

HOUSE No. 790

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to improve efficiency and coordination of health through a new division of health insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>

HOUSE No. 790

By Ms. Barber of Somerville, a petition (accompanied by bill, House, No. 790) of Christine P. Barber and others for legislation to establish a division of health insurance to improve the efficiency and coordination of health insurance. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to improve efficiency and coordination of health through a new division of health insurance.

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. The third sentence of the first paragraph of subsection (d) of section 38C of
2 chapter 3 of the General Laws is hereby amended by striking out the words “the division of
3 insurance” and inserting in place thereof the following words:– the division of health insurance.

4 SECTION 2. The second paragraph of section 16 of chapter 6A of the General Laws is
5 hereby amended by striking out the words “and (7) the health facilities appeals board” and
6 inserting in place thereof the following words:– (7) the health facilities appeals board; and (8) the
7 division of health insurance under the direction of the commissioner of health insurance.

8 SECTION 3. The second sentence of subsection (a) of section 16D of chapter 6A of the
9 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
10 inserting in place thereof the following words:– the commissioner of health insurance.

11 SECTION 4. The definition of “Net cost of private health insurance” in section 1 of
12 chapter 6C of the General Laws is hereby amended by striking out the words “the division of
13 insurance” and inserting in place thereof the following words:- the division of health insurance.

14 SECTION 5. The third sentence of subsection (a) of section 11 of chapter 6C of the
15 General Laws is hereby amended by striking out the words “the division of insurance” and
16 inserting in place thereof the following words:- the division of health insurance.

17 SECTION 6. The third sentence of subsection (c) of section 11 of chapter 6C of the
18 General Laws is hereby amended by striking out the words “the division of insurance” and
19 inserting in place thereof the following words:- the division of health insurance.

20 SECTION 7. The first sentence of subsection (d) of section 11 of chapter 6C of the
21 General Laws is hereby amended by striking out the words “the division of insurance” and
22 inserting in place thereof the following words:- the division of health insurance.

23 SECTION 8. The first sentence of subsection (e) of section 11 of chapter 6C of the
24 General Laws is hereby amended by striking out the words “the division of insurance” and
25 inserting in place thereof the following words:- the division of health insurance.

26 SECTION 9. Clause (ix) of subsection (b) of section 15 of chapter 6C of the General
27 Laws is hereby amended by striking out the words “the division of insurance” and inserting in
28 place thereof the following words:- the division of health insurance.

29 SECTION 10. The third sentence of clause (1) of subsection (a) of section 16 of chapter
30 6C of the General Laws is hereby amended by striking out the words “the division of insurance”
31 and inserting in place thereof the following words:- the division of health insurance.

32 SECTION 11. The fifth sentence of clause (1) of subsection (a) of section 16 of chapter
33 6C of the General Laws is hereby amended by striking out the words “the division of insurance”
34 and inserting in place thereof the following words:- the division of health insurance.

35 SECTION 12. Sections 7A and 7B of chapter 26 of the General Laws are hereby
36 repealed.

37 SECTION 13. The first paragraph of section 8H of chapter 26 of the General Laws is
38 hereby amended by adding the following sentence:- Assessments received under this paragraph
39 from domestic health insurance companies, including nonprofit hospital, medical and dental
40 service corporations as defined in section 1 of chapter 176A, section 1 of chapter 176B, and
41 section 1 of chapter 176E shall be paid to the division of health insurance.

42 SECTION 14. Section 8H of chapter 26 of the General Laws is hereby amended by
43 striking out the third and fourth paragraphs.

44 SECTION 15. Sections 8K and 8L of chapter 26 of the General Laws are hereby
45 repealed.

46 SECTION 16. Subsection (iv) of section 3 of chapter 12B of the General Laws is hereby
47 amended by striking out the words “the division of insurance” and inserting in place thereof the
48 following words:- the division of health insurance.

49 SECTION 17. Clause (9) of subsection (b) of section 9 of chapter 12B of the General
50 Laws is hereby amended by striking out the words “the division of insurance” and inserting in
51 place thereof the following words:- the division of health insurance.

52 SECTION 18. Clause (10) of subsection (b) of section 9 of chapter 12B of the General
53 Laws is hereby amended by striking out the words “the division of insurance” and inserting in
54 place thereof the following words:- the division of health insurance.

