 administration of the health safety net fund, as the transferor agency, to the office of Medicaid,
7391 as the transferee agency;

7392 (3) the functions of the division of health care finance and policy related to the
7393 administration of the fair share assessment, as the transferor agency, to the commonwealth health
7394 insurance connector authority, as the transferee agency;

7395 (3) the functions of the health care quality and cost council, as the transferor agency, to
7396 the health policy commission, as the transferee agency; provided, however, that this section shall
7397 not apply to the functions of the health care quality and cost council that relate to the
7398 administration of the consumer health information website;

7399 (4) the functions of the health care quality and cost council related to the
7400 consumer health information website, as the transferor agency, to the center for health
7401 information analysis, as the transferee agency;

7402 (4) the functions of the department of public health related to the statewide advisory
7403 committee on the standard quality measure set, as the transferor agency, to the center for health
7404 information analysis, as the transferee agency;

7405 (5) the functions of the department of public health related to the office of patient
7406 protection, as the transferor agency, to the health policy commission, as the transferee agency;

7407 (6) the functions of the Betsy Lehman center for patient safety and medical error
7408 reduction, as the transferor agency, to the center for health information analysis, as the transferee
7409 agency;

7410 (b) To the extent that employees of the transferor agency, including those who were
7411 appointed immediately before the effective date of this act and who hold permanent appointment
7412 in positions classified under chapter 31 of the General Laws or have tenure in their positions as
7413 provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold
7414 confidential positions, are transferred to the respective transferee agency, such transfers shall be
7415 effected without interruption of service within the meaning of said section 9A of said chapter 30,
7416 without impairment of seniority, retirement or other rights of the employee, and without
7417 reduction in compensation or salary grade, notwithstanding any change in title or duties resulting
7418 from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and
7419 benefits, and without change in union representation or certified collective bargaining unit as
7420 certified by the state division of labor relations or in local union representation or affiliation. Any

7421 collective bargaining agreement in effect immediately before the transfer date shall continue in
7422 effect and the terms and conditions of employment therein shall continue as if the employees had
7423 not been so transferred. The reorganization shall not impair the civil service status of any such
7424 reassigned employee who immediately before the effective date of this act either holds a
7425 permanent appointment in a position classified under said chapter 31 or has tenure in a position
7426 by reason of said section 9A of said chapter 30. Notwithstanding any other general or special law
7427 to the contrary, all such employees shall continue to retain their right to collectively bargain
7428 under chapter 150E of the General Laws and shall be considered employees for the purposes of
7429 said chapter 150E. Nothing in this section shall be construed to confer upon any employee any
7430 right not held immediately before the date of said transfer, or to prohibit any reduction of salary
7431 grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
7432 before such date.

7433 (c) All petitions, requests, investigations and other proceedings appropriately and duly
7434 brought before the transferor agency or duly begun by the transferor agency and pending before
7435 it before the effective date of this act, shall continue unabated and remain in force, but shall be
7436 assumed and completed by the transferee agency.

7437 (d) All orders, rules and regulations duly made and all approvals duly granted by the
7438 transferor agency, which are in force immediately before the effective date of this act, shall
7439 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
7440 canceled, in accordance with law, by the transferee agency.

7441 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
7442 property, both personal and real, including all such property held in trust, which immediately

7443 before the effective date of this act are in the custody of the transferor agency shall be transferred
7444 to the transferee agency.

7445 (f) All duly existing contracts, leases and obligations of the transferor agency shall
7446 continue in effect but shall be assumed by the transferee agency. No existing right or remedy of
7447 any character shall be lost, impaired or affected by this act.

7448 (g) The comptroller shall be authorized to take any actions necessary to support the
7449 transfers outlined in this section. No existing right or remedy of any character shall be lost,
7450 impaired or affected by this act.

7451 SECTION 281A. The division of insurance shall develop uniform prior authorization
7452 forms for different health care services and benefits under subsections (c) and (d) of section 24 of
7453 chapter 176O of the General Laws not later than October 1, 2013.

7454 SECTION 281B. The division of insurance shall promulgate regulations to implement
7455 section 26 of chapter 176O of the General Laws not later than July 1, 2014.

7456 SECTION 283. Section 13 of chapter 6D of the General Laws shall take effect on
7457 January 1, 2013.

7458 SECTION 284. Section 6 of said chapter 6D shall take effect on July 1, 2016.

7459 SECTION 285. Section 228 of chapter 111 of the General Laws shall take effect on
7460 January 1, 2014.

7461 SECTION 286. Section 7 of chapter 118I of the General Laws shall take effect on
7462 January 1, 2017.

7463 SECTION 287. Section 6 of said chapter 118I shall take effect on January 1, 2017.

7464 SECTION 288. Section 108M of chapter 175 of the General Laws shall take effect on
7465 October 1, 2013.

7466 SECTION 289. Section 37 of chapter 176A of the General Laws shall take effect on
7467 October 1, 2013.

7468 SECTION 290. Section 24 of chapter 176B of the General Laws shall take effect on
7469 October 1, 2013.

7470 SECTION 291. Section 32 of chapter 176G of the General Laws shall take effect on
7471 October 1, 2013.

7472 SECTION 292. Section 17 of chapter 176J of the General Laws shall take effect on
7473 October 1, 2013.

7474 SECTION 293. Section 24 of chapter 176O of the General Laws shall take effect on
7475 October 1, 2013.

7476 SECTION 294. Section 25 of said chapter 176O shall take effect on January 1, 2014.

7477 SECTION 295. Section 36 shall take effect on October 1, 2013.

7478 SECTION 296. Section 37 shall take effect on October 1, 2014.

7479 SECTION 297. Section 41 and section 56 shall take effect on January 1, 2013.

7480 SECTION 298. Section 41A and 56A shall take effect on December 31, 2017.

7481 SECTION 299. Section 108 shall take effect as of January 1, 2015.

7482 SECTION 301. Sections 141 and 142 shall take effect on July 1, 2013.

7483 SECTION 302. Section 175 shall take effect on April 1, 2014.

7484 SECTION 303. Section 176 shall take effect on April 1, 2015.

7485 SECTION 304. Section 199 shall take effect on October 1, 2015.

7486 SECTION 305. Section 200 shall take effect on October 1, 2013.

7487 SECTION 306. Section 271 is hereby repealed.

7488 SECTION 307. Section 306 shall take effect on June 30, 2016.

7489 SECTION 308. Section 177 shall take effect on April 1, 2013.

HOUSE No. 3452

The Commonwealth of Massachusetts



DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT
STATE HOUSE · BOSTON 02133
(617) 725-4000

May 3, 2013

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled, “An Act Implementing the Affordable Care Act and Providing Further Access to Affordable Health Care.” This legislation will allow Massachusetts to realize the full benefits of the Affordable Care Act, including expanded federal funding to support coverage for low and middle-income families and federal insurance reforms that will secure additional protections for Massachusetts residents.

The legislative package includes a number of changes that will allow Massachusetts to align with the Affordable Care Act, such as:

- Implementing a transition period in the merged individual/small group market to allow Massachusetts to conform to federal rating factor requirements;
- Implementing the ACA requirement that health insurance rates for individuals be filed on a calendar year basis, but allowing small group rates to be filed on a quarterly basis until 2016;
- Aligning the Commonwealth’s definition of who is eligible to purchase non-group insurance with the federal definition;
- Conforming the state’s insurance laws to align with ACA requirements;

- Aligning MassHealth and Connector eligibility definitions with ACA definitions;
and
- Allowing for data to be shared with EOHHS and the Connector so that eligibility for MassHealth or subsidized coverage through the Exchange can be verified in real-time through the new on-line integrated eligibility system.

Enacting these provisions builds on the progress we have already made to improve health care coverage in our state. I urge your prompt and favorable consideration of this legislation.

Respectfully submitted

Deval L. Patrick,
Governor

HOUSE No. 3452

Message from His Excellency the Governor recommending legislation relative to implementing the Affordable Care Act and providing further access to affordable health care. Ways and Means.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act implementing the Affordable Care Act and providing further access to affordable health care.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to which is to expand forthwith access to health care for Massachusetts residents, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 16 of chapter 6A of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by adding the following paragraph:-

3 Notwithstanding any general or special law to the contrary, the executive office of health
4 and human services may request from any agency, department, division, commission, board,
5 authority, and other public or quasi-public entity in the commonwealth, and such agencies and
6 entities shall provide, any information, including personal data as defined in chapter 66A and
7 data in the wage reporting system administered by the department of revenue pursuant to chapter
8 62E, that the executive office of health and human services determines, in its judgment, as being
9 reasonably necessary to make available, determine eligibility for, enroll individuals in, and
10 otherwise administer various public benefit programs authorized under chapter 118E or other
11 programs that the executive office of health and human services may administer in accord with
12 the Patient Protection and Affordable Care Act, Pub. L. 111-148, as amended from time to time,
13 or that the executive office of health and human services determines, in its judgment, as being
14 reasonably necessary to develop and administer a single integrated eligibility system, in
15 conjunction with the commonwealth health insurance connector authority, through which the
16 executive office of health and human services may make available, determine eligibility for,
17 enroll individuals in, and otherwise administer such public benefit programs, and through which
18 the commonwealth health insurance connector authority will execute its statutory responsibilities

19 under chapter 176Q, provided the provision of such information to the executive office of health
20 and human services for such purposes is consistent with federal law. Further, notwithstanding
21 any general or special law to the contrary, the executive office of health and human services is
22 authorized to provide to the commonwealth health insurance connector authority any information
23 the executive office of health and human services obtains pursuant to section 23 of chapter 118E
24 as is reasonably necessary for the commonwealth health insurance connector authority to
25 perform its duties pursuant to chapter 176Q.

26 SECTION 2. Section 1 of chapter 6D, as inserted by section 15 of chapter 224 of the acts
27 of 2012, is hereby amended by striking out the definition “Public health care payer” and inserting
28 in place thereof the following definition:-

29 “Public health care payer”, the Medicaid program established in chapter 118E; any
30 carrier or other entity that contracts with the office of Medicaid to pay for or arrange the
31 purchase of health care services on behalf of individuals enrolled in health coverage programs
32 under Titles XIX or XXI, including prepaid health plans subject to section 28 of chapter 47 of
33 the acts of 1997; the group insurance commission established under chapter 32A; and any city or
34 town with a population of more than 60,000 that has adopted chapter 32B.

35 SECTION 3. Subsection (d) of section 8 of said chapter 6D, as inserted by section 15 of
36 chapter 224 of the acts of 2012, is hereby amended by striking out, in clause (vii), the words “or
37 under the commonwealth care health insurance program”.

38 SECTION 4. Section 1 of chapter 12C, as inserted by section 19 of chapter 224 of the
39 acts of 2012, is hereby amended by striking out the definition “Public health care payer” and
40 inserting in place thereof the following definition:-

41 “Public health care payer”, the Medicaid program established in chapter 118E; any
42 carrier or other entity that contracts with the office of Medicaid to pay for or arrange the
43 purchase of health care services on behalf of individuals enrolled in health coverage programs
44 under Titles XIX or XXI, including prepaid health plans subject to the provisions of section 28
45 of chapter 47 of the acts of 1997; the group insurance commission established under chapter
46 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

47 SECTION 5. Chapter 26 of the General Laws is hereby amended by inserting after
48 section 8K the following section:-

49 Section 8L. In regard to any carrier licensed under chapters 175, 176A, 176B, 176E,
50 176F, and 176G, the commissioner of insurance may implement and enforce applicable
51 provisions of the federal Patient Protection and Affordable Care Act, Public Law 111–148, as
52 amended from time to time and of the Women’s Health and Cancer Rights Act, Public Law:
53 105-277, as well as any rules, regulations, or guidance applicable thereto, as amended from time
54 to time, including but not limited to the amendments made by title X of the federal Patient

55 Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of
56 2010, Public Law 111–152 and the Indian Health Care Improvement Reauthorization and
57 Extension Act of 2009, as enacted in amended form by section 10221 of the federal Patient
58 Protection and Affordable Care Act, Public Law 111-148, as amended from time to time.

59 SECTION 6. Section 4N of chapter 111 of the General Laws, as appearing in the 2010
60 Official Edition, is hereby amended by striking out, in line 23, the words “or the commonwealth
61 care health insurance program”.

62 SECTION 7. Section 217 of chapter 111 of the General Laws is hereby repealed.

63 SECTION 8. Section 51 of chapter 112 of the General Laws, as appearing in the 2010
64 Official Edition, is hereby amended by striking out, in lines 60 and 61, the words “or the
65 commonwealth care health insurance program”.

66 SECTION 9. Section 8 of chapter 118E of the General Laws, as appearing in the 2010
67 Official Edition, is hereby amended by striking out the definition “Person” and inserting in place
68 thereof the following definition:-

69 “Person”, any individual who resides in the commonwealth, or any individual residing
70 outside the commonwealth who is deemed to be a resident of the commonwealth under Title
71 XIX, Title XXI or other state or federal programs established or administered pursuant to this
72 chapter.

73 SECTION 10. Said section 8 of said chapter 118E, as so appearing, is hereby further
74 amended by striking out the definition “Reside” and inserting in place thereof the following
75 definition:-

76 “Reside” to occupy an established place of abode with no present intention of definite
77 and early removal, but not necessarily with the intention of remaining permanently, but in no
78 event shall the word “reside” be construed more restrictively or less restrictively than as defined
79 by the Secretary under Title XIX, Title XXI or other state or federal programs established or
80 administered pursuant to this chapter.

81 SECTION 11. Section 9 of said chapter 118E, as so appearing, is hereby amended by
82 inserting after the word “A,” in line 11, the following words:- , and such other persons as may be
83 required under Title XIX and regulations adopted thereunder

84 SECTION 12. Said section 9 of said chapter 118E, as so appearing, is hereby further
85 amended by inserting after the third sentence the following sentence:-

86 In addition to the foregoing, medical assistance under this chapter may be made available
87 to such other persons as may be permitted under Title XIX or Title XXI and regulations adopted
88 thereunder.

89 SECTION 13. Said section 9 of said chapter 118E, as so appearing, is hereby further
90 amended by adding the following paragraph:-

91 The secretary of the executive office may establish a program to provide subsidies to
92 assist eligible individuals in purchasing health insurance, provided that such subsidies shall only
93 be paid on behalf of an eligible individual who is enrolled in a health plan that has been procured
94 by the MassHealth program and shall be made under a sliding-scale premium contribution
95 payment schedule for enrollees, as determined by MassHealth. Eligible individuals are residents
96 of the Commonwealth up to 300 per cent of poverty who are not eligible for Federal advanced
97 premium tax credits, who are ineligible for any other benefits provided pursuant to this chapter,
98 and who are permanently residing in the United States under color of law, provided that the
99 individual has not moved into the commonwealth for the sole purpose of securing health
100 insurance under this chapter and provided further that confinement of an individual in a nursing
101 home, hospital or other medical institution in the commonwealth shall not, in and of itself,
102 suffice to qualify an individual as a resident.

103 SECTION 14. Section 9A of said chapter 118E, as so appearing, is hereby amended by
104 inserting after the word “1315a,” in line 9, the following words:- or any other federal waiver or
105 demonstration authority

106 SECTION 15. Subsection (1) of said section 9A of said chapter 118E, as so appearing, is
107 hereby further amended by striking out the definition “Expansion beneficiaries”.

108 SECTION 16. Said subsection (1) of said section 9A of said chapter 118E, as so
109 appearing, is hereby further amended by striking out the definition “Medical benefits” and
110 inserting in place thereof the following definition:-

111 “Medical benefits” health care services including managed care programs, provided to
112 beneficiaries pursuant to the terms and conditions of a demonstration project and regulations
113 promulgated by the division and including, but not limited to, assistance with premiums and
114 costs sharing and medical insurance purchased for beneficiaries pursuant to section eighteen or
115 benefits authorized by 42 USC 1396e.

116 SECTION 17. Said subsection (1) of said section 9A of said chapter 118E, as so
117 appearing, is hereby further amended by striking out the definition “Traditional beneficiaries.”

118 SECTION 18. Subsection (2) of said section 9A of said chapter 118E, as so appearing, is
119 hereby amended by striking out subdivision (b) and inserting in place thereof the following
120 subdivision:-

121 (b) infants to age one and pregnant women whose financial eligibility as determined by
122 the division does not exceed 200 per cent of the federal poverty level, and children and

123 adolescents aged one to 20 years, inclusive, whose financial eligibility as determined by the
124 division does not exceed 150 per cent of the federal poverty level;

125 SECTION 19. Said subsection (2) of said section 9A of said chapter 118E, as so
126 appearing, is hereby further amended by striking out subdivision (d) and inserting in place
127 thereof the following subdivision:-

128 (d) persons aged 21 to 64, inclusive, whose financial eligibility as determined by the
129 division does not exceed 133 per cent of the federal poverty level, provided however, that such
130 persons shall meet such other eligibility criteria that the division and the secretary may establish;

131 SECTION 20. Said subsection (2) of said section 9A of said chapter 118E, as so
132 appearing, is hereby further amended by adding the following subdivision:-

133 (j) premium assistance for employer sponsored health insurance for adults up to 300 per
134 cent of the poverty level who are uninsured at the time of application, are not eligible for any
135 other program under this chapter and cannot purchase a qualified health plan through the health
136 connector because they have access to employer sponsored minimum essential coverage as
137 defined in section 1401 of the federal Patient Protection and Affordable Care Act, Pub. L. 111-
138 148, as amended from time to time.

139 SECTION 21. Said section 9A of said chapter 118E, as so appearing, is hereby amended
140 by striking out, in line 130, the word “the” where it appears before the word “demonstration”,
141 and inserting in place thereof the word:- a

142 SECTION 22. Subsection (6) of said section 9A of said chapter 118E, as so appearing, is
143 hereby amended by striking out the first two sentences.

144 SECTION 23. Said section 9A of said chapter 118E, as so appearing, is hereby amended
145 by striking out, in lines 157, 164, 174, 179, 211, and 212 the word “the” and inserting in place
146 thereof, in each instance, the following word:- a

147 SECTION 24. Said section 9A of said chapter 118E, as so appearing, is hereby further
148 amended by striking out, in line 182, the words “for expansion beneficiaries”.

149 SECTION 25. Section 9B of said chapter 118E of the General Laws is hereby repealed.

150 SECTION 26. Section 10 of said chapter 118E of the General Laws, as so appearing, is
151 hereby amended by striking out the second paragraph and inserting in place thereof the following
152 paragraph:-

153 The division may, to the extent permitted by Title XIX or other federal authority, provide
154 medical assistance to pregnant women who are presumptively eligible for the period of time
155 prescribed by federal law or other federal authority. The division shall promulgate regulations to
156 implement this section, which shall require health care providers to notify such pregnant women

157 of the need to file an application for Medicaid and which shall set standards to be used by
158 providers in determining presumptive eligibility.

159 SECTION 27. Section 12 of said chapter 118E, as so appearing, is hereby amended by
160 inserting after the words "Title XIX," in line 21, the words:- and Title XXI

161 SECTION 28. Section 16D of said chapter 118E, as so appearing, is hereby amended by
162 striking out, in line 40, the words "MassHealth Essential" and inserting in place thereof the
163 following words:- MassHealth Family Assistance.

164 SECTION 29. Section 27 of said chapter 118E, as so appearing, is hereby amended by
165 striking out subsection (c) and inserting in place thereof the following subsection:-

166 (c) Periodically in accordance with federal law.

167 SECTION 30. Said section 27 of said chapter 118E, as so as appearing, is hereby further
168 amended by inserting after the word "shall," in line 12, the following words:- to the extent
169 required by federal law

170 SECTION 31. Section 64 of chapter 118E, as inserted by section 131 of chapter 224 of
171 the acts of 2012, is hereby amended by striking out, in the definition "Payments subject to
172 surcharge", the words "(2) enrollees in the commonwealth care health insurance program".

173 SECTION 32. Paragraph (ii) of subsection (a) of section 66 of said chapter 118E, as
174 inserted by section 131 of chapter 224 of the acts of 2012, is hereby amended by striking out the
175 words "this chapter and the commonwealth care health insurance program under chapter 118H".

176 SECTION 33. Subsection (b) of said section 66 of chapter 118E, as inserted by section
177 131 of chapter 224 of the acts of 2012, is hereby further amended by striking out the words "and
178 the commonwealth care health insurance programs" and inserting in place thereof the following
179 word:- program

180 SECTION 34. Subsection (a) of section 69 of said chapter 118E, as inserted by section
181 131 of chapter 224 of the acts of 2012, is hereby amended by striking out, in paragraph (3), the
182 words "or for the commonwealth care health insurance program, established under chapter
183 118H,".

184 SECTION 35. Chapter 118H of the General Laws is hereby repealed.

185 SECTION 36. Subsection (c) of section 46 of chapter 151A, as appearing in the 2010
186 Official Edition, is hereby amended by striking out paragraph (7) and inserting in place thereof
187 the following paragraph:-

188 (7) to the commonwealth health insurance connector authority, information under an
189 interagency agreement for the administration and enforcement of chapter 176Q and for the

190 administration of the fair share employer contribution requirement under section 188 of chapter
191 149.

192 SECTION 37. Said subsection (c) of said section 46 of said chapter 151A, as so
193 appearing, is hereby amended by striking out Paragraph (8).

194 SECTION 38. Subsection 2. of section 108 of chapter 175 of the General Laws, as
195 appearing in the 2010 Official Edition, is hereby amended by striking out, in paragraph (a),
196 subparagraph (3) and inserting in place thereof the following subparagraph:-

197 (3) It purports to insure only 1 person, except that a policy, excluding contracts which
198 provide stand-alone dental services, shall insure, originally or by subsequent amendment, upon
199 the application of an adult member of a family who shall be considered the policyholder, 2 or
200 more eligible members of that family, including the policyholder, spouse, dependent children
201 and other dependent persons, children during pendency of adoption procedures under chapter
202 210, children under 26 years of age, and children who are mentally or physically incapable of
203 earning their own living, if due proof of the incapacity is received by the insurer within 31 days
204 of the date upon which the coverage would otherwise be terminated; and

205 SECTION 39. Section 110 of said chapter 175, as so appearing, is hereby amended by
206 striking out subsection (P) and inserting in place thereof the following subsection:-

207 (P) A blanket or general policy of insurance described in subdivision (A), (C) or (D),
208 except policies or certificates which provide stand-alone dental services or coverage to Medicare
209 or other governmental programs which shall be delivered, issued or renewed in the
210 commonwealth, shall provide, as benefits to all group members having a place of employment in
211 the commonwealth, coverage to dependent persons under 26 years of age.

212 SECTION 40. Chapter 176A of the General Laws is hereby amended by striking out
213 section 8BB, as appearing in the 2010 Official Edition, and inserting in place thereof the
214 following section:-

215 Section 8BB Any subscription certificate under an individual or group nonprofit hospital
216 service agreement, except certificates which provide stand-alone dental services, supplemental
217 coverage to Medicare or other governmental programs, that is delivered, issued or renewed in the
218 commonwealth, shall provide, as benefits to all individuals or to all group members having a
219 principal place of employment within the commonwealth, coverage to eligible dependents under
220 26 years of age.

221 SECTION 41. Chapter 176B of the General Laws is hereby amended by striking out
222 section 4BB, as appearing in the 2010 Official Edition, and inserting in place thereof the
223 following section:-

224 Section 4BB. Any subscription certificate under an individual or group medical service
225 agreement, except certificates that provide stand-alone dental services, supplemental coverage to
226 Medicare or other governmental programs, that is delivered or issued or renewed in the
227 commonwealth, shall provide, as benefits to all individual subscribers and members within the
228 commonwealth and to all group members having a principal place of employment within the
229 commonwealth, coverage to eligible dependents under 26 years of age.

230 SECTION 42. Chapter 176G of the General Laws is hereby amended by striking out
231 section 4T, as appearing in the 2010 Official Edition, and inserting in place thereof the following
232 section:-

233 Section 4T. A health maintenance contract, except certificates which provide stand-alone
234 dental services, supplemental coverage to Medicare or other governmental programs, shall
235 provide, as benefits to all individuals or to group members having a principal place of
236 employment within the commonwealth, coverage to eligible dependents under 26 years of age.

237 SECTION 43. Section 1 of chapter 176J of the General Laws, as appearing in the 2010
238 Official Edition, is hereby amended by striking out the definition "Eligible dependent" and
239 inserting in place thereof the following definition:-

240 "Eligible dependent," the spouse or child of an eligible person, subject to the applicable
241 terms of the health benefit plan covering such employee. The child of an eligible individual or
242 eligible employee shall be considered an eligible dependent until the end of the child's 26th year
243 of age.

244 SECTION 44. Said section 1 of said chapter 176J, as so appearing, is hereby further
245 amended by striking out the definition "Eligible individual" and inserting in place thereof the
246 following definition:-

247 "Eligible individual", an individual who is a resident of the commonwealth.

248 SECTION 45. Said section 1 of said chapter 176J, as so appearing, is hereby further
249 amended by inserting after the definition of "Financial impairment", the following definition":-

250 "Grandfathered health plan", any group health plan or health insurance coverage to which
251 42 USC 18011 applies.

252 SECTION 46. Said section 1 of said chapter 176J, as so appearing, is hereby further
253 amended by striking out the definition "Pre-existing conditions provision".

254 SECTION 47. Said section 1 of said chapter 176J, as so appearing, is hereby further
255 amended by striking out the definition "Waiting period".

256 SECTION 48. Chapter 176J is amended by striking out Section 3, as appearing in the
257 2010 Official Edition, and inserting in place thereof the following section:-

258 Section 3. (a)(1) For every health benefit plan issued or renewed to eligible individuals
259 and eligible small groups, including a certificate issued to an eligible individual or eligible small
260 group that evidences coverage under a policy or contract issued or renewed to a trust, association
261 or other entity that is not a group health plan, a carrier shall develop a group base premium rate
262 that is the same for eligible individuals and eligible small groups. In developing these merged
263 market group base premium rates, carriers are to do as follows:

264 (i) With respect to the group base premium rate developed for eligible individuals
265 and eligible small groups, a carrier must consider all enrollees in those health plans, other than
266 grandfathered health plans, offered by such carrier to be members of a merged individual and
267 small group risk pool;

268 (ii) In calculating the premium to be charged to each eligible individual or eligible
269 small group, a carrier shall develop a base premium and use only those rate adjustment factors
270 identified in this section, inclusive, for all insured health benefit plans offered to eligible
271 individuals and eligible small groups, respectively, with all other rating adjustments being
272 prohibited;

273 (iii) Carriers may offer any rate basis types, but rate basis types that are offered to any
274 eligible individual or eligible small group shall be offered to every eligible individual or eligible
275 small group for all coverage issued or renewed. If an eligible small group does not meet a
276 carrier's minimum or participation contribution requirements, the carrier may separately rate
277 each employee as an eligible individual, as set forth in paragraph (i), above;

278 (iv) Carriers shall apply the same rating factors when calculating premiums for
279 eligible individuals as are used when calculating premiums for eligible small groups; and

280 (v) Notwithstanding the provisions of this section, all carriers offering any coverage
281 to any eligible individual or eligible small group is required to make that coverage available to
282 every eligible individual and eligible small group.

283 (2) The commissioner shall annually file with the federal department of health and human
284 services to establish a standard age rate adjustment factor table so that the ratio of the highest
285 factor for adults over age 20 compared to the lowest factor for adults over age 20 shall not
286 exceed a ratio of two-to-one. A carrier that elects to apply standard age rate adjustment factors
287 must apply them based upon the covered person's age when the coverage period begins.

288 (3) The commissioner shall annually file with the federal department of health and human
289 services to establish no more than 7 distinct regions of the state for the purposes of area rate
290 adjustments. A carrier may establish an area rate adjustment for each distinct region, the value
291 of which shall range from eight-tenths to one and two-tenths. If a carrier chooses to apply area
292 rate adjustments, every eligible individual and eligible small group within each area shall be
293 subject to the applicable area rate adjustment.

294

295 (4) A carrier shall establish a rate basis type adjustment factor for eligible individuals and
296 eligible small groups which shall vary the rate only on the basis of whether the health benefit
297 plan covers an individual or family. For purposes of this section, the total premium for family
298 coverage must be determined by summing the premiums for each individual family member.
299 With respect to family members under the age of 21, the premiums for no more than the three
300 oldest covered children must be taken into account in determining the total family premium.

301 (5) The commissioner shall annually file with the federal department of health and human
302 services to establish a standard tobacco use factor; a carrier may apply a tobacco use rate factor
303 in a manner permitted under state and federal law that applies to both eligible small groups and
304 eligible individuals provided that the carrier uses a certification of tobacco use process that has
305 been approved by the commissioner to determine that eligible individuals and their eligible
306 dependents or eligible small group employees and their eligible dependents have not used
307 tobacco products within the past year.

308 (6) A carrier may establish a benefit level rate adjustment for all eligible individuals and
309 eligible small groups that shall be expressed as a number. The number shall represent the
310 relative actuarial value of the benefit level, including the health care delivery network, of the
311 health benefit plan issued to that eligible individual or eligible small group as compared to the
312 actuarial value of other health benefit plans within that class of business. If a carrier chooses to
313 establish benefit level rate adjustments, every eligible individual and every eligible small group
314 shall be subject to the applicable benefit level rate adjustment.

315 (7) A carrier may not apply any rate factor adjustment to the group base premium rate,
316 other than those set forth herein.

317 (b)(1) A carrier that as of the close of any preceding calendar year, has a combined total
318 of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are
319 enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified
320 small businesses or eligible individuals pursuant to its license under chapter 176G, shall be
321 required annually to file a plan with the connector for its consideration, which could attain the
322 connector seal of approval; provided however, the plan shall be filed no later than October 1 of
323 any calendar year.

324 (2) A carrier that as of the close of any preceding calendar year, has a combined total of
325 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled
326 in health benefit plans sold, issued, delivered, made effective or renewed to qualified small
327 businesses or eligible individuals pursuant to its authority under chapter 175, 176A or 176B,
328 shall be required annually to file a plan with the connector for its consideration, which could
329 attain the connector seal of approval; provided however, the plan shall be filed no later than
330 October 1 of any calendar year.

331 (c) For the purposes of this section, neither an eligible individual or eligible employee,
332 nor an eligible dependent, shall be considered to be enrolled in a health benefit plan issued
333 pursuant to its authority under chapter 175, 176A or 176B if the health benefit plan is sold,
334 issued, delivered, made effective or renewed to said eligible employee or eligible dependent as a
335 supplement to a health benefit plan subject to licensure under chapter 176G.

336 (d) The commissioner may conduct an examination with respect to the derivation of
337 group base premium rates used to develop individual group premiums in order to identify
338 whether any expenses inappropriately increase the cost in relation to the risks of the merged
339 individual and small group health insurance market.

340 SECTION 49. Subsection (a) of section 4 of said chapter 176J, as so appearing, is hereby
341 amended by striking out clause (2), and inserting in place thereof the following clause:-

342 (2) A carrier shall enroll eligible individuals, as defined by section 1, and eligible
343 individuals, as defined in section 2741 of the Health Insurance Portability and Accountability
344 Act of 1996, 42 U.S.C. 300gg-41(b), into a health plan if those individuals request coverage
345 within 63 days of termination of any prior creditable coverage. A carrier shall also enroll
346 eligible individuals, as permitted under the federal Patient Protection and Affordable Care Act,
347 and any rules, regulations and guidances applicable thereto, as amended from time to time. A
348 carrier shall enable any such eligible individual to renew coverage if that coverage is available to
349 other eligible individuals. Coverage shall become effective in accordance with the federal Patient
350 Protection and Affordable Care Act, and any rules, regulations and guidances applicable thereto,
351 as amended from time to time, subject to reasonable verification of eligibility, and shall be
352 effective through December 31 of that same year. Carriers shall notify any such eligible
353 individuals that:

354 (i) coverage shall be in effect only through December 31 of the year of
355 enrollment;

356 (ii) if any such eligible individual is in a health plan with a plan-year
357 deductible or out-of-pocket maximum, then an explanation of how that
358 deductible or out-of-pocket maximum and premiums will be impacted
359 for the period between the plan effective date and December 31 of the
360 enrollment year; and

361 (iii) the next open enrollment period during which any such eligible
362 individual shall have the opportunity to enroll in a health plan that will
363 begin on January 1 of the following calendar year.

364 A carrier shall not impose a pre-existing condition exclusion or waiting period of any
365 duration on a health plan.

366 SECTION 50. Said chapter 176J is hereby amended by striking out section 5, as
367 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

368 Section 5. No policy shall exclude an eligible individual, eligible employee or eligible
369 dependent on the basis of age, occupation, actual or expected health condition, claims
370 experience, duration of coverage or medical condition.

371 SECTION 51. Section 6 of said chapter 176J, as so appearing, is hereby amended by
372 striking out subsection (c) and inserting in place thereof the following subsection:-

373 (c) Notwithstanding any general or special law to the contrary, carriers offering small
374 group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or
375 176G, shall file small group product base rates and any changes to small group rating factors that
376 are to be effective on January 1 of each year, on or before July 1 of the preceding year. The
377 commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate
378 or unreasonable in relation to the benefits charged. The commissioner shall disapprove any
379 change to small group rating factors that is discriminatory or not actuarially sound. Rates of
380 reimbursement or rating factors included in the rate filing materials submitted for review by the
381 division shall be deemed confidential and exempt from the definition of public records in clause
382 Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out
383 this section.

384 SECTION 52. Section 9 of said chapter 176J, as so appearing, is hereby amended by
385 striking out, in lines 64 and 65, the words “which does not contain any exclusion or limitation
386 with respect to any preexisting condition of such beneficiary.”.

387 SECTION 53. Section 12 of said chapter 176J, as amended by section 179 of chapter 224
388 of the acts of 2012, is amended by striking out subsection (h) and inserting in place thereof the
389 following subsection:-

390 (h) Any rates offered by a carrier to a certified group purchasing cooperative under this
391 section shall be based on those group base premium rates that apply to individuals and small
392 employer groups enrolling outside the group purchasing cooperative.

393 SECTION 54. Section 13 of said chapter 176J, as so appearing, is hereby amended by
394 striking out subsection (b) and inserting in place thereof the following subsection:-

395 (b) Health benefit plans offered by carriers to group purchasing cooperatives shall: (i)
396 include all state-mandated benefits; (ii) apply open enrollment periods for individuals in the
397 same manner as the carrier applies them for individuals outside the group purchasing
398 cooperative, provided, however that small business group purchasing cooperatives shall establish
399 rules and open enrollment periods for qualified association members to enter or exit group
400 purchasing cooperatives; (iii) apply continuation of coverage provisions in the same manner as

401 the carrier applies those provisions to small group products offered outside the group purchasing
402 cooperative; (iv) apply managed care practices in the same manner as the carrier applies those
403 practices to small group products offered outside the group purchasing cooperative; and (v)
404 apply rating rules, including rating bands, rating factors and the value of rating factors, in the
405 same manner as the carrier applies those rules to small group products offered outside the group
406 purchasing cooperative.

407 SECTION 55. Chapter 176N of the General Laws is hereby amended by striking out
408 section 2, as appearing in the 2010 Official Edition, and inserting in place thereof the following
409 section:-

410 Section 2. No health plan shall:

411 (a) exclude any eligible insured on the basis of age, occupation, actual or expected health
412 condition, claims experience, duration of coverage, or medical condition of such person.

413 (b) exclude late enrollees from coverage for more than twelve months from the date of
414 the application for coverage of any late enrollee.

415 (c) In any circumstance in which more extensive coverage than that provided by clauses
416 (a) and (b) is required by any other provision of the General Laws or any law of the United
417 States, the health benefit plan shall satisfy such other provision insofar as it requires more
418 extensive coverage.

419 SECTION 56. Section 1 of chapter 176O of the General Laws, as appearing in the 2010
420 Official Edition, is hereby amended by striking out the definition “Grievance” and inserting in
421 place thereof the following definition:-

422 “Grievance”, any oral or written complaint submitted to the carrier which has been
423 initiated by an insured, or on behalf of an insured with the consent of the insured, concerning any
424 aspect or action of the carrier relative to the insured, including, but not limited to, review of
425 adverse determinations regarding scope of coverage, denial of services, rescission of coverage,
426 quality of care and administrative operations, in accordance with the requirements of this
427 chapter.

428 SECTION 57. Said section 1 of said chapter 176O, as so appearing, is hereby further
429 amended by striking out the definition “Office of patient protection” and inserting in place
430 thereof the following definition:-

431 “Office of patient protection”, the office in the health policy commission established by
432 section 16 of chapter 6D, responsible for the administration and enforcement of sections 13, 14,
433 15 and 16.

434 SECTION 58. Said section 1 of said chapter 176O, as so appearing, is hereby further
435 amended by striking out the definition “adverse determination” and inserting in place thereof the
436 following definition:-

437 “Adverse determination” based upon a review of information provided by a carrier or its
438 designated utilization review organization, to deny, reduce, modify, or terminate an admission,
439 continued inpatient stay, or the availability of any other health care services, for failure to meet
440 the requirements for coverage based on medical necessity, appropriateness of health care setting
441 and level of care, or effectiveness, including a determination that a requested or recommended
442 health care service or treatment is experimental or investigational.

