

**HOUSE . . . . . No. 2780**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jeffrey Sánchez*

*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 preventing unnecessary medical debt.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>
<i>James B. Eldridge</i>	
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>

**HOUSE . . . . . No. 2780**

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By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 2780) of Jeffrey Sánchez, James B. Eldridge and Gloria L. Fox relative to preventing unnecessary medical debt through hospital and affiliate charity care policies. Health Care Financing.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act preventing unnecessary medical debt.

*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 General Laws are hereby amended by inserting after chapter 118H, the  
2 following chapter:-

3           Chapter 118I

4           HOSPITAL AND AFFILIATE CHARITY CARE POLICIES

5           Section 1. For the purposes of this chapter, the following words shall, unless the context  
6 clearly requires otherwise, have the following meanings:-

7           “High medical costs”, any of the following: (1) annual out-of-pocket costs incurred by  
8 the individual at the hospital that exceed 10 per cent of the patient’s household income in the  
9 prior 12 months; (2) annual out-of-pocket expenses that exceed 10 per cent of the patient’s  
10 household income, if the patient provides documentation of the patient’s medical expenses paid  
11 by the patient or the patient’s household in the prior 12 months; (3) a lower level determined by

12 the hospital under the hospitals charity care policy. High medical cost determinations do not  
13 apply to low income patients at or below 200% of the federal poverty level.

14 “Hospital”, a hospital licensed under section 51 of chapter 111, the teaching hospital of  
15 the University of Massachusetts Medical School or a psychiatric facility licensed under section  
16 19 of chapter 19, and any person, agency or organization affiliated with the hospital or by whom  
17 services were rendered at the request of the hospital.

18 “Underinsured”, a patient whose health insurance plan, self-insurance health plan or a  
19 medical assistance program does not pay, in whole or in part, for health services and has incurred  
20 high medical costs.

21 “Uninsured”, a patient who is not covered by a health insurance plan, a self-insurance  
22 health plan, or a medical assistance program and has incurred high medical costs.

23

24 Section 2. Each hospital shall establish policies and procedures for reducing charges,  
25 including for coinsurance and for uncovered services, otherwise applicable to low-income  
26 individuals without health insurance, or who have exhausted their health insurance benefits, and  
27 who can demonstrate an inability to pay full charges, and also, at the hospital’s discretion, for  
28 reducing or discounting the collection of co-pays and deductible payments from those  
29 individuals who can demonstrate an inability to pay such amounts.

30 Such reductions from charges for uninsured or underinsured patients with incomes at or  
31 below at least 600 per cent of the federal poverty level shall result in a charge to such individual  
32 that does not exceed the greater of the amount that would have been paid for the same service by

33 the highest volume payor for such service as defined by the Division of Health Care Finance and  
34 Policy or the public payor rate whichever is less.

35 Section 2. (a) Each hospital shall make all reasonable efforts to obtain from all patients or  
36 his or her representative information about whether private or public health insurance or  
37 sponsorship may fully or partially cover the charges for care rendered by the hospital to a patient,  
38 including, but not limited to, any of the following: (1) private health insurance; (2) Medicare; or  
39 (3) MassHealth program, the Commonwealth Care, Health Safety Net or other state-funded  
40 program designed to provide health coverage. Each hospital shall have an affirmative duty to  
41 assist patients with applications for public subsidized insurance programs in a timely manner and  
42 consistent with applicable state or federal law, including but not limited to the Division of Health  
43 Care Finance and Policy—Health Safety Net Eligible Services, 114.6 CMR 13.00 et seq.

44 (b) If a hospital bills a patient who has not provided proof of coverage by a third party at  
45 the time the care is provided or upon discharge, as a part of that billing, the hospital shall provide  
46 the patient with a clear and conspicuous notice. The hospital shall provide such notice to all  
47 patients who are likely to incur expenses. Notices must be stand-alone, in plain English, and .in  
48 other languages spoken by patients served by the hospital. Notice shall include all of the  
49 following:

50 (1) a statement of charges for services rendered by the hospital;

51 (2) a request that the patient inform the hospital if the patient

52 has health insurance coverage, Medicare, Commonwealth Care, MassHealth,

53 or other coverage;

54 (3) a statement that if the consumer does not have health  
55 insurance coverage, the consumer may be eligible for Medicare,  
56 Commonwealth Care, MassHealth, or other state-funded  
57 programs designed to provide health coverage.  
58 or charity care;

