Tuesday, June 5, 2012.

Met at eight minutes after one o'clock P.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayer.

Springfield Police Officer Kevin Ambrose.

At the request of Mr. Puppolo of Springfield, the members, guests and employees stood in a moment of silent prayer in honor of and in respect to the memory of Springfield Police Officer Kevin Ambrose, who was killed in the line of duty on Monday, June 4, 2012 in Springfield. Kevin was a member of the department for 36 years. He leaves behind his wife, two children, a granddaughter, his father, a brother and his sisters.

Guests of the House.

Major General Lesniak and Colonel Cummings.

During the session, the Chair (Mrs. Haddad of Somerset) declared a brief recess and introduced Major General Glenn Lesniak, Deputy Commanding General, U. S. Army Reserve and Colonel Lee Cummings, Commander of the 3rd Legal Support Organization. They were the guests of Mr. Naughton of Clinton.

Resolutions.

Matthew L. Richardson.

Resolutions (filed with the Clerk by Mr. Scaccia of Boston) commending Matthew L. Richardson for his dedication and service to the Lions Club International and his service as District Governor of the Lions of Massachusetts, District 33K in 2011-2012, were referred, under Rule 85, to the committee on Rules.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Scaccia, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Springfield,—Derek Cook.

Mr. Swan of Springfield presented a petition (accompanied by bill, House, No. 4114) of Benjamin Swan (with the approval of the mayor and city council) for legislation to authorize the city of Springfield to reinstate and pay certain retirement benefits to Derek Cook, a former member of the Springfield Retirement System; and the same was referred to the committee on Public Service. Sent to the Senate for concurrence.

Papers from the Senate.

Horseneck Beach,— fund.

A Bill establishing a Horseneck Beach reservation trust fund (Senate, No. 376, amended in line 2 by striking out the following: "35OO" and inserting in place thereof the following: "35SS", and in line 3 by striking out the following: "35PP" and inserting in place thereof the following: "35TT") (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Hinsdale,— Johns Highway.

Petition (accompanied by bill, Senate, No. 2292) of Benjamin B. Downing and Paul W. Mark for legislation to designate a portion of Route 8 in the town of Hinsdale as the Pvt. Henry T. Johns Memorial Highway.

Route 116 scenic byway.

Petition (accompanied by bill, Senate, No. 2293) of Benjamin B. Downing for legislation to amend the state highway Route 116 Scenic Byway.

Severally to the committee on Transportation.

Reports of Committees.

Chereel Stafilopatis,— sick leave bank.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Linda Dorcena Forry for legislation to establish a sick leave bank for Chereel Stafilopatis, an employee of the Executive Office of Health and Human Services. Under suspension of the rules, on motion of Mr. Kane of Holyoke, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Asthma.

By Mr. Sánchez of Boston, for the committee on Public Health, on Senate, Nos. 1066, 1100 and 1125 and House, Nos. 624, 1465, 1466 and 1524, a Bill relative to improving asthma in schools (House, No. 4153). Referred, under Joint Rule 1E, to the committee on Health Care Financing.

School choice reimbursement.

By Ms. Peisch of Wellesley, for the committee on Education, on Senate No. 181 and House, No. 162, a Bill to increase accountability in school choice reimbursement (House, No. 4150).

Mobile student populations.

By the same member, for the same committee, on Senate No. 209 and House, No. 1954, a Bill relative to promoting excellence and accountability for the education of mobile student populations (House, No. 4151).

Reading proficiency.

By the same member, for the same committee, on Senate Nos. 178 and 188 and House, Nos. 172 and 1853, a Bill relative to third grade reading proficiency (House, No. 4152).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Ms. Peisch of Wellesley, for the committee on Education, on a petition, a Bill relative to education funding for charter schools (House, No. 3597, changed in line 1 by striking out the following: "(nn)" and inserting in place thereof the following: "(ff)"; in line 5 by striking out the figures: "5,000" and inserting in place thereof the figures: "3,000", and in line 9 by inserting after the word "calculated" the words: "using the above foundation spending percentage"). Read; and referred, under Rule 7A, to the committee of Steering, Policy and Scheduling. Charter schools,— funding.

Engrossed Bills.

Engrossed bills

Authorizing the town of Plymouth to make improvements on unaccepted roads (see Senate, No. 1049); Bills enacted.

Amending the charter of the town of Bourne (see Senate, No. 2114);

Authorizing the town of Plymouth to establish another post-employment benefits fund (see Senate, No. 2030);

(Which severally originated in the Senate); and

Exempting Sean C. Lewis, Sr. from the maximum age requirement for appointment as a firefighter in the town of North Andover (see House, No. 3593) (which originated in House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mrs. Haddad of Somerset being in the Chair,—

The Senate Bill improving the quality of health care and reducing costs through increased transparency, efficiency and innovation (Senate, No. 2270, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was taken from its position in the Orders of the Day, and read a third time, under suspension of Rule 47, on motion of Mr. Walsh of Lynn. Health care,— quality and cost.

After remarks on the question on passing the bill to be engrossed, the same member moved to amend it in section 200 (inserted by the committee on Bills in the Third Reading), in the fourth sentence, by striking out the figures "0.2" and inserting in place thereof the figures "0.1"; and the amendment was adopted.

Mr. Basile of Boston then moved to amend the bill in section 136, in line 3093, by inserting after clause (6) the following clause:

"7.) The forms shall allow the incorporation of personalized medicine, diagnostic information, and where relevant, personalized genomic, metabolic, cellular and anatomic data.".

The amendment was adopted.

The same member then moved to amend the bill by adding the following section:

"SECTION 219. Section 9 of Chapter 330 of the Statutes of 1994, as amended by Section 3 of Chapter 63 of the Statutes of 1995, is amended by striking out section 6 therein and inserting in place thereof the following:—

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Section 6. Upon the approval of the commissioner, the medical professional mutual insurance company, may for any purposes, including, but not limited to the fixing of separate percentages of dividends under section eighty of chapter one hundred and seventy-five, consider the business of each category of health care provider as a separate line of business; provided, however, that the doctor of dental science category of insured shall continue to be treated as a separate line of business by the medical professional mutual insurance company to the extent required by chapter ninety-two of the acts of nineteen hundred and ninety-one, and, as promptly as possible after the effective date of this act, any excess surplus of the association as determined by the commissioner attributable to the doctor of dental science category of business as of the effective date of the conversion shall be paid as a dividend by the mutual company for the benefit of the association's doctor of dental science policyholders entitled thereto in accordance with the methodology established and employed by the association for the payment of dividends to its doctor of dental science policyholders prior to the date of the conversion. Any person in the doctor of dental science category of insureds who was insured by the association at the time of the conversion may elect to continue to be insured by the mutual company by specifically assigning in writing this first dividend to be paid after the effective date of this act back to the mutual company.

Effective January first, two thousand and eleven, all excess surplus as determined by the commissioner, allocable to doctor of dental science policies issued by the company at any time on or prior to December thirty-first, two thousand and ten, shall be paid annually, on or about July first of the following year, as a dividend to those persons, firms and entities entitled thereto, pursuant to the methodology established and employed by the association for the distribution of such dividends prior to the conversion. No portion of such excess surplus as determined by the commissioner shall be used or allocated for any other purpose or purposes and upon the payment of such dividend, there shall be no excess surplus allocable to those doctor of dental science policies issued by the company at any time on or prior to December thirty-first, two thousand and ten. The medical professional mutual insurance company shall annually notify each person, firm or entity entitled to such dividend of the amount of such dividend to which he is entitled. For the purposes of this section, 'excess surplus' shall mean any surplus allocable to the association's doctor of dental science category of insureds beyond an amount determined by the commissioner to be reasonably necessary as a margin against adverse development.".

The amendment was adopted.

Mr. Chan of Quincy then moved to amend the bill by adding the following section:

"SECTION 220. Section 3 of chapter 176D, as appearing in the 2010 official edition, is hereby amended by inserting after every occurrence of words 'medical service corporation', the following words:— accountable care organization.".

The amendment was adopted.

Messrs. Chan and Walsh of Lynn then moved to amend the bill in section 121, in line 2020, by inserting after the word "website." the following clause:

"(d) In designing the website, the division may conduct research regarding ease of use of the website by health care consumers, consult with organizations that represent health care consumers, and conduct focus groups that represent a cross section of health care consumers in the commonwealth, including low income consumers and consumers with limited literacy. The website shall comply with the Americans with Disabilities Act.".

The amendment was adopted.

Mr. Mariano of Quincy then moved to amend the bill by inserting after section 143 the following section:

"SECTION 143A. Subsection (b) of section 6 of Chapter 176J of the General laws, as so appearing in the 2010 Official Edition, is hereby amended by adding the following subsection:—

(xi) For purposes of this section, medical loss ratios shall not include fees on commissions included in premiums that are collected solely for the purpose of passing such fees or commissions on to insurance agents or brokers to the extent such fees or commissions are actually paid.".

The amendment was adopted.

Mr. Scibak of South Hadley then moved to amend the bill in section 124, in line 2885, by inserting after the word "periods." the following clause:

"(e) The division may evaluate and provide guidance to ACO's regarding the appropriate use and ordering of medically necessary testing enabled though testing protocols and clinical integration of health care providers within and outside of the organization, including, but not limited to the medical director of the clinical laboratory.".

The amendment was adopted.

Messrs. Sciortino of Medford and Rushing of Boston then moved to amend the bill in section 123, in line 2615, by inserting after the word "status." the following sentence: "No patient may be refused care for opting out of the health information exchange, or for withholding their HIV related information from the health information exchange."; and the amendment was adopted.

Mr. Cabral of New Bedford then moved to amend the bill in section 123, in line 2667, by striking out the following: "chapter 111" and inserting in place thereof the following: "chapter 118G"; and the amendment was adopted.

The same member then moved to amend the bill in section 50, in line 1821, by inserting after the words "limited to," the following: "health care services, as defined in section 1 of chapter 118G of the General Laws,"; and the amendment was adopted.

Mr. Collins of Boston then moved to amend the bill in section 66, in lines 540 through 543, inclusive, by striking out clause (i) and inserting in place thereof the following clause:

"(i) If a system or one or more of its facilities (1) has entered into one or more alternative payment methodology contracts, as defined in section 1 of chapter 118G, and (2) receives payment through an alternative payment methodology for at least 50 per cent of the total number of patients of such system who are assigned to primary care providers within such system, the provisions of this section shall not apply such system or to any facility within such system."; and by adding the following section:

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"SECTION 221. Section 66 shall take effect on January 1, 2014.".

The amendments were adopted.

Mr. Murphy of Weymouth then moved to amend the bill in section 96, in line 1203, by striking out the word "care" and inserting in place thereof the word "plan"; and the amendment was adopted.

Mr. Cusack of Braintree then moved to amend the bill by adding the following section:

"SECTION 222. Notwithstanding any general or special law to the contrary, the state Medicaid office is hereby authorized to establish a pilot program with an external service provider to determine the effectiveness of various fraud management tools to identify potential fraud at claims submission and validation in order to reduce Medicaid fraud prior to payment; provided further, that said pilot program shall evaluate current Medicaid spending programs and utilize said fraud management services to determine the efficacy of current practices. The pilot program shall utilize only vendors currently engaged in systemic waste and fraud detection services. Selected vendor(s) shall not use any data provided to them for any other purpose than waste and fraud detection, shall destroy all data after the completion of their evaluation(s) and may not share the results of the data analysis with any outside entities. The executive office of health and human services shall submit 2 reports to the house and senate committees on ways and means detailing recoveries and offsets generated by said audits; provided that the first report shall be delivered no later than February 1, 2014 and that the second report shall be delivered no later than December 31, 2015.".

The amendment was adopted.

Ms. Andrews of Orange then moved to amend the bill in section 134, in line 3037, by striking out the word "a" and inserting in place thereof the words "an approved"; and the amendment was adopted.

Mr. Fennell of Lynn then moved to amend the bill in section 121, in line 1922, by inserting after the word "assistance" the following: "; provided any such interagency agreement with the Department of Revenue shall meet all applicable federal and state privacy and security requirements, including requirements imposed by the Health Insurance Portability and Accountability Act of 1996, P.L.104-191, the American Recovery and Reinvestment Act of 2009, P.L. 111-5, 42 C.F.R. §§2.11 et seq" and 45 C.F.R. §§160, 162, 164 and 170 and shall not cause patient payment to Department of Revenue through use of protected health information". The amendment was adopted.

Mr. Cusack of Braintree then moved to amend the bill in section 121, in line 2211, by striking out the figure "6" and inserting in place thereof the figure "7", and, in lines 2233, 2234 and 2235, by striking out the paragraph contained in those lines. The amendments were adopted.

