UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.

JOURNAL OF THE SENATE.

Thursday, April 17, 2008.

Met according to adjournment at one o'clock P.M. (Mr. Tolman in the Chair).

Distinguished Guests.

There being no objection, several guests were recognized, as follows:—

The President handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced Keith Ciccone, President of the Massachusetts Chapter of the American Parkinson Disease Association. Mr. Ciccone was accompanied by Kimberly Creem and her parents, Carol and Gerry Slabin. Governor Deval Patrick has proclaimed April, 2008 to be Parkinson's Disease Awareness Month and urges all citizens to participate in its observance.

The President handed the gavel to Mr. Brown for the purpose of an introduction. Mr. Brown then introduced John McDermott from Wellesley, Massachusetts. Mr. McDermott is a freshman at Saint Anselm College and has won Senator for a Day at the Habitat for Humanity of the South Shore Charity Auction.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Spilka for the purpose of an introduction. Ms. Spilka then introduced Spyros Zagaris, the Mayor of Marathon, Greece and Dimitris Kyriakides, the son of the 1946 Boston Marathon Champion Stylianos Kyriakides. The Mayor carried with him the "Flame of the Marathon Run", which will be brought to Hopkinton on April 20th, 2008. Ms. Spilka then handed the gavel to Mr. Panagiotakos who then introduced Constantinos Orphanides, the Consul General of Greece, and His Eminence Methodios of the Greek Orthodox Metropolis of Boston. Also accompanying this group were eight marathon runners from Greece. Spyros Zagaris and Dimitris Kyriakides briefly addressed the Senate, signed the guestbook and withdrew from the Chamber.

Communication.

A communication from the Honorable Marian Walsh, in compliance with Massachusetts General Laws Chapter 268A,— **was placed on file.**

Order.

Mr. Tarr offered the following order, to wit:—

Ordered, That the Senate Committee on Post Audit and Over-sight shall conduct a public hearing and examination of the following, not later than September 31, 2008:—

1. The status and projected elements and viability of any and all waivers from the federal government necessary to health care funding, including that provided through the medicaid program;
2. The utilization of federal reimbursements obtained as a result of any such waivers, including but not limited to the distribution to health care providers of any funding so received, the mechanisms by which it is distributed and any and all methodologies by which charges and reimbursements are made against such funding.
3. The potential impacts of any foreseeable changes or reductions of funding amounts or mechanisms in such waivers on the Commonwealth, including any reasonably anticipated increased demands upon the resources of the Commonwealth which may be attributable to such changes or reductions.
4. The projected costs of increased enrollment in health insurance programs sponsored by the Commonwealth pursuant to Chapter 58 of the Acts of 2006 and their potential fiscal impacts on the Commonwealth.
Under the rules, referred to the committees on Ethics and Rules.

Petition.

Mr. Antonioni presented a petition (subject to Joint Rule 12) of Robert A. Antonioni and James B. Eldridge for legislation to authorize the appointment of James A. McNamara as a police officer in the town of Lancaster notwithstanding the maximum age requirement,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Ms. Spilka, for the committee on Children, Families and Persons with Disabilities, on Senate, Nos. 68 and 99, an Order relative to authorizing the joint committee on Children, Families and Persons with Disabilities to make an investigation and study of certain current Senate documents relative health (Senate, No. 2601);
By the same Senator, for the same committee, on Senate, Nos. 1122, 1123 and 1124, an Order relative to authorizing the joint committee on Children, Families and Persons with Disabilities to make an investigation and study of certain current Senate documents relative to the use of behavioral modification (Senate, No. 2603);
By the same Senator, for the same committee, on Senate, Nos. 1083 and 1227, an Order relative to authorizing the joint committee on Children, Families and Persons with Disabilities to make an investigation and study of certain cur-rent Senate documents relative to disabilities (Senate, No. 2604);
By the same Senator, for the same committee, on Senate, Nos. 64, 105, 116 and 117, an Order relative to authorizing the joint committee on Children, Families and Persons with Disabilities to make an investigation and study of certain current Senate documents relative to disabilities (Senate, No. 2605);
By the same Senator, for the same committee, on Senate, Nos. 74, 77, 108 and 109, an Order relative to authorizing the joint committee on Children, Families and Persons with Disabilities to make an investigation and study of certain current Senate documents relative to children in the Common-wealth (Senate, No. 2608);
By Mr. Augustus, for the committee on Election Laws, on Senate, Nos. 437, 440, 441, 442, 443, 444, 447, 448, 449, 454, 456, 458, 459, 460, 461, 462, 463, 464, 465, 2243 and 2283, an Order relative to authorizing the joint committee on Election Laws to make an investigation and study of certain current Senate documents relative to voter participation and identification, campaign finance, election administration and related procedures (Senate, No. 2609) [Local approval received on Senate, No. 2283];
By Ms. Resor, for the committee on Environment, Natural Resources and Agriculture, on Senate, Nos. 468, 469, 486, 498 and 555, an Order relative to authorizing the joint committee on the Environment, Natural Resources and Agriculture to make an investigation and study of certain current Senate documents relative to environmental issues (Senate, No. 2595);
By Mr. Buoniconti, for the committee on Financial Services, on Senate, Nos. 569, 595, 618, 642, 643, 648 and 2185, an Order relative to authorizing the joint committee on Financial Services to make an investigation and study of certain current Senate documents relative to mandated benefits (Senate, No. 2606);
By the same Senator, for the same committee, on Senate, Nos. 590, 624 and 625, an Order relative to authorizing the joint committee on Financial Services to make an investigation and study of certain current senate documents relative to insurance (Senate, No. 2634);
By Mr. Moore, for the committee on Health Care Financing, on Senate, Nos. 1220, 1224 and 1331, an Order relative to authorizing the joint committee on Health Care Financing to make an investigation and study of certain current Senate documents relative to health-care (Senate, No. 2651);
By Mr. O'Leary, for the committee on Higher Education, on Senate, Nos. 315, 318, 709, 713, 716, 717, 725, 731, 734, 736, 738, 2009 and 2260 and House, Nos. 1174, 1182, 1194, 1195, 1196, 1199 and 3040, an Order relative to authorizing the joint committee on Higher Education to make an investigation and study of certain current Senate and House documents relative to financial aid at institutions of higher education (Senate, No. 2607);
By Ms. Candaras, for the committee on Mental Health and Substance Abuse, on Senate, Nos. 1117, 1118, 1127, 1128 and 1132, an Order relative to authorizing the joint committee on Mental Health and Substance Abuse to make an investigation and study of certain current Senate documents relative to mental health and substance abuse (Senate, No. 2597);
By Mr. Marzilli, for the committee on Tourism, Arts and Cultural Development, on Senate, No. 2001, an Order relative to

authorizing the joint committee on Tourism, Arts and Cultural Development to make an investigation and study of a certain current Senate document relative to tourism (Senate, No. 2592);
By Mr. Baddour, for the committee on Transportation, on Senate, No. 2031, 2040, 2074, 2086, 2088, 2089, 2092, 2093, 2094, 2103 and 2118, an Order relative to authorizing the joint committee on Transportation to make an investigation and study of certain current Senate documents relative to transportation (Senate, No. 2599);
By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 2564), an Order relative to authorizing the joint committee on Transportation to make an investigation and study of a certain current Senate document relative to transportation (Senate, No. 2656); and
By Mr. McGee, for the committee on Veterans and Federal Affairs, on Senate, Nos. 2139 and 2142, an Order relative to authorizing the joint committee on Veterans and Federal Affairs to make an investigation and study of certain current Senate documents relative to veterans and military affairs (Senate, No. 2611);
Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2008 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4684),— **Sections 1 to 10, 12 to 19, 21 and 27 were referred, in concurrence, to the House committee on Ways and Means. Sections 11 and 20 were referred, in concurrence, to the committee on the Judiciary.**

A Bill establishing a sick leave bank for Deborah A. Jones, an employee of the Department of Mental Retardation (House, No. 4928,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill establishing the Nantucket sewer act (House, No. 4213,— on Senate, No. 2249) [Local approval received on Senate, No. 2249],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**
There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at nineteen minutes before three o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Mr. Baddour) "congratulating the Pioneer League of Newburyport on the occasion of its fiftieth anniversary";
Resolutions (filed by Messrs Joyce, Augustus and Brewer, Ms. Fargo, Messrs. Galluccio, Moore, Pacheco and Panagiotakos, Ms. Spilka and Mr. Rosenberg) "congratulating the Massachusetts State Science & Engineering Fair on entering 60 years of operation";
Resolutions (filed by Messrs. Joyce, Brewer, Galluccio, Morrissey and Panagiotakos, Ms. Resor and Ms. Tucker) "congratulating the members of the Plumbing-Heating-Cooling Contractors Association on its one hundred and twenty-fifth anniversary."; and
Resolutions (filed by Messrs. Tarr and Baddour) "honoring Karen Helene Sarkisian on her retirement as Superintendent of Whittier Regional Vocational Technical High School."

Communication.

The Clerk read the following communication:—

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE. BOSTON 02133-1053

April 14, 2008.