59 (4) a statement indicating how patients may obtain applications for the MassHealth  
60 program, the Commonwealth Care Program, or Health Safety Net benefits, pursuant to Division  
61 of Health Care Finance and Policy—Health Safety Net Eligible Services, 114.6 CMR 13.00 et  
62 seq, and that the hospital will provide and affirmatively assist patients with these applications.  
63 The hospital shall submit applications for state health care programs and benefits no later than 10  
64 days from the earliest date of service rendered to the patient. If the patient does not indicate  
65 coverage by a third-party payer specified in subsection (a), or requests a discounted price or  
66 charity care, the hospital shall provide an application for the MassHealth program, or other  
67 state-funded programs designed to provide health coverage. This application shall be provided  
68 prior to discharge if the patient has

69 been admitted or to patients receiving emergency or outpatient care; and

70 (5) information regarding the financially qualified patient and  
71 charity care application, including the following:

72 (A) a statement that indicates that if the patient lacks, or has inadequate, insurance, and  
73 meets certain low- and moderate-income requirements, the patient may qualify for discounted

74 payment or charity care and (B) the name and telephone number of a hospital employee or office  
75 from whom or which the patient may obtain information about the hospital's discount payment  
76 and charity care policies, and how to apply for that assistance.

77 Section 3. (a) Each hospital or other assignee which is an affiliate or subsidiary of the  
78 hospital shall have a written policy about when and under whose authority patient debt is  
79 advanced for collection, whether the collection activity is conducted by the hospital, an affiliate  
80 or subsidiary of the hospital, or by an external collection agency. Hospital policies should be  
81 transparent, consumer friendly, and include charity care and payment plan policies. Such  
82 hospital policies should be filed with and, as necessary, enforced by the Massachusetts Attorney  
83 General's Office, unless otherwise filed pursuant to the Division of Health Care Finance and  
84 Policy—Health Safety Net Eligible Services, 114.6 CMR 13.00 et seq. Hospital policies shall be  
85 posted on the hospital website. The Massachusetts Attorney General's Office shall have  
86 enforcement rights

87 (b) Each hospital or other assignee which is an affiliate or subsidiary of the hospital shall  
88 establish a written policy defining standards and practices for the collection of debt, and shall  
89 obtain a written agreement from any agency that collects hospital receivables that it will adhere  
90 to the hospital's standards and scope of practices. The policy shall not conflict with other  
91 applicable laws, including but not limited to Division of Health Care Finance and Policy—  
92 Health Safety Net Eligible Services, 114.6 CMR 13.00 et seq, and shall not be construed to  
93 create a joint venture between the hospital and the external entity, or otherwise to allow hospital  
94 governance of an external entity that collects hospital receivables. In determining the amount of  
95 a debt a hospital may seek to recover from patients who are eligible under the hospital's charity  
96 care policy or discount payment policy.

97 (c) At time of billing, each hospital shall provide a written summary which includes the  
98 same information concerning services and charges provided to all other patients who receive care  
99 at the hospital and the date the hospital timely submitted the patient's claim to a private or public  
100 payor.

101 (d) For a patient that lacks coverage, or for a patient that provides information that he or  
102 she may be a patient with high medical costs, as defined in this article, a hospital, any assignee of  
103 the hospital, or other owner of the patient debt, including a collection agency, shall not report  
104 adverse information to a consumer credit reporting agency. A hospital, any assignee, or other  
105 owner of the patient debt shall not commence civil action against any patient at or under 200% of  
106 the federal poverty level and shall not commence civil action against patients between 201-600%  
107 federal poverty level, unless written approval is first obtained by the hospital board of directors.

108 .

109 (e) If a patient is attempting to qualify for eligibility under the hospital's charity care or  
110 discount payment policy and is attempting in good faith to settle an outstanding bill with the  
111 hospital by negotiating a reasonable payment plan or by making regular partial payments of a  
112 reasonable amount, the hospital shall not send the unpaid bill to any collection agency or other  
113 assignee, unless that entity has agreed to comply with this chapter.

114 (f) This requirement does not preclude a hospital, collection agency, or other assignee  
115 from pursuing reimbursement and any enforcement remedy or remedies from third-party liability  
116 settlements, tortfeasors, or other legally responsible parties.

117 (g) Any extended payment plans offered by a hospital to assist patients eligible under the  
118 hospital's charity care policy, discount payment policy, or any other policy adopted by the

119 hospital for assisting low-income patients with no insurance or high medical costs in settling  
120 outstanding past due hospital bills, shall be interest free. The hospital extended payment plan  
121 may be declared no longer operative after the patient's failure to make all consecutive  
122 payments due during a 90 day period. Before declaring the hospital extended payment  
123 plan no longer operative, the hospital, collection agency, or assignee shall make a reasonable  
124 attempt to contact the patient by phone and, to give notice in writing, that the extended payment  
125 plan may become inoperative, and of the opportunity to renegotiate the extended payment plan.  
126 Prior to the hospital extended payment plan being declared inoperative, the hospital, collection  
127 agency, or assignee shall attempt to renegotiate the terms of the defaulted extended payment  
128 plan, if requested by the patient. The hospital, collection agency, or assignee shall not report  
129 adverse information to a consumer credit reporting agency or commence a civil action against  
130 the patient or responsible party for nonpayment prior to the time the extended payment plan is  
131 declared to be no longer operative. For purposes of this section, the notice and phone call to the  
132 patient may be made to the last known phone number and address of the patient.