Representatives Balser of Newton and Malia of Boston then moved to amend the bill in section 121, in line 2154, by inserting after the word "nature" the words "and is not in the public interest to disclose. Utilization review criteria, medical necessity criteria and protocols must be made available to the public at no charge regardless of proprietary claims.". The amendment was adopted.

Mr. Nangle of Lowell then moved to amend the bill in section 136, in line 3093, by inserting after the word "authorization." the following clause:

"(e) Nothing in this section shall limit a health plan from requiring prior authorization for services.".

The amendment was adopted.

The same member then moved to amend the bill in section 124, in line 2914, by striking out the word "may" and inserting in place thereof the word "shall"; and the amendment was adopted.

Representatives Balser of Newton and Malia of Boston then moved to amend the bill by inserting after section 167 the following two sections:

"SECTION 167A. Subsection (a) of section 12 of chapter 176O of the General Laws is hereby amended by adding at the end of the second paragraph the following:— and made easily accessible and up-to-date on a carrier or utilization review organization's website to subscribers, health care providers and the general public. If a carrier or utilization review organization intends either to implement a new preauthorization requirement or restriction or amend an existing requirement or restriction, the carrier or utilization review organization shall ensure that the new or amended requirement or restriction shall not be implemented unless the carrier's or utilization review organization's website has been updated to reflect the new or amended requirement or restriction.

SECTION 167B. Section 16 of chapter 176O of the General Laws is hereby amended by striking subsection (b) and inserting in place thereof the following subsection:—

(b) A carrier shall be required to pay for health care services ordered by a treating physician or primary care provider if: (1) the services are a covered benefit under the insured's health benefit plan; and (2) the services are medically necessary. A carrier may develop guidelines to be used in applying the standard of medical necessity, as defined in this subsection. Any such medical necessity guidelines utilized by a carrier in making coverage determinations shall be: (i) developed with input from practicing physicians and participating providers in the carrier's or utilization review organization's service area; (ii) developed under the standards adopted by national accreditation organizations; (iii) updated at least biennially or more often as new treatments, applications and technologies are adopted as generally accepted professional medical practice; and (iv) evidence-based, if practicable. In applying such guidelines, a carrier shall consider the individual health care needs of the insured. Any such medical necessity guidelines criteria shall be applied consistently by a carrier or a utilization review organization and made easily accessible and up-to-date on a carrier or utilization review organization's website to subscribers, health care providers and the general public. If a carrier or utilization review organization intends either to implement a new medical necessity guideline or amend an existing requirement or restriction, the carrier or utilization review organization shall ensure that the new or amended requirement or restriction shall not be implemented unless the carrier's or utilization review organization's website has been updated to reflect the new or amended requirement or restriction.".

The amendment was adopted.

The same members then moved to amend the bill by adding the following section:

"SECTION 223. Chapter 26 of the General Laws is hereby amended by adding after section 8J the following section:—

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Section 8K. The commissioner of insurance is hereby authorized to implement applicable provisions of the federal Mental Health Parity and Addiction Equity Act, as codified in Title XVII the Public Health Service Act, 42 USC Sec. 300gg-26, in regards to any carrier licensed under chapters 175, 176A, 176B and 176G.".

The amendment was adopted.

Mr. Costello of Newburyport then moved to amend the bill in section 136, in lines 3074 and 3110, by striking out the year "2013" and inserting in place thereof, in each instance, the year "2014". The amendment was adopted.

The same member then moved to amend the bill in section 200 (inserted by the committee on Bills in the Third Reading), in paragraph (b), at the end of the fifth sentence, by inserting after the year "2012" the following: "; provided further that such one-time assessment funds shall be collected in such manner to allow periodic payments over a three year period"; and the amendment was adopted.

Mr. Walsh of Lynn then moved to amend the bill in section 4, in line 14, by striking out the figures "65 (as published)" and inserting in place thereof the figures "63";

In section 11, in line 52, by striking out the words "health care cost growth" and inserting in place thereof the words "medical spend";

In section 12, in line 133, by striking out the word "car" and inserting in place thereof the word "care";

In section 17, in line 178, by striking out the figures "62" and inserting in place thereof the figures "60", in line 189, by striking out the figures "64" and inserting in place thereof the figures "61" and in line 195, by striking out the figures "62" and inserting in place thereof the figures "60";

In section 97, in line 1096, by inserting before the word "supervises" the word "who";

In section 98, in line 1201, by striking out the word "provider" and inserting the word "physician";

In section 101, in line 1297, by striking out the figures "59" and inserting the figures "57";

In section 121, in line 1541, by striking out the word "shall" and inserting in place thereof the word "may", in line 1545, by striking out the words "Providers and payers" and inserting in place thereof the word "Payers", in line 1548, by striking out the words "provider or", in line 1592, by striking out the figures "68" and inserting in place thereof the figures: "65", in line 1624, by inserting after the word "potential" the word "gross", in line 1636, by inserting after the following: "subsection (a)" the words "for each region", in line 1646, by striking out the word "the. (the second time it appears) and inserting in place thereof the word "a", in line 1675, by striking out the word "provider" and inserting in place thereof the words "clinic, hospital, ambulatory surgical center", in line 1790, by inserting after the word "care" the word "services", in line 1792, by striking out the word "heatlh" and inserting in place thereof the following word "health", in line 1981, by striking out the word "showing" and inserting in place thereof the word "show", in line 2054, by inserting after the word "providers," the word "and", in line 2068, by striking out the figures "59" and inserting in place thereof the figures "60", in line 2096, by

striking out the figures "58" and inserting in place thereof the figures "59" and in line 2183, by striking out the following: "ACOs" and inserting in place thereof the following: "ACO";

In section 124, in line 2738, by striking out the figures: "65" and inserting in place thereof the figures: "63", in line 2892, by striking out the word "their" and inserting in place thereof the word "its";

In section 135, in line 3040 and in line and 3051, in section 136, in line 3062, in section 139, in lines 3119 and 3130, in section 140, in lines 3137 and 3148, in section 141, in lines 3155 and 3166, in section 150, in line 3214 and in lines 3224, by striking out figures: "50" and inserting in place thereof, in each instance, the figures: "51"; and

In section 157, in line 3268, in section 161, in line 3287, in section 165, in line 3395, and in section 168, in line 3407, by striking out the figures "65" and inserting in place thereof, in each instance, the figures "63".

The amendments were adopted.

Mr. Basile of Boston then moved to amend the bill in section 189 (as published), in lines 3771 to 3774, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

"SECTION 186. Following an evaluation by the office of the attorney general, pursuant to section 11M of Chapter 12 of the General Laws, relating to the need of the commonwealth to obtain waivers from certain provisions of federal law including, from the federal office of the inspector general, a waiver of the provisions or expansion of the "safe harbors. provided for under 42 U.S.C. section 1320a-7b; and a waiver of the provisions of 42 U.S.C. section 1395nn(a) to (e), and upon a determination by the attorney general that such waiver or exemption is necessary, the division of health care cost and quality shall, by August 15, 2012, request from the federal office of the inspector general the following:".

The amendment was adopted.

Mr. Chan of Quincy then moved that bill amended by adding the following section:

"SECTION 224. There shall be a long-term services and supports advisory committee to advise the general court, the office of Medicaid, and other state agencies on opportunities to improve health care cost and quality through community-based long-term care services. The commission shall consist of the following 16 members and shall be jointly chaired by a member of the house of representatives and a member of the senate: 2 representatives of the house of representatives, 1 of whom shall be chosen by the minority leader; 2 representatives of the senate, 1 of whom shall be chosen by the minority leader; the director of the office of medicaid or a designee; the secretary of elder affairs or a designee; the commissioner of health care finance and policy or a designee; the commissioner of public health or a designee; the secretary of administration and finance or a designee; and 7 appointees of the governor, 2 of whom shall be consumer representatives and 5 of whom shall be representatives of community-based long-term care providers, of which at least 2 are for-profit entities, and all of which represent services approved by the Medicaid State Plan.

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The advisory committee shall evaluate the effect of long-term services and supports on reducing health care costs and improving health care quality and shall recommend opportunities to improve or expand existing long-term services and support programs including, but not limited to, implementation of value-based purchasing strategies and the development and deployment of an electronic community care record for community-based long-term care services. The committee shall report the results of its study, together with drafts of legislation, if any, necessary to carry out its recommendations, by filing the same with the clerks of the house of representatives and the senate who shall forward a copy of the study to the house and senate committees on ways and means and the joint committee on health care financing not later than January 15, 2013.".

The amendment was rejected.

Ms. Andrews of Orange then moved that the bill be amended by adding the following section:

"SECTION 224. (a) Notwithstanding any general or special law to the contrary, there shall be established a health care executive compensation task force. The task force shall consist of the house and senate chairs of the joint committee on labor and workforce development, who shall serve as co-chairs; the speaker of the house of representatives or his designee; the president of the senate or her designee; the house minority leader or his designee, the senate minority leader or his designee, the governor or his designee; the state auditor or her designee; the state treasurer or his designee; the attorney general or her designee; the secretary of labor and workforce development or her designee; and 2 representatives from the general public with expertise in competitive compensation and organizational design to be selected by the co-chairs of said task force.

(b) The task force shall undertake a study of various legislative proposals to amend health care and labor laws, including, but not limited to executive compensation. Said study shall include, but not be limited to, an analysis of: (1) a 20 year comprehensive analysis of total executive compensation, including wages, stock options and benefits, in the absolute and in comparison to the hourly workforce; (2) executive compensation as a percent of health care product, service and delivery costs; and (3) executive compensation trends relative to the consumer price index.

(c) The task force shall complete its study and submit its final report in writing to the joint committee on labor and workforce development, the joint committee on health care financing, the attorney general and the governor on or before July, 1 2013. Said report shall include recommendations for legislation and a fiscal note for implementing such legislation.".

Amendment rejected,—yea and nay No. 269.

After debate on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 7 members voted in the affirmative and 146 in the negative.

[See Yea and Nay No. 269 in Supplement.]

[Mr. Madden of Nantucket answered "Present" in response to his name.]

The amendment was rejected.

Messrs. Mark of Peru and Brodeur of Melrose moved that the bill be amended in section 45, in line 1562, by striking out the words "scientifically based health care" and inserting in place thereof the words "evidence based healthcare based on the most recently published peer reviewed literature, professional consensus, or best practices,". The amendment was adopted.

Ms. Spiliotis of Peabody then moved to amend the bill in section 123, in line 2645, and also in line 2666, by inserting after the word "providers" each time it appears, the words "including but not limited to those", and, in line 2645, and also in line 2666, by striking out the word "as"; and in line 2668 by adding after the word "requirements" the words "; provided, further that the executive office shall make said loan funding available to providers of rehabilitative/habilitative services such as physical therapy, occupational therapy and prosthetics and orthotics practitioners". The amendments were adopted.

Ms. Forry of Boston and other members of the House then moved to amend the bill [A] by inserting after section 130 the following section:

"SECTION 130A. Said subsection (c) of said section 188 of said chapter 149, as so amended, is hereby further amended by adding the following clause:—

(11) In calculating the fair share assessment, employees who have qualifying health insurance coverage from a spouse, parent, veteran's plan, Medicare, Medicaid or a plan or plans due to a disability or retirement shall not be included in the numerator or denominator for purposes of determining whether an employer is a contributing employer, as defined in 114.5 CMR 16.02."; and by inserting after section 201 the following section:

"SECTION 201A. Section 130A shall take effect on February 1, 2013.".

Pending the question on adoption of the amendments, Ms. Forry and other members of the House moved that it be amended by striking out the text of said amendment [at "A"] and inserting in place thereof the following:— in section 130, in line 2949, by inserting after the word "section" the words "seasonal employees and", in line 2950, by inserting after the word "employees." the following definition:

" 'Seasonal employee,' A seasonal employee as defined in Chapter 151A, Section 1." and in line 2952, by striking out the figures "11" and inserting in place thereof the figures "21";

By inserting after said section the following two sections:

"SECTION 130A. Said subsection (c) of said section 188 of said chapter 149, as so amended, is hereby further amended by adding the following clause:—

(11) In calculating the fair share assessment, employees who have qualifying health insurance coverage from a spouse, parent, veteran's plan, or a plan due to disability or retirement shall not be included in the numerator or denominator for purposes of determining whether an employer is a contributing employer, as defined by the authority. The employer shall keep and maintain proof of their employee's insurance status, in a reasonable manner as defined by the authority.