Mr. William F. Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

On Thursday, April 10, 2008, 1 was unable to attend the Senate Session due to a family commitment. In my absence three roll call votes were taken. Please note that had I been present, I would have voted affirmatively on the following matters:

S-2630 An Act Relative to Bullying

H-4637 An Act Financing Improvements to the Commonwealth Transportation System

H-4185 An Act Authorizing the Conveyance of a Certain Parcel of Land in the City of Boston

I would appreciate if this could be printed in the Senate journal. Thank you.

Sincerely,
John a. Hart, Jr.,
State Senator.

On motion of Mr. Brewer, the above communication was ordered printed in the Journal of the Senate.

Orders of the Day.

The Orders of the Day were considered, as follows:—

The House Bill authorizing the town of Chatham to issue two additional licenses for all alcoholic beverages to be drunk on the premises (House, No. 4522),— **was read a second time and ordered to a third reading.**

The Senate Bill to promote cost containment, transparency and efficiency in the delivery of quality health care (Senate, No. 2650),— **was read a second time.**
Pending the question on ordering the bill to a third reading, Messrs. Tisei and Knapik moved that the bill be amended by inserting the following sections:—
"SECTION 57. Chapter 175 of the Massachusetts General Laws is hereby amended by the addition of the following new section:—
Section 193 V. Every insurer or risk management organization which provides insurance to a physician licensed under Chapter 112 of the Massachusetts General Laws shall make an annual report to the Betsy Lehman Center for Patient Safety and Medical Error Reduction established by Chapter 177 of the Acts of 2001. Said report shall list the top ten categories of losses, claims or actions for damage for personal injuries alleged to have been caused by error, omission or negligence in the performance by physicians of medical services the company incurred during the previous calendar year. Said report shall also identify the top ten defendant specialties as to cost and frequency of cases in the prior year. Where applicable, organizations shall include reports outlining losses and claims for non-physician health care providers as well. Reports shall include completed cases and settlements only and shall include no information identifying providers or patients. Reports shall be provided to the center at its request under annual timelines and reporting requirements established by the center with the input of the advisory committee established in Chapter 6A Section 16 E (C). The Center shall use this information in the development of evidence-based best practices to reduce medical errors and enhance patient safety as required by Chapter 6A Section 16 E (e) 1 to increase awareness of error prevention strategies through public and professional education as required by Chapter 6A Section 16E(e)4.
SECTION 58. Section 60G of Chapter 231. of the General Laws as appearing in 2000 official addition is amended by striking in lines 10 and 11 the following:— 'prior to the judgment' and adding in lines 12 and 27 after the word 'compensated' the following:—, replaceable, compensable or indemnifiable,.
SECTION 59. Chapter 231 of the General Laws is hereby amended by adding after section 60J, the following new section:—
Section 60K. In any action for malpractice, error or mistake 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 licensed pursuant to section 2 of Chapter 112.
SECTION 60. Chapter 231 of the General Laws is hereby amended by adding after section 60K, the following new section:—
Section 60L. In every action for malpractice, negligence, error, omission, mistake or the unauthorized rendering of professional services against a provider of health care where the court shall, at the request of either party, (a) Enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars ($50,000) in future damages. In entering a judgment ordering of the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages, the court shall require the defendant who is not adequately insured to post security adequate to assure full payment of such damages awarded by the

judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the defendant.
(b)(1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall only be subject to modification in the event of the death of the judgment creditor.
(2) In the event that the court finds that the defendant has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the defendant in contempt of court and, in addition to the required periodic payments, shall order the defendant to pay the plaintiff all damages caused by the failure to make such periodic payments, including court costs and attorney's fees.
(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the plaintiff, but shall be paid to persons to whom the plaintiff owed a duty of support, as provided by law, immediately prior to his death. In such cases the court which rendered the original judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision.
(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the defendant to make future payments shall cease and any security given, pursuant to section (a) shall revert to the defendant.
SECTION 61. Said chapter 231 is hereby amended by inserting after section 60L the following section:—
Section 60M. In any action for malpractice, negligence, error, omission, mistake or unauthorized rendering of professional services against a provider of health care, in which a verdict is rendered or a finding made or an order for judgment made for pecuniary damages for personal injuries to the plaintiff or for consequential damages, there shall be added by the clerk of the court to the amount of damages interest thereon, at a rate to be determined as set forth below rather than the rate specified in section 6B of chapter 231, from the date of the commencement of the action even though such interest brings the amount of the verdict or finding beyond the maximum liability imposed by law. For all judgments entered after the effective date of this act, the rate of interest to be applied by the clerk shall be at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System for the calendar week preceding the date of judgment. At no point shall the rate of interest established by this section exceed the rate of interest set forth in said section 6B of chapter 231.
SECTION 62. Chapter 231 of the General Laws is hereby amended by adding the following section:—
Section 60N. In any action for malpractice, error, omission, mistake or the unauthorized rendering of professional services against a provider of health care, the liability of each defendant for damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be rendered against that defendant for that amount.
SECTION 63. The General Laws are herby amended by inserting after section 79K of chapter 233 the following new section:—
Section 79L.
As used in this section the following terms shall have the following meaning
(1) 'Health Care Provider', means any of the following heath care professionals licensed pursuant to chapter 112:— a physician, podiatrist, physical therapist, occupational therapist, dentist, optometrist, nurse, nurse practitioner, chiropractor, psychologist, independent clinical social worker, speech-language pathologist, audiologist, marriage and family therapist and a mental health counselor. The term shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority, or other entity comprised of such health care providers.
'Facility', a hospital, clinic or nursing home licensed pursuant to chapter 111 or a home health agency. The term shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority, or other entity comprised of such facilities.
'Unanticipated outcome' means the outcome of a medical treatment or procedure, whether or not resulting from an intentional act, that differs from an intended result of such medical treatment or procedure.
(2) In any claim, complaint or civil action brought by or on behalf of a patient allegedly experiencing an unanticipated outcome of medical care, any and all statements, affirmations, gestures, activities or conduct expressing benevolence, regret, apology, sympathy, commiseration, condolence, compassion, mistake, error, or a general sense of concern which are made by a health care provider, facility or an employee or agent of a health care provider or facility, to the patient, a relative of the patient, or a representative of the patient and which relate to the unanticipated outcome shall be inadmissible as evidence in any judicial or administrative proceeding and shall not constitute an admission of liability or an admission against interest."
Mr. Rosenberg in the Chair, after debate, the question on adoption of the amendment was determined by a call of the yeas and nays at seventeen minutes past four o'clock P.M., on motion of Mr. Knapik, as follows, to wit *(yeas 6 — nays 33)* **[Yeas and Nays No. 203]:**

YEAS.	
Brown, Scott P.	O'Leary, Robert A.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. **— 6.**

NAYS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petruccelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Timilty, James E.
Galluccio, Anthony D.	Tolman, Steven A.
Hart, John A., Jr.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — **33.**
Marzilli, Jim	

The yeas and nays having been completed at twenty-one minutes past four o'clock P.M., the amendment was rejected.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting the following section: —

"SECTION 57. Section l of chapter 11 IL, as added by section 12 of chapter 58 of the acts of 2006, is hereby amended by inserting at the end of the definition of the term 'Creditable coverage' the following words:— 'Minimum creditable coverage', as defined by the board under the authority granted herein, shall not require, in the case of individuals subject to section 2 of chapter 58 of the acts of 2006, coverage for prescription drugs."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-nine minutes before five o'clock P.M., on motion of Mr. Tisei, as follows, to wit *(yeas 5 — nays 34)* **[Yeas and Nays No. 204]:**

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. **—5.**
Knapik, Michael R.	
NAYS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.

Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petruccelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — **34.**

The yeas and nays having been completed at twenty-five minutes before five o'clock P.M., the amendment was rejected.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by adding the following new section:—

"The Secretary of Administration and Finance and the Secretary of Health and Human services are hereby authorized and directed to 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 and/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 and/or abuse.
The Secretary of Administration and Finance shall report 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, to the clerks of the house and senate, the chairs of the joint committee on health care financing, and the chair of the house committee on ways and means and the chair of the senate committee on ways and means no later than October 31, 2008.
After remarks, the amendment was rejected.

Ms. Jehlen moved that the bill be amended by inserting at the end the following text:—
"Section____. The Executive Office of Health and Human Services shall establish a task force to make recommendations on the feasibility of integrating the Medicaid and Medicare patient classification systems used for nursing facility care for the purpose of reducing redundancy. The task force shall include, but not be limited to, representatives from the Office of MassHealth, Executive Office of Elder Affairs, the Massachusetts Extended Care Federation, MassAging, Massachusetts Chapter of the American College of Health Care Administrators, Massachusetts Medical Directors Association, and Massachusetts Association of Directors of Nursing Administration. The task force shall submit a report of its findings to the Joint Committee on Ways and Means by June 30, 2009."
The amendment was rejected.

