

HOUSE No. 3829

The Commonwealth of Massachusetts



CHARLES D. BAKER
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KARYN POLITO
LIEUTENANT GOVERNOR

July 17, 2017

To the Honorable Senate and House of Representatives,

I am submitting for your consideration “An Act Promoting Affordable Health Care Options.” This legislation proposes several commercial market reforms that were previously included in the legislative package that was shared with budget conferees.

The rising cost of health care has led to year-over-year premium increases in the commercial market, placing a significant burden on individuals, families and businesses, most notably employers. These increasing costs have contributed to a shift of individuals from commercial coverage to public coverage. While recent cost increases have moderated, this issue warrants further action. Therefore, I am proposing this set of reforms, in conjunction with the MassHealth reforms included in budget amendment “F”, to provide more affordable health insurance options and to ensure a sustainable MassHealth program.

This legislation will promote the use of more affordable insurance products by increasing the minimum premium differential for tiered network plans from the current 14% to 28%. Tiered products provide individuals and employers with an affordable coverage option; increasing the premium differential will promote and incentivize participation in such products. I am also proposing to increase access to lower-cost providers by expanding the scope of practice for optometrists, podiatrists, and advanced practice nurses. Offering access to lower-cost providers will benefit both commercial and public health care costs. Finally, this legislation directs the Center for Health Information and Analysis (CHIA) to provide consumer friendly cost

information for common procedures and services. This will provide the market with a robust transparency tool, which will enable more informed decision making about health care.

This proposal represents my continued commitment to pursuing these important reforms to help lower health care costs. I look forward to building upon the valuable work of the Provider Price Variation Commission and continuing the dialogue with the Legislature, health care stakeholders and business community as we further develop these policies.

Respectfully submitted,

Charles D. Baker,
Governor

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Message from His Excellency the Governor recommending legislation relative to promoting affordable health care options.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act promoting affordable health care options.

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 10 of Chapter 12C of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (e) and inserting in place thereof
3 the following 2 subsections:-

4 (e) The center, in consultation with executive office of health and human services, shall
5 develop an appropriate approach to reporting health care price and related information for
6 consumers, employers and other interested parties. The center shall establish a list of the most
7 common procedures and services based on data collected under this section and sections 8 and 9
8 of this chapter. The center shall require private and public health care payers to submit the
9 payment rates for such procedures and services and other information necessary for the center to
10 determine the rate for every provider with which the payer has contracted or has a compensation
11 arrangement. The center shall make such prices and related information publicly available, in
12 such form as it believes will advance the transparency of the healthcare system, but shall keep

13 confidential all nonpublic data obtained under this section. The center shall promulgate
14 regulations necessary to implement the provisions of this section.

15 (f) Except as specifically provided otherwise by the center or under this chapter, insurer
16 data collected by the center under this section shall not be a public record under clause Twenty-
17 sixth of section 7 of chapter 4 or under chapter 66.

18 SECTION 2. Section 1 of chapter 94C of the General Laws, as appearing in the 2016
19 Official Edition, is hereby amended by inserting after the definition for “Marihuana” the
20 following definition:-

21 “Medication Order”, an order for medication entered on a patient's medical record
22 maintained at a hospital, other health facility, or ambulatory health care setting registered under
23 this chapter and that is dispensed only for immediate administration at the facility to the ultimate
24 user by an individual who under chapter 94C administers such medication.

25 SECTION 3. Said section 1 of said chapter 94C, as so appearing, is hereby further
26 amended by striking out, in line 308, the words, “and 66B” and inserting in place thereof the
27 following words:- , 66B and 66C.

28 SECTION 4. Said section 1 of said chapter 94C, as so appearing, is hereby further
29 amended by adding in the definition of “practitioner” the following 2 subsections:-

30 (d) A nurse practitioner authorized by section 80E of chapter 112 and registered pursuant
31 to subsection (f) of section 7 to distribute, dispense, conduct research with respect to, or use in
32 teaching or chemical analysis, a controlled substance in the course of professional practice or
33 research in the commonwealth.

34 (e) A nurse anesthetist authorized by section 80H of chapter 112 and registered pursuant
35 to subsection (f) of section 7 to distribute, dispense, conduct research with respect to, or use in
36 teaching or chemical analysis, a controlled substance in the course of professional practice or
37 research in the commonwealth.

38 SECTION 5. Said section 7 of said chapter 94C, as so appearing, is hereby further
39 amended by inserting after the word “podiatrist”, in lines 122 and 126, the following words:- ,
40 nurse practitioner, nurse anesthetist.