SECTION 130B. Section 1 of Chapter 151A of the General Laws, as appearing, is hereby amended by striking out the definition of 'Seasonal Employee' and inserting in place thereof the following:—

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"Seasonal Employee", shall mean any employee who:

(1) Is employed by any employer, whether the employer is a seasonal employer as defined in Chapter 151A, Section 1 or any other employer, in seasonal employment during a regularly recurring period or period of up to sixteen consecutive weeks in a calendar year for all such seasonal periods, as determined by the director of unemployment assistance in consultation with the employer, and

(2) Has been hired for a specific temporary seasonal period as determined by the director of unemployment assistance in consultation with the employer; and

(3) Has been notified in writing at the time hired, or immediately following the seasonal determination by the department, whichever is later:

(A) That the individual is performing services in seasonal employment for a specified season; and

(B) That the individual's employment is limited to the beginning and ending dates of the employer's seasonal period as determined by the department in consultation with the employer."; and by inserting after section 201 (as printed) the following section:

"SECTION 218A. Section 130A shall take effect on February 1, 2013.".

Further amendment adopted,—yea and nay No. 270.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Ms. Forry; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 270 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

"SECTION 224. Notwithstanding any general or special law to the contrary, physicians licensed in a state other than Massachusetts shall not be prohibited from providing medical advice, diagnoses, treatments and prescriptions when they communicate with patients through internet-based videoconferences when the physicians are located in the state where they are licensed and the patient is located in Massachusetts at the time of the advice, diagnosis, treatment or prescription. Any such internet-based technology shall include visual and audio notice to patients that the physicians are not licensed in Massachusetts.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 225. The secretary of administration and finance in conjunction with the secretary of health and human services shall evaluate the feasibility of contracting for recycling durable medical equipment purchased and issued by the commonwealth through any and all of its medical assistance programs.

Said evaluation shall include, but not be limited to, a request for qualifications or proposals for entities capable of developing, implementing and operating a system of recycling whereby an inventory of such equipment is developed and managed so as to maximize the quality of service delivery to equipment recipients and to minimize costs and losses attributable to waste, fraud or abuse.

The secretary of administration and finance shall report to the joint committee on health care financing, the house committee on ways and means and the senate committee on ways and means the findings of said evaluation, together with cost estimates for the operation of a recycling program, estimates of the savings it would generate, and legislative recommendations not later than October 31, 2012.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 226. Notwithstanding any general or special law to the contrary, it shall be the policy of the general court to impose a moratorium on all new mandated health benefit legislation until December 31, 2015.".

After debate on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 34 members voted in the affirmative and 120 in the negative.

Amendment rejected,— yea and nay No. 271.

[See Yea and Nay No. 271 in Supplement.]

[Mr. Madden of Nantucket answered "Present" in response to his name.]

Therefore the amendment was rejected.

Mr. Lewis of Winchester then moved to amend the bill in section 17, in line 223, by adding the following sentence: "There shall be an initial transfer of $20,000,000 out of said fund to the wellness and prevention trust fund as established under section 75 of chapter 10". After remarks the amendment was adopted.

Messrs. Golden of Lowell, Walsh of Boston and Walsh of Lynn then moved to amend the bill in section 98, in lines 1229, 1230 and 1231, by striking out the sentence contained in those lines and inserting in place thereof the following two sentences: "Sections 9A, 45, 46, and 46C of chapter 30, chapter 31 and chapter 150E shall not apply to the executive director of the division. Sections 45, 46 and 46C of chapter 30 shall not apply to any employee of the division.". The amendment was adopted.

Mr. Pignatelli of Lenox then moved to amend the bill in section 98, in lines 1195 to 1209, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

"(b) There shall be a board, with duties and powers established by this chapter, which shall govern the division. The board shall consist of 12 members: the secretary of administration and finance, ex officio; the secretary of health and human services, ex officio; the commissioner of the division of insurance, ex officio; 9 members appointed by the governor, provided that each organization named herein shall provide the governor with three names from which to select an appointee, and the governor shall select a nominee from the list of names provided; including 1 independent expert in payment methodologies, 1 representative of the Massachusetts Association of Health Plans, 1 representative of the Blue Cross Blue Shield of Massachusetts, 1 representative of the Massachusetts Hospital Association, 1 representative of the Massachusetts Medical Society, 1 representative of a fully insured employer, 1 representative of a self insured employer,

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1 consumer representative, and 1 labor union representative. The chairperson shall be selected by majority vote, provided however, for the first 30 days the governor shall designate an interim chairperson. The chairperson shall serve for a term of one year and is not permitted to serve consecutive terms. The board shall annually elect 1 of its members to serve as vice-chairperson. All board appointments shall serve a term of 3 years, but a person appointed to fill a vacancy shall serve only for the unexpired term. An appointed member of the board shall be eligible for reappointment. Each member of the board serving ex officio may appoint a designee under section 6A of chapter 30."; and in line 1225 by striking the following "(e) The chairperson shall appoint an executive director." and inserting in place thereof the following "(e) The chairperson shall nominate an executive director. Such nomination shall be subject to confirmation by the board.".

The amendment was rejected.

The same member then moved to amend the bill in section 121, in line 2097, by inserting after the words "for medical" the words "or nursing". The amendment was adopted.

Mr. Pignatelli then moved to amend the bill in section 97, in line 1092, by inserting after the word "commonwealth" the words ", or a doctor of podiatric medicine licensed to practice in the commonwealth.". The amendment was rejected.

Mr. Cusack of Braintree then moved to amend the bill by adding the following section:

"SECTION 225A. Chapter 111 of the General Laws is hereby amended by striking out the definition of 'clinic' in section 52, and inserting in place thereof the following definition:—

'Clinic', any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained for the purpose of providing ambulatory medical, surgical, dental, physical rehabilitation, or mental health services. In addition, 'clinic' shall include any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained under a name which includes the word 'clinic', 'dispensary', or 'institute', and which suggests that ambulatory medical, surgical, dental, physical rehabilitation, or mental health services are rendered therein. With respect to any entity which is not advertised, announced, established, or maintained under one of the names in the preceding sentence, 'clinic' shall not include a medical office building, a location operated by a corporation organized under chapter 180 for purposes that include the practice of medicine, or one or more practitioners engaged in a solo or group practice, however organized, so long as such practice is wholly owned and controlled by one or more of the practitioners so associated, or a clinic established solely to provide service to employees or students of such corporation or institution; provided, however, that an entity exempt from licensure under this sentence may obtain a license for some, or all, of its locations. For purposes of this section, clinic shall not include a clinic conducted by a hospital licensed under section fifty-one or by the federal government or the commonwealth.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 226. Notwithstanding any general or special law, rule or regulation to the contrary, no additional benefit, procedure or service shall be required for minimum creditable coverage, so-called, without prior legislative authorization therefore.".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

"SECTION 227. The office of Medicaid and the department of unemployment assistance shall, in consultation with the executive office of health and human services, develop and implement a means by which the office of Medicaid may access information as to the status of or termination of unemployment benefits and the associated insurance coverage by the medical security plan, as administered by the executive office of labor and workforce development, for the purposes of determination of eligibility for those individuals applying for benefits through health care insurance programs administered by the executive office of health and human services. The office and the department shall implement this system not later than 3 months following the passage of this act; provided, however, that if legislative action is required prior to implementation, recommendations for such action shall be filed with the house and senate clerks and the joint committee on health care financing not later than 2 months following the passage of this act.".

The amendment was adopted.

Mr. Moran of Boston then moved to amend the bill by adding the following three sections:

"SECTION 227A. Notwithstanding any law or rule the contrary, for fiscal year 2013, in establishing Medicaid reimbursement rates for inpatient services provided by chronic disease rehabilitation hospitals located in the commonwealth that serve solely children and adolescents, the department of health and human services shall apply a multiplier of 1.5 times the hospital's inpatient per diem rate in fiscal year 2012. For fiscal year 2014 and beyond, such rates of reimbursement shall not be lower than the rates in effect for the prior fiscal year.

SECTION 227B. Section 227A is hereby repealed.

SECTION 227C. Section 227B shall take effect on June 30, 2015.".

The amendment was adopted.

Ms. Benson of Lunenburg then moved to amend the bill by adding the following three sections:

"SECTION 228. Section 47G of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:— Annual cytologic screenings performed at the same time as an annual physical exam may not be separately billed by the health care provider and shall be paid by the insurer.

SECTION 229. Subdivision L of section 110 of said chapter 175, as so appearing, is hereby amended by adding the following sentence:— Annual cytologic screenings performed at the same time as an annual physical exam may not be separately billed by the health care provider and shall be paid by the insurer.

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SECTION 230. Section 8J of chapter 176A, as so appearing, is hereby amended by adding the following sentence:— Annual cytologic screenings performed at the same time as an annual physical exam may not be separately billed by the health care provider and shall be paid by the insurer.".

The amendment was adopted.

Mr. Parisella of Beverly then moved to amend the bill by adding the following section:

"SECTION 231. (a) The Director of Medicaid (Director) shall utilize the federal Public Assistance Reporting Information System (PARIS) to identify veterans and their dependents or survivors who are enrolled in the MassHealth program and assist them in obtaining federal veteran health care benefits.

(b) The Director shall exchange information with PARIS and identify veterans and their dependents or survivors who are receiving Mass Health benefits.

(c) The Director shall refer identified veterans who are receiving high-cost services, including long-term care, to their local veteran service officers (VSOs) to obtain information regarding, and assistance in obtaining, Department of Veterans' Affairs benefits.

(d) In implementing this section, the Director of Medicaid shall do all of the following:

(1) Enter into an agreement with the Department of Veterans' Services (DVS) to perform VSO outreach services. The DVS agreement shall contain performance standards that will allow the Director to measure the effectiveness of the program established by this section.

(2) Enter into any agreements that are required by the federal government to utilize the PARIS system.

(3) Perform any information technology activities that are necessary to utilize the PARIS system.".

The amendment was adopted.

Ms. Peake of Provincetown then moved to amend the bill by adding the following section:

"SECTION 231A. Section 1. Chapter 112 of the General Laws is hereby amended by inserting after section 160 the following section:—

Section 160A. The needles used in acupuncture shall be sterile, one-use, disposable, solid filiform instruments which shall include but not be limited to: dermal needles, plum blossom needles, press needles, prismatic needles, and disposal lancets. The use of staples in the practice of acupuncture shall be prohibited.

Section 2. Chapter 175 of the General Laws is hereby amended by inserting after section 47AA the following section:—

Section 47BB.

(a) All individual or group accident and health insurance policies and health service contracts delivered, issued or renewed by an insurer or nonprofit health service corporation which provide benefits to individual subscribers and members within the commonwealth or to all group members having a principal place of employment within the commonwealth shall provide benefits for the acupuncture diagnostic techniques in subsection (b), the acupuncture services in subsection (c), and the adjunctive therapies in subsection (d); provided those techniques, services and adjunctive therapies are provided by

an acupuncturist licensed under sections 148 to 162, inclusive, of chapter 112 or a licensed physician practicing acupuncture under section 162 of chapter 112.

(b) Acupuncture diagnostic techniques shall include, but not be limited to, the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, 5 element correspondences, ryodoraku, German electro-acupuncture, and thermography.

(c) Acupuncture services shall include, but not be limited to: (i) auricular, hand, nose, face, foot and/or scalp acupuncture therapy; (ii) stimulation to points (including but not limited to acupuncture points, trigger points and motor points), acupuncture channels, and areas on the body by use of any of the following: needles, moxibustion, cupping, thermal methods, magnets, scraping techniques, ion cord linking acupuncture devices with wires, hot and cold packs, electromagnetic wave therapy and lasers; manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na; and electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(d) Adjunctive therapies shall include, but not be limited to: (i) oriental nutritional counseling, and the recommendation of nonprescription substances that meet the federal Food and Drug Administration labeling requirements as dietary supplements to promote health; (ii) instruction and training of meditation, breathing techniques and therapeutic movement exercises, including, but not limited to, tai chi, Qi Gong, Sotai; and (iii) lifestyle, behavioral, supportive, educational and stress counseling.

(e) If an insurer or nonprofit health service corporation denies benefits relative to acupuncture diagnostic techniques, acupuncture services or adjunctive therapies, the denial must be by, under the direction of, or subject to the review of an acupuncturist licensed under said sections 148 to 162, inclusive, of said chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

Section 3. Said chapter 175 is hereby amended by inserting after the section 205 the following section:—

Section 205A. (a) The commissioner shall not approve a policy under section 205 that does not provide benefits for the acupuncture diagnostic techniques in subsection (b), the acupuncture services in subsection (c), and the adjunctive therapies in subsection (d); provided those techniques, services and adjunctive therapies are provided by an acupuncturist licensed under sections 148 to 162, inclusive, of chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

(b) Acupuncture diagnostic techniques shall include, but not be limited to, the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, 5 element correspondences, ryodoraku, German electro-acupuncture, and thermography.