55 SECTION 19. Clause (1) of subsection (b) of section 10 of chapter 12B of the General
56 Laws is hereby amended by striking out the words “the division of insurance” and inserting in
57 place thereof the following words:- the division of health insurance.

58 SECTION 20. The third sentence of section 17 of chapter 12B of the General Laws is
59 hereby amended by striking out the words “the division of insurance” and inserting in place
60 thereof the following words:- the division of health insurance.

61 SECTION 21. The first sentence of section 3 of chapter 32A of the of the General Laws
62 is hereby amended by striking out the words “the commissioner of insurance” and inserting in
63 place thereof the following words:- the commissioner of health insurance.

64 SECTION 22. The third sentence of subsection (c) of section 8B of chapter 62C of the
65 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
66 inserting in place thereof the following words:- the commissioner of health insurance.

67 SECTION 23. The General Laws are hereby amended by inserting after chapter 111N the
68 following new chapter:-

69 Chapter 111O.

70 Division of Health Insurance.

71 Section 1. There is hereby established a division of health insurance under the
72 supervision and control of the commissioner of health insurance. The secretary of health and

73 human services shall appoint the commissioner of health insurance, with the approval of the
74 governor, who shall serve at the pleasure of the secretary and may be removed by the secretary at
75 any time, subject to the approval of the governor. The commissioner shall have such educational
76 qualifications and administrative and other experience as the secretary of health and human
77 services determines to be necessary for the performance of the duties of commissioner. The
78 position of commissioner shall be classified in accordance with section 45 of chapter 30 and the
79 salary shall be determined in accordance with section 46C of said chapter 30.

80 The commissioner shall appoint and may remove such agents and subordinate officers as
81 the commissioner may deem necessary and may establish bureaus and subdivisions within the
82 division. The division shall adopt and amend rules and regulations, in accordance with chapter
83 30A, for the administration of its duties and powers and to effectuate the provisions and purposes
84 of this chapter and other duties of the division.

85 Section 2. The division of health insurance shall discharge its powers and duties to:

86 (1) Guard the solvency of health insurers;

87 (2) Protect the interests of consumers;

88 (3) Encourage fair treatment of health care providers; and

89 (4) Encourage policies and developments that improve the quality and efficiency
90 of health care service delivery and outcomes; and

91 (5) View the health care system as a comprehensive entity and encourage and
92 direct insurers towards policies that advance the welfare of the public through overall efficiency,
93 improved health care quality, and appropriate access.

94 Section 3. There shall be in the division a health care access bureau overseen by a deputy
95 commissioner for health care access, whose duties shall include, subject to the direction of the
96 commissioner of health insurance, administration of the division's statutory and regulatory
97 authority for oversight of the small group and individual health insurance market, oversight of
98 affordable health plans, including coverage for young adults, as well as the dissemination of
99 appropriate information to consumers about health insurance coverage and access to affordable
100 products. The commissioner shall appoint at least the following employees of the health care
101 access bureau: a deputy commissioner for health access, a health care finance expert, an actuary,
102 and a research analyst. They shall devote their full time to the duties of their office, shall be
103 exempt from chapters 30 and 31, and shall serve at the pleasure of the commissioner. The
104 commissioner may appoint such other employees as the bureau may require.

105 The commissioner may make and collect an assessment against the carriers licensed
106 under chapters 175, 176A, 176B and 176G to pay for the expenses of the bureau. The assessment
107 shall be at a rate sufficient to produce \$600,000 annually. In addition to that amount, the
108 assessment shall include an amount to be credited to the General Fund which shall be equal to
109 the total amount of funds estimated by the secretary for administration and finance to be
110 expended from the General Fund for indirect and fringe benefit costs attributable to the personnel
111 costs of the bureau. If the commissioner fails to expend for the costs and expenses of the bureau
112 in a fiscal year the total amount of \$600,000 for the purposes set forth in this section, any amount
113 unexpended in that fiscal year shall be credited against the assessment to be made in the
114 following fiscal year, and the assessment in the following fiscal year shall be reduced by that
115 unexpended amount. The assessment shall be allocated on a fair and reasonable basis among all
116 carriers licensed under said chapters 175, 176A, 176B and 176G. The funds produced by the

117 assessments shall be expended by the division, in addition to any other funds which may be
118 appropriated, to assist in defraying the general operating expenses of the bureau, and may be
119 used to compensate consultants retained by the bureau. A carrier licensed under said chapters
120 175, 176A, 176B and 176G shall pay the amount assessed against it within 30 days after the date
121 of the notice of assessment from the commissioner.

