

HOUSE No. 629

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to pharmaceutical pricing.

PETITION OF:

NAME:

William M. Straus

DISTRICT/ADDRESS:

10th Bristol

HOUSE No. 629

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 629) of William M. Straus relative to pharmaceutical pricing. Elder Affairs.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to pharmaceutical pricing.

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

1 SECTION 1. Section 8 of chapter 6D of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking subsection (d) and inserting in its place thereof
3 the following:-

4
5 (d) The commission shall identify as witnesses for the public hearing a representative
6 sample of providers, provider organizations, pharmaceutical organizations, payers and others,
7 including: (i) at least 3 academic medical centers, including the 2 acute hospitals with the highest
8 level of net patient service revenue; (ii) at least 3 disproportionate share hospitals, including the 2
9 hospitals whose largest per cent of gross patient service revenue is attributable to Title XVIII and
10 XIX of the federal Social Security Act or other governmental payers; (iii) community hospitals
11 from at least 3 separate regions of the commonwealth; (iv) freestanding ambulatory surgical
12 centers from at least 3 separate regions of the commonwealth; (v) community health centers from

at least 3 separate regions of the commonwealth; (vi) at least 3 pharmaceutical companies with at least one being representative of and doing business in specialty pharmacy and at least one being representative of and doing business in generic pharmacy; (vii) the 5 private health care payers with the highest enrollments in the commonwealth; (viii) any managed care organization that provides health benefits under Title XIX; (ix) the group insurance commission; (x) at least 3 municipalities that have adopted chapter 32B; (xi) at least 4 provider organizations, at least 2 of which shall be certified as accountable care organizations, 1 of which has been certified as a model ACO, which shall be from diverse geographic regions of the commonwealth; and (xii) any witness identified by the attorney general or the center.

SECTION 2. Said chapter 6D, as so appearing, is hereby further amended by inserting after section 10 the following section:-

Section 10A. The center shall promulgate regulations necessary to require that pharmaceutical companies report data it deems necessary to analyze annual rate of growth and whether that rate exceeds the rate of growth in projected economic growth benchmark established under section 7H½ of chapter 29. The center shall also collect and analyze such data as it considers necessary in order to better protect the public's interest in monitoring pharmaceutical costs and spending. The center may specify in regulations uniform reporting standards and reporting thresholds as it determines necessary.

SECTION 3. Said chapter 6D, as so appearing, is hereby further amended by striking section 11 in its entirety and replacing it with the following section:-

Section 11. The center shall ensure the timely reporting of information required under sections 8, 9, 10 and 10A. The center shall notify payers, providers, provider organizations, and pharmaceutical companies of any applicable reporting deadlines. The center shall notify, in writing, a private health care payer, provider, provider organization or pharmaceutical company which has failed to meet a reporting deadline and that failure to respond within 2 weeks of the receipt of the notice may result in penalties. The center may assess a penalty against a private payer, provider, provider organization or pharmaceutical company that fails, without just cause, to provide the requested information within 2 weeks following receipt of the written notice required under this paragraph, of up to \$1,000 per week for each week of delay after the 2 week period following the private payer's, provider's, provider organization's or pharmaceutical company's receipt of the written notice; provided, however, that the maximum annual penalty against a private payer, provider, provider organization or pharmaceutical company under this section shall be \$50,000. Amounts collected under this section shall be deposited in the Healthcare Payment Reform Fund, established under section 100 of chapter 194 of the acts of 2011.

SECTION 4. Subsection (a) of section 16 of chapter 12C of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking the first sentence and inserting in place thereof the following:-

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57 The center shall publish an annual report based on the information submitted under
58 sections 8, 9, 10 and 10A concerning health care provider, provider organization, pharmaceutical
59 company and private and public health care payer costs and cost trends, section 13 of chapter 6D
60 relative to market power reviews and section 15 relative to quality data.

61

62 SECTION 5. Said Subsection (a) of said section 16 of said chapter 12C, as so appearing,
63 is hereby further amended by striking, in lines 41-43, the words “and (11) the impact of health
64 care payment and delivery reform on the quality of care delivered in the commonwealth” and
65 inserting in place thereof the following:-

66

67 (11) the impact of health care payment and delivery reform on the quality of care
68 delivered in the commonwealth; and (12) the impact of pharmaceutical pricing and spending on
69 health care costs.

70

71 SECTION 6. Notwithstanding any general or special law to the contrary, the Health
72 Policy Commission shall annually conduct an analysis and issue a report on the impact of
73 specialty drug costs on Massachusetts’ cost containment benchmark with said first report to be
74 publicly issued by July 1, 2019 and annually thereafter on each July 1 and convene a discussion
75 of this report and its implications at its annual cost containment hearings held pursuant to section
76 8 of chapter 6D of the general laws.