

**SENATE . . . . . No. 591**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Karen E. Spilka***

*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:	
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/24/2017</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>	<i>1/24/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/24/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/25/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/25/2017</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>1/25/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/25/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/26/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/26/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/27/2017</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/27/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>1/27/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/27/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/27/2017</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/27/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/30/2017</i>

<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>1/30/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>1/30/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/31/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>1/31/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/31/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/31/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/31/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/31/2017</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/31/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/31/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/2/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/2/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/2/2017</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/2/2017</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>	<i>2/2/2017</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	<i>2/2/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/3/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/3/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/3/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>2/3/2017</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/3/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/6/2017</i>



**SENATE . . . . . No. 591**

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 557 OF 2015-2016.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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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. Chapter 176O of the General Laws, as appearing in the 2014 Official  
2 Edition, is hereby amended by striking out section 27 and inserting in place thereof the following  
3 section:-

4 Section 27. (a) The division shall develop a common summary of payments form to be  
5 used by all carriers in the commonwealth and provided to health care consumers with respect to  
6 provider claims submitted to a payer. The common summary of payments form shall be written  
7 in an easily readable and understandable format showing the consumer’s responsibility, if any,  
8 for payment of any portion of a health care provider claim; provided, however, that the division  
9 shall allow the development and use of forms that maybe exchanged securely through electronic  
10 means; and provided, further, that carriers shall not be obligated to issue a summary of payments  
11 form for provider claims that consist solely of requests for co-payment.

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

26 (c) All carriers shall also permit a party legally authorized to consent to care for an  
27 insured member to request and must accommodate a reasonable request by such third party to  
28 receive the forms on behalf of the member in any of the alternative methods listed in subsection  
29 (b), provided that the third party clearly states in writing that the disclosure of all or part of the  
30 information could endanger the party or the insured member. Upon receipt of such a request,  
31 carriers shall not inquire as to the reasons for, or otherwise seek to confirm, the endangerment.

32 (d) The preferred method of receipt shall be valid until the insured member submits a  
33 request in writing for a different method; provided, however, that a carrier shall not be required

34 to maintain more than one alternate address for a member. Carriers shall comply with an insured  
35 member's request pursuant to this subsection within 3 business days of receipt of the request.

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

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

51 (g) The insured member's ability to request the preferred method of receipt pursuant to  
52 subsection (b) and to request suppression of summary of payments forms pursuant to subsection  
53 (e) shall be communicated in plain language and in a clear and conspicuous manner in evidence  
54 of coverage documents, member privacy communications and on every summary of payments

55 form and shall be conspicuously displayed on the carrier's member website and online portals for  
56 individual members.

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

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

71 SECTION 2. The regulations required pursuant to subsection (h) of section 27 of chapter  
72 176O of the General Laws shall take effect no later than 3 months after the effective date of this  
73 act.

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

76           SECTION 4. Subsections (b) to (g), inclusive of section 27 of chapter 176O of the  
77   General Laws shall take effect 9 months after the effective date of this act; provided, however,  
78   that any carrier that has the capacity to provide electronic access to summary of payments forms  
79   prior to that date shall do so.