41 SECTION 6. Said section 7 of said chapter 94C, as so appearing, is hereby further
42 amended by striking out, in line 213, the words “ and 66B” and inserting in place thereof the
43 following words 66B and 66C.

44 SECTION 7. Said section 7 of said chapter 94C, as so appearing, is hereby further
45 amended by striking out the last paragraph.

46 SECTION 8. Section 9 of said chapter 94C, as so appearing, is hereby amended by
47 inserting after the word “podiatrist”, in line 1, the following words:- , nurse practitioner, nurse
48 anesthetist.

49 SECTION 9. Said section 9 of said chapter 94C, as so appearing, is hereby further
50 amended by striking out, in line 2, the words “and 66B” and inserting in place thereof the
51 following words:- 66B and 66C.

52 SECTION 10. Said section 9 of said chapter 94C, as so appearing, is hereby further
53 amended by striking out, in line 3, the words “nurse practitioner and”.

54 SECTION 11. Said section 9 of said chapter 94C, as so appearing, is hereby further
55 amended by striking out, in line 4, the words “subsection (g) of said section 7 and”.

56 SECTION 12. Said section 9 of said chapter 94C, as so appearing, is hereby further
57 amended by striking out, in lines 8 and 9, the words “nurse anesthetist, as limited by subsection
58 (g) of said section 7 and section 80H of said chapter 112,”.

59 SECTION 13. Said section 9 of said chapter 94C, as so appearing, is hereby amended by
60 inserting after the words “nurse-midwifery”, in line 32, the following words:- , advanced practice
61 nursing.

62 SECTION 14. Said section 9 of said chapter 94C, as so appearing, is hereby further
63 amended by inserting after the word “podiatrist”, in line 72 and 80, each time it appears, the
64 following word:- , optometrist.

65 SECTION 15. Said section 9 of said chapter 94C, as so appearing, is hereby further
66 amended by inserting after the words “nurse practitioner”, in lines 100 and 107, the following
67 words:- , nurse anesthetist.

68 SECTION 16. Section 18 of said chapter 94C, as so appearing, is hereby amended by
69 inserting after the words “practice medicine”, each time they appear, in lines 10, 27, 39, 54 and
70 55, 72 and 88, the following words:- or advanced practice nursing

71 SECTION 17. Said section 18 of said chapter 94C, as so appearing, is hereby further
72 amended by striking out the word “physician”, in lines 25, 38, 72, and 74, and inserting in place
73 thereof, in each instance, the following word:- practitioner.

74 SECTION 18. Chapter 112 of the General Laws is hereby amended by striking out
75 section 13, as so appearing, and inserting in place thereof the following section:-

76 Section 13. Podiatry as used in this chapter shall mean the diagnosis and treatment, by
77 medical, mechanical, electrical and surgical means, ailments of the human foot and lower leg.
78 Allowable surgical treatment in a health care facility shall be determined by that health care
79 facility credential committee and such surgical treatment shall be performed at that health care
80 facility. The term physician and surgeon when used in sections 12B, 12G, 23N and 80B shall
81 include a podiatrist acting under this section.

82 SECTION 19. Said chapter 112 is hereby amended by striking out section 66, as so
83 appearing, and inserting in place thereof the following section:-

84 The practice of optometry, as used in this chapter, shall mean the employment of any
85 method or means for the diagnosis, prevention, correction, management or treatment of optical
86 deficiencies, optical deformities, visual anomalies, muscular anomalies, ocular diseases and
87 ocular abnormalities of the human eye and adjacent tissue, including removal of superficial
88 foreign bodies and misaligned eyelashes, by utilization of pharmaceutical agents, by the
89 prescription, adaptation and application of ophthalmic lenses, devices containing lenses, prisms,
90 contact lenses, orthoptics, vision therapy, prosthetic devices and other optical aids and the
91 utilization of corrective procedures to preserve, restore or improve vision, consistent with the
92 provisions of sections 66A , 66B and 66C.

93 SECTION 20. Said section 66B of said chapter 112, as so appearing, is hereby amended
94 by striking out, in line 31, the following words:- , except glaucoma.

