

SENATE NO. 703

AN ACT TO ESTABLISH THE MASSACHUSETTS HEALTH CARE TRUST

*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. The Massachusetts General Laws are hereby amended by adding the following new
2 chapter:—

3 Preamble.

4 The foundation for a productive and healthy Massachusetts is a health care system that provides equal
5 access to quality health care for all its residents. Massachusetts spends more on health care per capita
6 than any other state or country in the world, causing undue hardship for the state, municipalities,
7 businesses, and residents, but without achieving universal access to quality health care. The Health
8 Care Trust will allow us to achieve and sustain the three main pillars of a just, efficient health care
9 system: cost control and affordability, universal access, and high quality medical care.

10 (a) COST CONTROL AND AFFORDABILITY

11 Controlling costs is the most important component of establishing a sustainable health care system for
12 the Commonwealth. The Health Care Trust will control costs by establishing a global budget, by
13 achieving significant savings on administrative overhead through consolidating the financing of our

14 health care system, by bulk purchasing of pharmaceuticals and medical supplies, and by more efficient
15 use of our health care facilities. The present fragmented health care system also leads to a lack of
16 prevention. By integrating services and removing barriers to access, the Health Care Trust will lead to
17 early detection and intervention, often avoiding more serious illnesses and more costly treatment.

18

19 (b) UNIVERSAL EQUITABLE ACCESS

20 Hundreds of thousands of Massachusetts residents still lack health insurance coverage of any sort.
21 Even more residents are covered by plans requiring high deductibles and co-payments that make
22 medical care unaffordable even for the insured. The Health Care Trust will provide health care access
23 to all residents without regard to financial status, ethnicity, gender, previous health problems, or
24 geographic location. Coverage will be continuous and affordable for individuals and families, since
25 there will be no financial barriers to access such as co-pays or deductibles.

26

27 (c) QUALITY OF CARE

28 The World Health Organization rates health outcomes in the United States health care system lower
29 than those of almost all other industrialized countries, and a number of developing countries as well.
30 Poor health outcomes result from the lack of universal access, the lack of oversight on quality due to
31 the fragmentation and complexity of our health care system, and the frequent lack of preventive and
32 comprehensive care benefits offered under commercial health plans. The Trust will reduce errors
33 through information technology, improve medical care by eliminating much of the present
34 administrative complexity, and emphasize culturally competent outreach and care. It will provide for
35 input from patients on the functioning of the health delivery system.

36

37 Section 2: Definitions.

38

39 The following words and phrases as used in this chapter shall have the following meanings, except
40 where the context clearly requires otherwise:–

41

42 “Board” means the board of trustees of the Massachusetts Health Care Trust.

43

44 “Employer” means every person, partnership, association, corporation, trustee, receiver, the legal
45 representatives of a deceased employer and every other person, including any person or corporation
46 operating a railroad and any public service corporation, the state, county, municipal corporation,
47 township, school or road, school board, board of education, curators, managers or control commission,
48 board or any other political subdivision, corporation, or quasi-corporation, or city or town under
49 special charter, or under the commission for of government, using the service of another for pay in the
50 commonwealth.

51

52 “Executive Director” means the executive director of the Massachusetts Health Care Trust.

53

54 “Health care” means care provided to a specific individual by a licensed health care professional to
55 promote physical and mental health, to treat illness and injury and to prevent illness and injury.

56

57 “Health care facility” means any facility or institution, whether public or private, proprietary or
58 nonprofit, that is organized, maintained, and operated for health maintenance or for the prevention,
59 diagnosis, care and treatment of human illness, physical or mental, for one or more persons.

60

61 “Health care provider” means any professional person, medical group, independent practice
62 association, organization, health care facility, or other person or institution licensed or authorized by
63 law to provide professional health care services to an individual in the commonwealth.

64

65 “Health maintenance organization” means a provider organization that meets the following criteria:

66

67 (1) Is fully integrated operationally and clinically to provide a broad range of health care services;

68

69 (2) Is compensated using capitation or overall operating budget; and

70

71 (3) Provides health care services primarily through direct care providers who are either employees or
72 partners of the organization, or through arrangements with direct care providers or one or more groups
73 of physicians, organized on a group practice or individual practice basis.

74

75 “Professional advisory committee” means a committee of advisors appointed by a director of a
76 division of the Massachusetts Health Care Trust.

77

78 “Resident” means a person who lives in Massachusetts as evidenced by an intent to continue to live in
79 Massachusetts and to return to Massachusetts if temporarily absent, coupled with an act or acts
80 consistent with that intent. The Trust shall adopt standards and procedures for determining whether a
81 person is a resident. Such rules shall include:

82

83 (1) a provision requiring that the person seeking resident status has the burden of proof in such
84 determination;

85

86 (2) a provision requiring reasonable durational domicile requirements not to exceed 2 years for long
87 term care and 90 days for all other covered services;

88

89 (3) a provision that a residence established for the purpose of seeking health care shall not by itself
90 establish that a person is a resident of the commonwealth; and

91

92 (4) a provision that, for the purposes of this chapter, the terms “domicile” and “dwelling place” are not
93 limited to any particular structure or interest in real property and specifically includes homeless
94 individuals with the intent to live and return to Massachusetts if temporarily absent coupled with an
95 act or acts consistent with that intent.

96

97 “Secretary” means the secretary of the executive office of health and human services.

98

99 “Trust” means the Massachusetts Health Care Trust established in section five of this chapter.

100

101 “Trust Fund” means the Massachusetts Health Care Trust Fund established in section nineteen of this
102 chapter.