(c) Acupuncture services shall include, but not be limited to: (i) auricular, hand, nose, face, foot and/or scalp acupuncture therapy; (ii) stimulation to acupuncture points and channels by use of any of the following: needles, moxibustion, cupping, thermal methods, magnets, scraping techniques, ion cord linking acupuncture devices with wires, hot and

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cold packs, electromagnetic wave therapy and lasers; manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na; and electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(d) Adjunctive therapies shall include, but not be limited to: (i) oriental nutritional counseling, and the recommendation of nonprescription substances that meet the federal Food and Drug Administration labeling requirements as dietary supplements to promote health; (ii) instruction and training of meditation, breathing techniques and therapeutic movement exercises, including, but not limited to, tai chi, Qi Gong, Sotai; and (iii) lifestyle, behavioral, supportive, educational and stress counseling.

(e) If benefits relative to acupuncture diagnostic techniques, acupuncture services or adjunctive therapies are denied under a policy under said section 205, the denial must be by, under the direction of, or subject to the review of an acupuncturist licensed under said sections 148 to 162, inclusive, of said chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

Section 4. Chapter 176A of the General Laws is hereby amended by inserting after section 8DD the following section:—

Section 8EE. (a) Any contract between a subscriber and the corporation under an individual or group hospital service plan delivered, issued or renewed in the commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth for the acupuncture diagnostic techniques in subsection (b), the acupuncture services in subsection (c), and the adjunctive therapies in subsection (d); provided those techniques, services and adjunctive therapies are provided by an acupuncturist licensed under sections 148 to 162, inclusive, of chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

(b) Acupuncture diagnostic techniques shall include, but not be limited to, the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, 5 element correspondences, ryodoraku, German electro-acupuncture, and thermography.

(c) Acupuncture services shall include, but not be limited to: (i) auricular, hand, nose, face, foot and/or scalp acupuncture therapy; (ii) stimulation to acupuncture points and channels by use of any of the following: needles, moxibustion, cupping, thermal methods, magnets, scraping techniques, ion cord linking acupuncture devices with wires, hot and cold packs, electromagnetic wave therapy and lasers; manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na; and electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(d) Adjunctive therapies shall include, but not be limited to: (i) oriental nutritional counseling, and the recommendation of nonprescription substances that meet the federal Food and Drug Administration labeling requirements as dietary supplements to promote health; (ii) instruction and training of meditation, breathing techniques and

therapeutic movement exercises, including, but not limited to, tai chi, Qi Gong, Sotai; and (iii) lifestyle, behavioral, supportive, educational and stress counseling.

(e) If a non-profit hospital service corporation denies benefits relative to acupuncture diagnostic techniques, acupuncture services or adjunctive therapies, the denial must be by, under the direction of, or subject to the review of an acupuncturist licensed under said sections 148 to 162, inclusive, of said chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

Section 5. Chapter 176B of the General Laws is hereby amended by inserting after section 4DD the following section:—

Section 4EE. (a) Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed in the commonwealth shall provide a benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth for the acupuncture diagnostic techniques in subsection (b), the acupuncture services in subsection (c), and the adjunctive therapies in subsection (d); provided those techniques, services and adjunctive therapies are provided by an acupuncturist licensed under sections 148 to 162, inclusive, of chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

(b) Acupuncture diagnostic techniques shall include, but not be limited to, the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, 5 element correspondences, ryodoraku, German electro-acupuncture, and thermography.

(c) Acupuncture services shall include, but not be limited to: (i) auricular, hand, nose, face, foot and/or scalp acupuncture therapy; (ii) stimulation to acupuncture points and channels by use of any of the following: needles, moxibustion, cupping, thermal methods, magnets, scraping techniques, ion cord linking acupuncture devices with wires, hot and cold packs, electromagnetic wave therapy and lasers; manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na; and electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(d) Adjunctive therapies shall include, but not be limited to: (i) oriental nutritional counseling, and the recommendation of nonprescription substances that meet the federal Food and Drug Administration labeling requirements as dietary supplements to promote health; (ii) instruction and training of meditation, breathing techniques and therapeutic movement exercises, including, but not limited to, tai chi, Qi Gong, Sotai; and (iii) lifestyle, behavioral, supportive, educational and stress counseling.

(e) If a medical service corporation denies benefits relative to acupuncture diagnostic techniques, acupuncture services or adjunctive therapies, the denial must be by, under the direction of, or subject to the review of an acupuncturist licensed under said sections 148 to 162, inclusive, of said chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

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Section 6. Chapter 176G of the General Laws is hereby amended by inserting after section 4V the following section:—

Section 4W. (a) Any group health maintenance contract shall provide coverage for the acupuncture diagnostic techniques in subsection (b), the acupuncture services in subsection (c), and the adjunctive therapies in subsection (d); provided those techniques, services and adjunctive therapies are provided by an acupuncturist licensed under sections 148 to 162, inclusive, of chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.

(b) Acupuncture diagnostic techniques shall include, but not be limited to, the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, 5 element correspondences, ryodoraku, German electro-acupuncture, and thermography.

(c) Acupuncture services shall include, but not be limited to: (i) auricular, hand, nose, face, foot and/or scalp acupuncture therapy; (ii) stimulation to acupuncture points and channels by use of any of the following: needles, moxibustion, cupping, thermal methods, magnets, scraping techniques, ion cord linking acupuncture devices with wires, hot and cold packs, electromagnetic wave therapy and lasers; manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na; and electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.

(d) Adjunctive therapies shall include, but not be limited to: (i) oriental nutritional counseling, and the recommendation of nonprescription substances that meet the federal Food and Drug Administration labeling requirements as dietary supplements to promote health; (ii) instruction and training of meditation, breathing techniques and therapeutic movement exercises, including, but not limited to, tai chi, Qi Gong, Sotai; and (iii) lifestyle, behavioral, supportive, educational and stress counseling.

(e) If a health maintenance organization denies benefits relative to acupuncture diagnostic techniques, acupuncture services or adjunctive therapies, the denial must be by, under the direction of, or subject to the review of an acupuncturist licensed under said sections 148 to 162, inclusive, of said chapter 112, or a licensed physician practicing acupuncture under section 162 of chapter 112.”.

The amendment was rejected.

Ms. Malia of Boston then moved to amend the bill in section 123, in line 2714, by striking out the words “ultrasound diagnostic imaging”; and the amendment was adopted.

Mr. Conroy of Wayland then moved (there being no objection) to amend the bill in section 124, in lines 2891 to 2895, inclusive, by striking out the text contained therein (as previously amended) and inserting in place thereof the following:

“Section 12. The commissioner of insurance shall make a determination if an ACO has adequate reserves to meet their risk arrangements. The commissioner of insurance shall have the authority to promulgate regulations to ensure the viability of an ACO for all risks including, but not limited to, global payment or shared savings risk, and to establish financial oversight provisions and requirements for ACOs. Upon the satisfaction of the commissioner of insurance,

the division of insurance shall submit a certificate of approval to the division.".

The amendment was adopted.

Ms. Provost of Somerville then moved to amend the bill by inserting after Section 65 the following section:

"SECTION 65A. Chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 51H the following section:—

Section 51I. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Adverse event', injury to a patient resulting from a medical intervention, and not to the underlying condition of the patient.

'Checklist of care', pre-determined steps to be followed by a team of healthcare providers before, during and after a given procedure to decrease the possibility of adverse effects and other patient harm by articulating standards of care.

'Facility,' a hospital; institution maintaining an Intensive Care Unit; institution providing surgical services, or clinic providing ambulatory surgery.

(b) The department shall encourage the development and implementation of checklists of care that prevent adverse events and reduce healthcare-associated infection rates. The department shall develop model checklists of care, which may be implemented by facilities; provided however, that facilities may develop and implement checklists independently.

(c) Facilities shall report data and information relative to their use or non-use of checklists to the department and the Betsy Lehman center for patient safety and medical error reduction. The department may consider facilities that use similar programs to be in compliance. Reports shall be made in the manner and form established by the department. The department shall publicly report on individual hospitals' compliance rates.".

The amendment was adopted.

Mr. Walsh of Boston then moved to amend the bill in section 202 (inserted by the committee on Bills in the Third Reading), in the first sentence, by striking out the figures "17" and inserting in place thereof the figures "18", and in said section, in the second sentence, by inserting after the word "Recovery" the words ", Recovery Homes Collaborative"; and the amendments were adopted.

Mr. Collins of Boston then moved to amend the bill in section 121, in lines 1742 to 1746, inclusive, by striking out clause (m) and inserting in place thereof the following clause:

"(m) Should the health care entity fail to successfully complete the performance improvement plan, the division may require the parties to resubmit a new plan consistent with this section. If the Division determines that the health care entity has not implemented the performance improvement plan to their satisfaction then they shall submit a recommendation for proposed legislation to the joint committee on health care financing if the division determines that further legislative authority is needed to achieve the health care quality and spending sustainability objectives of this act.".

The amendment was adopted.

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Representatives Jones of North Reading and O'Connell of Taunton then moved to amend the bill by adding the following section:

"SECTION 231A. The division of health care cost and quality, established in chapter 118G of the General Laws, shall investigate and review methods of, and make recommendations relative to, increasing the use and adoption of health savings accounts and similar tax-favored health plans and developing and implementing incentives to increase the utilization of health savings accounts and similar tax favored health plans. The Division shall examine the feasibility of such accounts and plans for public payers and commercial insurers and the feasibility of a pilot program. The division shall submit a report of its findings and recommendations to the house and senate committees on ways and means and the joint committee on health care financing no later than April 1, 2013.".

The amendment was adopted.

Representatives Khan of Newton and Scibak of South Hadley then moved to amend the bill in section 136, in line 3082, by inserting after the word "benefit." the following sentence: "Nothing in this section will prohibit a payer or any entity acting for a payer under contract from using a prior authorization, methodology that utilizes an internet webpage, internet webpage portal, or similar electronic, internet, and web-based system in lieu of a paper form, developed pursuant to subsection (c)."; and the amendment was adopted.

Ms. Dykema of Holliston then moved to amend the bill in section 123, in line 2396, by striking out the figures "19" and inserting in place thereof the figures "20", and, in line 2401, by inserting after the word "designee" the following: "; 1 of whom shall be a registered nurse". The amendments were adopted.

The same member then moved to amend the bill in section 121, in lines 2205 to 2235, inclusive, by striking out subsection 65 and inserting in place thereof the following subsection:

"Section 65. The division shall develop the uniform reporting of a standard set of health care quality measures for each health care provider facility, medical group, or provider group in the commonwealth hereinafter referred to as the 'Standard Quality Measure Set.'

The division shall convene a statewide advisory committee which shall recommend to the division a Standard Quality Measure Set. The statewide advisory committee shall consist of the executive director of the division or designee, who shall serve as the chair; the executive director of the group insurance commission or designee, the Medicaid director or designee; and 6 representatives of organizations to be appointed by the governor including at least 1 representative from an acute care hospital or hospital association, 1 representative from a provider group or medical association or provider association, 1 representative from a medical group, 1 representative from a private health plan, 1 representative from the Massachusetts Association of Health Plans, 1 representative from an employer association, 1 representative from a patient safety group, and 1 representative from a health care consumer group.

In developing its recommendation of the Standard Quality Measure Set, the advisory committee shall, after consulting with state and national organizations that monitor and develop quality and safety

measures, select from existing quality measures and shall not select quality measures that are still in development or develop its own quality measures. The committee shall annually recommend to the division any updates to the Standard Quality Measure Set by November 1. The committee may solicit for consideration and recommend other nationally recognized quality measures, including, but not limited to, recommendations from medical, safety or provider specialty groups as to appropriate quality measures for that group's specialty. At a minimum, the Standard Quality Measure Set shall consist of the following quality measures: (i) the Centers for Medicare and Medicaid Services hospital process measures, acute myocardial infarction, congestive heart failure, pneumonia and surgical infection prevention; (ii) the Hospital Consumer Assessment of Healthcare Providers and Systems survey; (iii) the Healthcare Effectiveness Data and Information Set reported as individual measures and as a weighted aggregate of the individual measures by medical or provider group; (iv) the Ambulatory Care Experiences Survey; and (v) Centers for Disease Control and Prevention of the United States Department of Health and Human Services Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings.

The division shall require all payers to limit their collection and utilization of health care quality measures from providers to the standard quality measure set, as developed by the division under this section.".

The amendment was rejected.

Ms. Dykema then moved to amend the bill in section 14, in line 162, by inserting after the word "consumers" the words ", community organizations"; and the amendment was adopted.