Mr. Tolman, Ms. Candaras and Mr. Tisei moved that the bill be amended by striking out section 28 and inserting in place thereof the following new section:—
"SECTION 28. Notwithstanding any general or special law to the contrary, the center for primary care recruitment and placement established under section 12 in consultation with the board of higher education and the executive office of health and human services, shall, subject to appropriation, establish a primary care workforce development and loan forgiveness grant program at

community health centers, community hospitals and other facilities in target areas, as determined by the center pursuant to section 25L of chapter 111 of the General Laws, for the purpose of enhancing the recruitment and retention of primary care physicians and nurse practitioners authorized to practice pursuant to section 80B of chapter 112 of the General Laws. Recruitment and placement will focus on the practice of primary care, but at the discretion of the center may also include geriatric health services, obstetrics and gynecology, psychiatry, and neurosurgery. Loan forgiveness programs or zero interest loan programs or other forms of assistance utilizing public funds, in whole or in part, shall require each medical or nursing student recipient to enter into a contract with the Commonwealth as a primary care fellow which shall obligate the recipient to perform a term of service determined by the center within the Commonwealth in areas of primary care, geriatric health services, obstetrics and gynecology, psychiatry, or neurosurgery."
The amendment was adopted.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended in section 9, by striking subsection 6D(f) and inserting in place thereof the following:—
"The institute shall not make a grant under this section unless the recipient organization agrees to use the grant to:— (1) redesign care processes; (2) utilize care management techniques; (3) develop and implement an electronic health record system or develop and implement a computerized physician order entry system; and (4) begin implementation of the plan not later than the beginning of the second year of the grant."
The amendment was rejected.

Ms. Jehlen moved that the bill be amended in line 746 by striking the word "premiums" and inserting in place thereof the following words:— "revenue generated".
The amendment was rejected.

Mr. Buoniconti moved that the bill be amended by striking out section 16 and section 22 in their entirety.
The amendment was rejected.

Mr. Tarr moves to amend the bill by striking section 38 and inserting in place thereof the following section:—
"SECTION 38. The department of public health shall, not later than July 1, 2009, establish a registry of exemptions granted by the department pursuant to section 6 of chapter 350 of the acts of 1993 and the department's regulations to any person who filed with the department by December 23, 1993, a notice of intent to acquire medical, diagnostic or therapeutic equipment used to provide an innovative service or which is a new technology, as defined in section 25B of chapter 111 of the General Laws. Registered exemptions shall be nontransferable. After July 1, 2009, all exemptions qualifying for this registry that have not been registered with the department shall be void. Holders of registered exemptions for medical, diagnostic or therapeutic equipment not placed in regular service by July 1, 2010, shall, upon application, be eligible for an expedited determination of need process, as determined by the department. Exemptions granted by the department under said section 6 of said chapter 350 and the department's regulations to any person who filed with the department, by December 23, 1993, a notice of intent to acquire medical, diagnostic or therapeutic equipment used to provide an innovative service or which is a new technology shall expire on July 1, 2011, unless:— (i) the equipment for which the exemption was granted has been placed in regular service by July 1, 2010; or (ii) an application for an expedited determination of need was filed by the holder of a registered exemption by July 1, 2010 and is still pending; or (iii) the holder of a registered exemption subsequently uses it to acquire medical, diagnostic or therapeutic equipment in conjunction with a hospital, a hospital affiliate or a constituent of a hospital system."
The amendment was rejected.

Mr. Downing moved that the bill be amended by adding after section 56, the following section:—
"SECTION XX. "The division of health care finance and policy shall promulgate rules and regulations that create a new nursing facility class to be defined as follows:—
Class V. Facilities that:—
(a) are non-profit;
(b) have 100 or fewer licensed beds;
(c) were established and licensed in Massachusetts prior to the enactment of the Health Insurance for the Aged Act, Pub. L. 89-97, Title 79 Stat. 290, and the Medicaid Act, Pub. 89-97, Title I section 121(a), 79 Stat. 343, on July 30, 1965; and
(d) are located in Berkshire County;
(e) do not participate in the Medicaid program."
The amendment was rejected.

Mr. Morrissey moved that the bill be amended, in section 9, by inserting after the words "significant number of persons in underserved populations", in line 249 of subsection C of chapter 40J, the following words:— 'and also with a particular focus on community hospitals.';
In said section, by inserting at the end of the paragraph, in line 245 of subsection e, the following:— and with priority given to community hospitals.; and
In section 35 by inserting at the end of the paragraph, in line 1161 of chapter 268C, the following:— and provided further that any state funds that are made available to hospitals for the purpose of implementing said systems shall be awarded with first

priority to community hospitals.
The amendment was rejected.

Ms. Tucker moved that the bill be amended by inserting after section 17 the following section:—
"SECTION 17A. Said chapter 112 is hereby further amended by inserting after section 39C the following section:—
Section 39D. Stores or pharmacies engaged in the drug business, as defined in section 37, shall be mandatory reporters required to inform the department of public health of any improper dispensing of prescription drugs resulting in serious injury or death, as soon as is reasonably and practically possible, but not later than 15 working days after discovery of the error."
The amendment was adopted.

Mr. Galluccio moved that the bill be amended, in section 9, by inserting, after the word "providers", in line 228, the following words:— ", independent clinical laboratories".
The amendment was rejected.

Mr. Galluccio moved that the bill be amended, in section 5, by inserting, after the word "entry", in line 78, die following words:— ", interface of electronic medical records with chronic disease registry reporting"; and in section 9, by inserting, after the word "populations", in line 249, the following words:— "and shall incorporate into each plan a statewide registry of chronic diseases to track treatment and outcome".
The amendment was rejected.

Mr. O'Leary moved that the bill be amended in section 9 as follows:—
1n Subsection (c), by inserting after the clause "significant number of persons in underserved populations" the following:— "and also with a particular focus on community hospitals,";
In Subsection (e), by inserting at the end thereof the following: "and with priority given to community hospitals."; and
In Section 35, by inserting at the end of said section the following:— "and provided further that any state funds that are made available to hospitals for the purpose of implementing said systems shall be awarded with first priority to community hospitals."
The amendment was rejected.

Ms. Chandler moved that the bill be amended, in section 4, by striking out, in line 30, the figure "7"and inserting in place thereof the following figure:— "8"; and by inserting after the word "insti-tution", in line 38, the following words:— "1 of whom shall be a representative of the Massachusetts Medical Society or in the alternative 1 of whom shall be an actively practicing physician licensed pursuant to section 5 of Chapter 112."
The amendment was rejected.

Mr. Baddour moved that the bill be amended by striking Section 8 and inserting in place thereof the following new section:—
"SECTION 8. Chapter 26 of the General Laws is hereby amended by inserting after section 8J the following section:—
"Section 8K. (a) As used in this section, an insurer shall be defined as a carrier authorized to transact accident and health insurance under chapter 175, a nonprofit hospital service corporation licensed under chapter 176A, a nonprofit medical service corporation licensed under chapter 176B, a dental service corporation organized under chapter 176E, an optometric service corporation organized under chapter 176F and a health maintenance organization licensed under chapter 176G.
(b) Notwithstanding any general or special law to the contrary, all insurers marketing small group or large group plans shall annually submit to the division of insurance, on or before April 1, the following information: current average individual and family plan premiums for the insurers' prototype or alternative prototype plan, as defined in section 1 of chapter 176S, for groups of 1 to 5 employees, 6 to 10 employees, 11 to 25 employees, 26 to 50 employees, 51 to 100 employees, 101 to 500 employees, 501 to 1000 employees, 1001 to 2500 employees, 2501 to 5000 employees and 5001 employees and above. Public employer plans shall be similarly aggregated and reported separately. All reports shall include plan design summaries, including average benefits and co-pays.
(c) The division of insurance shall on or before April 1 annually compile through confidential surveys, division filings and other means, average individual and family plan costs for ERISA exempt self-insured health plans operating in the Commonwealth using the most commonly offered plan design.
(d) The division of insurance and the division of health care finance and policy shall collaborate on or before April 1 to annually compile through confidential surveys, division filings and other means, a list of all the state mandated health benefits and the percentages to which ERISA exempt self-insured health plans operating in the Commonwealth include each mandated benefit within each health plan offered to or administered on behalf of residents in the Commonwealth.
(e) On or before July 1 of each year, the division of insurance and the division of health care finance and policy shall annually make available the Massachusetts Health Insurance Transparency Report for consumer and employer use. The report shall be compiled using data collected under this section in the preceding year and shall include the average premium cost results from subsection (b) by insurer, employer size and category and by insurer's prototype or alternative prototype plan, as defined in section 1 of chapter 176S. Results from subsection (c) shall be reported in aggregate form."
The amendment was adopted.

Ms. Chandler moved that the bill be amended by adding at the end thereof the following:—

“Section XX. All pharmaceutical solid oral dosage forms packaged in either conventional or unconventional blister cards that have been dispensed but remain whole or partially used and have not been in contact with patients are subject to reclamation and re-use, a formalized process in which unused medication is repackaged and re-dispensed for the purpose of minimizing waste and reducing inventory costs. The medication lot numbers and other identifiers of re-packaged medications remain the same. This section shall apply to all state agencies and departments that distribute medication. The Department of Public Health shall oversee this process.”
The amendment was rejected.