103

104 Section 3. Establishment of the Massachusetts Health Care Trust..

105

106 There is hereby created an independent body, politic and corporate, to be known as the Massachusetts
107 Health Care Trust, hereinafter referred to as the Trust, to function as the single public agency, or
108 “single payer”, responsible for the collection and disbursement of funds required to provide health care
109 services for every resident of the Commonwealth. The Trust is hereby constituted a public
110 instrumentality of the commonwealth and the exercise by the Trust of the powers conferred by this
111 chapter shall be deemed and held the performance of an essential governmental function. The Trust is
112 hereby placed in the executive office of the health and human services but shall not be subject to the
113 supervision or control of said office or of any board, bureau, department or other agency of the
114 commonwealth except as specifically provided by this chapter.

115

116 The provisions of chapter two hundred sixty-eight A shall apply to all trustees, officers and employees
117 of the Trust, except that the Trust may purchase from, contract with or otherwise deal with any
118 organization in which any trustee is interested or involved: provided, however, that such interest or
119 involvement is disclosed in advance to the trustees and recorded in the minutes of the proceedings of
120 the Trust: and provided, further, that a trustee having such interest or involvement may not participate
121 in any decision relating to such organization.

122

123 Neither the Trust nor any of its officers, trustees, employees, consultants or advisors shall be subject to
124 the provisions of section three B of chapter seven, sections nine A, forty-five, forty-six and fifty-two
125 of chapter thirty, chapter thirty B or chapter thirty-one: provided, however, that in purchasing goods
126 and services, the corporation shall at all times follow generally accepted good business practices.

127

128 All officers and employees of the Trust having access to its cash or negotiable securities shall give
129 bond to the Trust at its expense, in such amount and with such surety as the board of trustees shall
130 prescribe. The persons required to give bond may be included in one or more blanket or scheduled
131 bonds.

132

133 Trustees, officers and advisors who are not regular, compensated employees of the Trust shall not be
134 liable to the commonwealth, to the Trust or to any other person as a result of their activities, whether
135 ministerial or discretionary, as such trustees, officers or advisors except for willful dishonesty or
136 intentional violations of law. The board of the Trust may purchase liability insurance for trustees,
137 officers, advisors and employees and may indemnify said persons against the claims of others.

138

139 Section 4: Powers.

140

141 The Trust shall have the following powers:

142

143 (1) to make, amend and repeal by-laws, rules and regulations for the management of its affairs;

144

145 (2) to adopt an official seal;

146

147 (3) to sue and be sued in its own name;

148

149 (4) to make contracts and execute all instruments necessary or convenient for the carrying on of the
150 purposes of this chapter;

151

152 (5) to acquire, own, hold, dispose of and encumber personal, real or intellectual property of any nature
153 or any interest therein;

154

155 (6) to enter into agreements or transactions with any federal, state or municipal agency or other public
156 institution or with any private individual, partnership, firm, corporation, association or other entity;

157

158 (7) to appear on its own behalf before boards, commissions, departments or other agencies of federal,
159 state or municipal government;

160

161 (8) to appoint officers and to engage and employ employees, including legal counsel, consultants,
162 agents and advisors and prescribe their duties and fix their compensations;

163

164 (9) to establish advisory boards;

165

166 (10) to procure insurance against any losses in connection with its property in such amounts, and from
167 such insurers, as may be necessary or desirable;

168

169 (11) to invest any funds held in reserves or sinking funds, or any funds not required for immediate
170 disbursement, in such investments as may be lawful for fiduciaries in the commonwealth pursuant to
171 sections thirty-eight and thirty-eight A of chapter twenty nine

172

173 (12) to accept, hold, use, apply, and dispose of any and all donations, grants, bequests and devises,
174 conditional or otherwise, of money, property, services or other things of value which may be received
175 from the United States or any agency thereof, any governmental agency, any institution, person, firm
176 or corporation, public or private, such donations, grants, bequests and devises to be held, used, applied
177 or disposed for any or all of the purposes specified in this chapter and in accordance with the terms
178 and conditions of any such grant. Â Receipt of each such donation or grant shall be detailed in the
179 annual report of the Trust; such annual report shall include the identity of the donor, lender, the nature
180 of the transaction and any condition attaching thereto;

181

182 (13) to do any and all other things necessary and convenient to carry out the purposes of this chapters.

183

184 Section 5: Purposes.

185

186 The purposes of the Massachusetts Health Care Trust shall include the following:

187

188 (1) To guarantee every Massachusetts resident access to high quality health care by:

189

190 (a) providing reimbursement for all medically appropriate health care services offered by the eligible
191 provider or facility of each resident's choice;

192

193 (b) funding capital investments for adequate health care facilities and resources statewide

194

195 (2) To save money by replacing the current mixture of public and private health care plans with a
196 uniform and comprehensive health care plan available to every Massachusetts resident;

197

198 (3) To replace the redundant private and public bureaucracies required to support the current system
199 with a single administrative and payment mechanism for covered health care services;

200

201 (4) To use administrative and other savings to:

202

203 (a) expand covered health care services;

204

205 (b) contain health care cost increases; and

206

207 (c) create provider incentives to innovate and compete by improving health care service quality and
208 delivery to patients;

209

210 (5) To fund, approve and coordinate capital improvements in excess of a threshold to be determined
211 annually by the executive director to qualified health care facilities to:

212

213 (a) avoid unnecessary duplication of health care facilities and resources; and

214

215 (b) encourage expansion or location of health care providers and health care facilities in underserved
216 communities;

217

218 (6) To assure the continued excellence of professional training and research at Massachusetts health
219 care facilities;

220

221 (7) To achieve measurable improvement in health care outcomes;

222

223 (8) To prevent disease and disability and maintain or improve health and functionality;

224

225 (9) To ensure that all Massachusetts residents receive care appropriate to their special needs as well as
226 care that is culturally and linguistically competent;

227

228 (10) To increase satisfaction with the health care system among health care providers, consumers, and
229 the employers and employees of the commonwealth;

230

231 (11) To implement policies which strengthen and improve culturally and linguistically sensitive care;

232

233 (12) To develop an integrated population-based health care database to support health care planning;

234 and

235

236 (13) To fund training and re-training programs for professional and non-professional workers in the
237 health care sector displaced as a direct result of implementation of this chapter.