95 SECTION 21. Said chapter 112 is hereby further amended by inserting after section 66B
96 the following section:-

97 Section 66C. (a) A registered optometrist, qualified by an examination for practice under
98 section 68 after January 1, 2013, certified under section 68C and registered to issue written
99 prescriptions pursuant to subsection (h) of section 7 of chapter 94C, may utilize and prescribe
100 topical and oral therapeutic pharmaceutical agents, as defined in section 66 and described in 21
101 U.S.C. 812 or in said chapter 94C, that are used in the practice of optometry, including those
102 placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of said chapter
103 94C for the purpose of diagnosing, preventing, correcting, managing or treating glaucoma and
104 other ocular abnormalities of the human eye and adjacent tissue and may prescribe all necessary
105 eye-related medications, including oral anti-infective medications; provided, however, that a
106 registered optometrist shall be prohibited from the utilization or prescription of: (i) therapeutic
107 pharmaceutical agents for the treatment of systemic diseases; (ii) invasive surgical procedures;
108 (iii) pharmaceutical agents administered by subdermal injection, intramuscular injection,
109 intravenous injection, subcutaneous injection or retrobulbar injection, or (iv) an opioid substance
110 or drug product.

111 (b) If an optometrist, during the course of examining or treating a patient with the aid of a
112 diagnostic or therapeutic pharmaceutical agent and exercising professional judgment and the
113 degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists
114 under like circumstances, determines the existence of the signs of previously unevaluated disease
115 which requires treatment not included in the scope of optometric practice as provided in section
116 66, the optometrist shall refer the patient to a licensed physician or other qualified health care
117 practitioner.

118 (c) If a patient examination results in a diagnosis of congenital glaucoma or if, during the
119 course of examining, managing or treating a patient with glaucoma, surgical treatment is
120 indicated, an optometrist shall refer that patient to a qualified health care provider for treatment.

121 (d) Optometrists licensed under this chapter shall participate in relevant state and federal
122 reports or data collection efforts relative to patient safety and medical error reduction
123 coordinated by the Betsy Lehman center for patient safety and medical error reduction
124 established in section 15 of chapter 12C.

125 SECTION 22. Said chapter 112 is hereby further amended by inserting after section 68B
126 the following section:-

127 Section 68C. (a) The board of registration in optometry shall administer an examination
128 to permit the utilization and prescription of therapeutic pharmaceutical agents as authorized in
129 section 66C. The examination shall: (i) be held in conjunction with examinations provided in
130 sections 68, 68A and 68B; and (ii) include any portion of the examination administered by the
131 National Board of Examiners in Optometry or other appropriate examinations covering the
132 subject matter of therapeutic pharmaceutical agents as authorized in said section 66C. The board
133 may administer a single examination to measure the qualifications necessary under said sections
134 68, 68A and 68B and this section. The board shall qualify optometrists to use and prescribe
135 therapeutic pharmaceutical agents in accordance with said sections 68, 68A and 68B and this
136 section. An applicant that presents satisfactory evidence of graduation from a school or college
137 of optometry approved by the board subsequent to January 1, 2013, shall have satisfied all the
138 requirements of said sections 68, 68A and 68B and this section.

139 (b) Examination for the utilization and prescription of therapeutic pharmaceutical agents
140 placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C
141 and defined in section 66C shall, upon application, be open to an optometrist registered under
142 section 68, 68A or 68B and to any person who meets the qualifications for examination under
143 said sections 68, 68A and 68B. An applicant registered as an optometrist under said section 68,
144 68A or 68B shall: (i) possess a current Massachusetts controlled substances registration for the
145 use of pharmaceutical agents for the purpose of diagnosing or treating glaucoma and other ocular
146 abnormalities of the human eye and adjacent tissue; and (ii) furnish to the board of registration in
147 optometry evidence of the satisfactory completion of 40 hours of didactic education and 20 hours
148 of supervised clinical education relating to the utilization and prescription of therapeutic
149 pharmaceutical agents pursuant to said section 66C. The education shall: (i) be administered by
150 the Massachusetts Society of Optometrists, Inc.; (ii) be accredited by a college of optometry or
151 medicine; and (iii) meet the guidelines and requirements of the board of registration in
152 optometry. The board of registration in optometry shall provide to each successful applicant a
153 certificate of qualification in the utilization and prescription of all therapeutic pharmaceutical
154 agents as authorized under said section 66C and shall forward to the department of public health
155 notice of such certification for each successful applicant.

156 (c) An optometrist licensed in another jurisdiction shall be deemed an applicant under
157 this section by the board of registration in optometry. An optometrist licensed in another
158 jurisdiction may submit evidence to the board of registration in optometry of practice equivalent
159 to that required in section 68, 68A or 68B and the board, at its discretion, may accept the
160 evidence in order to satisfy any of the requirements of this section. An optometrist licensed in
161 another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents for treating

162 glaucoma and other ocular abnormalities of the human eye and adjacent tissue may submit
163 evidence to the board of registration in optometry of equivalent didactic and supervised clinical
164 education in order to satisfy all the requirements of this section. 780

165 (d) A licensed optometrist who has completed a postgraduate residency program
166 approved by the Accreditation Council on Optometric Education after July 31, 1997 may submit
167 an affidavit to the board of registration in optometry from the licensed optometrist's residency
168 supervisor or the director of residencies at the affiliated college of optometry attesting that
169 optometrist has completed an equivalent level of instruction and supervision that would satisfy
170 all the requirements of this section.

