HOUSE . . . . . No. 4210

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2377) of the House Bill relative to children's health and wellness (House, No. 4012, amended), reports recommending passage of the accompanying bill (House, No. 4210) November 18, 2019.

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The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to children's health and wellness.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith improve children's welfare, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Subsection (2) of section 9A of chapter 118E of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following clause:-

(k) persons under the age of 26 years who, on the date of attaining 18 years of age, were enrolled in foster care or in the care and custody of the department of children and families; provided, however, that such persons shall be enrolled to receive benefits under this section without any interruption in coverage; provided further, that the division shall develop and implement a simplified redetermination form for such persons; and provided further, that a beneficiary under this section shall only be required to complete and return such a form if information known to the division is no longer accurate or is materially incomplete.

SECTION 2. Chapter 176O of the General Laws is hereby amended by adding the following section:-

Section 28. (a) A carrier shall ensure the accuracy of the information concerning each provider listed in the carrier's provider directories for each network plan and shall review and update the entire provider directory for each network plan. A provider directory that is electronically available shall: (i) be in a searchable format; and (ii) make accessible to the general public the current health care providers for a network plan through a clearly identifiable link or tab without requiring the general public to create or access an account, enter a policy or contract number, provide other identifying information or demonstrate coverage or an interest in obtaining coverage with the network plan. Each electronic network plan provider directory shall be updated not less than monthly; provided, however, that an electronic network plan provider directory shall be updated more frequently than monthly if required by state or federal law or regulations promulgated by the commissioner, when informed of and upon confirmation by the plan of:

(i) a contracting provider no longer accepting new patients for that network plan or an individual provider within a provider group no longer accepting new patients;

(ii) a provider or provider group no longer being under contract for a particular network plan;

(iii) a change of a provider's practice location or of other information required under this section;

(iv) a provider's retirement or cessation of practice; or

(v) any other information that affects the content or accuracy of the provider directory.

(b) A provider directory shall not list or include information on a provider who is not currently under contract with the network plan.

(c) A carrier shall periodically audit its provider directories for accuracy and retain documentation of the audit to be made available to the commissioner upon request.

(d) A carrier shall provide a print copy of the provider directory information of a current provider directory upon the request of an insured or a prospective insured. The print copy of the requested provider directory information shall be provided to the requester by mail postmarked not later than 5 business days after the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(e) A carrier shall include in both the electronic and print formats of the provider directory a dedicated customer service email address and telephone number or electronic link that insureds, providers and the general public may use to notify the carrier of inaccurate provider directory information. This customer service information shall be disclosed prominently in the provider directory and on the carrier's website. The carrier shall investigate reports of inaccuracies within 30 days of the notice and modify the provider directory in accordance with any findings within 30 days of the findings.

(f) A provider directory shall inform enrollees and potential enrollees that they are entitled to: (i) language interpreter services at no cost to the enrollee; and (ii) full and equal access to covered services that are required under the federal Americans with Disabilities Act of 1990 and Section 504 of the federal Rehabilitation Act of 1973. A provider directory, whether in electronic or print format, shall accommodate the communication needs of individuals with

disabilities and include a link to, or information regarding, available assistance for persons with limited English proficiency, including how to obtain interpretation and translation services.

(g) A carrier shall include a disclosure in the print format of the provider directory that the information included in the provider directory is accurate as of the date of printing and that an insured or prospective insured may consult the carrier's electronic provider directory on its website or call a specified customer service telephone number to obtain the most current provider directory information.

(h) A carrier shall update the print copies of the carrier's provider directory not less than annually; provided, however, that the carrier shall update the print provider directories more frequently than annually if required by federal law; and provided further, that the division may promulgate regulations requiring that the print provider directories be updated more frequently than annually.

(i) The division shall promulgate regulations to implement this section.

SECTION 3. The last paragraph of chapter 431 of the acts of 2014 is hereby amended by striking out the figure "2018", inserted by section 89 of chapter 47 of the acts of 2017, and inserting in place thereof the following figure:- 2021.

SECTION 4. (a) The division of insurance shall establish a task force to develop recommendations to ensure the current and accurate electronic posting of carrier provider directories in a searchable format for each of the carriers' network plans available for viewing by the general public.

