

HOUSE No. 3563

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Establishing Transparency in "Pay-for-Performance" Provisions in Health Insurance Contracts..

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. Any provision in a contract between (a) a health insurance carrier or HMO
2 and (b) any provider that purports to adjust or vary the reimbursement payable to such provider,
3 either for a particular service or in the aggregate, on the basis of quality of care measurements or
4 other performance factors shall reflect nationally recognized standards and measures of care that
5 are created by independent healthcare improvement organizations or agencies, such as the Joint
6 Commission, the Institute for Healthcare Improvement, the Agency for Healthcare Research and
7 Quality or others that have been recognized and/or approved by the Massachusetts Department
8 of Public Health. The standard of care definitions, performance measurements and
9 methodologies for analyzing data (including, but not limited to, use of risk adjustments) utilized
10 in such contract provisions shall be those utilized by such healthcare improvement organizations
11 or agencies, except to the extent that the parties to the contract have expressly agreed in writing
12 otherwise. Upon inclusion of such a provision in a contract, it shall not be changed except (a) by
13 express written agreement of the parties or (b) as such healthcare improvement organizations or
14 agencies adjust their standards, definitions, measurements or methodologies. Any health

15 insurance carrier or HMO proposing to make a reimbursement adjustment or variation based
16 upon such a measurement of quality of care or other performance factor shall first give the
17 affected provided at least 60 days advanced written notice, together with full and complete
18 disclosure of the basis and calculation justifying such adjustment or variation.