Ms. Dykema of Holliston then moved to amend the bill by adding the following section:

"SECTION 232. Notwithstanding any general or special law to the contrary, there shall be established and set up on the books of the commonwealth as a separate fund to be known as the Medicaid and Health Care Reform FMAP Trust Fund. The fund shall consist of any funds that may be appropriated or transferred for deposit into the trust fund, interest earned on such revenues, and other sources. The comptroller shall deposit an amount to the fund determined by secretary of administration and finance that is equivalent to the additional funding provided by the federal government pursuant to the increased federal Medicaid assistance percentage pursuant to the Patient Protection and Affordable Care Act of 2010 and Section 1201 of the Health Care and Education Reconciliation Act of 2010. The fund shall be used for the following purposes: (1) to support the financing of health insurance coverage for low-income Massachusetts residents, including state health insurance programs and insurance offered through the commonwealth's health insurance exchange and (2) to improve Medicaid reimbursement to health care providers. The secretary of administration and finance shall administer the fund. No later than January 31 of each year, the secretary, in consultation with the executive office of health and human services, the commonwealth health insurance connector authority, healthcare providers participating in the Medicaid program, and consumer representatives, shall submit a report to the house and senate ways and means committees and the joint committee on health

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care financing that includes the current funding available in the fund, the funding estimated to be deposited through the end of the current and subsequent fiscal year, estimated expenditures from the fund, and recommendations for transferring such funds to other state accounts and funds in a manner consistent with the purpose of the fund.".

The amendment was rejected.

Mrs. O'Connell of Taunton then moved to amend the bill in section 178, in line 3642, by striking out the figure: "3" and inserting in place thereof the figure: "2"; and the amendment was adopted.

Mrs. O'Connell of Taunton then moved to amend the bill by adding the following section:

"SECTION 232. Section 60I of chapter 231 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the second paragraph, and inserting in place thereof the following:—

An attorney shall not contract for or collect a contingent fee for representing any person seeking damages in connection with an action for malpractice, negligence, error, omission, mistake, or the unauthorized rendering of professional services against a provider of health care in excess of the following limits:

(1) Thirty-five per cent of the first two hundred thousand dollars recovered;

(2) Thirty-three and one-third per cent of the next two hundred thousand dollars recovered;

(3) Thirty per cent of the next one hundred thousand dollars recovered;

(4) Twenty-five per cent of any amount by which the recovery exceeds five hundred thousand dollars.".

The amendment was rejected.

Mr. Conroy of Wayland then moved to amend the bill in section 67, in lines 558 to 567, inclusive, by striking out paragraphs (4), (5) and (6) and inserting in place thereof the following two paragraphs:

"(4) to establish, in consultation with the boards of professional licensure, a standardized electronic system for the public reporting of provider license information; and

(5) to perform such other functions and duties as may be required to carry out this section.".

The amendment was adopted.

The same member then moved to amend the bill in section 121, in line 2185, by striking out the words "commissioner of insurance" and inserting in place thereof the word "division"; and the amendment was adopted.

Mr. Donato of Medford being in the Chair,—

Mr. Sullivan of Fall River then moved to amend the bill, in section 202 (inserted by the committee on Bills in the Third Reading) by striking out the following: "and (e) the unique privacy factors required for the integration of behavioral health information into interoperatable electronic health records" and inserting in place thereof the following: "(e) how best to educate all providers about the effects of cardiovascular disease, diabetes, and obesity on patients with serious mental illness; and (f) the unique privacy factors required for the integration of behavioral health information into interoperatable electronic health records". The amendment was adopted.

Mrs. O'Connell of Taunton then moved to the bill by adding the following section:

"SECTION 232. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall conduct a study commission to investigate the implementation of a pilot program to increase the adoption of health savings accounts and consumer-driven health plans in the marketplace, including state employees and persons receiving subsidized health care. The study commission shall be chaired by EOHHS and shall include: 1 person appointed by the Governor; 1 appointee of the Senate President; 1 appointee of the Senate Minority Leader; 1 appointee of the Speak of the House; 1 appointee of the House Minority Leader; 1 representative from the GIC; 1 representative from the banking industry; 1 representative from Mass Health Underwriters Association; 1 representative from the Association of Health Plans; 1 representative from AIM. The commission shall file a report with recommendations for implementation with the House Clerk by April 1, 2013.

The scope of the commission shall include, without limitation, identifying: the barriers to full implementation of health savings accounts, consumer-driver health plans, and high-deductible health plans; providing greater consumer choice; incentives to increase utilization of health savings accounts, consumer-driver health plans, and high-deductible health plans.".

The amendment was adopted.

Mr. Walsh of Lynn then moved to amend the bill in section 188 (as published), in lines 3768, 3769 and 3770, by striking out the words ", provided, however, that supplemental insurance may not cover copayments, deductibles, co-insurance or other patient payment responsibility for services that are included in the individual's health plan". The amendment was adopted.

Mrs. O'Connell of Taunton then moved to amend the bill by adding the following section:

"SECTION 233. Chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding, after section 72Z, the following section:—

Section 72Z½. As used in this section, the following word shall have the following meaning:

'Psychotropic medication', a chemical substance that acts primarily upon the central nervous system where it alters brain function, resulting in temporary changes in perception, mood, consciousness and behavior.

Every resident in a nursing home, rest home, or other long term care facility that is prescribed psychotropic medications, shall have the facility in which they reside, as well as the prescribing physician, first obtain informed consent from the resident, and the resident's health care proxy, or a court appointed Rogers guardian. The facility shall keep on record a copy of the written consent form between the resident and the prescribing physician when prescribing psychotropic medications.".

The amendment was adopted.

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Mr. Lawn of Watertown then moved to amend the bill by adding the following section:

"SECTION 234. Section 18 of chapter 15A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 14 and 36, the words 'division of health care finance and policy' and inserting in place thereof, in each instance, the following words:— commonwealth health insurance connector."; and the amendment was adopted.

Mr. Conroy of Wayland then moved to amend the bill in section 121, in line 1625, by inserting after the year "2012." the following sentence: "The statewide medical spend benchmark shall not be used by any party in any other setting, including but not limited to any proceeding arising out of the review by the division of insurance of any carrier's insured rates, which are and shall be subject to disapproval if excessive, discriminatory, or unreasonable in relation to the benefits provided.". The amendment was adopted.

Messrs. Collins of Boston and Walsh of Lynn then moved to amend the bill in section 123, in line 2475, by inserting after the word "technology." the following paragraph:

"(c) In carrying out the purposes of this section the executive office shall, to the maximum extent practicable, adopt policies that are consistent with those relating to similar subject matters adopted by the Office of the National Coordinator for Health Information Technology of the federal Department of Health and Human Services; provided, however, that nothing herein shall be construed to limit the executive office's ability to advance interoperability and other health information technology beyond the standards adopted by the ONC, including without limitation any applicable meaningful use standards.".

The amendment was adopted.

Mr. Dempsey of Haverhill then moved to amend the bill in section 82, in line 676, by striking out the word "hospitals" and inserting in place thereof the word "Following"; and by adding the following section:

"SECTION 235. Section 64 of chapter 111 of the General Laws, as inserted by section 83 of this act, shall take effect on July 1, 2013.".

The amendments were adopted.

Ms. Story moves to amend the bill in section 11, in line 66, by striking the word "or", and, in line 68, by inserting after the word "funding" the following: "; or (v) a community-based organization or group of community-based organizations working in collaboration"; and the amendments were adopted.

Mr. Garballey of Arlington then moved to amend the bill by adding the following section:

"SECTION 236. Section 18 of chapter 15A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 14 and 36, the words 'division of health care finance and policy' and inserting in place thereof, in each instance, the following words:— commonwealth health insurance connector.".

The amendment was adopted.

Mr. Sullivan of Fall River and other members of the House then moved to amend the bill in section 181, in line 3727, by inserting after the word "dentist" the words ", dental hygienist"; and the amendment was adopted.

Messrs. Finn of West Springfield and Straus of Mattapoisett then moved to amend the bill by striking out section 148 (as printed) and inserting in place thereof the following section:

"SECTION 146. Said section 11 of chapter 176J of the General Laws, as so appearing, is hereby further amended by inserting the following 2 sentences at the end of subsection (a):— The division of insurance shall determine the base rate discount on an annual basis. The division of insurance may apply a waiver process from the rate discount under this section to carriers who receive 80 per cent or more of their incomes from government programs or which have service areas which do not include either Suffolk or Middlesex Counties and who were first admitted to do business by the division of insurance on or before January 1, 1988, as health maintenance organizations under chapter 176G."; and by adding the following section:

"SECTION 237. Notwithstanding any law or regulation to the contrary, the division of insurance may report specific findings and legislative recommendations including the following: (1) the extent to which tiered products offerings have been adopted and utilized in the marketplace; (2) the extent to which tiered product offerings have reduced health care costs for both patients and employers; (3) the effects that tiered product offerings have on patient education relating to health care costs and quality; (4) the effects that tiered product offerings have on patient utilization of local hospitals and the resulting impact on overall state health care costs; (5) opportunities to incentivize tiered product offerings for both health systems and employers. The report shall be submitted to the Senate and House Committees on Ways and Means and the Joint Committee on Health Care Financing.".

The amendments were adopted.

Representatives Walsh of Boston and Peake of Provincetown then moved to amend the bill by adding the following two sections:

"SECTION 237A. Notwithstanding any provision of any general law or special law or regulation to the contrary, health care providers that receive written notice from the department of public health, prior to December 31, 2012, that they do not need a determination of need review for a project shall be exempt from needing to file a determination of need review at a later date if there project exceeds the newly established thresholds under Sections 37, 39 or 53 of this bill.

SECTION 237B. Notwithstanding the provisions of any general or special law or regulation to the contrary, the provisions of Section 25E½ of Chapter 111 of the General Laws, as proposed to be added by Section 55, shall not apply to the review of an application for a determination of need that is filed with the department of public health under any applicable provision of Chapter 111 of the General Laws on or before December 31, 2013.".

The amendment was adopted.

Ms. Dykema of Holliston then moved to amend the bill in section 121, in line 2057, by inserting after the word "patients" the words ", including patients with disabilities whose disabilities may include but are not limited to intellectual and developmental disabilities". The amendment was adopted.

Representatives Wolf of Cambridge and Walsh of Lynn then moved to amend the bill in section 96, in line 806, by inserting after the word

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"payment" the words "; provided further, that said bonus to qualifying hospitals and providers shall apply to all health care services provided to medical assistance recipients including outpatient, inpatient and behavioral health services, including, but not limited to, those under primary care clinician and mental health and substance abuse plans or through a health maintenance organization under contract", and, in line 822, by inserting after the word "section." the following paragraph:

"The office of Medicaid shall also consult with safety net providers including high Medicaid and low-income public payer hospitals to ensure that said alternative payment methodologies (1) support the state's efforts to improve health, care delivery and cost-effectiveness; (2) include incentives for high quality, coordinated care, including wellness services, primary care services and behavioral health services; (3) include a risk adjustment element based on health status; (4) to the extent possible, include a risk adjustment element that takes into account functional status, socioeconomic status or cultural factors; (5) preserve the use of intergovernmental transfer financing mechanisms by governmental acute public hospitals consistent with the Medical Assistance Trust Fund provisions in effect as of fiscal year 2012; and (6) recognize the unique circumstances and reimbursement requirements of high Medicaid disproportionate share hospitals and other safety net providers with concentrated care in government programs.".

The amendments were adopted.

Mr. Brodeur of Melrose then moved to amend the bill

In section 124, in lines 2896 and 2897, by striking out the following: "guidelines for ACOs to create internal appeals plans for denial of care" and inserting in place thereof the following: "ACO appeal procedures for adverse determinations that are consistent with the appeal procedures of sections 12 through 14 of chapter 176O", and, in lines 2898 and 2899, by striking out the following: "the process for second opinions to occur outside of the ACO" and inserting in place thereof the following: "and a process to provide an independent second opinion outside the ACO";

In section 172, in line 3495, by inserting after the word "processes" (the first time it appears) the following: "that are consistent with the appeal procedures of sections 12 through 14 of chapter 176O", in line 3499, by striking out the words "for a patient with a terminal illness" and inserting in place thereof the words "for a patient with an urgent medical need", in lines 3499 and 3500, by striking out the words "external opinion unless it would be impractical for expedited internal appeals" and inserting in place thereof the words "independent external opinion", in line 3502, by striking out the word "a" and inserting in place thereof the words "an independent", and, in lines 3503 and 3504, by striking out the words "provided however, that for any patient who elects to have an independent care coordinator, said care coordinator may act as the patient advocate" (as changed by the committee on Bills in the Third Reading) and inserting in place thereof the words "provided that any patient may elect any person, including, but not limited to, a spouse or other family member, an attorney of record or a legal guardian, to act as their patient advocate or independent care coordinator".

The amendments were adopted.

Mr. Costello of Newburyport then moved to amend the bill

In section 67, in line 569, by striking out the figure "9" and inserting in place thereof the figures "24";

In section 104, in lines 1336 and 1337, and also in section 111, in line 1366, by striking out the following: "not more than 9 physicians" and inserting in place thereof, in each instance, the following: "24 physicians or fewer";

In section 121, in lines 1641 and 1642, and also in line 1676, by striking out the following: "9 or less" and inserting in place thereof, in each instance, the following: "24 physicians or less", and, in line 1752, by striking out the following: "fewer than 10 physicians" and inserting in place thereof the following: "24 physicians of less".