Ms. Chandler moved that the bill be amended by adding the following additional sections:—
“SECTION XX. Chapter 175 of the General Laws is hereby amended by inserting after section 47U, inserted by section 8 of chapter 141 of the acts of 2000, the following section:—
Section 47V. 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 benefit 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 to services rendered by a physician assistant certified by the board of registration of physician assistant pursuant to the provisions of section 9F of chapter 112; provided, however, that the following conditions are met:— (1) the service rendered is within the scope of practice of physician assistants pursuant to section 9E of said chapter 112; (2) such service is provided incompliance with all other requirements of law, including a formal supervisory arrangement with a physician as provided for by said section 9E (3) the policy or contract provides benefits for such service if rendered by a registered physician in the Commonwealth. No such individual or group accident or health insurance policy of health service contract shall deny payment for such services solely on the basis that the service was provided by a physician assistant;
Section XX. Chapter 176A of the General Laws is hereby amended by inserting after section 8U, inserted by section 14 of chapter 141 of the acts of 2000, the following section:—
Section 8V. Any contract or subscription certificate between an insured and the corporation shall provide benefits for services rendered by a physician assistant certified by the board of registration of physician assistants pursuant to the provisions of section 9F of chapter 112; provided, however, that the following conditions are met:— (1) the service rendered is within the scope of practice of physician assistants pursuant to section 9E of said chapter112; (2) such service is provided in compliance with all other requirements of law, including a formal supervisory arrangement with a physician as provided for by said section 9E; and (3) the contract or subscription certificate provided benefits for such service if rendered by a registered physician in the Commonwealth. No such contract or subscription certificate shall deny payment for such services solely on the basis that the service was provided by a physician assistant;
Section XX. Chapter 176B of the General Laws is hereby amended by inserting after section 4U, inserted by section 15 of chapter 141 of the acts of 2000, the following section:—
Section 4V. Any contract or subscription certificate between an insured and the corporation shall provide benefits for services rendered by a physician assistant, certified by the board of registration of physician assistants pursuant to the provisions of section 9F of chapter 112; provided, however, that the following conditions are met:— (1) the service rendered is within the scope of practice of physician assistants pursuant to section 9E of said chapter 12; (2) such service is provided in compliance with all other requirements of law, including a formal supervisory arrangement with a physician as provided for by said section 9E; and (3) the contract or subscription certificate provides benefits for such service if rendered by a registered physician in the Commonwealth. No such contract of subscription certificate shall deny payment for such services solely on the basis that the service was provided by a physician assistant;
Section XX. The first paragraph of section 4 of chapter 176G of the General Laws is hereby amended by adding the following sentence:—
Such health maintenance contract shall also provide coverage for the services rendered by a certified registered physician assistant, as set forth in section 47V of chapter 175, subject to the provisions of said section.”
The amendment was rejected.

Ms. Fargo moved that the bill be amended by inserting at the end thereof the following sections:—
“SECTION 57. Section 16L of chapter 6A, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first paragraph in subsection (a) the following paragraph:—
The council shall annually review the policies related to the rating and tiering of physicians of the Group Insurance Commission to ensure that such policies are fair, just and non-discriminatory to physicians, insurers and consumers. On or before August 1 of each year, the Group Insurance Commission shall submit its proposed rating and tiering physician policies, for establishment and use in the next calendar year, to the council for review and approval. The Group Insurance Commission as part of its submission shall provide information related to the appeals process for rated or tiered physicians who are aggrieved by such ranking. In the review of such policies, the council shall take into account any applicable and creditable nationally recognized standards and guidelines related to such proposed policies, and shall conduct a public hearing on such proposal prior to any approval. The Group Insurance Commission shall implement such policies as approved for the calendar year intended, and no modification shall be permitted for such year without the permission by the council. In the event such proposed policies are not approved by the council 120 days from the date of submission for review, the Group Insurance Commission may use in the next calendar year, the ranking and tiering physician policy in effect on the date of such submission.
SECTION 58. Section 57 shall take effect on January 1, 2009.”

The amendment was rejected.

Ms. Chandler moved that the bill be amended, in section 9, line 152, by inserting after the word “statewide”, the following word:— “secure,”; in section 9, line 173, by inserting after the words “teaching hospital”, the following words:— “, an expert in health information privacy and security”; in section 9, line 222, by inserting after the words “following areas:”, the following words:— “health information privacy and security,”; in section 9, by striking subsection (h) and inserting in place thereof the following subsection:—

“(h) Any health information network funded in whole or in part under this section shall:— (1) be required to establish within the system a mechanism to allow patients to opt-in to the health information network as well as opt-out at any time; (2) comply with any applicable regulatory privacy protections; (3) upon request, provide individuals with a list of individuals and entities who have accessed their identifiable health information and what identifiable health information about them is made available through the health information network; (4) develop and distribute, to authorized users of the health information network and to prospective network patient participants, written guidelines addressing privacy, confidentiality and security of health information and inform individuals of what information about them is available, who has access, and for what purposes their information can be accessed, and shall implement a training program regarding such guidelines for all persons who acquire, use, disclose or store identifiable health information to ensure compliance with such policies; and (5) shall undertake continuous review and assessment of security standards and conduct periodic audits of all security systems for potential and actual security breaches.”; and in section 9, line 303, by inserting after the word “notice” the following words:— “as defined in section 1 of chapter 93H of the General Laws,”.

The amendment was adopted.

Ms. Jehlen and Ms. Candaras moved that the bill be amended by inserting at the end the following text:—

“Notwithstanding any general or special laws to the contrary, there shall be a special commission established to examine the Commonwealth’s institutional long term care system, which shall recommend a plan to provide a seamless transition to a continuum of long term care services for elders and persons with disabilities that recognizes the central place of consumer choice and consumer control in any long term care setting; evaluate options and prepare policy recommendations regarding potential savings to the commonwealth achieved by reducing the number of MassHealth licensed nursing home beds; develop recommendations as to the criteria to be used to determine which beds are de-licensed, provided that said criteria shall include at a minimum established Quality Indicators and other quality measures, such as staffing levels, turnover rate and training options for direct care staff; and to consider any programmatic or financial incentives to reduce the number of nursing home beds, convert said beds to subacute beds or other uses, or otherwise more efficiently use the institutional long term care facilities in the Commonwealth. The commission shall examine the eligibility requirements, services, and costs for each state-funded long term care program, including but not limited to nursing homes, assisted living, group adult foster care, rest homes, home care programs, and managed care dual eligible programs; and to make recommendations for organizing the continuum of long term care in a cost-effective way.

The commission shall consist of 17 members, 1 of whom shall be the secretary of health and human services or his designee, 1 of whom shall be the secretary of elder affairs or her designee, 1 of whom shall be the director of the office of Medicaid or her designee, 1 of whom shall be the Attorney General or her designee, 1 of whom shall be the Auditor or his designee, 1 of whom shall be the house chair of the joint committee on elder affairs, 1 of whom shall be the senate chair of the joint committee on elder affairs, 1 of whom shall be the senate chair of the joint committee on health care financing, 1 of whom shall be the house chair of the joint committee on health care financing, 1 of whom shall be a consumers or consumer surrogates member of the PCA quality home care workforce council approved by a majority of the Council, and 5 persons to be appointed by the governor, 1 of whom shall be a health care economist, 1 of whom shall be a representative of 1199SEIU, 1 of whom shall be a representative of the Statewide Independent Living Council, 1 of whom shall be a representative of the Massachusetts Extended Care Federation, 1 of whom shall be a representative of Mass Home Care, and 1 of whom shall be a representative of the Mass Alzheimers Association. The commission shall be co-chaired by the senate and house chairs of the _joint committee on elder affairs.

The commission shall meet within 30 days of passage, and not less than quarterly thereafter, and shall release its first recommendations to the house and senate committees on ways and means no later than December 31, 2008.”

The amendment was rejected.

Ms. Jehlen and Messrs. Marzilli and Galluccio moved that the bill be amended, in line 30 of section 4, by striking out the figure “7” and inserting in place thereof the figure “8”; in line 39 of said section 4, by adding after the words “health insurance” the following words:— “and 1 of whom shall be a health care consumer representative”; in line 172 of section 9, by adding after the words “health technology company” the following words:— “a consumer representative, a health privacy expert”; and in line 230 of section 9, by adding after the word “institutions” the following words:— “consumer advocacy organizations with an interest in healthcare, health privacy experts”

After remarks, the amendment was rejected.

Messrs. Baddour and Knapik moved that the bill be amended by striking out Section 26.

The amendment was rejected.

Mr. Brown moved that the bill be amended by inserting the following section:—
"SECTION 57. Section 5A of chapter 112 of the General Laws is hereby amended by inserting the following section:— Notwithstanding any general or specific law to the contrary, the board shall revoke the registration of a registered physician if convicted of three separate cases of medical malpractice."
The amendment was rejected.

Messrs. O'Leary, Galluccio and Marzilli moved that the bill be amended by striking section 27 and inserting in its place the following section: —
"Section 27. The trustees of the university of Massachusetts medical school shall develop a plan to expand the medical school by at least sixteen seats. The trustees shall submit said plan to the joint committee on higher education, the joint committee on health care financing, the senate committee on ways and means and the house committee on ways and means by December 1, 2008. The plan shall include an additional sixteen student seats per class year to be designated as participants in the university of Massachusetts medical corps.
There shall be a university of Massachusetts medical corps established and administered by the board of trustees of the university of Massachusetts, to be referred to as the corps herein. Participation in the corps shall be limited to sixteen students in each class. Students shall be selected for participation through a competitive process governed by guidelines to be set by the university board of trustees. Once selected to participate in the corps students remain eligible to participate for up co four years. Each year of participation in the corps shall garner the student a twenty thousand dollar stipend, to aid in the coverage of cost living while attending medical school, as well as enhanced training in the area of primary care. Furthermore, each year of participation in the corps shall commit the student to a year of service as a primary care physician in an underserved area of the Commonwealth. Underserved areas will be identified by the board of trustees in conjunction with the state health education center at the university of Massachusetts medical center. Should a participant in the corps choose to leave the program before its completion they may be replaced by another member of their class year, but they shall be expected to complete the service requirements for each year they participated in the corps. Failure to meet the service requirement following the completion of degree requirements would result in the student being charged two and one half times the amount of the stipend. The board of trustees of the University of Massachusetts, in conjunction with the state health education center at the university of Massachusetts medical center, shall develop and implement provisions for payback of the corps stipends. No payback service or stipend repayment shall be required prior to the termination of any internship and residency requirements."
Mr. Tarr moved that the question on adoption of the amendment be determined by a call of the yeas and the nays.
An insufficient number of members joining with him, the yeas and nays were not ordered.
After further debate, the amendment was rejected.