122 Section 4. (a) For the purposes of implementing this chapter and section 8B of chapter
123 62C, the commissioner of health insurance may consult with the department of revenue and may
124 enter into an interdepartmental service agreement with the department that may include the
125 transfer of information from statements and reports provided under said section 8B.

126 (b) Upon request, carriers licensed under chapters 175, 176A, 176B and 176G and
127 the office of Medicaid shall make information available to the bureau for the purposes of this
128 chapter. Such information shall be limited to the minimum amount of personal information
129 necessary, shall not include information about diagnoses or treatments and, except for the office
130 of Medicaid, shall not include social security numbers. The information acquired under this
131 section shall be confidential and shall not constitute a public record.

132 (c) The division may consider violations of this section and said section 8B when
133 licensing or authorizing entities to provide health coverage.

134 Section 5. The division, in consultation with the commonwealth health insurance
135 connector authority established by chapter 176Q, shall establish and publish minimum standards
136 and guidelines at least annually for each type of health benefit plans, except qualified student
137 health insurance plans as set forth in section 18 of chapter 15A, provided by insurers and health
138 maintenance organizations doing business in the commonwealth.

139 Section 6. The division shall require all health insurers and health maintenance
140 organizations doing business in the commonwealth to identify persons who are recipients of
141 medical assistance under chapter 118E or recipients of health care services, including hospital
142 and other services funded through the health safety net under chapter 118E, or who are
143 responsible for supporting such recipients, and who are also beneficiaries under any policy for
144 health insurance or parties to any health maintenance contract in force and effect in the
145 commonwealth. The department of public welfare and the center for health information and
146 analysis shall provide information to the extent sufficient to allow all insurers to identify such
147 persons. Such information shall be made available by such insurers and health maintenance
148 organizations and by the department and the center for health information only for the purposes
149 of and to the extent necessary for identifying such persons. No health insurer or health
150 maintenance organization which complies with this section shall be liable in any civil or criminal
151 action or proceedings brought by such beneficiaries or members on account of such compliance.
152 The division of health insurance shall further direct all health insurers and health maintenance
153 organizations doing business in the commonwealth to participate with the department and the
154 center for health information and analysis in any procedures, including but not limited to
155 automated file matches, conducted under the direction of the department and the center for
156 health information and analysis for the purpose of identifying those persons who are recipients of
157 medical assistance under chapter 118E or recipients of health care services, including hospital
158 and other services funded through the health safety net, under chapter 118E, or who are
159 responsible for supporting such recipients, and who are also beneficiaries under any policy for
160 health insurance or parties to any health maintenance contract in force in the commonwealth.
161 Participation in such a procedure by a health insurer or health maintenance organization doing

162 business in the commonwealth shall include but not be limited to reasonable financial
163 participation in the cost of any such procedure. The commissioner of health insurance is
164 authorized to promulgate regulations necessary to ensure the effectiveness of this section

165 Section 7. The commissioner of health insurance may implement and enforce applicable
166 provisions of the federal Mental Health Parity and Addiction Equity Act, section 511 of Public
167 Law 110-343, and applicable state mental health parity laws, including section 22 of chapter
168 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter 176B and
169 sections 4, 4B and 4M of chapter 176G of the General Laws, in regard to any carrier licensed
170 under chapters 175, 176A, 176B and 176G.

171 Section 8. In regard to any carrier licensed pursuant to chapters 175, 176A, 176B, 176E,
172 176F and 176G, the commissioner of health insurance may implement and enforce: (i) the
173 Patient Protection and Affordable Care Act, Public Law 111-148, as well as any rules,
174 regulations or guidance applicable thereto, as amended from time to time; and (ii) the Women's
175 Health and Cancer Rights Act of 1998, Public Law 105-277, as well as any rules, regulations or
176 guidance applicable thereto, as amended from time to time, including, but not limited to, the
177 amendments made by: Title X of said Patient Protection and Affordable Care Act; the Health
178 Care and Education Reconciliation Act of 2010, Public Law 111-152; and the Indian Health Care
179 Improvement Reauthorization and Extension Act of 2009, as enacted in amended form by
180 section 10221 said federal Patient Protection and Affordable Care Act.