The amendments were adopted.

The same member then moved to amend the bill by adding the following section:

"SECTION 238. To maximize the cost-effective and efficient use of nursing homes licensed under chapter 111, section 71 of the General Laws in the commonwealth's post-acute health care delivery system, the executive office of health and human services shall seek from the Secretary of the Department of Health and Human Services an exemption or waiver from the Medicare requirement set forth in 42 U.S.C. §1395x(i) that an admission to a skilled nursing facility be preceded by a three-day hospital stay.".

The amendment was adopted.

Mr. Costello then moved to amend the bill by adding the following section:

"SECTION 239. Chapter 111 of the General Laws is hereby amended by inserting after section 70G the following section:—

Section 70H. Notwithstanding any provision in chapter 93A, sections 70E, 72E and 73 and 940 CMR section 4.09, a facility or institution licensed by the department of public health under section 71 may move a resident to different living quarters or to a different room within the facility or institution if, as documented in the resident's clinical record and as certified by a physician, the resident's clinical needs have changed such that the resident either (1) requires specialized accommodations, care, services, technologies, staffing not customarily provided in connection with the resident's living quarters or room, or (2) ceases to require the specialized accommodations, care, services, technologies or staffing customarily provided in connection with the resident's living quarters or room; provided, however, that nothing in this section shall obviate a resident's notice and hearing rights when movement to different living quarters involves a resident moving from a Medicare-certified unit to a non-Medicare-certified unit or involves a resident moving from a non-Medicare-certified unit to a Medicare-certified unit and, provided, however, that the resident shall have the right to appeal to the facility's or institution's medical director a decision to move the resident to a different living quarter or to a different room within the facility or institution.".

The amendment was adopted.

Ms. Khan of Newton then moved to amend the bill by striking out section 90 (as changed by the committee on Bills in the Third Reading) and inserting in place thereof the following section:

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"SECTION 90. Chapter 118E of the General Laws is hereby amended by inserting after section 9E the following section:—

Section 9F. (a) As used in this section, the following words shall have the following meanings:—

'Dual eligible', or 'dually eligible person', any person age 21 or older and under age 65 who is enrolled in both Medicare and MassHealth.

'Integrated care organization' or 'ICO', a comprehensive network of medical, health care and long term services and supports providers that integrates all components of care, either directly or through subcontracts and has been contracted with by the Executive Office of Health and Human Services and designated an ICO to provide services to dually eligible individuals pursuant to this section.

(b) Members of the MassHealth dual eligible pilot program on ICOs or any successor program integrating care for dual eligible persons shall be provided an independent community care coordinator by the ICO or successor organization, who shall be a participant in the member's care team. The community care coordinator shall assist in the development of a long term support and services care plan. The community care coordinator shall:

(1) participate in initial and ongoing assessments of the health and functional status of the member, including determining appropriateness for long term care support and services, either in the form of institutional or community-based care plans and related service packages necessary to improve or maintain enrollee health and functional status;

(2) arrange and, with the agreement of the member and the care team, coordinate the provision of appropriate institutional and community long term supports and services, including assistance with the activities of daily living and instrumental activities of daily living, housing, home-delivered meals, transportation, and under specific conditions or circumstances established by the ICO or successor organization, authorize a range and amount of community-based services; and

(3) monitor the appropriate provision and functional outcomes of community long term care services, according to the service plan as deemed appropriate by the member and the care team; and track member satisfaction and the appropriate provision and functional outcomes of community long term care services, according to the service plan as deemed appropriate by the member and the care team.

(c) The ICO or successor organization shall not have a direct or indirect financial ownership interest in an entity that serves as an independent care coordinator. Providers of institutional or community based long term services and supports on a compensated basis shall not function as an independent care coordinator, provided however that the secretary may grant a waiver of this restriction upon a finding that public necessity and convenience require such a waiver. For the purposes of this section, an organization compensated to provide only evaluation, assessment, coordination, skills training, peer supports and fiscal intermediary services shall not be considered a provider of long term services and supports.".

The amendment was adopted.

The same member then moved to amend the bill in section 123, in line 2711, by inserting after the following "(Public Law 104-119).";

and by adding the following sentence: "In addition, the division shall advance the dissemination of innovative technologies, including, but not limited to, those technologies that would allow diagnostic imaging exams to be seamlessly processed and transferred electronically through means that may include, but shall not be limited to, cloud-based technologies.". The amendment was adopted.

Ms. Reinstein of Revere then moved to amendment the bill by adding the following section:

"SECTION 240. The department of public health shall amend their regulations regarding limited service clinics to allow such clinics to provide the following services to patients, provided that the limited service clinic only provides those services for which a patient's primary care provider has given written approval for prior to such care being administered:

A) Monitoring and management of acute and chronic disease

B) Wellness and preventive services

Nothing in this section shall be interpreted to allow a limited service clinic to serve as a patient's primary care provider.".

The amendment was adopted.

Mr. Costello of Newburyport then moved to amend the bill in section 145 (as printed), in line 3186, by striking out the following: "only 1 facility" and inserting in place thereof the following: "no more than 5 facilities". The amendment was adopted.

Mr. Collins of Boston then moved to amend the bill in section 124, in line 2910, by inserting after the word "organizations" the following: "and any government entity that contracted with a health plan or insurer utilizing ACOs was a party to the appeals process"; and the amendment was adopted.

Ms. Story of Amherst then moved to amend the bill in section 17, in line 180, by inserting after the word "sites" the words "or family planning sites"; and the amendment was adopted.

Mr. Hecht of Watertown and other members of the House then moved to amend the bill by adding the following six sections:

"SECTION 241. The second paragraph of section 1 of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words 'snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing, including, but not limited to cavendish, plug, twist and fine-cut tobaccos' and inserting in place thereof the following words:— any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means other than smoking, or any component, part, or accessory of a tobacco product, including, but not limited to, snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigars, cigarettes, or smoking tobacco as defined in chapter 64C. 'Smokeless tobacco' excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

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SECTION 242. The definition of 'smoking tobacco' in subsection (a) of section 7B of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the words 'roll-your-own tobacco and pipe tobacco and other kinds and forms of tobacco suitable for smoking' and inserting in place thereof the following words:— roll-your-own tobacco and pipe tobacco and other kinds and forms of tobacco, or substance that contains tobacco, suitable for smoking, and 'smoking tobacco' shall additionally include tobacco leaf, tobacco sheet, or any substance containing tobacco which is suitable for rolling or wrapping tobacco or any other substance for smoking.

SECTION 243. Said section 7B of said chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(m) In addition to the excise imposed by subsection (b), an excise shall be imposed on all cigars weighing more than 3 pounds per 1,000 units and not more than 12 pounds per 1,000 units held in the commonwealth at the rate of 80 per cent of the wholesale price of such product. In addition to the excise imposed by paragraph (b), an excise shall be imposed on all smoking tobacco held in the commonwealth at the rate of 90 per cent of the wholesale price of such product.

SECTION 244. The final sentence of subsection (a) of section 7C of chapter 64C of the General Laws is hereby amended by striking out the words 'twenty-five per cent' and inserting in place thereof the following words:— 45 per cent.

SECTION 245. Section 7C of chapter 64C of the General Laws is hereby further amended by adding the following subsection:—

(d) Any change, henceforth, to the state excise tax rate for cigarettes shall cause a commensurate adjustment in the state excise tax for all other tobacco products under chapter 64C. For purposes of this subsection (d), the term 'commensurate adjustment' shall be determined by dividing the change in the state cigarette excise tax by the total cigarette excise tax prior to that change, and the resulting percentage change shall be applied to calculate the commensurate adjustment to the state excise taxes for cigars, smokeless tobacco and smoking tobacco. There shall be no negative commensurate adjustments, and the said rate for each tobacco product each shall be adjusted independently of the other such product categories under chapter 64C. The change in cigarette excise tax and commensurate adjustments shall have the same effective date.

SECTION 246. Notwithstanding any general or special law to the contrary, all additional revenue resulting from the enactment of sections 241, 242, 243, 244 and 245 of this Act, as estimated by the commissioner of revenue, shall be deposited in the Prevention and Wellness Trust Fund, as established in section 11 of the bill (as printed).".

Mr. Peterson of Grafton thereupon raised a point of order that the amendment offered by the gentleman from Watertown, et als, was improperly before the House for the reason that it was beyond the scope of the pending bill.

Point of order.

The Chair (Mr. Donato of Medford) ruled that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Hecht thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Winslow of Norfolk.

The question then was put "Shall the decision of the Chair stand as the judgment of the House?".

After debate the decision of the Chair was sustained.

Mr. Toomey of Cambridge then moved to amend the bill in section 124, in line 2819, by striking out the word "and" (the second time it appears), in line 2821, by striking out the punctuation "." and inserting in place thereof the word "; and", and by inserting after said line the following clause:

"(k) Ensure patient access to health care services, including breakthrough technologies and human therapeutic treatments.".

The amendments were adopted.

Mr. Sánchez of Boston then moved to amend the bill in section 121, in line 2232, by inserting after the word "Survey." the following two sentences: "The Standard Quality Measure Set shall include outcome measures. The Committee shall review additional appropriate outcome measures as they are developed.". The amendment was adopted.

The same member then moved to amend the bill in section 66, in line 521, by striking out the words "new section" (as published) and inserting in place thereof the following: "2 new sections", and by adding at the end of said section the following:

"Section 51J. As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

'Adverse Event', injury to a patient resulting from a medical intervention, and not to the underlying condition of the patient.

'Checklist of Care', pre-determined steps to be followed by a team of healthcare providers before, during, and after a given procedure to decrease the possibility of patient harm by standardizing care.

'Facility,' a hospital, institution maintaining an Intensive Care Unit, institution providing surgical services, or clinic providing ambulatory surgery.

The department shall encourage the development and implementation of checklists of care that prevent adverse events and reduce healthcare-associated infection rates. The department shall develop model checklists of care, which may be implemented by facilities; provided however, facilities may develop and implement checklists independently.

Facilities shall report data and information relative to their use or non-use of checklists to the department and the Betsy Lehman Center for Patient Safety and Medical Error Reduction. Reports shall be made in the manner and form established by the department.".

The amendments were adopted.

Mr. Sánchez then moved to amend the bill in section 17, in line 177 and in section 121, in line 2097 (the second time it appears), by inserting after the word "medical" the words "physician assistant"; and the amendments were adopted.

Mr. Sánchez of Boston then moved to amend the bill by adding the following ten sections:

"SECTION 241. Section 2 of chapter 32A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after paragraph (h) the following paragraph:—

(h½) 'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or

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proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 242. Section 22 of said chapter 32A, as so appearing, is hereby amended by striking out, in line 36, the word 'physician' and inserting in place thereof the following word:— provider.

SECTION 243. Section 1 of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Net value of policies' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 244. Section 47B of said chapter 175, as so appearing, is hereby amended by striking out, in line 46, the word 'physician' and inserting in place thereof the following word:— provider.

SECTION 245. Section 8A of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in line 41, the word 'physician' and inserting in place thereof the following word:— provider.

SECTION 246. Subsection (c) of said section 8A of chapter 176A, as so appearing, is hereby amended by adding the following paragraph:—

For the purposes of this subsection, the term 'primary care provider.'shall mean a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 247. Section 1 of chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Participating optometrist' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 248. Section 4A of said chapter 176B, as so appearing, is hereby amended by striking out, in line 43, the word 'physician' and inserting in place thereof the following word:— provider.

SECTION 249. Section 1 of chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Person' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 250. Section 4M of said chapter 176G, as so appearing, is hereby amended by striking out, in line 40, the word 'physician' and inserting in place thereof the following word:— provider.

The amendment was adopted.

The same member then moved to amend the bill by adding the following two sections:

"SECTION 251. Section 1 of chapter 111 of the General Laws, as appearing in the 2010 official edition, is hereby amended by inserting after the definition of 'Nuclear reactor' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 252. Section 67F of said chapter 111, as so appearing, is hereby amended by striking out, in lines 15 and 19, the word 'physician' and inserting in place thereof the following word in each instance:— provider.".

The amendment was adopted.

Mr. Sánchez then moved to amend the bill by adding the following section:

"SECTION 253. Section 7 of chapter 176O of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 48, the word 'physician' and inserting in place thereof the following word:— provider.".

The amendment was adopted.

