

HOUSE No. 2013

The Commonwealth of Massachusetts

PRESENTED BY:

Ronald Mariano

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 to improve health planning and public health.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ronald Mariano</i>	<i>3rd Norfolk</i>	<i>1/16/2015</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>8/2/2019</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>8/2/2019</i>

HOUSE No. 2013

By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 2013) of Ronald Mariano, Denise C. Garlick and Benjamin Swan relative to public health planning, procedures and improvements. Public Health.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to improve health planning and public health.

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. Section 1 of chapter 6D of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting after the definition of "Employer" the following
3 definition:-

4 “Essential Health Services” shall include all services deemed to be necessary for the
5 preservation of public health in a specific region as determined by the State Health Planning
6 Board based on disease prevalence, drive time, current health needs, and population data.

7 SECTION 2. Chapter 6D of the General Laws is hereby amended by inserting after
8 Section 3, the following section:-

9 Section 3A. The health policy commission shall, every 3 years, establish a state health
10 plan that shall include regional health plans and a list of essential health services for each region.
11 Regions are to be based upon regions developed by the health policy commission, but shall be
12 subject to review based upon the commission’s developed formula and any data the board may

require of any other state agency. The commission shall consult with CHIA, DPH, and AGO no less than 90 days before the establishment, or altering, of any region.

The commission shall develop a formula which shall weigh disease prevalence, drive time, current health needs, and population data in order to provide an accurate and timely assessment of the health status of each established region.

The commission shall consult with the department of public health, the department of mental health, the department of elder affairs, the office of the attorney general, the center for health information and analysis, as well as others deemed appropriate, in development of the state health plan.

In developing the state health plan, the commission shall at a minimum gather information on the provision of essential health services by the commonwealth's 1) hospitals and 2) physician groups of a certain size determined by the commission, using data from the following sources: CHIA, HPC, DPH, DMH, GIC and Medicaid. In ongoing monitoring of essential health services, the commission shall have authority to meet in executive sessions, as defined by section 18 of chapter 30A, and shall be exempt from the following: 1) public record requirements of section 10 of chapter 66; 2) open meeting requirements of sections 20 and 21 of chapter 30A under section 21 (7) of said chapter.

SECTION 3. Section 13 of said chapter 6D , as so appearing, is hereby amended by striking subsection (a) and inserting in place thereof the following subsection:-

(a) Every provider or provider organization shall, before making any material change to its operations or governance structure, submit notice to the commission, the center and the attorney general of such change, not fewer than 60 days before the date of the proposed change.

Material changes shall include, but not be limited to: the application for issuance of a new facility license from the department of public health or department of mental health , a corporate merger, acquisition or affiliation of a provider or provider organization and a carrier; mergers or acquisitions of hospitals or hospital systems; acquisition of insolvent provider organizations; and mergers or acquisitions of provider organizations which will result in a provider organization having a near-majority of market share in a given service or region .

Within 30 days of receipt of a notice filed under the commission's regulations, the commission shall conduct a preliminary review to determine whether the material change is likely to result in a significant impact on the commonwealth's ability to meet the health care cost growth benchmark, established in section 9, or on the competitive market. If the commission 1 finds that the material change is likely to have a significant impact on the commonwealth's ability to meet the health care cost growth benchmark, or on the competitive market, the commission may conduct a cost and market impact review under this section.

SECTION 4. Section 1 of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Disease dangerous to the public health” the following definition:-

“Essential Health Services” shall include all services deemed to be necessary for the preservation of public health in a specific region as determined by the state health planning board based on disease prevalence, drive time, current health needs, and population data.

SECTION 5. Section 25C of chapter 111, as so appearing, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g) The department, in making any determination of need, shall be guided by the state and regional health plans, shall encourage appropriate allocation of private and public health care resources and the development of alternative or substitute methods of delivering health care services so that adequate health care services will be made reasonably available to every person within the commonwealth at the lowest reasonable aggregate cost, shall use data from the center for health information and analysis and information from the health policy commission, shall take into account any comments from any other state agency or entity, and may impose reasonable terms including those that address state and regional needs according to the dynamic regional plans, as well as conditions as the department determines are necessary to achieve the purposes and intent of this section. The department may also recognize the special needs and circumstances of projects that: (1) are essential to the conduct of research in basic biomedical or health care delivery areas or to the training of health care personnel; (2) are unlikely to result in any increase in the clinical bed capacity or outpatient load capacity of the facility; and (3) are unlikely to cause an increase in the total patient care charges of the facility to the public for health care services, supplies, and accommodations, as such charges shall be defined from time to time in accordance with section 5 of chapter 409 of the acts of 1976.