181 SECTION 24. Section 1 of chapter 175 of the General Laws is hereby amended by
182 striking out the definition of “Commissioner” and inserting in place thereof the following
183 definition:–

184 “Commissioner”, the commissioner of insurance; provided, that the term
185 “Commissioner” shall mean the commissioner of health insurance established by chapter 1110
186 with respect to all health insurance, including accident and sickness insurance under sections 108
187 and 110 and any other insurance that provides medical, surgical, dental, or hospital expense
188 benefits.

189 SECTION 25. Section 2 of chapter 175I of the General Laws is hereby amended by
190 striking out the definition of “Commissioner” and inserting in place thereof the following
191 definition:–

192 “Commissioner”, the commissioner of insurance or his designee; provided, that the term
193 “Commissioner” shall mean the commissioner of health insurance established by chapter 1110
194 with respect to all health insurance.

195 SECTION 26. Section 1 of chapter 176A of the General Laws is hereby amended by
196 inserting before the first paragraph the following paragraph:–

197 Notwithstanding any general or special law to the contrary, the words “commissioner”
198 and “commissioner of insurance” as used in this chapter shall mean the commissioner of health
199 insurance.

200 SECTION 27. Section 1 of chapter 176B of the General Laws is hereby amended by
201 striking out the definition of “Commissioner” and inserting in place thereof the following
202 definition:–

203 “Commissioner”, the commissioner of health insurance.

204 SECTION 28. Section 1 of chapter 176D of the General Laws is hereby amended by
205 striking out the definition of “Commissioner” and inserting in place thereof the following
206 definition:–

207 “Commissioner”, the commissioner of insurance; provided, that the terms
208 “Commissioner” and “commissioner of the division of insurance” shall mean the commissioner
209 of health insurance established by chapter 111O with respect to all health insurance, including
210 accident and sickness insurance under sections 108 and 110 and any other insurance that
211 provides medical, surgical, dental, or hospital expense benefits.

212 SECTION 29. Section 1 of chapter 176E of the General Laws is hereby amended by
213 striking out the definition of “Commissioner” and inserting in place thereof the following
214 definition:–

215 “Commissioner”, the commissioner of health insurance.

216 SECTION 30. Section 1 of chapter 176F of the General Laws is hereby amended by
217 striking out the definition of “Commissioner” and inserting in place thereof the following
218 definition:–

219 “Commissioner”, the commissioner of health insurance.

220 SECTION 31. Section 1 of chapter 176G of the General Laws is hereby amended by
221 striking out the definition of “Commissioner” and inserting in place thereof the following
222 definition:–

223 “Commissioner”, the commissioner of health insurance.

224 SECTION 32. Section 1 of chapter 176I of the General Laws is hereby amended by
225 striking out the definition of “Commissioner” and inserting in place thereof the following
226 definition:–

227 “Commissioner”, the commissioner of health insurance.

228 SECTION 33. Section 1 of chapter 176J of the General Laws is hereby amended by
229 striking out the definition of “Commissioner” and inserting in place thereof the following
230 definition:–

231 “Commissioner”, the commissioner of health insurance.

232 SECTION 34. Section 1 of chapter 176K of the General Laws is hereby amended by
233 striking out the definition of “Commissioner” and inserting in place thereof the following
234 definition:–

235 “Commissioner”, the commissioner of health insurance.

236 SECTION 35. Section 1 of chapter 176M of the General Laws is hereby amended by
237 striking out the definition of “Commissioner” and inserting in place thereof the following
238 definition:–

239 “Commissioner”, the commissioner of health insurance.

240 SECTION 36. Section 1 of chapter 176N of the General Laws is hereby amended by
241 striking out the definition of “Commissioner” and inserting in place thereof the following
242 definition:–

243 “Commissioner”, the commissioner of health insurance.

244 SECTION 37. Section 1 of chapter 176O of the General Laws is hereby amended by
245 striking out the definition of “Commissioner” and inserting in place thereof the following
246 definition:–

247 “Commissioner”, the commissioner of health insurance.

248 SECTION 38. Said section 1 of said chapter 176O of the General Laws is hereby
249 amended by striking out the definition of “Division” and inserting in place thereof the following
250 definition:–

251 “Division”, the division of health insurance.

252 SECTION 39. Section 1 of chapter 176Q of the General Laws is hereby amended by
253 striking out the definition of “Commissioner” and inserting in place thereof the following
254 definition:–

255 “Commissioner”, the commissioner of health insurance.

