

SENATE No. 627

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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 promoting healthcare access and affordability for patients.

PETITION OF:

NAME:

Joseph A. Boncore

DISTRICT/ADDRESS:

First Suffolk and Middlesex

SENATE No. 627

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 627) of Joseph A. Boncore for legislation relative to co-pay assistance. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 541 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act relative to promoting healthcare access and affordability for patients.

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. Sections 131 and 226 of chapter 139 of the acts of 2012 are hereby
2 repealed.

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

5 Section 30. (a) For the purposes of this section, “estimated rebate” shall mean (1)
6 negotiated price concessions including, but not limited to, base rebates and reasonable estimates
7 of any price protection rebates and performance-based rebates that may accrue, directly or
8 indirectly, to a carrier during the plan year from a pharmaceutical manufacturer, dispensing
9 pharmacy, or other party to the transaction based on the amounts the carrier receives in the prior
10 quarter or reasonably expects to receive in the current quarter; and (2) reasonable estimates of

11 any fees and other administrative costs that are passed through to the carrier and serve to reduce
12 the carrier's prescription drug liabilities for the plan year based on the amounts the carrier
13 received in the prior quarter or reasonably expects to receive in the current quarter.

14 (b) A carrier shall annually certify to the commissioner that, during the prior plan year,
15 the carrier made available to the insured at least 80 percent of the estimated rebates received by
16 such carrier by reducing the amount of cost sharing that it would otherwise charge at the point of
17 sale except that the reduction amount shall not result in a credit at the point of sale. Neither the
18 insured nor the carrier is responsible for any difference between the estimated rebate amount and
19 the actual rebate amount the carrier receives provided that such estimates were calculated in
20 good faith.

21 (c) Beginning April 1, 2024 and annually thereafter, a carrier shall file with the division a
22 report in the manner and form determined by the commissioner demonstrating the manner in
23 which the carrier has complied with this section. If the commissioner determines that a carrier
24 has not complied with one or more requirements of this section, the commissioner shall notify
25 the carrier of such noncompliance and a date by which the carrier must demonstrate compliance.
26 If the carrier does not come into compliance by such date, the division shall impose a fine not to
27 exceed \$5,000 for each day during which such noncompliance continues.

28 (d) In making the disclosures required under this section, a carrier shall not publish or
29 otherwise reveal information regarding the amount of rebates it receives, including, but not
30 limited to, information regarding the amount of rebates it receives on a product-, manufacturer-,
31 or pharmacy-specific basis. Such information shall be considered to be a trade secret and
32 confidential commercial information, and shall not be a public record and shall be exempt from

33 disclosure under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66. A
34 carrier shall impose the confidentiality provision of this subsection on any vendor or third party
35 that performs any services on behalf of the carrier and that may receive or have access to rebate
36 or estimated rebate information.

37 (e) The commissioner shall adopt any written policies, procedures or regulations the
38 commissioner determines necessary to implement this section.