238

239 Section 6: Board of Trustees; Composition; Powers and Duties.

240

241 The Trust shall be governed by a board of trustees with twenty-three members. The board shall include
242 the secretary of health and human services, the secretary of administration and finance, and the
243 commissioner of public health.

244

245 The Governor shall appoint: three trustees nominated by organizations of health care professionals
246 who deliver direct patient care; one nominated by a statewide organization of health care facilities; one
247 nominated by an organization representing non-health care employers; and a health care economist.

248

249 The Attorney General shall appoint: one trustee nominated by a statewide labor organization; two
250 trustees nominated by statewide organizations who have a record of advocating for universal single
251 payer health care in Massachusetts; one nominated by an organization representing Massachusetts
252 senior citizens; one nominated by a statewide organization defending the rights of children; and one
253 nominated by an organization providing legal services to low-income clients.

254

255 In addition, eight trustees, who are eligible to receive the benefits of the Massachusetts Health Care
256 Trust but who do not fall into any of the aforementioned categories, shall be elected by the citizens of
257 the Commonwealth, one from each of the Governor's Council districts. Candidates shall run in
258 accordance with Fair Campaign Financing Rules. In order to provide for staggered terms, from the
259 first eight to be elected, two shall be elected for two years, three for three years, and three for four
260 years. Afterwards, all elected trustees shall be elected for four-year terms. All elected trustees shall be
261 eligible for reelection, which would enable them to serve a maximum of eight consecutive years.

262

263 Each appointed trustee shall serve a term of five years: provided, however, that initially four appointed
264 trustees shall serve three year terms, four appointed trustees shall serve four year terms, and four
265 appointed trustees shall serve five year terms. The initial appointed trustees shall be assigned to a
266 three, four, or five year term by lot. Any person appointed to fill a vacancy on the board shall serve for
267 the unexpired term of the predecessor trustee. Any appointed trustee shall be eligible for
268 reappointment. Any appointed trustee may be removed from his appointment by the governor for just
269 cause.

270
271 The board shall elect a chair from among its members every two years. Ten trustees shall constitute a
272 quorum and the affirmative vote of a majority of the trustees present and eligible to vote at a meeting
273 shall be necessary for any action to be taken by the board. The board of trustees shall meet at least ten
274 times each year and will have final authority over the activities of the Trust.

275
276 The trustees shall be reimbursed for actual and necessary expenses and loss of income incurred for
277 each full day serving in the performance of their duties to the extent that reimbursement of those
278 expenses is not otherwise provided or payable by another public agency or agencies. For purposes of
279 this section, "full day of attending a meeting" shall mean presence at, and participation in, not less than
280 75 percent of the total meeting time of the board during any particular 24-hour period.

281
282 No member of the board of trustees shall make, participate in making, or in any way attempt to use his
283 or her official position to influence a governmental decision in which he or she knows or has reason to
284 know that he or she, or a family member or a business partner or colleague has a financial interest.

285

286 In general, the board is responsible for ensuring universal access to high quality, affordable health care
287 for every resident of the Commonwealth. The Board shall specifically address all of the following:

288

289 (1) Establish policy on medical issues, population-based public health issues, research priorities, scope
290 of services, expanding access to care, and evaluation of the performance of the system;

291

292 (2) Evaluate proposals from the executive director and others for innovative approaches to health
293 promotion, disease and injury prevention, health education and research, and health care delivery.

294

295 (3) Establish standards and criteria by which requests by health facilities for capital improvements
296 shall be evaluated.

297

298 Section 7: Executive Director; Purpose and Duties.

299

300 The board of trustees shall hire an executive director who shall be the executive and administrative
301 head of the Trust and shall be responsible for administering and enforcing the provisions of law
302 relative to the Trust.

303

304 The executive director may, as s/he deems necessary or suitable for the effective administration and
305 proper performance of the duties of the Trust and subject to the approval of the board of trustees, do
306 the following:

307

308 (1) adopt, amend, alter, repeal and enforce, all such reasonable rules, regulations and orders as may be
309 necessary;

310

311 (2) appoint and remove employees and consultants: provided, however, that, subject to the availability
312 of funds in the Trust, at least one employee shall be hired to serve as director of each of the divisions
313 created in sections eight through twelve, inclusive, of this chapter.

314

315 The executive director shall:

316

317 (1) establish an enrollment system that will ensure that all eligible Massachusetts residents are
318 formally enrolled;

319

320 (2) utilize the purchasing power of the state to negotiate price discounts for prescription drugs and all
321 needed durable and nondurable medical equipment and supplies;

322

323 (3) negotiate or establish terms and conditions for the provision of high quality health care services
324 and rates of reimbursement for such services on behalf of the residents of the commonwealth;

325

326 (4) develop prospective and retrospective payment systems for covered services to provide prompt and
327 fair payment to eligible providers and facilities;

328

329 (5) oversee preparation of annual operating and capital budgets for the statewide delivery of health
330 care services;

331

332 (6) oversee preparation of annual benefits reviews to determine the adequacy of covered services; and

333

334 (7) prepare an annual report to be submitted to the governor, the president of the senate and speaker of

335 the house of representatives and to be easily accessible to every Massachusetts resident.