(b) The task force shall consist of: the commissioner of insurance or a designee, who shall serve as chair; and 12 members to be appointed by the commissioner, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Medical Society, 1 of whom shall be a representative of Healthcare Administrative Solutions, Inc., 1 of whom shall be a representative of the Children's Mental Health Campaign, 1 of whom shall be a representative of the Massachusetts Association for Mental Health, Inc., 1 of whom shall have expertise in the treatment of individuals with substance use disorder, 1 of whom shall have expertise in the treatment of individuals with a mental illness, 1 of whom shall be from a health consumer advocacy organization, 1 of whom shall be a consumer representative and 1 of whom shall be a representative from an employer group.

(c) The task force shall develop recommendations on establishing: (i) measures to ensure the accuracy of information concerning each provider listed in the carrier's provider directories for each network plan; (ii) substantially similar processes and timeframes for health care providers included in a carrier's network to provide information to the carrier; and (iii) substantially similar processes and timeframes for carriers to include such information in their provider directories when:

(A) a contracting provider is no longer accepting new patients for that network plan and when a contracting provider is resuming acceptance of new patients or an individual provider within a provider group is no longer accepting new patients and when an individual provider within a provider group is resuming acceptance of new patients;

(B) a provider who is not accepting new patients is contacted by an enrollee or potential enrollee seeking to become a new patient; provided, however, that the provider may direct the enrollee or potential enrollee to the carrier for additional assistance in finding a provider and shall inform the carrier immediately, if the provider has not done so already, that the provider is not accepting new patients;

(C) a provider is no longer under contract for a particular network plan;

(D) a provider's practice location or other information required under this section has changed;

(E) for a health care professional, at least 1 of the following has changed: (1) name; (2) contact information; (3) gender; (4) participating office location; (5) specialty, if applicable; (6) clinical and developmental areas of expertise; (7) populations of interest; (8) licensure and board certification; (9) medical group affiliations, if applicable; (10) facility affiliations, if applicable; (11) participating facility affiliations, if applicable; (12) languages spoken other than English, if applicable; (13) whether accepting new patients; and (14) information on access for people with disabilities including, but not limited to, structural accessibility and presence of accessible examination and diagnostic equipment;

(F) for a hospital, at least 1 of the following has changed: (1) hospital name; (2) hospital type; (3) participating hospital location and telephone number; and (4) hospital accreditation status;

(G) for a facility other than a hospital, by type of facility, at least 1 of the following has changed: (1) facility name; (2) facility type; (3) types of services performed; and (4) participating facility location and telephone number; and

(H) any other information that affects the content or accuracy of the provider directory has changed.

(d) The task force shall develop recommendations for carriers on: (i) ways to include information in the provider directory that identify the tier level for each specific provider, hospital or other type of facility in the network, when applicable; (ii) ways to include consistent language across carriers to assist insureds with understanding and searching for behavioral health specialty providers; (iii) the feasibility of carriers making real time updates to each electronic network plan provider directory when health care providers included in a carrier's network provide information to the carrier pursuant to recommendations under subsection (c); (iv) measures to address circumstances in which an insured reasonably relies upon materially inaccurate information contained in a carrier's provider directory; and (v) measures for carriers to take to ensure the accuracy of the information concerning each provider listed in the carrier's provider directories for each network plan based on the information provided to the carriers by network providers pursuant to recommendations under said subsection (c) including, but not limited to, periodic testing to ensure that the public interface of the provider directories accurately reflects the provider network, as required by state and federal law.

(e) The task force shall establish recommended timelines for carriers to complete each of the task force's recommendations.

(f) The task force shall file its recommendations, including any proposed regulations, with the clerks of the senate and house of representatives and the joint committee on health care financing not later than March 1, 2020.

SECTION 5. The division of insurance shall promulgate regulations implementing section 28 of chapter 176O of the General Laws not later than July 1, 2020 and shall consider the recommendations of the task force established under section 4 of this act when developing such regulations. The division shall send a copy of the regulations to the joint committee on healthcare financing and the joint committee on mental health, substance use and recovery not less than 60 days before the promulgation of regulations under this section.

SECTION 6. Carriers, as defined in section 1 of chapter 176O of the General Laws, shall ensure the accuracy of the information pursuant to the regulations issued by the commissioner of insurance pursuant to sections 2 and 5 for each network plan not later than October 1, 2020.

SECTION 7. (a) The health policy commission, in consultation with the executive office of health and human services, the department of public health and the center for health information and analysis, shall conduct an analysis of children with medical complexities in the commonwealth. The analysis shall include health insurance coverage, access to services, medical resources utilized and current costs of serving these children.

