

SENATE No. 643

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 mandated benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>

SENATE No. 643

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 643) of Bruce E. Tarr, Viriato M. deMacedo, Donald F. Humason, Jr. and Richard J. Ross for legislation relative to mandated benefits. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 570 OF 2013-2014.]

The Commonwealth of Massachusetts

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

An Act relative to mandated benefits.

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 38C of chapter 3 of the General Laws, as most recently amended by
2 section 1 of chapter 288 of the Acts of 2014, is hereby further amended by striking subsection (a)
3 and inserting in place thereof the following:-

4 “(a) For the purposes of this section, a mandated health benefit proposal is one that
5 mandates health insurance coverage for specific health services, specific diseases or certain
6 providers of health care services or that affects the operations of health insurers in the
7 administration of health insurance coverage as part of a policy or policies of group life and
8 accidental death and dismemberment insurance covering persons in the service of the
9 commonwealth, and group general or blanket insurance providing hospital, surgical, medical,
10 dental, and other health insurance benefits covering persons in the service of the commonwealth,

11 and their dependents organized under chapter 32A , individual or group health insurance policies
12 offered by an insurer licensed or otherwise authorized to transact accident or health insurance
13 organized under chapter 175 , a nonprofit hospital service corporation organized under chapter
14 176A, a nonprofit medical service corporation organized under chapter 176B , a health
15 maintenance organization organized under chapter 176G , or an organization entering into a
16 preferred provider arrangement under chapter 176I , any health plan issued, renewed, or
17 delivered within or without the commonwealth to a natural person who is a resident of the
18 commonwealth, including a certificate issued to an eligible natural person which evidences
19 coverage under a policy or contract issued to a trust or association for said natural person and his
20 dependent, including said person's spouse organized under chapter 176M.”.

21 SECTION 2. Subsection (d) of said section 38C of said chapter 3, as so appearing, is
22 hereby amended by striking subdivision (1) and inserting in place thereof the following:-

23 “(1) the financial impact of mandating the benefit, including the extent to which the
24 proposed insurance coverage would increase or decrease the cost of the treatment or service over
25 the next 5 years, the extent to which the proposed coverage might increase the appropriate or
26 inappropriate use of the treatment or service over the next 5 years, the extent to which the
27 mandated treatment or service might serve as an alternative for more expensive or less expensive
28 treatment or service, the extent to which the insurance coverage may affect the number and types
29 of providers of the mandated treatment or service over the next 5 years, the effects of mandating
30 the benefit on the cost of health care, particularly the premium, administrative expenses and
31 indirect costs of municipalities, large employers, small employers, employees and nongroup
32 purchasers, the potential benefits and savings to municipalities, large employers, small
33 employers, employees and nongroup purchasers, the effect of the proposed mandate on cost

34 shifting between private and public payors of health care coverage, the cost to health care
35 consumers of not mandating the benefit in terms of out of pocket costs for treatment or delayed
36 treatment and the effect on the overall cost of the health care delivery system in the
37 commonwealth;”.

38 SECTION 3. Chapter 118G of the General Laws, as appearing in the 2014 Official
39 Edition, is hereby amended by inserting the following section:-

40 “Section 42. (a) For the purposes of this section, a mandated health benefit is a statutory
41 or regulatory requirement that mandates health insurance coverage for specific health services,
42 specific diseases or certain providers of health care services as part of a policy or policies of
43 group life and accidental death and dismemberment insurance covering persons in the service of
44 the commonwealth, and group general or blanket insurance providing hospital, surgical, medical,
45 dental, and other health insurance benefits covering persons in the service of the commonwealth,
46 and their dependents organized under chapter 32A , individual or group health insurance policies
47 offered by an insurer licensed or otherwise authorized to transact accident or health insurance
48 organized under chapter 175 , a nonprofit hospital service corporation organized under chapter
49 176A , a nonprofit medical service corporation organized under chapter 176B , a health
50 maintenance organization organized under chapter 176G , or an organization entering into a
51 preferred provider arrangement under chapter 176I , any health plan issued, renewed, or
52 delivered within or without the commonwealth to a natural person who is a resident of the
53 commonwealth, including a certificate issued to an eligible natural person which evidences
54 coverage under a policy or contract issued to a trust or association for said natural person and his
55 dependent, including said person's spouse organized under chapter 176M.