336

337 The executive director of the trust may utilize and shall coordinate with the offices, staff and resources

338 of any agencies of the executive branch including, but not limited to, the executive office of health and

339 human services and all line agencies under its jurisdiction, the division of health care finance and

340 policy, the department of revenue, the insurance division, the group insurance commission, the

341 department of employment and training, the industrial accidents board, the health and educational

342 finance authority, and all other executive agencies.

343

344 Section 8: Regional Division; Director, Offices, Purposes and Duties.

345

346 There shall be a regional division within the Trust which shall be under the supervision and control of

347 a director. The powers and duties given the director in this chapter and in any other general or special

348 law shall be exercised and discharged subject to the control and supervision of the executive director

349 of the Trust. The director of the regional division shall be appointed by the executive director of the

350 Trust, with the approval of the board of trustees, and may, with like approval, be removed. The

351 director may, at his/her discretion, establish a professional advisory committee to provide expert

352 advice: provided, however, that such committee shall have at least 25% consumer representation.

353

354 The Trust shall have a reasonable number of regional offices located throughout the state. The number
355 and location of these offices shall be proposed to the executive director and board of trustees by the
356 director of the regional division after consultation with the directors of the planning, administration,
357 quality assurance and information technology divisions and consideration of convenience and equity.
358 The adequacy and appropriateness of the number and location of regional offices shall be reviewed by
359 the board at least once every three years.

360

361 Each regional office shall be professionally staffed to perform local outreach and informational
362 functions and to respond to questions, complaints, and suggestions from health care consumers and
363 providers. Each regional office shall hold hearings annually to determine unmet health care needs and
364 for other relevant reasons. Regional office staff shall immediately refer evidence of unmet needs or of
365 poor

366

367 quality care to the director of the regional division who will plan and implement remedies in
368 consultation with the directors of the administrative, planning, quality assurance, and information
369 technology divisions.

370

371 Section 9: Administrative Division; Director; Purpose and Duties.

372

373 There shall be an administrative division within the Trust which shall be under the supervision and
374 control of a director. The powers and duties given the director in this chapter and in any other general
375 or special law shall be exercised and discharged subject to the direction, control and supervision of the
376 executive director of the Trust. The director of the administrative division shall be appointed by the

377 executive director of the Trust, with the approval of the board of trustees, and may, with like approval,
378 be removed. The director may, at his/her discretion, establish a professional advisory committee to
379 provide expert advice: provided, however, that such committee shall have at least 25% consumer
380 representation.

381

382 The administrative division shall have day-to-day responsibility for:

383

384 (1) making prompt payments to providers and facilities for covered services;

385

386 (2) collecting reimbursement from private and public third party payers and individuals for services
387 not covered by this chapter or covered services rendered to non-eligible patients;

388

389 (3) developing information management systems needed for providerpayment, rebate collection and
390 utilization review;

391

392 (4) investing trust fund assets consistent with state law and section nineteen of this chapter;

393

394 (5) developing operational budgets for the Trust; and

395

396 (6) assisting the planning division to develop capital budgets for the Trust.

397

398 Section 10: Planning Division; Director; Purpose and Duties.

399

400 There shall be a planning division within the Trust which shall be under the supervision and control of
401 a director. The powers and duties given the director in this chapter and in any other general or special
402 law shall be exercised and discharged subject to the direction, control and supervision of the executive
403 director of the Trust. The director of the planning division shall be appointed by the executive director
404 of the Trust, with the approval of the board of trustees, and may, with like approval, be removed. The
405 director may, at his/her discretion, establish a professional advisory committee to provide expert
406 advice: provided, however, that such committee shall have at least 25% consumer representation.

407
408 The planning division shall have responsibility for coordinating health care resources and capital
409 expenditures to ensure all eligible participants reasonable access to covered services. The
410 responsibilities shall include but are not limited to:

411
412 (1) An annual review of the adequacy of health care resources throughout the commonwealth and
413 recommendations for changes. Specific areas to be evaluated include but are not limited to the
414 resources needed for underserved populations and geographic areas, for culturally and linguistically
415 competent care, and for emergency and trauma care. The director will develop short term and long
416 term plans to meet health care needs.

417
418 (2) An annual review of capital health care needs. Included in this evaluation, but not limited to it are
419 recommendations for a budget for all health care facilities, evaluating all capital expenses in excess of
420 a threshold amount to be determined annually by the executive director , and collaborating with local
421 and statewide government and health care institutions to coordinate capital health planning and

422 investment. The director will develop short term and long term plans to meet capital expenditure
423 needs.

424

425 In making its review, the planning division shall consult with the regional offices of the Trust and shall
426 hold hearings throughout the state on proposed recommendations. The division shall submit to the
427 board of trustees its final review and recommendations by October 1 of each year. Subject to board
428 approval, the Trust shall adopt the recommendations.

429

430 Section 11: Information Technology Division; Purpose & Duties.

431

432 There shall be an information technology division within the Trust which shall be under the
433 supervision and control of a director. The powers and duties given the director in this chapter and in
434 any other general or special law shall be exercised and discharged subject to the direction, control and
435 supervision of the executive director of the Trust. The director of the information technology division
436 shall be appointed by the executive director of the Trust, with the approval of the board of trustees, and
437 may, with like approval, be removed. The director may, at his/her discretion, establish a professional
438 advisory committee to provide expert advice: provided, however, that such committee shall have at
439 least 25% consumer representation.