443 SECTION 59. Section 2 of said chapter 176O, as so appearing, is hereby amended by
444 striking out, in lines 22 and 23, the words “division of health care finance and policy” and
445 inserting in place thereof the following words:- center for health information and analysis

446 SECTION 60. Said section 2 of said chapter 176O, as so appearing is hereby amended by
447 striking out, in lines 28 and 29, the words “department of public health established by section
448 217 of chapter 111” and inserting in place thereof the following words:- health policy
449 commission established by section 16 of chapter 6D

450 SECTION 61. Section 6 of said chapter 176O, as so appearing, is hereby amended by
451 striking out, in line 54, the words “section 217 of chapter 111” and inserting in place thereof the
452 following words:- section 16 of chapter 6D

453 SECTION 62. Said section 6 of said chapter 176O, as so appearing, is hereby further
454 amended by striking out, in line 56, the words “in the department of public health” and inserting
455 in place thereof the following words:- or, where applicable, the designated state consumer
456 assistance program

457 SECTION 63. Section 7 of said chapter 176O, as so appearing, is hereby amended by
458 striking out, in lines 23 and 24, the words “the department of public health under section 25P of
459 chapter 111” and inserting in place thereof the following words:- center for health information
460 analysis

461 SECTION 64. Said section 7 of said chapter 176O, as so appearing, is hereby further
462 amended by striking out, in lines 45 and 55, the words “department of public health” and
463 inserting in place thereof, in each instance, the following words:- health policy commission

464 SECTION 65. Section 13 of said chapter 176O, as so appearing, is hereby amended by
465 striking out, in line 2, the word “provides” and inserting in place thereof the following words:- is
466 compliant with the federal Patient Protection and Affordable Care Act, Public Law 111-148, as
467 amended from time to time as with as well as any rules, regulations, or guidance applicable
468 thereto, and such formal internal grievance process shall provide

469 SECTION 66. Subsection (b) of said section 13 of said chapter 176O, as so appearing, is
470 hereby amended by adding after clause (iii), the following clause:-

471 (iv) a resolution of a claim involving urgently needed services within 72 hours.

472 SECTION 67. Subsection (c) of said section 13 of said chapter 176O, as so appearing, is
473 hereby amended by adding the following sentence:-

474 In the event that an insured claims that a carrier failed to properly act on a grievance that
475 is an adverse determination within the time limits required by this section, such claim is
476 immediately eligible for external review, notwithstanding the requirement in section 14 that the
477 insured must complete the internal review process.

478 SECTION 68. Said section 13 of said chapter 176O, as so appearing, is hereby further
479 amended by adding the following subsection:-

480 (d) An insured may request an expedited review of a grievance and at the same time may
481 request an expedited external review of the grievance pursuant to section 14.

482 SECTION 69. Section 14 of said chapter 176O, as so appearing, is hereby amended by
483 striking out subsection (a), and inserting in place thereof the following subsection:-

484 (a) An insured who remains aggrieved by an adverse determination and has exhausted all
485 remedies available from the formal internal grievance process required pursuant to section 13,
486 may seek further review of the grievance by a review panel established by the office of patient
487 protection pursuant to paragraph (5) of subsection (a) of section 16 of chapter 6D. The insured
488 shall pay the first \$25 of the cost of the review to said office, which may waive the fee in cases
489 of extreme financial hardship and which shall refund the fee to the insured if the adverse
490 determination is reversed in its entirety. No insured shall be required to pay more than \$75 per
491 plan year, regardless of the number of external review requests submitted. The carrier shall be
492 responsible for the remainder of the cost of the review pursuant to regulations promulgated by
493 the executive director of the health policy commission in consultation with the commissioner of
494 insurance. The office of patient protection shall contract with at least three unrelated and
495 objective review agencies through a bidding process, and refer grievances to one of the review
496 agencies on a random selection basis. The review agencies must be accredited by a national
497 accrediting organization and shall develop review panels appropriate for the given grievance,
498 which shall include qualified clinical decision-makers experienced in the determination of
499 medical necessity, utilization management protocols and grievance resolution, and shall not have
500 any financial relationship with the carrier making the initial determination. The standard for
501 review of a grievance by such a panel shall be the determination of whether the requested
502 treatment or service is medically necessary, as defined herein, and a covered benefit under the
503 policy or contract. The panel shall consider, but not be limited to considering: (i) written
504 documents submitted by the insured, (ii) additional information from the involved parties or

505 outside sources that the review panel deems necessary or relevant, and (iii) information obtained
506 from any informal meeting held by the panel with the parties. The panel shall send final written
507 disposition of the grievance, and the reasons therefore, to the insured and the carrier within 45
508 days of receipt of the request for review. Notwithstanding the requirements of this section, an
509 insured may request an external review of an adverse determination without exhausting the
510 carrier's internal appeals process if the insured is seeking an expedited review or if the carrier
511 failed to meet the time limits specified in section 13.

512 SECTION 70. Subsection (b) of said section 14 of said chapter 176O, as so appearing, is
513 hereby amended by adding the following two sentences:-

514 There shall be a process for the expedited review of grievances. The external review
515 panel shall send final written disposition of the grievance, and the reasons therefore, to the
516 insured and the carrier within 72 hours of receipt of the request for review.

517 SECTION 71. Said section 14 of said chapter 176O, as so appearing, is hereby further
518 amended by inserting after the word "binding", in line 40, the following words:- on the insured
519 and on the carrier

520 SECTION 72. Section 17 of said chapter 176O as so appearing, is hereby amended by
521 striking out, in line 2, the words "commissioner of public health" and inserting in place thereof
522 the following words:- health policy commission

523 SECTION 73. Section 20 of said chapter 176O, as so appearing, is hereby amended by
524 striking out, in lines 26 and 27, the words "office of patient protection, established by section
525 217 of chapter 111," and inserting in place thereof the following words:- designated state
526 consumer assistance program

527 SECTION 74. Section 1 of chapter 176Q of the General Laws, as appearing in the 2010
528 Official Edition, is hereby amended by striking out the definition "Commonwealth care health
529 insurance program".

530 SECTION 75. Said section 1 of said chapter 176Q, as so appearing, is hereby further
531 amended by striking out the definition "Commonwealth care health insurance program
532 enrollees".

533 SECTION 76. Said section 1 of said chapter 176Q, as so appearing, is hereby further
534 amended by striking out the definition "Eligible individual" and inserting in place thereof the
535 following definition:-

536 "Eligible individual", an individual who is a resident of the commonwealth and who is
537 qualified to purchase coverage through the connector pursuant to 42 U.S.C. § 18032(f).

538 SECTION 77. Said Section 1 of said chapter 176Q, as so appearing, is hereby further
539 amended by inserting after the definition “Eligible small group” the following 2 definitions:-

540 “Federal advanced premium tax credits”, a payment made pursuant to 26 U.S.C. § 36B
541 on behalf of an eligible individual or eligible child to reduce the value of a health benefit plan
542 premium.

543 “Federal point-of-service cost-sharing reductions”, a payment made pursuant to 26
544 U.S.C. § 36B on behalf of an eligible individual or eligible child to reduce point-of-service cost-
545 sharing expenses which shall include, but not be limited to, copayments, coinsurance and
546 deductibles.

547 SECTION 78. Said Section 1 of said chapter 176Q is hereby further amended by striking
548 out the word “offset” in the definition “Point-of-service cost-sharing subsidy”, as inserted by
549 section 38 of chapter 118 of the Acts of 2012, and inserting in place thereof the following word:-
550 reduce.

551 SECTION 79. Said Section 1 of said chapter 176Q is hereby further amended by striking
552 out the definition “Premium assistance payment”, as inserted by section 38 of chapter 118 of the
553 Acts of 2012, and inserting in place thereof the following definition:-

554 “Premium assistance payment”, a payment made to a carrier or an individual by the
555 connector to reduce the value of a health benefit plan premium paid by the individual.

556 SECTION 80. Said section 1 of said chapter 176Q, as appearing in the 2010 Official
557 Edition, is hereby further amended by striking out the definition of “Rating factor” and inserting
558 in place thereof the following definition:-

559 “Rating factor”, characteristics including, but not limited to, age, rate basis type and
560 geography.

561 SECTION 81. Section 3 of said chapter 176Q, as so appearing, is hereby amended by
562 striking out, in line 5, the words “groups and commonwealth care health insurance plan
563 enrollees”, and inserting in place thereof the following words:- and eligible small groups

564 SECTION 82. Said section 3 of said chapter 176Q, as so appearing, is hereby further
565 amended by striking out, in line 15 and lines 30 and 31, the words “groups and commonwealth
566 care health insurance program enrollees” and inserting in place thereof, in each instance, the
567 following words:- and eligible small groups

568 SECTION 83. Said section 3 of said chapter 176Q, as so appearing, is hereby further
569 amended by striking out, in lines 23 and 24, the words “the commonwealth care health insurance
570 program, established by chapter 118H” and inserting in place thereof the following words:-
571 premium assistance payments or cost-sharing subsidies

572 SECTION 84. Said section 3 of said chapter 176Q, as so appearing, is hereby further
573 amended by striking out, in line 33, the word “all”.

574 SECTION 85. Said section 3 of said chapter 176Q, as so appearing, is hereby further
575 amended by inserting after the word “payments”, in line 38, the following words:- and point-of-
576 service cost-sharing subsidies and, if applicable, federal advanced premium tax credits and
577 federal point-of-service cost-sharing reductions

578 SECTION 86. Subsection (a) of said section 3 of said chapter 176Q, as so appearing, is
579 hereby further amended by striking out paragraph (13) and inserting in place thereof the
580 following paragraph:-

581 (13) develop a standard application form for eligible individuals and eligible small groups
582 seeking to purchase health insurance through the connector; and

583 SECTION 87. Subsection (b) of said section 3 of said chapter 176Q, as amended by
584 section 43 of chapter 118 of the Acts of 2012, is hereby amended by inserting after the word “or”
585 the following words:- point-of-service.

586 SECTION 88. Subsection (m) of said section 3 of said chapter 176Q, as amended by
587 section 132 of chapter 139 of the Acts of 2012, is hereby amended by striking out the words
588 “111M, 118E, 118G 118H” and inserting in place thereof the following words:- 6D, 12C, 15A,
589 111M, 118E

590 SECTION 89. Said section 3 of said chapter 176Q is hereby amended by striking out
591 subsection (o).

592 SECTION 90. Subsection (u) of said section 3 of said chapter 176Q, as inserted by
593 section 7 of chapter 96 of the Acts of 2012, is hereby amended by striking out paragraph (2) and
594 inserting in place thereof the following paragraph:- (2) the determination of eligibility of
595 individuals for shopping, receiving federal advanced premium tax credits and qualifying for
596 federal point-of-service cost-sharing reductions through the Exchange, as provided by federal
597 law; and

598 SECTION 91. Subsection (a) of section 4 of said chapter 176Q, as amended by section
599 45 of chapter 118 of the Acts of 2012, is hereby amended by striking out the words “, including
600 all health benefit plans offered through the commonwealth care health insurance program”.

601 SECTION 92. Section 7 of chapter 176Q is hereby repealed.

602 SECTION 93. Subsection (a) of section 12 of said chapter 176Q, as amended by section
603 49 of chapter 118 of the Acts of 2012, is hereby amended by striking out the last sentence.

604 SECTION 94. Said chapter 176Q is hereby further amended by striking out section 8, as
605 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

606 Section 8. (a) The connector shall enter into interagency agreements with the department
607 of revenue, the executive office of health and human services, the department of public health,
608 the executive office of labor and workforce development, the registry of motor vehicles, the
609 department of correction, the center for health information and analysis and any such other state
610 agencies, departments, divisions, commissions, authorities or political subdivisions, and the
611 foregoing agencies, departments, divisions, commissions, authorities and political subdivisions
612 are hereby authorized to furnish pursuant to such agreements, information, including personal
613 data as defined in chapter 66A, that is necessary for the connector to perform its duties under this
614 chapter, including the determination of an individual's eligibility for federal advanced premium
615 tax credits and federal point-of-service cost-sharing reductions and adjudication of appeals
616 arising from such determinations. Such written agreements shall include provisions permitting
617 the department of revenue to furnish the data available under the wage reporting system
618 established under section 3 of chapter 62E. The department of revenue is hereby authorized to
619 furnish the connector with information on the cases of persons so identified, including, but not
620 limited to, name, social security number and other data to ensure positive identification, name
621 and identification number of employer, and amount of wages received and gross income from all
622 sources. The connector shall not utilize any of the data received from the department of revenue
623 for any solicitations or advertising.

624 (b) The connector is hereby authorized to receive and use any information provided
625 pursuant to section 23 of chapter 118E as necessary for the connector to perform the duties under
626 this chapter, including the determination of an individual's eligibility for federal advanced
627 premium tax credits and federal point-of-service cost-sharing reductions and adjudication of
628 appeals arising from such determinations.

629 SECTION 95. Section 15 of said chapter 176Q, as so appearing, is hereby amended by
630 striking out, in lines 14 to 16, inclusive, the words “, the operation and administration of the
631 commonwealth care health insurance program described in chapter 118H”.

632 SECTION 96. Section 1 of chapter 176T, as inserted by section 216 of chapter 224 of the
633 acts of 2012, is hereby amended by striking out the definition “Public health care payer” and
634 inserting in place thereof the following definition:-

635 “Public health care payer”, the Medicaid program established in chapter 118E; any
636 carrier or other entity that contracts with the office of Medicaid to pay for or arrange the
637 purchase of health care services on behalf of individuals enrolled in health coverage programs
638 under Titles XIX or XXI, including prepaid health plans subject to the provisions of section 28
639 of chapter 47 of the acts of 1997; the group insurance commission established under chapter
640 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

641 SECTION 97. Section 66 of chapter 288 of the Acts of 2010, as amended by section 234
642 of chapter 224 of the Acts of 2012, is hereby repealed.

643 SECTION 98. Section 226 of chapter 224 of the Acts of 2012 is hereby repealed.

644 SECTION 99. Section 227 of chapter 224 of the Acts of 2012 is hereby repealed.

645 SECTION 100. Section 246 of chapter 224 of the Acts of 2012 is hereby repealed.

646 SECTION 101. Section 253 of chapter 224 of the Acts of 2012 is hereby amended by
647 striking out the words “, the commonwealth care health insurance program established under
648 chapter 118H of the General Laws, any carrier or other entity which contracts with the
649 commonwealth care health insurance program to pay for or arrange for the purchase of health
650 care services”.

651 SECTION 102. Notwithstanding any provisions of chapter 176J of the Massachusetts
652 General Laws to the contrary, and only for the period from January 1, 2014 through December
653 31, 2015, carriers will be permitted to develop the group base premium for eligible small
654 employers so that the group base premium will vary by enrollment or renewal month and shall be
655 filed as part of a rate filing for each calendar quarter.

656 In addition, notwithstanding any provisions of chapter 176J to the contrary, and only for
657 the period from January 1, 2014 through December 31, 2015, in calculating the premium to be
658 charged to each eligible small group or eligible individual, carriers will be permitted to utilize
659 and apply a portion of the following rate adjustment factors, based on the factors a carrier has in
660 place as of July 1, 2013, in addition to those permitted under chapter 176J: (1) an industry rate
661 adjustment factor; (2) a participation rate adjustment factor; (3) a group size rate adjustment
662 factor; (4) an intermediary rate adjustment factor; and (5) a group purchasing cooperative rate
663 adjustment.

664 The commissioner of insurance shall have the authority to issue regulations to implement
665 this section, including, but not limited to, regulations setting forth the manner in which carriers
666 may utilize and apply the additional rate adjustment factors set forth in this section during the
667 period from January 1, 2014 through December 31, 2015.

668 SECTION 103. Sections 1, 5, and 94 shall take effect 30 days after passage of this act.

669 SECTION 104. Sections 2 to 4, inclusive, 6 to 50, inclusive, 52 to 93, inclusive, and 95 to
670 101, inclusive, shall take effect January 1, 2014.



Acts
2013
CHAPTER 35 AN ACT IMPLEMENTING THE AFFORDABLE CARE ACT AND PROVIDING FURTHER ACCESS TO AFFORDABLE HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to expand forthwith access to health care for Massachusetts residents, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. [Section 16 of chapter 6A of the General Laws](#), as most recently amended by section 5 of [chapter 224 of the acts of 2012](#), is hereby further amended by adding the following paragraph:- Notwithstanding any general or special law to the contrary, the executive office of health and human services may request from any agency, department, division, commission, board, authority, or other public or quasi-public entity in the commonwealth, and they shall provide, any information, including personal data, as defined in [section 1 of chapter 66A](#) and data in the wage reporting system administered by the department of revenue pursuant to [chapter 62E](#), that the executive office of health and human services determines to be necessary to make available, determine eligibility for, enroll individuals in and otherwise administer various public benefit programs authorized pursuant to [chapter 118E](#) or other programs that the executive office of health and human services may administer in accord with the Patient Protection and Affordable Care Act, [Public Law 111-148](#), as amended from time to time, or that the executive office of health and human services determines, in its judgment, as being reasonably necessary to develop and administer a single integrated eligibility system, in conjunction with the commonwealth health insurance connector authority, through which the executive office of health and human services may make available, determine eligibility for, enroll individuals in and otherwise administer such public benefit programs, and through which the commonwealth health insurance connector authority will execute its statutory responsibilities pursuant to [chapter 176Q](#); provided, that the provision of such information to the executive office of health and human services for such purposes is consistent with federal law. Further, notwithstanding any general or special law to the contrary, the executive office of health and human services is authorized to provide to the commonwealth health insurance connector authority any information the executive office of health and human services obtains pursuant to [section 23 of chapter 118E](#) as necessary for the commonwealth health insurance connector authority to perform its duties pursuant to [chapter 176Q](#).

SECTION 2. [Section 1 of chapter 6D](#), as appearing in section 15 of said [chapter 224](#), is hereby amended by striking out the definition of “Public health care payer” and inserting in place thereof the following definition:-

“Public health care payer”, the Medicaid program established in chapter 118E; any carrier or other entity that contracts with the office of Medicaid to pay for or arrange the purchase of health care services on behalf of individuals enrolled in health coverage programs under Titles XIX or XXI of the Social Security Act, including prepaid health plans subject to section 28 of [chapter 47 of the acts of 1997](#); the group insurance commission established pursuant to [chapter 32A](#); and any city or town with a population of more than 60,000 that has adopted [chapter 32B](#).

SECTION 3. Clause (vii) of subsection (d) of [section 8 of said chapter 6D](#), as so appearing, is hereby amended by striking out the words “or under the commonwealth care health insurance program”.

SECTION 4. Section 1 of chapter 12C, as appearing in section 19 of said [chapter 224](#), is hereby amended by striking out the definition of “Public health care payer” and inserting in place thereof the following definition:-

“Public health care payer”, the Medicaid program established in chapter 118E; any carrier or other entity that contracts with the office of Medicaid to pay for or arrange the purchase of health care services on behalf of individuals enrolled in health coverage programs under Titles XIX or XXI of the Social Security Act, including prepaid health plans subject to section 28 of [chapter 47 of the acts of 1997](#); the group insurance commission established pursuant to chapter 32A; and any city or town with a population of more than 60,000 that has adopted [chapter 32B](#).

SECTION 4A. [Section 18 of chapter 15A of the General Laws](#), as amended by section 20 of said [chapter 224](#), is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Every full-time and part-time student enrolled in a public or independent institution of higher learning located in the commonwealth shall participate in a qualifying student health insurance program. For the purposes of this section, “part-time student” shall mean a student participating in at least 75 per cent of the full-time curriculum. Such an institution may allow students to waive participation in its student health insurance program or any part thereof; provided, however, that such an institution shall require students waiving participation to certify in writing prior to any academic year in which the student will not participate in the institution's plan that such student is a participant in a health insurance program providing comparable coverage; and provided further, that such institution shall allow students to waive participation in its student health insurance program if the student is currently enrolled in MassHealth, the student continues to meet all relevant MassHealth eligibility criteria under state and federal law and: (i) the student has been enrolled in MassHealth for at least 1 year prior to becoming eligible for the institution's student health insurance program or (ii) the

student has been enrolled in MassHealth for at least 6 months and the student provides documentation, as required by the commonwealth health insurance connector in consultation with MassHealth, that participation in the qualifying student health insurance program would be financially prohibitive.

SECTION 5. [Chapter 26 of the General Laws](#) is hereby amended by inserting after section 8K the following section:-

Section 8L. In regard to any carrier licensed pursuant to chapters 175, 176A, 176B, 176E, 176F and 176G, the commissioner of insurance may implement and enforce: (i) the Patient Protection and Affordable Care Act, Public Law 111–148, as well as any rules, regulations or guidance applicable thereto, as amended from time to time; and (ii) the Women’s Health and Cancer Rights Act of 1998, Public Law 105-277, as well as any rules, regulations or guidance applicable thereto, as amended from time to time, including, but not limited to, the amendments made by: Title X of said Patient Protection and Affordable Care Act; the Health Care and Education Reconciliation Act of 2010, Public Law 111–152; and the Indian Health Care Improvement Reauthorization and Extension Act of 2009, as enacted in amended form by section 10221 said federal Patient Protection and Affordable Care Act.

SECTION 6. Section 4N of chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 23, the words “or the commonwealth care health insurance program”.

SECTION 7. Section 217 of said chapter 111 is hereby repealed.

SECTION 8. Section 51 of chapter 112 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 60 and 61, the words “or the commonwealth care health insurance program”.

SECTION 9. Section 8 of chapter 118E of the General Laws, as so appearing, is hereby amended by striking out the definition of “Person” and inserting in place thereof the following definition:-
“Person”, any individual who resides in the commonwealth, or any individual residing outside the commonwealth who is deemed to be a resident of the commonwealth under Title XIX, Title XXI or other state or federal programs established or administered pursuant to this chapter.

SECTION 10. Said section 8 of said chapter 118E, as so appearing, is hereby further amended by striking out the definition of “Reside” and inserting in place thereof the following definition:-
“Reside”, to occupy an established place of abode with no present intention of definite and early removal, but not necessarily with the intention of remaining permanently, but in no event shall the word “reside” be construed more restrictively or less restrictively than as defined by the Secretary

under Title XIX, Title XXI or other state or federal programs established or administered pursuant to this chapter.

SECTION 11. Section 9 of said chapter 118E is hereby amended by inserting after the word “A”, in line 11, as so appearing, the following words:- , and such other persons as may be required under Title XIX and regulations adopted thereunder.

SECTION 12. The second paragraph of said section 9 of said chapter 118E is hereby further amended by inserting after the second sentence, as so appearing, the following sentence:- In addition to the foregoing, medical assistance under this chapter may be made available to such other persons as may be permitted under Title XIX or Title XXI and regulations adopted thereunder.

SECTION 13. Said section 9 of said chapter 118E, as amended by section 24 of chapter 118 of the acts of 2012, is hereby further amended by adding the following paragraph:-

The secretary of the executive office may establish a program to provide subsidies to assist eligible individuals in purchasing health insurance, provided that such subsidies shall only be paid on behalf of an eligible individual who is enrolled in a health plan that has been procured by the MassHealth program and shall be made under a sliding-scale premium contribution payment schedule for enrollees, as determined by MassHealth. Eligible individuals are residents of the commonwealth whose income is 300 per cent or less of the federal poverty level as calculated pursuant to the regulations of the executive office, who are not eligible for federal advanced premium tax credits, who are ineligible for any other benefits provided pursuant to this chapter, and who are permanently residing in the United States under color of law; provided, that the individual has not moved into the commonwealth for the sole purpose of securing health insurance under this chapter; and provided further, that confinement of an individual in a nursing home, hospital or other medical institution in the commonwealth shall not, in and of itself, suffice to qualify an individual as a resident.

SECTION 14. Section 9A of said chapter 118E, as appearing in the 2010 Official Edition, is hereby amended by inserting after the figure “1315a”, in line 9, the following words:- or any other federal waiver or demonstration authority.

SECTION 15. Subsection (1) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out the definition of “Expansion beneficiaries”.

SECTION 16. Said subsection (1) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out the definition of “Medical benefits” and inserting in place thereof the following definition:-

“Medical benefits”, health care services including managed care programs, provided to beneficiaries pursuant to the terms and conditions of a demonstration project and regulations promulgated by the

division and including, but not limited to, assistance with premiums and costs sharing and medical insurance purchased for beneficiaries pursuant to section 18 or benefits authorized by 42 U.S.C. section 1396e.

SECTION 17. Said subsection (1) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out the definition of “Traditional beneficiaries”.

SECTION 18. Subsection (2) of said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-

(b) infants to age 1 and pregnant women whose financial eligibility, as determined by the division, does not exceed 200 per cent of the federal poverty level and children and adolescents aged 1 to 20 years, inclusive, whose financial eligibility, as determined by the division, does not exceed 150 per cent of the federal poverty level.

SECTION 19. Said subsection (2) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out clause (d) and inserting in place thereof the following clause:-

(d) persons aged 21 to 64, inclusive, whose financial eligibility, as determined by the division, does not exceed 133 per cent of the federal poverty level; provided, however, that such persons shall meet such other eligibility criteria that the division and the secretary may establish.

SECTION 20. Said subsection (2) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by adding the following clause:-

(j) premium assistance for employer sponsored health insurance for adults whose financial eligibility, as determined by the division, does not exceed 300 per cent of the federal poverty level, are uninsured at the time of application, are not eligible for any other program under this chapter and are not eligible for federal advanced premium tax credits through the health connector because they have access to employer sponsored minimum essential coverage as defined in section 1401 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended from time to time.

SECTION 21. Subsection (4) of said [section 9A of said chapter 118E](#), as so appearing, is hereby amended by striking out, in line 130, the word “the”, the second time it appears, and inserting in place thereof the following word:- a.

SECTION 22. Subsection (6) of said [section 9A of said chapter 118E](#), as so appearing, is hereby amended by striking out the first and second sentences.

SECTION 23. Said [section 9A of said chapter 118E](#), as so appearing, is hereby further amended by striking out, in lines 157, 164, 174, the second time it appears, 179, the second time it appears, 211

and in line 212, the second time it appears, the word “the” and inserting in place thereof, in each instance, the following word:- a.

SECTION 24. Said [section 9A of said chapter 118E](#), as so appearing, is hereby further amended by striking out, in line 182, the words “for expansion beneficiaries”.

SECTION 25. [Section 9B of said chapter 118E](#) is hereby repealed.

SECTION 26. [Section 10 of said chapter 118E](#), as appearing in the 2010 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The division may, to the extent permitted by Title XIX or other federal authority, provide medical assistance to pregnant women who are presumptively eligible for the period of time prescribed by federal law or other federal authority. The division shall promulgate regulations to implement this section, which shall require health care providers to notify such pregnant women of the need to file an application for Medicaid and which shall set standards to be used by providers in determining presumptive eligibility.

SECTION 26A. The second paragraph of [section 10E of said chapter 118E](#), as so appearing, is hereby amended by striking out, in line 12, the words, “be limited to” and inserting in place thereof the following words:- include, but shall not be limited to,.

SECTION 27. [Section 12 of said chapter 118E](#) is hereby amended by inserting after the words “Title XIX”, in line 21, as so appearing, the following words:- and Title XXI.

SECTION 28. [Section 16D of said chapter 118E](#), as so appearing, is hereby amended by striking out, in line 40, the words “MassHealth Essential” and inserting in place thereof the following words:- MassHealth Family Assistance.

SECTION 29. [Section 27 of said chapter 118E](#), as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-
(c) Periodically in accordance with federal law.

SECTION 30. Said [section 27 of said chapter 118E](#), as so appearing, is hereby further amended by inserting after the word “shall”, in line 12, the following words:- , to the extent required by federal law,.

SECTION 31. The definition of “Payments subject to surcharge” in section 64 of chapter 118E, inserted by section 131 of chapter 224 of the acts of 2012, is hereby amended by striking out the words “: (1) Medicaid recipients under age 65; and (2) enrollees in the commonwealth care health

insurance program” and inserting in place thereof the following words:- Medicaid recipients under age 65.

SECTION 32. Clause (ii) of subsection (a) of section 66 of said chapter 118E, as so inserted, is hereby amended by striking out the words “this chapter and the commonwealth care health insurance program under chapter 118H”.

SECTION 33. Subsection (b) of said section 66 of said chapter 118E, as so inserted, is hereby amended by striking out the words “and the commonwealth care health insurance programs” and inserting in place thereof the following word:- program.

SECTION 34. Paragraph (3) of subsection (a) of section 69 of said chapter 118E, as so inserted, is hereby amended by striking out the words “or for the commonwealth care health insurance program, established under chapter 118H,”.

SECTION 35. Chapter 118H of the General Laws is hereby repealed.

SECTION 36. Subsection (c) of section 46 of chapter 151A of the General Laws, as amended by section 145 of chapter 224 of the acts of 2012, is hereby further amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) to the commonwealth health insurance connector authority, information under an interagency agreement for the administration and enforcement of chapter 176Q.

SECTION 37. Said subsection (c) of said section 46 of said chapter 151A, as so amended, is hereby further amended by striking out clause (8).

SECTION 38. Subsection (a) of subdivision 2 of section 108 of chapter 175 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) It purports to insure only 1 person, except that a policy, excluding contracts which provide stand-alone dental services, shall insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be considered the policyholder, 2 or more eligible members of that family, including the policyholder, spouse, dependent children and other dependent persons, children during pendency of adoption procedures under chapter 210, children under 26 years of age and children who are mentally or physically incapable of earning their own living, if due proof of the incapacity is received by the insurer within 31 days of the date upon which the coverage would otherwise be terminated; and.

SECTION 39. Section 110 of said chapter 175, as so appearing, is hereby amended by striking out

subdivision (P) and inserting in place thereof the following subdivision:-

(P) A blanket or general policy of insurance described in subdivision (A), (C) or (D), except policies or certificates which provide stand-alone dental services or coverage to Medicare or other governmental programs which shall be delivered, issued or renewed in the commonwealth, shall provide, as benefits to all group members having a place of employment in the commonwealth, coverage to dependent persons under 26 years of age.

SECTION 40. [Chapter 176A of the General Laws](#) is hereby amended by striking out section 8BB, as so appearing, and inserting in place thereof the following section:-

Section 8BB. Any subscription certificate under an individual or group nonprofit hospital service agreement, except certificates which provide stand-alone dental services, supplemental coverage to Medicare or other governmental programs, that is delivered, issued or renewed in the commonwealth, shall provide, as benefits to all individuals or to all group members having a principal place of employment within the commonwealth, coverage to eligible dependents under 26 years of age.

SECTION 41. [Chapter 176B of the General Laws](#) is hereby amended by striking out section 4BB, as so appearing, and inserting in place thereof the following section:-

Section 4BB. Any subscription certificate under an individual or group medical service agreement, except certificates that provide stand-alone dental services, supplemental coverage to Medicare or other governmental programs, that is delivered or issued or renewed in the commonwealth, shall provide, as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage to eligible dependents under 26 years of age.

SECTION 42. Chapter 176G of the General Laws is hereby amended by striking out section 4T, as so appearing, and inserting in place thereof the following section:-

Section 4T. A health maintenance contract, except certificates which provide stand-alone dental services, supplemental coverage to Medicare or other governmental programs, shall provide, as benefits to all individuals or to group members having a principal place of employment within the commonwealth, coverage to eligible dependents under 26 years of age.

SECTION 43. Section 1 of chapter 176J of the General Laws, is hereby amended by striking out the definition of “Eligible dependent”, as so appearing, and inserting in place thereof the following definition:-

“Eligible dependent”, the spouse or child of an eligible person, subject to the applicable terms of the health benefit plan covering such employee. The child of an eligible individual or eligible employee shall be considered an eligible dependent until the end of the child’s twenty-sixth year of age.

SECTION 44. Said section 1 of said chapter 176J is hereby further amended by striking out the definition of “Eligible individual”, as most recently amended by section 30 of chapter 118 of the acts of 2012, and inserting in place thereof the following definition:-

“Eligible individual”, an individual who is a resident of the commonwealth.

SECTION 45. Said section 1 of said chapter 176J is hereby further amended by inserting after the definition of “Financial impairment”, as appearing in the 2010 Official Edition, the following definition:-

“Grandfathered health plan”, any group health plan or health insurance coverage to which 42 U.S.C. section 18011 applies.

SECTION 46. Said section 1 of said chapter 176J is hereby further amended by striking out the definition of “Pre-existing conditions provision”, as so appearing.

SECTION 47. Said section 1 of said chapter 176J is hereby further amended by striking out the definition of “Waiting period”, as so appearing.

SECTION 48. Said chapter 176J is hereby amended by striking out section 3, as amended by section 174 of chapter 224 of the acts of 2012, and inserting in place thereof the following section:-

Section 3. (a) (1) For every health benefit plan issued or renewed to eligible individuals and eligible small groups, including a certificate issued to an eligible individual or eligible small group that evidences coverage under a policy or contract issued or renewed to a trust, association or other entity that is not a group health plan, a carrier shall develop a group base premium rate that is the same for eligible individuals and eligible small groups. In developing these merged market group base premium rates, carriers:

- (i) with respect to the group base premium rate developed for eligible individuals and eligible small groups, a carrier shall consider all enrollees in those health plans, other than grandfathered health plans, offered by such carrier to be members of a merged individual and small group risk pool;
- (ii) in calculating the premium to be charged to each eligible individual or eligible small group, a carrier shall develop a base premium and use only those rate adjustment factors identified in this section, inclusive, for all insured health benefit plans offered to eligible individuals and eligible small groups, respectively, with all other rating adjustments being prohibited;
- (iii) may offer any rate basis types, but rate basis types that are offered to any eligible individual or eligible small group shall be offered to every eligible individual or eligible small group for all coverage issued or renewed; provided, however, that if an eligible small group does not meet a carrier’s minimum or participation contribution requirements, the carrier may separately rate each employee as an eligible individual, as set forth in clause (i);
- (iv) shall apply the same rating factors when calculating premiums for eligible individuals as are used when calculating premiums for eligible small groups; and

- (v) notwithstanding this section, all carriers offering any coverage to any eligible individual or eligible small group shall make that coverage available to every eligible individual and eligible small group.
- (2) The commissioner shall annually file with the United States Department of Health and Human Services to establish a standard age rate adjustment factor table so that the ratio of the highest factor for adults over age 20 compared to the lowest factor for adults over age 20 shall not exceed a ratio of 2-to-1. A carrier that elects to apply standard age rate adjustment factors shall apply them based upon the covered person's age when the coverage period begins.
- (3) The commissioner shall annually file with the United States Department of Health and Human Services to establish not more than 7 distinct regions of the state for the purposes of area rate adjustments. A carrier may establish an area rate adjustment for each distinct region, the value of which shall range from .8 to 1.2. If a carrier chooses to apply area rate adjustments, every eligible individual and eligible small group within each area shall be subject to the applicable area rate adjustment.
- (4) A carrier shall establish a basis type rate adjustment factor for eligible individuals and eligible small groups which shall vary the rate only on the basis of whether the health benefit plan covers an individual or family. For purposes of this section, the total premium for family coverage must be determined by summing the premiums for each individual family member. With respect to family members under the age of 21, the premiums for not more than the 3 oldest covered children must be taken into account in determining the total family premium.
- (5) The commissioner shall annually file with the United States Department of Health and Human Services to establish a standard tobacco use factor. A carrier may apply a tobacco use rate factor in a manner permitted under state and federal law that applies to both eligible small groups and eligible individuals; provided, however, that the carrier uses a certification of tobacco use process that has been approved by the commissioner to determine that eligible individuals and their eligible dependents or eligible small group employees and their eligible dependents have not used tobacco products within the past year.
- (6) A carrier may establish a benefit level rate adjustment for all eligible individuals and eligible small groups that shall be expressed as a number. The number shall represent the relative actuarial value of the benefit level, including the health care delivery network, of the health benefit plan issued to that eligible individual or eligible small group as compared to the actuarial value of other health benefit plans within that class of business. If a carrier chooses to establish benefit level rate adjustments, every eligible individual and every eligible small group shall be subject to the applicable benefit level rate adjustment.
- (7) A carrier shall not apply any rate adjustment factor to the group base premium rate, other than those set forth herein.
- (b) (1) A carrier that, as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals pursuant to its license under chapter 176G, shall be required annually to file a

plan with the connector for its consideration, which meets the requirements for the connector seal of approval pursuant to section 10 of chapter 176Q; provided, however, that the plan shall be filed not later than October 1.

(2) A carrier that, as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals pursuant to its authority under chapter 175, 176A or 176B, shall be required annually to file a plan with the connector for its consideration, which meets the requirements for the connector seal of approval pursuant to section 10 of chapter 176Q; provided, however, that the plan shall be filed not later than October 1.

(c) For the purposes of this section, no eligible individual, eligible employee, or eligible dependent shall be considered to be enrolled in a health benefit plan issued pursuant to a carrier's authority under chapter 175, 176A or 176B if the health benefit plan is sold, issued, delivered, made effective or renewed to said eligible employee or eligible dependent as a supplement to a health benefit plan subject to licensure under chapter 176G.

(d) The commissioner may conduct an examination with respect to the derivation of group base premium rates used to develop individual group premiums in order to identify whether any expenses inappropriately increase the cost in relation to the risks of the merged individual and small group health insurance market.

SECTION 49. Subsection (a) of section 4 of said chapter 176J, as most recently amended by section 8 of chapter 3 of the acts of 2013, is hereby further amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) A carrier shall enroll eligible individuals, as defined by section 1, and eligible individuals, as defined in section 2741 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. section 300gg-41(b), into a health plan if those individuals request coverage within 63 days of termination of any prior creditable coverage. A carrier shall also enroll eligible individuals, as permitted under the Patient Protection and Affordable Care Act, Public Law 111-148, and any rules, regulations and guidances applicable thereto, as amended from time to time. A carrier shall enable any such eligible individual to renew coverage if that coverage is available to other eligible individuals. Coverage shall become effective in accordance with said Patient Protection and Affordable Care Act, and any rules, regulations and guidances applicable thereto, as amended from time to time, subject to reasonable verification of eligibility, and shall be effective through December 31 of that same year. Carriers shall notify any such eligible individuals that:

- (i) coverage shall be in effect only through December 31 of the year of enrollment;
 - (ii) if any such eligible individual is in a health plan with a plan-year deductible or out-of-pocket maximum, an explanation of how that deductible or out-of-pocket maximum and premiums will be impacted for the period between the plan effective date and December 31 of the enrollment year;
- and

(iii) the next open enrollment period during which any such eligible individual shall have the opportunity to enroll in a health plan that will begin on January 1 of the following calendar year. A carrier shall not impose a pre-existing condition exclusion or waiting period of any duration on a health plan.