Messrs. O'Leary and Galluccio moved that the bill be amended, in section 5(s) by inserting after the words "and any penalties for failure to attain said goals" the following words:— "The council shall establish a method through which pharmacies and pharmaceutical distribution companies that are doing business in the Commonwealth shall make available the computerized medication profile of any pharmacy customer to the customer's treating physicians and primary care providers upon request. Such a profile shall include at least: a list of current medications, dose, date of most recent prescriptions, quantity of medications dispensed, and identification of any known drug allergy. This data must be available 24 hours a day, 7 days a week. A hard or faxed copy of a patient's profile may be requested of the pharmacy by a physician during regular business hours."
After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute past five o'clock P.M., on motion of Mr. Hedlund, as follows, to wit *(yeas 6 — nays 32)* **[Yeas and Nays No. 205]:**

YEAS.	
Brown, Scott P.	O'Leary, Robert A.
Hedlund, Robert L.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — **6.**
NAYS.	
Antonioni, Robert A.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Buoniconti, Stephen J.	Morrissey, Michael W.

Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petruccelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne **— 32.**
ABSENT OR NOT VOTING.	
Augustus, Edward M., Jr. **— 1.**	

The yeas and nays having been completed at six minutes past five o'clock P.M., the amendment was rejected.

Ms. Chandler moved that the bill be amended by adding at the end thereof the following section:—
"SECTION XX. Section 16L of chapter 6A of the General Laws is hereby amended, in subsection (1), by inserting after the words "Trust Funds", the following words:— "geographically representative Independent Practice Association medical directors coordinated through the Massachusetts Medical Society,"
After remarks, the amendment was adopted.

Mr. Buoniconti moved that the bill be amended, in section 3 by striking the following:—
"Serious disability", an event that results in death, loss of a body part, physical disability or loss of bodily function lasting at least 7 days or occurring at the time of discharge from an inpatient health care facility.; and
In section 6 by striking in line 106 the words "procedures; and (iv) resulted in a serious disability." and replacing it with the following:— "procedures."
After remarks, the amendment was adopted.
Mr. Tarr moved that the bill be amended in section 19, by adding at the end the following subsection:—
"(e) In the event that information is not covered by the coding sets adopted by the systems listed in subsection (a) of this section, codes shall be assigned pursuant to the following system:—
"The Commissioner of the Division of Insurance is hereby authorized and directed in consultation with the Commissioner of the Department of Public Health, the Secretary of Health and Human Services, the Commissioner of the Department of Medical Security, the Commissioner of the Department of Consumer Affairs and Business Regulation and the Secretary of Administration and Finance, to develop a system of uniform and standardized billing and payment to be utilized by every medical provider, hospital, insurer, health maintenance organization and any other entity making payment of any type for health care goods or services of any type in the Commonwealth.
(I) Not later than sixty days following the passage of this act, said commissioner shall convene a planning group to assist in the development of said uniform payment system, hereinafter referred to as "UPS." Said planning group shall be comprised of those individuals listed in Section 1 of this Act or their designee, together with the following: Three representatives of the Massachusetts Hospital Association, one of which shall represent a community hospital; one representative of a Health Maintenance Organization doing business in the Commonwealth, one of which shall represent a commercial insurer doing business in the Commonwealth, one representative of the Commonwealth's insurer of last resort, one representative of a preferred provider organization doing business in the Commonwealth, one representative of the Massachusetts Nurses Association, three representatives of the Massachusetts Medical Society, three members of the Senate, at least one of whom shall represent the minority party, and three members of the House of Representatives, at least one of whom shall represent the minority party. Said planning group shall, in the discretion of the Commissioner, assist in the development and implementation of

a UPS having the characteristics prescribed by Subsection 2 of this section.
(2) The UPS developed pursuant to this act shall employ a single, standardized format for the making and payment of claims between any provider and any payer of health care goods and services rendered to any citizen of the commonwealth. Said system shall include, but not be limited to, a universal format for the identification by code of particular conditions, treatments and goods, which format shall be maintained by any entity, including Medicaid, which delivers a contract for the payment of health care costs in the commonwealth. Said format shall be designed so as to be usable in electronic or printed media, shall be simplified and straightforward, shall be expendable to cover future health care developments, shall be modifiable to adapt to any changing circumstances, shall facilitate the timely making, processing, and payment of claims, and shall be commercially practicable.
(3) Said UPS shall provide for the prompt notification of a claimant by a payer that a claim has been received, and that the information necessary to process the claim is either complete or incomplete.
(a) In the event that the claim is incomplete, then such notification shall include any and all remaining information necessary to the payment of the claim. Such information shall, in turn, be provided on a supplementary claim form which shall bear its date of submission, which shall not be later than thirty days after the original notification of the receipt of the claim. Payment shall be issued by the payer not later than forty-five days following the receipt of the supplementary claim form.
(b) In the event that all claim information is complete, then payment shall be issued within forty-five days.
(c) The planning group prescribed in subsection (1) shall be authorized to develop the specific details of this notification process, including any appeals and further allowances for defective claim information.
(4) Said UPS shall be developed in a state suitable for implementation and reported to the Clerks of the House and Senate and to the Governor of the Commonwealth not later than eighteen months following the passage of this act.
Following said reporting, the General Court shall have ninety days to make recommendations to the Commissioner, or take legislative action to delay implementation of said UPS.
(5) Not later than twenty-four months following the passage of this act, the Commissioner shall implement the UPS developed pursuant to the provisions herein, unless otherwise directed by the General Court.
(6) The Commission shall maintain the planning group prescribed by subsection 1 for the purposes of monitoring the implementation of the UPS developed herein making recommendations to the commissioner for any necessary changes to enhance or maintain the effectiveness of the UPS, and to assist in the issuance of reports relative to the UPS prescribed by subsection 6 of this section.
(7) The Commissioner shall, for the three year period commencing upon the implementation of the LIPS, issue quarterly reports relative to the operating effectiveness of the UPS, which shall include, but not be limited to:—
1. The costs of implementation and operation of the system, both to the private and public sectors.
2. Problems or difficulties encountered in implementing or operating the system.
3. Public comment received relative to the system, either in actual or summary format.
4. Average time periods for the making and payment of claims under the UPS.
5. Any legislative recommendations.
Said reports shall be delivered to the Clerks of the House and Senate and the Governor of the Commonwealth.
(8) Any insurer licensed by the Division of Insurance, or any health care provider practicing in the Commonwealth may, in a written form approved and promulgated by the Commissioner, petition for a change in the UPS, which shall be considered in a timely fashion by the Commissioner.
Said Commissioner shall conduct a public hearing to receive public comment, in person and in writing, within ninety days of receiving said petition, and shall issue a ruling on the proposed change within thirty days of the conclusion of said hearing. The Commissioner may, within his or her discretion, consolidate said hearings for the purpose of promoting efficiency. Any changes so approved shall be implemented in the next semi-annual modification period following the ruling.
(9) The Commissioner shall establish two semi-annual modification dates whereby any changes to the UPS shall be implemented. The Commissioner is hereby authorized to develop regulations pursuant to this act to ensure that adequate notice is given of any such changes, and that prompt compliance is accomplished with regard to such changes."
The amendment was rejected.

Mr. Moore moved that the bill be amended in section 9, by striking out the words "department of public health council" in line 266 and inserting in place thereof the following: — "commissioner of public health";
In Section 9 by striking the subsections (e) and (f) of the proposed Section 6D and inserting in place thereof the following: —
(e) In awarding grants, which are to be distributed from the e-Health Institute Fund, not more than $25,000,000 annually shall be allocated to implement the objectives and priorities of this section and of the e-health plan in a manner that is equitable across all geographic regions of the Commonwealth, including the central area, the greater Boston area, the northeast area, the southeast area and the western area, based on an allocation plan that the institute will prepare annually and submit, prior to awarding grants under this subsection, for approval of the joint committee on health care financing, provided that if the committee does not act upon such plan within 30 days of its receipt the plan shall be deemed to be approved.
(f) In making grants under this section to health services providers or to health plans, the institute shall receive assurances from the recipient that such grant will be used to:— (1) redesign care processes; (2) utilize care management techniques; (3) develop and implement an electronic health record system; and (4) begin implementation of the plan not later than the beginning of the second year of the grant.;
In section 9 by striking the subsections (1) of the proposed Section 6D and inserting in place thereof the following:—

(1) No databases developed with funds made available under this section and to be used for research or to support reporting provider-specific health information required for the calculation of any voluntary consensus standard endorsed by the National Quality Forum shall contain individually identifiable patient health information.;
In section 9 by inserting after the phrase “notwithstanding said section 3 and” in line 238 the following:— “the provisions of”, and is hereby further amendment by inserting after the word “proceedings” in line 244 the following:— “; and provided further, that no member shall be deemed to violate section 4 of said chapter 268A because of his receipt of usual and regular compensation from his employer for periods of time during which the member participates in the activities of the advisory committee.”; and
In section 9 by inserting in subsection (j) at the end thereof in line 310 the following:—
“Any materials containing information received by the collaborative in connection with the procurement, performance and evaluation of contracts, including grants, under this section shall not constitute public records to the extent that such information constitutes a private party’s trade secret, proprietary commercial or financial information or strategically sensitive information. Notwithstanding the foregoing, all materials created or received by the collaborative shall be open to inspection by the state auditor and the inspector general.
After remarks, the amendment was adopted.