56 (b) Joint committees of the general court and the house and senate committees on ways
57 and means when reporting favorably on mandated health benefits bills referred to them shall
58 include a review and evaluation conducted by the division of health care finance and policy
59 pursuant to this section.

60 (c) Upon request of a joint standing committee of the general court having jurisdiction or
61 the committee on ways and means of either branch, the division of health care finance and policy
62 shall conduct a review and evaluation of the mandated health benefit proposal, in consultation
63 with other relevant state agencies, and shall report to the committee within 90 days of the
64 request. If the division of health care finance and policy fails to report to the appropriate
65 committee within 45 days, said committee may report favorably on the mandated health benefit
66 bill without including a review and evaluation from the division.

67 (d) Any state agency or any board created by statute, including but not limited to the
68 Board of the Commonwealth Connector, the Department of Health, the Division of Medical
69 Assistance or the Division of Insurance that proposes to add a mandated health benefit by rule,
70 bulletin or other guidance must request that a review and evaluation of that proposed mandated
71 health benefit be conducted by the division of health care finance and policy pursuant to this
72 section. The report on the mandated health benefit by the division of health care finance and
73 policy must be received by the agency or board and available to the public at least 30 days prior
74 to any public hearing on the proposal. If the division of health care finance and policy fails to
75 report to the agency or board within 45 days of the request, said agency or board may proceed
76 with a public hearing on the mandated health benefit proposal without including a review and
77 evaluation from the division.

78 (e) Any party or organization on whose behalf the mandated health benefit was proposed
79 shall provide the division of health care finance and policy with any cost or utilization data that
80 they have. All interested parties supporting or opposing the proposal shall provide the division of
81 health care finance and policy with any information relevant to the division's review. The
82 division shall enter into interagency agreements as necessary with the division of medical
83 assistance, the group insurance commission, the department of public health, the division of
84 insurance, and other state agencies holding utilization and cost data relevant to the division's
85 review under this section. Such interagency agreements shall ensure that the data shared under
86 the agreements is used solely in connection with the division's review under this section, and that
87 the confidentiality of any personal data is protected. The division of health care finance and
88 policy may also request data from insurers licensed or otherwise authorized to transact accident
89 or health insurance under chapter 175 , nonprofit hospital service corporations organized under
90 chapter 176A , nonprofit medical service corporations organized under chapter 176B , health
91 maintenance organizations organized under chapter 176G , and their industry organizations to
92 complete its analyses. The division of health care finance and policy may contract with an
93 actuary, or economist as necessary to complete its analysis.

94 The report shall include, at a minimum and to the extent that information is available, the
95 following: (1) the financial impact of mandating the benefit, including the extent to which the
96 proposed insurance coverage would increase or decrease the cost of the treatment or service over
97 the next 5 years, the extent to which the proposed coverage might increase the appropriate or
98 inappropriate use of the treatment or service over the next 5 years, the extent to which the
99 mandated treatment or service might serve as an alternative for more expensive or less expensive
100 treatment or service, the extent to which the insurance coverage may affect the number and types

101 of providers of the mandated treatment or service over the next 5 years, the effects of mandating
102 the benefit on the cost of health care, particularly the premium, administrative expenses and
103 indirect costs of municipalities, large employers, small employers, employees and nongroup
104 purchasers, the potential benefits and savings to municipalities, large employers, small
105 employers, employees and nongroup purchasers, the effect of the proposed mandate on cost
106 shifting between private and public payors of health care coverage, the cost to health care
107 consumers of not mandating the benefit in terms of out of pocket costs for treatment or delayed
108 treatment and the effect on the overall cost of the health care delivery system in the
109 commonwealth; (2) the medical efficacy of mandating the benefit, including the impact of the
110 benefit to the quality of patient care and the health status of the population and the results of any
111 research demonstrating the medical efficacy of the treatment or service compared to alternative
112 treatments or services or not providing the treatment or service; and (3) if the proposal seeks to
113 mandate coverage of an additional class of practitioners, the results of any professionally
114 acceptable research demonstrating the medical results achieved by the additional class of
115 practitioners relative to those already covered and the methods of the appropriate professional
116 organization that assures clinical proficiency.”.