SECTION 49A. Subsection (b) of section (4) of said chapter 176J, as appearing in the 2010 Official Edition, is hereby amended by adding the following paragraph:-

(5) Notwithstanding any other provision in this section, with respect to a health benefit plan offered only through a public exchange that pursuant to federal law and regulation does not include pediatric dental benefits, a carrier may deny an eligible individual or eligible small business of any size enrollment in such health benefit plan unless the eligible individual or eligible small business enrolls through the connector. If an eligible individual or eligible small business elects to enroll through the connector, a carrier may not deny that eligible individual or eligible small business enrollment. The carrier shall implement such requirements consistently, treating all eligible individuals and eligible small business in a similar manner.

SECTION 50. Said chapter 176J is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. No policy shall exclude an eligible individual, eligible employee or eligible dependent on the basis of age, occupation, actual or expected health condition, claims experience, duration of coverage or medical condition.

SECTION 51. Section 6 of said chapter 176J is hereby amended by striking out subsection (c), as so appearing, and inserting in place thereof the following subsection:-

(c) Notwithstanding any general or special law to the contrary, carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, shall file small group product base rates and any changes to small group rating factors that are to be effective on January 1 of each year, on or before July 1 of the preceding year. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. Rates of reimbursement or rating factors included in the rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

SECTION 52. Section 9 of said chapter 176J, as so appearing, is hereby amended by striking out, in lines 64 and 65, the words “, which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary”.

SECTION 53. Section 12 of said chapter 176J is hereby amended by striking out subsection (h), as appearing in section 179 of chapter 224 of the acts of 2012, and inserting in place thereof the following subsection:-

(h) Any rates offered by a carrier to a certified group purchasing cooperative under this section shall be based on those group base premium rates that apply to individuals and small employer groups enrolling outside the group purchasing cooperative.

SECTION 54. Section 13 of said chapter 176J, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Health benefit plans offered by carriers to group purchasing cooperatives shall: (i) include all state-mandated benefits; (ii) apply open enrollment periods for individuals in the same manner as the carrier applies them for individuals outside the group purchasing cooperative, provided, however, that small business group purchasing cooperatives shall establish rules and open enrollment periods for qualified association members to enter or exit group purchasing cooperatives; (iii) apply continuation of coverage provisions in the same manner as the carrier applies those provisions to small group products offered outside the group purchasing cooperative; (iv) apply managed care practices in the same manner as the carrier applies those practices to small group products offered outside the group purchasing cooperative; and (v) apply rating rules, including rating bands, rating factors and the value of rating factors, in the same manner as the carrier applies those rules to small group products offered outside the group purchasing cooperative.

SECTION 55. Chapter 176N of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. (a) No health plan shall:

(i) exclude any eligible insured on the basis of age, occupation, actual or expected health condition, claims experience, duration of coverage or medical condition of such person; and
(ii) exclude late enrollees from coverage for more than 12 months from the date of the application for coverage of any late enrollee.

(b) In any circumstance in which more extensive coverage than that provided by clauses (i) and (ii) of subsection (a) is required by any other state or federal law, the health benefit plan shall satisfy such other provision insofar as it requires more extensive coverage.

SECTION 56. Section 1 of chapter 176O of the General Laws is hereby amended by striking out the definition of "Adverse determination", as so appearing, and inserting in place thereof the following definition:-

"Adverse determination", based upon a review of information provided by a carrier or its designated utilization review organization, to deny, reduce, modify, or terminate an admission, continued inpatient stay or the availability of any other health care services, for failure to meet the requirements for coverage based on medical necessity, appropriateness of health care setting and

level of care, or effectiveness, including a determination that a requested or recommended health care service or treatment is experimental or investigational.

SECTION 57. Said section 1 of said chapter 176O is hereby further amended by striking out the definition of “Grievance”, as so appearing, and inserting in place thereof the following definition:- “Grievance”, any oral or written complaint submitted to the carrier which has been initiated by an insured, or on behalf of an insured with the consent of the insured, concerning any aspect or action of the carrier relative to the insured, including, but not limited to, review of adverse determinations regarding scope of coverage, denial of services, rescission of coverage, quality of care and administrative operations, under the requirements of this chapter.

SECTION 58. Said section 1 of said chapter 176O is hereby further amended by striking out the definition of “Office of patient protection”, as so appearing, and inserting in place thereof the following definition:- “Office of patient protection”, the office in the health policy commission established by section 16 of chapter 6D, responsible for the administration and enforcement of sections 13, 14, 15 and 16.

SECTION 59. The fourth sentence of subsection (b) of section 2 of said chapter 176O, as amended by section 189 of chapter 224 of the acts of 2012, is hereby further amended by striking out the words “division of health care finance and policy” and inserting in place thereof the following words:- for health information and analysis.

SECTION 60. Said section 2 of said chapter 176O is hereby amended by striking out, in lines 28 and 29, as appearing in the 2010 Official Edition, the words “department of public health established by section 217 of chapter 111” and inserting in place thereof the following words:- health policy commission established by section 16 of chapter 6D.

SECTION 61. Section 6 of said chapter 176O is hereby amended by striking out, in line 54, as so appearing, the words “paragraph (2) of subsection (a) of section 217 of chapter 111” and inserting in place thereof the following words:- paragraph (3) of subsection (a) of section 16 of chapter 6D.

SECTION 62. Said section 6 of said chapter 176O is hereby further amended by striking out, in line 56, as so appearing, the words “in the department of public health” and inserting in place thereof the following words:- or, if applicable, the designated state consumer assistance program.

SECTION 63. Section 7 of said chapter 176O is hereby amended by striking out, in lines 23 and 24, as so appearing, the words “the department of public health under section 25P of chapter 111” and inserting in place thereof the following words:- center for health information analysis.

SECTION 64. Said section 7 of said chapter 176O is hereby further amended by striking out, in lines 45 and 55, as so appearing, the words “department of public health” and inserting in place thereof, in each instance, the following words:- health policy commission.

SECTION 65. Section 13 of said chapter 176O, as so appearing, is hereby amended by striking out, in line 2, the word “provides” and inserting in place thereof the following words:- is compliant with the Patient Protection and Affordable Care Act, Public Law 111-148, as amended from time to time, as well as with any rules, regulations or guidance applicable thereto, and such formal internal grievance process shall provide.

SECTION 66. Subsection (b) of said section 13 of said chapter 176O, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following 2 clauses:-

(iii) a resolution within 5 days from the receipt of such grievance if submitted by an insured with a terminal illness; and

(iv) a resolution of a claim involving urgently needed services within 72 hours.

SECTION 67. Subsection (c) of said section 13 of said chapter 176O, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding the exhaustion of formal internal grievance process remedies required by section 14, in the event that an insured claims that a carrier failed to properly act on a grievance that is an adverse determination within the time limits required by this section, such claim is immediately eligible for external review.

SECTION 68. Said section 13 of said chapter 176O, as so appearing, is hereby further amended by adding the following subsection:-

(d) An insured may request an expedited review of a grievance and at the same time may request an expedited external review of the grievance pursuant to section 14.

SECTION 69. Section 14 of said chapter 176O, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) An insured who remains aggrieved by an adverse determination and has exhausted all remedies available from the formal internal grievance process required pursuant to section 13, may seek further review of the grievance by a review panel established by the office of patient protection pursuant to paragraph (5) of subsection (a) of section 16 of chapter 6D. The insured shall pay the first \$25 of the cost of the review to said office, which may waive the fee in cases of extreme financial hardship and which shall refund the fee to the insured if the adverse determination is reversed in its entirety. No insured shall be required to pay more than \$75 per plan year, regardless of the number of external review requests submitted. The carrier shall be responsible for the remainder of the cost of the review pursuant to regulations promulgated by the executive director of the health policy commission in consultation with the commissioner of insurance. The office of

patient protection shall contract with at least 3 unrelated and objective review agencies through a bidding process and refer grievances to 1 of the review agencies on a random selection basis. The review agencies shall be accredited by a national accrediting organization and shall develop review panels appropriate for the given grievance, which shall include qualified clinical decision-makers experienced in the determination of medical necessity, utilization management protocols and grievance resolution, and shall not have any financial relationship with the carrier making the initial determination. The standard for review of a grievance by such a panel shall be the determination of whether the requested treatment or service is medically necessary, as defined in section 1, and a covered benefit under the policy or contract. The panel shall consider, but not be limited to considering: (i) written documents submitted by the insured, (ii) additional information from the involved parties or outside sources that the review panel deems necessary or relevant, and (iii) information obtained from any informal meeting held by the panel with the parties. The panel shall send final written disposition of the grievance and the reasons therefore, to the insured and the carrier within 45 days of receipt of the request for review. Notwithstanding the requirements of this section, an insured may request an external review of an adverse determination without exhausting the carrier's internal appeals process if the insured is seeking an expedited review or if the carrier failed to meet the time limits specified in section 13.

SECTION 70. Subsection (b) of said section 14 of said chapter 176O, as so appearing, is hereby amended by adding the following 2 sentences:- There shall be a process for the expedited review of grievances. The external review panel set forth in section 14 shall send final written disposition of the grievance, and the reasons therefore, to the insured and the carrier within 72 hours of receipt of the request for such expedited review.

SECTION 71. Said section 14 of said chapter 176O, as so appearing, is hereby further amended by inserting after the word "binding", in line 40, the following words:- on the insured and on the carrier.

SECTION 72. Section 17 of said chapter 176O, as so appearing, is hereby amended by striking out, in line 2, the words "commissioner of public health" and inserting in place thereof the following words:- health policy commission.

SECTION 73. Paragraph (3) of subsection (a) of section 20 of said chapter 176O, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words "office of patient protection, established by section 217 of chapter 111," and inserting in place thereof the following words:- office of patient protection, established by section 16 of chapter 6D or, if applicable, the designated state consumer assistance program.

SECTION 74. Section 1 of chapter 176Q of the General Laws is hereby amended by striking out the definition of "Commonwealth care health insurance program", as so appearing.

SECTION 75. Said section 1 of said chapter 176Q is hereby further amended by striking out the definition of “Commonwealth care health insurance program enrollees”, as so appearing.

SECTION 76. Said section 1 of said chapter 176Q is hereby further amended by striking out the definition of “Eligible individual”, as so appearing, and inserting in place thereof the following definition:-

“Eligible individual”, an individual who is a resident of the commonwealth and who is qualified to purchase coverage through the connector pursuant to 42 U.S.C. section 18032(f).

SECTION 77. Said section 1 of said chapter 176Q is hereby further amended by inserting after the definition of “Eligible small group”, as so appearing, the following 2 definitions:-

“Federal advanced premium tax credits”, a payment made pursuant to 26 U.S.C. section 36B on behalf of an eligible individual or eligible child to reduce the value of a health benefit plan premium.

“Federal point-of-service cost-sharing reductions”, a payment made pursuant to 42 U.S.C. section 18071 on behalf of an eligible individual or eligible child to reduce point-of-service cost-sharing expenses which shall include, but not be limited to, copayments, coinsurance and deductibles.

SECTION 78. The definition of “Point-of-service cost-sharing subsidy” in said section 1 of said chapter 176Q, inserted by section 38 of chapter 118 of the acts of 2012, is hereby amended by striking out the word “offset” and inserting in place thereof the following word:- reduce.

SECTION 79. Said section 1 of said chapter 176Q is hereby further amended by striking out the definition of “Premium assistance payment”, as so inserted, and inserting in place thereof the following definition:-

“Premium assistance payment”, a payment made to a carrier or an individual by the connector to reduce the value of a health benefit plan premium paid by the individual.

SECTION 80. Said section 1 of said chapter 176Q is hereby further amended by striking out the definition of “Rating factor”, as appearing in the 2010 Official Edition, and inserting in place thereof the following definition:-

“Rating factor”, characteristics including, but not limited to, age, rate basis type and geography.

SECTION 81. Section 3 of said chapter 176Q is hereby amended by striking out, in lines 4 and 5, the words “, groups and commonwealth care health insurance plan enrollees”, as so appearing, and inserting in place thereof the following words:- and eligible small groups.

SECTION 82. Said section 3 of said chapter 176Q is hereby further amended by striking out, in lines 14 and 15 and lines 30 and 31, the words “, groups and commonwealth care health insurance program enrollees”, as so appearing, and inserting in place thereof, in each instance, the following

words:- and eligible small groups.

SECTION 83. Said section 3 of said chapter 176Q is hereby further amended by striking out, in lines 23 and 24, the words “the commonwealth care health insurance program, established by chapter 118H”, as so appearing, and inserting in place thereof the following words:- premium assistance payments or cost-sharing subsidies.

SECTION 84. Said section 3 of said chapter 176Q is hereby further amended by striking out, in line 33, the word “all”, as so appearing.

SECTION 85. Said section 3 of said chapter 176Q, as so appearing, is hereby further amended by inserting after the word “payments”, in line 38, the following words:- and point-of-service cost-sharing subsidies and, if applicable, federal advanced premium tax credits and federal point-of-service cost-sharing reductions.

SECTION 86. Subsection (a) of said section 3 of said chapter 176Q is hereby amended by striking out paragraph (13), as so appearing, and inserting in place thereof the following paragraph:-
(13) develop a standard application form for eligible individuals and eligible small groups seeking to purchase health insurance through the connector; and.

SECTION 87. Subsection (b) of said section 3 of said chapter 176Q, as amended by section 43 of chapter 118 of the acts of 2012, is hereby amended by inserting after the word “or” the following words:- point-of-service.

SECTION 88. Subsection (m) of said section 3 of said chapter 176Q is hereby further amended by striking out the words “, departments, commissions, authorities or political subdivisions the board considers necessary or appropriate to implement chapters 111M, 118E, 118G 118H and this chapter”, inserted by section 132 of chapter 139 of the acts of 2012, and inserting in place thereof the following words:- , departments, commissions, authorities or political subdivisions the board considers necessary or appropriate to implement chapters 6D, 12C, 15A, 111M, 118E and this chapter.

SECTION 89. Said [section 3 of said chapter 176Q](#), as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (o).

SECTION 90. Subsection (u) of said [section 3 of said chapter 176Q](#), inserted by section 7 of [chapter 96 of the acts of 2012](#), is hereby amended by striking out clause (2) and inserting in place thereof the following clause:- (2) the determination of eligibility of individuals for shopping, receiving federal advanced premium tax credits and qualifying for federal point-of-service cost-sharing reductions

through the Exchange, as provided by federal law; and

SECTION 91. Subsection (a) of [section 4 of said chapter 176Q](#), as appearing in section 45 of [chapter 118 of the acts of 2012](#), is hereby amended by striking out the words “, including all health benefit plans offered through the commonwealth care health insurance program”.

SECTION 92. [Section 7 of said chapter 176Q](#) is hereby repealed.

SECTION 93. Said [chapter 176Q](#) is hereby further amended by striking out section 8, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 8. (a) The connector shall enter into interagency agreements with the department of revenue, the executive office of health and human services, the department of public health, the executive office of labor and workforce development, the registry of motor vehicles, the department of correction, the center for health information and analysis and any other state agencies, departments, divisions, commissions, authorities or political subdivisions. The agreements shall authorize foregoing agencies, departments, divisions, commissions, authorities and political subdivisions to furnish information, including personal data as defined in chapter 66A, that is necessary for the connector to perform its duties under this chapter, including the determination of an individual's eligibility for federal advanced premium tax credits and federal point-of-service cost-sharing reductions and adjudication of appeals arising from such determinations. Such written agreements shall include provisions permitting the department of revenue to furnish the data available under the wage reporting system established under section 3 of chapter 62E. The department of revenue may furnish the connector with information on the cases of persons so identified, including, but not limited to, name, social security number and other data to ensure positive identification, name and identification number of employer, and amount of wages and gross income received from all sources. The connector shall not utilize any of the data received from the department of revenue for any solicitations or advertising.

(b) The connector may receive and use any information provided pursuant to [section 23 of chapter 118E](#) as necessary for the connector to perform the duties under this chapter, including the determination of an individual's eligibility for federal advanced premium tax credits and federal point-of-service cost-sharing reductions and adjudication of appeals arising from such determinations.

SECTION 94. Subsection (a) of [section 12 of said chapter 176Q](#), as appearing in section 49 of [chapter 118 of the acts of 2012](#), is hereby amended by striking out the last sentence.

SECTION 95. [Section 15 of said chapter 176Q](#), as so appearing, is hereby amended by striking out, in lines 14 to 16, inclusive, the words “, the operation and administration of the commonwealth care health insurance program described in chapter 118H”.

SECTION 96. [Section 1 of chapter 176T of the General Laws](#), as inserted by section 216 of [chapter 224 of the acts of 2012](#), is hereby amended by striking out the definition of “Public health care payer” and inserting in place thereof the following definition:-

“Public health care payer”, the Medicaid program established in [chapter 118E](#); any carrier or other entity that contracts with the office of Medicaid to pay for or arrange the purchase of health care services on behalf of individuals enrolled in health coverage programs under Titles XIX or XXI of the Social Security Act, including prepaid health plans subject to section 28 of chapter 47 of the acts of 1997; the group insurance commission established pursuant to chapter 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

SECTION 97. The first paragraph of section 271 of [chapter 127 of the acts of 1999](#) is hereby amended by striking out the words “, the executor director of the commonwealth health insurance connector authority” inserted by section 226 of [chapter 224 of the acts of 2012](#).

SECTION 98. Said first paragraph of said section 271 of said [chapter 127](#) is hereby further amended by striking out clause (i), as amended by section 227 of said [chapter 224 of the acts of 2012](#), and inserting in place thereof the following clause:-

(i) participants in the Senior Pharmacy program, so-called, pursuant to [section 16B of chapter 118E of the General Laws](#).

SECTION 99. Section 66 of [chapter 288 of the acts of 2010](#) is hereby repealed.

SECTION 100. Section 246 of [chapter 224 of the acts of 2012](#) is hereby repealed.

SECTION 101. Section 253 of said [chapter 224](#) is hereby amended by striking out the words “, the commonwealth care health insurance program established under chapter 118H of the General Laws, any carrier or other entity which contracts with the commonwealth care health insurance program to pay for or arrange for the purchase of health care services”.

SECTION 102. Notwithstanding [chapter 176J of the General Laws](#), for the period from January 1, 2014 through December 31, 2015, carriers may develop the group base premium for eligible small employers in order to vary the group base premium by enrollment or renewal month and shall file the group base premium as part of a rate filing for each calendar quarter.

In calculating the premium to be charged to each eligible small group or eligible individual, carriers may utilize and apply a portion of the following rate adjustment factors, provided, that the carrier has such factor in place as of July 1, 2013, in addition to those rate adjustment factors permitted under said [chapter 176J](#): (i) an industry rate adjustment factor; (ii) a participation rate adjustment factor; (iii) a group size rate adjustment factor; (iv) an intermediary rate adjustment factor; or (v) a group purchasing cooperative rate adjustment factor.

The commissioner of insurance shall promulgate regulations to implement this section, including, but not limited to, regulations setting forth the manner in which carriers may utilize and apply the rate adjustment factors set forth in this section during the period from January 1, 2014 through December 31, 2015, to the extent required by federal law.

SECTION 102A. The commonwealth, by and through the governor or the governor's designee, shall formally request a federal waiver to avoid the adverse effects of rating and rule changes to the Massachusetts merged market, to protect consumers and businesses in the commonwealth and in an effort to maintain current Massachusetts rating and rule requirements including, but not limited to, the number of ratings factors and the number of annual rate settings. All negotiations with any federal agency concerning this waiver shall be conducted in consultation with a member of the house of representatives as appointed by the speaker of the house and a member of the senate as appointed by the senate president. The governor, or the governor's designee shall file a detailed report describing the waiver application and waivers received, along with all documentation, including, but not limited to, all related written and verbal responses from the department of health and human services, with the clerks of the senate and house not later than October 1, 2014. The governor shall report monthly to the joint committee on health care financing and the house and senate committees on ways and means on the status of the waiver request under this section.

SECTION 103. Sections 1, 5 and 93 shall take effect 30 days after the effective date of this act.

SECTION 104. Sections 2 to 4, inclusive, 6 to 49, inclusive, section 50, sections 52 to 92, inclusive, and sections 94 to 101, inclusive, shall take effect on January 1, 2014.

SECTION 105. Section 4A shall take effect on July 1, 2014.

Approved, July 5 , 2013.

HOUSE No. 41

Message from His Excellency the Governor recommending legislation relative to supporting employers in the Commonwealth. Labor and Workforce Development. January 8, 2013.

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON, MA 02133

(617) 725-4000



DEVAL L. PATRICK

GOVERNOR

TIMOTHY P. MURRAY

LIEUTENANT GOVERNOR

January 8, 2013.

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled “An Act to Support Employers in the Commonwealth.” The legislation is particularly important for the economic success of our state, as it seeks to reduce administrative burdens and costs on Massachusetts businesses.

This legislation will realize these goals by:

- Freezing the Employer Unemployment Insurance (UI) rate for 2013 at “E.” Freezing the rate will save employers an estimated \$500 million compared to if the rate were allowed to increase to “G” as required by current law.
- Eliminating the Fair Share Contribution Program as of June 30, 2013, thereby lessening the administrative burden many businesses currently face.
- Eliminating the Medical Security Program (MSP) health insurance program by the end of this calendar year and allowing the population typically associated with this program to access subsidized health coverage through our existing state insurance programs, such as MassHealth and those offered at the Health Connector.
- Maintaining a key tenet of our state’s 2006 health care reform law – shared responsibility for health care by employers – by repurposing the assessment that

currently funds MSP into an employer contribution that will partially finance state-subsidized health care.

By enacting these provisions, we will keep employers at the table for key health reform policy decisions and help maintain Massachusetts' position as a great state to do business. Accordingly, I urge your prompt and favorable consideration of this legislation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", with a stylized flourish at the end.

DEVAL L. PATRICK,

HOUSE No.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to support employers in the Commonwealth.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to lower forthwith the cost of unemployment insurance and the costs of operating the Medical Security Trust Program and the Fair Share Program, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding section 14 of chapter 151A of the General Laws, as appearing in
2 the 2010 Official Edition, the experience rate of an employer qualifying therefor under
3 subsection (b) of said section 14 of said chapter 151A shall be the rate which appears in column
4 “E” in clause (1) of subsection (i) of said section 14 of said chapter 151A for calendar year 2013.

5 SECTION 2. Section 188 of chapter 149 of the General Laws, as appearing in the 2010 Official
6 Edition, is hereby repealed.

7 SECTION 3. Section 14G of chapter 151A of the General Laws, as appearing in the 2010
8 Official Edition, is hereby repealed.

SECTION 4. Section 8A of chapter 23H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 2-3, the words “Medical Security” and inserting in place thereof the following:- Employer Responsibility.

SECTION 5. Chapter 7 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 61 the following section:-

Section 62. Employer Responsibility Trust Fund

(a)(1) There is hereby established an Employer Responsibility Trust Fund, which shall be administered by the director of the department of unemployment assistance without further appropriation. The purpose of the Trust shall be to fund the provision of subsidized health care for low-income Massachusetts residents. Said trust fund shall consist of health insurance employer responsibility contributions required by subsection (a)(2). Each quarter, DUA shall transfer said funds to MassHealth and the Connector to be used exclusively for providing subsidized health insurance for low-income residents.

(2) Each employer, except those employers who employ five or fewer employees, subject to sections 14, 14A, and 14C of chapter 151A, shall pay, in the same manner and at the same times as the director of the department of unemployment assistance prescribes for the contribution required by said section 14, a health insurance employer responsibility contribution computed by multiplying the wages paid its employees by the health insurance employer responsibility contribution rate of .36 of 1 per cent.

(b) The receipts from such contributions shall be placed in the Employer Responsibility Trust Fund, established in subsection (a), but \$1 annually for each employee whose wages determine each employer's total health insurance employer responsibility contribution shall be deposited in

the Catastrophic Illness in Children Relief Fund established by section 2ZZ of chapter 29. Prior to the depositing of the receipts, the director of the department of unemployment assistance may deduct all administrative costs incurred by the department as a result of this section, including an amount as determined by the United States Secretary of Labor in accordance with federal cost rules, but in no calendar year may such deduction exceed 5 per cent of the amounts collected pursuant to this section. For the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the department may incur obligations and the comptroller may certify payment amounts not to exceed the most recent revenue estimate submitted by the department and approved by the comptroller; provided, however, that the Employer Responsibility Trust Fund shall be in balance by the close of each fiscal year.

(c)(1) For the purposes of this section, the term “wages” shall not include that part of remuneration which, after remuneration equal to the health insurance employer responsibility contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during such year. For the purposes of this paragraph, remuneration shall include remuneration paid to an individual during the calendar year with respect to employment with a transferring employer, as that term is used in subsection (n) of section 14 of chapter 151A.

(2) For the purposes of this section, beginning on the effective date of this section, the term “health insurance employer responsibility contribution wage base” shall have the same meaning as the term “unemployment insurance taxable wage base” in section 14(a)(4) of chapter 151A.

(d)(1) The provisions of this section shall not apply to an employer newly subject to chapter 151A, as defined in paragraphs (2) and (3) of subsection (i) of section 14 of said chapter, until

such employer has been an employer for a minimum of 12 consecutive months, as specified in paragraph (1) of subsection (b) of said section 14.

(2) During the first calendar year in which this section shall apply to an employer newly subject to this chapter pursuant to paragraph (1), such employer's health insurance contribution shall be computed by substituting in subsection (a) the words “.12 of 1 per cent” for the words “.36 of 1 per cent”.

(3) During the second calendar year in which this section shall apply to an employer newly subject to this chapter pursuant to paragraph (1), such employer's health insurance contribution shall be computed by substituting in subsection (a) the words “.24 of 1 per cent” for the words “.36 of 1 per cent”.

(e) Except where inconsistent with the provisions of this section, the terms and conditions of chapter 151A that are applicable to the payment and collection of contributions or payments in lieu of contributions shall apply to the same extent to the payment of and the collection of such health insurance employer responsibility contribution; provided, however, that such contributions shall not be credited to the employer's account or to the solvency account established pursuant to section 14, 14A, or 14C of chapter 151A.

(f) There shall be a health insurance employer responsibility contribution rate review board composed of the commissioner of medical assistance or designee, the director of the department of unemployment assistance or designee, the executive director of the health connector or designee, and the commissioner of insurance or designee. The rate review board shall meet on or before November 30 of each year to review the previous fiscal year's costs by the Commonwealth of providing subsidized care to low-income residents of Commonwealth. If

75 the board determines that costs have increased by more than 5% from the previous fiscal year, it
76 may, by a majority vote, adjust the health insurance employer responsibility contribution by no
77 more than 5%.

78 (g) The director of the department of unemployment assistance, the commissioner of the
79 division of medical assistance, and the executive director of the health connector shall report
80 annually, after the end of each calendar year, to the governor and the senate and house
81 committees on ways and means. The report shall include information about the amount collected
82 in the Employer Responsibility Trust Fund, the amount needed to administer the fund, the
83 amount transferred, and how the funds were used and the method for determining how much was
84 transferred to each program. The report may also make recommendations for changes in the law
85 and regulations governing the fund.

86 (h) Any employer notified of a liability determination under this section by the director of
87 the department of unemployment assistance may request a hearing on such determination. The
88 request for hearing shall be filed within ten days after mailing of the notice of the determination.
89 If a hearing is requested, said director shall give the employer a reasonable opportunity for a fair
90 hearing before an impartial hearing officer designated by the director. The conduct of such
91 hearing shall be in accordance with the procedures prescribed by subsection (b) of section 39 of
92 chapter 151A. Any employer aggrieved by the decision following such hearing may appeal such
93 decision in accordance with the procedures prescribed by sections 40 to 42, inclusive, of chapter
94 151A. Unless action is taken under section 40 of chapter 151A, the decision of said director shall
95 be final on all questions of fact and law.

SECTION 6. Section 9 of chapter 111K of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after the word “insurance”, in each instance in which it appears, the following:- “employer responsibility”.

SECTION 7. Said section 9 of chapter 111K, as so appearing, is hereby further amended by striking out, in line 5, the word “unemployment”.

SECTION 8. Said section 9 of chapter 111K, as so appearing, is hereby further amended by striking out, in line 7, the words “deputy director of employment and training”, and inserting in place thereof the following words:- director of the department of unemployment assistance.

SECTION 9. Section 1 shall take effect as of January 1, 2013.

SECTION 10. Section 2 shall take effect as of June 30, 2013, provided however, that the department of unemployment assistance shall maintain the Fair Share Unit until all liabilities through June 30, 2013, are accounted for.

SECTION 11. Sections 3 and 5 shall take effect as of the later of December 31, 2013, or such time as the Medical Security Trust Fund has at least a zero balance; provided however, that the department of unemployment assistance is authorized to expend sums beyond December 31, 2013, for the purpose of winding down the Medical Security Program; provided further, however, that, if the Medical Security Program Trust Fund does not have at least a zero balance as of December 31, 2013, the department of unemployment assistance shall submit a report to the governor and the senate and house committees on ways and means certifying projections to bring said trust fund to at least a zero balance and shall be allowed to continue collecting contributions under section 14G of chapter 151A as though it had not been repealed. No funds

117 shall be collected into the Employer Responsibility Trust Fund until a zero balance in the
118 Medical Security Trust Fund is certified by the department of unemployment assistance.

119 SECTION 12. Obligations existing or arising from conduct prior to the effective date of this act
120 shall continue to be governed by section 188 of chapter 149 of the General Laws as though it had
121 not been repealed.

Appendix C:

Independent Reports and Documents

HEALTH CARE PAYMENT REFORM CONFERENCE COMMITTEE REPORT

Health Policy Commission (HPC)

Governed by an 11 member board within but not subject to the control of A&F (similar to GIC).

Administers the Health Care Payment Reform Fund; conducts annual cost trend hearings; develops best practices and standards for development of alternative payment methodologies (APMs); certifies provider organizations, ACOs, and patient-centered medical homes; establishes and reviews health care cost growth benchmarks; oversees performance improvement plans; conducts market impact reviews; includes the Office of Patient Protection (moved from DPH).

Center for Health Information and Analysis (CHIA)

Governed by an executive director appointed by majority vote of Governor, Attorney General, and State Auditor (similar to IG).

Collects provider cost data and information from private and public health care payers; develops uniform reporting of a standard set of quality measures; conducts annual report on quality and provider and payer cost trends; participates in and supports the Commission's cost trend hearings; analyzes data to identify payers and providers whose increases in health status adjusted total medical expense is excessive; maintains consumer health information website; includes the Betsy Lehman Center for Patient Safety and Medical Error Reduction (moved from HHS).

Health Care Cost Growth Benchmark

The Commission shall establish the statewide health care cost growth goal for the health care industry, pegged at an amount no greater than the potential growth of the state economy, as follows:

- Years 2013 through 2017: Potential GSP
- Years 2018 through 2022: -0.5% below potential GSP
- Years 2023 and beyond: Potential GSP

Estimated Savings: \$200 billion over 15 years

One-Time Provider/Insurer Assessment of \$225 million

The Commission shall assess a surcharge on providers (\$60 million) and insurers (\$165 million), to be paid in a single payment or in four annual, equal installments.

Distribution of assessment funds:

- 1) \$135 million to the Distressed Hospital Trust Fund to enhance the ability of community hospitals to serve patients more effectively. Provides for a competitive grant process, to be developed by the Commission, for awards to distressed hospitals.
- 2) \$60 million to the Prevention and Wellness Trust Fund to fund grants for preventative health activities at the community level. DPH to administer fund.
- 3) \$30 million to the e-Health Institute Fund to fund the Massachusetts eHealth Institute (MeHI). MeHI will conduct the regional extension center program, run the electronic health records incentive program, and develop a plan to complete the implementation of electronic health records with all providers in Massachusetts.

Health Care Payment Reform Fund

Previously established to collect one-time gaming revenue from gaming facilities; funded by 5% administrative surcharge on assessments. The Commission shall create a competitive bid process to provide incentives, grants, or technical assistance to health care entities trying to develop payment or delivery system changes.

Medicaid Reform

- Provides an increase of 2% to Medicaid rates, not to exceed \$20 million, paid to providers that transition to new payment methodologies. Creates a special commission to review rates paid by public payers.
- Directs HHS, in collaboration with the Dept. of Veterans' Services and MassHealth, to investigate methods to improve access to Department of Veterans' Affairs benefits for qualified veterans, survivors, and dependents currently enrolled in the MassHealth program.
- Requires Medicaid, the GIC, and all other state funded health care programs to pay for health care based on alternative payment methodologies for 25%, 50%, and 80% of its enrollees by July of 2013, 2014 and 2015, respectively.

Provider Organizations and Accountable Care Organizations (ACOs)

- Provider organizations are health care providers that cover 15,000 lives or more and contract with insurance carriers for payment for health care services; can choose to organize as an ACO.
- Creates a certification process for provider organizations and ACOs and directs DOI to review reserves to ensure their ability to handle risk arrangements.
- Certified ACOs are responsible for care coordination, and the delivery, management, quality, and cost of all services provided under the ACO; they must integrate physical and behavioral health care services and accept alternative payment methodologies.
- Establishes a new "Cost and Market Impact Review" to examine provider organizations to determine whether any provider's market concentration exceeds certain federally-established parameters. If the Commission determines, based on its review, that actions of a provider constitute unfair practices or unfair methods of competition or other violations of law, the Commission must refer the matter to the Attorney General for further action.
- Requires ACOs, patient-centered medical homes, and provider organizations that receive a risk-based payment to set up a system of internal appeals. The appeals process may last no longer than 14 days.
- Requires certified ACOs to guarantee access to all medically necessary services for patients, either internally or through providers outside of the ACO.
- Model ACOs, as designated by the Commission, will receive preference in state contracting.

Medical Malpractice Reform

- Creates a new 182-day cooling off period for medical malpractice claims while both sides try to negotiate a settlement. Requires the exchange of information between the plaintiff and defendant to promote early settlement.
- Allows a health care provider or facility to admit a mistake or error. The admission cannot be used in a court as an admission of liability. However, if a provider lies under oath about the error or mistake, then the statement can be used as an admission of liability.
- Reduces the interest rate for medical malpractice from +4% to +2%.
- Raises the non-profit damage cap from \$20k to \$100k.
- Creates a task force to study defensive medicine and medical overutilization.

Workforce Development and Innovate Incentives

- Establishes the Health Care Workforce Transformation Fund to fund programs such as medical and nursing school loan forgiveness grants, health care job training and placement services, primary care residencies, and rural health rotation programs at medical and nursing schools.
- Establishes a new wellness tax credit for businesses that implement recognized workplace wellness programs, up to \$10,000 per employer (up to 25% of the cost of implementation).
- Requires that DPH develop a "model guide" for wellness programs for businesses and to provide stipends to help businesses establish programs.

- Requires health insurance companies to provide a premium adjustment for small businesses that adopt approved workplace wellness programs.
- Establishes the Health Information Technology (HIT) Revolving Loan Fund for making grants to providers for the costs associated with implementation of health care IT required under state and federal law. Provides for zero interest loans to providers and agreements with outside lending institutions to process applications and loans.
- Bans the use of mandatory overtime for nurses in a hospital setting unless patient safety requires it in an emergency situation. The Commission is directed to determine what constitutes an “emergency situation.” Nurses are not allowed to exceed 16 hours of worked time in a 24 hour period and must be given 8 hours off immediately after working a consecutive 16 hours.
- Directs state agencies responsible for the purchase of prescription drugs to form a uniform procurement unit to negotiate for bulk purchases.
- Raises the full-time equivalent (FTE) threshold for fair share contributions from 11 to 21 employees.
- Expands an existing workforce loan forgiveness program to include providers of behavioral, substance abuse, and mental health services.

Consumer Protections and Patient Access

- Develops a process to track price variation among different health care providers over time and establishes a Special Commission to determine and quantify the acceptable and unacceptable factors contributing to price variation among providers.
- Expands upon the existing consumer health information website to include more detailed comparative information on the cost and quality of health care services, including the individual prices of health care services. Adds new resources to the website such as the factors to consider when choosing an insurance product and shared decision-making tools.
- Increases the minimum premium savings for “tiered” or “selective” network health products from 12% to 14% and establishes a new “smart-tiering” option.
- Incentivizes the accelerated adoption of connected health technology, such as telemedicine.
- Requires the Commission to review methods and make recommendations relative to increasing the use of health savings accounts and similar tax-advantaged health plans.
- Allows nursing homes to move residents to a different room if the resident’s clinical needs have changed.
- Allows “limited services clinics” to provide the scope of services offered by a nurse practitioner.
- Allows nurse practitioners and physician assistants to be recognized as primary care providers.
- Allows primary care providers, behavioral health providers, and specialty care providers to be certified as patient-centered medical homes, providing patients with a single point of coordination.
- Establishes a new primary care residency program supported by DPH to increase the pipeline of primary care providers.

Transparency, Disclosure, and Administration Simplification

- Requires DOI to develop a summary of payments form to be used by all health care payers. The form would be provided to health care consumers and written in an easily readable and understandable format showing the consumer’s responsibility, if any, for payment of any portion of a health care provider claim.
- Requires the development of standard prior authorization forms, which would be available electronically, so that providers would use only one form for all payers.
- Authorizes penalties for non-compliance with standardized coding and billing requirements.
- Directs insurers to disclose in real-time the out-of-pocket costs for a proposed health care service and protects patients from paying more than the disclosed amount.
- Streamlines data reporting requirement by designating a single agency as the secure data repository for all health care information reported to and collected by the state.

