

SENATE No. 581

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to parity in calculating surcharges and health safety net trust fund liability assessments for acute hospitals, ambulatory surgical centers, specialty health care providers, & laboratories..

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 15 of Chapter 61 of the Acts of 2007 (the “Act”), concerning G.L. 118G, section
2 34, shall be amended as follows:

3 A. By replacing the existing definitions for such terms with the following:

4 “Ambulatory surgical center services”, notwithstanding any provision of general or
5 special law or regulation to the contrary, shall be defined as services described for purposes of
6 the Medicare program under 42 U.S.C. 1395k(a)(2)(F)(I). These services include both facility
7 services and surgical and other related medical procedures.”

8 “Payments subject to surcharge”, notwithstanding any provision of general or special law
9 or regulation to the contrary, shall be defined as all amounts paid, directly or indirectly, by
10 surcharge payors to acute hospitals for health care services, to ambulatory surgical centers for
11 ambulatory surgical center services, to specialty health care providers for specialty health care
12 services, and to laboratories as defined in this section; and provided, however, that “payments

13 subject to surcharge” shall not include: (i) payments, settlements and property or casualty
14 insurance policies; (ii) payments made on behalf of Medicaid recipients, Medicare beneficiaries
15 or persons enrolled in policies issued under chapter 176K or similar policies issued on a group
16 basis; and provided further, that “payments subject to surcharge” may exclude amounts
17 established by regulations promulgated by the division for which the costs and efficiency of
18 billing a surcharge payor or enforcing collection of the surcharge from a surcharge payor would
19 not be cost effective.”

20 “Surcharge payor”, notwithstanding any provision of general or special law or regulation
21 to the contrary, shall be defined as an individual or entity that pays for or arranges for the
22 purchase of health care services provided by acute hospitals, ambulatory surgical center services
23 provided by ambulatory surgical centers, specialty health care services provided by specialty
24 health care providers, and laboratory services provided by laboratories, as defined in this section;
25 provided, however, that the term “surcharge payor” shall not include Title XVIII and Title XIX
26 programs and their beneficiaries or recipients, other governmental programs of public assistance
27 and their beneficiaries or recipients and the workers’ compensation program established by
28 chapter 152.

29 B. By inserting the following new definitions after the existing definition of “Resident”:

30 “Specialty health care provider”, shall be defined as any entity including a physician
31 practice providing outpatient services typically provided in a hospital setting, including but not
32 limited to: (1) an entity providing anesthesia, conscious sedation and/or diagnostic injection
33 services (including endoscopy services and excluding dental facilities); (ii) an entity employing
34 major

35 medical, diagnostic and/or therapeutic equipment, including but not limited to equipment
36 defined as new technology or as providing an innovative service, pursuant to chapter 111, section
37 25B and excluding x-ray equipment; and (iii) which is not a hospital, ambulatory surgical center
38 or community health center. The department shall promulgate regulations with respect to the
39 classification of specialty health care providers.”;

40 “Laboratory,” shall be defined for these purposes as a laboratory that is licensed by the
41 department of public health and pursuant to M.G.L. c. 111D section 1(1) that is not operated by a
42 community health center.

43 C. Section 15 of the Act, concerning G.L. 118G, section 35 shall be amended as follows:

44 In subsection (b)(1), by inserting after the phrase “acute hospitals” the following:

45 “, ambulatory surgical centers’, specialty health care providers’, laboratories’,”.

46 D. Section 15 of the Act, concerning G.L. 118G, section 36 shall be amended as follows:

47 In subsection (b), by inserting after the phrase “all amounts paid by acute hospitals” the
48 following: “, ambulatory surgical centers’, specialty health care providers’, laboratories’,”.

49 E. Section 150 of the Act, concerning G.L. 118G, section 37 shall be amended as follows:

50 By adding a new subsection (a), prior to the existing subsection (a), and re-lettering the
51 existing subsections, as follows:

52 “(a) Ambulatory surgical centers, specialty health care providers, and laboratories,
53 notwithstanding any provision of general or special law or regulation to the contrary, shall be
54 liable to the health care safety net trust fund in the same manner as acute care hospitals. The

55 division of health care finance and policy, in consultation with the office of Medicaid, shall
56 establish through implementing regulations the mechanism by which the liability of said
57 providers is to be assessed, paid, monitored, and enforced.”

58 The existing subsection (a) shall be re-lettered as subsection (b); the existing subsection
59 (b) shall be re-lettered as subsection (c); and the existing subsection (c) shall be re-lettered as a
60 new subsection (d).

61 F. By enacting the following conforming amendments: Inserting in section 15 of the Act,
62 and in any existing law concerning the assessment of hospital liability to the pool, after each
63 instance of the appearance of the term “acute hospital” the phrase “and ambulatory surgical
64 center, specialty health care provider, and laboratory” regarding liability to the pool or the health
65 care safety net trust fund; and by inserting in section 15 of the Act and in any existing law
66 concerning the operation of the surcharge, after each instance of the appearance of the term
67 “ambulatory surgical center” the phrase “, specialty health care provider, and laboratory”.