(b) The executive office of health and human services, the department of public health and the center for health information and analysis shall make available all necessary and relevant data requested by the commission within 90 days of the effective date of this act. The commission may also draw from additional data sets or external consultants as it deems necessary. The commission shall produce a report of its findings that shall include, but not be limited to:

(i) analyses of demographics and utilization of services and medical expenditures and availability of specialty care for children with medical complexities;

(ii) population data on children with medical complexities under the age of 21 years, including health insurance coverage type, primary diagnosis and mental health diagnoses; provided, however, that the data shall be disaggregated by geographic region, age, sex and race;

(iii) an estimate of the number of children with medical complexities who transition from pediatric to adult care annually in the commonwealth;

(iv) annual medical expenditures spent on children with medical complexities, including the impact to the overall health care system, disaggregated by payer type;

(v) data on statewide hospital utilization, including utilization of emergency departments, length of stay, 30-day readmissions and statewide cost for the population of children with medical complexities, including out-of-pocket costs;

(vi) durable medical equipment costs, including out-of-pocket costs, for children with medical complexities;

(vii) pharmaceutical costs, including out-of-pocket costs, for children with medical complexities;

(viii) availability of specialty care for children with medical complexities;

(ix) social and demographic conditions of children with medical complexities; and

(x) recommendations for ongoing data collection and reporting of measures related to children with medical complexities.

(c) The commission shall report its findings and recommendations to the clerks of the senate and the house of representatives, the senate and house committees on ways and means and

the joint committee on health care financing not later than 1 year after the effective date of this act.

SECTION 8. (a) The executive office of health and human services, in consultation with the office of the child advocate, the department of mental health, the department of children and families, the department of early education and care and the department of elementary and secondary education, shall develop a pilot program consisting of 3 regional childhood behavioral health centers of excellence. Each center of excellence shall serve a defined geographical region; provided, however, that Berkshire, Hampden, Hampshire and Franklin counties shall be served by at least 1 center of excellence. Each center of excellence shall serve as a clearinghouse for families, early education and care providers, clinicians and school districts to receive comprehensive information on the full range of available public and private programs, service providers and resources within a community that provide behavioral health care services and supports for children in early childhood through adolescence.

(b) Each center of excellence shall maintain a current list of available pediatric behavioral health services, service providers and relevant workforce training opportunities in the region. Each center of excellence shall also provide a telephone number and email address for education and care providers, families and clinicians to call to request information regarding behavioral health services and supports for infants and children in the region. The telephone hotline shall be staffed during regular hours of operation of the center of excellence and not less than 40 hours per week.

(c) The executive office of health and human services shall submit a report after 1 year of implementation to the joint committee on children, families and persons with disabilities, the

joint committee on mental health, substance use and recovery, the joint committee on education, the house and senate committees on ways and means and the clerks of the house of representatives and the senate on the performance of the centers of excellence, including, but not limited to, the: (i) number and demographics of inquiries received; (ii) resources and services most in-demand; (iii) gaps in services or resources in each region; and (iv) cost of staffing and maintaining each center and its telephone hotline.

SECTION 9. (a) There shall be a task force on pediatric behavioral health screening. The task force shall study the efficacy of the child and adolescent needs and strengths screening tool for behavioral health issues, including the appropriateness for specific clinical situations, ability to accurately capture a child's behavioral health status and ease of certification and use. The task force shall also consider other evidence-based comprehensive pediatric behavioral health screening tools.

(b) The task force shall consist of the following 7 members: 1 social worker to be appointed by the senate president, who shall serve as co-chair; 1 child psychiatrist to be appointed by the speaker of the house, who shall serve as co-chair; the director of MassHealth's office of behavioral health or a designee; and 4 persons who shall be appointed by the governor, 1 of whom shall be an expert on behavioral health screening tools, 1 of whom shall be a representative of Massachusetts Behavioral Health Partnership, 1 of whom shall be a representative of the Massachusetts Association for Mental Health, Inc. and 1 of whom shall be a representative of the Association for Behavioral Healthcare, Inc.

(c) Not later than April 1, 2020, the task force shall submit a report on its findings to the clerks of the house of representatives and the senate, the joint committee on mental health, substance use and recovery and the joint committee on health care financing.

SECTION 10. (a) There shall be a special legislative commission established pursuant to section 2A of chapter 4 of the General Laws to examine the pediatric workforce, including, but not limited to, medical, mental health and behavioral health providers, and recommend strategies for increasing the pipeline of pediatric providers and expanding access to pediatric providers.