171 (e) As a condition of license renewal, an optometrist licensed under this section shall
172 submit to the board of registration in optometry evidence attesting to the completion of 3 hours
173 of continuing education specific to glaucoma.

174 SECTION 23. Section 80B of chapter 112, as appearing in the 2016 Official Edition, is
175 hereby amended by inserting after the word "practitioners", in line 12, the following words:- ,
176 nurse anesthetists,.

177 SECTION 24. Said section 80B of said chapter 112, as so appearing, is hereby further
178 amended by striking out the seventh paragraph and inserting in place thereof the following
179 paragraph:- The board shall promulgate advanced practice nursing regulations which govern the
180 provision of advanced practice nursing services and related care including, but not limited to, the
181 ordering and interpreting of tests and the ordering and evaluation of treatment and therapeutics.

182 SECTION 25. Said section 80B of said chapter 112, as so appearing, is hereby further
183 amended by striking out in lines 64 and 65 the following words:- “in the ordering of tests,
184 therapeutics and the prescribing of medications,”

185 SECTION 26. Said chapter 112 is hereby amended by striking out section 80E, as so
186 appearing, and inserting in place thereof the following section:-

187 Section 80E. (a) A nurse practitioner may, without the supervision described in
188 subsection (b), issue written prescriptions and medication orders and order tests and therapeutics
189 and shall have independent practice authority for these purposes, if the nurse practitioner has
190 completed at least 2 years of supervised clinical practice following certification by a certifying
191 body recognized by the board. The board shall promulgate regulations to implement this section.

192 (b) A nurse practitioner may issue written prescriptions and medication orders and order
193 tests and therapeutics pursuant to guidelines mutually developed and agreed upon by the nurse
194 and the supervising nurse practitioner with independent practice authority or supervising
195 physician in accordance with regulations promulgated by the board. A prescription issued by a
196 nurse practitioner under this subsection shall include the name of the supervising nurse
197 practitioner or with independent practice authority or physician.

198 (c) A psychiatric nurse mental health clinical specialist may issue written prescriptions
199 and order tests and therapeutics pursuant to guidelines mutually developed and agreed upon by
200 the nurse and the supervising physician in accordance with regulations promulgated jointly by
201 the board and the board of registration in medicine after consultation with the board of
202 registration in pharmacy. A prescription made by a psychiatric nurse mental health clinical
203 specialist shall include the name of the physician with whom such nurse has developed and

204 signed mutually agreed upon guidelines approved by said board and said board of registration in
205 medicine pursuant to section 80B.

206 SECTION 27. Chapter 112 of the General Law is hereby amended by striking out Section
207 80H, as so appearing, and inserting in place thereof the following section:-

208 Section 80H. (a) A nurse anesthetist may, without the supervision described in subsection
209 (b), issue written prescriptions and medication orders and order tests and therapeutics and shall
210 have independent practice authority for these purposes, if the nurse anesthetist has completed at
211 least 2 years of supervised clinical practice following certification by a certifying body
212 recognized by the board. The board shall promulgate regulations to implement this section.

213 (b) A nurse anesthetist may issue written prescriptions and medication orders and order
214 tests and therapeutics pursuant to guidelines mutually developed and agreed upon by the nurse
215 and the supervising nurse anesthetist with independent practice authority or supervising
216 physician in accordance with regulations promulgated by the board. A prescription issued by a
217 nurse anesthetist under this subsection shall include the name of the supervising nurse anesthetist
218 with independent practice authority or physician.

219 SECTION 28. Section 80I of chapter 112 of the General Laws, as so appearing, is hereby
220 amended by striking out the second and third sentences.

221 SECTION 29. Section 11 of chapter 176J of the General Laws, as appearing in the 2016
222 Official Edition, is hereby amended by striking out, in line 17, the figure "14" and inserting in
223 place thereof the following figure: - 28.

224 SECTION 30. The department of public health shall promulgate any rules and
225 regulations necessary to implement sections 2 to 28, inclusive, not later than January 1, 2018.

226 SECTION 31. Section 29 shall take effect July 1, 2018.