440

441 The responsibilities of the information technology division shall include but are not limited to:

442

443 (1) developing a confidential electronic medical records system and prescription system in accordance
444 with laws and regulations to maintain accurate patient records and to simplify the billing process,
445 thereby reducing medical errors and bureaucracy;

446

447 (2) developing a tracking system to monitor quality of care, establish a patient data base and promote
448 preventive care guidelines and medical alerts to avoid errors.

449

450 Notwithstanding that all billing shall be performed electronically, patients shall have the option of
451 keeping any portion of their medical records separate from their electronic medical record. The
452 information technology director shall work closely with the directors of the regional, administrative,
453 planning and quality assurance divisions. The information technology division shall make an annual
454 report to the board of trustees by October 1 of each year. Subject to board approval, the Trust shall
455 adopt the recommendations.

456

457 Section 12: Quality Assurance Division; Director; Purpose and Duties.

458

459 There shall be a quality assurance division within the Trust which shall be under the supervision and
460 control of a director. The powers and duties given the director in this chapter and in any other general
461 or special law shall be exercised and discharged subject to the direction, control and supervision of the
462 executive director of the Trust. The director of the quality assurance division shall be appointed by the
463 executive director of the Trust, with the approval of the board of trustees, and may, with like approval,
464 be removed. The director may, at his/her discretion, establish a professional advisory committee to

465 provide expert advice: provided, however, that such committee shall have at least 25% consumer
466 representation.

467

468 The quality assurance division shall support the establishment of a universal, best quality of standard
469 of care with respect to:

470

471 (a) appropriate staffing levels;

472

473 (b) appropriate medical technology;

474

475 (c) design and scope of work in the health workplace; and

476

477 (d) evidence-based best clinical practices.

478

479 The director shall conduct a comprehensive annual review of the quality of health care services and
480 outcomes throughout the commonwealth and submit such recommendations to the board of trustees as
481 may be required to maintain and improve the quality of health care service delivery and the overall
482 health of Massachusetts residents. In making its reviews, the quality assurance division shall consult
483 with the regional, administrative, and planning divisions and hold hearings throughout the state on
484 quality of care issues. The division shall submit to the board of trustees its final review and
485 recommendations on how to ensure the highest quality health care service delivery by October 1 of
486 each year. Subject to board approval, the Trust shall adopt the recommendations.

487

488 Section 13: Eligible Participants.

489

490 Those persons who shall be recognized as eligible participants in the Massachusetts Health Care Trust
491 shall include:

492

493 (1) all Massachusetts residents,

494

495 (2) all non-residents who:

496

497 (a) work 20 hours or more per week in Massachusetts;

498

499 (b) pay all applicable Massachusetts personal income and payroll taxes;

500

501 (c) pay any additional premiums established by the Trust; and

502

503 (d) have complied with requirements (a) through (c) inclusive for at least 90 days

504

505 (3) All non-resident patients requiring emergency treatment for illness or injury: provided, however,
506 that the trust shall recoup expenses for such patients wherever possible.

507

508 Payment for emergency care of Massachusetts residents obtained out of state shall be at prevailing

509 local rates. Payment for non-emergency care of Massachusetts residents obtained out of state shall be

510 according to rates and conditions established by the executive director. The executive director may

511 require that a resident be transported back to Massachusetts when prolonged treatment of an
512 emergency condition is necessary.

513

514 Visitors to Massachusetts shall be billed for all services received under the system. The executive
515 director of the Trust may establish intergovernmental arrangements with other states and countries to
516 provide reciprocal coverage for temporary visitors.

517

518 Section 14: Eligible Health Care Providers and Facilities.

519

520 Eligible health care providers and facilities shall include an agency, facility, corporation, individual, or
521 other entity directly rendering any covered benefit to an eligible patient: provided, however, that the
522 provider or facility:

523

524 (1) is licensed to operate or practice in the commonwealth;

525

526 (2) earns no more than 5% of its income by providing health care services covered by, but not paid for,
527 by the trust: provided, however, that when such services are provided at an otherwise eligible health
528 care facility, the provider must reimburse the Trust for an amount to be determined by the Trust but
529 not less than the value of the fully loaded overhead cost of the provider's use of the facility plus the
530 provider's share of the value of any public subsidies to the facility;

531

532 (3) furnishes a signed agreement that:

533

534 (a) all health care services will be provided without discrimination on the basis of age, sex, race,
535 national origin, sexual orientation, income status or preexisting condition;

536

537 (b) the provider or facility will comply with all state and federal laws regarding the confidentiality of
538 patient records and information; (c) no balance billing or out-of-pocket charges will be made for
539 covered services unless otherwise provided in this chapter; and

540

541 (d) the provider or facility will furnish such information as may be reasonably required by the Trust
542 for making payment, verifying reimbursement and rebate information, utilization review analyses,
543 statistical and fiscal studies of operations and compliance with state and federal law;

544

545 (4) meets state and federal quality guidelines including guidance for safe staffing, quality of care, and
546 efficient use of funds for direct patient care;

547

548 (5) is a public or non-profit institution that is not investor owned;

549

550 (6) is a non-profit health maintenance organization that actually delivers care in its facilities and
551 employs clinicians on a salaried basis; and

552

553 (7) meets whatever additional requirements that may be established by the Trust.

554

555 Section 15: Prospective Payments to Eligible Health Care Providers and Facilities for Operating
556 Expenses.

557

558 The Trust shall negotiate or establish, with eligible health care providers, health care facilities or
559 groups of providers or facilities, payment rates for covered services. Such payment rates may be made
560 on a fee for service, capitated system or overall operating budget basis and shall remain in effect for a
561 period of 12 months unless sooner modified by the Trust. Except as provided in section sixteen of this
562 chapter, reimbursement for covered services by the Trust shall constitute full payment for the services
563 rendered.