(b) The commission shall consist of the following 25 members: 1 member of the senate to be appointed by the senate president, who shall serve as co-chair; 1 member of the house of representatives to be appointed by the speaker of the house, who shall serve as co-chair; 1 member of the senate to be appointed by the minority leader of the senate; 1 member of the house of representatives to be appointed by the minority leader of the house; the secretary of health and human services or a designee; the secretary of labor and workforce development or a designee; the commissioner of public health or a designee; the commissioner of higher education or a designee and 17 members to be appointed by the governor: 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc.; 1 of whom shall be a representative of the Massachusetts Medical Society; 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc.; 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc.; 1 of whom shall be a representative of Massachusetts Association of Health Plans, Inc.; 1 of whom shall represent the commonwealth's medical schools; 1 of whom shall represent the commonwealth's nursing schools; 1 of whom shall represent the commonwealth's social work schools; 1 of whom shall be a representative of the Conference of Boston Teaching Hospitals, Inc.; 1 of whom shall be a representative of the

National Association of Social Workers, Inc.; 1 of whom shall be a representative of the Massachusetts Psychological Association, Inc.; 1 of whom shall be a representative of Massachusetts Psychiatric Society, Inc.; 1 of whom shall be a representative of the Massachusetts chapter of the American Academy of Pediatrics; 1 of whom shall be a representative of the Massachusetts Association of Advanced Practice Psychiatric Nurses, Inc.; 1 of whom shall be a representative of the Association for Behavioral Healthcare, Inc.; 1 of whom shall be a representative of a labor union representing pediatric providers; and 1 of whom shall be a representative of the Children's Mental Health Campaign.

All appointments shall be made not later than 30 days after the effective date of this act. The commission shall convene its first meeting not later than 60 days after the effective date of this act.

(c) The commission shall investigate and report on: (i) the current availability and adequacy of pediatric providers in the commonwealth; (ii) the causes of pediatric provider shortages in the commonwealth; (iii) factors other than provider shortages that contribute to limited access of services by pediatric providers; (iv) how the acceptance of insurance and network status contribute to access to pediatric providers; (v) the relationship of graduate medical education to the commonwealth's pediatric provider workforce and emerging models of delivery of care; (vi) opportunities for pipeline career development for the pediatric workforce; (vii) underserved pediatric patient populations; and (viii) approaches taken by other states to address pediatric provider workforce shortages and access challenges.

(d) Not later than July 1, 2020, the commission shall file a report of its findings and recommendations with the clerks of the house of representatives and the senate, the house and

senate committees on ways and means, the joint committee on health care financing and the joint committee on labor and workforce development.

SECTION 11. (a) There shall be a special legislative commission established pursuant to section 2A of chapter 4 to study and make recommendations regarding the role of school-based health centers in the commonwealth.

(b) The commission shall consist of the following 17 members: 1 member of the senate to be appointed by the senate president, who shall serve as co-chair; 1 member of the house of representatives to be appointed by the speaker of the house, who shall serve as co-chair; 1 member of the senate to be appointed by the minority leader of the senate; 1 member of the house of representatives to be appointed by the minority leader of the house; the commissioner of public health or a designee; the commissioner of mental health or a designee; the commissioner of elementary and secondary education or a designee; the assistant secretary of MassHealth or a designee; and 9 members to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a representative of Blue Cross Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc., 1 of whom shall be a representative of the Massachusetts Association of School Superintendents, Inc. in a school district served by a school-based health center, 1 of whom shall be a school nurse in a school district served by a school-based health center, 1 of whom shall be a representative of Massachusetts Administrators for Special Education, 1 of whom shall be a representative of the Massachusetts School-Based Health Alliance, Inc. and 1 of whom shall be a teacher in a school district served by a school-based health center.

Members of the special commission shall have knowledge or expertise related to the department of public health's school-based health center program and shall reflect a broad distribution of diverse perspectives. All appointments shall be made not later than 30 days after the effective date of this act. The commission shall convene its first meeting not later than 60 days after the effective date of this act.

(c) The special commission shall study and report on the number and socio-economic status of students in the commonwealth with access to services provided by the school-based health center program and make recommendations for the purpose of strengthening and expanding the school-based health center model, replicating best practices across the commonwealth and identifying potential gaps and areas for improvement.