117 SECTION 4. Section 1 of chapter 175, as so appearing, is hereby amended by inserting
118 the following definitions:—

119 ““Flexible health benefit policy” means a health insurance policy that in whole or in part,
120 does not offer state mandated health benefits.

121 “State mandated health benefits” means coverage required or required to be offered in the
122 general or special laws as part of a policy of accident or sickness insurance that:

- 123 1. includes coverage for specific health care services or benefits;
- 124 2. places limitations or restrictions on deductibles, coinsurance, copayments, or any
- 125 annual or lifetime maximum benefit amounts; or
- 126 3. includes a specific category of licensed health care practitioner from whom an insured
- 127 is entitled to receive care.

128 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or

129 kinds of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47

130 of this chapter.”.

131 SECTION 5. Section 108 of said chapter 175, as so appearing, is hereby amended by

132 inserting after subsection 12 the following subsection:—

133 “13. A carrier authorized to transact individual policies of accident or sickness insurance

134 under this section may offer a flexible health benefit policy, provided however, that for each sale

135 of a flexible health benefit policy the carrier shall provide to the prospective policyholder written

136 notice describing the state mandated health benefits that are not included in the policy and

137 provide to the prospective individual policyholder the option of purchasing at least one health

138 insurance policy that provides all state mandated health benefits.”.

139 SECTION 6. Section 110 of said chapter 175, as so appearing, is hereby amended by

140 inserting after subsection (P) the following:—

141 “(Q) A carrier authorized to transact group policies of accident or sickness insurance

142 under this section may offer one or more flexible health benefit policies; provided however, that

143 for each sale of a flexible health benefit policy the carrier shall provide to the prospective group

144 policyholder written notice describing the state mandated benefits that are not included in the
145 policy and provide to the prospective group policyholder the option of purchasing at least on
146 health insurance policy that provides all state mandated benefits. The carrier shall provide each
147 subscriber under a group policy upon enrollment with written notice stating that this a flexible
148 health benefit policy and describing the state mandated health benefits that are not included in
149 the policy.”.

150 SECTION 7. Said chapter 175, as so appearing, is hereby amended by inserting after
151 section 111H the following:-

152 “Section 111I. (a) Except as otherwise provided in this section, the commissioner shall
153 not disapprove a policy of accident and sickness insurance which provides hospital expense and
154 surgical expense insurance solely on the basis that it does not include coverage for at least 1
155 mandated benefit.

156 (b) The commissioner shall not approve a policy of accident and sickness insurance
157 which provides hospital expense and surgical expense insurance unless it provides, at a
158 minimum, coverage for:

159 (1) pregnant women, infants and children as set forth in section 47C;

160 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

161 (3) cytologic screening and mammographic examination as set forth in section 47G;

162 (3A) diabetes-related services, medications, and supplies as defined in section 47N;

163 (4) early intervention services as set forth in said section 47C; and

164 (5) mental health services as set forth in section 47B; provided however, that if the policy
165 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
166 policy on the basis that coverage for outpatient mental health services is not as extensive as
167 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
168 for outpatient physician services.

169 (c) The commissioner shall not approve a policy of accident and sickness insurance
170 which provides hospital expense and surgical expense insurance that does not include coverage
171 for at least one mandated benefit unless the carrier continues to offer at least one policy that
172 provides coverage that includes all mandated benefits.

173 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this
174 chapter that requires coverage for specific health services, specific diseases or certain providers
175 of health care.

176 (e) The commissioner may promulgate rules and regulations as are necessary to carry out
177 this section.

178 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
179 commissioner under this section shall be available to an employer who has provided a policy of
180 accident and sickness insurance to any employee within 12 months.”.

181 SECTION 8. Chapter 176A, as so appearing, is hereby amended by adding after section
182 1D the following two sections:—

183 “Section 1E. Definitions

184 The following words, as used in this chapter, unless the text otherwise requires or a
185 different meaning is specifically required, shall mean-

186 "Flexible health benefit policy" means a health insurance policy that in whole or in part,
187 does not offer state mandated health benefits.

