

HOUSE No. 2139

The Commonwealth of Massachusetts

PRESENTED BY:

Nicholas A. Boldyga

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 increase patient access to certain health care services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>1/19/2023</i>

HOUSE No. 2139

By Representative Boldyga of Southwick, a petition (accompanied by bill, House, No. 2139) of Nicholas A. Boldyga relative to patient access to certain health care services. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2236 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to increase patient access to certain health care services.

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

1 The following portions of Section 25B of chapter 111 of the General Laws are hereby
2 amended to read as follows:

3 “Health care facility”, a hospital or clinic, as defined in section fifty-two; a long-term
4 care facility, a convalescent or nursing home, a rest home or a charitable home for the aged, as
5 defined in section seventy-one; a clinical laboratory subject to licensing under chapter one
6 hundred and eleven D, a public medical institution, which is any medical institution, and, after
7 December first, nineteen hundred and seventy-two, any institution for the developmentally
8 disabled or mentally ill, supported in whole or in part by public funds, staffed by professional,
9 medical and nursing personnel and providing medical care, in accordance with standards

10 established through licensing, approval or certification for participation in the programs
11 administered under Titles 18 and 19 of the Federal Social Security Act, by the department; and
12 any part of such facilities; provided, however, that “health care facility” shall not include
13 a facility operated by and for persons who rely exclusively upon treatment by spiritual means
14 through prayer for healing, in accordance with the creed or tenets of a church or religious
15 denomination and in which health care by or under the supervision of doctors of medicine,
16 osteopathy, or dentistry is not provided; nor shall “health care facility” include ambulatory
17 surgical centers.

18 “New technology”, equipment as defined by the department, or a service, as defined by
19 the department, which for reasons of quality, access or cost is determined to be new technology
20 by the department; provided, however, that computerized tomography and any equipment widely
21 utilized as standard diagnostic treatment or therapeutic technology shall not be considered new
22 technology and provided further that air ambulance service shall not be considered a new
23 service.

24 “Substantial change in services”, shall mean: (1)(a) with regard to acute-care hospitals
25 only, the addition or expansion of, or conversion to, innovative service regardless of whether an
26 expenditure minimum is exceeded; (b) for any acute-care hospital, the addition or expansion of,
27 or conversion to any services which may be provided by facilities which are not acute-care
28 hospitals; except that conversions of acute-care services to skilled nursing, rehabilitation, acute
29 psychiatric, and substance abuse services located in an underbedded areas shall be determined by
30 criteria developed by the department in consultation with the department of elder affairs,
31 department of mental health, the Massachusetts federation of nursing homes, the Massachusetts

32 hospital association and other interested parties, and that no such conversion shall occur until the
33 department has certified in writing the conversions meet the criteria established. The department
34 shall promulgate regulations to implement the provisions of said criteria for underbedded areas
35 including, but not limited to medicaid access, and regulations to define criteria for reconversion;
36 and (2) for any health care facility other than an acute-care hospital (a) the addition of a service
37 which entails annual operating costs in excess of the expenditure minimum determined pursuant
38 to this section; (b) any increase in bed capacity of more than twelve beds; (c) the addition or
39 expansion of, or conversion to an innovative service regardless of whether an expenditure
40 minimum is exceeded; (d) provided, however, that no decrease in the level of a service that,
41 pursuant to department regulations, may be offered by a nursing, convalescent, or rest home
42 which does not involve a capital expenditure in excess of eight hundred thousand dollars shall be
43 subject to the provisions of sections twenty-five C to twenty-five G, inclusive; (e) provided,
44 further, that an increase in staff by itself shall not be defined by the department to constitute a
45 substantial change in service unless said increase in staff will result in an addition to annual
46 operating costs which exceeds the expenditure minimum determined pursuant to this section.
47 Notwithstanding any other provisions to the contrary, a change of service concerned solely with
48 outpatient services other than ambulatory surgery, not otherwise defined as innovative services,
49 shall not be defined by the department to constitute a substantial change of service.