SENATE DOCKET, NO. 1726 FILED ON: 1/16/2015

SENATE . . . . . No. 1048

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 promote transparency and cost control of pharmaceutical drug prices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*
Jason M. Lewis	*Fifth Middlesex*
James B. Eldridge	*Middlesex and Worcester*
Michael O. Moore	*Second Worcester*
Denise Provost	*27th Middlesex*
Stephen L. DiNatale	*3rd Worcester*
Joseph W. McGonagle, Jr.	*28th Middlesex*
Lori A. Ehrlich	*8th Essex*
Jose F. Tosado	*9th Hampden*
Marjorie C. Decker	*25th Middlesex*
Ruth B. Balser	*12th Middlesex*
Michael D. Brady	*Second Plymouth and Bristol*
Paul R. Heroux	*2nd Bristol*
Patricia D. Jehlen	*Second Middlesex*
Kay Khan	*11th Middlesex*
Antonio F. D. Cabral	*13th Bristol*
Jennifer E. Benson	*37th Middlesex*

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SENATE . . . . . No. 1048

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1048) of Mark C. Montigny, Jason M. Lewis, James B. Eldridge, Michael O. Moore and other members of the General Court for legislation to promote transparency and cost control of pharmaceutical drug prices. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

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

An Act to promote transparency and cost control of pharmaceutical drug prices.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6D of the General Laws is hereby amended by inserting after section 17 the following new sections:–

Section 18. (a) The commission, in consultation with the center, shall develop a list of critical prescription drugs for which there is a substantial public interest in understanding the development of its pricing. In developing the list, the commission shall consider the following factors: (i) the cost of the drug to public health care programs, including the office of Medicaid and the group insurance commission; (ii) the current cost of the drug in the commonwealth; (iii) the extent of utilization of the drug within the Commonwealth; and (iv) potential impact of the cost of the drug on the commonwealth's achievement of the statewide health care cost growth benchmark, as established by section 9.

(b) For each prescription drug that the commission places on the critical prescription drug list pursuant to paragraph (a), the commission shall require the manufacturers of said prescription drug to report the following information to the commission:

i. Total cost of production, and approximate cost of production per dose;

ii. Research and development costs of the drug, including:

a. research and development costs that are paid with public funds;

b. after-tax research and development costs paid by the manufacturer; and

c. research and development costs paid by third parties.

iii. Marketing and advertising costs for the drug, apportioned by marketing activities that are directed to consumers, marketing activities that are directed to prescribers, and the total cost of all marketing and advertising that is directed primarily to Massachusetts consumers and prescribers;

iv. The prices for the drug that are charged to purchasers outside the United States, by country, for a representative set of countries determined by the commission;

v. Prices charged to typical Massachusetts purchasers, including but not limited to, pharmacies, pharmacy chains, pharmacy wholesalers, or other direct purchasers;

vi. True net typical prices charged to prescription drug benefit managers for distribution in Massachusetts, net of any rebates or other payments from the manufacturer to the pharmacy benefit manager and the pharmacy benefit manager to the manufacturer;

(c) The commission shall promulgate regulations to further define and enforce the provisions of this section, which may include monetary penalties for failure to comply with the requirements of this section.

(d) Information reported pursuant to paragraph (b) shall not be considered a public record under under clause 26 of section 7 of chapter 4. Any and all public reporting of information submitted pursuant to paragraph (b) shall be aggregated as to protect the financial, competitive, or proprietary nature of the information.

(e) The commission with the assistance of the center shall prepare an annual report on prescription drug prices and their role in overall health care spending in the commonwealth based on the data submitted to the commission pursuant to paragraph (b) and in conformance with the provisions of paragraph (d). As part of the report, the commission may include recommendations for actions to lower prescription drug costs and spending across the commonwealth while maintaining access to and quality health care. The commission's report shall be posted on the commission's website and shall be filed with the house of representatives and senate clerks, the house and senate committees on ways and means, the joint committee on health care financing, each year prior to the commission's Annual Cost Hearings.

Section 19. (a) The commission shall identify, using information submitted to the commission pursuant to section 18, those prescription drugs that due to their cost, jeopardize the commonwealth's ability to meet the statewide health care cost growth benchmark, as established by section 9. In reviewing the data, the commission shall review and consider all data reported to the commission and the center and determine whether the price of the prescription drug is significantly high given: (i) the prescription drug's medical benefits, (ii) the cost to develop and

manufacture the prescription drug, and (iii) the prices charged by the manufacturer in other countries.

(b) If the commission determines that a prescription drug is significantly high, then the commission may set the maximum allowable price that the manufacturer can charge for that prescription drug that is sold for use in the commonwealth.

SECTION 2. Section 1 of Chapter 111N of the General Laws is hereby amended by inserting after the definition of "Medical device", the following definition:–

"Modest meal", a meal costing no more than than the allowable amount for meals reimbursement by the commonwealth for state officials traveling on official business, with no alcoholic beverages permitted.

SECTION 3. The sixth clause of the third paragraph of section 2 of said chapter 111N is hereby amended by striking out the words "; provided that the department shall define modest meals and refreshments through regulation".