188 "State mandated health benefits" means coverage required or required to be offered
189 in the general or special laws as part of a policy of accident or sickness insurance that:

- 190 1. includes coverage for specific health care services or benefits;
- 191 2. places limitations or restrictions on deductibles, coinsurance, copayments, or any
192 annual or lifetime maximum benefit amounts; or
- 193 3. includes a specific category of licensed health care practitioner from whom an insured
194 is entitled to receive care.

195 "Policy of Accident and Sickness Insurance," any policy or contract covering the kind or
196 kinds of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47
197 of chapter 175 of the general laws.

198 Section 1F. (a) Except as otherwise provided in this section, the commissioner shall not
199 disapprove a contract between a subscriber and the corporation under an individual or group
200 hospital services plan solely on the basis that it does not include coverage for at least one
201 mandated benefit.

202 (b) The commissioner shall not approve a contract unless it provides, at a minimum,
203 coverage for:

- 204 (1) pregnant women, infants and children as set forth in section 47C;
- 205 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;
- 206 (3) cytologic screening and mammographic examination as set forth in section 47G;
- 207 (3A) diabetes-related services, medications, and supplies as defined in section 47N;
- 208 (4) early intervention services as set forth in said section 47C; and
- 209 (5) mental health services as set forth in section 47B; provided however, that if the
210 policy limits coverage for outpatient physician office visits, the commissioner shall not
211 disapprove the policy on the basis that coverage for outpatient mental health services is not as
212 extensive as required by said section 47B, if the coverage is at least as extensive as coverage
213 under the policy for outpatient physician services.
- 214 (c) The commissioner shall not approve a contract that does not include coverage for at
215 least one mandated benefit unless the corporation continues to offer at least one contract that
216 provides coverage that includes all mandated benefits.
- 217 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this
218 chapter that requires coverage for specific health services, specific diseases or certain providers
219 of health care.
- 220 (e) The commissioner may promulgate rules and regulations as are necessary to carry out
221 this section.

222 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
223 commissioner under this section shall be available to an employer who has provided a hospital
224 services plan, to any employee within 12 months.”.

225 SECTION 9. Section 8 of chapter 176A, as so appearing, is hereby amended by inserting
226 after subsection (g) the following:—

227 “(h) A non-profit hospital service corporation authorized to transact individual policies
228 of accident or sickness insurance under this section may offer a one flexible health benefit
229 policy, provided however, that for each sale of a flexible health benefit policy the non-profit
230 hospital service corporation shall provide to the prospective policyholder written notice
231 describing the state mandated health benefits that are not included in the policy and provide to
232 the prospective individual policyholder the option of purchasing at least one health insurance
233 policy that provides all state mandated health benefits.

234 (i) A non-profit hospital service corporation authorized to transact group policies of
235 accident or sickness insurance under this section may offer one or more flexible health benefit
236 policies; provided however, that for each sale of a flexible health benefit policy the non-profit
237 hospital service corporation shall provide to the prospective group policyholder written notice
238 describing the state mandated benefits that are not included in the policy and provide to the
239 prospective group policyholder the option of purchasing at least on health insurance policy that
240 provides all state mandated benefits. The non-profit hospital service corporation shall provide
241 each subscriber under a group policy upon enrollment with written notice stating that this a
242 flexible health benefit policy and describing the state mandated health benefits that are not
243 included in the policy.”.

244 SECTION 10. Section 1 of Chapter 176B, as so appearing, is hereby amended by
245 inserting the following new definitions:—

246 ““Flexible health benefit policy” means a health insurance policy that in whole or in part,
247 does not offer state mandated health benefits.

248 "State mandated health benefits" means coverage required or required to be offered in the
249 general or special laws as part of a policy of accident or sickness insurance that:

- 250 1. includes coverage for specific health care services or benefits;
- 251 2. places limitations or restrictions on deductibles, coinsurance, copayments, or any
252 annual or lifetime maximum benefit amounts; or
- 253 3. includes a specific category of licensed health care practitioner from whom an insured
254 is entitled to receive care.