564

565 Payment provided under this section can be used only to pay for the operating costs of eligible health
566 care providers or facilities, including reasonable expenditures, as determined through budget
567 negotiations with the Trust, for the maintenance, replacement and purchase of equipment. Payments
568 for operating expenses shall not be used to finance capital expenditures; payment of exorbitant
569 salaries; or for activities to assist, promote, deter or discourage union organizing. Any prospective
570 payments made in excess of actual costs for covered services shall be returned to the Trust.

571 Prospective payment rates and schedules shall be adjusted annually to incorporate retrospective
572 adjustments.

573

574 Section 16: Retrospective Payments to Eligible Health Care Providers and Facilities for Operating
575 Expenses.

576

577 The Trust shall provide for retrospective adjustment of payments to eligible health care facilities and
578 providers to:

579

580 (1) assure that payments to such providers and facilities reflect the difference between actual and
581 projected utilization and expenditures for covered services; and

582

583 (2) protect health care providers and facilities who serve a disproportionate share of eligible
584 participants whose expected utilization of covered health care services and expected health care
585 expenditures for such services are greater than the average utilization and expenditure rates for eligible
586 participants statewide.

587

588 Payments provided under this section can be used only to pay for the operating costs of eligible health
589 care providers and facilities, including reasonable expenditures, as determined through budget
590 negotiations with the Trust, for the maintenance, replacement and purchase of equipment. Payments
591 for operating costs shall not be used to finance capital expenditures; for the payment of exorbitant
592 salaries; or for activities to assist, promote, deter or discourage union organizing.

593

594 Section 17: Prospective Funding for Capital Investments by Eligible Health Care Providers and
595 Facilities.

596

597 The Trust, through its planning division, shall negotiate with eligible health care providers, health care
598 facilities, or groups of providers or facilities, capital budgets to ensure adequate access to high quality
599 health care for all Massachusetts residents. The Trust shall provide funding for payment of debt
600 service on outstanding bonds as of the effective date of this Act and shall be the sole source of future
601 funding, whether directly or indirectly, through the payment of debt service, for capital expenditures

602 by health care providers and facilities covered by the Trust in excess of a threshold amount to be
603 determined annually by the executive director.

604

605 Section 18: Covered Benefits.

606

607 The Trust shall pay for all professional services provided by eligible providers and facilities to eligible
608 participants needed to:

609

610 (1) provide high quality, appropriate and medically necessary health care services;

611

612 (2) encourage reductions in health risks and increase use of preventive and primary care services; and

613

614 (3) integrate physical health, mental and behavioral health and substance abuse services.

615

616 Covered benefits shall include all high quality health care determined to be medically necessary or
617 appropriate by the Trust, including, but not limited to, the following:

618

619 (1) prevention, diagnosis and treatment of illness and injury, including laboratory, diagnostic imaging,
620 inpatient, ambulatory and emergency medical care, blood and blood products, dialysis, mental health
621 services, dental care, acupuncture, physical therapy, chiropractic and podiatric services;

622

623 (2) promotion and maintenance of individual health through appropriate screening, counseling and
624 health education;

625

626 (3) the rehabilitation of sick and disabled persons, including physical, psychological, and other
627 specialized therapies;

628

629 (4) prenatal, perinatal and maternity care, family planning, fertility and reproductive health care;

630

631 (5) home health care including personal care;

632

633 (6) long term care in institutional and community-based settings;

634

635 (7) hospice care;

636

637 (8) language interpretation and such other medical or remedial services as the Trust shall determine;

638

639 (9) emergency and other medically necessary transportation;

640

641 (10) the full scale of dental services, other than cosmetic dentistry;

642

643 (11) basic vision care and correction, other than laser vision correction for cosmetic purposes;

644

645 (12) hearing evaluation and treatment including hearing aids;

646

647 (13) prescription drugs; and

648

649 (14) durable and non-durable medical equipment, supplies and appliances.

650

651 No deductibles, co-payments, co-insurance, or other cost sharing shall be imposed with respect to
652 covered benefits. Patients shall have free choice of participating physicians and other clinicians,
653 hospitals, inpatient care facilities and other providers and facilities.

654

655 Prior to obtaining any federal program's financing through the Health Care Trust, the Trust will seek to
656 ensure that participants eligible for federal program coverage receive access to care and coverage
657 equal to that of all other Massachusetts participants. It shall do so by (a) paying for all services
658 enumerated above not covered under the relevant federal plans; (b) paying for all such services during
659 any federally mandated gaps in participants' coverage; and (c) paying for any deductibles, co-
660 payments, co-insurance, or other cost sharing incurred by such participants.

661

662 Section 19: Establishment of the Health Care Trust Fund.

663

664 In order to support the Trust effectively, there is hereby established the health care trust fund,
665 hereinafter the Trust Fund, which shall be administered and expended by the executive director of the
666 Trust subject to the approval of the board. The Fund shall consist of all revenue sources defined in
667 section twenty one, and, all property and securities acquired by and through the use of monies
668 deposited to the Trust Fund and all interest thereon less payments therefrom to meet liabilities incurred
669 by the Trust in the exercise of its powers and the performance of its duties under this chapter.

670

671 All claims for health care services rendered shall be made to the Trust Fund and all payments made for
672 health care services shall be disbursed from the Trust Fund. The executive director shall from time to
673 time requisition for said Trust Fund such amounts as the executive director deems necessary to meet
674 the Trust's current obligations for a reasonable future period.