Mr. Tarr moved that the bill be amended by adding at the end the following section:—
“SECTION XX. Notwithstanding any general or special law to the contrary, the quality cost control commission shall study the potential utilization of statutory or regulatory loss ratios as a means of reducing and controlling administrative costs of health care in the Commonwealth.
Said study shall include, but not be limited to, an examination of the use of such loss ratios in other states and their application to other types of insurance and services, the feasibility and potential advantages and disadvantages of the utilization of such a system in the Commonwealth, and any recommended ratios for use in such a system.
The commission shall report its findings, together with any legislative recommendations, no later than one year following the passage of this act.”
The amendment was rejected.

Mr. Moore moved that the bill be amended by adding the following section.
“SECTION____. Notwithstanding the provisions of any other general or special law to the contrary, the division of health care finance and policy within the executive office of health and human services in cooperation with the Betsy Lehman Center for Patient Safety and the Reduction of Medical Errors and the Massachusetts Commission on End of Life Care shall convene an expert panel on quality and cost of end of life care for patients with serious chronic illness. Said expert panel shall make an investigation and study of the health care delivery for this population and the variations in delivery of such care among health care providers in the Commonwealth including, but not limited to, the report and findings of the Dartmouth Atlas of Health Care 2008 entitled `”Tracking the Care of Patients with Severe Chronic Illness.” For the purposes of this investigation and study, “health care providers,” shall mean those facilities and health care professionals licensed to provide acute inpatient hospital care, outpatient services, skilled nursing, rehabilitation and long-term hospital care, home health care and hospice services. Said expert panel shall present recommendations for legislation, regulation and policies based upon scientific evidence that identify best practices that should constitute the generally accepted standard of care for end of life care for patients with serious chronic illness and that minimize the care delivery disparities and chance variations in practice or spending among different geographic regions and different hospitals that cannot be explained on the basis of illness, strong scientific evidence, or well-informed patient preferences; and provided, further, that said expert panel shall consider the development of an evidence-based physician education program for treating patients with serious chronic illness relative to such factors as how often to see a patient, how to coordinate care among providers utilizing a single shared electronic health record or communication standards that ensure complete and reliable sharing of information among physicians and institutional providers, when to refer a patient to a specialist, when to admit a patient to a license health care facility, especially to an intensive care unit, when to order use of imaging equipment, and the need for adherence to well-informed patient preference expressed through advance directive such as “do-not-resuscitate” orders, designated health care proxy, and “living will” documents. Said expert panel shall make recommendations relative to the adoption by health care providers in the Commonwealth of practice patterns observed in those regions of the United States considered to be the most efficient in delivery of care to those with serious chronic illness; steps to encourage physician groups and hospitals to be accountable for the coordination, overall costs, and quality of care of patients with serious chronic illness; and what incentives could be established that organize, finance, and promote such adoption. In addition, said report shall address the informational needs that would make end of life practice patterns transparent to enable patients and families to identify providers whose care patterns correspond more closely to their preferences.”
The amendment was adopted.

Mr. Baddour moved that the bill be amended by inserting after section 4 the following section:—
“SECTION 4A. Section 16L of said chapter 6A, as so appearing, is hereby amended by inserting after the word ‘Business’, in lines 144 and 145, the following words:— , 1 member representing the Retailers Association of Massachusetts.”
After remarks, the amendment was adopted.

Mr. Baddour moved that the bill be amended by adding the following new section:—

"SECTION XX. Notwithstanding any general or special law or regulation to the contrary, the department of public health shall, in recognition of the successful comparative outcomes from the MASS COMM Percutaneous Coronary Intervention (PCI) trial between hospitals with cardiac surgery-on-site and 'community hospitals' without surgery-on-site, move these community hospitals from the MASS COMM trial to registry oversight, recording outcome data to the Mass-DAC registry by September 1, 2008."
After remarks, the amendment was adopted.

Mr. Antonioni moves to amend the bill, in section 21, line 596, by inserting after the words "payment systems" the following words:— "the policies in which hospitals seek payment from consumers;"; and in line 612, by inserting after the words "containment efforts" the following words:— "recommendations for regulations for the due diligence that facilities must conduct to collect payment from consumers before seeking reimbursement from the Commonwealth;".
After remarks, the amendment was adopted.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting the 'following section: —
"The group insurance commission, in consultation with the division of insurance, shall investigate and make findings regarding the establishment of an additional class of health insurance plans for persons in service of the Commonwealth pursuant to chapter 32A, in addition to individual and family plans, to provide coverage to married couples without any additional dependents. Included in said investigations shall be an analysis on the cost or impact on existing plans, the anticipated administrative costs to such offerings as well as the anticipated cost to potential participants and any anticipated savings or reduction in premium costs for the both the Commonwealth and potential participants. The commission shall, together with its findings, make recommendations for any legislative changes necessary to permit the offering of such plans, if applicable. Said findings shall be submitted to the house and senate clerks, the chairs of the joint committee on healthcare financing, the chair of the house committee on ways and means and the chair of the senate committee on ways and means not later than December 31, 2008."
The amendment was adopted.

Mr. Tisei moved that the bill be amended by striking, in line 464, the words "distinct freestanding".
The amendment was adopted.

There being no objection, during consideration of the Orders of the Day, the following matters were considered as follows, to wit:—

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:— The House Bill placing certain questions on the ballot of the November 2008 Presidential election (House, No. 4558),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Longmeadow to continue the employment of Police Chief Robert Dania (House, No. 4437),— **was read a third time.**
Pending the question on passing the bill, to be engrossed, Ms. Candaras moved that the bill be amended in section 1, by inserting after the first sentence the following sentence;— "The appointing authority may, at its own expense, require that Robert Dania be examined by an impartial physician to determine that he is mentally and physically capable of performing the duties of that position.".
This amendment was adopted.
The bill was then passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.

Reports of Committees.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of James E. Timilty and Michael A. Costello for legislation to improve public safety training and response.
Senate Rule 36 was suspended, on motion of Mr. Downing, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety and Homeland Security.
Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A Bill relative to the appointment of retired police officers in the town of Westford (House, No. 4463,— on petition) [Local approval received],— **was read.**
There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by

the committee on Bills in the Third Reading to read as follows: "An Act relative to the appointment of special police officers in the town of Westford".

Engrossed Bills.

An engrossed Bill authorizing the town of Wakefield to issue pension obligation bonds or notes (see Senate, No. 1650) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the Acting President (Mr. Rosenberg) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and again laid before the Governor for his approbation.
The following engrossed bills (both of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation, to wit:—
Providing for the establishment of a fire department in the town of Georgetown (see Senate, No. 2343, amended); and
Establishing a sick leave bank for Kathryn McGaffey, an employee of the Department of Social Services (see Senate, No. 2447).

Orders of the Day.

The Orders of the Day were further considered, as follows:—

The Senate Bill to promote cost containment, transparency and efficiency in the delivery of quality health care (Senate, No. 2650),— was further considered, the main question being on ordering it to a third reading.
Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting the following new section:—
"SECTION __. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the connector authority, shall implement a transitional prescription drug coverage program for MassHealth recipients whose coverage has been terminated and are transitioning to other governmentally subsidized coverage. As part of this program, the secretary shall authorize MassHealth payment for a one-time, 30-day supply of prescribed medications to ensure that those individuals whose coverage has been terminated can continue to fill their existing prescriptions until such time as their new Commonwealth Care health plan coverage or Medicare coverage becomes effective. Any co-pays or deductibles that would have been charged to the beneficiary under MassHealth shall apply to this one-time, 30-day supply."
After remarks, the amendment was rejected.

Messrs. Morrissey and Creedon moved that the bill be amended in section 25, by inserting after the definition of "Commissioner" in section 1 of chapter 1765, the following new definition:—
"Co-Payment", an amount paid by a member to satisfy the carrier's co-payment requirement (not including monthly premiums), for charges associated with health care services including, without limitation, office visits, diagnostic testing (including x-rays, laboratory, CT scans, MR1 and PET scans), emergency room visits, prescription medications, and radiation therapy services.;
In said section 25, by inserting after the words "increase or decrease premiums", in line 791, the following words:— or increase co-payments.;
In said section 25, by inserting after the words "premium rates", in line 795, the following words:— or co-payments;
In said section 25, by inserting after the words "proposed premium", as it appears each time in the first and second paragraphs of section 5 of chapter 1765, the following words:— or co-payment.; and
In said section 25, by inserting after the words "Such requested premium", in line 820, the following words:— or co-payment.
The amendment was rejected.