SECTION 6. Said section 25C of said chapter 111, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) Except in the case of an emergency situation determined by the department as requiring immediate action to prevent further damage to the public health or to a health care facility, the department shall not act upon an application for such determination unless: (1) the application has been on file with the department for at least 30 days; (2) the center for health care information and analysis, the health policy commission, the state and appropriate regional

comprehensive health planning agencies and, in the case of long-term care facilities only, the department of elder affairs, or in the case of any facility providing inpatient services for the mentally ill or developmentally disabled, the departments of mental health or developmental services, respectively, have been provided copies of such application and supporting documents and given reasonable opportunity to supply required information and comment on such application; and (3) a public hearing has been held on such application when requested by the applicant, the state or appropriate regional comprehensive health planning agency or any 10 taxpayers of the commonwealth. If, in any filing period, an individual application is filed which would implicitly decide any other application filed during such period, the department shall not act only upon an individual.

SECTION 7. Section 51G of chapter 111, as so appearing, is hereby amended by striking out subsection (4) and inserting in place thereof the following subsection:-

(4) Any hospital shall inform the department and the health policy commission, herein the commission, 120 days prior to the closing of the hospital or the discontinuance of any essential health service provided therein. The department and the commission shall, in the event that a hospital proposes to discontinue an essential health service or services, conduct a public hearing on the closure of said essential services or of the hospital no later than 90 days prior to intended closure or discontinuation date. The department shall publish public hearing notice 9 days before said hearing. Any hospital shall inform all employees of planned closure or discontinuation of services no later than 10 days before said public hearing.

The department and the commission shall determine whether any such discontinued services are necessary for preserving access and health status in the hospital's service area and

101 shall require hospitals to submit a plan 10 days prior to the public hearing for assuring access to
102 such necessary services following the hospital's closure of the service, and assure continuing
103 access to such services in the event that the department determines that their closure will
104 significantly reduce access to necessary services. The burden shall remain on the hospital to
105 prove that the discontinuation of services are not necessary for preserving access and health
106 status in that hospital's region of the state health plan. The department shall conduct a public
107 hearing prior to a determination on the closure of said essential services or of the hospital. No
108 original license shall be granted to establish or maintain an acute-care hospital, as defined by
109 section 25B, unless the applicant submits a plan, to be approved by both the department and the
110 commission, for the provision of community benefits, including the identification and provision
111 of essential health services. The department and the commission shall jointly approve, or send
112 back for improvements, the hospital's plan no later than 10 days following the public hearing. A
113 finalized published approved plan shall be agreed upon by the department, the commission, and
114 the hospital seeking closure or discontinuation of essential services no later than 30 days before a
115 closure or discontinuation shall take place. In approving the plan, the department and the
116 commission may take into account the applicant's existing commitment to primary and
117 preventive health care services and community contributions as well as the primary and
118 preventive health care services and community contributions of the predecessor hospital. The
119 department and the commission may waive this requirement, in whole or in part, at the request of
120 the applicant which has provided or at the time the application is filed, is providing, substantial
121 primary and preventive health care services and community contributions in its service area.

SECTION 8. Section 52 of said chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Certified clinical specialist in psychiatric and mental health nursing” the following definition:-

“Essential Health Services” shall include all services deemed to be necessary for the preservation of public health in a specific dynamic region as determined by the state health plan based on disease prevalence, drive time, current health needs, and population data.”

SECTION 9. There shall be a task force which shall study the feasibility of and make recommendations regarding providing flexibility within state licensure requirements to reflect the actual needs of hospital service areas, whether established or proposed.

As part of this evaluation, the task force shall 1) review the feasibility of utilizing a tiered or flexible licensure structure which shall be explicitly tied to A) the regional and state health plan, and B) patient safety, and 2) shall review the feasibility of enhancing payments to community hospitals for a more direct response to the state’s health needs.

The task force shall consist of 13 members, 1 of whom shall be the commissioner of the department of public health or a designee, who shall be the co-chair of the task force; 1 of whom shall be the executive director of the health policy commission or a designee, who will be co-chair of the task force; 1 of whom shall be the executive director of the center for health and information services or a designee; 1 of whom shall be the attorney general or a designee, 1 of whom shall be the executive director of the Group Insurance Commission or designee, 1 of whom shall be the executive director of MassHealth or designee, 2 of whom shall be the house and senate chairs of the joint committee on health care financing; 1 of whom shall be appointed by the minority leader of the house of representatives; 1 of whom shall be appointed by the

144 minority leader of the senate; and the following members shall be appointed by the chair of the
145 commission: 1 member of the Massachusetts Council of Community Hospitals, 1 representative
146 of Massachusetts Hospital Association, and 1 health care economist.

147 The task force shall file a report with its findings, including any legislative and regulatory
148 recommendations, with the clerks of the senate and house of representatives, and the joint
149 committee on health care financing not later than 12 months after the effective date of this act.