Mr. Hecht of Watertown then moved to amend the bill in section 121, in line 1952, by inserting after the word "payer." the following sentence: "Access to data shall also include disclosing to health care consumers, on a timely basis and in an easily readable and understandable format, data on health care services they have personally received."; and the amendment was adopted.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

"SECTION 254. Notwithstanding any general or special law to the contrary, section 2 of chapter 112 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding, at the end thereof, the following sections:—

Notwithstanding any other provisions of this chapter, the board may issue a telemedicine license to allow medical advice, diagnoses, treatments and prescriptions by physicians who hold a full and unrestricted medical license in a state other than Massachusetts. The board shall establish requirements for such licensure.

A telemedicine license shall not be issued for a period that exceeds two years. A physician may seek renewal of a telemedicine license upon application and compliance with other requirements established by the board.".

The amendment was adopted.

Mr. Sánchez of Boston then moved to amend the bill by adding the following twelve sections:

"SECTION 255. Section 8 of chapter 118E of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after paragraph (e) the following paragraph:—

(e½). 'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who:

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(1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 256. Section 17A of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 60 and 62, the word 'physician' and inserting in place thereof the following word in each instance:— provider.

SECTION 257. Section 1 of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Net value of policies' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 258. Section 47U of said chapter 175, as so appearing, is hereby amended by striking out, in lines 62 and 64, the word 'physician' and inserting in place thereof the following word in each instance:— provider.

SECTION 259. Paragraph (a) of section 8U of chapter 176A, as so appearing, is hereby amended by inserting after the definition of 'Insured' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 260. Section 8U of said chapter 176A, as so appearing, is hereby amended by striking out, in lines 64 and 66, the word 'physician' and inserting in place thereof the following word in each instance:— provider.

SECTION 261. Section 1 of chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Participating optometrist' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 262. Section 4U of said chapter 176B, as so appearing, is hereby amended by striking out, in lines 64 and 66, the word 'physician' and inserting in place thereof the following word in each instance:— provider.

SECTION 263. Section 1 of chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Person' the following definition:—

'Primary care provider', a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 264. Section 5 of said chapter 176G, as so appearing, is hereby amended by striking out, in lines 59 and 61, the word 'physician' and inserting in place thereof the following word in each instance:— provider.

SECTION 265. Section 1 of Chapter 176O, as so appearing, he hereby amended by inserting after the definition of 'Person' the following definition:—

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems who: (1) supervises, coordinates, prescribes, or otherwise provides or proposes health care services; (2) initiates referrals for specialist care; and (3) maintains continuity of care within the scope of practice.

SECTION 266. Section 20 of said chapter 176O, as so appearing, is hereby amended by striking out, in lines 19 and 22, the words 'care physician' and inserting in place thereof the following words in each instance:— care provider.".

The amendment was adopted.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following four sections:

"SECTION 267. Chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 111H, the following section:—

Section 111I. (a) Except as otherwise provided in this section, the commissioner shall not disapprove a policy of accident and sickness insurance which provides hospital expense and surgical expense insurance solely on the basis that it does not include coverage for at least 1 mandated benefit.

(b) The commissioner shall not approve a policy of accident and sickness insurance which provides hospital expense and surgical expense insurance unless it provides, at a minimum, coverage for:

(1) pregnant women, infants and children as set forth in section 47C;

(2) prenatal care, childbirth and postpartum care as set forth in section 47F;

(3) cytologic screening and mammographic examination as set forth in section 47G;

(3A) diabetes-related services, medications, and supplies as defined in section 47N;

(4) early intervention services as set forth in said section 47C; and

(5) mental health services as set forth in section 47B; provided however, that if the policy limits coverage for outpatient physician office visits, the commissioner shall not disapprove the policy on the basis that coverage for outpatient mental health services is not as extensive as required by said section 47B, if the coverage is at least as extensive as coverage under the policy for outpatient physician services.

(c) The commissioner shall not approve a policy of accident and sickness insurance which provides hospital expense and surgical expense insurance that does not include coverage for at least one mandated benefit unless the carrier continues to offer at least one policy that provides coverage that includes all mandated benefits.

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(d) For purposes of this section, 'mandated benefit' shall mean a requirement in this chapter that requires coverage for specific health services, specific diseases or certain providers of health care.

(e) The commissioner may promulgate rules and regulations as are necessary to carry out this section.

(f) Notwithstanding any special or general law to the contrary, no plan approved by the commissioner under this section shall be available to an employer who has provided a policy of accident and sickness insurance to any employee within 12 months.

SECTION 268. Chapter 176A of the General Laws is hereby amended by inserting after section 1D the following section:

Section 1E. (a) Except as otherwise provided in this section, the commissioner shall not disapprove a contract between a subscriber and the corporation under an individual or group hospital services plan solely on the basis that it does not include coverage for at least one mandated benefit.

(b) The commissioner shall not approve a contract unless it provides, at a minimum, coverage for:

(1) pregnant women, infants and children as set forth in section 8B;

(2) prenatal care, childbirth and postpartum care as set forth in section 8H;

(3) cytologic screening and mammographic examination as set forth in section 8J;

(3A) diabetes-related services, medications, and supplies as defined in section 8P;

(4) early intervention services as set forth in said section 8B; and

(5) mental health services as set forth in section 8A; provided however, that if the contract limits coverage for outpatient physician office visits, the commissioner shall not disapprove the contract on the basis that coverage for outpatient mental health services is not as extensive as required by said section 8A, as long as such coverage is at least as extensive as coverage under the contract for outpatient physician services.

(c) The commissioner shall not approve a contract that does not include coverage for at least one mandated benefit unless the corporation continues to offer at least one contract that provides coverage that includes all mandated benefits.

(d) For purposes of this section, 'mandated benefit' shall mean a requirement in this chapter that requires coverage for specific health services, specific diseases or certain providers of health care.

(e) The commissioner may promulgate rules and regulations as are necessary to carry out this section.

(f) Notwithstanding any special or general law to the contrary, no plan approved by the commissioner under this section shall be available to an employer who has provided a hospital services plan, to any employee within 12 months.

SECTION 269. Chapter 176B of the General Laws is hereby further amended by inserting after section 6B, the following section:—

Section 6C. (a) Except as otherwise provided in this section, the commissioner shall not disapprove a subscription certificate solely on

the basis that it does not include coverage for at least one mandated benefit.

(b) The commissioner shall not approve a subscription certificate unless it provides, at a minimum, coverage for:

(1) pregnant women, infants and children as set forth in section 4C;

(2) prenatal care, childbirth and postpartum care as set forth in section 4H;

(3) cytologic screening and mammographic examination;

(3A) diabetes-related services, medications and supplies as defined in section 4S;

(4) early intervention services as set forth in said section 4C; and

(5) mental health services as set forth in section 4A; provided however, that if the subscription certificate limits coverage for outpatient physician office visits, the commissioner shall not disapprove the subscription certificate on the basis that coverage for outpatient mental health services is not as extensive as required by said section 4A, as long as such coverage is at least as extensive as coverage under the subscription certificate for outpatient physician services.

(c) The commissioner shall not approve a subscription certificate that does not include coverage for at least 1 mandated benefit unless the corporation continues to offer at least one subscription certificate that provides coverage that includes all mandated benefits.

(d) For purposes of this section, 'mandated benefit' shall mean a requirement in this chapter that requires coverage for specific health services, specific diseases or certain providers of health care.

(e) The commissioner may promulgate rules and regulations as are necessary to carry out this section.

(f) Notwithstanding any special or general law to the contrary, no plan approved by the commissioner under this section shall be available to an employer who has provided a subscription certificate, to any employee within 12 months.

SECTION 270. Chapter 176G of the General Laws is hereby amended by inserting after Section 16 the following new section:—

Section 16A. (a) Except as otherwise provided in this section, the commissioner shall not disapprove a health maintenance contract solely on the basis that it does not include coverage for at least 1 mandated benefit.

(b) The commissioner shall not approve a health maintenance contract unless it provides coverage for:

(1) pregnant women, infants and children as set forth in section 4;

(2) prenatal care, childbirth and postpartum care as set forth in said section 4 and section 4I;

(3) cytologic screening and mammographic examination as set forth in said section 4;

(3A) diabetes-related services, medications and supplies as defined in section 4H;

(4) early intervention services as set forth in said section 4; and

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(5) mental health services as set forth in section 4M; provided however, that if the health maintenance contract limits coverage for outpatient physician office visits pursuant to section 16, the commissioner shall not disapprove the health maintenance contract on the basis that coverage for outpatient mental health services is not as extensive as required by said section 4M as long as such coverage is at least as extensive as coverage under the health maintenance contract for outpatient physician services.

(c) The commissioner shall not approve a health maintenance contract that does not include coverage for at least one mandated benefit unless the health maintenance organization continues to offer at least one health maintenance contract that provides coverage that includes all mandated benefits.

(d) For purposes of this section, 'mandated benefit' shall mean a requirement in this chapter that requires coverage for specific health services, specific diseases or certain providers of health care.

(e) The commissioner may promulgate rules and regulations as are necessary to carry out the provisions of this section.

(f) Notwithstanding any special or general law to the contrary, no plan approved by the commissioner under this section shall be available to an employer who has provided a health maintenance contract, to any employee within 12 months.".

Amendment rejected,—yea and nay No. 272.

After debate on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Winslow; and on the roll call 34 members voted in the affirmative and 119 in the negative.

[See Yea and Nay No. 272 in Supplement.]

[Mr. Madden of Nantucket answered "Present" in response to his name.]

Therefore the amendment was rejected.

Mr. Vallee of Franklin then moved to amend the bill in section 98, in line 1196, by striking out the figure "9" and inserting in place thereof the figures "10", and, in line 1203, by inserting after the words "administration and finance" the following: ", 1 of whom shall be an expert representative from a labor organization representing the health care workforce". The amendments were adopted.

Ms. Walz of Boston then moved to amend the bill in section 98, in line 1196, by striking out the figures "10" (inserted by the previous amendment) and inserting in place thereof the figures "11", in line 1197, by striking out the figure "4" and inserting in place thereof the figure "6" and in line 1200, by inserting after the word "care" the following: ", 1 of whom shall be an expert in women's health, 1 of whom shall be a purchaser of health insurance.". The amendments were adopted.

Ms. Balser of Newton then moved to amend the bill in section 123, in line 2492, by inserting after the word "centers" the words "and community based behavioral health provider organizations", in line 2630, by inserting after the word "participation" the words "whether the grantee serves a high proportion of public payer clients, whether the grantee is eligible to receive Medicare or Medicaid incentive payments under the federal Health Information Technology for Economic and Clinical Health Act", and, in line 2645, after the following: "chapter 111", and also in line 2645, after the following: "chapter 118G."(as changed by the committee on Bills in the Third Reading) by inserting, in each instance, the words "and to community based behavioral health organizations". The amendments were adopted.

Mr. Costello of Newburyport then moved to amend the bill by inserting after section 143 the following section:

"SECTION 143A. Section 6 of chapter 176J of the General Laws is hereby amended by striking subsection (c), as most recently amended by section 31A of chapter 359 of the acts of 2010, and inserting in place thereof the following subsection:—

(c) Notwithstanding any general or special law to the contrary, the commissioner may require carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to small group rating factors at least 90 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. The determination of the commissioner shall be supported by sound actuarial assumptions and methods, which shall be provided in writing to the carrier. Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.".

The amendment was rejected.

Ms. Fox of Boston then moved to amend the bill in section 121, in line 1561, by striking out the word "and", in line 1565, by striking out the punctuation mark "." and inserting in place thereof the punctuation mark ";" and by inserting after said line the following three clauses:

"(4) Ensure that patient-centered medical homes develop and maintain appropriate comprehensive care plans for their patients with complex or chronic conditions, including group visits, chronic disease self-management programs and an assessment of health risks and chronic conditions;

(5) Promote the integration of mental health and behavioral health services with primary care services including, but not limited to, the establishment of a behavioral health medical home; recovery coaching and peer support, and services provided by peer support workers, certified peer specialists and licensed alcohol and drug counselors; and

(6) Improve access to health care services and quality of care for vulnerable populations including, but not limited to, children, the elderly, low-income individuals, individuals with disabilities, individuals with chronic illnesses and racial and ethnic minorities, including demonstrating an ability to provide culturally and linguistically appropriate care, patient education and outreach provided by community health workers.".

The amendments were adopted.

Mr. Golden of Lowell then moved to amend the bill in section 55, in line 459, by striking out the figure: "3" and inserting in place thereof the figure: "5", and, in line 461, by inserting after the word "analysis" the following: "and one of whom shall be members of labor organizations selected from a list of 3 names submitted by the President of the Massachusetts AFL-CIO". The amendments were adopted.

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Mr. Lawn of Watertown and other members of the House then moved to amend the bill in section 180 (as published), in lines 3713 to 3716, inclusive, by striking out the following paragraph:

"Section 60M. In any action for malpractice, negligence, error, omission, mistake or the unauthorized rendering of professional services against a provider of health licensed pursuant to section 2 of chapter 112, including actions pursuant to section 60B, an expert witness shall have been engaged in the practice of medicine at the time of the alleged wrongdoing.".