675

676 Section 20: Purpose of the Trust Fund.

677

678 Amounts credited to the Trust Fund shall be used for the following purposes:

679

680 (1) to pay eligible health care providers and health care facilities for covered services rendered to
681 eligible individuals;

682

683 (2) to fund capital expenditures for eligible health care providers and health care facilities for approved
684 capital investments in excess of a threshold amount to be determined annually by the executive
685 director;

686

687 (3) to pay for preventive care, education, outreach, and public health risk reduction initiatives, not to
688 exceed 5% of Trust income in any fiscal year;

689

690 (4) to supplement other sources of financing for education and training of the health care workforce,
691 not to exceed 2% of Trust income in any fiscal year;

692

693 (5) to supplement other sources of financing for medical research and innovation, not to exceed 1% of
694 Trust income in any fiscal year;

695

696 (6) to supplement other sources of financing for training and retraining programs for workers in the
697 health care sector displaced as a result of administrative streamlining gained by moving from a multi-
698 payer to a single payer health care system, not to exceed 2% of Trust income in any fiscal year:
699 provided, however, that such funding shall end June 30 of the third year following full implementation
700 of this chapter;

701

702 (7) to fund a reserve account to finance anticipated long-term cost increases due to demographic
703 changes, inflation or other foreseeable trends that would increase Trust Fund liabilities, and for
704 budgetary shortfall, epidemics, and other extraordinary events, not to exceed 1% of Trust income in
705 any fiscal year: provided, however, that the Trust reserve account shall at no time constitute more than
706 5% of total Trust assets;

707

708 (8) to pay the administrative costs of the Trust which, within two years of full implementation of this
709 chapter shall not exceed 5% of Trust income in any fiscal year.

710

711 Unexpended Trust assets shall not be deemed to be “surplus” funds as defined by chapter twenty-nine
712 of the general laws.

713

714 Section 21: Funding Sources.

715

716 The Trust shall be the repository for all health care funds and related administrative funds. The sources
717 of Trust funding shall include the following:

718

719 (1) All monies saved by

720

721 (a) simplifying administration of health care finance,

722

723 (b) achieving bulk purchase discounts on pharmaceuticals and medical supplies, and

724

725 (c) early detection and intervention for health problems through timely, universally available primary
726 and preventive care;

727

728 (2) All monies the commonwealth currently appropriates to pay for health care services or health

729 insurance premiums, including but not limited to, all current state programs which provide covered

730 benefits and appropriations to cities, towns and other governmental subdivisions to pay for health care

731 services or health insurance premiums; provided, however, that the Trust shall then assume

732 responsibility for all benefits and services previously paid for by the commonwealth with these funds.

733 All current state health care programs which provide covered benefits shall be included in this

734 requirement. The executive director shall seek from the Legislature a contribution for health care

735 services that shall not decrease in relation to state government expenditures of health care services in

736 the year that this chapter is enacted. (3) All monies collected by cities, towns and other governmental

737 subdivisions to pay for health care services or health insurance premiums; provided, however, that the

738 Trust shall then assume responsibility for all benefits and services previously paid for by those
739 governmental subdivisions with these funds.

740

741 (3) All monies collected by cities, towns and other governmental subdivisions to pay for health care
742 services or health insurance premiums; provided, however, that the Trust shall then assume
743 responsibility for all benefits and services previously paid for by those governmental subdivisions with
744 these funds.

745

746 (4) All monies the commonwealth receives from the federal government to pay for health care services
747 or health insurance premiums; provided, however, that the commonwealth shall then assume
748 responsibility for all benefits and services previously paid by the federal government with these funds.

749 The Trust shall seek to maximize all sources of federal financial support for health care services in
750 Massachusetts. Accordingly, the executive director shall seek all necessary waivers, exemptions,
751 agreements, or legislation, if needed, so that all current federal payments for health care shall,
752 consistent with the federal law, be paid directly to the Trust Fund. In obtaining the waivers,
753 exemptions, agreements, or legislation, the executive director shall seek from the federal government a
754 contribution for health care services in Massachusetts that shall not decrease in relation to the
755 contribution to other states as a result of the waivers, exemptions, agreements, or legislation.

756

757 (5) All monies collected from taxes imposed on items that contribute to increased health care costs.
758 Surtaxes, to be determined by the Legislature, in consultation with the executive director of the Trust,
759 shall be imposed on products and facilities to the extent that they can be determined to contribute to
760 the health care costs of the commonwealth. These may include, but shall not be limited to: alcohol,

761 gasoline, firearms, and facilities operating in the commonwealth that generate air and/or water
762 pollution.

763

764 (6) All monies collected through payment by all employers in the commonwealth of a Health Trust
765 premium, based on their payroll, starting with the enactment of the benefit plan of the Trust, as
766 determined by the Trust in consultation with the Department of Revenue. The amount of this premium
767 shall be in line with, or less than, the average contributions that employers make toward employee
768 health benefits as of the effective date of this act, adjusted to a rate less than national health care
769 inflation or deflation. The premium shall be collected through the Department of Revenue for deposit
770 in the Trust Fund.

771

772 Any employer which has a contract with an insurer, health services corporation or health maintenance
773 organization to provide health care services or benefits for its employees, which is in effect on the
774 effective date of this section, shall be entitled to an income tax credit against premiums otherwise due
775 in an amount equal to the Trust fund premium due pursuant to this section.

