HOUSE DOCKET, NO. 2493 FILED ON: 2/17/2021

HOUSE . . . . . No. 2252

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 the joint negotiation prohibition for integrated systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Mark J. Cusack	*5th Norfolk*	*2/17/2021*

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HOUSE . . . . . No. 2252

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 2252) of Mark J. Cusack relative to the joint negotiation prohibition for integrated systems in health care. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3490* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to the joint negotiation prohibition for integrated systems.

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

Chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after section 51K the following new section:-

Section 51L. (a) As used in this section, the following word shall have the following meaning: --

"Facility", any hospital, as defined in section 52, or clinic conducted by a hospital, as licensed under section 51, which receives a separate on-site review survey by the Joint Commission on the Accreditation of Healthcare Organizations.

(b) A facility that is either affiliated or owned by a system shall negotiate separate contracts by facility with public and private payers.

(c) Each facility that is subject to this section that is within a larger system shall establish separate negotiating teams.

(d) Every facility that is subject to this section shall establish a firewall mechanism that prevents the separate contract negotiating teams from sharing any information that would inhibit them from competing with each other and with other hospitals and physician practice groups.

(e) Contracts between a facility and carrier may not be contingent on entering into a contract with another health care provider within a system.

(f) Contracts between a facility and carrier may not make the availability of any price or term for a contract contingent on the carrier entering into a contract with another health care facility.

(g) Separate negotiations shall apply for both inpatient and outpatient services.

(h) The department and the office of the attorney general shall have the authority to enforce the requirements of this section.

(i) The department may grant exemptions from the requirements of this section if a system demonstrates to the satisfaction of the department that the system is integrated pursuant to regulations which the department, in consultation with the division of insurance, shall adopt. In promulgating said regulations, the department shall consider as factors of integration whether:

1. The provider system receives over 50 percent of its revenue from alterative payment arrangements;

2. The provider system has fully implemented one unifying, interoperable electronic medical record system across all providers and facilities within the system;

3. The provider system has implemented quality improvement initiatives with demonstrable improvements in quality of care provided;

4. The provider system has successfully implemented programs to direct care to the appropriate and lowest costing setting within its system; and

5. The provider system can demonstrate that is has implemented appropriate measures to eliminate unnecessary duplication of health care services within the system.

(j) Health care facilities shall negotiate under the requirements of this section at the time of renewal or expiration of their current contracts with payers.