

**SENATE . . . . . No. 327**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to prior authorizations of prescription medications..

*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. Chapter 118E of the General Laws, as appearing in the 2006 official  
2 edition, is hereby amended by adding at the end thereof the following new section: Section 61.  
3 Drug prior authorization process(a) The division shall maintain a process for the evaluation of  
4 drugs to be placed on the prior authorization list, which shall include: (1) A public hearing on all  
5 medications prior to a decision being made on prior authorization;(2) publishing conspicuous  
6 notice in at least one newspaper of general circulation and on the division's website at least thirty  
7 (30) days prior to any public hearing on whether such a drug should be placed on prior  
8 authorization;(3) consideration of the potential impact on patient care, safety and other sectors of  
9 the state health care systems including emergency room visits and hospitalizations as a result of  
10 placement of such drug on prior authorization;(4) evaluation of recommendations made by the  
11 Pharmacy and Therapeutics Advisory Committee, established in Section 62;(5) receipt of written  
12 approval by a physician who is board certified in the specialty that most commonly treats the  
13 disease or prescribes the relevant therapeutic class of drugs. Said physician shall not be  
14 employed by, nor have any financial relationship with, any pharmacy benefits management

15 company managing Medicaid prescription benefits, nor be a member of the Pharmacy and  
16 Therapeutics Advisory Committee. Such written ratification shall be submitted to the  
17 commissioner, members of the Pharmacy and Therapeutics Advisory Committee, and shall be  
18 available to the public upon request; and,(6) A final decision shall be made within 60 days of the  
19 public hearing and published for public comment for a period of no less than 30 days. The  
20 effective date of the decision shall not be prior to the close of the comment period and effective  
21 notice of the decision's finality is available to prescribers.(b) The Division shall make a report to  
22 the house and senate committees on ways and means and the house and senate committees on  
23 health care financing at the conclusion of all prior authorization proceedings for each therapeutic  
24 class or at least, no less often than annually. Said report shall include but not be limited to the  
25 outcomes of all public hearings and prior authorization decisions; a list of drugs which are and  
26 are not to be prior authorized along with corresponding information used to make such decisions;  
27 sectors of the state health care program that may be affected by the drug's availability for use in  
28 treating program beneficiaries; any changes made or proposed to the prior authorization process;  
29 and recommendations including legislation that may benefit the prior authorization process and  
30 program beneficiaries; said report shall be posted on the division's website.

31 SECTION 2. Chapter 118E of the General Laws, as appearing in the 2004 official  
32 edition, is hereby amended by adding at the end thereof the following new section: Section 62.  
33 Pharmacy and Therapeutics Advisory Committee (a) There is hereby established a Pharmacy and  
34 Therapeutics Advisory Committee for the purpose of advising and making recommendations to  
35 the Division of Medical Assistance's prior authorization program. Said advisory committee shall  
36 consist of thirteen (13) members to be appointed by the Governor and shall include: five  
37 physicians licensed in Massachusetts and actively involved in the practice of medicine; three

38 pharmacists licensed to do business in the commonwealth and actively involved in the practice of  
39 pharmacy; a representative of the Massachusetts Medical Society; a representative of the  
40 Massachusetts Pharmacy Association; a representative of medical assistance beneficiaries in the  
41 commonwealth; and, two patient advocates. In making physician appointments the Governor  
42 shall make his selections from a list of nominees provided by the Massachusetts Medical  
43 Society. In making pharmacist appointments the Governor shall make his selections from a list  
44 of nominees provided by the Massachusetts Pharmacy Association. Advisory committee  
45 members shall serve staggered three-year terms. Two physicians, one pharmacist and the  
46 representative of medical assistance beneficiaries shall each be appointed for one-year terms.  
47 Members may be reappointed for a period not to exceed three, three-year terms. Advisory  
48 committee members shall select a chairperson and a vice-chairperson by a majority vote of the  
49 committee membership on an annual basis. Said committee shall meet at least monthly and may  
50 meet at other times at the discretion of the chairperson. Notice of any meeting of the advisory  
51 committee shall be published thirty (30) days before such meeting; and(b) The advisory  
52 committee shall have the power and duty to: (1) advise and make recommendations regarding the  
53 implementation of a drug prior authorization program for the medical assistance program; (2)  
54 advise and make recommendations regarding rules to be promulgated by the division regarding  
55 outpatient prescription drug prior authorization; (3) make recommendations for a grievance  
56 mechanism for interested parties to appeal any decision made by the Division to place a drug on  
57 prior authorization; (4) make recommendations to the Division regarding any inpatient or  
58 outpatient prescription drug covered by the medical assistance program that is to be prior  
59 authorized as well as which drugs are exempt from the prior approval process. Said  
60 recommendation shall be supported by an analysis of prospective and retrospective DUR data

61 demonstrating(a) the expected impact of such a decision on the clinical care likely to be received  
62 by beneficiaries for whom the drug is medically necessary;(b) the expected impact on physicians  
63 whose patients require the drug; (c) the expected fiscal impact on the medical assistance  
64 program;(d) review and make recommendations on a semi-annual basis whether drugs placed on  
65 prior authorization should remain on prior authorization; and(e) make recommendations for a list  
66 of maintenance medications that are needed for chronic illnesses.