SENATE HEALTH CARE COST BILL

Summary of Key Provisions:

Health Care Quality and Finance Authority

The bill establishes a new, quasi-public authority. The Authority will be governed by an 11-person board consisting of state officials, health policy experts, business, consumer, and labor representatives. The Governor, the Auditor, and the Attorney General are all appointing officials and must jointly agree on the appointment of the chair of the board. The powers of the Authority are limited to 2 specific duties:

1.) Establish the Health Care Cost Growth Benchmark and Monitor Compliance

- The Authority will establish the annual health care cost growth benchmark.
- For calendar years 2012 to 2015 the benchmark shall be equal to the projected growth of the state's gross state product plus 0.5%.
- For calendar years 2016 to 2026 the benchmark shall be equal to the projected growth in the state's gross state product.
- For calendar years 2027 and thereafter, the benchmark shall be equal to the projected growth in the state's gross state product plus 1.0%.
- The Authority will hold annual hearings on the state's progress in meeting the health care cost growth benchmark and issue an annual report with any recommended future strategies for the state and the private market to increase efficiency. Any recommendations requiring statutory changes would need to be approved by the Legislature and the Governor.
- Beginning in 2016, if the health care cost benchmark is exceeded, the Authority will work to assist health care entities to reduce cost growth through a market-based solution approach.
- The Authority will require health care providers, provider organizations and payers identified as contributing to excessive cost growth to file a confidential "performance improvement plan" with the Authority. The authority may approve a waiver or delay this requirement based on the unique circumstances of the health care entity. Every element of the plan must be proposed by the health care entity and the Authority may not insist on any specific action steps.
- The Authority will approve all plans that are reasonably likely to address the underlying causes of the cost growth and will ensure that the health care participant implements the plan in good faith. Penalties will only be imposed if the health care participant does not file a performance improvement plan or does not implement the performance improvement plan in good faith.

2.) Support Market Innovation and Assist in the Development of "Best Practices" for Care Delivery and Payment Reform Models

The Authority shall support the development, experimentation, and evaluation of market-based "best practices" for care delivery and payment reform models, by:

- Developing a certification process for "Beacon ACOs"
    - The Authority will develop a process by which eligible provider organization may apply to be certified as a "Beacon ACO."
    - This is a voluntary certification. No provider organization is required to apply.
    - The standards for "Beacon ACO" certification will be based on the best practices in the market and shall reflect a high-commitment by the provider organization to reduce cost growth, improve quality, and coordinate care.
    - Provider organizations so certified will be given a preference in the contracting of any state-funded health care programs.
- Developing standards and best practices for new payment models to be used by the Office of MassHealth, the Group Insurance Commission, and other state-funded programs, to be fully implemented by 2014. Such models may include bundled payments, shared-savings programs, episodic payments, and global budgets.
- Administering a "Health Care Payment Reform Fund" to support the market in continuing to innovate and experiment. The Authority may distribute funding through incentives, grants, competitive applications, and targeted assistance to advance and promote market development of cost-reduction and quality improvement pilot programs. The "Health Care Payment Reform Fund" was established in the gaming bill last year and is expected to receive $20 million for each license granted under that law.

Institute of Health Care Finance and Policy

The bill reorganizes the existing Division of Health Care Finance and Policy, currently under the control of the Executive Office of Health and Human Services, to become an independent state agency. The Institute is not a quasi-public authority. The Institute will have an executive director that will be appointed by a majority vote of the Governor, Auditor, and Attorney General to a 5-year term.

The purpose of the reorganization is to establish the Institute as the designated health care data collection, dissemination, and analysis agency of the Commonwealth. The Institute shall support all other state agencies and the Health Care Quality and Finance Authority, but will also provide critical, independent analysis of the how the state's policies are affecting cost trends and marketplace composition. The Institute will annually prepare a health care cost trends report that will establish whether the state's health spending is exceeding the health care cost benchmark, for

use by the Authority. The Institute shall also identify those market entities that are found to contributing to excess cost growth to the Authority.

The Institute retains many of the functions and duties of the Division of Health Care Finance and Policy. Three new duties include:

- Administers a new "registration" process for provider organizations to allow the state to collect enhanced information about these types of organizations. This is critical to monitoring the on-going trends in the market and what impact these changes have on health care costs.
- Collecting annual information for health payers regarding the relative variation in prices paid to health care providers and to track this information over time.
- Administering a consumer health information website to provide consumers with easy to understand comparative health care cost and quality information by provider.

[NOTE: The reorganization of the Division of Health Care Finance Policy required extensive edits to the General Laws. Over 45 pages in the bill are related to this transfer alone. These sections should be considered technical in nature as they do not affect policy.]

Enhancing Consumer Transparency

- To aid consumers in making health care purchasing decisions based on comparative cost, the bill requires health care payers to disclose up-front, through a toll-free number or a website, the total cost-sharing a member will be liable for in receiving a specific service from a specific provider.
- Requires providers to disclose their own charges for services, upon request of patient, and to direct the patient to the health plan's phone number/website to determine any possible cost-sharing costs.