133 (h) Nothing in this section shall be construed to diminish or eliminate any protections  
134 consumers have under existing federal and state debt collection laws, or any other consumer  
135 protections available under state or federal law, including but not limited to the Division of  
136 Health Care Finance and Policy—Health Safety Net Eligible Services, 114.6 CMR 13.00 et seq.  
137 Each hospital is further encouraged to establish procedures which exceed guidelines pursuant to  
138 the Massachusetts Attorney General’s Office – Community Benefit Guidelines for Nonprofit. If  
139 the patient fails to make all consecutive payments for 90 days and fails to renegotiate a payment  
140 plan, this chapter does not limit or alter the obligation of the patient to make payments on the



141 obligation owing to the hospital pursuant to any contract or applicable statute from the date that  
142 the extended payment plan is declared no longer operative, as set forth in subsection (g).

143         Section 4. Any extended payment plans offered by a hospital or other assignee which is  
144 an affiliate or subsidiary of the hospital to assist patients eligible under the hospital's charity care  
145 policy, discount payment policy, or any other policy adopted by the hospital or other assignee  
146 which is an affiliate or subsidiary of the hospital for assisting low-income patients with no  
147 insurance or high medical costs in settling outstanding past due hospital bills, shall be interest  
148 free. The hospital or other assignee which is an affiliate or subsidiary of the hospital extended  
149 payment plan may be declared no longer operative after the patient's failure to make all  
150 consecutive payments due during a 90-day period. Before declaring the extended payment plan  
151 no longer operative, the hospital, collection agency, or assignee shall make a reasonable attempt  
152 to contact the patient by phone and, to give notice in writing, that the extended payment plan  
153 may become inoperative, and of the opportunity to renegotiate the extended payment plan. Prior  
154 to the hospital extended payment plan being declared inoperative, the hospital, collection agency,  
155 or assignee shall attempt to renegotiate the terms of the defaulted extended payment plan, if  
156 requested by the patient. The hospital, collection agency, or assignee shall not report adverse  
157 information to a consumer credit reporting agency. The hospital shall not commence a civil  
158 action against the patient or responsible party for nonpayment without obtaining written approval  
159 by the hospital's Board of Directors. Under no circumstances shall a hospital initiate collection  
160 action against a patient who is at or below 200% of the federal poverty level or against any  
161 patient if the hospital has not submitted claims to an insurer or public program in timely manner.  
162 The monthly payment under such a plan shall not exceed 10 per cent of the gross monthly  
163 income of the patient. The rate of interest charged to the patient on the unpaid balance, if any,

164 shall not exceed the rate for a 90 day security issued by the United States Department of  
165 Treasury, plus .5 percent and no plan shall include an accelerator or similar clause under which a  
166 higher rate of interest is triggered upon a missed payment. If such policies and procedures  
167 include a requirement of a deposit prior to non-emergent, medically-necessary care, such deposit  
168 must be included as part of any financial aid consideration. Such policies and procedures shall be  
169 applied consistently to all eligible patients.

170           Section 5. The hospital or other assignee which is an affiliate or subsidiary of the  
171 hospital shall not pursue legal action for non payment of a medical bill against uninsured patients  
172 who have clearly demonstrated that they have neither sufficient income nor assets to meet their  
173 financial obligations provided the patient has complied with this chapter.

174           Section 6. (a) Before notification of a final bill collection from the hospital or other  
175 assignee which is an affiliate or subsidiary of the hospital, these staff must conduct an audit of  
176 the patient's bill to determine eligibility for any of the available discount or charity care  
177 programs. Each hospital shall make all reasonable efforts to obtain from the patient or his or her  
178 representative information about whether private or public health insurance or sponsorship may  
179 fully or partially cover the charges for care rendered by the hospital to a patient, including, but  
180 not limited to, any of the following: (1) private health insurance; (2) Medicare; or (3)  
181 MassHealth, Commonwealth Care, Health Safety Net or other state-funded programs designed to  
182 provide health coverage.