255 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or
256 kinds of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47
257 of chapter 175 of the general laws.”.

258 SECTION 11. Section 4 of chapter 176B, as so appearing, is hereby amended by
259 inserting the following paragraphs at the end thereof:—

260 “A medical service corporation authorized to transact individual policies of accident or
261 sickness insurance under this chapter may offer a one flexible health benefit policy, provided
262 however, that for each sale of a flexible health benefit policy the medical service corporation
263 shall provide to the prospective policyholder written notice describing the state mandated health
264 benefits that are not included in the policy and provide to the prospective individual policyholder

265 the option of purchasing at least one health insurance policy that provides all state mandated
266 health benefits.

267 A medical service corporation authorized to transact group policies of accident or
268 sickness insurance under this section may offer one or more flexible health benefit policies;
269 provided however, that for each sale of a flexible health benefit policy the medical service
270 corporation shall provide to the prospective group policyholder written notice describing the
271 state mandated benefits that are not included in the policy and provide to the prospective group
272 policyholder the option of purchasing at least on health insurance policy that provides all state
273 mandated benefits.

274 The medical service corporation shall provide each subscriber under a group policy upon
275 enrollment with written notice stating that this a flexible health benefit policy and describing the
276 state mandated health benefits that are not included in the policy.”.

277 SECTION 12. Said chapter 176B, as so appearing, is hereby amended by inserting after
278 section 6B the following section:-

279 “Section 6C. (a) Except as otherwise provided in this section, the commissioner shall not
280 disapprove a subscription certificate solely on the basis that it does not include coverage for at
281 least one mandated benefit.

282 (b) The commissioner shall not approve a subscription certificate unless it provides, at a
283 minimum, coverage for:

284 (1) pregnant women, infants and children as set forth in section 47C;

285 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;

286 (3) cytologic screening and mammographic examination as set forth in section 47G;
287 (3A) diabetes-related services, medications, and supplies as defined in section 47N;
288 (4) early intervention services as set forth in said section 47C; and
289 (5) mental health services as set forth in section 47B; provided however, that if the policy
290 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
291 policy on the basis that coverage for outpatient mental health services is not as extensive as
292 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
293 for outpatient physician services.

294 (c) The commissioner shall not approve a subscription certificate that does not include
295 coverage for at least 1 mandated benefit unless the corporation continues to offer at least one
296 subscription certificate that provides coverage that includes all mandated benefits.

297 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this
298 chapter that requires coverage for specific health services, specific diseases or certain providers
299 of health care.

300 (e) The commissioner may promulgate rules and regulations as are necessary to carry out
301 this section.

302 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
303 commissioner under this section shall be available to an employer who has provided a
304 subscription certificate, to any employee within 12 months.”.

305 SECTION 13. Section 1 of chapter 176G, as so appearing, is hereby amended by
306 inserting the following new definitions:—

307 ““Flexible health benefit policy” means a health insurance policy that in whole or in part,
308 does not offer state mandated health benefits.

309 "State mandated health benefits" means coverage required or required to be offered in the
310 general or special laws as part of a policy of accident or sickness insurance that:

- 311 1. includes coverage for specific health care services or benefits;
- 312 2. places limitations or restrictions on deductibles, coinsurance, copayments, or any
313 annual or lifetime maximum benefit amounts; or
- 314 3. includes a specific category of licensed health care practitioner from whom an insured
315 is entitled to receive care.

316 “Policy of Accident and Sickness Insurance,” any policy or contract covering the kind or
317 kinds of insurance described in subdivisions (a) through (d) of the sixth paragraph of section 47
318 of chapter 175 of the general laws.”.

319 SECTION 14. Section 4 of chapter 176G, as most recently amended by section 97 of
320 chapter 131 of the acts of 2014, hereby further amended by adding the following paragraph at the
321 end thereof:—

322 “A health maintenance organization authorized to transact individual policies of accident
323 or sickness insurance under this chapter may offer a one flexible health benefit policy, provided
324 however, that for each sale of a flexible health benefit policy the health maintenance
325 organization shall provide to the prospective policyholder written notice describing the state
326 mandated health benefits that are not included in the policy and provide to the prospective

327 individual policyholder the option of purchasing at least one health insurance policy that
328 provides all state mandated health benefits.”.