The commission shall report on school-based health centers' efforts to:

(i) strengthen the infrastructure of school health services in the areas of personnel and policy development, including the role of educators;

(ii) develop linkages between school health programs and community health providers and explore increased integration with community health centers;

(iii) incorporate health education programs in school curricula;

(iv) incorporate nutrition and wellness programs in school curricula to ensure healthy development;

(v) incorporate programs for the reduction of health disparities for gay, lesbian, bisexual, transgender, queer and questioning youth, consistent with the recommendations of the permanent commission established in section 67 of chapter 3 of the General Laws;

(vi) offer behavioral health education and services;

(vii) improve health and wellness outcomes in medically underserved communities, geographically isolated communities and school districts with high concentrations of low-income and minority students;

(viii) increase family engagement;

(ix) improve the coordination of care;

(x) address social determinants of children and adolescent health; and

(xi) offer vision and dental services.

The commission shall consider best practices and improvements for expanding access to school-based health services, including, but not limited to, insurance coverage of school-based health services and provider workforce needs, and shall report on and make any recommendations for potential changes and improvements to the role of school-based health centers in the commonwealth.

Not later than July 1, 2020, the commission shall report its findings and recommendations, including any recommendations for proposed legislation, to the clerks of the house of representatives and senate, the house and senate committees on ways and means, the joint committee on healthcare financing, the joint committee on public health, the joint committee on mental health, substance use and recovery and the joint committee on education.

SECTION 12. (a) There shall be a special commission to review and report on existing mandated reporter laws and regulations and make recommendations on how to improve the response to, and prevention of, child abuse and neglect. The report shall include, but not be

limited to, findings and recommendations on: (i) the scope of mandated reporter laws and regulations including, but not limited to, persons included in the mandated reporter definition; (ii) mandated reporter training requirements for employees, including employees of licensees or contracted organizations; and (iii) accountability and oversight of the mandated reporter system including, but not limited to, procedures for a mandated reporter to notify the person or designated agent in charge and responses to reports of intimidation and retaliation against mandated reporters.

(b) The commission shall consist of the following 13 members: the child advocate, who shall serve as chair; the secretary of health and human services or a designee; the secretary of education or a designee; the secretary of public safety and security or a designee; the attorney general or a designee; the commissioner of elementary and secondary education or a designee; the commissioner of early education and care or a designee; the commissioner of children and families or a designee; the commissioner of the division of professional licensure or a designee; the chief counsel of the committee for public counsel services or a designee; a representative of the Massachusetts District Attorneys Association or a designee; and 2 members to be appointed by the governor, 1 of whom shall be a representative of a labor union representing healthcare employees subject to mandated reporter laws and 1 of whom shall be a representative of a labor union representing non-healthcare employees subject to mandated reporter laws. The commission may consider input from any relevant organization.

(c) The commission shall review: (i) the agencies and employers responsible for training mandated reporters; (ii) the frequency, scope and effectiveness of mandated reporter training and continuing education including, but not limited to, whether such training and continuing education covers retaliation protections for filing a report as a mandated reporter and the fines

and penalties for failure to report under section 51A of chapter 119 of the General Laws; (iii) whether agencies and employers follow best practices for mandated reporter training, including profession-specific training for recognizing the signs of child sexual abuse and physical and emotional abuse and neglect; (iv) the process for notifying mandated reporters of changes to mandated reporter laws and regulations; (v) the department of children and families' responses to written reports filed under said section 51A of said chapter 119, including offenses that require a referral to the district attorney; (vi) the feasibility of developing an automated, unified and confidential tracking system for all reports filed under said section 51A of said chapter 119; (vii) protocols related to filing a report under said section 51A of said chapter 119, including the notification of the person or designated agent in charge and the submission of required documentation; (viii) the availability of information at schools regarding the protocols for filing a report under said section 51A of said chapter 119; (ix) options for the development of public service announcements to ensure the safety and well-being of children; (x) proposals to revise the definition of child abuse and neglect to ensure a standard definition among state agencies; (xi) proposals to expand mandated reporting requirements under sections 51A to 51F, inclusive, of said chapter 119; and (xii) options for designating an agency responsible for overseeing the mandated reporter system or aspects thereof, including developing and monitoring training requirements for employees on mandated reporter laws and regulations and responding to reports of intimidation and retaliation.

(d) The commission shall file a report of its findings and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, with the clerks of the house of representatives and the senate, the house and senate committees on ways and means and

the joint committee on children, families and persons with disabilities not later than July 31, 2020.

SECTION 13. The division of medical assistance shall develop and implement the redetermination form required in clause (k) of subsection (2) of section 9A of chapter 118E of the General Laws not more than 1 year after the effective date of this act.