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**HOUSE . . . . . No. 3844**

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**The Commonwealth of Massachusetts**

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**INITIATIVE PETITION OF MARY HAVLICEK CORNACCHIA AND  
OTHERS.**

OFFICE OF THE SECRETARY.  
BOSTON, JANUARY 1, 2014.

Steven T. James  
*Clerk of the House of Representatives*  
State House  
Boston, Massachusetts 02133

Sir: — I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, an Initiative Petition for Law entitled “An Act to Limit Excessive Hospital Operating Margins and CEO Compensation Through Greater Financial Transparency” signed by ten qualified voters and filed with this department on or before December 4, 2013, together with additional signatures of qualified voters in the number of 80,076, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

**WILLIAM FRANCIS GALVIN,**  
*Secretary of the Commonwealth.*

**AN INITIATIVE PETITION.**

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Fourteen.

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An Act to limit excessive hospital operating margins and CEO  
compensation through greater financial transparency.

*Be it enacted by the People, and by their authority, as follows:*

- 1 Section 1. Definitions –  
2 "Facility", a hospital licensed under Section 51, of Chapter 111 of  
3 the General Laws, the teaching hospital of the University of  
4 Massachusetts medical school, any licensed private or state-owned  
5 and state-operated general acute care hospital, an acute psychiatric  
6 hospital, an acute care specialty hospital, or any acute care unit  
7 within a state operated healthcare facility. This definition shall not  
8 include rehabilitation facilities or long-term care facilities.  
9 "Compensation", salary; bonus payments, whether based on  
10 performance or otherwise; deferred compensation; incentive

11 payments; severance payments; loans to be repaid on terms,  
12 including interest, less burdensome than market rate; value of use  
13 of facility-provided vehicles, housing or other perquisites not  
14 available to all employees; stock or stock options and any  
15 dividends or other incidents of the ownership thereof.

16 "Minimum facility compensation" the value of the annual  
17 compensation received by a full time employee of a facility  
18 earning minimum wage as set under G.L. c. 151 § 1, or if none,  
19 then the lowest-paid full time employee.

20 Section 2: If in any fiscal year a facility that accepts funds from the  
21 Commonwealth, and whose patient mix is less than 60%  
22 government payer, reports to the Center for Health Information and  
23 Analysis an annual operating margin, including amortization and  
24 depreciation, that exceeds 8%, that facility shall be subject to a  
25 civil penalty equal to the amount by which the annual operating  
26 margin exceeds 8%.

27 Section 3: If the Chief Executive Officer of a facility that accepts  
28 funds from the Commonwealth receives annual compensation

29 greater than 100 times the minimum facility compensation, the  
30 facility shall be subject to a civil penalty equal to the amount by  
31 which the Chief Executive Officer's annual compensation exceeds  
32 100 times the value of the minimum facility compensation.

33 Section 4. Each facility that accepts funds from the  
34 Commonwealth shall report annually to the Center for Health  
35 Information and Analysis all financial assets owned by the facility,  
36 including those held in financial institutions outside the United  
37 States or invested outside the United States. Unless prohibited by  
38 other law, the Center for Health Information and Analysis shall  
39 make this information public within 7 calendar days of receipt.

40 Section 5. There is hereby established on the books of the  
41 Commonwealth a fund to be known as the Medicaid  
42 Reimbursement Enhancement Fund. Any penalties collected as a  
43 result of violations of this act shall be deposited into this fund, and  
44 subject to appropriation, shall be used to improve Medicaid  
45 reimbursement to eligible hospitals.

46 Section 6: This act shall not be construed to impair any contract or  
47 agreement in effect as of July 1, 2015.

48 Section 7: The Health Policy Commission shall promulgate  
49 regulations governing the implementation, operation and  
50 enforcement of this act.

51 Section 8: Severability. The provisions of this act are severable,  
52 and if any clause, sentence, paragraph or section of this law or an  
53 application thereof shall be adjudged by any court of competent  
54 jurisdiction to be invalid, such judgment shall not affect, impair, or  
55 invalidate the remainder thereof but shall be confined in its  
56 operation to the clause, sentence, paragraph, section or application  
57 adjudged invalid and such clause, sentence, paragraph, section or  
58 application shall be reformed and construed so that it would be  
59 valid to the maximum extent permitted.

60 Section 9: The provisions of this act shall be effective commencing  
61 on July 1, 2015.

## FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Mary Havlicek Cornacchia	102 Adams Street	Westborough
Mike Fadel	133 Commander Shea Boulevard, #706	Quincy
Jacqueline M. Fitts	8 General Sherman Street	Taunton
Donna Kelly-Williams	110 Mary Street	Arlington
Tonia M. King	24 Glen Lane	Randolph
Katherine Murphy	16 Powder Mill Road	Framingham
Eileen F. Norton	8 Old Field Road	Plymouth
Julie Betts Pinkham	55 Island Avenue	Quincy
Shannon M. Sherman	76 Longfellow Drive	Yarmouth
Susan J. Wright Thomas	2 Christine Road	Hull

### Summary of 13-33.

This proposed law would regulate the annual operating margins, chief executive officer (CEO) compensation, and financial asset disclosures of certain health-care facilities, including Massachusetts hospitals, that accept funds from the state, but not including rehabilitation or long-term care facilities.

The proposed law would impose a civil penalty on a hospital or other covered facility whose patient mix is less than 60 percent government payer for any fiscal year in which its operating margin, including amortization and depreciation, is over 8 percent. The penalty would equal the amount by which the operating margin exceeds 8 percent.

The proposed law would also impose a civil penalty on a hospital or other covered facility if its CEO receives annual compensation, including salary, bonuses, and benefits, that is more than 100 times greater than the annual compensation paid to a full time employee earning minimum wage, or if none, then the lowest-paid full time employee. The penalty would equal the amount by which the CEO's compensation exceeds 100 times the compensation earned by the employee earning minimum wage or the lowest-paid employee.

Any such penalties would be placed in a new state Medicaid Reimbursement Enhancement Fund established by the proposed law. Subject to appropriation by the state Legislature, amounts in the fund would be used to improve Medicaid reimbursement to eligible hospitals.

The proposed law also would require hospitals and other covered facilities to disclose all of their financial assets, including those held or invested outside the United States, to the state Center for Health Information and Analysis. Unless prohibited by other law, the Center would have to make this information public within seven days.

The proposed law would require the state Health Policy Commission to issue regulations governing the proposed law's operation and enforcement. The proposed law would take effect on July 1, 2015, but would not override any contract or agreement in effect on that date. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

## CERTIFICATE OF THE ATTORNEY GENERAL.

September 4, 2013.

Honorable William Francis Galvin  
*Secretary of the Commonwealth*  
One Ashburton Place, Room 1705  
Boston, Massachusetts 02108

RE: Initiative Petition No. 13-33: An Act to Limit Excessive Hospital  
Operating Margins and CEO Compensation Through Greater Financial  
Transparency.

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Cordially,

MARTHA COAKLEY,  
*Attorney General.*