HEALTH REFORM FACTS AND FIGURES

FALL 2012

Signed into law on April 12, 2006, the landmark Massachusetts healthcare reform represents a comprehensive effort to complement existing coverage programs. The goal is to provide near-universal coverage of the Massachusetts population.

KEY ELEMENTS

- Provides for legal residents who are not eligible for other public or employer-sponsored health insurance:
 - ✓ Completely subsidized, comprehensive health insurance to adults earning up to 150% of the federal poverty level (fpl).
 - ✓ Substantial premium subsidies to people earning above 150% and up to 300% of fpl.
 - ✓ Completely subsidized comprehensive coverage to children of parents earning up to 300% of fpl.
- Reforms the non-group and small-group health insurance markets to effectively lower the price and offer more choices for individuals purchasing unsubsidized products on their own.
- Requires adults in Massachusetts who can obtain affordable health insurance to do so.
- Requires employers of 11+ full-time equivalent employees in Massachusetts to make a fair and reasonable contribution toward coverage for full-time employees, or pay a Fair Share Assessment, and to offer both full-time and part-time employees a pre-tax, payroll deduction plan (a section 125 plan) for their own health insurance premium payments..

PROGRAMS

Commonwealth Care is a subsidized program for adults who are not offered employer-sponsored insurance, do not qualify for Medicare, Medicaid or certain other special insurance programs, and who earn up to 300% of fpl. In 2012, 300% of fpl is \$33,516 for an individual; \$69,156 for a family of four.

There are plans available with *no monthly premiums* for adults earning 100% or less of the federal poverty level and also up to 150 fpl if they choose the lowest-priced plan. That's \$11,172 for an individual and \$23,052 for a family of four up to 100 fpl; and \$16,764 for an individual and \$34,584 for a family of four up to 150 fpl. For premium payers, plans are currently available for \$39 a month for an individual earning between \$16,764 and \$22,344; \$77 for an individual earning between \$22,345 and \$27,936; and \$116 if earning between \$27,937 and \$33,516.

There are no monthly premiums for the children of adults covered by Commonwealth Care, as the children are covered by MassHealth (Medicaid).

Commonwealth Choice is an unsubsidized offering of private health plans, selected by competitive bidding, and available through the Health Connector to individuals, families and certain employers in the state. The private plans have received the Connector's "Seal of Approval" to offer a range of benefits options, grouped by level of benefits and cost-sharing at the Bronze, Silver and Gold levels. There is also a special, lower priced Young Adults Plan offering, exclusively for individuals between the ages of 18 and 26.

These plans are offered directly through the Health Connector by eight health insurance carriers, six of which are non-profit, Massachusetts based:

- ✓ Blue Cross Blue Shield of Massachusetts,
- ✓ BMC HealthNet Plan
- ✓ CeliCare,
- ✓ Fallon Community Health Plan,
- ✓ Harvard Pilgrim Health Care,
- ✓ Health New England,
- ✓ Neighborhood Health Plan and
- ✓ Tufts Health Plan.

Together, these plans represent about 90% of the commercial, licensed health insurance market.

Each of the plans offered through the Health Connector by the six carriers may also be purchased directly from the individual carriers.

Small employers with 50 or fewer workers are also able to purchase directly through the Health Connector's Business Express program. Some small employers may also qualify for a rebate of 15 percent of the contribution they make to their employees' coverage by taking part in Wellness Track.

ENROLLMENT

There are now 439,000 newly insured in the Commonwealth of Massachusetts since the outset of healthcare reform. Between the fall of 2006 and 2008, as measured in a survey by the Urban Institute, uninsured working-age adults declined from 13% to 4%. Large declines were evident across income categories, for both those earning above and below 300% of fpl.

As of March 2011, about 71,000 are in private commercial insurance, purchasing either through the Commonwealth Choice offering or directly on their own from private insurance carriers. As of Sept. 1, 2012, CommChoice membership is approximately

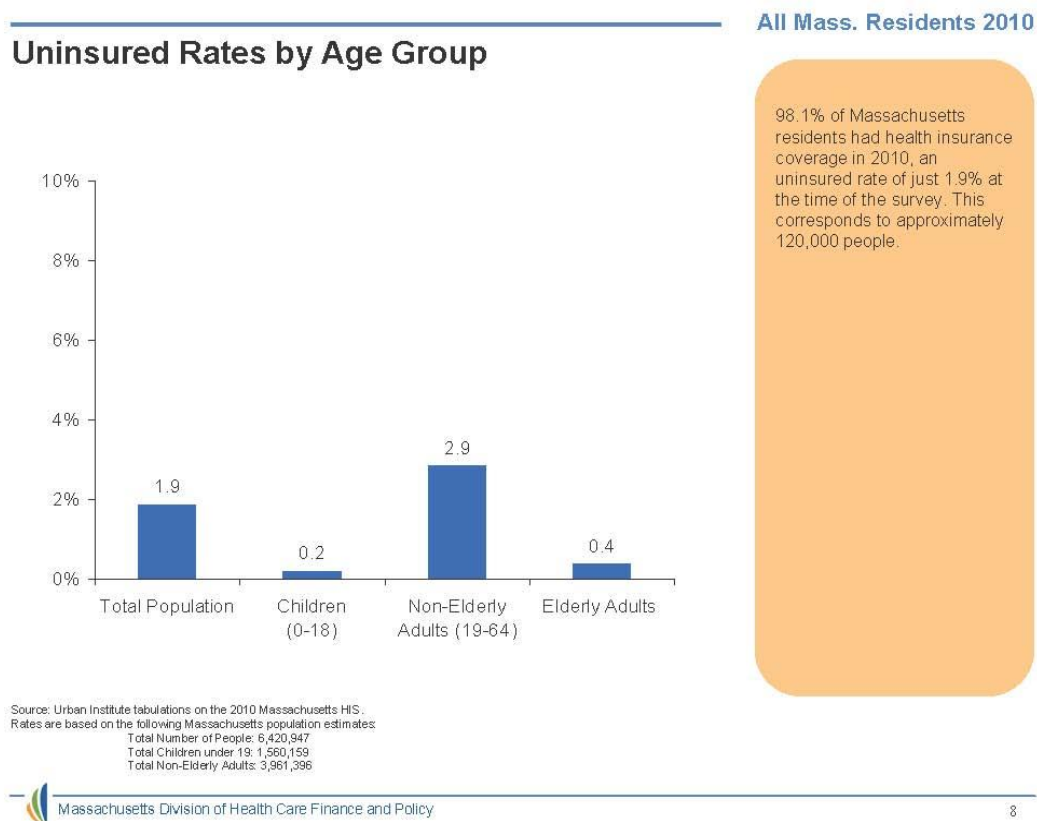
42,000. Approximately 4,500 of those members are small business workers and their dependents.

There are approximately 192,000 members in the Commonwealth Care program. About 72,000 pay a monthly premium. This includes members of the former Bridge program.

THE UNINSURED

Estimates of how many uninsured there were in Massachusetts when the landmark legislation was signed into law on April 12, 2006, range from 400,000 to 650,000. For tax year 2010, 92% of tax filers were insured for the full year while 96% were insured at some point during the year, according to the Massachusetts Department of Revenue. Only 44,000 were subject to the tax penalty. That figure has declined since the onset of reform when 67,000 were subject to a penalty in 2007, 53,000 in 2008 and 48,000 in 2009.

An estimate by the Division of Health Care Finance and Policy published in December 2010 showed that only 1.9% of Massachusetts residents remain uninsured as of summer of 2010.



ACCESS TO CARE

The Massachusetts Health Care Access Survey conducted by the University of New Hampshire Survey Center for the Blue Cross Blue Shield of Massachusetts Foundation and The Boston Globe in October 2008 reported that 92% of Massachusetts residents say they have a person they think of as their primary health care provider. Only 5% of Massachusetts residents said there was a time in the past year that they needed medical care, tests or treatments which they did not get. Only 1% of Massachusetts residents said they were unable to get needed counseling or mental health services.

COMMONWEALTH CARE PROGRAM COST

The Commonwealth Care program is funded by both the state and federal governments.

Spending was initially higher than projected because more members enrolled than had been anticipated. This suggests that the number of uninsured at the outset was closer to the federal estimate of more than 600,000 rather than the state's original estimate of 400,000.

Enrollment leveled off during FY 2009 as spending came in at \$805 million, which was \$69 million less than budgeted. When the legislative conferees who crafted the healthcare reform legislation in 2006 looked at future spending, they estimated it would cost \$725 million in FY09. Again, the difference is due to the number of eligible enrollees in Commonwealth Care.

Since the inception of the program in 2006, the average annual rate of increase in the capitation rate per covered person has been held to less than 2%. Governor Deval Patrick has proposed spending \$974 million for this program in FY 2013.

HEALTH SAFETY NET

Formerly known as the Uncompensated Care Pool, the Health Safety Net Fund provides medical services for residents whose income is below 400% of fpl and do not qualify for MassHealth and Commonwealth Care. Spending has declined significantly since the implementation of reform. It has gone from \$652 million in FY06 to \$414 million in FY09. These savings are being used to support several aspects of the Massachusetts healthcare reform effort, including Commonwealth Care.

Since health insurance provides a broader range of care, including visits to private doctors and specialists, than the episodic visits paid through the pool, reductions in free care spending will not cover the total cost of subsidies.

PUBLIC SUPPORT

Support for the initiative to insure nearly all Massachusetts adults has grown since implementation in 2006, according to surveys done by the Harvard School of Public Health and the Blue Cross Blue Shield Foundation of Massachusetts. In September 2006 support among likely voters was measured at 61%. Six years later, support remains strong at 63%. In another survey, support is estimated as high as 75%.

There is also broad support among the business community. A November 2007 survey commissioned by the Blue Cross Blue Shield of Massachusetts Foundation and the Robert Wood Johnson Foundation showed that 77% of employers in the state agreed that employers bear some responsibility for providing health benefits to their workers.

HEALTH REFORM IN MASSACHUSETTS

EXPANDING ACCESS TO HEALTH INSURANCE COVERAGE

ASSESSING THE RESULTS

MAY 2012



May 2012

Health Reform in Massachusetts, Expanding Access to Health Insurance Coverage: Assessing the Results pulls together in one publication the findings of surveys and other efforts to monitor the impact of the 2006 Massachusetts health reform law.

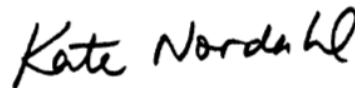
The charts in this report track the impact of Massachusetts health reform efforts on coverage and access to care, the response to the individual mandate, employer participation in providing coverage to employees, and public opinion. Data come from surveys and analyses by state government agencies including the Massachusetts Division of Health Care Finance and Policy, the Massachusetts Department of Revenue, and the Massachusetts Health Insurance Connector Authority. In addition, highlights from health reform tracking surveys conducted annually by the Urban Institute are included as well (the Massachusetts Health Insurance Survey and the Massachusetts Health Reform Survey).

This report has been designed to support use of the charts in slide presentations and we encourage readers to do so. We plan to update this publication regularly with the latest results from ongoing monitoring efforts as they become available.

Sincerely,



Sarah Iselin, President
Blue Cross Blue Shield of Massachusetts Foundation



Kate Nordahl, Director
Massachusetts Medicaid Policy Institute

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EXECUTIVE SUMMARY

- 439,000 more Massachusetts residents have health insurance coverage than did before reform.
- Massachusetts has the highest rate of insurance in the country with 98.1 percent of residents insured.
- There has been no evidence of subsidized coverage “crowding out” employer-sponsored insurance, and employer offer rates have grown from 70 percent to 77 percent since implementation of reform.
- Public support for Massachusetts health reform has remained strong with two out of three adults supporting reform.
- Most employers believe health reform has been good for Massachusetts and 88 percent of Massachusetts physicians believe reform improved, or did not affect, care or quality of care.
- The cost of health care and the annual rate of increase in health care spending remains a challenge. With no intervention, per capita health care spending in Massachusetts is projected to nearly double by 2020.

KEY COMPONENTS OF MASSACHUSETTS HEALTH REFORM UNDER CHAPTER 58

INDIVIDUAL RESPONSIBILITY

- Applies to all adults (ages >17 years) if affordable coverage is available
- Coverage must meet “minimum creditable coverage” standards
- Mandate penalties may not exceed one-half of least expensive monthly premium available through the Health Connector and do not apply to individuals with incomes <150% FPL or those with a religious exemption

EMPLOYER RESPONSIBILITY

- Employers with ≥ 11 full-time equivalent (FTE) employees must demonstrate a “fair and reasonable” contribution towards employee coverage or pay a penalty of up to \$295 per FTE
- Employers with ≥ 11 FTE employees must offer a Section 125 plan or pay a “free rider” surcharge if employees use significant Health Safety Net resources

GOVERNMENT SUBSIDIES FOR LOW-INCOME RESIDENTS

- Expansion of Medicaid (MassHealth) for children up to 300% FPL
- Creation of subsidized insurance (Commonwealth Care) for adults up to 300% FPL offered through the Health Connector

EXPANDED INSURANCE OPTIONS FOR INDIVIDUAL DIRECT PURCHASE

- Merged small and non-group insurance markets to pool insurance risk and allow for broader array of products
 - Premiums based on broader risk pool of each insurer’s combined small group and individual purchase members
- Standardization of direct purchase products (Commonwealth Choice)
 - Premiums based on merged small and individual market within ratings bands (age, geography, industry)
 - Three standard benefit levels: Bronze, Silver, and Gold
 - Available for purchase via the Health Connector or directly from health plans
- Creation of new insurance products with limited benefits for young adults (ages 18 to 26)

NOTE: FPL is the Federal Poverty Level.

PRE-REFORM FACTORS FACILITATED MASSACHUSETTS HEALTH REFORM IMPLEMENTATION

- Low rate of uninsurance
 - Primarily due to high rates of employer offer of health insurance, prior Medicaid eligibility expansions, and deep Medicaid penetration among those eligible
- Strong existing financing infrastructure
 - Expansive Medicaid (“MassHealth”) 1115 waiver program upon which to implement eligibility determination and managed care plan contracting to support subsidized Commonwealth Care Plan
 - Existing 1115 waiver funding able to be shifted from institution-based support to subsidize coverage for previously uninsured
- Many key insurance market reforms already in place
 - Guaranteed issue in non-group market
 - Modified community rating in small group market
- Well-developed network of outreach programs and training
 - State and the Blue Cross Blue Shield of Massachusetts Foundation-funded mini-grants
- Ch. 58 intentionally focused on access to coverage; cost containment left for future reforms
 - Most significant cost containment element of Ch. 58 legislation was creation of a Health Care Quality and Cost Council to develop statewide goals for cost and quality and make cost and quality information transparent to consumers

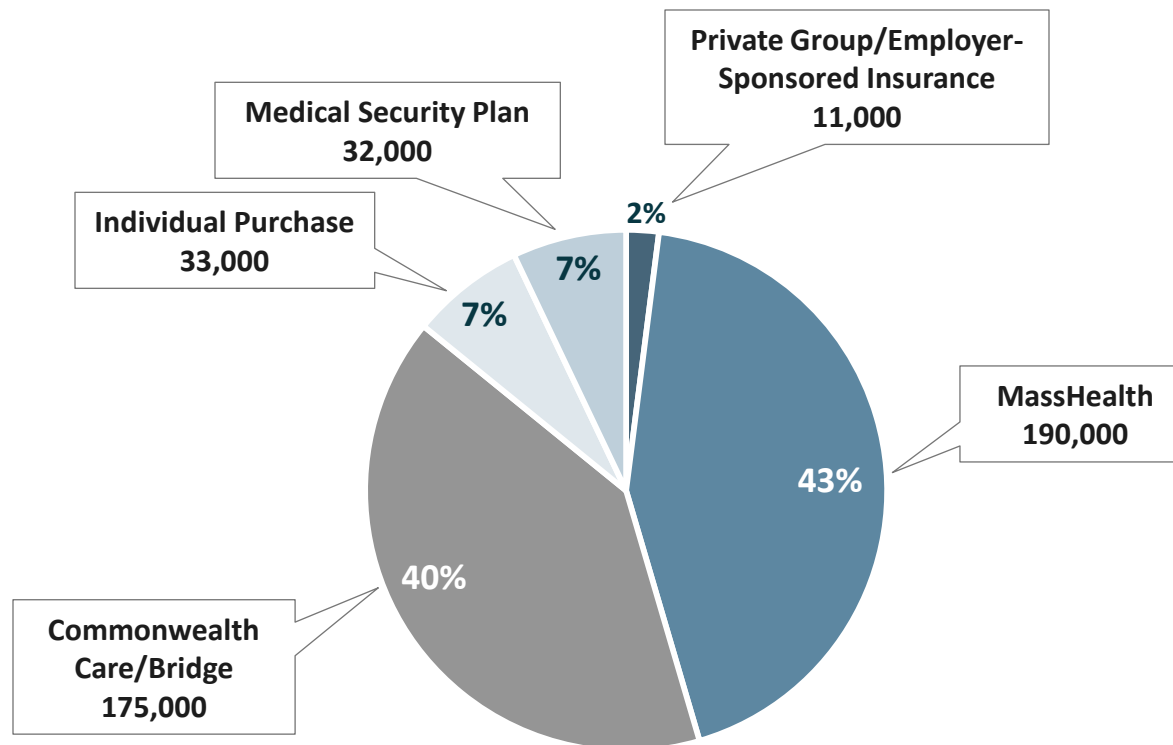
WHAT HAS MASSACHUSETTS ACHIEVED RELATIVE TO ITS HEALTH COVERAGE GOALS?

- 439,000 more Massachusetts residents have gained health insurance coverage than had it before reform.
- Massachusetts now has the highest rate of health insurance coverage in the nation.
 - 98.1 percent of Massachusetts residents are insured.
 - 99.8 percent of Massachusetts children are insured.
- Since reform, insurance coverage has increased most significantly for non-elderly adults, particularly for low-income adults.
- The remaining uninsured are more likely to be young, single, male, non-elderly low-income adults, and/or of Hispanic ethnicity.

SOURCE: Massachusetts Division of Health Care Finance and Policy, *Key Indicators*, June 2011 and *Massachusetts Health Insurance Survey*, 2010.

439,000 MORE RESIDENTS HAVE COVERAGE THAN HAD IT BEFORE HEALTH REFORM

INCREASE IN NUMBER OF INSURED MASSACHUSETTS RESIDENTS BETWEEN 2006 AND 2011, BY COVERAGE TYPE



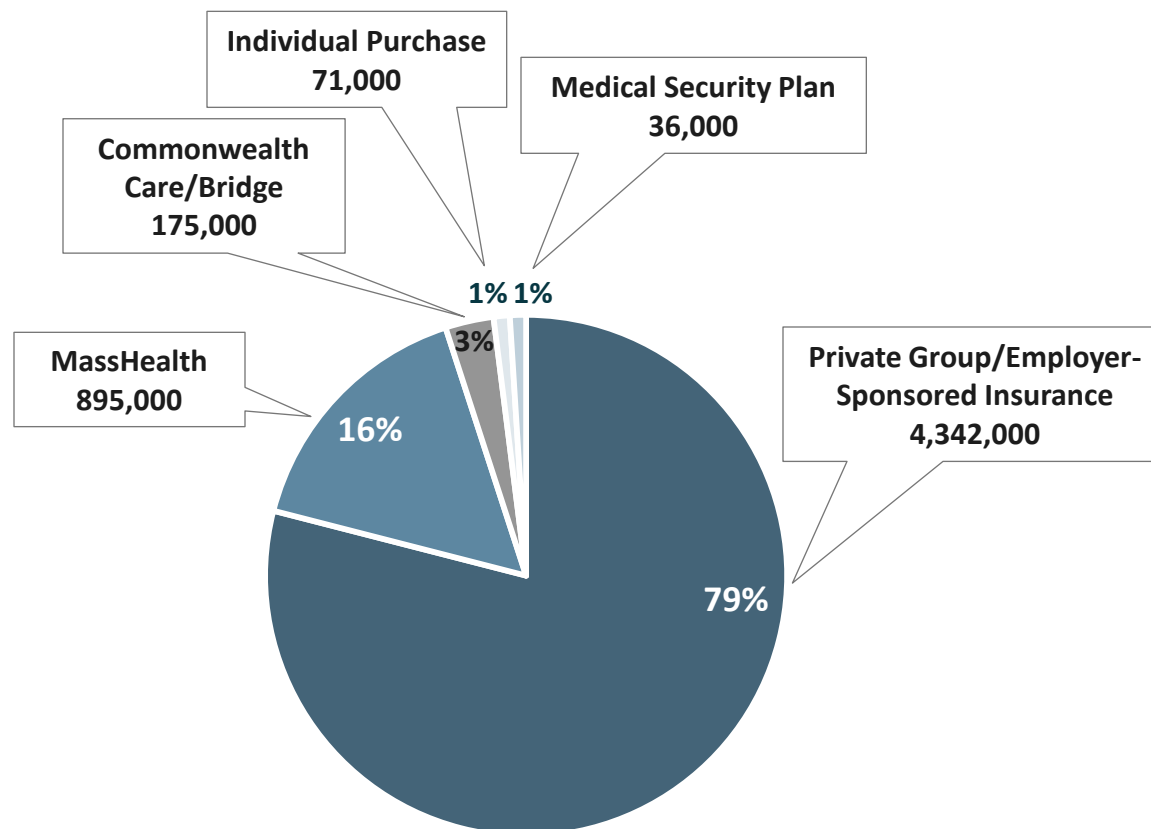
NOTE: Numbers may not add due to rounding.

SOURCES: Massachusetts Division of Health Care Finance and Policy, *Key Indicators*, May 2011 and June 2011.

As of March 2011, most of the increased coverage since reform has been through public programs. Increases in employer-sponsored initially were much larger but have since declined as a result of the recession.

EMPLOYER-SPONSORED INSURANCE REMAINS THE DOMINANT SOURCE OF COVERAGE

INSURED POPULATION 2011, BY COVERAGE TYPE

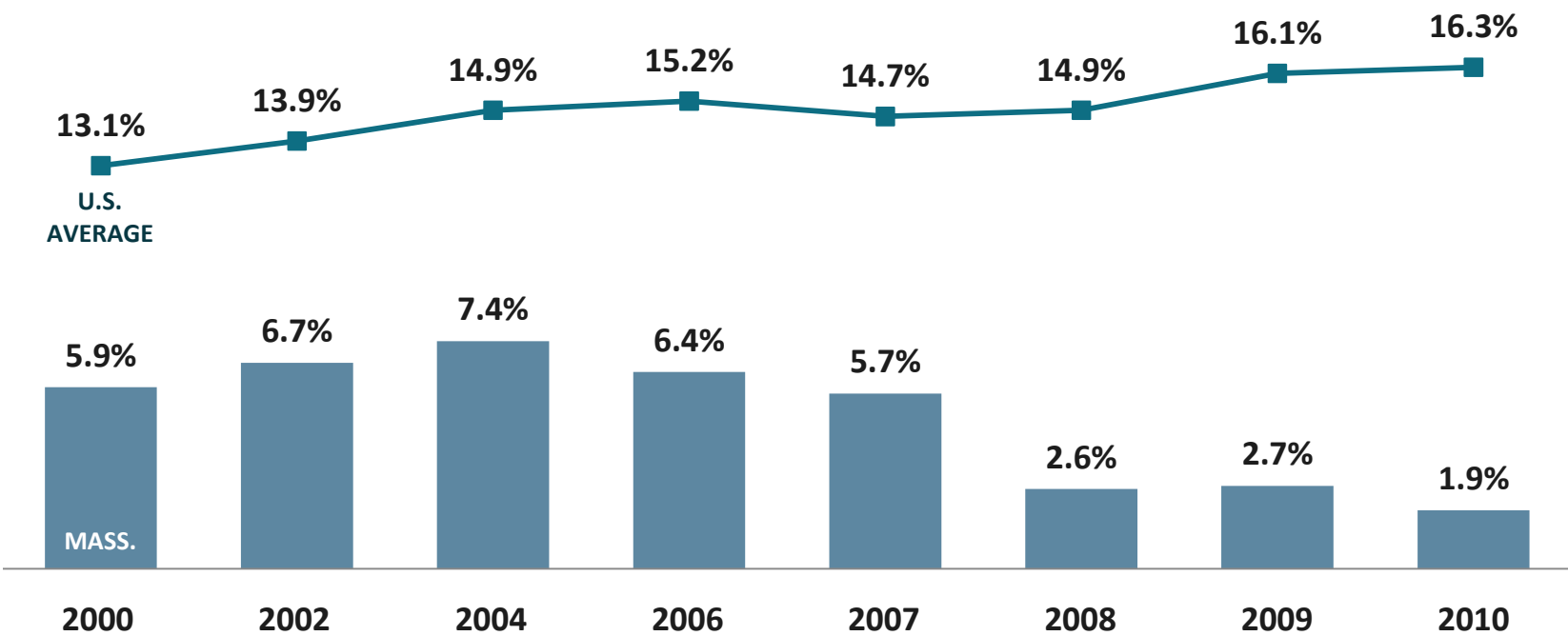


Private group and employer-sponsored coverage continues to be the most common type of coverage (79 percent) for Massachusetts residents under health reform.

SOURCE: Massachusetts Division of Health Care Finance and Policy, *Key Indicators*, June 2011.

MASSACHUSETTS NOW HAS THE LOWEST RATE OF UNINSURANCE IN THE COUNTRY

PERCENT UNINSURED, ALL AGES

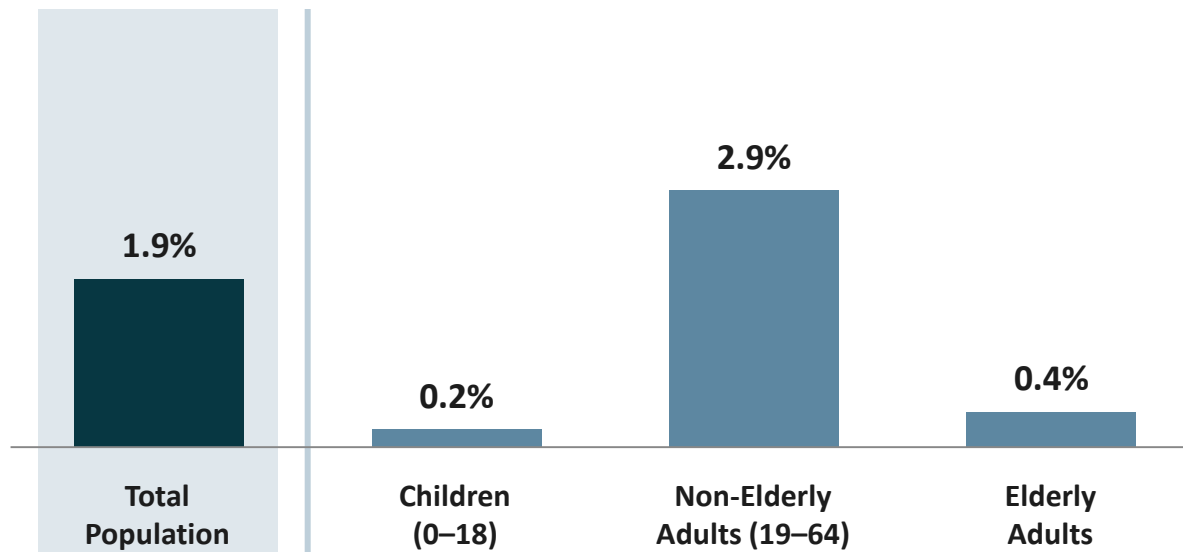


NOTE: The Massachusetts specific results are from a state-funded survey — the Massachusetts Health Insurance Survey (MHIS). Using a different methodology, researchers at the Urban Institute estimated that 507,000 Massachusetts residents were uninsured in 2005, or approximately 8.1 percent of the total population. Starting in 2008, the MHIS sampling methodology and survey questionnaire were enhanced. These changes may affect comparability of the 2008 and later results to prior years. The national comparison presented here utilizes a different survey methodology, the Current Population Survey, which is known to undercount Medicaid enrollment in some states.

SOURCES: Urban Institute, *Health Insurance Coverage and the Uninsured in Massachusetts: An Update Based on 2005 Current Population Survey Data In Massachusetts*, 2007; Massachusetts Division of Health Care Finance and Policy, *Massachusetts Health Insurance Survey* 2000, 2002, 2004, 2006, 2007, 2008, 2009, 2010; U.S. Census Bureau, Current Population Survey 2010.

NON-ELDERLY ADULTS ARE MORE LIKELY TO BE UNINSURED THAN CHILDREN OR ELDERLY ADULTS

PERCENT UNINSURED, 2010, BY AGE



Non-elderly adults represent 95 percent of the remaining uninsured in Massachusetts, but also experienced the greatest age-related gains in coverage under health reform.

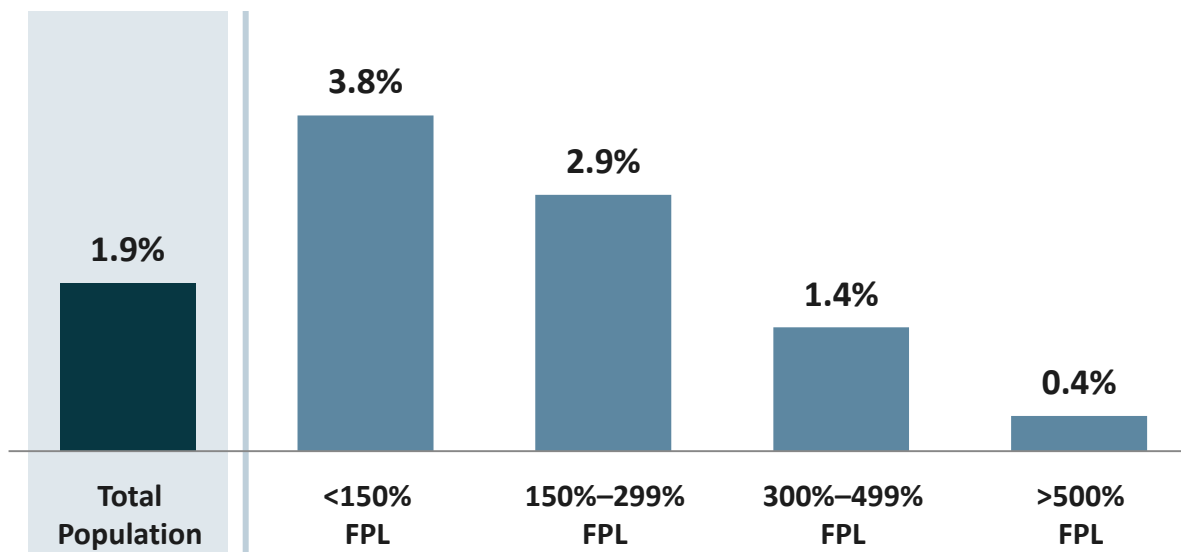
REMAINING UNINSURED, BY AGE

Total Uninsured	Children (0-18)	Non-Elderly Adults (19-64)	Elderly Adults
120,000	2.7%	94.5%	2.8%

source: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Health Insurance Survey*, 2010.

LOW-INCOME RESIDENTS ARE MORE LIKELY TO BE UNINSURED THAN HIGHER-INCOME RESIDENTS

PERCENT UNINSURED, 2010, BY INCOME



REMAINING UNINSURED, BY INCOME

Total Uninsured	<150% FPL	150%–299% FPL	300%–499% FPL	>500% FPL
120,000	42.9%	29.2%	20.2%	7.7%

NOTE: FPL is the Federal Poverty Level.

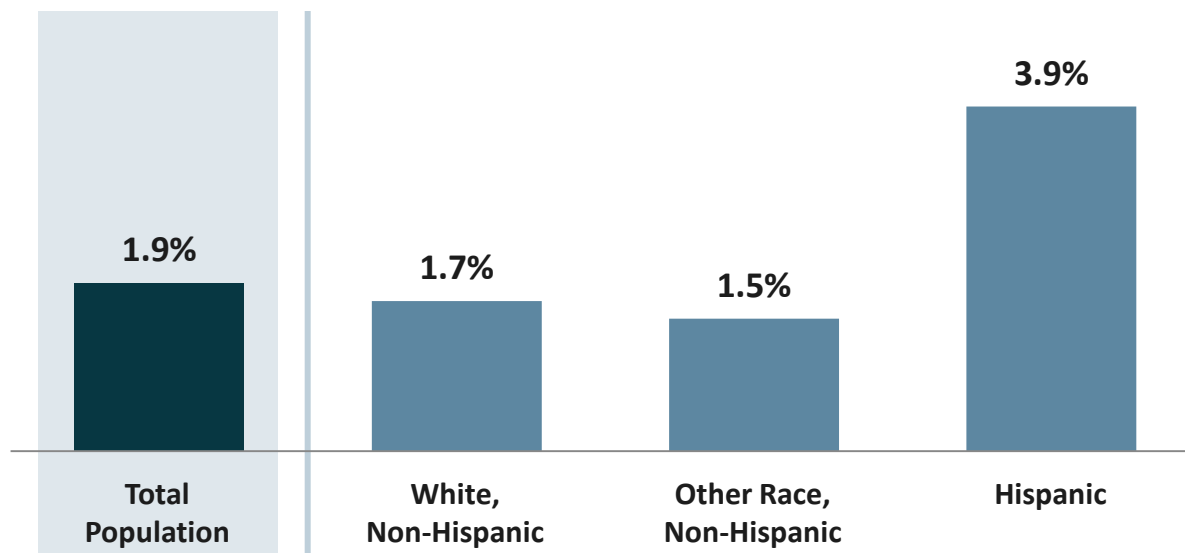
SOURCE: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Health Insurance Survey*, 2010.

Low-income residents (family household income under 300 % of the FPL) comprise 72 percent of the remaining uninsured in Massachusetts, but only 40 percent of the insured population (data not shown).

While low-income residents are more likely to be uninsured, they have demonstrated the most dramatic income-related gains in coverage under health reform.

HISPANIC RESIDENTS ARE MORE LIKELY TO BE UNINSURED

PERCENT UNINSURED, 2010, BY RACE/ETHNICITY



REMAINING UNINSURED, BY RACE/ETHNICITY

Total Uninsured	White, Non-Hispanic	Other Race, Non-Hispanic	Hispanic
120,000	73.7%	10.8%	15.5%

While there are few disparities in coverage between white and other residents of non-Hispanic ethnicity, residents of Hispanic ethnicity are twice as likely to be uninsured and comprise nearly 16 percent of the remaining uninsured.

source: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Health Insurance Survey*, 2010.

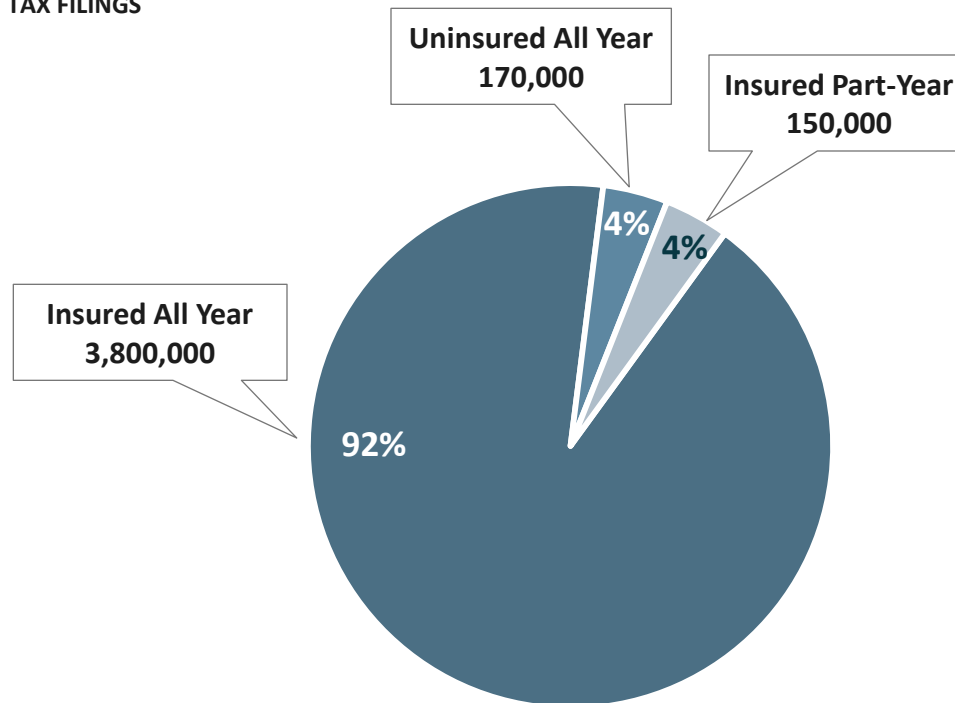
WHAT HAS BEEN THE EXPERIENCE WITH THE INDIVIDUAL MANDATE IN MASSACHUSETTS?

- 99 percent of the 4.2 million tax filers required to file information on their health insurance status complied with the filing requirement.
- Most (92 percent) tax filers comply with the individual mandate by having insurance year-round.
- Most uninsured tax filers were exempt from the individual mandate due to their low income (<150 percent of the FPL), inability to afford coverage, or religious exemption.
- Fewer than 1.2 percent of tax filers who were subject to the mandate were assessed a penalty on their 2009 return.

SOURCE: Massachusetts Health Connector and Department of Revenue; *Data on the Individual Mandate Tax Year 2009*, November 2011.