The amendment was adopted.

Mr. Mahoney of Worcester then moved to amend the bill in section 121, in line 1595, by inserting after the word "health" the words ", Medicare-certified home health agency for those patients that receive home-health services". The amendment was adopted.

Mr. Linsky of Natick then moved to amend the bill in section 97, in line 1006, by inserting after the word "center" the words "home health and hospice care provider"; and the amendment was adopted.

Mr. Sánchez of Boston then moved to amend the bill by adding the following section:

"SECTION 267. Section 5 of Chapter 112 of the General Laws is hereby amended by striking out paragraphs 6 through 8, inclusive, and inserting in place thereof the following four paragraphs:—

The board shall collect the following information reported to it to create individual profiles on licensees and former licensees, in a format created by the board that shall be available for dissemination to the public:

(a) a description of any criminal convictions for felonies and serious misdemeanors as determined by the board. For the purposes of this subsection, a person shall be deemed to be convicted of a crime if he pleaded guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(b) a description of any charges for felonies and serious misdemeanors as determined by the board to which a physician pleads nolo contendere or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction;

(c) a description of any final board disciplinary actions;

(d) a description of any final disciplinary actions by licensing boards in other states;

(e) a description of revocation or involuntary restriction of privileges by a hospital, clinic or nursing home under the provisions of chapter 111, or of any employer who employs physicians licensed by the board for the purpose of engaging in the practice of medicine in the commonwealth, for reasons related to competence or character that have been taken by the governing body or any other official of the hospital, clinic or nursing home or employer who employs physicians licensed by the board for the purpose of engaging in the practice of medicine in the commonwealth after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital, clinic or nursing home or employer who employs physicians licensed by the board for the purpose of engaging in the practice of medicine in the commonwealth taken in lieu of or in settlement of a pending disciplinary case

related to competence or character in that hospital, clinic or nursing home or of any employer who employs physicians licensed by the board for the purpose of engaging in the practice of medicine or employer who employs physicians licensed by the board for the purpose of engaging in the practice of medicine in the commonwealth ;

(f) all medical malpractice court judgments and all medical malpractice arbitration awards in which a payment is awarded to a complaining party and all settlements of medical malpractice claims in which a payment is made to a complaining party. Dispositions of paid claims shall be reported in a minimum of three graduated categories indicating the level of significance of the award or settlement. Information concerning paid medical malpractice claims shall be put in context by comparing an individual licensee's medical malpractice judgment awards and settlements to the experience of other physicians within the same specialty. Information concerning all settlements shall be accompanied by the following statement: 'Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.' Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding the significance of categories in which settlements are reported.

Pending malpractice claims shall not be disclosed by the board to the public. Nothing herein shall be construed to prevent the board from investigating and disciplining a licensee on the basis of medical malpractice claims that are pending.

(g) names of medical schools and dates of graduation;

(h) graduate medical education;

(i) specialty board certification;

(j) number of years in practice;

(k) names of the hospitals where the licensee has privileges;

(l) appointments to medical school faculties and indication as to whether a licensee has a responsibility for graduate medical education within the most recent ten years;

(m) information regarding publications in peer-reviewed medical literature within the most recent ten years;

(n) information regarding professional or community service activities and awards;

(o) the location of the licensee's primary practice setting;

(p) the identification of any translating services that may be available at the licensee's primary practice location;

(q) an indication of whether the licensee participates in the medicaid program.

The board shall provide individual licensees with a copy of their profiles prior to release to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that appear in such profile.

A physician may elect to have his profile omit certain information provided pursuant to clauses (l) to (n), inclusive, concerning academic appointments and teaching responsibilities, publication in peer-reviewed journals and professional and community service awards. In collecting

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information for such profiles and in disseminating the same, the board shall inform physicians that they may choose not to provide such information required pursuant to said clause (l) to (n), inclusive.

For physicians who are no longer licensed by the board, the board shall continue to make available the profiles of such physicians, except for those who are known by the board to be deceased. The board shall maintain the information contained in the profiles of physicians no longer licensed by the board as of the date the physician was last licensed, and include on the profile a notice that the information is current only to that date.".

The amendment was adopted.

The same member then moved to amend the bill in section 121, in line 1673, by inserting after the word "act." the following paragraph:

"Section 47A. The division shall provide a copy of any notices, issued pursuant to section 47, to the attorney general, who may obtain information submitted to or considered by the division in its review of cost growth for individual health care entities under section 47 as well as information related to any performance improvement plan required in accordance with section 48.".

The amendment was adopted.

Mr. Lawn of Watertown and other members of the House then moved to amend the bill in section 180 (as published), in lines 3717 to 3721, inclusive, by striking out the following paragraph:

"Section 60N. In any action for malpractice, negligence, error, omission, mistake or the unauthorized rendering of professional services against a provider of health licensed pursuant to section 2 of chapter 112, including actions pursuant to section 60B of this chapter, an expert witness shall be board certified in the same specialty as the defendant physician as licensed pursuant to section 2 of chapter 112.".

The amendment was adopted.

Mr. Atsalis of Barnstable then moved to amend the bill in section 98, in lines 1159 to 1165, inclusive (as changed by the committee on Bills in the Third Reading), by striking out the definition of "Sole community provider" and inserting in place thereof the following definition:

" 'Sole community provider', any acute hospital which qualifies as a sole community provider under Medicare regulations or under regulations promulgated by the executive office, which regulations shall consider factors including, but not limited to, isolated location, weather conditions, travel conditions, percentage of Medicare, Medicaid and free care provided and the absence of other reasonably accessible hospitals in the area; provided, that such hospitals shall include those which are located more than 20 miles driving distance from other such hospitals in the commonwealth and which provide services for at least 60 per cent of their primary service area.".

The amendment was adopted.

Mr. Vieira of Falmouth then moved to amend the bill by striking out section 49; and the amendment was rejected.

Mr. Walsh of Boston and other members of the House then moved, there being no objection, to amend the bill in section 121, in lines 1541 to 1544 (as previously amended), by striking out clause (d) and inserting in place thereof the following clause:

"(d) Any alternative payment methodology shall include a risk adjustment based on health status. The division shall create standards for the calculation of risk adjustments and update those standards on an annual basis; provided that such calculations as affect pediatric patients shall take into account the diagnoses and care needs of children. In establishing risk adjustment standards, the division may take into account functional status, socioeconomic or cultural factors.".

The amendment was adopted.

Mr. Finn of West Springfield then moved to amend the bill in section 121, in lines 1764 to 1779, inclusive, by striking out clause (b) and inserting in place thereof the following clause:

"(b) A market impact review may examine factors including, but not limited to: (1) the provider's size and market share by major service category within its primary service areas and dispersed service areas; (2) provider price, including its relative prices filed with the division of insurance pursuant to chapter 176S; (3) the provider's impact on competing options for the delivery of health care services within its primary service areas and dispersed service areas; including if not applicable, the impact on existing service providers of a provider organization's expansion, affiliation, merger or acquisition, to enter a primary or dispersed service area in which it did not previously operate; (4) the methods used by the organization to attract patient volume and to recruit or acquire health care professionals or facilities; (5) the role of the provider in serving at-risk, underserved and government payer patient populations within its primary service areas and dispersed service areas; (6) the financial solvency of the provider; and (7) consumer concerns, including but not limited to complaints or other allegations that the provider has engaged in any unfair method of competition or any unfair or deceptive act or practice.".

The amendment was adopted.

Mr. Bradley of Hingham being in the Chair,—

Mr. Donato of Medford then moved to amend the bill in section 84, in line 706, by inserting after the following: "Part 170." the following sentence: "This section shall not apply to any applicant board certified and practicing as a pathologist.". The amendment was adopted.

The Speaker being in the Chair,—

Mr. Kafka of Stoughton then moved to amend the bill in section 121, in lines 1517 to 1521, inclusive, by striking out clauses (c) and (d) inserting in place thereof the following three clauses:

"(c) issue administrative bulletins and various other forms of official guidance that are necessary to effectuate the purposes of this chapter;

(d) waive any of its requirements to permit and support innovative demonstrations or pilot programs; provided that such waivers may only be renewed if material savings or improvements in the delivery and quality of care can be documented, to the satisfaction of the division; and

(e) establish safeguards against underutilization of innovative technologies and services, although they may represent a higher cost than the use of current therapies.".

The amendment was adopted.

Mr. Walsh of Lynn then moved to amend the bill in section 97, in line 1051 by inserting after the word "year" the words: "as further defined by the division in regulation";

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In section 121, lines 1619, 1620, 1623, by inserting after the word "statewide", in each instance, the words "per capita", in lines 1627 and 1629, by inserting before the word "potential", in each instance, the word "projected", in lines 1635, 1646, 1649 and 1664, by inserting after the word "regional", in each instance, the words "per capita", in line 1818, by inserting after the word "shall" the words "annually report on or", in line 1820, by inserting after the word "The" the words "report or", in line 1923, by striking out the words ", subject to chapter 30B,", and, in lines 1938, 1942 and 1943, by striking out the word "council" and inserting in place thereof, in each instance, the word "division";

In section 123, in line 2437, by inserting after the following: "(ii)" the words "fulfill its current and any future contract obligations with the Office of Medicaid to administer specific operational components of", and, in line 2575, by striking out the word "contact" and inserting in place thereof the word "contract";

In section 130, line 2944, by striking out the words "division of health care cost and quality" and inserting in place thereof the word "authority";

In section 200 (as inserted by the committee on Bills in the Third Reading), in the first paragraph, after the words "total net assets", by striking out the word "and" and inserting in place thereof the word "or"; and by adding the following section:

"SECTION 268. Notwithstanding any general or special law or rule or regulation to the contrary, all orders, rules and regulations duly made and all approvals duly granted by the transferor agency, the division of health care finance and policy, in relation to section 18 of chapter 15A, sections 6C and 18B of chapter 118G and section 188 of chapter 149 of the General Laws, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency, the commonwealth health insurance connector.".

The amendments were adopted.

Quorum.

Pending the question on passing the bill to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,— yea and nay No. 273.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Yea and Nay No. 273 in Supplement.]

Therefore a quorum was present.

Suspension of Rule 1A.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, the Speaker placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o'clock P.M.

Rule 1A suspended,— yea and nay No. 274.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 124 members voted in the affirmative and 30 in the negative.

[See Yea and Nay No. 274 in Supplement.]

Therefore Rule 1A was suspended.

Bill passed to be engrossed,— yea and nay No. 275.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Walsh of Lynn; and on the roll call (Mr. Donato of Medford being in the Chair) 148 members voted in the affirmative and 7 in the negative.

[See Yea and Nay No. 275 in Supplement.]

Therefore the bill (Senate, No. 2270, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments (for text of House amendments, see House document numbered 4155).

Orders of the Day.

Third reading bills.

Recommitted House bills

Authorizing the town of Tyringham to continue the employment of the Chief of Police, Peter Curtin (House, No. 3524, changed); and

Authorizing the town of Tyringham to continue the employment of Rainsford Morehouse, a member of the police department (House, No. 3525, changed);

Severally were passed to be engrossed.

Second reading bills.

The Senate Bill establishing a sick leave bank for Brian J. Waldron, an employee of the Trail Court (Senate, No. 2272); and

House bills

Relating to fire insurance (House, No. 298);

Relative to continuing education of insurance producers (House, No. 300);

Relative to psychology training (House, No. 1003);

To encourage well qualified practitioners in the field of personal training (House, No. 1005);

Relative to adding the town of Harvard to the Devens Economic Target Area (House, No. 3717);

Amending Chapter 372 of the Acts of 1963 relative to the rights of the water supply district of Acton to acquire any water source in the town of Boxborough (House, No. 3820);

Designating a certain bridge in the city [sic] of Lowell as the Gentz Brothers Memorial Bridge (House, No. 3951);

Authorizing the conveyance, lease and change of use of certain park lands in the city of Worcester (House, No. 4033); and

Relative to the management of town buildings, properties and facilities in the town of Foxboro (House, No. 4052);

Severally were read a second time; and they were ordered to a third reading.

Second reading bill amended.

The House Bill establishing the Massworks infrastructure program (House, No. 3619), was read a second time.

The amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets,— that the bill be amended by substitution of a bill with the same title (House, No. 3863),— was rejected.

The amendment recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4090),— then was adopted; and the substituted bill was ordered to a third reading.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

Ordered, That when the House adjourns today, it adjourn to meet Thursday next at eleven o'clock A.M.

Mr. Barrows of Mansfield then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-three minutes after nine o'clock P.M. (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Thursday at eleven o'clock A.M., in an Informal Session.