Mr. O'Leary moved that the bill be amended by inserting at the end thereof the following new sections:—
"SECTION XX. Chapter 231 of the General Laws is hereby amended by adding after section 60K the following new sections:—
Section 60L Section 1. Except as provided in this section a person shall not commence an action against a provider of health care as defined in paragraph 7 of section 60 B of chapter 231 as appearing in the 2004 official edition of the general laws unless the person has given the health care provider written notice under this section of not less than 182 days notice before the action is commenced.
Section 2. The notice of intent to file a claim required under Section (1) shall be mailed to the last know professional business address or residential address of the health care provider who is the subject of the claim.
Section 3. The 182 day notice period in Section 1. is shortened to 91 days if all of the following conditions exist:—
The claimant has previously filed the 182 day notice required in section 1 against another health care provider involved in the claim.
The 182 day notice period has expired as to the health care providers described in Section 1.
The claimant has filed a complaint and commenced an action alleging medical malpractice against one or more of the health care providers described in subsection a. The claimant did not identify and could not have reasonably have identified a health care provider to which notice must be sent under Section 1 as a potential party to the action before filing the complaint.
Section 4. The notice given to a health car provider under this section shall contain a statement of at least all of the following:—
The factual basis for the claim;
The applicable standard of care alleged by the claimant;
The manner in which it is claimed that the applicable standard of care was breached by the health care provider;

The alleged action that should have been taken to achieve compliance with the alleged standard of care;
The manner in which it is alleged the breach of the standard of care was the proximate cause of the injury claimed in the notice;
The names of all health care providers the claimant is notifying under this section in relation to the claim.
Section 5. 56 days after giving notice under this section, the claimant shall allow the health care provider receiving the notice access to all of the medical records related to the claim that are in the claimants control, and shall furnish release for any medical records related to the claim that are not in the claimants control, but of which the claimant has knowledge.
This subsection does not restrict a health care provider receiving notice under this section from communicating with other health care providers and acquiring medical records as permitted in section 291f. This subsection does not restrict a patient's right of access to his or her medical records under any other provision of law.
Within 154 days after receipt of notice under this section, the health care provider against whom the claim is made shall furnish to the claimant or his or her authorized representative a written response that contains a statement of each of the following:— The factual basis for the defense to the claim.
The standard of care that the health care provider claims to be applicable to the action and that the health care provider complied with that standard.
The manner in which it is claimed by the health care provider that there was compliance with the applicable standard of care.
The manner in which the health care provider contends that the alleged negligence of the health care provider was not the proximate cause of the claimant's alleged injury or alleged damage.
Section 8. If the claimant does not receive the written response required under Section 7 within the required 154 day time period, the claimant may commence an action alleging medical malpractice upon the expiration of the 154 day period.
Section 9. If at any time during the applicable notice g period under this section a health care provider receiving notice under this section informs the claimant in writing that the health care provider does not intend to settle the claim s within the applicable notice period, the claimant may commence an action alleging medical malpractice against the health care provider, so long as the claim is not barred by the statue of limitations.
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 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.
SECTION XX. The General Laws are herby amended by inserting after section 79K of chapter 233 the following new section:— Section 79L.
As used in this section the following terms shall have the following meaning:—
(1) 'Health Care Provider', means any of the following heath care professionals licensed pursuant to chapter 112: a physician, podiatrist, physical therapist, occupational therapist, dentist, optometrist, nurse, nurse practitioner, chiropractor, psychologist, independent clinical social worker, speech-language pathologist, audiologist, marriage and family therapist and a mental health counselor. The term shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority, or other entity comprised of such health care providers.
`Facility', a hospital, clinic or nursing home licensed pursuant to chapter 111 or a home health agency. The term shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority, or other entity comprised of such facilities.
'Unanticipated outcome' means the outcome of a medical treatment or procedure, whether or not resulting from an intentional act, that differs from an intended result of such medical treatment or procedure.
(2) In any claim, complaint or civil action brought by or on behalf of a patient allegedly experiencing an unanticipated outcome of medical care, any and all statements, affirmations, gestures, activities or conduct expressing benevolence, regret, apology, sympathy, commiseration, condolence, compassion, mistake, error, or a general sense of concern which are made by a health care provider, facility or an employee or agent of a health care provider or facility, to the patient, a relative of the patient, or a representative of the patient and which relate to the unanticipated outcome shall be inadmissible as evidence in any judicial or administrative proceeding and shall not constitute an admission of liability or an admission against interest."
The amendment was rejected.

Messrs. O'Leary and Marzilli moved to amend the bill by inserting at the end thereof the following new section:—
"SECTION XX. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Public Health is hereby directed to establish a pilot program to establish three demonstration programs for the development, implementation, and evaluation of an early disclosure and compensation program as a mechanism for communicating medical adverse events and equitably compensating patients when appropriate. The demonstration programs would intend to determine whether the implementation of an early disclosure and compensation system would confer the following benefits:—
1. Promote patient safety by identifying preventable errors and adverse events, and developing process changes to reduce their incidence in the future;
2. Encourage better exchange between health care providers and patients regarding preventable medical errors and transparency in the practice of medicine- including apologizing for errors - consistent with the goals of enhancing patient safety;
3. Improve an injured patient's ability to receive compensation, and reduce the time necessary to provide such compensation;
4. Reduce legal fees and administrative costs; and
5. Reduce the practice of defensive medicine and the resultant cost to the health care system.
Each demonstration project shall consist of the following elements:—

(a) Development of educational curriculum - each hospital or health care system will implement a training/educational curriculum for all providers (including resident physicians, nurses, physician staff) to provide basic training in the disclosure of adverse events or medical errors.
(b) Patient Communication Consult Service — each recipient of a grant will organize a team of providers to serve on the “Patient Communication Consult Service”, so-called. At least one provider should be on-call 24 hours a day to respond to situations requiring the communication of adverse events to patients or families, as well as to provide support to health care providers involved in these cases. The Consult Service will also provide for a liaison to maintain continuous contact with the patient and family in the event of an adverse event, until the review and arbitration process is completed.
(c) Employment of Chief Risk Officer — each hospital or health care system will employ a Chief Risk Officer (or equivalent position) to implement and evaluate the early disclosure and compensation program. The Chief Risk Officer shall be responsible for monitoring the actions of the Patient Communication Consult Service, the performance of root cause analyses of each adverse event, the utilization of root cause analyses to make process improvements to prevent future events, and the determination of the appropriateness of offers of compensation.
(d) Recognition and response to an adverse event — the Chief Risk Officer will oversee the following steps:—
i. Via quality assurance mechanisms and the support of self-reporting, the hospital will identify all adverse events;
ii. Each adverse event will undergo an intensive review within 72 hours to determine the root causes and whether any error occurred;
iii. For any adverse event being reviewed, the hospital shall hold any bills related to the episode of care until the process is concluded, either by concluding that no error was involved or compensation has been accepted;
iv. Within 72 hours, the Patient Communication Consult Service, along with the health care provider if desired by the provider, will meet with the patient and/or family and provide an explanation of the event, and an apology when appropriate;
v. Regardless of the occurrence of an error, the Patient Communication Consult Service will provide for ongoing contact with the patient and/or family during the hospital stay and until there has been resolution of the case or until an offer of compensation is accepted;
vi. In the event of a clear medical error, the Chief Risk Officer in collaboration with the risk management team will determine the appropriateness and size of an offer of compensation. Throughout the process and particularly at the compensation stage, the patient is permitted and encouraged to retain legal counsel. An accepted offer of compensation will be legally binding; however, should the offer of compensation be refused, the patient is permitted to file a claim and proceed to a trial by jury.
vii. The Chief Risk Officer will ensure the review of all cases and root cause analyses, and the incorporation of any conclusions into internal process improvements with the purpose of preventing future events.
(e) Reporting of adverse events — all adverse events, along with their subsequent review and internal process improvements, will be reported to the Department of Public Health for review, analysis, and dissemination to other hospitals in the Commonwealth.
(f) Authorization of grants and review of demonstration programs— the Department of Public Health shall provide for an advisory commission to award the grants to interested hospitals or health care systems, as well as to review the outcomes and costs of each program. The commission shall enter into a contract with an appropriate research organization to conduct an overall effectiveness of the grants awarded under this act and to annually prepare and submit a report for the secretary of health and human services and to the joint committee on health care financing, the joint committee on the judiciary, and the house and senate committees on ways and means. Such evaluation shall not begin later than 24 months following the date of implementation of the first program funded by a grant under this act. The evaluation under subsection (f) shall include:—- (1) An analysis of the effect of the system on the number, nature, and costs of compensated events as well as health care liability claims, and a comparison of this information of each entity receiving a grant; (2) A comparison between entities receiving a grant under this section and entities that did not receive such a grant, matched to ensure similar legal and health care environments and to determine the effects of the grants and subsequent reforms on the liability environment, health care quality, patient safety, health care costs, patient and health care provider satisfaction with reforms; and (3) a recommendation for an expansion of the program, a continuation of the program as is, or a discontinuation."
The amendment was rejected.