MOST MASSACHUSETTS TAX FILERS COMPLY WITH THE INDIVIDUAL MANDATE BY HAVING INSURANCE YEAR-ROUND

2009 TAX FILINGS

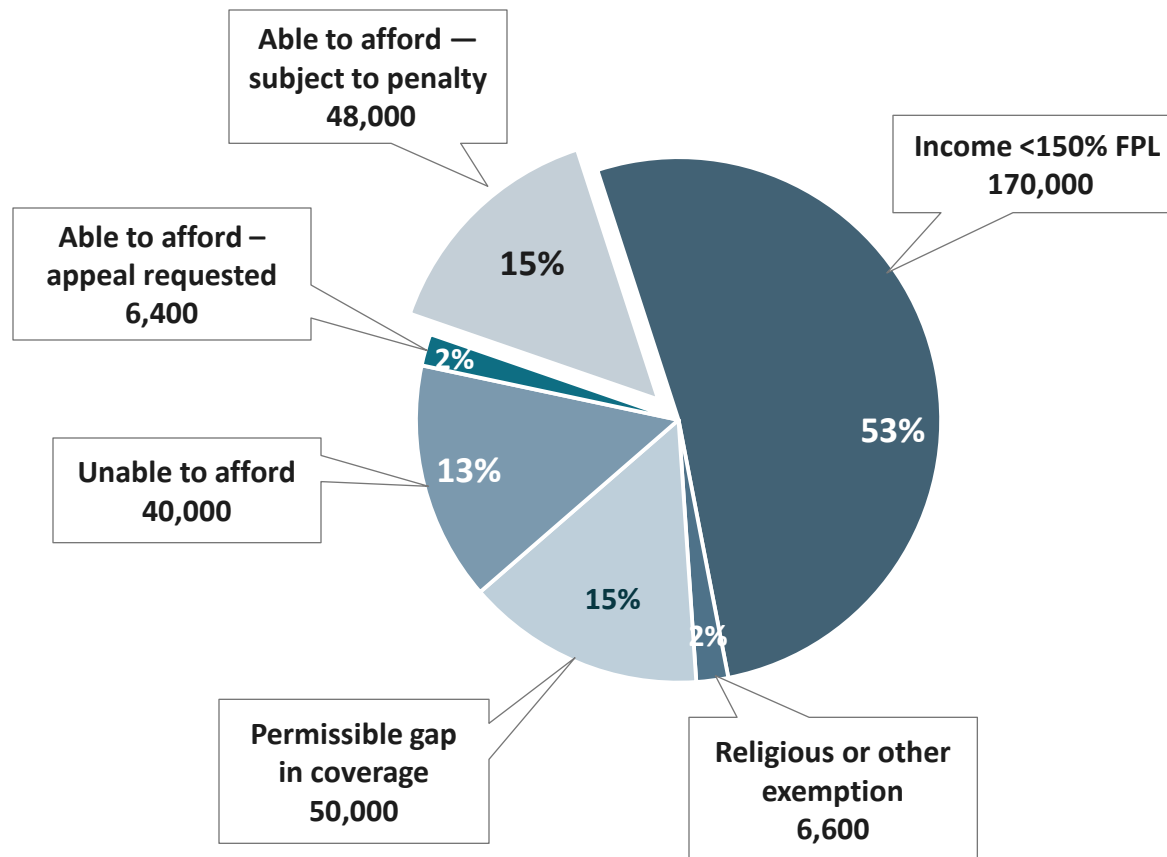


During calendar year 2009, 4 percent of tax filers were uninsured for part of the year and 4 percent were uninsured for the entire year.

SOURCE: Massachusetts Health Connector and Department of Revenue; *Data on the Individual Mandate Tax Year 2009*, November 2011.

VERY FEW MASSACHUSETTS TAX FILERS WERE SUBJECT TO A PENALTY

DISTRIBUTION OF FULL-YEAR AND PART-YEAR UNINSURED, 2009 TAX FILINGS



Most (81 percent) tax filers who were uninsured for some or all of the year were exempt due to low income, inability to afford coverage, or they experienced a permissible gap in coverage during the year.

SOURCE: Massachusetts Health Connector and Department of Revenue; *Data on the Individual Mandate Tax Year 2009*, November 2011.

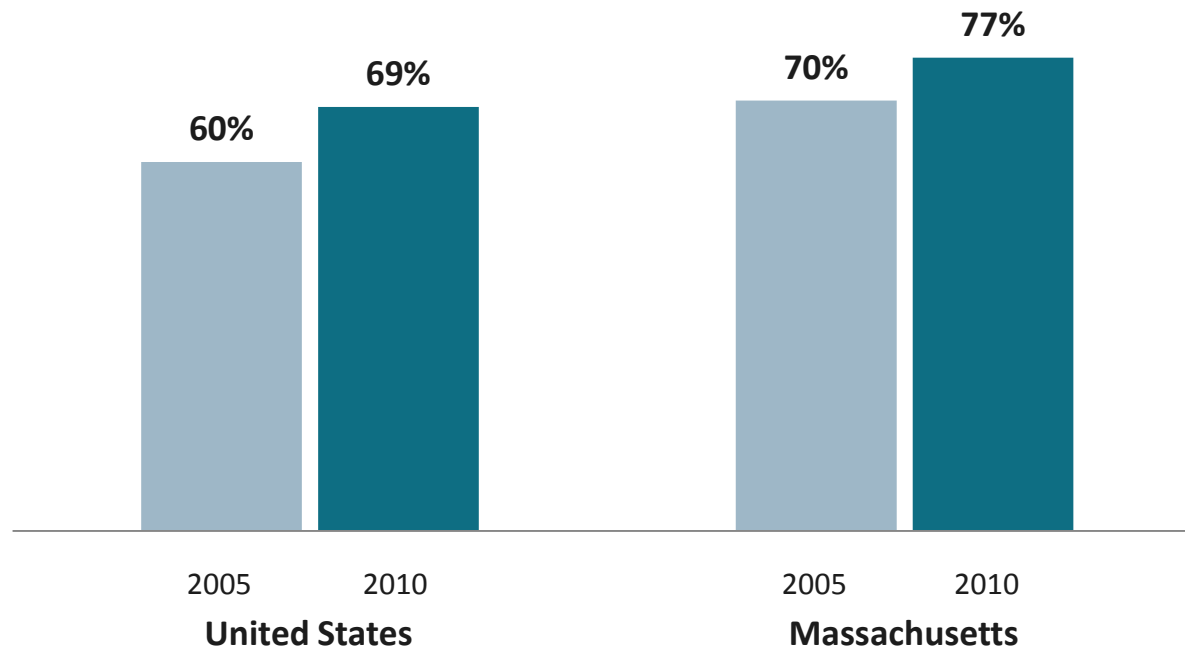
WHAT HAS BEEN THE ROLE OF EMPLOYERS UNDER MASSACHUSETTS HEALTH REFORM?

- There has been no evidence of subsidized coverage “crowding out” employer-sponsored insurance (ESI).
 - Employer offers of coverage have increased.
 - Take-up of employer-offered coverage has remained high.
 - The number and percentage of people with ESI coverage has increased.
- Overall, employers have decreased their contributions towards the cost of employee health insurance as premiums have grown.
- Most employers have met the state’s “Fair Share” requirements.
- More employers are taking advantage of federal Section 125 tax provisions which allow employees to purchase health insurance on a pre-tax basis.

SOURCES: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Employer Survey, 2010* and *Fair Share Contribution: Filing Year 2010 Results and Analyses*.

EMPLOYER OFFER RATES HAVE GROWN UNDER MASSACHUSETTS REFORM

PERCENT OFFERING INSURANCE COVERAGE AT TIME OF SURVEY

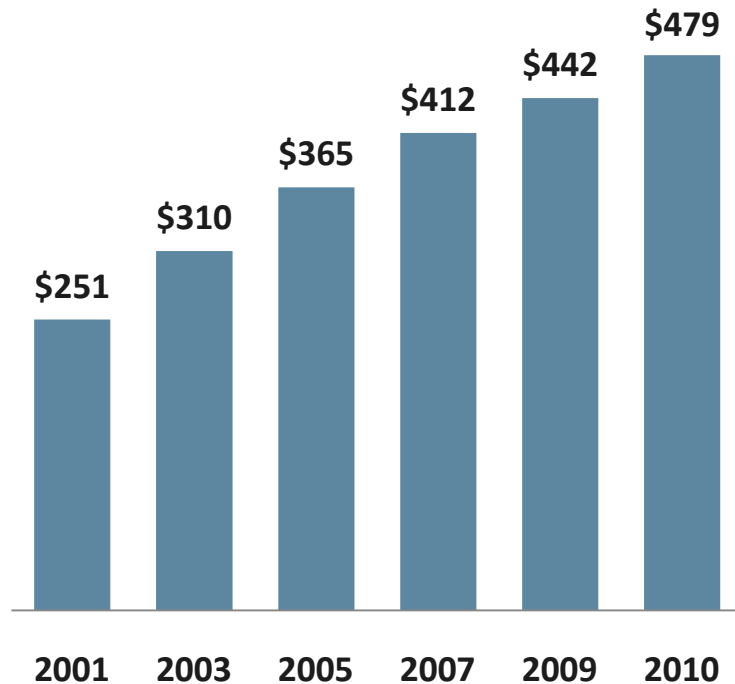


More Massachusetts employers are offering health insurance as compared to the national offer rate.

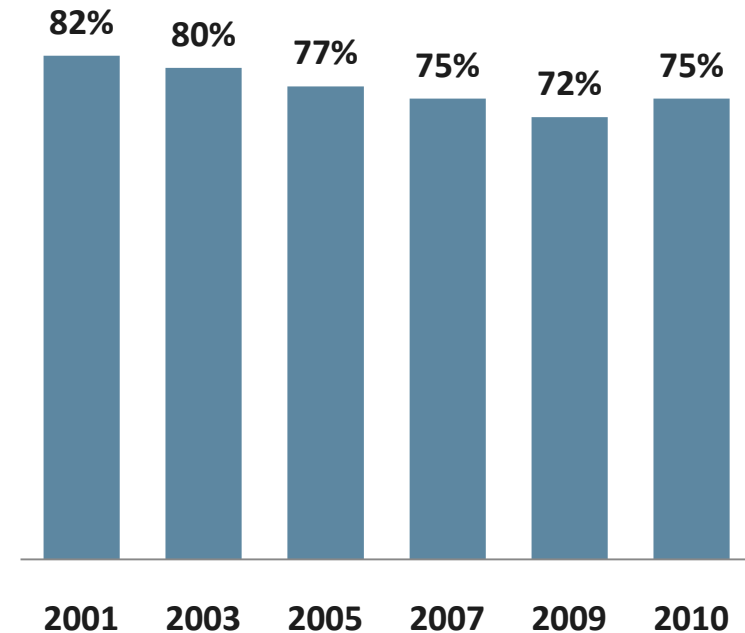
SOURCES: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Employer Survey*, 2010;
Kaiser/HRET, *Survey of Employer Sponsored Benefits*.

AS PREMIUMS HAVE INCREASED, EMPLOYERS' SHARE OF PREMIUMS HAS FALLEN OVERALL

MEDIAN PREMIUM FOR INDIVIDUAL COVERAGE IN MA



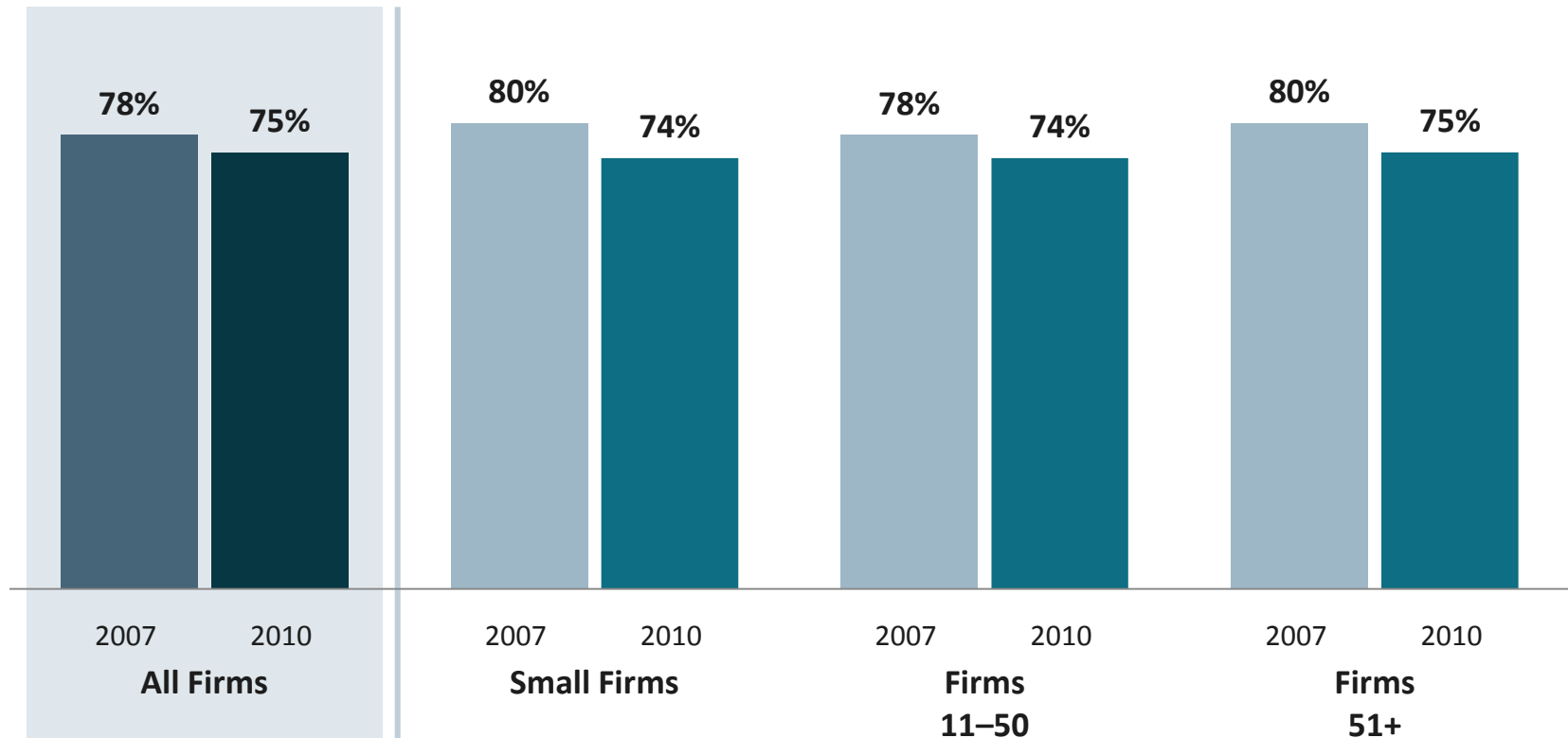
MA EMPLOYER CONTRIBUTION TOWARD INDIVIDUAL COVERAGE



source: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Employer Survey*, 2010.

EMPLOYEE TAKE-UP OF EMPLOYER-SPONSORED INSURANCE HAS REMAINED STRONG OVERALL

PERCENT TAKE-UP OF EMPLOYER OFFER OF INSURANCE

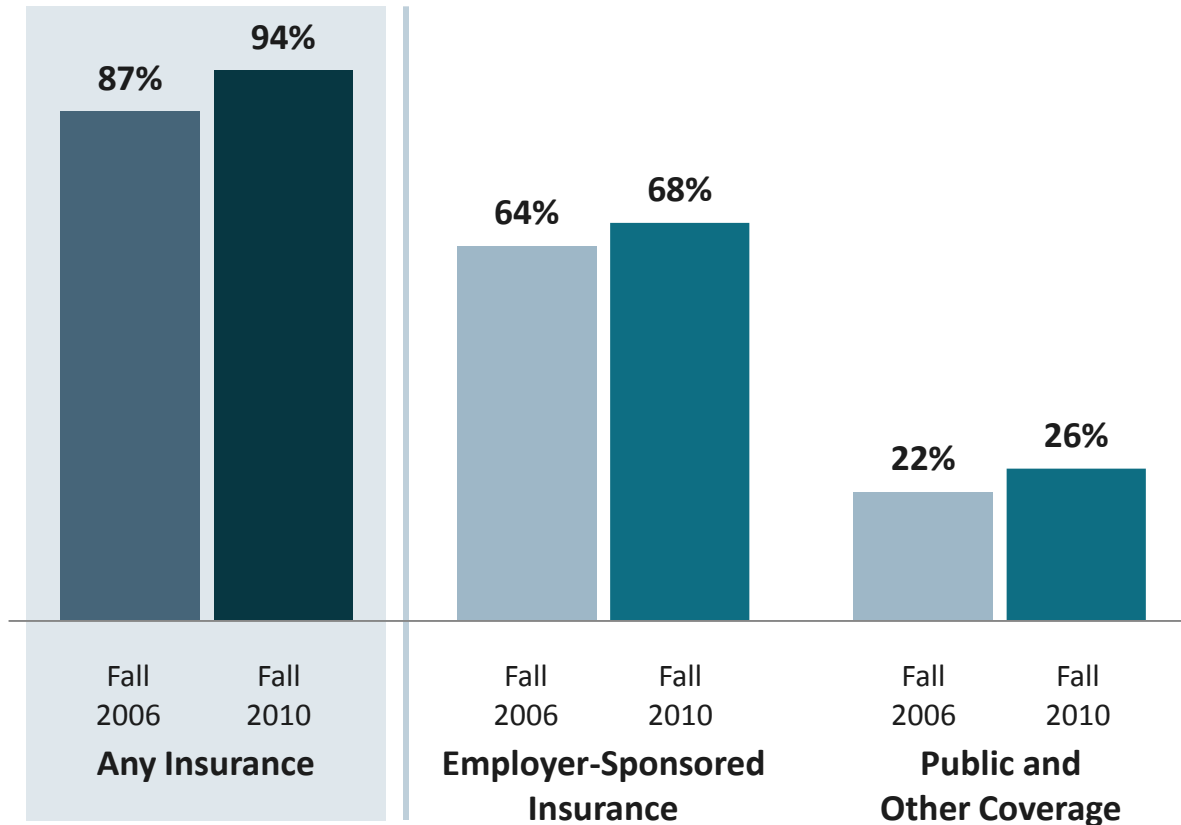


NOTE: In 2007, "small firms" referred to firm size of 2 to 9 employees whereas in 2009, this category referred to firm size of 3 to 10 employees.

SOURCE: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Employer Survey*, 2010.

THERE IS NO EVIDENCE OF PUBLIC COVERAGE “CROWDING OUT” EMPLOYER-SPONSORED INSURANCE AMONG WORKING-AGE ADULTS

SOURCE OF INSURANCE COVERAGE FOR NON-ELDERLY ADULTS IN MASSACHUSETTS

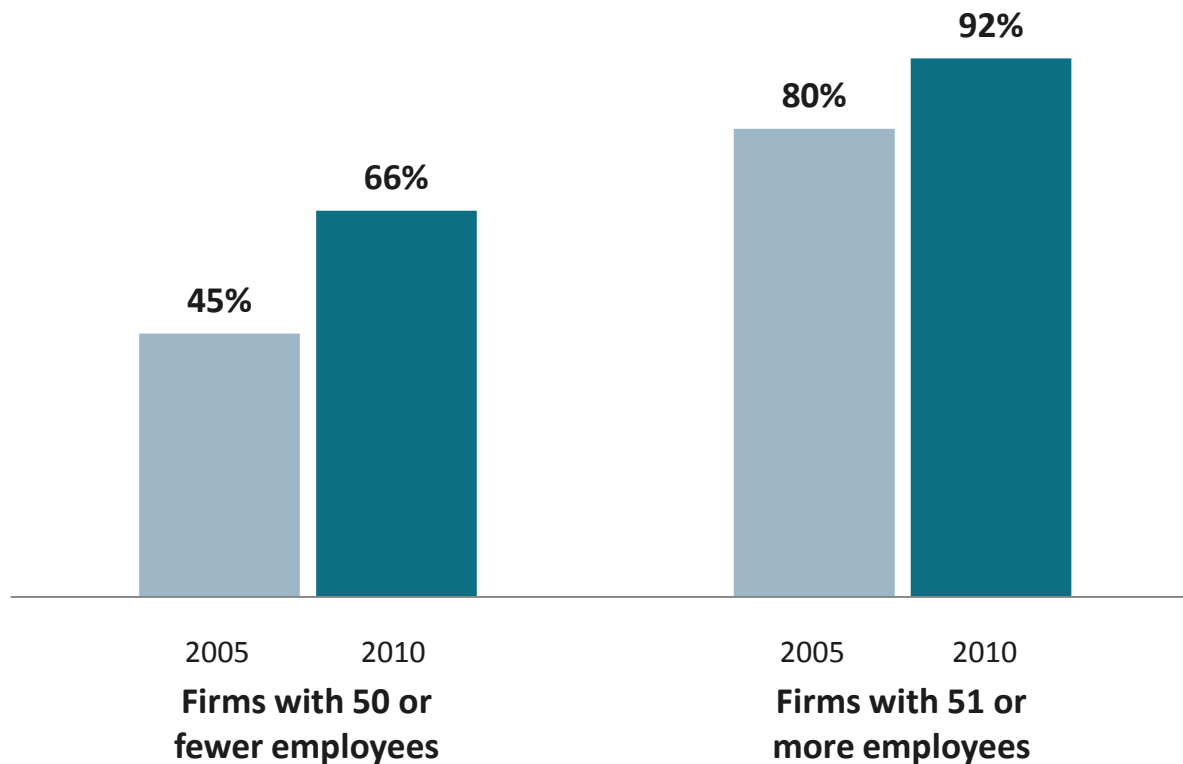


Most Massachusetts residents continue to be covered by employer-sponsored insurance. Since reform, the percent of Massachusetts working age adults with employer-sponsored coverage has grown.

source: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

NEARLY ALL LARGE EMPLOYERS NOW OFFER SECTION 125 PLANS AND MANY MORE SMALL EMPLOYERS OFFER THEM THAN DID PRIOR TO HEALTH REFORM

PERCENT OF EMPLOYERS OFFERING SECTION 125 PLANS



Section 125 plans allow employees to purchase health insurance coverage using use pre-tax income.

Massachusetts health reform requires employers with 11 or more employees to offer a Section 125 plan. Many more small employers now offer them than did prior to health reform.

source: Massachusetts Division of Health Care Finance and Policy, *Massachusetts Employer Survey*, 2010.

MOST MASSACHUSETTS EMPLOYERS HAVE BEEN FOUND TO MEET THE STATE’S DEFINITION OF A “FAIR AND REASONABLE” CONTRIBUTION TOWARD HEALTH INSURANCE COVERAGE

- Approximately 12 percent of all employers in Massachusetts are subject to Fair Share requirements (i.e., have 11 or more FTEs).
- More than 95 percent of filing firms have passed the Fair Share test in each year of health reform implementation.
- In filing year 2010, 1,017 firms were found not to be making a “fair and reasonable” contribution and were liable for \$17.1 million in assessments.

NOTE: “Fair Share” was defined more leniently during FY07 and FY08. Firms with 50 or more full time equivalent employees (FTEs) were able to “pass” the Fair Share test if they either demonstrated 25% of employees take-up their employer’s offer of insurance or they offered to pay 33% of insurance cost. In FY09, the test was changed such that an employer with more than 50 FTEs in Massachusetts needs to satisfy both conditions or, alternatively, have at least 75% of its FTEs enrolled in the employer’s plan. Employers with 50 or fewer Massachusetts employees are still only required to satisfy either condition.

SOURCE: Percentage of firms subject to Fair Share based on data filed with Division of Unemployment Assistance. Data on Fair Share results from Massachusetts Division of Health Care Finance and Policy, *Fair Share Contribution: Filing Year 2010 Results and Analyses* .

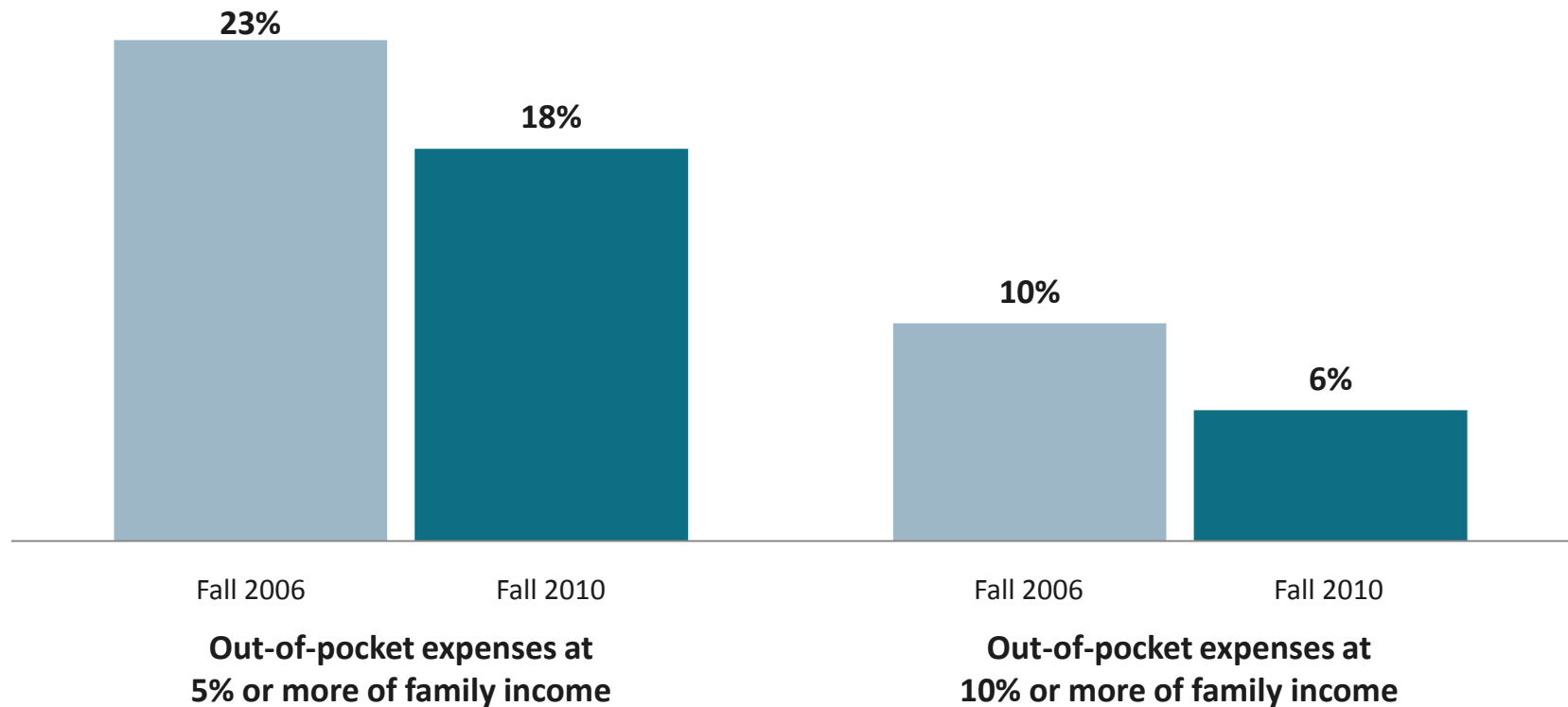
HOW HAS MASSACHUSETTS HEALTH REFORM AFFECTED AFFORDABILITY, ACCESS, AND USE OF HEALTH CARE?

- Low- and moderate-income adults are less likely to report high out-of-pocket health expenses.
- All adults, and lower-income adults in particular, experienced a significant decline in unmet health care needs due to cost.
- Access to care increased for all adults, with significant increases in the use of doctors, preventive care, and dental services, and in the percent of adults with a usual source of care.
- Unmet need for care decreased across middle and low-income, minority race/ethnicity, and chronically ill population groups.
- Racial and ethnic disparities in access to and use of care have decreased significantly.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

FEWER MASSACHUSETTS ADULTS HAVE SIGNIFICANT OUT-OF-POCKET HEALTH EXPENSES

PERCENT OF NON-ELDERLY ADULT POPULATION WITH FAMILY INCOME LESS THAN 500% FPL
WHO SPENT 5 OR 10 PERCENT OF INCOME ON OUT-OF-POCKET HEALTH CARE COSTS

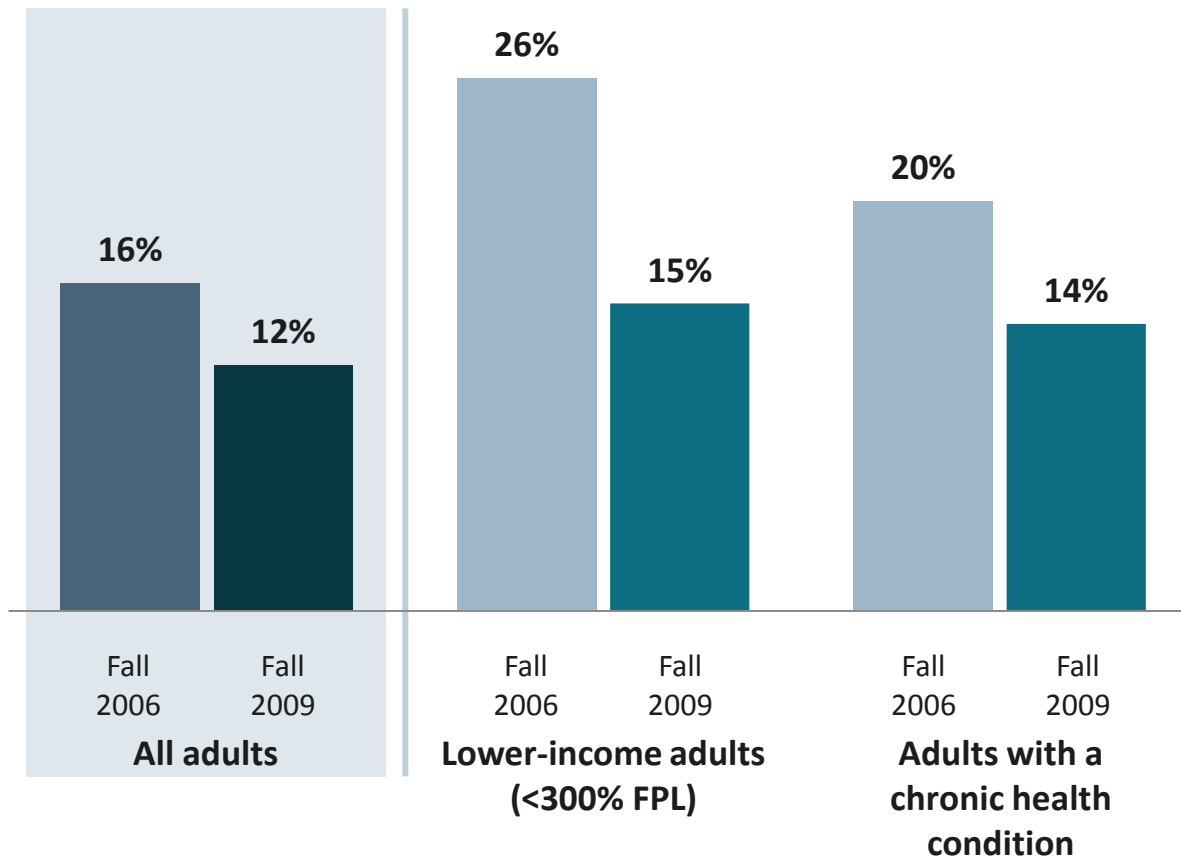


NOTE: "Out-of-pocket" health care costs includes deductibles, co-insurance, co-payments, but excludes the cost of premiums.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

FEWER MASSACHUSETTS ADULTS HAVE UNMET HEALTH CARE NEEDS DUE TO COST

PERCENT OF NON-ELDERLY ADULTS REPORTING UNMET NEED DUE TO COST, SELECTED POPULATIONS

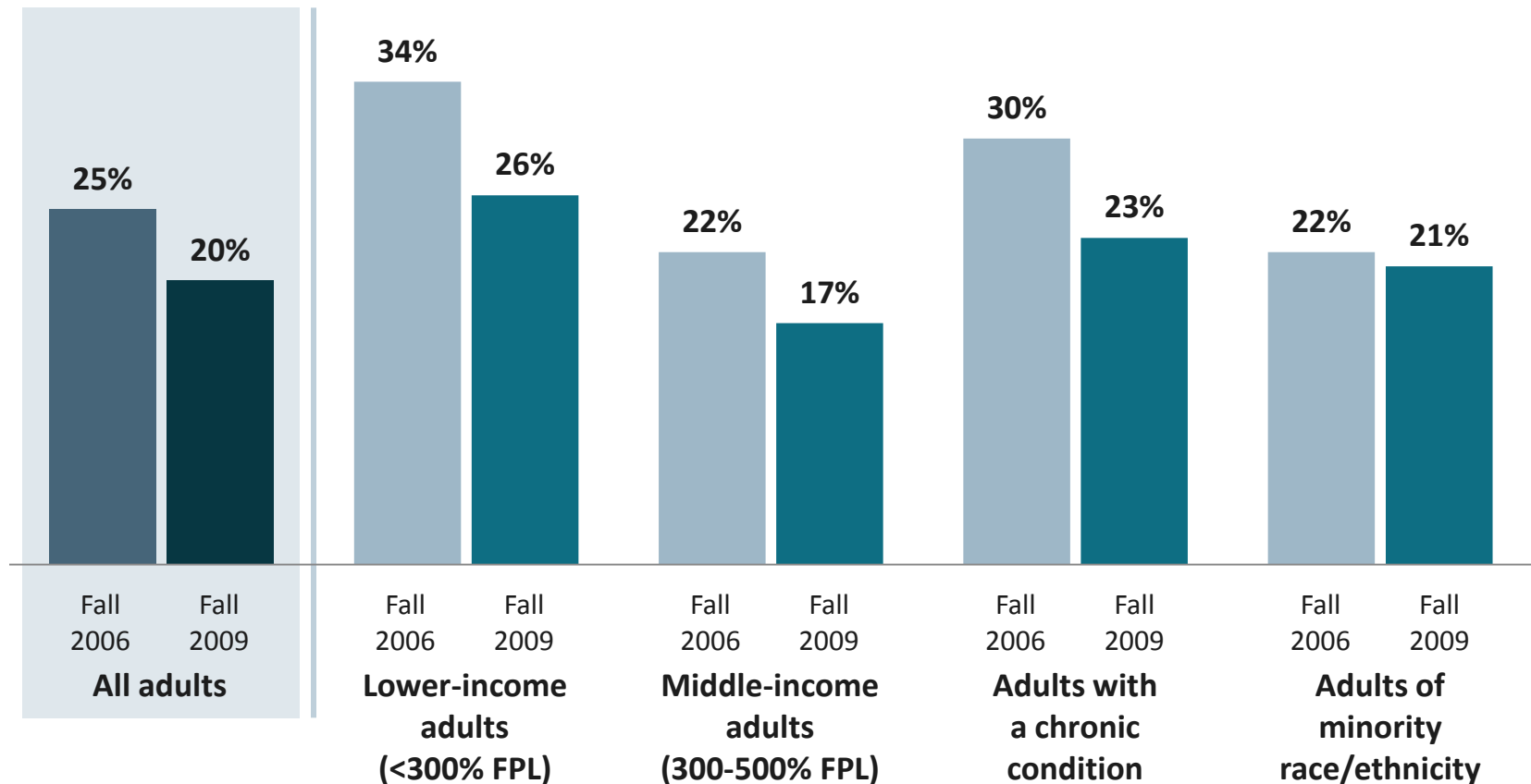


Under health reform, unmet needs due to cost fell between 30 and 40 percent among low-income residents and residents with chronic health conditions.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

UNMET NEED FOR CARE FOR ANY REASON HAS DECREASED SINCE REFORM

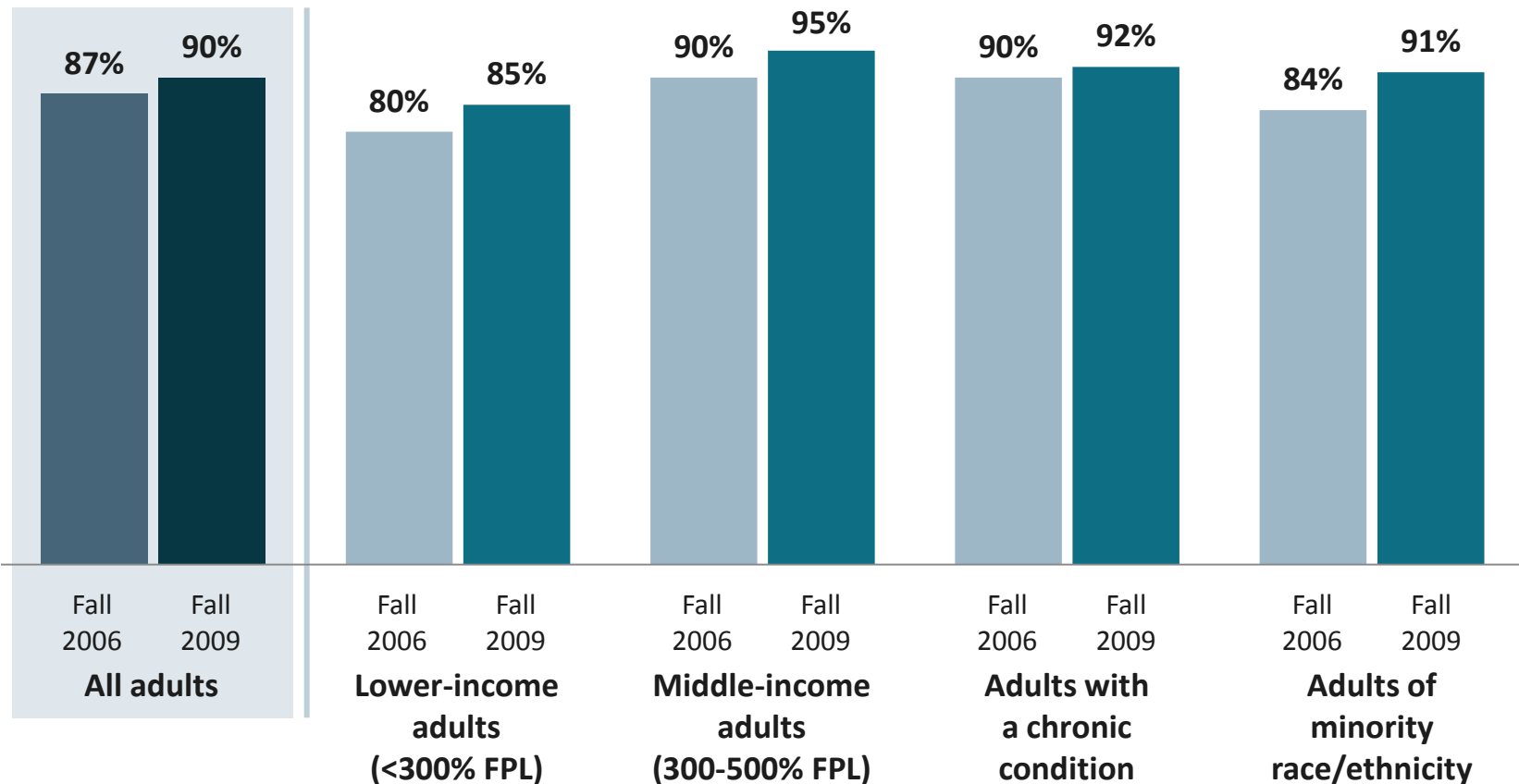
PERCENT OF NON-ELDERLY ADULTS REPORTING AN UNMET NEED FOR CARE FOR ANY REASON, BY SELECTED POPULATIONS



SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

MORE MASSACHUSETTS ADULTS HAVE A USUAL SOURCE OF CARE

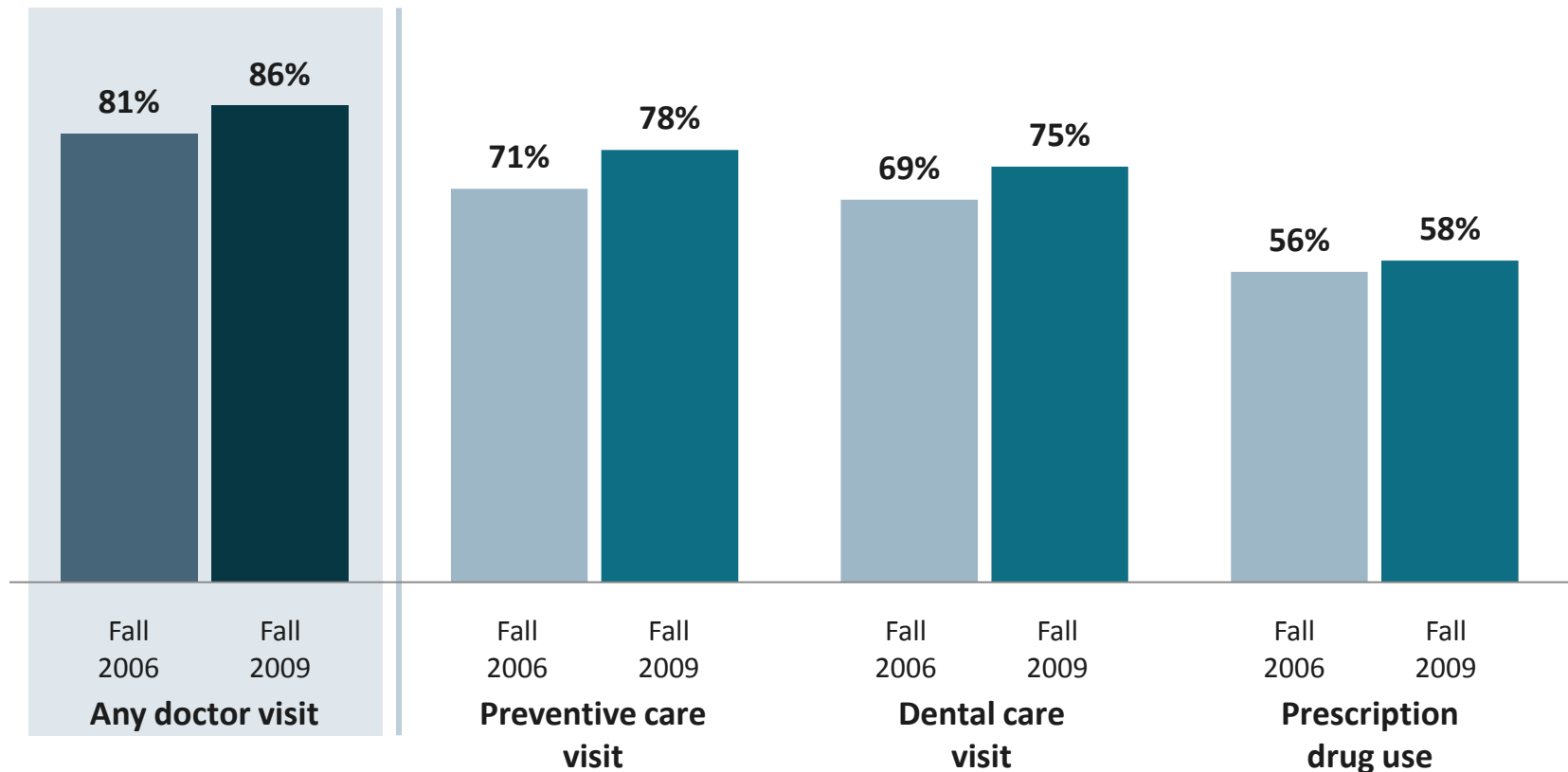
PERCENT OF NON-ELDERLY ADULTS REPORTING A USUAL SOURCE OF CARE, SELECTED POPULATIONS



source: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

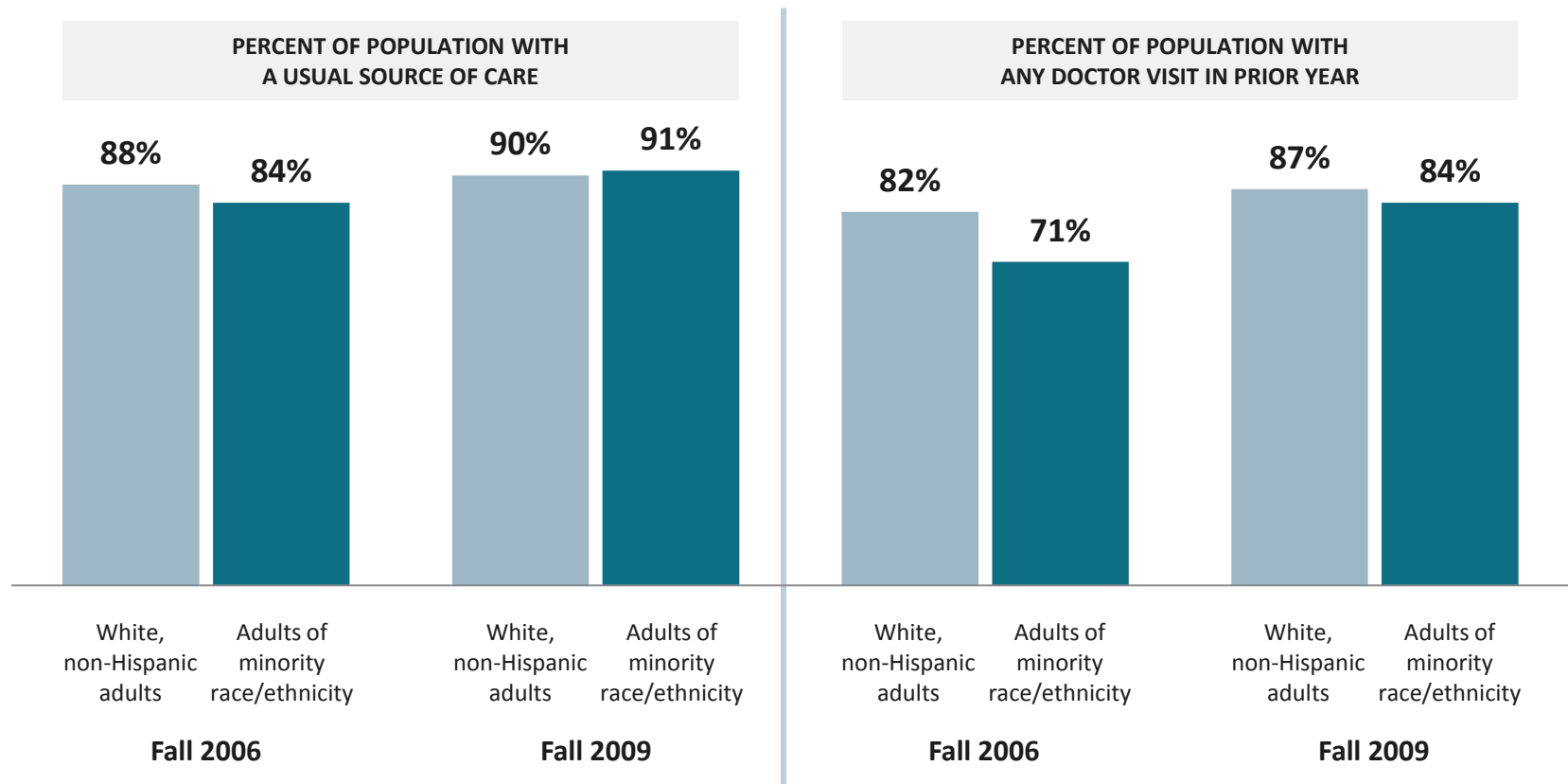
PREVENTIVE CARE AND USE OF OTHER MEDICAL SERVICES HAVE INCREASED AMONG MASSACHUSETTS ADULTS SINCE REFORM

PERCENT OF NON-ELDERLY ADULTS REPORTING USE IN PRIOR YEAR, BY TYPE OF SERVICE



SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

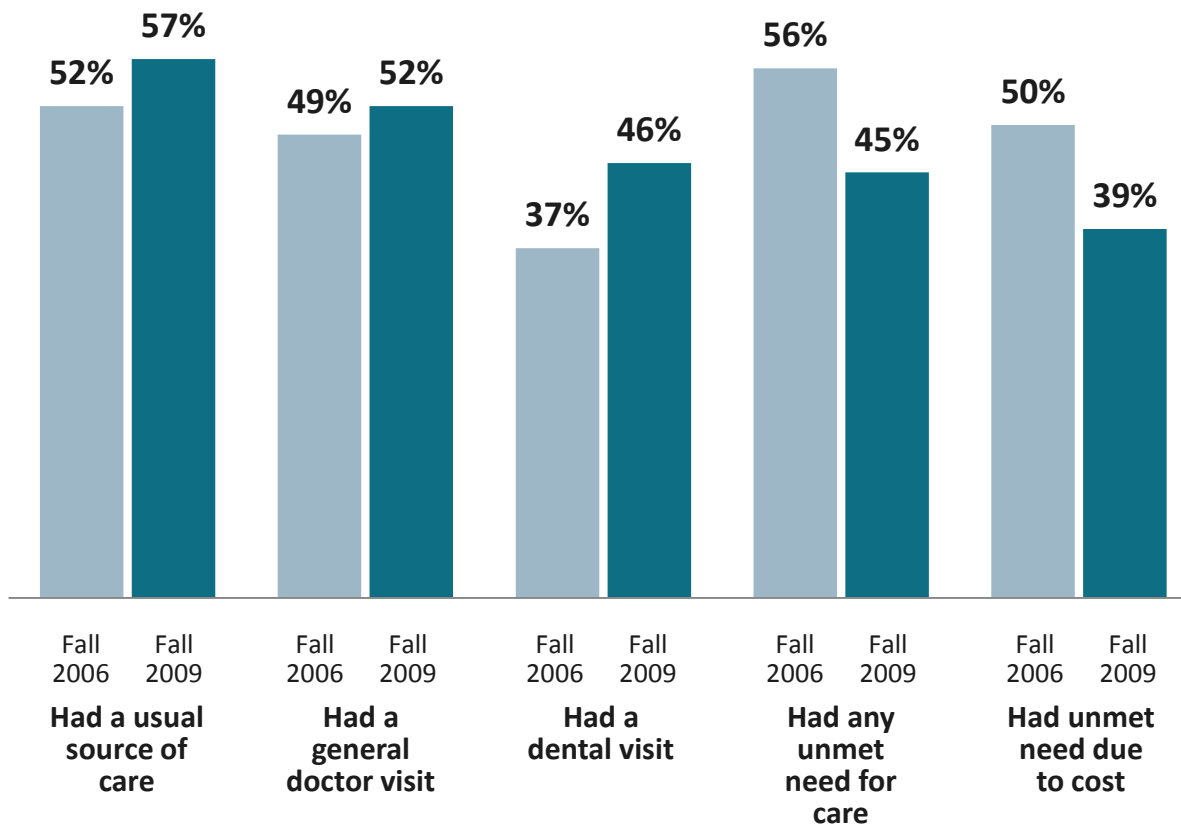
RACIAL/ETHNIC DISPARITIES IN ACCESS TO AND USE OF CARE HAVE LARGELY DISAPPEARED IN MASSACHUSETTS SINCE REFORM



SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

ACCESS AND USE IMPROVED AMONG REMAINING UNINSURED

PERCENT OF NON-ELDERLY ADULTS REPORTING USE IN PRIOR YEAR, BY TYPE OF SERVICE



Even for the remaining uninsured in Massachusetts, access to care has improved and barriers to care have decreased.

source: Urban Institute, *Massachusetts Health Reform Survey*, 2010.

HOW DOES THE PUBLIC FEEL ABOUT MASSACHUSETTS HEALTH REFORM?

- Two out of three adults support Massachusetts health reform.
- Physician support for reform remains high.
- Most employers agree that health reform has been good for Massachusetts.

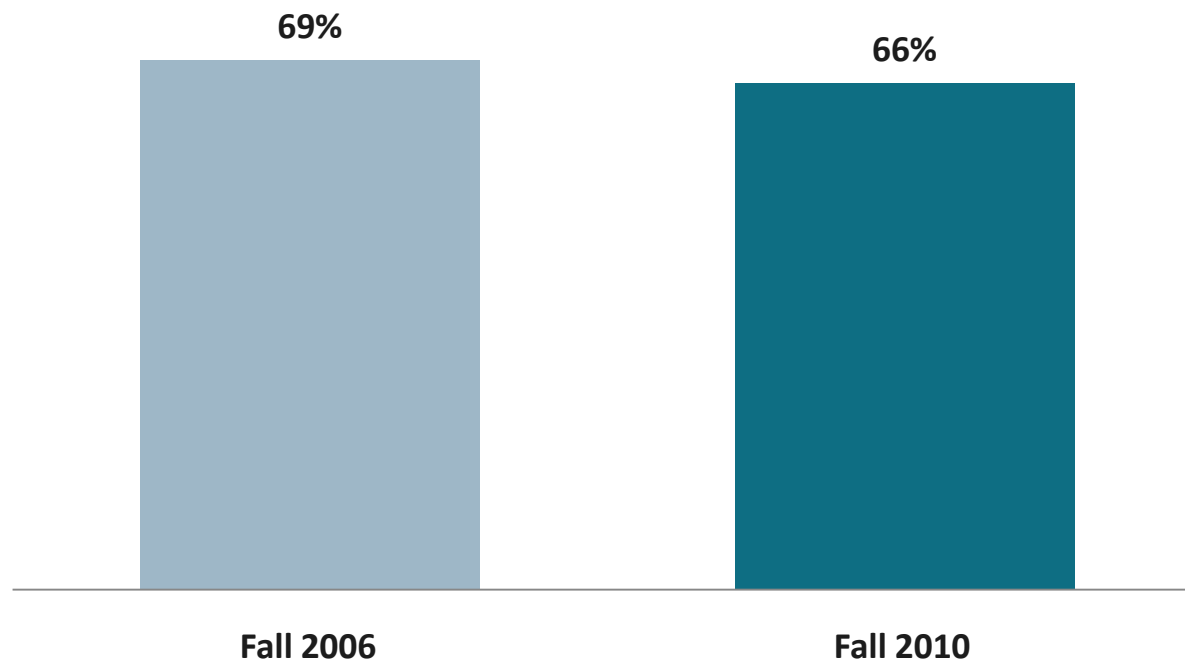
SOURCES: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

Gabel JR, et. al.; "After the Mandates: Massachusetts Employers Continue to Support Health Reform as More Firms Offer Coverage;" *Health Affairs*; web exclusive; October 28, 2008.

SteeleFisher GK, et. al.; "Physicians' Views of the Massachusetts Health Care Reform Law — A Poll;" *NEJM*; Oct 21, 2009.

PUBLIC SUPPORT FOR MASSACHUSETTS HEALTH REFORM HAS REMAINED HIGH

PERCENT OF NON-ELDERLY ADULTS INDICATING SUPPORT FOR MASSACHUSETTS HEALTH REFORM LAW



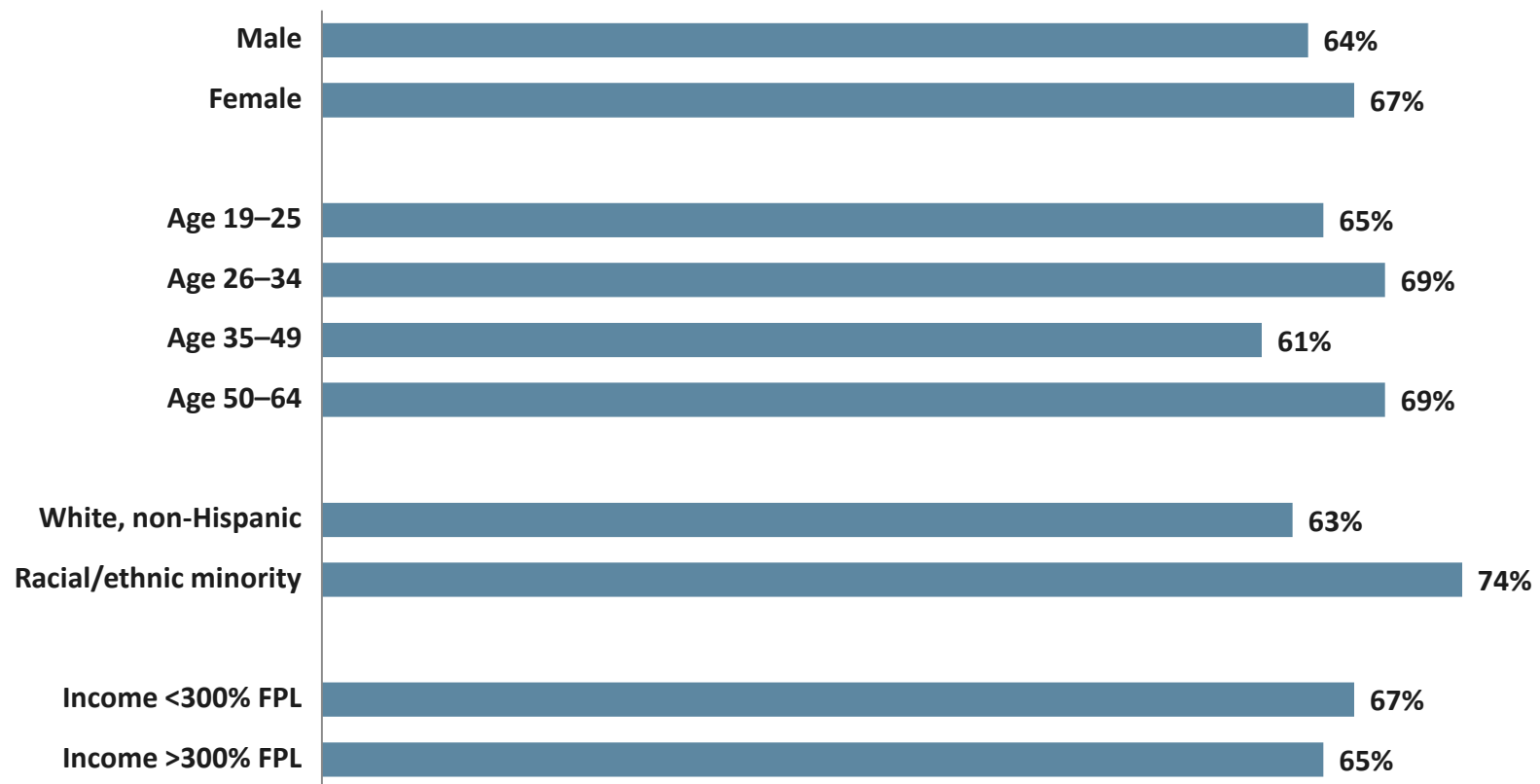
Two out of three adults support Massachusetts health reform.

Support for reform has been relatively stable throughout reform implementation.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

PUBLIC SUPPORT FOR MASSACHUSETTS HEALTH REFORM IS CONSISTENT ACROSS VARIOUS POPULATION GROUPS

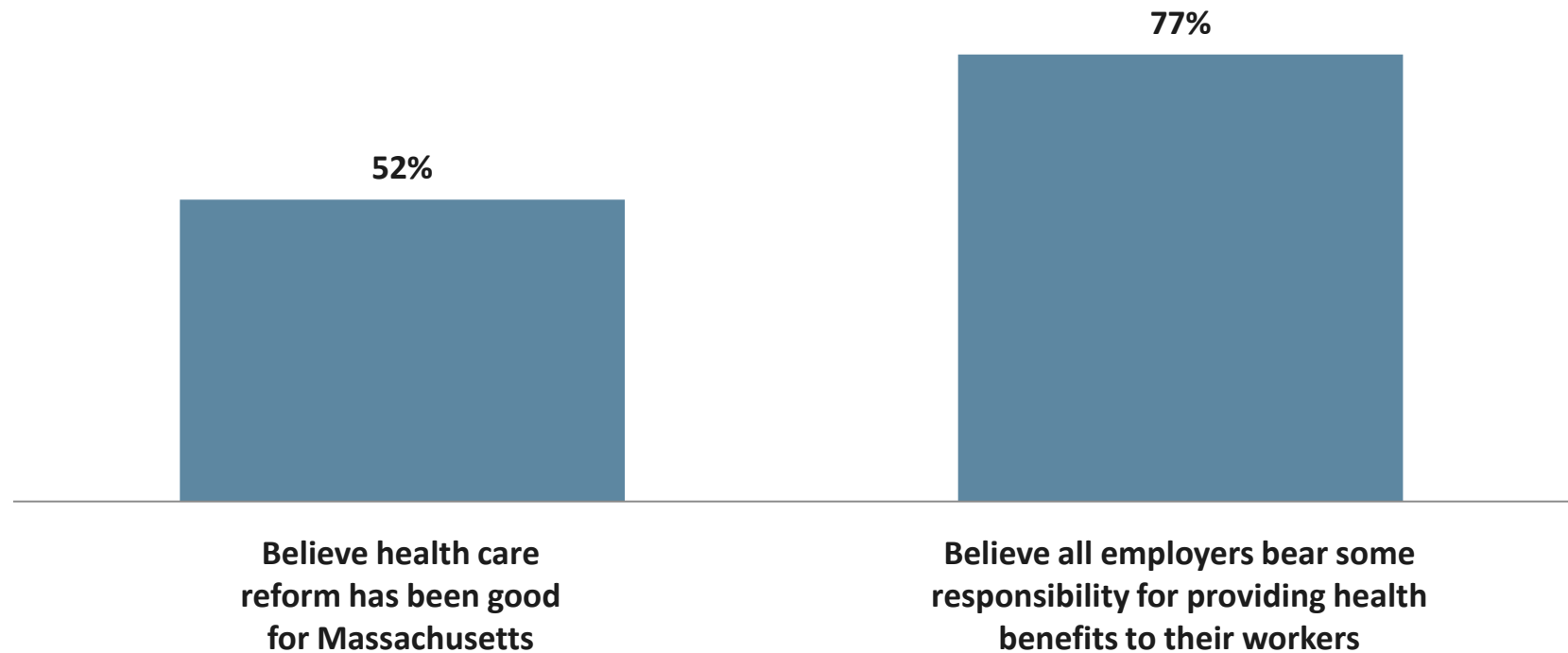
PERCENT OF NON-ELDERLY ADULTS INDICATING SUPPORT FOR MASSACHUSETTS HEALTH REFORM LAW, BY SELECTED POPULATIONS, 2010



SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

MOST EMPLOYERS BELIEVE HEALTH REFORM HAS BEEN GOOD FOR MASSACHUSETTS

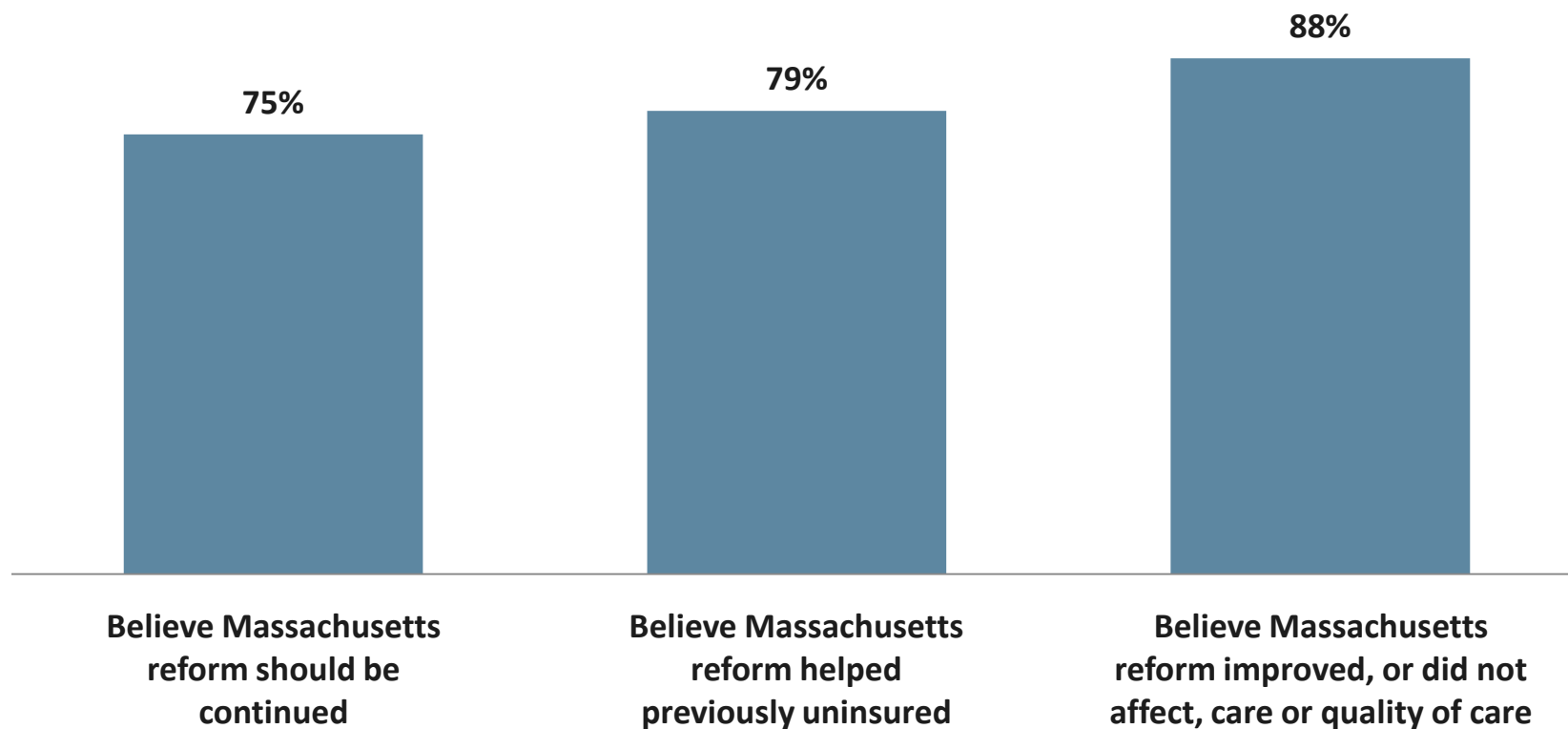
PERCENT OF MASSACHUSETTS EMPLOYERS REPORTING BELIEF, 2008



SOURCE: Gabel JR, et. al.; "After the Mandates: Massachusetts Employers Continue to Support Health Reform as More Firms Offer Coverage;" *Health Affairs*; web exclusive; October 28, 2008.

MASSACHUSETTS PHYSICIANS VIEW HEALTH REFORM AS A SUCCESS

PERCENT OF MASSACHUSETTS PHYSICIANS REPORTING BELIEF, 2009



source: SteeleFisher GK, et. al.; "Physicians' Views of the Massachusetts Health Care Reform Law — A Poll;" *NEJM*; Oct 21, 2009.

WHAT CHALLENGES REMAIN FOR MASSACHUSETTS HEALTH REFORM?

- The remaining uninsured include some who may be more difficult to persuade to obtain coverage and many who do not qualify for government-subsidized or employer-sponsored coverage.
- Barriers to care persist for some populations.
- Rising health care costs, independent of reform, threaten the sustainability of the entire health care system.

ADULTS WHO HAD A PERIOD OF UNINSURANCE DURING THE PAST YEAR MAY BE DIFFICULT TO PERSUADE TO BUY COVERAGE OR MAY NOT QUALIFY FOR ESI OR SUBSIDIZED COVERAGE

- 31 percent are young adult (19–25 years of age).
- 60 percent are male.
- More than half (58 percent) work either full-time (37 percent) or part-time (21 percent).
- 87 percent report they were in good, very good, or excellent health.
- More than 73 percent have incomes less than 3 times the federal poverty level.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

SOME BARRIERS TO PRIMARY AND PREVENTIVE CARE REMAIN IN MASSACHUSETTS

- 1 in 5 non-elderly adults report challenges finding a physician who would see them. ¹
- Only slightly more than half of adult diabetics receive recommended preventive care. ²
- Nearly half of emergency department visits are potentially preventable, and the number has decreased from 2008 to 2009. In FY2009, it is estimated that over \$570 million was spent on potentially preventable ED visits. ³
- In FY2009, 12 percent of adult hospitalizations could have been avoided with effective ambulatory care, representing an estimated \$719 million. ⁴

SOURCES:

¹ Urban Institute, *Massachusetts Health Reform Survey*, 2012.

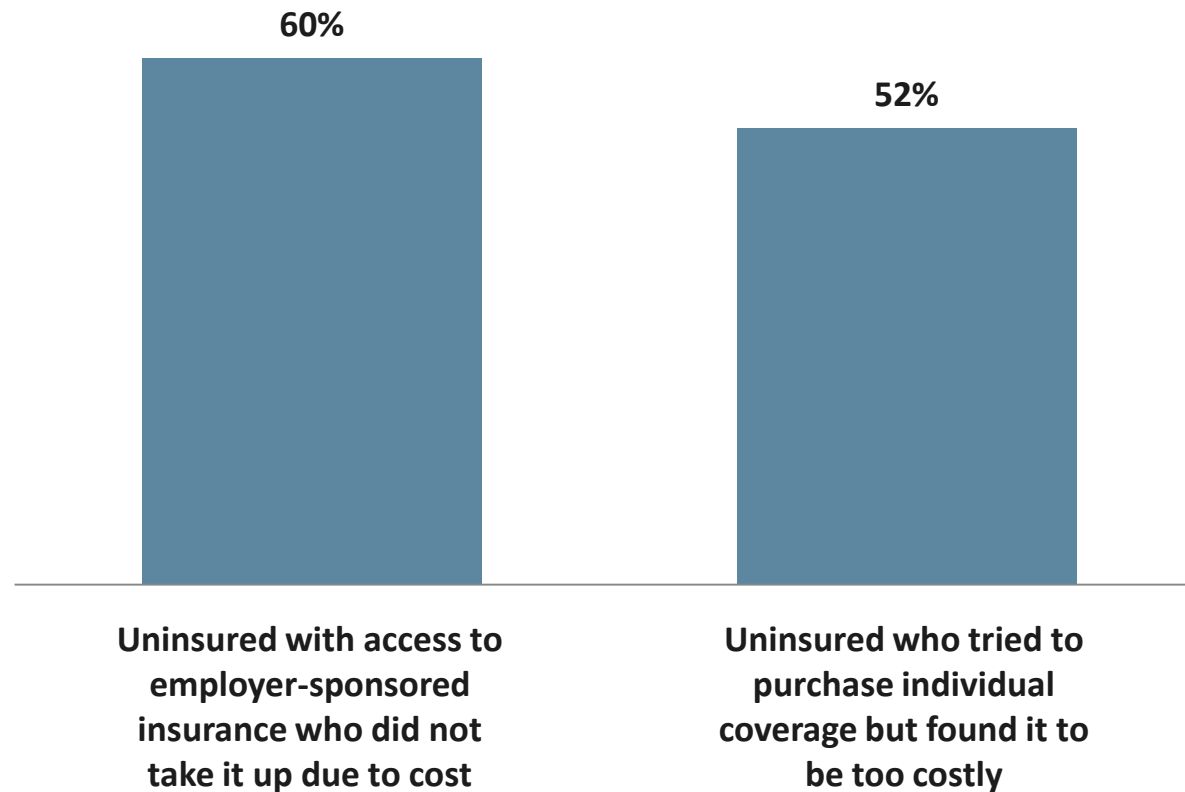
² Cantor JC, et. al. *Aiming Higher: Results from a State Scorecard on Health System Performance*.

New York: The Commonwealth Fund Commission on a High Performance Health System, The Commonwealth Fund, 2007.

^{3,4} Massachusetts Division of Health Care Finance and Policy, *Challenges in Coordination of Health Care Services*, June 2011.

AFFORDABILITY OF COVERAGE REMAINS A CHALLENGE IN MASSACHUSETTS

PERCENT OF NON-ELDERLY UNINSURED ADULTS REPORTING COST BARRIER TO OBTAINING COVERAGE, 2010

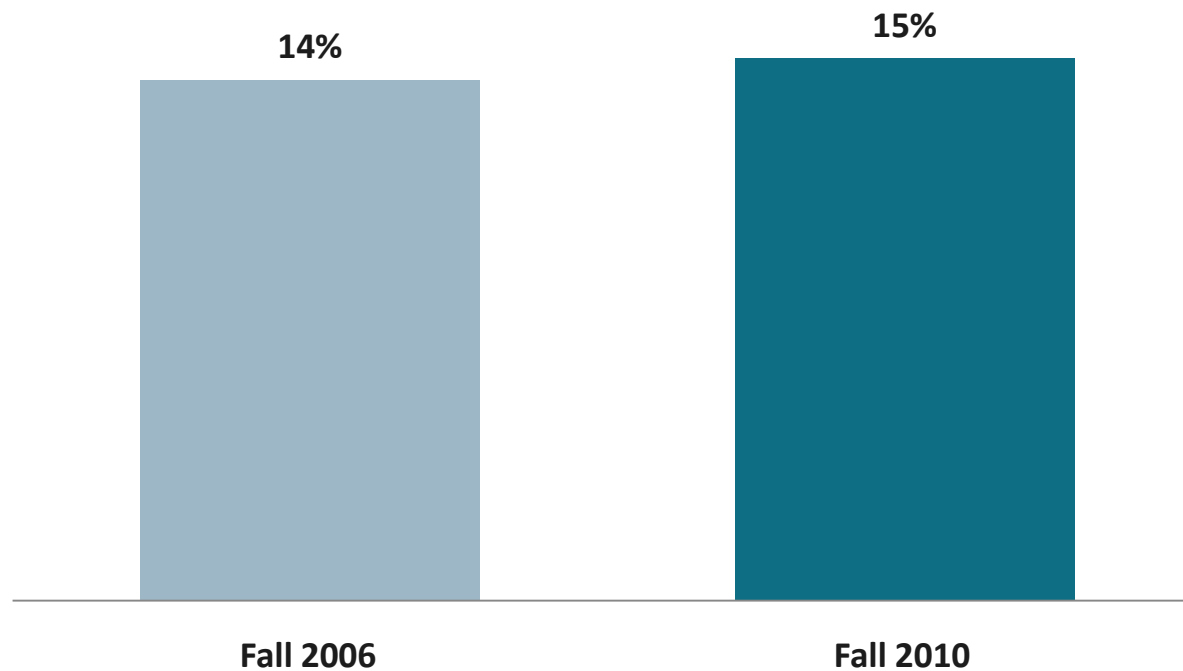


Many of the remaining uninsured report cost-related reasons for not obtaining coverage.

