

HOUSE No. 2960

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 protect access to confidential healthcare.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/20/2017</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/3/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/25/2017</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/23/2017</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/30/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/20/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	
<i>Diana DiZoglio</i>	<i>14th Essex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	

<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>

<i>Theodore C. Speliotis</i>	<i>13th Essex</i>	
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Adrian Madaro</i>	<i>1st Suffolk</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Gerard Cassidy</i>	<i>9th Plymouth</i>	
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>	
<i>Bud Williams</i>	<i>11th Hampden</i>	
<i>Stephan Hay</i>	<i>3rd Worcester</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>	
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	
<i>John J. Mahoney</i>	<i>13th Worcester</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Byron Rushing</i>	<i>9th Suffolk</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	
<i>Leonard Mirra</i>	<i>2nd Essex</i>	
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	
<i>William Driscoll</i>	<i>7th Norfolk</i>	
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	

HOUSE No. 2960

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 2960) of Kate Hogan and others relative to common summary of payments forms for health care services. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 871 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to protect access to confidential healthcare.

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.

2 Chapter 176O of the General Laws, as appearing in the 2014 Official Edition, is hereby
3 amended by striking out section 27 and inserting in place thereof the following section:-

4

5 Section 27. (a) The division shall develop a common summary of payments form to be
6 used by all carriers in the commonwealth and provided to health care consumers with respect to
7 provider claims submitted to a payer. The common summary of payments form shall be written
8 in an easily readable and understandable format showing the consumer’s responsibility, if any,
9 for payment of any portion of a health care provider claim; provided, however, that the division

10 shall allow the development and use of forms that may be exchanged securely through electronic
11 means; and, provided further, that carriers shall not be obligated to issue a summary of payments
12 form for provider claims that consist solely of requests for co-payment.

13 (b) Carriers shall issue common summary of payments forms at the member level for
14 each insured member. Carriers may establish a standard method of delivery of summary of
15 payments forms. All carriers shall permit any (i) subscriber who is legally authorized to consent
16 to care for the insured member, (ii) insured member who is legally authorized to consent to her
17 or his own care, or (iii) other party who has the exclusive legal authorization to consent to care
18 for the insured member to choose in writing an alternative method of receiving the common
19 summary of payments form, which shall include, but not be limited to, the following: (A)
20 sending a paper form to the address of the subscriber; (B) sending a paper form to the address of
21 the insured member; (C) sending a paper form to any alternate address upon request of the
22 insured member; or (D) allowing the subscriber, the insured member, or both to access the form
23 through electronic means, provided, however that such access is provided in compliance with
24 any applicable state and federal laws and regulations pertaining to data privacy and security,
25 including, but not limited to, 45 CFR part 160, subparts A and C of 45 CFR part 164, chapters
26 93H and 93I of the General Laws, and 201 C.M.R. 17.00, as may be amended.

27 (c) All carriers shall also permit another party legally authorized to consent to care for an
28 insured member to request and must accommodate a reasonable request by such third party to
29 receive the forms on behalf of the member in any of the alternative methods listed pursuant to
30 subsection (b), provided that the third party clearly states in writing that the disclosure of all or
31 part of the information could endanger the party or the insured member. Upon receipt of such a

32 request, carriers shall not inquire as to the reasons for, or otherwise seek to confirm, the
33 endangerment.

34 (d) The preferred method of receipt shall be valid until the insured member submits a
35 request in writing for a different method; provided that a carrier shall not be required to maintain
36 more than one alternate address for a member. Carriers shall comply with an insured member's
37 request pursuant to this subsection within 3 business days of receipt of the request.

38 (e) Carriers shall not describe or specify sensitive health care services in a common
39 summary of payments form. The division shall define sensitive health care services for purposes
40 of this section. In determining the definition the division shall consider the recommendations of
41 the National Committee on Vital and Health Statistics and similar regulations in other states, and
42 shall consult with experts in fields including, but not limited to, infectious disease, reproductive
43 and sexual health, domestic violence and sexual assault, and mental health and substance use
44 disorders.

45 (f) In the event that the insured member has no liability for payment for any procedure or
46 service, carriers shall permit all insured members who are legally authorized to consent to care,
47 or parties legally authorized to consent to care for the insured member, to request suppression of
48 summary of payments forms for a specific service or procedure, in which case summary of
49 payments forms shall not be issued; provided, however, that the insured member clearly makes
50 the request orally or in writing. The carrier may request verification of the request in writing
51 following an oral request. Carriers shall not require an explanation as to the basis for an insured
52 member's request to suppress summary of payments forms, unless otherwise required by law or
53 court order.

54 (g) The insured member's ability to request the preferred method of receipt pursuant to
55 subsection (b) and to request suppression of summary of payments forms pursuant to subsection
56 (f) shall be communicated in plain language and in a clear and conspicuous manner in evidence
57 of coverage documents, member privacy communications and on every summary of payments
58 form and shall be conspicuously displayed on the carrier's member website and online portals for
59 individual members.

60 (h) The division shall promulgate regulations necessary to implement and enforce this
61 section, which shall include requirements for reasonable reporting by carriers to the division
62 regarding compliance and the number and type of complaints received regarding noncompliance
63 with this section.

64 (i) The division, in collaboration with the department of public health, shall develop and
65 implement a plan to educate providers and consumers regarding the rights of insured members
66 and the responsibilities of carriers to promote compliance with this section. The plan shall
67 include, but not be limited to, staff training and other education for hospitals, community health
68 centers, school-based health centers, physicians, nurses and other licensed health care
69 professionals, as well as administrative staff, including but not limited to all staff involved in
70 patient registration and confidentiality education and billing staff involved in processing
71 insurance claims. The plan shall be developed in consultation with groups representing health
72 care insurers, providers, and consumers, including consumer organizations concerned with the
73 provision of sensitive health services.

74 SECTION 2. The regulations required pursuant to subsection (h) of section 27 of chapter
75 176O of the General Laws shall take effect no later than 3 months after the effective date of this
76 act.

77 SECTION 3. Subsection (i) of section 27 of chapter 176O of the General Laws shall take
78 effect 6 months after the effective date of this act.

79 SECTION 4. Subsections (b) to (g), inclusive of section 27 of chapter 176O of the
80 General Laws shall take effect 12 months after the effective date of this act.

81 SECTION 5. Clause (D) of subsection (b) of chapter 176O of the General Laws shall take
82 effect 24 months after the effective date of this act; provided, however, that any carrier that has
83 the capacity to provide electronic access to summary of payments forms prior to that date shall
84 do so.