776

777 Any insurer, health services corporation, or health maintenance organization which provides health
778 care services or benefits under a contract with an employer which is in effect on the effective date of
779 this act shall pay to the Trust Fund an amount equal to the Health Trust premium which would have
780 been paid by the employer if the contract with the insurer, health services corporation or health
781 maintenance organizations were not in effect. For purposes of this section, the term “insurer” includes
782 union health and welfare funds and self-insured employers.

783

784 An employer may agree to pay all or part of the employee's Health Trust premium imposed by the
785 provisions of this section. Such payment shall not be considered income for Massachusetts income tax
786 purposes.

787

788 (7) All monies collected through payment of a Health Trust premium by all individuals and families in
789 the commonwealth. Starting with the enactment of the benefit plan of the Trust, families and
790 individuals receiving covered benefits under the Trust shall contribute premiums on a sliding scale as
791 determined by the Trust in consultation with the Department of Revenue. There shall be no premiums
792 for families or individuals with income below three hundred percent of federal poverty level
793 guidelines. The premium for employed workers shall be negotiated to be less than the amount such an
794 individual or family would pay through an employer or private insurance plan for a comparable
795 benefits package. The premium shall be collected through the Department of Revenue for deposit in
796 the Trust Fund.

797

798 (8) The Trust shall retain:

799

800 (a) all charitable donations, gifts, grants or bequests made to it from whatever source consistent with
801 state and federal law;

802

803 (b) payments from third party payers for covered services rendered by eligible providers to non-
804 eligible patients but paid for by the Trust;

805

806 (c) income from the investment of Trust assets, consistent with state and federal law.

807

808 (9) All monies from collateral sources of payment for health care services. It is the intent of this act to
809 establish a single public payer for all health care in the commonwealth. However, until such time as
810 the role of all other payers for health care has been terminated, health care costs shall be collected
811 from collateral sources whenever medical services provided to an individual are, or may be, covered
812 services under a policy of insurance, health care service plan, or other collateral source available to
813 that individual, or for which the individual has a right of action for compensation to the extent
814 permitted by law.

815

816 As used in this section, collateral source includes all of the following:

817

818 (a) insurance policies written by insurers, including the medical components of automobile,
819 homeowners, and other forms of insurance;

820

821 (b) health care service plans and pension plans;

822

823 (c) employers;

824

825 (d) employee benefit contracts;

826

827 (e) government benefit programs;

828

829 (f) a judgment for damages for personal injury;

830

831 (g) any third party who is or may be liable to an individual for health care services or costs;

832

833 As used in this section, collateral sources do not include either of the following:

834

835 (a) a contract or plan that is subject to federal preemption;

836

837 (b) any governmental unit, agency, or service, to the extent that subrogation is prohibited by law.

838

839 An entity described as a collateral source is not excluded from the obligations imposed by this section
840 by virtue of a contract or relationship with a governmental unit, agency, or service.

841

842 The executive director shall attempt to negotiate waivers, seek federal legislation, or make other
843 arrangements to incorporate collateral sources in Massachusetts into the Trust.

844

845 Whenever an individual receives health care services under the system and s/he is entitled to coverage,
846 reimbursement, indemnity, or other compensation from a collateral source, s/he shall notify the health
847 care provider or facility and provide information identifying the collateral source other than federal
848 sources, the nature and extent of coverage or entitlement, and other relevant information. The health
849 care provider or facility shall forward this information to the executive director. The individual entitled
850 to coverage, reimbursement, indemnity, or other compensation from a collateral source shall provide
851 additional information as requested by the executive director.

852

853 The Trust shall seek reimbursement from the collateral source for services provided to the individual,
854 and may institute appropriate action, including suit, to recover the costs to the Trust. Upon demand,
855 the collateral source shall pay to the Trust Fund the sums it would have paid or expended on behalf of
856 the individuals for the health care services provided by the Trust.

857

858 If a collateral source is exempt from subrogation or the obligation to reimburse the Trust as provided
859 in this section, the executive director may require that an individual who is entitled to medical services
860 from the collateral source first seek those services from that source before seeking those services from
861 the Trust.

862

863 To the extent permitted by federal law, contractual retiree health benefits provided by employers shall
864 be subject to the same subrogation as other contracts, allowing the Trust to recover the cost of services
865 provided to individuals covered by the retiree benefits, unless and until arrangements are made to
866 transfer the revenues of the benefits directly to the Trust.

867

868 Default, underpayment, or late payment of any tax, premium, or other obligation imposed by the Trust
869 shall result in the remedies and penalties provided by law, except as provided in this section.

870

871 Eligibility for benefits shall not be impaired by any default, underpayment, or late payment of any tax,
872 premium, or other obligation imposed by the Trust.

873

874 Section 22: Insurance reforms.

875

876 Insurers regulated by the division of insurance are prohibited from charging premiums to eligible
877 participants for coverage of services already covered by the Trust. The commissioner of insurance
878 shall adopt, amend, alter, repeal and enforce all such reasonable rules and regulations and orders as
879 may be necessary to implement this section.

880

881 Section 23: Health Trust regulatory authority.

882

883 The Trust shall adopt and promulgate regulations to implement the provisions of this chapter. The
884 initial regulations may be adopted as emergency regulations but those emergency regulations shall be
885 in effect only from the effective date of this chapter until the conclusion of the transition period.

886

887 Section 24: Implementation of the Health Care Trust.

888

889 Not later than thirty days after enactment of this legislation, the governor shall make the initial
890 appointments to the board of the Massachusetts Health Care Trust. The first meeting of the trustees
891 shall take place within sixty days of enactment of this legislation.

892

893 The Trust shall complete its period of transition within three years of enactment of this legislation. Full
894 implementation of the benefit plan of the Trust shall be completed within five years of enactment of
895 this legislation.

896