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

MORE INSURED ADULTS REPORT PROBLEMS PAYING MEDICAL BILLS

PERCENT OF INSURED NON-ELDERLY ADULTS REPORTING PROBLEMS PAYING MEDICAL BILLS



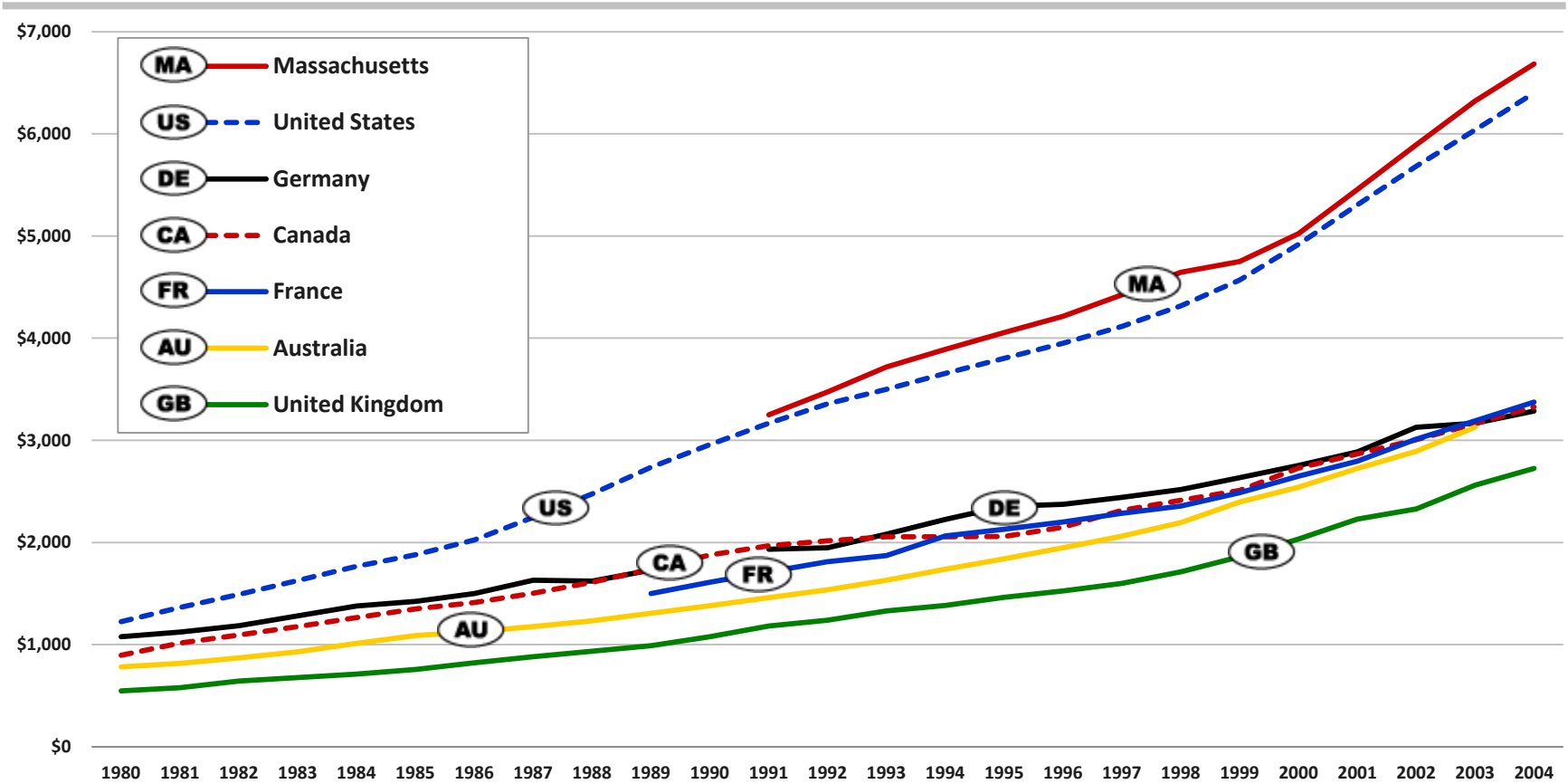
A greater percent of insured residents reported problems paying medical bills in 2010 than in 2006, most likely due to the economic recession.

Those with problems paying medical bills are more likely to be:

- Black, non-Hispanic
- Female
- Have a child under age 18
- Low-income
- In fair or poor health status

SOURCE: Urban Institute, *Massachusetts Health Reform Survey*, 2012.

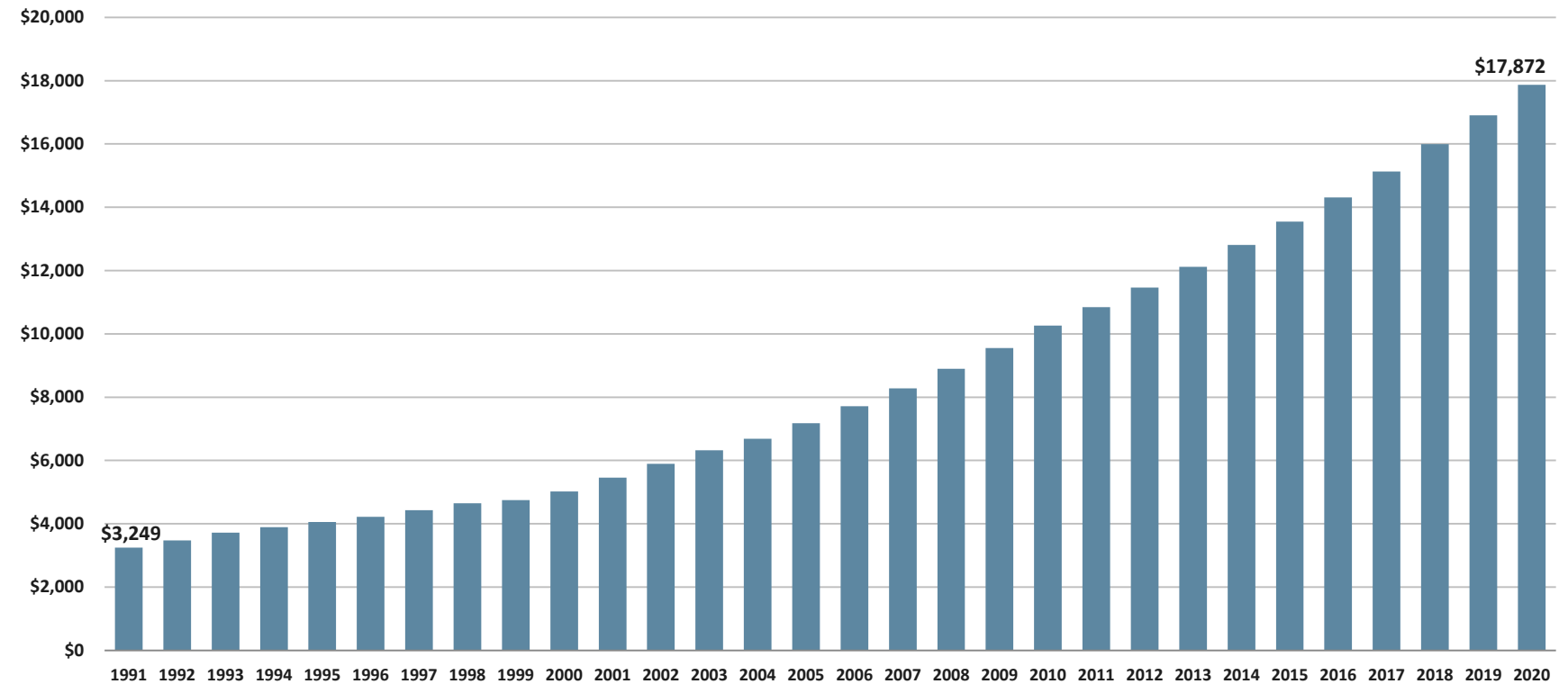
THE U.S. HAS THE HIGHEST HEALTH CARE EXPENDITURES PER CAPITA AMONG INDUSTRIALIZED NATIONS, AND MASSACHUSETTS HAS THE HIGHEST HEALTH CARE COSTS IN THE U.S. (1980-2004)



NOTE: U.S. dollars are current-year values. Other currencies are converted based on purchasing power parity.
 SOURCE: Commonwealth Fund (2008), CMS (2007), U.S. Census (2009).

WITH NO INTERVENTION, PER CAPITA HEALTH CARE SPENDING IN MASSACHUSETTS IS PROJECTED TO NEARLY DOUBLE BETWEEN NOW AND 2020

MASSACHUSETTS PER CAPITA HEALTH CARE EXPENDITURES



NOTE: Health expenditures are defined by patient residence and include personal health expenditures, which exclude expenditures on administration, public health, and construction. Data for 2005–2020 are projected assuming 7.4% growth 2005–2010 and 5.7% growth 2010–2020.

SOURCE: Centers for Medicare & Medicaid Services (CMS), Office of the Actuary, National Health Statistics Group, 2007. Projections for 2005–2020 by MA Division of Health Care Finance and Policy.



*Massachusetts Health Reform
Spending, 2006-2011:
An Update on the
“Budget Buster” Myth*

APRIL 2012

MTF

The Massachusetts Taxpayers Foundation is a nationally recognized, nonprofit research organization whose purpose is to promote the most effective use of tax dollars, improve the operations of state and local governments, and foster positive economic policies. Our credibility is based upon independent, objective, and accurate analysis of state and local spending, taxes, and the economy. Over the past decade the Foundation has won fourteen national awards for our work on transportation reform, business costs, capital spending, state finances, MBTA restructuring, state government reform, and health care.

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We would like to recognize Alan G. Raymond as
the principal author of this report.

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Cross Blue Shield of Massachusetts Foundation.

MASSACHUSETTS HEALTH REFORM SPENDING, 2006-2011:
AN UPDATE ON THE “BUDGET BUSTER” MYTH

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MASSACHUSETTS HEALTH REFORM SPENDING, 2006-2011: AN UPDATE ON THE “BUDGET BUSTER” MYTH

Overview

Six years after Massachusetts enacted its groundbreaking health reform law, Chapter 58 of the Acts of 2006, more than 98 percent of the state's residents have health insurance, access to needed care has improved, and the percentage of employers offering coverage to their workers has climbed despite the national recession.

The gains of health reform have been achieved without placing an unexpected or unmanageable burden on the state's budget. Annual spending for programs affected by Chapter 58 grew from \$1.041 billion in fiscal 2006 to \$1.947 billion in fiscal 2011, an increase of approximately \$906 million (Table 1). The state's share of this spending increase is \$453 million, or 50 percent of the total. While critics periodically claim that health reform has been a “budget buster,” additional state spending attributable to the health reform law accounted for only 1.4 percent of the Commonwealth's \$32 billion budget in fiscal 2011.

Over the five full fiscal years since the law was implemented, the incremental additional state cost per year has averaged \$91 million, an amount that is well within projections made prior to the law's enactment.¹ These figures are consistent with the findings in the Taxpayers Foundation's 2009 report, *Massachusetts Health Reform: The Myth of Uncontrolled Costs*.

Table 1: Spending on Health Care Reform (Fiscal 2006-2011, in millions)

Program	2006	2007	2008	2009	2010	2011	Total Change 2006-2011	State Share of Change
Commonwealth Care and Commonwealth Care Bridge	\$0	\$133	\$628	\$805	\$749	\$835	\$835	\$442
MassHealth Coverage Expansions, Benefit Restorations, and Rate Increases	\$0	\$224	\$355	\$569	\$399	\$391	\$391	\$196
Health Safety Net Trust Fund	\$656	\$665	\$416	\$417	\$420	\$420	\$(236)	\$(118)
Supplemental Payments to Medicaid MCOs	\$385	\$0	\$0	\$0	\$0	\$0	\$(385)	\$(193)
Supplemental Payments to Safety Net Hospitals	\$0	\$287	\$287	\$287	\$307	\$301	\$301	\$125
Total	\$1,041	\$1,309	\$1,686	\$2,078	\$1,875	\$1,947	\$906	\$453

¹ Four months before enactment of the law, the Massachusetts Taxpayers Foundation recommended that the state earmark an additional \$100 million per year for implementation of health reform (*Health Care Reform: Expanding Access Without Sacrificing Jobs*, December 2005).

Key Provisions of the Law

Based on the concept of “shared responsibility” among government payers, employers, and individuals, the programs and incentives in the 2006 Massachusetts health reform law have worked in concert to expand access to affordable coverage while encouraging enrollment in employer-sponsored and individual health insurance plans.²

As Table 1 indicates, the calculation of spending for health reform does not start at zero in 2006 because the state's investment in expanded coverage for low-income adults and children had, in fact, begun almost a decade earlier. In 1997, Massachusetts was granted a federal Section 1115 “research and demonstration” waiver that gave the state greater flexibility to develop health insurance programs for low-income adults and children, with roughly half of the dollars for subsidized coverage coming from federal matching funds.³ This led to the creation of MassHealth, a public insurance program that includes both Medicaid and the Children’s Health Insurance Program (CHIP). Even earlier, the state had set up an Uncompensated Care Pool to pay hospitals and community health centers for certain types of medical services provided to low-income residents who were uninsured or underinsured.

In 2005, federal and state officials agreed on the terms of a renewed Section 1115 MassHealth waiver that provided the financial underpinnings for health reform, based on the premise that state and federal money that was funding uncompensated care should be redirected to provide subsidized health insurance coverage for low-income uninsured residents. To accomplish this, the health reform law created a new public health insurance program called Commonwealth Care for low-income adults who do not have access to employer-sponsored health insurance or Medicaid. The law also expanded and restored certain categories of MassHealth coverage for adults and children and transformed the Uncompensated Care Pool into the Health Safety Net Trust Fund, with new eligibility and payment rules.

The health reform law also created a quasi-public agency – the Commonwealth Health Insurance Connector Authority – to oversee the Commonwealth Care program and act as an “insurance exchange” through which individuals and small businesses may purchase unsubsidized, private health insurance plans that meet state standards for adequacy of coverage and overall value.

The most debated provision of the law, nationally if not in Massachusetts, is the individual mandate – a requirement that all Massachusetts residents 18 and older obtain health insurance if affordable coverage is available to them, or be subject to a state income tax penalty. And while lawmakers rejected creating an equivalent employer mandate, employers with 11 or more full-time equivalent employees are required to pay a “fair share assessment” to the state if they do not make a “fair and reasonable contribution” to their employees' coverage. The amount of the assessment, \$295 per employee, is based on the estimated cost of uncompensated care for employees who work for employers that do not meet the fair and reasonable contribution standard.

² An annotated text of Chapter 58 of the Acts of 2006 is available at bluecrossfoundation.org.

³ Section 1115(a) of the Social Security Law allows states to obtain “research and demonstration” waivers from the federal government to experiment with new ways of structuring and running their Medicaid programs. These waivers are time limited, usually for 3 to 5 years, and renewable if the U.S. Department of Health and Human Services and the state can reach agreement on terms and conditions.

What Has Massachusetts Health Reform Accomplished?

The positive impact of health reform on access to coverage and needed care has been documented through numerous studies and reports.* The most recent data show that:

- Health insurance coverage is nearly universal in Massachusetts. Fewer than two percent of residents lack health insurance, compared with a nationwide average of more than 16 percent uninsured.
- Expanded coverage has been accompanied by improved access to needed care, especially among middle and low-income residents, racial and ethnic minorities, and people with chronic diseases.
- Seventy-seven percent of Massachusetts employers with three or more employees offered health insurance coverage to their employees in 2010, up seven percentage points since 2005. This compares with 69 percent of employers offering health coverage to their workers nationwide.
- Surveys consistently find that about two-thirds of residents support Massachusetts health reform, the same as when the law passed in 2006.
- The affordability of health care, which was not directly addressed by the health reform law, remains a concern for many residents. More than a quarter of adults reported that their health care spending in 2010 had caused financial problems, including the need to cut back on health care services and other spending or to reduce savings.

** The Blue Cross Blue Shield of Massachusetts Foundation is a sponsor of the Massachusetts Health Reform Survey, which has been conducted annually by the Urban Institute since fall 2006. Results of this research and a five-year progress report on health reform are among the comprehensive resources available at bluecrossfoundation.org.*

Increases in State Spending

Commonwealth Care

As an entirely new program, Commonwealth Care accounts for the largest increase in state spending for health reform—approximately \$442 million of the increase between fiscal 2006 and fiscal 2011 (Table 1). The program uses a combination of state funds and the federal matching dollars available through the state's MassHealth waiver to provide income-based premium subsidies for adult residents earning up to 300 percent of the federal poverty level (Appendix B). As a condition of eligibility, the applicant cannot have access to employer-sponsored health insurance or Medicaid coverage. The state enrolls Commonwealth Care members in private health plans that are selected through an annual procurement process conducted by the Health Connector. Approximately half of all Commonwealth Care members pay a partial premium and half pay no premium.

Most of the enrollment and spending growth in Commonwealth Care occurred during the first two years after the program's launch in mid-2006 thanks to a comprehensive outreach, education, and enrollment effort by state agencies, community organizations, and providers that serve low-income residents.

Enrollment in the program has leveled off, although the numbers for the next fiscal year will increase because of a court-ordered change in eligibility rules for documented immigrants. At the outset of health reform, policymakers decided to include low-income, documented immigrants in Commonwealth Care even though the federal government does not provide matching funds for this population. However, when the state was faced with a severe revenue shortfall in mid-2009 as a result

of the national recession, the governor and Legislature agreed to stop new enrollment of documented immigrants in Commonwealth Care and developed a scaled-back coverage plan called Commonwealth Care Bridge for those already enrolled. Advocates mounted a court challenge, and in January 2012 the Massachusetts Supreme Judicial Court ruled that the cutbacks were an unconstitutional denial of equal protection. As a result, the state is restoring full Commonwealth Care coverage to an estimated 40,000 eligible immigrants – approximately 13,000 will be transferred from Commonwealth Care Bridge, with the remainder coming from a waiting list. In fiscal 2014, federal matching funds for coverage of documented immigrants are due to become available under the provisions of the Patient Protection and Affordable Care Act.

MassHealth Coverage Expansions, Benefit Restorations, and Rate Increases

Although MassHealth (Medicaid and CHIP) spending has grown significantly since 2006, an estimated three quarters of the increase in enrollment has been in categories that predated the 2006 law and would have occurred in the absence of reform.⁴ Table 1 shows that the five-year increase in the state's share of MassHealth spending that can be attributed directly to provisions in the health reform law was \$196 million.

When health reform was enacted, about one million residents were receiving MassHealth coverage, but cutbacks during a prior state budget crisis had resulted in a loss of coverage for certain categories of low-income residents that had once been eligible for membership. The reform law restored eligibility and reopened enrollment for several of these categories, which include people living with HIV/AIDS, adults and children with disabilities, and the long-term unemployed. In addition, the law raised the family income ceiling for CHIP eligibility from 200 percent of the federal poverty level (FPL) to 300 percent. This allowed the state to take full advantage of federal matching dollars and close the remaining gaps in coverage for low-income uninsured residents.

In addition to these eligibility changes, the health reform law included a three-year increase in MassHealth provider reimbursement rates. Without some relief from historically low MassHealth payments, physicians and hospitals would have faced a growing financial burden as MassHealth membership rose. Business groups, concerned that continued government underpayment would result in greater cost shifting to the private sector in the form of higher premiums, supported the increases as well. The health reform law increased MassHealth provider payment rates by approximately \$90 million per year for fiscal years 2007, 2008, and 2009, but the recession led to state budget cuts that have effectively eliminated the increases. As a result, the shortfall in MassHealth payments to providers has returned to pre-reform levels.

Supplemental Payments to Safety Net Hospitals

The health reform law included special provisions to assist the two Massachusetts hospitals that had traditionally provided the highest level of free care to uninsured patients, Boston Medical Center and Cambridge Health Alliance. As Table 1 indicates, the hospitals received \$287 million in annual supplemental payments for three years, starting in fiscal year 2007, to help them through the transition to providing more insured care to their low-income patients and to support their continued role as safety net providers for a disproportionate share of people who remain uninsured or under-insured. The two hospitals faced the prospect of significant financial losses after the health reform law's three-year authorization of supplemental payments expired, but the state was able to secure an amendment to the MassHealth waiver that allowed supplemental payments to continue in fiscal 2010 and 2011.

⁴ Massachusetts Medicaid Policy Institute. *Growth in MassHealth Enrollment Since Reform*. May 2011.

Decreases in State Spending

Uncompensated Care Pool/Health Safety Net Trust Fund

A major premise behind the Section 1115 MassHealth waiver renewal that preceded enactment of health reform was that the added costs of expanding public health insurance coverage would be largely offset by reductions in spending for uncompensated care that would occur as previously uninsured residents enrolled in Commonwealth Care or other coverage. As Table 1 illustrates, annual state spending for uncompensated care dropped by \$118 million over the first five years of reform.

Annual Health Safety Net (HSN) spending fell by one-third from fiscal 2006 to fiscal 2008, reflecting a more than 50 percent decline in the number of inpatient discharges and outpatient visits for which HSN payments were made during that period. Since fiscal 2008, the use of the HSN has trended back up as a result of the economic downturn, but it is still well below pre-reform levels (Appendix C). Another factor contributing to the increased use of the HSN was the 2009 change in Commonwealth Care coverage for documented immigrants described earlier. The combined effects of a freeze on new enrollment and the scaled-back benefits in the Commonwealth Care Bridge program meant that an increasing number of low-income documented immigrants were uninsured or underinsured, and therefore eligible for the HSN.

The Health Safety Net is funded through a combination of assessments on acute care hospitals and surcharges on payments made by insurers and self-insured employers for hospital and ambulatory surgery services, and state and federal funds available through the MassHealth waiver. The private sector contributions are fixed at \$320 million annually. The state's contribution is subject to appropriation, and, as Table 1 indicates, combined state and federal spending did not increase from fiscal 2010 to fiscal 2011 despite an increase in HSN use during that period. When the amount owed to providers for safety net care exceeds the amount of HSN funds available, the shortfall is distributed among hospitals using a formula that is intended to cushion the impact for the hospitals that care for most of the state's uninsured and underinsured residents. The shortfall is estimated at \$134 million in fiscal 2012 and at least that amount in fiscal 2013.

Supplemental Payments to Medicaid Managed Care Organizations

The 1997 MassHealth waiver that triggered the first round of expanded public coverage for low-income adults and children led to the creation of Medicaid managed care organizations (MCOs) operated by the state's two largest safety net hospitals, Boston Medical Center (at the time called Boston City Hospital) and Cambridge Health Alliance (formerly Cambridge City Hospital). The waiver authorized additional financial support in the form of supplemental payments to the MCOs because they were expected to enroll a disproportionate number of people with complex medical and social needs, while at the same time accepting payments for members that would be less than the hospitals had received for providing uncompensated care. The MCO supplemental payments, which totaled \$385 million in fiscal 2006, were eliminated as part of the waiver renewal that preceded the health reform law, but Massachusetts was allowed to retain the federal dollars to help fund expanded insurance coverage for low-income, previously uninsured individuals.⁵ Table 1 shows that the net effect on state spending for health reform was a reduction of approximately \$193 million.

⁵ Stephanie Anthony, J.D., M.P.H., Robert W. Seifert, M.P.A., Jean C. Sullivan, J.D. Center for Health Law and Economics, University of Massachusetts Medical School. *The MassHealth Waiver: 2009-2011 ...and Beyond*. February 2009.

Conclusion

Summarizing the net effect of the increases and reductions in state spending that can be attributed to the 2006 health reform law, this analysis shows that incremental state spending attributable to the law was approximately \$453 million, or 1.4 percent of the state's \$32 billion budget in fiscal 2011. The average annual increase in state spending for health reform between fiscal 2006, prior to implementation of the law, and fiscal 2011, which ended on June 30, 2011, was just under \$91 million.

The 2006 health reform law was designed to expand access to affordable coverage, not to address the cost of care. It did, however, help trigger a series of legislative, regulatory, and private sector initiatives directed at controlling the state's historically high costs, and there is early evidence that a transformation is underway, centered around provider payment reform. A majority of the state's primary care physicians are now participating in health plan contracts based on some form of "global payment," which rewards the quality and efficiency of care rather than quantity, and several long-term contracts between health plans and hospital systems have been renegotiated at lower rates of payment. Payment reform has, in turn, been an added catalyst for hospital systems and physician groups to invest in better coordination of care and in improving outcomes for their sickest patients. In addition, Massachusetts has seen the rapid proliferation of health insurance products that allow employers and consumers to save money by using lower-cost providers or by choosing limited provider networks.

It would be premature to claim that the state's historically high health care costs have been tamed, but there are encouraging signs of progress. For example, in the latest round of proposed premiums for the merged health insurance market for small businesses and non-group individuals, health plans sought average increases of just two to three percent, compared with increases of 15 to 20 percent two years ago. Although the trend of slower premium growth is currently a nationwide phenomenon and may be, in part, a function of the economic recession, Massachusetts is experiencing a notably slower rate of growth than the national average. In fact, recent data show that family premiums for private, employer-sponsored coverage in Massachusetts fell by an average of nearly one percent from 2009 to 2010, while the country as a whole saw a six percent increase. As a result, the state's ranking for family premiums fell from the highest in the country in 2009 to ninth place in 2010. Similarly, individual premiums for Massachusetts workers rose by just 2.8 percent in 2010 versus 5.8 percent for the nation as a whole.⁶

Governor Deval Patrick and the leaders of the Massachusetts House and Senate have said they expect to approve some form of cost containment legislation in 2012 that would accelerate reform of provider payment and health care delivery and set the stage for sustainable reductions in the underlying trend. If passed, it would build on a 2008 law that created a process to examine the causes of the state's high health care costs, and a 2010 law aimed primarily at giving small businesses more options for managing their health insurance bills. While the state's private sector stakeholders hold divergent views on some of the issues under consideration, the broad coalition of providers, health plans, business groups, and consumer advocates that formed during the first round of health reform has remained engaged and united around the shared goals of expanding access to coverage, improving quality and outcomes of care, and reducing the growth of health care spending.

⁶ C. Schoen, A. Fryer, S. Collins, and D. Radley, *Realizing Health Reform's Potential*, The Commonwealth Fund, November 2011, and MTF analysis of data from the Agency for Healthcare Research and Quality.

Appendix A

Methodology

Estimates of government spending attributable to the 2006 Massachusetts health reform law are based on a Massachusetts Taxpayers Foundation analysis of data provided by the Commonwealth's Executive Office for Administration and Finance.

The state share of health reform spending was calculated using a conservative assumption that federal support was 50 percent, even though the actual federal match was temporarily increased during FY2009, 2010, and 2011 by the American Recovery and Reinvestment Act, thereby reducing the state share during those years. MTF's estimates account for the fact that the state has paid the full cost of Commonwealth Care, and subsequently Commonwealth Care Bridge coverage, for eligible documented immigrants (see page 4). The Supplemental Payments to Safety Net Hospitals category includes special federal payments that did not require a state share because they were funded through Intergovernmental Transfers (see page 4).

The Foundation's analysis does not include adjustments for the rate of health care inflation from 2006 to 2011, which was significantly higher than the overall rate of inflation. As a result, the effect of health reform on state spending is most likely less than the data indicate. It should also be noted that, starting in fiscal 2009, the economic recession became a factor in driving health reform spending as more residents became eligible for MassHealth and Commonwealth Care.

Appendix B

Federal Poverty Level Guidelines

Gross Annual Income Limit: Effective March 1, 2012 – February 28, 2013

Family Size	100% of FPL	300% of FPL
1	\$11,170	\$33,510
2	\$15,130	\$45,390
3	\$19,090	\$57,270

Source: U.S. Department of Health and Human Services

Appendix C

Health Safety Net Use
Since Health Reform (in thousands)

	2006*	2007	2008	2009	2010
Hospitals	1,613	1,184	715	703	800
Community Health Centers	446	342	262	287	312
Total HSN Use**	2,059	1,526	977	990	1,112

* Prior to health reform, the HSN was called the Uncompensated Care Pool (UCP).

** Health Safety Net use includes hospital inpatient discharges, hospital outpatient visits, and community health center outpatient visits. Health Safety Net use fell dramatically during the first two years of reform, then started an upward trend that continued into HSN fiscal 2011.

Source: Division of Health Care Finance and Policy: Health Safety Net/Uncompensated Care Pool annual reports

COMMONWEALTH HEALTH INSURANCE CONNECTOR AUTHORITY

Commonwealth of Massachusetts



STRATEGIC PLAN-IN-BRIEF
2013-2015

Jean Yang | Executive Director

MESSAGE FROM THE EXECUTIVE DIRECTOR

Massachusetts's landmark health care reform law continues to serve as a model at the national level for how to expand health care access and reach near-universal levels of coverage. Thoughtfully crafted regulatory and program initiatives, as well as collaboration with stakeholders and interested consumers, have paved the way for dramatic improvements in access to care without significantly increasing costs or disrupting the existing market.

Massachusetts **Health Care Reform** has **expanded health insurance coverage to more than 400,000 residents, making care more accessible and affordable** for this population of newly insured. Innovative procurement strategies for government-sponsored insurance programs, expanded rate reviews in the non and small-group market and the implementation of cost-containment legislation have resulted in savings both to the system and consumers.

These achievements, while significant, are only the beginning of the Commonwealth's work to improve access, quality and costs. The Affordable Care Act (ACA), signed into law by President Barack Obama in March 2010, will bring many of Massachusetts's successes to other states, while at the same time providing the Commonwealth with opportunities to enhance and improve reforms already in place.

The Commonwealth has made substantial progress implementing national health care reform to date, but there is remaining work ahead, especially as the Health Connector works to transition into an ACA-compliant Exchange by 2014. Using insights from the Commonwealth's own experiences, the Exchange is being designed to improve access to high-quality health care and transform the health care system by serving as a leading-edge marketplace for Massachusetts residents and small businesses to easily find and enroll in high-quality, affordable health insurance.

With the strong leadership of the Health Connector Board and enduring support of the Patrick Administration and the Legislature, we remain confident that the Health Connector will continue to make a positive difference for the people of Massachusetts.



Jean Yang
Executive Director



MISSION, VISION AND POLICY CONTEXT

OVERVIEW

In 2006, Massachusetts enacted landmark health reform legislation, chapter 58 of the Acts of 2006, and created the Commonwealth Health Insurance Connector Authority (Health Connector), an independent state agency tasked with promoting access to affordable health insurance for the Commonwealth's residents and small businesses.

The Health Connector has been a major contributor to the success of Massachusetts health reform. The organization now morphs into "Connector 2.0" – a health insurance exchange that not only complies with the federal Affordable Care Act when the main provisions in the law take effect in 2014, but also makes it easier than ever for individuals and small employers to access comprehensive, affordable health insurance.

ACHIEVEMENTS

In the years following the passage of chapter 58, the Commonwealth expanded its focus in order to better address the impact of increasing health care costs on Massachusetts residents and businesses. The Health Connector has been privileged to serve as the organization at the forefront of newly available health insurance programs for the previously uninsured and to have played key roles in the implementation of this pioneering effort.

With nearly 440,000 newly insured since the passage of Massachusetts Health Care Reform in 2006, the Commonwealth continues to boast the highest rate of coverage in the nation. Health care reform has provided Massachusetts residents better access to health care services, as well as protection against the financial risks of serious illness and injury by enabling them to obtain and maintain sufficient health insurance coverage.

MISSION

Improve **access to high-quality health care** and transform the health care system by serving as the **leading-edge marketplace** for Massachusetts residents and small businesses to come together and easily find and enroll in **affordable health insurance**.

VALUES

- Structure a health insurance shopping experience that makes it **easier than ever before for individuals and small businesses** to understand their health insurance options and choose, enroll in and maintain affordable coverage that best meets their needs
- Transform the health insurance market and health care system through the **power of competition**
- Expertly execute health care reform **policymaking and other regulatory responsibilities** to promote health insurance coverage and shared responsibility for sustaining health care reform
- Fully **embody the high standards** inherent to serving as the Commonwealth's official public Health Insurance Exchange
- Promote **robust public engagement** in and understanding of health care reform

- **Coverage Success**

In Massachusetts, 98.1 percent of all residents and 99.8 percent of all children are covered by health insurance. Since 2006, approximately 440,000 individuals are newly insured. Additionally, the percentage of businesses offering coverage has grown since reform from 69 percent in 2001 to 77 percent in 2010.

People are healthier and getting better treatment, more people are receiving cancer screenings like colonoscopies, more women are getting pre-natal care and emergency room visits have decreased.

There is no argument that health reform in Massachusetts has achieved its goal of near universal coverage. Health care reform is not only providing peace of mind for the 440,000 previously uninsured, it is also saving lives.

- **Fair, Effective Steward of Individual Mandate**

Most Massachusetts adult residents are required to maintain affordable

health insurance for each month of the year. Since 2009, adults have been required to obtain a health insurance policy that meets the state's Minimum Creditable Coverage (MCC) standards if an affordable plan is available to them.

Recent tax data continues to demonstrate near universal compliance with the requirement that Massachusetts residents report their health insurance information on tax filings.

- **Commonwealth Care Costs**

Commonwealth Care provides subsidized health insurance to adult residents earning up to 300 percent of the Federal Poverty Level (FPL) that generally do not have access to other health insurance. At the end of 2012, nearly 200,000 Massachusetts residents were receiving assistance with their health care costs through Commonwealth Care.

In the six years since Massachusetts health care reform became law, the Health Connector has demonstrated

that, through the power of competition, high-quality and dependable coverage can be provided at an affordable cost. In that time period, the per member per month rate the commonwealth pays to insurance carriers for Commonwealth Care coverage has increased by an average of less than two percent. This is in contrast to trends in the Massachusetts private market where, between 2008 and 2010, commercial insurance premiums grew by 7.5 percent.

Statewide fiscal challenges continue in FY13. The slow economic recovery coupled with increases in Commonwealth Care enrollment demanded another aggressive procurement. The results of the procurement were, once again, tremendously successful, yielding a five percent decrease in aggregate capitation rates for the second year in a row, for a total aggregate decrease of 12 percent over FY11. Every plan now has rates lower than those from two years ago without cutting benefits or significantly increasing member co-pays.

Conditional Approval as ACA-Compliant Exchange

In December 2012, the U.S. Department of Health and Human Services conditionally approved the Health Connector's application to be a federally-compliant health insurance exchange under the Affordable Care Act. Massachusetts was one of six early applicant states to receive conditional approval to operate a state-based Exchange; all states electing to operate a state-based Exchange are required to demonstrate their ability to perform all required Exchange functions in compliance with the Affordable Care Act by 2014.

Conditional approval reflects the substantial progress the Health Connector has made to demonstrate our ability to perform all required Exchange functions in compliance with the Affordable Care Act by 2014. This is a significant milestone in the overall Exchange certification process that indicates to our State and Federal partners that we are on track to provide affordable, quality coverage for individuals and small businesses through an ACA-compliant state based Exchange in 2014.

- **Student Health Insurance Plans**

For the past three years, the Health Connector has played an integral role as a member of the Student Health Program Steering Committee. Overall, the Steering Committee's efforts have significantly improved health insurance coverage for public college and university students.

In year three of the initiative, the Health Connector assisted the schools in aggressive negotiations to renew coverage for the 2012-2013 academic year with current carriers. Skillful negotiation, along with a strong commitment by carriers and brokers to serve these students, helped manage an overall trend while also adding ACA-required benefit upgrades such as the elimination of cost-sharing for preventative care services and the elimination of any remaining benefit caps.

Thousands of college students now have improved access to providers and wellness programs and nearly 200,000 students now have out-of-pocket maximums to protect them

from excessive out-of-pocket spending. In addition, 7,500 students newly have access to prescription drug coverage while another 20,000 have coverage without benefit caps.

- **Medical Security Plan Direct Coverage**

Because of the Health Connector's track record as an entity with procurement expertise that has benefitted the public interest and delivered increased value for Massachusetts taxpayers, in FY11, the Patrick Administration requested that the Health Connector work with the Department of Unemployment Assistance (DUA) to launch a competitive re-procurement for the Medical Security Plan (MSP) Direct Coverage Program. The MSP Direct Coverage Program offers subsidized health insurance for low-income Massachusetts residents receiving unemployment benefits. The Medical Security Trust Fund, which finances MSP and is funded by employer contributions, had been under major financial stress due to increases in the number of residents eligible for

unemployment benefits and federal legislation extending the duration of unemployment benefits.

The MSP procurement was conducted in 2011 by DUA, with operational and analytical support, including actuarial assistance, supplied by the Health Connector. A Request for Responses (RFR) was released in July 2011. After careful review of the responses, staff from the Health Connector, DUA and the Executive office of Administration and Finance (A&F), selected Network Health to provide MSP Direct Coverage, saving the program \$19.8 million in CY12, even without factoring in enrollee premium collection. In addition to program cost savings, MSP members saw significant improvements in coverage, such as the reduction of co-payments, the elimination of deductibles and improved continuity of care coverage as they transition to other subsidized health insurance programs.

- **Commonwealth Choice**

Commonwealth Choice, the Health Connector's unsubsidized health

insurance program, offers individuals and small businesses high-quality, private health insurance. As of the end of 2012, eight of Massachusetts's leading health insurance carriers provided health coverage to more than 40,000 members.

To further enhance the consumer experience, in July 2011 the Health Connector launched a provider search tool which allows shoppers to compare plans by doctors and hospitals. This new feature enables individuals and small businesses to easily shop for plans which include their preferred providers, simplifying the online shopping experience through Commonwealth Choice.

In the fall of 2012, the Health Connector introduced a Plan Helper Tool that provides decision support to help consumers narrow and filter available plans to identify those that best fit their needs. The Plan Helper tool also features video tutorials that walk people through out-of-pocket expenses, annual deductibles, provider networks, and co-insurance. Each tutorial is accompanied by a web

page with easy-to-understand, detailed explanations.

Health Connector staff are working with Massachusetts health plans participating in the Commonwealth Choice program to design and operationalize the programmatic changes necessary for compliance with federal requirements under the ACA.

Small businesses are an integral part of the Massachusetts economy, fostering job growth and innovation. As such, the Health Connector is demonstrating its commitment to supporting the health and well-being of small businesses and their employees by enhancing the tools and resources they need to identify and enroll in high-quality, affordable insurance.

The re-launch of the Health Connector's Business Express program (BE) in February 2012 was a major milestone for the Health Connector as it marked the first time in the history of the program that all of the major health insurance carriers in the state were participating.

BE makes it easier than ever for small employers to compare their health insurance options on an apples-to-apples basis and find the coverage that best suits the needs of their workplace. In January 2013, the Health Connector added 22 new plans, introducing several innovative products geared to small businesses. In addition, a new carrier joined the Health Connector product shelf in 2014. Small employers can now choose from among 99 health insurance plans from nine leading insurance carriers.

- **Wellness Track**

In 2011, the Health Connector launched Wellness Track, a program that provides small businesses with the opportunity to implement evidence-based employee health and wellness programs. Wellness Track provides participating small employers and their employees with a suite of tools, such as health and nutrition trackers, and exercise videos, aimed at jump-starting wellness activities in the workplace. While all small businesses enrolled in a group health plan

through the Health Connector may participate in Wellness Track, certain employers may also be eligible to receive a rebate of up to 15 percent of the employer's share of eligible employee health care costs.