329 SECTION 15. Chapter 176G, as most recently amended by section 5 of chapter 207 of
330 the acts of 2014, is hereby further amended by inserting after section 4V the following section:-

331 “Section 4W. A health maintenance organization authorized to transact group policies of
332 accident or sickness insurance under this chapter may offer one or more flexible health benefit
333 policies; provided however, that for each sale of a flexible health benefit policy the health
334 maintenance organization shall provide to the prospective group policyholder written notice
335 describing the state mandated benefits that are not included in the policy and provide to the
336 prospective group policyholder the option of purchasing at least on health insurance policy that
337 provides all state mandated benefits. The health maintenance organization shall provide each
338 subscriber under a group policy upon enrollment with written notice stating that this a flexible
339 health benefit policy and describing the state mandated health benefits that are not included in
340 the policy.”.

341 SECTION 16. Chapter 176G of the General Laws, as appearing in the 2014 Official
342 Edition, is hereby amended by inserting after Section 16B the following section:-

343 Section 16C. (a) Except as otherwise provided in this section, the commissioner shall not
344 disapprove a health maintenance contract solely on the basis that it does not include coverage for
345 at least 1 mandated benefit.

346 (b) The commissioner shall not approve a health maintenance contract unless it provides
347 coverage for:

348 (1) pregnant women, infants and children as set forth in section 47C;
349 (2) prenatal care, childbirth and postpartum care as set forth in section 47F;
350 (3) cytologic screening and mammographic examination as set forth in section 47G;
351 (3A) diabetes-related services, medications, and supplies as defined in section 47N;
352 (4) early intervention services as set forth in said section 47C; and
353 (5) mental health services as set forth in section 47B; provided however, that if the policy
354 limits coverage for outpatient physician office visits, the commissioner shall not disapprove the
355 policy on the basis that coverage for outpatient mental health services is not as extensive as
356 required by said section 47B, if the coverage is at least as extensive as coverage under the policy
357 for outpatient physician services.

358 (c) The commissioner shall not approve a health maintenance contract that does not
359 include coverage for at least one mandated benefit unless the health maintenance organization
360 continues to offer at least one health maintenance contract that provides coverage that includes
361 all mandated benefits.

362 (d) For purposes of this section, "mandated benefit" shall mean a requirement in this
363 chapter that requires coverage for specific health services, specific diseases or certain providers
364 of health care.

365 (e) The commissioner may promulgate rules and regulations as are necessary to carry out
366 the provisions of this section.

367 (f) Notwithstanding any special or general law to the contrary, no plan approved by the
368 commissioner under this section shall be available to an employer who has provided a health
369 maintenance contract, to any employee within 12 months.

370 SECTION 17. Section 1 of chapter 176M, as so appearing, is hereby amended by
371 inserting the following new definitions:—

372 ““Flexible health benefit policy” means a health insurance that, in whole or in part, does
373 not offer state mandated health benefits.

374 "State mandated health benefits" means coverage required to be offered any general or
375 special law that:

- 376 1. includes coverage for specific health care services or benefits;
- 377 2. places limitations or restrictions on deductibles, coinsurance, copayments, or any
378 annual or lifetime maximum benefit amounts; or
- 379 3. includes a specific category of licensed health care practitioner from whom an insured
380 is entitled to receive care.”.

381 SECTION 18. Section 2 of chapter 176M, as most recently amended by section 35 of
382 chapter 288 of the acts of 2014, is hereby further amended by striking out the first sentence of
383 subsection (d) and inserting in place thereof the following:-

384 “A carrier that participates in the nongroup health insurance market shall make available
385 to eligible individuals a standard guaranteed health plan established pursuant to paragraph (c)
386 and may additionally make available to eligible individuals no more than two alternative
387 guaranteed issue health plans, one of which may be a flexible health benefit policy, with benefits

388 and cost sharing requirements, including deductibles, that differ from the standard guaranteed
389 issue health plan.”.