Promoting Prevention and Wellness Program

- Establishes a "Prevention and Wellness Trust Fund" to be administered by the Department of Public Health, in consultation with an advisory board.
- The Fund collects $20 million a year for 5 years from a "health system benefit" surcharge on health plans. After 5 years the assessment sunsets.
- The purpose of the Fund is to support community-based prevention and wellness programs aimed at reducing the most costly and most prevalent avoidable health conditions.
- Funds are provided to organizations through a competitive grant process.
- Up to 10% of the funds collected in any year may be used by the Department to promote workplace wellness programs.

- Requires the Department of Public Health to develop a "model guide" for wellness programs for businesses and may provide stipends to help businesses establish programs that improve health, reduce recidivism, and help control the growth in business health care premium costs.
- Expands an existing wellness incentive program for small businesses offered by the Commonwealth Connector. The bill allows more small businesses to be eligible for this program and increases the subsidy from 5% to 15% of the employer's premium costs.

Improving Access to Essential Primary Care and Behavioral Health Services

- Expands the role of physician assistants and nurse practitioners to act as primary care providers.
- Expands an existing workforce loan forgiveness program to include behavioral providers.
- Requires that all health plans in Massachusetts must certify to the division of insurance and the attorney general compliance with Federal Mental Health parity.
- Establishes a Behavioral Health Task Force to develop standards for the extent to which and how payment for behavioral health services should be included under alternative payment methods
- Requires the Department of Public Health to create a 4-year state health resource plan that inventories our current capacity and assesses the needs for the future, specifically in primary care and behavioral health services.

Building a 21st Century Health Care IT System

- Dedicates $20 million a year for 5 years from a "health system benefit" surcharge on health plans to the e-Health Institute Fund, as administered by the e-Health Institute. After 5 years the assessment sunsets.
- The purpose of the Fund is to accelerate and facilitate the on-going statewide adoption of interoperable electronic health records by the year 2015.
- Funds are provided to organizations through a grant process. The e-Health Institute will prioritize providers that were ineligible for financing from the federal government to implement interoperable electronic health records. All assistance is needs-based and all grantees are expected to meet federal "meaningful use" standards. To the extent a provider fails to meet the obligations of the grant, the e-Health Institute may "claw-back" the funding.
- Updates an existing requirement that all physicians must demonstrate competency in health information technology as a condition of licensure by 2015 to define competency as having achieved "meaningful use" as defined by the federal government.

Transitioning to "Alternative Payment Methodologies"

- Requires that by July 1, 2014, the Office of MassHealth, the Group Insurance Commission, and other state-funded programs, must, to the extent feasible, implement "alternative payment methodologies". The standards for these methodologies are developing in consultation with the Health Care Quality and Finance Authority. Such models may include bundled payments, shared-savings programs, episodic payments, and global budgets.
- The bill does not mandate that private health plans implement "alternative payment methodologies."

Promoting Administrative Simplification

- Requires the development of standard prior authorization forms, which would be available electronically, so that providers would use only one form for all payers.
- Streamlines data reporting requirement by designating a single agency as the secure data repository for all health care information reported to and collected by the state.

Supporting Health Care Workforce Development

- Establishes a Health Care Workforce Transformation Fund to invest in the training, education, and skill development programs necessary to help workers succeed and flourish in the health care system of the future.
- Requires that a portion of any revenues transferred to this Fund must be used to support the loan forgiveness program for primary care providers and behavioral health professionals.

Transparency of the Health Care Marketplace

- Charges the Attorney General to monitor trends in the health care market including consolidation in the provider market in order to protect patient access and quality.
- Requires the Institute of Health Care Finance and Policy to, as part of its provider organization registration requirement, to collect extensive information about the financial condition, organizational structure, market power, and business practices of all provider organizations in the Commonwealth.
- Establishes a procedure by which if a provider organization is seeking a significant change in its organization a market impact review may be triggered, a public hearing held, and a final advisory report issued on the impact of the proposed change on health care costs and the competitive marketplace.

- Develops a process to track relative price variation among different health care providers over time and establishes a Special Commission to determine and quantify the acceptable and unacceptable factors contributing to price variation among providers.

Reforming Medical Malpractice Laws

- Mandates a 180-day cooling off period after an injured patient signals an intention to file litigation. Certain physician-patient communications required during that time period.
- Would clearly allow providers to express apology, regret, sympathy, and other similar statements to a patient.

Improving Standards of Care

- Promotes the use "check-lists" in hospitals. These simple tools have been demonstrated to reduce complications and errors.
- Establishes an expert task force to seek solutions to the prevalence of misdiagnosis. At least 15% of Americans are misdiagnosed, according to *The American Journal of Medicine*, with misdiagnosis rates for some forms of cancer reaching as high as 44%.

Extending Important Health Insurance Reforms from the Small Business Health Insurance Reform Act of 2010

- Extends the current requirement that DOI must review proposed premium rates and may disapprove rates based on the inclusion of excessive administrative costs or surplus margins. Adds an additional requirement that plans with surpluses above certain level may not continue to include any margin for additional surplus into the premium filing.
- Extends the current ability of the Division of Insurance to limit the impact of the application of any rating factors on rate increases. This has proven effective at mitigating and stabilizing large "spikes" in premium increases from year to year.

Examining Adequacy of Government Reimbursement for Health Care Services

- Establishes a special commission to review public payer reimbursement rates and payment systems for health care services and the impact of such rates and payment systems on health care providers and on health insurance premiums in the commonwealth.