

MassSenate

An Act enhancing the market review process (H.5159)

Fact Sheet & Highlights

[An Act enhancing the market review process](#) builds on Massachusetts' long history of bringing transparency to the health care system while responding to a changing health care landscape. It improves the state's ability to constrain health care cost growth and ensure that high quality care is both affordable and accessible. The bill strengthens oversight of the major market groups including providers, insurers, pharmaceutical manufacturing companies, pharmacy benefit managers, for-profit entities, private equity firms, real estate investment trusts, and management services organizations. The bill significantly enhances the state's tools to safeguard the system and put patient needs first.

Health Care Market Transparency and Planning

The bill expands the authority of state agencies charged with measuring and containing health care costs and strengthens the health care market review process—all with the goal of stabilizing the system, advancing health equity and improving affordability and access to high quality care for residents.

Health Policy Commission. The Health Policy Commission (HPC) is an independent state agency that advances a more transparent, accountable and equitable health care system through data-driven policy recommendations on health care delivery and payment system reform. The bill creates a new office of health resource planning under HPC, which is charged with developing state health plans every five years as a forecast of anticipated demand, production, supply and distribution of health care resources on a state-wide and regional basis during a five-year planning period.

Center for Health Information and Analysis. While HPC provides policy recommendations regarding health care delivery, the Center for Health Information and Analysis (CHIA) monitors the health care system and provides analyses on the health care system's performance and spending. To increase transparency, the bill authorizes CHIA to collect information from additional health care entities, including significant equity investors, health care real estate investment trusts, and management services organizations. The bill strengthens CHIA's ability to ensure compliance with data reporting requirements by health care entities by enhancing the penalties for non-compliance.

Health Care Market Oversight

The bill updates processes aimed at constraining health care costs and improving care quality, including the Determination of Need (DoN) and Material Change Notice (MCN).

Determination of Need. The DoN process is a regulatory program overseen by the Department of Public Health (DPH) to review proposals to either expand health care facilities or change the services they offer. This bill increases coordination between state agencies involved in the DoN process by clarifying that DPH should not act on an application until HPC, CHIA, the Attorney General or other relevant agencies have been given reasonable opportunity to supply required information. This change will ensure that DPH has all the information it needs to more fully assess a proposal's potential impact on the provision of health care in the Commonwealth.

Material Change Notice. A MCN is a requirement for providers and provider organizations to notify HPC of a proposed change to their operations or governance structure at least 60 days before the change is to go into effect. The bill adds new types of transactions that require a MCN, including significant expansions in a provider or provider organization's capacity, transactions involving a significant equity investor which result in a change of ownership or control of a provider, provider organization or a carrier, and significant acquisitions, sales or transfers of assets including, but not limited to, real

estate sale lease-back arrangement. The bill authorizes HPC to require additional information to be submitted as part of a material change notice involving a significant equity investor, including information regarding the significant equity investor's capital structure, general financial condition, ownership and management structure, and audited financial statements. The bill also authorizes HPC to require additional information to be submitted for a period of 5 years after the completion of a material change to assess post-transaction impacts.

Annual Health Care Cost Growth Hearing. As a part of HPC's charge to examine health care cost trends and set a health care cost growth benchmark for the state, HPC invites key industries to testify on drivers of health care spending. Currently, only providers and insurers are required to testify at the public hearing. The bill expands oversight of additional key industries by requiring testimony from significant equity investors, health care real estate investment trusts (REITs), and management services organizations (MSOs) involved with Massachusetts health care providers and provider organizations, as well as pharmaceutical manufacturing companies and pharmacy benefit managers (PBMs).

Licensing Health Care Providers. The bill establishes licensing structures for certain health care providers currently not licensed, and therefore not subject to DPH oversight, including office-based surgical centers, urgent care centers, and health care practices.

Primary Care

Access to primary care is proven to reduce health care costs, yet there is an extreme shortage of primary care providers in Massachusetts and across the country. To understand how to best build a sustainable primary care system, the bill establishes a task force to study and make recommendations to stabilize the primary care system and workforce, increase financial investment in primary care, and improve patient access to primary care.