

HOUSE No. 3678

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 relative to protecting health care consumers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ronald Mariano</i>	<i>3rd Norfolk</i>	<i>4/7/2015</i>
<i>Maura Healey</i>	<i>Attorney General</i>	<i>7/30/2019</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>7/30/2019</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>7/30/2019</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>7/30/2019</i>

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By Mr. Mariano of Quincy, a petition (subject to Joint Rule 12) of Ronald Mariano, Maura Healey (Attorney General) and others that the Health Policy Commission be authorized to make factual findings and issue a preliminary report on the cost and market impact review. Health Care Financing.

The Commonwealth of Massachusetts

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

An Act relative to protecting health care consumers.

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 13 of chapter 6D of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out subsections (e) to (h), inclusive, and inserting
3 in place thereof the following new paragraphs:-

4 (e) The commission shall make factual findings and issue a preliminary report on the cost
5 and market impact review. In the report, the commission shall identify any provider or provider
6 organization that meets all of the following criteria: (i) the provider or provider organization has,
7 or will likely have following the proposed material change, a dominant market share for the
8 services it provides; (ii) the provider or provider organization charges, or will likely charge
9 following the proposed material change, prices for services that are materially higher than the
10 median prices charged by all other providers for the same services in the same market; and (iii)
11 the provider or provider organization has, or will likely have following the proposed material

12 change, a health status adjusted total medical expense that is materially higher than the median
13 total medical expense for all other providers for the same service in the same market.

14

15 (f) Within 30 days after issuance of a preliminary report, the provider or provider
16 organization may respond in writing to the findings in the report. The commission shall then
17 issue its final report. The commission shall refer to the attorney general its report on any provider
18 organization that meets all 3 criteria under subsection (e). The commission shall issue its final
19 report on the cost and market impact review within 185 days from the date that the provider or
20 provider organization has submitted notice to the commission; provided that the provider or
21 provider organization has certified substantial compliance with the commission's requests for
22 data and information pursuant to subsection (c) within 21 days of the commission's notice, or by
23 a later date set by mutual agreement of the provider or provider organization and the
24 commission.

25

26 (g) Nothing in this section shall prohibit a proposed material change under subsection (a);
27 provided, however, that (i) any proposed material change shall not be completed until at least 30
28 days after the commission has issued its final report, and (ii) the attorney general may bring an
29 action as described in subsection (h). If the attorney general brings such an action, any proposed
30 material change shall not be completed while such action is pending and prior to a final judgment
31 being issued by a court of competent jurisdiction.

32 (h) Any provider or provider organization that meets the criteria in subsection (e) has
33 engaged, or through a material change will engage, in an unfair method of competition or unfair

34 and deceptive trade practice subject to challenge pursuant to section 4, but not sections 9 or 11,
35 of chapter 93A. When the commission, under subsection (f), refers a report on a provider or
36 provider organization to the attorney general, the report shall be prima facie evidence that, by
37 meeting the three criteria in subsection (e), the provider or provider organization has engaged, or
38 through a material change will engage, in an unfair method of competition or unfair and
39 deceptive trade practice in violation of chapter 93A. The attorney general may take action under
40 chapter 93A or any other law to protect consumers in the health care market, including by
41 bringing an action seeking to restrain such violation of chapter 93A. The commission's final
42 report may be evidence in any such action brought by the attorney general.

43 SECTION 2. Section 11N of chapter 12 of the General Laws is hereby amended by
44 striking out subsection (b) and inserting in place thereof the following new paragraph:-

45 (b) The attorney general may, upon a referral by the health policy commission under
46 section 13 of chapter 6D, bring any appropriate action, including for injunctive relief, as may be
47 necessary under chapter 93A or any other law to restrain unfair methods of competition or unfair
48 and deceptive trade practices by a provider or provider organization. The attorney general may
49 take action under chapter 93A or any other law to protect consumers in the health care market.