The Health Connector recently overhauled eligibility criteria to make it possible for even more small businesses to take advantage of the Wellness Track rebate program. As of February 1, 2013, any employer can register for Wellness Track if they enroll in a small business group health plan through the Health Connector and purchase health insurance coverage for up to 25 employees, excluding sole proprietorships. The new eligibility criteria eliminate previous employee salary caps and now include owners and family member employees in the rebate calculation.

- **Health Insurance Exchange/
Integrated Eligibility System**

As an existing Exchange, the Health Connector provides access to affordable health insurance for nearly 230,000 members. Informed by that

Public Support for Health Care Reform

Six years after its implementation, support for health care reform in Massachusetts remains strong. According to a report released by Blue Cross Blue Shield of Massachusetts Foundation in January 2012, nearly two-thirds of non-elderly adults stated they support reform. This high level of public support is consistent across various population groups

Physicians in Massachusetts have also expressed a positive view of reform. Nearly 80 percent of physicians believe reform has helped the previously uninsured and three out of four physicians believe reform should continue in Massachusetts.

experience, the Health Connector will be re-platforming its entire online experience and supporting infrastructure through the Health Insurance Exchange/Integrated Eligibility System (HIX/IES) project and, by 2014, will have a common suite of systems tailored to support all customer segments. The Health Connector, in conjunction with the Executive Office of Health and Human Services (EOHHS) and the University of Massachusetts Medical School (UMMS), is working to develop a fully integrated, real-time eligibility determination system for enrollment in health insurance coverage.

The HIX/IES project is a critical piece of the puzzle in transitioning from Connector 1.0 to Connector 2.0 in compliance with the ACA. In order to meet the new ACA requirements (*e.g.*, real time eligibility, integration with the Federal Data Services Hub), new IT systems that currently do not exist need to be developed. This transition also allows the Health Connector to develop a more attractive shopping experience for all customers (*e.g.*, individuals, brokers, small businesses)

seeking subsidized, non-subsidized, and small group health insurance, now with additional opportunities for premium assistance. In addition, the Health Connector can utilize HIX/IES to enhance back-end operations (*e.g.*, premium billing, premium rating engine) to be more efficient, flexible and better support the needs of our customers. This is all made possible through a once-in-a-generation opportunity to build new, state of the art systems.

This inter-agency HIX/IES Project will enhance the state's existing eligibility determination system and will leverage the Federal Data Services Hub to ensure a seamless path to coverage for Massachusetts residents. The HIX/IES Project is supported, in part, by the \$45 million Early Innovators grant, which was awarded to UMMS in February 2011.

Massachusetts officials, specifically staff from UMMS, the Health Connector and EOHHS, are using these funds to support work with other New England states to design and implement an information technology

infrastructure that will improve how individual consumers and small businesses shop for health insurance. The primary focus of the Massachusetts Early Innovators grant is to build the HIX/IES for Massachusetts and create, "reusable technology components" (*i.e.*, business rules engine, interfaces with the Federal Data Services Hub) that can be used by other participating New England states.

CHALLENGES

The Health Connector has made substantial progress on the path to Connector 2.0, but there is important work remaining to be done. The Affordable Care Act, though modeled after the success of Massachusetts, brings significant legal, policy and programmatic changes to agencies and residents. Differences between the two laws require some changes to the Massachusetts model. Implementation, therefore, requires a very informed and engaged stakeholder community to ensure individuals and small businesses are aware of the benefits the Affordable Care Act offers and that their perspectives are

incorporated into the policy and programmatic decision-making processes.

The Commonwealth's Inter-Agency Task Force on Implementation of Health Care Reform, chaired by the Secretary of EOHHS, convenes quarterly open stakeholder meetings, where any interested stakeholder or member of the general public can hear updates on implementation activities. The Task Force's subsidiary inter-agency workgroups are also able to utilize stakeholder feedback to identify and make recommendations for the resolution of issues that arise as a result of the intersection of state and federal law. The Commonwealth has a strong foundation of consumer and stakeholder engagement in health care and has designed its approach to this transition to Affordable Care Act compliance to prioritize transparency, collaboration and inclusion.

The Health Connector is working with MassHealth and other state partners to plan for smooth coverage transitions among the nearly 240,000 Health Connector members – and some individuals in other state programs – who will be eligible for new programs in 2014.

Under those new programs, some current Health Connector members may move to MassHealth, while others may move to new programs within the Health Connector. Many who are currently receiving subsidies as well as some who currently receive no government assistance will get advanced premium tax credits instead. A robust public outreach and education campaign, rivaling those undertaken quickly after the enactment of Massachusetts health reform, will help ensure public awareness of new coverage options and resources.

SUPPORTING THE ADMINISTRATION

In fulfilling the Health Connector's mission to improve access to high-quality health care and transform the health care system, the Health Connector supports A&F's strategic goal of Better Health Care.

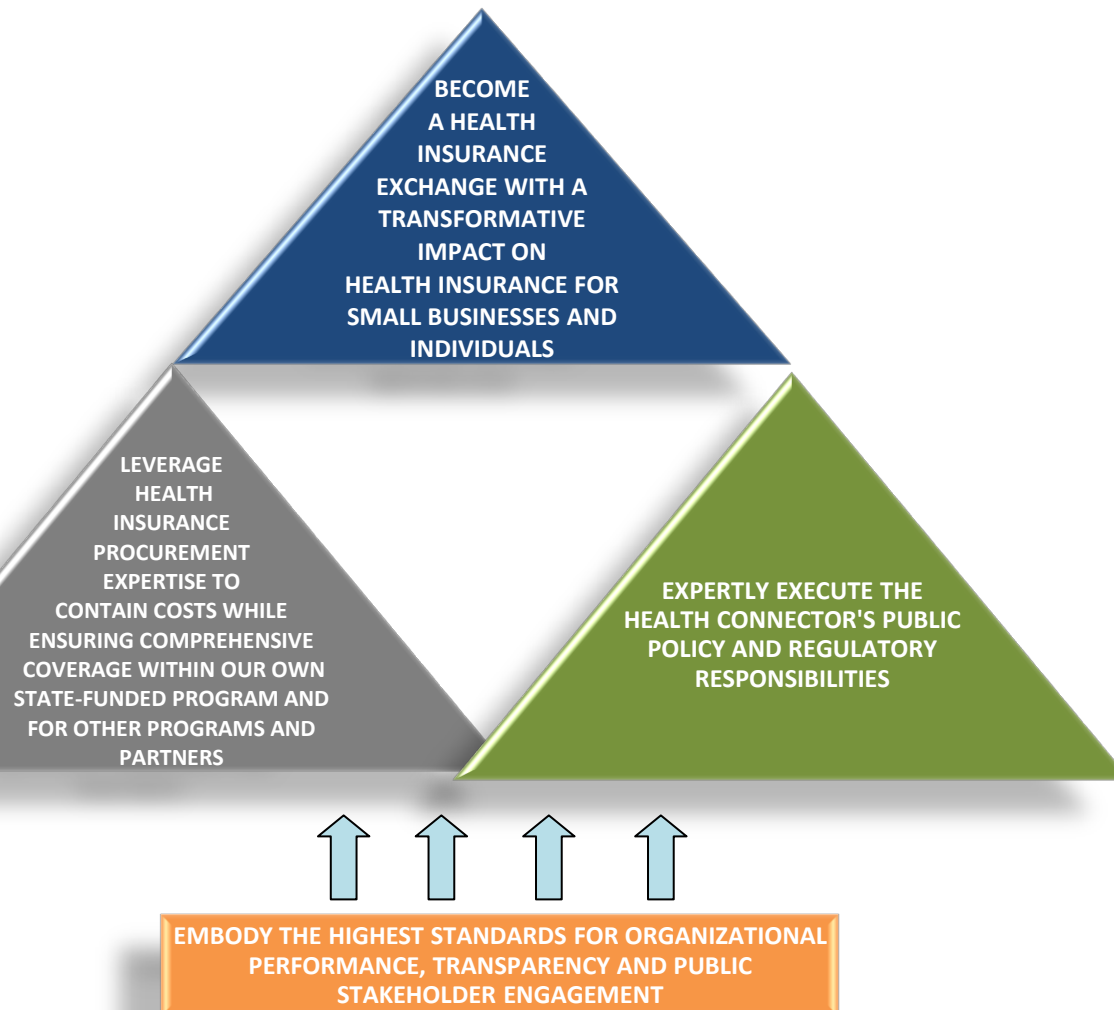
Within the greater strategic goal of Better Health Care, the Health Connector directly supports A&F on the following actions:

- Work to execute the cost containment initiatives instituted in the budget for all public programs

- Expand the Health Connector's role in assisting government funded programs with health insurance procurements
- Transition the Health Connector to a federally compliant state health insurance exchange by 2014
- Increase enrollment in the Health Connector's Commonwealth Choice program
- Increase participation in wellness programs
- Promote innovation in benefit design and expand the choice of affordable products

Through the implementation of wellness programs, continued efforts to become a fully certified ACA-compliant exchange and leveraging procurement expertise to contain costs while providing affordable and quality products, the Health Connector exhibits a commitment to the shared goal of Better Health Care. The Health Connector looks forward to working closely with the Patrick Administration and A&F to promote their goal of Better Health Care and thoughtful health care cost containment.

STRATEGIC GOALS & ACTIONS



VISION

By refining our goal setting process for FY13 and beyond to more clearly articulate our core vision, we **emphasize the most important priorities** for effectuating it and identifying key metrics to measure our progress.

While the Health Connector still needs to **maintain "Connector 1.0" Operations**, much of our organizational efforts are now focused on "Connector 2.0".

To succeed as "Connector 2.0", the Health Connector must **build upon its efforts since the enactment of Massachusetts Health Reform**, using not only the tools provided by the Affordable Care Act, but also **lessons learned during its experience as one of the only health insurance Exchanges in the country.**

BECOME A HEALTH INSURANCE EXCHANGE WITH A TRANSFORMATIVE IMPACT ON HEALTH INSURANCE FOR SMALL BUSINESSES AND INDIVIDUALS

Supporting Goals

Provide users with “choice made easy” when it comes to health insurance and evidence-based tools to improve wellness

Promote competition on price and value and positive innovation among health insurance carriers

Ensure full compliance with the Affordable Care Act

To deliver these results, the Health Connector will take the following actions:

- **Offer a range of products and carriers** that can meet the needs of a diverse set of consumers
- **Enhance consumer or user experience** from eligibility determination to shopping to enrollment to payment
- **Ensure consumers know about opportunities to access coverage through the Health Connector**
- **Connect customers to evidence-based tools to improve wellness**
- **Understand the customer, market and partner needs** through engagement of key market participants
- **Fashion easy-to-understand, user-friendly Health Connector shopping experience** so that high-value health insurance options have the potential to differentiate and grow
- **Make it as easy as possible for carriers to offer high-value health insurance options** through the Health Connector
- **Develop a customized approach to promoting payment reform** as part of the QHP certification process (Seal of Approval) for coverage effective January 2014
- **Use federal grant revenue to ensure a successful transition to an ACA-compliant Exchange**, with proper audit and compliance procedures
- **Meet requirements for federal approval** of the Health Connector as an ACA-compliant Exchange
- **Maintain a comprehensive Transition Roadmap** detailing all major ACA deliverables with specific timelines for development, testing and implementation
- **Maintain an internal Project Management Office and governance structure** to ensure full execution of the Roadmap
- **Educate the public, partners and other stakeholders** about the Affordable Care Act
- **Manage member transitions** from current Health Connector programs to those they are eligible for in 2014

LEVERAGE HEALTH INSURANCE PROCUREMENT EXPERTISE TO CONTAIN COSTS WHILE ENSURING COMPREHENSIVE COVERAGE WITHIN OUR OWN STATE-FUNDED PROGRAM AND FOR OTHER PROGRAMS AND PARTNERS

Supporting Goals

Partner with other public entities to assist with procurements for health insurance

Expertly manage Commonwealth Care as the program winds down its life cycle

Provide substantive and strategic advice and technical assistance with efforts to transition state-funded health insurance programs towards alternative payment methodologies promoting efficient, evidence-driven and coordinated care

Continue to assist colleges and universities in procuring health insurance for their students

To deliver these results, the Health Connector will take the following actions:

- Participate formally on **Group Insurance Commission's procurement** team for 2014 coverage for state and municipal employees
- Participate formally on the **Department of Corrections' procurement** planning team
- **Advise Division of Unemployment Assistance** on renewal of MSP Direct Coverage in light of program experience and subsidized coverage transitions under the ACA
- **Engage other state agencies** on opportunities to assist with pending or future procurements for state-funded coverage
- Manage program costs and promote positive member experience during FY13
- Engage MCOs and customer service vendor on **coverage and customer service mechanics** for first half of FY14, coordinated with the strategy for managing member transitions within the Health Connector and to MassHealth based on the ACA]
- **Enhance tobacco cessation coverage in Commonwealth Care** and modify coverage for dental and other benefits as required by the FY13 budget
- Participate in workgroup designed to **develop strategy for MassHealth's engagement of ACOs**
- Support the ongoing PCMH Initiative in the Commonwealth Care program
- Implement provisions of chapter 224 of the Acts of 2012 (relating to payment and delivery system reform) that are applicable to the Health Connector
- **Promote awareness** and help colleges engaged with the Health Connector to develop strategies to come into compliance with new ACA rules
- Under chapter 224 of the Acts of 2012, assume responsibility for establishing **minimum benefit standards** for student health insurance coverage
- Develop **educational resources for students** with interactive solutions to explaining health insurance coverage and student health plans
- Partner with DHCFP to **report publicly on student health insurance** coverage and cost trends in Massachusetts
- Continue to **assist public colleges and universities** with health insurance procurements/renewals and determine best approach to engaging additional institutions of higher education

EXPERTLY EXECUTE THE HEALTH CONNECTOR'S PUBLIC POLICY AND REGULATORY RESPONSIBILITIES

Supporting Goals

Implement Affordable Care Act policy and regulatory changes for which the Health Connector is responsible and assist other agencies as needed with their ACA-related policy projects

Augment Health Connector research and publication agenda to proactively report on key findings, trends and lessons learned from our programmatic and policymaking experiences to date

To deliver these results, the Health Connector will take the following actions:

- **Mesh state individual mandate** (including affordability schedule and MCC and enforcement/appeals) **with relevant ACA rules** (federal individual mandate affordability/penalty/appeals framework, benefit standards through MCC and EHB rules, required enrollee contributions to subsidized coverage in MassHealth and the Health Connector)
- **Lead development of state-based methodology** for instituting cross-small/non-group market risk adjustment, including efforts to secure federal authorization for the Commonwealth to implement this approach
- Pursuant to chapter 224 of the Acts of 2012, assume responsibility for **policymaking with respect to employer responsibility policies**, and accordingly play a leading role in efforts to mesh existing state rules with new ACA standards
- **Assist/coordinate with other state agencies** with respect to ACA-related policy and regulatory responsibilities under their principal jurisdiction
- Report on number and percent of Health Connector **enrollees participating in wellness initiatives** (Wellness Track and My Wellness Track)
- Report on **percent increase in Health Connector small groups participating in Wellness Track** before and after changes to eligibility criteria are implemented
- Annual **reporting on Student Health Insurance Programs (SHIP) in the Commonwealth** including financial and performance metric analysis, as well as enrollment and carrier information
- Produce **programmatic reports** throughout the year (*i.e.*, annual high-level progress report, data-rich annual report to the Massachusetts Legislature)
- **Collaborate with other state agencies** to make data related to Massachusetts health care reform available (*i.e.*, annual report on the individual mandate with DOR, quarterly Key Indicator reports with the Center for Health Information and Analysis (CHIA))
- Be **fully transparent** about the process, substance and rationale for organizational decisions related to **ACA implementation** and report publicly and objectively on outcomes via the Health Connector website and at public stakeholder meetings

C-79 STRATEGIC GOALS & ACTIONS

EMBODY THE HIGHEST STANDARDS FOR ORGANIZATIONAL PERFORMANCE, TRANSPARENCY AND PUBLIC STAKEHOLDER ENGAGEMENT

Supporting Goals

Proactively and consistently engage our Board of Directors on our priorities and activities

Attract and retain high-quality staff

Fully engage the public and stakeholders on the activities of the Health Connector

To deliver these results, the Health Connector will take the following actions:

- Conduct Board meetings with **ample preparation and regular follow-up** on Board meeting topics of discussion and outstanding questions
- Conduct **enhanced engagement on ACA transition activities** (provide regular updates on ACA transition activities at Board meetings, have Board members formally participate on ACA planning committees, etc.)
- Empower Board to **conduct rigorous oversight of programs and finances**
- Conduct **updated personnel resource assessment** in light of evolving responsibilities
- Conduct **thoughtful performance reviews/performance-based adjustments to compensation** where feasible
- Create **positive work environment**, underscoring our public mission and fostering teamwork and professional development
- Participate in **multi-agency stakeholder engagement** activities (e.g., EHS-led public forums)
- **Solicit public feedback** from open Board of Directors meetings, social media, sister agencies, advocacy organizations and members to provide input related to Health Connector policymaking, operational decision-making and strategic vision
- Lead **consumer and small business road shows** throughout the Commonwealth to educate the public about opportunities and responsibilities under the ACA in Massachusetts
- Engage with **business representatives and employer associations** to communicate the Health Connector's value proposition for employers
- Hold quarterly meetings with the Health Connector's **Broker Advisory Council**, comprising a diverse group of brokers serving different sized employer groups throughout Massachusetts
- Hold **bi-monthly consumer advocates meetings** to proactively engage them in Health Connector issues, obtain their feedback and insight on Connector 2.0 planning and help them in their efforts to educate the community in Massachusetts

The Health Connector will use the high-level performance measures below to assess success in achieving its strategic goals.

GOAL	MEASURE	DEFINITION / NOTE	DATA SOURCE
BECOME A HEALTH INSURANCE EXCHANGE WITH A TRANSFORMATIVE IMPACT ON HEALTH INSURANCE FOR SMALL BUSINESSES AND INDIVIDUALS	# of individuals enrolled in Commonwealth Choice	Total enrollment in the Health Connector's Commonwealth Choice Program	Health Connector
	% of Commonwealth Choice members expressing satisfaction with customer service	Evaluated based on annual focus groups and member surveys	Health Connector
	Call center performance metrics, including Abandonment Rate, Average Hold Time, and Average Talk Time	Call center performance is tracked regularly against performance benchmarks and customer surveys	Health Connector
	# of federal dollars received through grant application process	The Connector will lead federal support received for Affordable Care Act compliance efforts	Health Connector
	# of market research activities with consumers and small businesses that are completed by the Health Connector	Quantitative and qualitative research of two primary markets: consumers and small businesses with up to 50 employees (including members and non-members) to determine attitudes toward health insurance eligibility, costs of health plans, purchasing health insurance online, related customer preferences, and awareness of the Affordable Care Act	Health Connector
	# of participants in Wellness Track	# of small businesses that enroll through Business Express that sign up for Health Connector sponsored wellness program	Health Connector
	# of enrollees in Commonwealth Choice by plan-design	Through Seal of Approval process use research, focus group data and member surveys to develop a competitive product portfolio	Health Connector
	% of Roadmap deliverables that are executed by due dates	# of milestones completed	Health Connector
	Average premium trend for Commonwealth Choice products	Internal premium trend reports reflect average premium trends	Health Connector

GOAL	MEASURE	DEFINITION / NOTE	DATA SOURCE
LEVERAGE HEALTH INSURANCE PROCUREMENT EXPERTISE TO CONTAIN COSTS WHILE ENSURING COMPREHENSIVE COVERAGE WITHIN OUR OWN STATE-FUNDED PROGRAM AND FOR OTHER PROGRAMS AND PARTNERS	# of Group Insurance Commission premium changes	Participate in procurement process as part of Group Insurance Commission team	Health Connector/GIC
	# of Department of Corrections premium changes	Assist Department of Corrections in health insurance procurement	Health Connector/DOC
	# of Commonwealth Care members expressing satisfaction care access, health plans and customer service	Conduct survey of Commonwealth Care population to evaluate all aspects of program (access to care/barriers to care/affordability/satisfaction with plan/satisfaction with customer service)	Health Connector
	# of higher education institution premium changes	Compare premium cost trend and plan design on yearly basis	Health Connector/Department of Higher Education
	% change in tobacco cessation benefit utilization before and after the launch of the tobacco cessation awareness program	Take up of the tobacco cessation benefit is a key measure of how well the awareness program has performed	Health Connector
	% of Commonwealth Care, Commonwealth Choice and GIC members enrolled in narrow network products	Narrow networks are products where there is a materially smaller provider network than the broadest networks available in the applicable market	Health Connector, GIC
	% of Commonwealth Care, Commonwealth Choice and GIC members enrolled in tiered network products	Tiered networks are products where member point-of-service cost sharing is tiered into different amounts based on the actual doctors and hospitals visited	Health Connector, GIC
EXPERTLY EXECUTE THE HEALTH CONNECTOR'S PUBLIC POLICY AND REGULATORY RESPONSIBILITIES	Publish yearly progress report on time	Published report of year's accomplishments of Health Connector	Health Connector
	Publish yearly legislative report on time	Report for legislature on achievements and future projects of Health Connector	Health Connector
	Submit Massachusetts state-based approach to risk adjustment to federal government on time	Propose state-based approach to risk adjustment to federal government, work with federal government to create final approach. The state-based approach would more accurately	Health Connector

GOAL	MEASURE	DEFINITION / NOTE	DATA SOURCE
		and equitably distribute risk among Massachusetts insurance carriers by considering state-specific considerations and market dynamics	
	Amount of legislation introduced and enacted to ensure state compliance with federal law	The Health Connector is leading efforts to support develop and pass legislation to comply with the Affordable Care Act	Health Connector
	% of Notice of Proposed Rule Making (NPRMs) responses completed on time by the due date	NPRMs are formal notices to the public by a government agency that they intend to create new regulations or modify already existing ones. The Connector will work with other relevant state agencies and other states to provide comments to federal health rules.	Health Connector/ other state agencies/other states
EMBODY THE HIGHEST STANDARDS FOR ORGANIZATIONAL PERFORMANCE, TRANSPARENCY AND PUBLIC STAKEHOLDER ENGAGEMENT	# of Board of Directors meetings	Ensure that there is a Board of Directors meeting held on a monthly basis to receive input from Board and obtain necessary votes	Health Connector
	# of phone calls and e-mails sent to Board members to update them on Health Connector advancements	Regular interaction with Board members will help the Connector obtain their feedback	Health Connector
	# of committees and advisory councils on which Board members sit	Track the involvement of Board members in Health Connector committees and advisory councils	Health Connector
	# A&F Subcommittee Meetings	Hold public meetings to engage Health Connector board on budget issues	Health Connector/ A&F
	# of participants in ACA Learning Series	Hold quarterly meetings to educate staff who currently assist Commonwealth Care, Commonwealth Choice, MassHealth and Health Safety Net (HSN) members at Massachusetts hospitals, health centers and community-based organizations by disseminating Affordable Care Act information and distributing post-meeting surveys to evaluate effectiveness	Health Connector/ EOHHS
	% of participants who felt that the ACA Learning Series was beneficial		
	# of quarterly Stakeholder Meetings	Hold open meetings to discuss implementation activities with stakeholders and the general public	Health Connector/ other state agencies

GOAL	MEASURE	DEFINITION / NOTE	DATA SOURCE
	# key hires yielding high-quality staff	The Health Connector seeks to hire high quality staff, as evaluated by the Health Connector's performance evaluation cycle	Health Connector
	% of performance reviews for staff that are completed on time	Completion of performance evaluation cycle for each staff member	Health Connector



THE NEXT PHASE OF MASSACHUSETTS HEALTH CARE REFORM

Massachusetts is poised to address one of the greatest challenges of our generation: Reducing the growth in health care costs while improving health care quality and patient care. From 2009 to 2020, health spending is projected to double, outpacing both inflation and growth in the overall economy. The rapid rate of growth squeezes out other spending, for individual households, for businesses, for communities and in the state budget. That is why this effort is essential for our long-term economic competitiveness and for the health of our residents. This comprehensive bill will build on past reforms through innovative, market-based solutions, by:

Setting Health Care Cost Growth on a Sustainable Long-Term Path

- Establishes a statewide health care cost growth goal for the health care industry pegged at an amount no greater than the growth in the state's overall economy.
 - *For 2013- 2017: Set at the potential growth rate of the state's gross state product (GSP)*
 - *For 2018-2022: Set at, or slightly below, the potential growth rate of the state's gross state product (Between GSP - 0.5% and GSP)*
- This will result in savings of up to **\$200 billion** over the next 15 years.

Leading by Example

- Requires the state's Medicaid program, the state's employee health care program, and all other state-funded health care programs to transition to new health care payment methodologies. These payment models incentivize the delivery of high-quality, coordinated, efficient and effective health care while reducing waste, fraud and abuse.
- Authorizes targeted Medicaid rate increases of up to \$20 million for providers that demonstrate a significant transition to new payment methodologies.
- Establishes a certification process for accountable care organizations or "ACOs" – health care provider systems dedicated to cost growth reduction, quality improvement and patient protection. These ACOs would receive a contracting preference in state health programs.
- Establishes a certification process for patient-centered medical homes – a care delivery model that provides patients with a single point of coordination for all their health needs.

Enhancing Transparency and Accountability of the Health Care Marketplace

- Requires all health care provider systems to register with the state and report regularly on financial performance, market share, cost trends, and quality measures.
- Charges the Attorney General to monitor trends in the health care market including consolidation in the provider market in order to protect patient access and quality.
- Establishes a new "Cost and Market Impact Review" to examine changes in the health care industry and the impact of these changes on cost, quality, and market competitiveness. The findings of this review may be referred to the Attorney General for further investigation.
- Develops a process to track price variation among different health care providers over time and establishes a Special Commission to determine and quantify the acceptable and unacceptable factors contributing to price variation among providers.



THE NEXT PHASE OF MASSACHUSETTS HEALTH CARE REFORM

Investing in a Healthy Future for the Commonwealth

- This bill dedicates \$60 million over the next 4 years in a historic investment in community-based prevention, public health, and wellness efforts to reduce the rates of costly preventable chronic diseases, such as obesity, diabetes, and asthma.
- Establishes a new wellness tax credit for businesses that implement recognized workplace wellness programs, up to \$10,000 per employer. These programs will improve employee health, reduce recidivism, and help control the growth in employer health care premiums.
- Requires the Department of Public Health to develop a “model guide” for wellness programs for businesses and to provide stipends to help businesses establish programs.
- Requires health insurance companies to provide a premium adjustment for small businesses that adopt approved workplace wellness programs.

Building the Health Care System and Workforce for the 21st Century

- Dedicates \$135 million over the next 4 years to support investments in our community hospitals to support the infrastructure necessary to build the health care system of the 21st century. This funding, targeted for financially distressed hospitals, will assist in the transition to new payment methodologies and care delivery models.
- Commits an additional \$30 million in investments for other eligible health care providers to accelerate the on-going statewide adoption of interoperable electronic health records.
- Establishes a Health Care Workforce Transformation Trust Fund to invest in the training, education, and skill development programs necessary to help workers succeed in the health care system of the future. This Fund received \$20 million in the fiscal 2013 budget.
- Incentivizes the accelerated adoption of connected health technology, such as telemedicine.

Increasing Access to Essential Care Services

- Expands the role of physician assistants and nurse practitioners to act as primary care providers in order to expand access to cost-effective care.
- Expands the role of “limited-service-clinics” to act as a cost-effective and convenient point of access for health care services provided by nurse practitioners.
- Expands an existing workforce loan forgiveness program to include providers of behavioral, substance use disorder, and mental health services.
- Establishes a new primary care residency program supported by the Department of Public Health in order to increase the pipeline of primary care providers.

Promoting Administrative Simplification for Health Care Providers

- Requires the development of standard prior authorization forms, which would be available electronically, so that providers would use only one form for all health insurance carriers.
- Authorizes penalties for non-compliance with standardized coding and billing requirements.
- Streamlines data reporting requirement by designating a single agency as the secure data repository for all health care information reported to and collected by the state.



THE NEXT PHASE OF MASSACHUSETTS HEALTH CARE REFORM

Reforming Medical Malpractice Laws

- Reduces unnecessary litigation and malpractice claims costs by creating a 182-day cooling off period while both side try to negotiate a settlement. Requires the exchange of information between the plaintiff and defense to promote early settlement.
- Allows a health care provider or facility to admit to a mistake or error. The admission cannot be used in a court as an admission of liability. However, if a provider lies under oath about the error or mistake, then the statement can be used as an admission of liability.
- Creates a task force to study defensive medicine and medical overutilization.

Improving Consumer Transparency of Health Care Costs

- Establishes new transparency tools to help consumers make health care purchasing decisions based on comparative cost and quality, including the establishment of a consumer health information website with transparent prices and shared-decision making online tools.
- Directs health insurance carriers to disclose the out-of-pocket costs for a proposed health care service and protects patients from paying more than the disclosed amount.
- Requires health insurance carriers to provide a summary to health care consumers in an easily readable and understandable format showing the consumer's responsibility, if any, for payment of any portion of a health care provider claim.

Enhancing the Affordability and Efficiency of Health Insurance Products

- Extends key provisions of small business health insurance legislation passed in 2010, including a requirement that the Division of Insurance rigorously review premium filings to ensure that small businesses and individuals receive the most efficient products possible.
- Extends the current authority of the Division of Insurance to help mitigate and stabilize large "spikes" in premium increases from year to year.
- Increases the minimum premium savings for "tiered" or "selective" network health products from 12% to 14% and establishes a new "smart-tiering" option.

Protecting Consumer Access to Necessary Care

- Requires certified ACOs, patient-centered medical homes, and provider organizations that receive a risk-based payment to set up a system of internal appeals. The appeals process may last no longer than 14 days.
- Requires certified ACOs to guarantee access to all medically necessary services for patients, either internally or through providers outside of the ACO.

Integrating Behavioral, Substance Use Disorder, and Mental Health Services

- Requires health insurance companies to comply with federal mental health parity law and submit documentation to the Attorney General certifying compliance.
- Establishes a special task force to make recommendations on how to integrate behavioral health services in the payment and delivery systems developed under this bill.



THE NEXT PHASE OF MASSACHUSETTS HEALTH CARE REFORM

Other Important Provisions:

Governance – Health Policy Commission (HPC)

- Reforms and reorganizes an existing state entity, the Health Care Quality and Cost Council, into the **Health Policy Commission**.
- The Commission will be governed by an 11 member board within, but not subject to the control of, the Administration and Finance (similar to the Group Insurance Commission).
- This Commission, under the authority of the board, will oversee policy development necessary for the implementation of the overall legislation, including setting and enforcing the health care cost growth benchmark, certifying new payment methods and care delivery models, and conducting the new “Cost and Market Impact” reviews of market changes.

Governance- Center for Health Information and Analysis (CHIA)

- Reforms and reorganizes an existing state entity, the Division of Health Care Finance and Policy, into the **Center for Health Information and Analysis**.
- The Center will be an independent state agency, governed by an executive director appointed by majority vote of the Governor, Attorney General, and State Auditor (similar to the Inspector General).
- The Center will act as the designated health care data collection, dissemination, and analysis agency of the Commonwealth and will provide critical, independent analysis of the how the state’s policies are affecting cost trends.

Mandatory Overtime - Bans the use of mandatory overtime for nurses in a hospital setting unless patient safety requires it in an emergency situation or there is no reasonable alternative.

Fair Share Assessment- Raises the full-time equivalent (FTE) threshold for fair share contributions from 10 to 20 employees and adds a provision that employees who have health insurance from other sources will not be included in the calculation of whether an employer is a contributing employer.. (Changes effective July 1, 2013).

State Health Plan - Establishes a health planning council to develop, every 5 years, a state health plan determining the future medical capital needs of the Commonwealth.

Health Savings Accounts- Requires a review and recommendations relative to increasing the use of health savings accounts, flexible savings accounts, and other “consumer-driven plans.”

Pharmaceutical Cost Containment- Directs state agencies responsible for the purchase of prescription drugs to form a uniform procurement unit to negotiate for bulk purchases and creates a commission to review methods to reduce the cost of prescription drugs for public and private payers.

C-88 The Top Ten Facts about Massachusetts Health Care Reform

1 Massachusetts now has a 98% coverage rate, the best in the nation, by far. About 439,000 Massachusetts residents are newly insured. Nearly all children (99.8%) and seniors (99.6%) have health insurance. Furthermore, racial and ethnic disparities in health coverage have been significantly reduced.

Massachusetts reform and improved coverage has led to better health among Commonwealth residents. More people are receiving cancer screenings like colonoscopies, more women are getting pre-natal care, and more than 150,000 have stopped smoking after getting coverage for smoking cessation in MassHealth, the state's Medicaid program.

2 Popular support for the law remains high, ranging from 59% to 75% in independent polls. Even in the midst of a polarizing debate over national health care reform, strong public and bipartisan support has been sustained.

3 Access to care has improved in Massachusetts. A fall 2008 survey by the Blue Cross Blue Shield of Massachusetts Foundation and the *Boston Globe* found that more than 90% of individuals reported having a primary care provider, and only 5% said there was a time in the past year that they needed medical care, tests or treatment that they did not get. Access to care is far better in Massachusetts than nationally. For instance, in 2007, about 20% of the U.S. population reported not getting or delaying needed medical care at some point in the previous 12 months.

The supply of primary care physicians is a national problem, and Massachusetts reform has stimulated creative approaches to further improve access. In 2008, the private sector, with some state contribution, developed a loan repayment program for physicians and nurses who make a two- to three-year commitment to practice primary care in a Massachusetts community health center. Some 118 primary care clinicians, able to care for more than 209,000 patients, have been recruited or retained because of this incentive program. Additionally, the state's decision in 2007 to allow carefully regulated development of primary care nursing services in commercial pharmacies and other settings is also expanding access for minor ailments.

4 Health care reform in Massachusetts has not been a budget buster. Independent analysis by the Massachusetts Taxpayers Foundation concurs with state data showing the cost of the law has been relatively modest, with increased net spending in FY 2010 accounting for just over 1 percent of the state budget. The state has held the line on rates in both MassHealth and Commonwealth Care, with trends far below the experience in the commercial market. Moreover, nearly half of Commonwealth Care members pay premiums for their coverage.

5 Since health reform, more employers are offering coverage to their employees, bucking the national trend. In 2010, 77% of Massachusetts employers offered health insurance, up from 69% in 2001. In contrast the national trend which has seen employer offerings remain flat from 68% in 2001 to 69% in 2010. The dominant form of coverage in the state remains private insurance. In the midst of the worst recession since the Great Depression, public

sector coverage has predictably increased. But these individuals have not lost coverage - a strength of the Massachusetts model. As more people return to the workforce, reliance on public sector insurance will decrease.

6 Massachusetts health reform provided the model for national reform. Like Massachusetts, the new national law calls for the formation of Exchanges. The Health Connector's tiering system, which offers consumers a choice of gold,

silver or bronze coverage, was also adopted in a slightly expanded way. Like Massachusetts, the national law sets minimum coverage standards and will include benefits like elimination of pre-existing condition exclusions. A number of the benefits in the Massachusetts law are enhanced under national reform, most notably extension of subsidy assistance for individuals from 300% to 400% of the federal poverty level, extension of federally-subsidized coverage to legal immigrants and extension of insurance protections to self-funded private coverage.

7 The individual mandate has worked fairly and effectively to expand coverage in Massachusetts. Some 97% of the taxpayers are complying with new health reform filing requirements. Furthermore, the Health Connector's appeals process, which rules on hardship exceptions, has been fair to taxpayers, with a 65 percent approval rate for those who follow through with an appeal.

8 As a result of the merger of the small- and non-group markets, individuals who had a hard time finding affordable coverage now can. Their premiums for comparable coverage dropped on average about 20% in 2007 right after passage of the law. This is significant progress in a market that had typically experienced double-digit annual premium increases. A Massachusetts Division of Health Care Finance and Policy report found that, as of June 2011, individual, non-group coverage grew by 33,000 individuals since reform, with most purchasing through the Health Connector's Commonwealth Choice program.

9 Massachusetts has been proactive in helping small businesses. Governor Patrick implemented a series of initiatives that led to lower premiums for small businesses, including denying rate increases proposed by health insurers. This led to negotiated rates and lower costs for employers. Other Administration and legislative initiatives were included in a comprehensive small business health care cost containment law. While not the ultimate solution to rising premiums, these actions were significant steps forward.

In February of 2010, the Health Connector launched the Business Express program which gives small employers the ability to make apples-to-apples comparisons of plans and benefits and pick the one that is right for them and their employees, potentially saving money. The Legislature also created the Small Business Wellness Incentive Program that will provide some small employers with a rebate of up to 15% if their employees participate in a wellness program offered through the Health Connector. This incentive program, which became effective July 1, 2011, enhances the small business tax credit program available through national reform.

10 Massachusetts is taking on the challenge of cost containment. Progress has already been made through the enactment of two comprehensive cost containment bills since health care reform. Moreover, a commission made up of leaders from state government, providers, insurers and other experts unanimously endorsed a groundbreaking blueprint to reward value instead of volume when it comes to paying for health care. As noted by Nobel Prize-winning economist and New York Times columnist Paul Krugman: "So, where in America is there serious consideration of moving away from fee-for-service to a more comprehensive, integrated approach to health care? The answer is: Massachusetts." (NYT 7/23/09) As a first step toward comprehensive payment reform, Governor Patrick filed legislation on February 17, 2011.



Abbie von Schlegell,
Commonwealth Choice Member



Matt McGinity, small business owner
Business Express member



Commonwealth Health Insurance Connector Authority
and Executive Office of Health and Human Services