Ms. Creem moved that the bill be amended, in section 26 by striking the definition of the word "gift" in lines 893 thru 898; and by striking the words contained in lines 951 thru 956 and inserting in place thereof the following words:—
“Section 2. No pharmaceutical manufacturer agent shall knowingly and willfully offer or give to a physician, a member of a physician's immediate family, a physician's employee or agent, a health care facility or employee or agent of a health care facility, a gift of any value.
As used in this section, ‘gift’ does not include:—
(1) professional samples of a drug provided to a prescriber for free distribution to patients;
(2) items with a total combined retail value, in any calendar year, of not more than $50;
(3) a payment to the sponsor of a medical conference, professional meeting, or other educational program, provided the payment is not made directly to a practitioner and is used solely for bona fide educational purposes;
(4) reasonable honoraria and payment of the reasonable expenses of a practitioner who serves on the faculty at a professional or educational conference or meeting;
(5) compensation for the substantial professional or consulting services of a practitioner in connection with a genuine research project;
(6) publications and educational materials;

(7) the provision, distribution, dissemination, or receipt of peer reviewed academic, scientific or clinical information;
(8) the purchase of advertising in peer reviewed academic, scientific or clinical journals."
The amendment was rejected.

Messrs. Montigny and Moore moved that the bill be amended by striking out Section 26 in its entirety and inserting in place thereof the following:—
"SECTION 26. The General Laws are hereby amended by inserting after chapter 268B the following chapter:—

CHAPTER 268C.
Health Care Practitioner and Pharmaceutical and Medical Device Manufacturing Conduct.

Section 1. As used in this chapter, the following words shall have the following meanings:—
'Gift', a payment, entertainment, meals, travel, honorarium, subscription, advance, services or anything of value, unless consideration of equal or greater value is received and there is an explicit contract with specific deliverables which are not related to marketing and are restricted to medical or scientific issues. 'Gift' shall not include anything of value received by inheritance, a gift received from a member of the health care practitioner's immediate family or from a relative within the third degree of consanguinity of the health care practitioner or of the health care practitioner's spouse or from the spouse of any such relative, or prescription drugs provided to a health care practitioner solely and exclusively for use by the health care practitioner's patients.
'Health care practitioner' or 'practitioner,' a person who prescribes prescription drugs for any person and is licensed to provide health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to individuals.
'Immediate family', a spouse and any dependent children residing in the reporting person's household.
'Medical device', an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is: (1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them; (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.
'Person', a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.
'Pharmaceutical or medical device marketer', a person who, while employed by or under contract to represent a pharmaceutical or, medical device manufacturing company that participates in a state health care program, engages in detailing, promotional activities or other marketing of prescription drugs, or medical devices in this state to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, any other health care practitioner or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A of chapter 12, a representative of such a distributor who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug, or a retail pharmacist registered under section 37 of chapter 12 if such person is not engaging in such practices under contract with a manufacturing company.
'Pharmaceutical or medical device manufacturing company', any entity that participates in a state health care program and which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs or medical devices either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription drugs. The term does not include a wholesale drug distributor licensed under section 36A of chapter 112 or a retail pharmacist registered under section 37 of chapter 112.
'Pharmaceutical or medical device manufacturer agent', a pharmaceutical or medical device marketer or any other person who for compensation or reward does any act to promote, oppose or influence the prescribing of a particular prescription drug, medical device, or category of prescription drugs or medical devices. The term shall not include a licensed pharmacist, licensed physician or any other licensed health care practitioner with authority to prescribe prescription drugs who is acting within the ordinary scope of the practice for which he is licensed.
'Physician', a person licensed to practice medicine by the board of medicine under section 2 of chapter 112 who prescribes prescription drugs for any person, or the physician's employees or agents.
'Prescription drugs', any and all drugs upon which the manufacturer or distributor has placed or is required by federal law and regulations to place the following or a comparable warning: 'Caution federal law prohibits dispensing without prescription.'
Section 2. No pharmaceutical or medical device manufacturer agent shall knowingly and willfully offer or give to a health care practitioner, a member of a health care practitioner's immediate family, a health care practitioner's employee or agent, a health care facility or employee or agent of a health care facility, a gift of any value. Nothing in the section shall prohibit the provision, distribution, dissemination, or receipt of peer reviewed academic, scientific or clinical information. Nothing in this section shall prohibit the purchase of advertising in peer reviewed academic, scientific or clinical journals.
Section 3. (a)(1) By July first of each year, every pharmaceutical or medical device manufacturing company shall disclose to the department of public health the value, nature, purpose, and recipient of any fee, payment, subsidy, or other economic benefit not

prohibited in Section 2, which is provided by the company, directly or through its agents, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, health care practitioner or any other person in this state authorized to prescribe, dispense, or purchase prescription drugs or medical devices in this state. For each expenditure, the company must also identify the recipient and the recipient's address, credentials, institutional affiliation, and state board or DEA numbers.
(2) Each company subject to the provisions of this section also shall disclose to the department of public health the name and address of the individual responsible for the company's compliance with the provisions of this section, or if this information has been previously reported, any changes to the name or address of the individual responsible for the company's compliance with the provisions of this section.
(3) The report shall be accompanied by payment of a fee, to be set by the department of public health, to pay the costs of administering these provisions.
(b)(i) Information submitted to the department of public health pursuant to this section shall be a public record except to the extent that it includes information that is protected by state or federal law as a trade secret.
(2) Notwithstanding any other provision of law, the identity of health care practitioners and other recipients of gifts, payments and materials required to be reported in this chapter shall not constitute confidential information or trade secrets protected under this section.
(3) The department of public health shall make all disclosed data publicly available and easily searchable on its website.
(c) The department of public health shall report to the attorney general any payment, entertainment, meals, travel, honorarium, subscription, advance, services or anything of value provided in violation of this chapter, including anything of value provided when consideration of equal or greater value was not received or anything of value provided that was not subject to an explicit contract with specific deliverables which were restricted to medical or scientific issues.
Section 4. The department of public health, in consultation with the board of registration of pharmacy, and board of registration of medicine, shall promulgate regulations requiring the licensing of all pharmaceutical and medical device manufacturer agents. As a prerequisite to such licensing, pharmaceutical and medical device manufacturer agents shall complete such training as may be deemed appropriate by the department. As a prerequisite to the renewal of such license, pharmaceutical and medical device manufacturer agents shall complete continuing education as may be deemed appropriate by the department. The fee for such license shall be determined by the department of public health, in conjunction with the board of registration in pharmacy and the board of registration in medicine at a rate sufficient to provide the administration and enforcement of this chapter. Revenue generated from this fee shall be divided in equal shares, 75 per cent to the department of public health and 25% to the office of attorney general, line item 0810-0000, for the administration of this chapter.
Section 5. This chapter shall be enforced by the attorney general, the department of public health or by any district attorney of the commonwealth with jurisdiction. A person who violates this chapter shall be punished by a fine of not more than $5,000 for each transaction, occurrence or event that violates this chapter."
After debate, the amendment was adopted.

Mr. Panagiotakos moved that the bill be amended, in section 1, by striking out, in line 3, the figure "16K" and inserting in place thereof the following figure:— "16P";
By striking out section 17 and inserting in place thereof the following section:—
"SECTION 17. Section 9E of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the word 'two' and inserting in place thereof the following figure:—4.";
In section 19, in subsection (a) by striking out the last sentence and inserting in place thereof the following sentence:— "The executive office and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing said coding standards.";
By inserting after the word "provider" in line 555, the following words:— "and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims";
In section 23, by striking out subsection (a) and inserting in place thereof the following subsection:—
"(a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, a carrier and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted pursuant to, and consistent with the current Health Insurance Portability and Accountability Act compliant code sets as adopted by the Centers for Medicare and Medicaid Services: the International Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. A carrier and its subcontractors shall adopt the foregoing coding standards and guidelines, and all changes thereto, in their entirety effective on the same date as the national implementation elate established by the entity implementing said coding standards.";
In section 28, by inserting after the words "community hospitals", in line 976, the following words:— ", nonprofit community based primary care providers".
In section 49A, by inserting after the word "funds", in line 1323, the following words:— ", provided, however, that the secretaries shall not request any **documents that arc in the possession of any agencies of the executive office of administration and finance or the executive office of health and human services".**

The amendment was adopted.
The bill, as amended, was then ordered to a third reading and read a third time.
After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at sixteen minutes past six o'clock P.M., on motion of Mr. Tisei, as follows, to wit *(yeas 36 — nays 0)* **[Yeas and Nays No. 206]:**

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Baddour, Steven A.	Menard, Joan M.
Berry, Frederick E.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petruccelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Marzilli, Jim	Wilkerson, Dianne — **36.**
NAYS — 0.	
ANSWERED "PRESENT".	
Walsh, Marian — **1.**	
ABSENT OR NOT VOTING.	
Augustus, Edward M., Jr.	Joyce, Brian A. — **2.**

The yeas and nays having been completed at nineteen minutes past six o'clock P.M., the bill was passed to be engrossed.
[For text of bill, printed as amended, see Senate, No. 2660].
Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Moore,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Tuesday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of Mr. O'Leary, at twenty minutes past six o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.