256 SECTION 40. The second sentence of subsection (b) of section 2 of chapter 176Q of the
257 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
258 inserting in place thereof the following words:– the commissioner of health insurance.

259 SECTION 41. Subsection (m) of section 3 of chapter 176Q of the General Laws is hereby
260 amended by striking out the words “the division of insurance” and inserting in place thereof the
261 following words:– the division of health insurance.

262 SECTION 42. Section 1 of chapter 176R of the General Laws is hereby amended by
263 striking out the definition of “Commissioner” and inserting in place thereof the following
264 definition:–

265 “Commissioner”, the commissioner of health insurance.

266 SECTION 43. Section 1 of chapter 176S of the General Laws is hereby amended by
267 striking out the definition of “Commissioner” and inserting in place thereof the following
268 definition:–

269 “Commissioner”, the commissioner of health insurance.

270 SECTION 44. Section 1 of chapter 176T of the General Laws is hereby amended by
271 striking out the definition of “Commissioner” and inserting in place thereof the following
272 definition:–

273 “Commissioner”, the commissioner of health insurance.

274 SECTION 45. Section 1 of chapter 176U of the General Laws is hereby amended by
275 striking out the definition of “Commissioner” and inserting in place thereof the following
276 definition:–

277 “Commissioner”, the commissioner of health insurance.

278 SECTION 46. (a) Notwithstanding any general or special law to the contrary, this
279 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
280 property and legal obligations and functions of state government from the division of insurance,
281 solely to the extent that they relate to health insurance, as transferor agency, to the division of
282 health insurance, as transferee agency.

283 (b) Subject to appropriation, the relevant employees of the transferor agency, including
284 those who immediately before the effective date of this act held permanent appointment in
285 positions classified under chapter 31 of the General Laws or have tenure in their positions as

286 provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held
287 confidential positions, are hereby transferred to the transferee agency, without interruption of
288 service within the meaning of section 9A of chapter 30, without impairment of seniority,
289 retirement or other rights of the employee, and without reduction in compensation or salary
290 grade, notwithstanding any change in title or duties resulting from such reorganization, and
291 without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change
292 in union representation or certified collective bargaining unit as certified by the state labor
293 relations commission or in local union representation or affiliation. Any collective bargaining
294 agreement in effect immediately before the transfer date shall continue in effect and the terms
295 and conditions of employment therein shall continue as if the employees had not been so
296 transferred. The reorganization shall not impair the civil service status of any such reassigned
297 employee who immediately before the effective date of this act either held a permanent
298 appointment in a position classified under chapter 31 of the General Laws or had tenure in a
299 position by reason of section 9A of chapter 30 of the General Laws.

300 (c) Notwithstanding any general or special law to the contrary, all such employees shall
301 continue to retain their right to bargain collectively pursuant to chapter 150E of the General
302 Laws and shall be considered employees for the purposes of chapter 150E.

303 Nothing in this section shall confer upon any employee any right not held immediately
304 before the date of the transfer, or to prohibit any reduction of salary grade, transfer,
305 reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything
306 in this section prohibit the abolition of any management position within the divisions of
307 telecommunications or community antenna television after transfer to the department.

308 (d) All petitions, requests, investigations, filings and other proceedings appropriately and
309 duly brought before the transferor agency, or pending before it before the effective date of this
310 act, shall continue unabated and remain in force, but shall be assumed and completed by the
311 transferee agency.

312 (e) All orders, advisories, findings, rules and regulations duly made and all approvals
313 duly granted by the transferor agency, which are in force immediately before the effective date of
314 this act, shall continue in force and shall thereafter be enforced, until superseded, revised,
315 rescinded or canceled, in accordance with law, by the transferee agency.

316 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other
317 property, both personal and real, including all such property held in trust, which immediately
318 before the effective date of this act are in the custody of the transferor agency, shall be
319 transferred to the transferee agency.

320 (g) All duly existing contracts, leases and obligations of the transferor agency, shall
321 continue in effect but shall be assumed by the transferee agency. No such existing right or
322 remedy of any character shall be lost, impaired or affected by this act.

323 (h) Whenever the term “division of insurance” appears in any statute, regulation,
324 contract or other document, it shall be taken to mean the division of health insurance to the
325 extent that it relates to health insurance. Otherwise, it shall be continue to be taken to mean the
326 division of insurance.