183           (b) In attempts to conduct the audit through phone or face-to-face conversation, the  
184 hospital or other assignee which is an affiliate or subsidiary of the hospital, shall attempt to  
185 contact the patient by telephone and email, if email contact information is available.

186 (c) Upon conducting the audit and/or if a patient has not been reached within 14 days, if a  
187 hospital or other assignee which is an affiliate or subsidiary of the hospital, bills a patient who  
188 has not provided proof of coverage by a third party by the time the notification of the final bill is  
189 sent, as a part of that billing, the hospital shall provide the patient with a clear and conspicuous  
190 notice that includes all of the following: (1) A statement of charges for services rendered by the  
191 hospital; (2) a request that the patient inform the hospital if the patient has health insurance  
192 coverage, Medicare, MassHealth, Commonwealth Care, Health Safety Net, or other coverage;  
193 (3) a statement that if the consumer does not have health insurance coverage, the consumer may  
194 be eligible for Medicare, MassHealth, Commonwealth Care, Health Safety Net, or charity care.

195 (4) a statement indicating how patients may obtain applications for the Medicare,  
196 MassHealth, Commonwealth Care, Health Safety Net, or charity care programs and the and that  
197 the hospital will provide these applications; and (5) information regarding the financially  
198 qualified patient and charity care application, including the following: (A) a statement that  
199 indicates that if the patient lacks, or has inadequate, insurance, and meets certain low- and  
200 moderate-income requirements, the patient may qualify for discounted payment or charity care  
201 and (B) the name and telephone number of a hospital employee or office from whom or which  
202 the patient may obtain information about the hospital or other assignee which is an affiliate or  
203 subsidiary of the hospital's discount payment and charity care policies, and how to apply for that  
204 assistance.

205 Section 7. (a) To receive the protection and benefits of this act, a patient responsible for  
206 paying a medical bill must act reasonably and cooperate in good faith with the hospital by  
207 providing the hospital or other assignee which is an affiliate or subsidiary of the hospital, with all  
208 of the reasonably requested financial and other relevant information and documentation needed

209 to determine the patient's eligibility under the hospital's financial assistance policy and  
210 reasonable payment plan options to qualified patients within 30 days of a request for such  
211 information.

212 (b) To receive the protection and benefits of this act, a patient responsible for paying a  
213 medical bill shall communicate to the hospital or other assignee which is an affiliate or  
214 subsidiary of the hospital any material change in the patient's financial situation that may affect  
215 the patient's ability to abide by the provisions of an agreed upon reasonable payment plan or  
216 qualification for financial assistance within 30 days of the change.

217 Section 8. During the admission or as soon as practicable thereafter, the hospital or other  
218 assignee which is an affiliate or subsidiary of the hospital must provide an insured patient with  
219 written notice that:

220 (1) the patient may receive separate bills for services provided by health care  
221 professionals affiliated with the hospital;

222 (2) if applicable, some hospital staff members may not be participating providers in  
223 the same insurance plans and networks as the hospital;

224 (3) if applicable, the patient may have a greater financial responsibility for services  
225 provided by health care professionals at the hospital who are not under contract with the patient's  
226 health care plan; and

227 (4) questions about coverage or benefit levels should be directed to the patient's  
228 health plan and the patient's certificate of coverage

229           SECTION 2. There shall be a special commission to investigate and study coverage gaps  
230 in public coverage. The commission shall examine coverage gaps in public coverage. The special  
231 commission should also be charged with eliminating gaps in public coverage for patients. The  
232 examination shall include, but shall not be limited to, MassHealth, the Commonwealth  
233 Connector, the models from other states and best practices for management of public coverage.  
234 The commission shall consist of 14 members, 1 of whom shall be appointed by the senate  
235 president, 1 of whom shall be appointed by the speaker of the house, 1 of whom shall be  
236 appointed by the minority leader of the senate, 1 of whom shall be appointed by the minority  
237 leader of the house of representatives, 1 of whom shall be executive director of the  
238 Commonwealth Connector, who shall serve as chair, 1 of whom shall be a representative of the  
239 Division of Health Care Finance and Policy, 1 of whom shall be a representative of MassHealth  
240 1 of whom shall be a representative of the Massachusetts Division of Unemployment  
241 Assistance., 1 of whom shall be the executive director of the group insurance commission, 1 of  
242 whom shall be, 1 of whom shall be a representative of the Massachusetts Association of Health  
243 Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts,  
244 Inc., 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of  
245 whom shall be a representative of the Massachusetts Medical Society, and at least 1 of whom  
246 shall be consumer representative.

247           The commission shall report its findings and recommendations together with legislation,  
248 if any, to the clerks of the house of representatives and senate and the joint committee on public  
249 health not on or before December 31, 2012.