

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Koutoujian

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

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

An Act relative to patient health care costs.

PETITION OF:

NAME:

Peter J. Koutoujian

DISTRICT/ADDRESS:

10th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1148 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO PATIENT HEALTH CARE COSTS.

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 General Court finds that consumers without health care coverage are
2 sometimes charged more for needed health care services and often cannot afford to pay for these
3 services. This Act requires health care facilities to establish self-pay patient programs and
4 provide information on the self-pay program, and provides a venue for billing disputes.

5 SECTION 2. Chapter 118G of the General Laws is hereby amended by inserting after section 40
6 the following new section:

7 Section 41. Self-Pay Patient Health Care Costs

8 (A) For purposes of this section, the following words shall, unless the context clearly requires
9 otherwise, have the following meanings: –

10 “Alternative payment arrangement,” a method of compensation that allows payment of billed
11 charges on other than a lump sum or a delayed basis.

12 “Division,” the division of Health Care Finance and Policy

13 “Health facility,” any hospital or ambulatory surgical center as defined in section 1 of Chapter
14 118G of the General Laws.

15 “Self-pay patient,” a patient who is a resident of the commonwealth and who does not have
16 coverage under a health insurance plan, Medicare, Medicaid, or other government program, and

17 is not eligible for free care or partial free care in the Uncompensated Care Pool under Chapter
18 118G. For the purpose of this section, “Self-pay patient” hereon will be referred to as “patient”.

19 “Reduced charges,” a charge established by the division of Health Care Finance and Policy
20 which is no more than the maximum allowable charge for a particular health care service for the
21 category of self-pay patients.

22 “Self-pay program,” a program administered by a health facility which at minimum includes,
23 reduced charges for self-pay patients and alternative payment arrangements for self-pay
24 individuals.

25 (B) Self-pay patient program

26 (1) Each health facility shall develop a self-pay program and shall provide each patient with
27 information on its self-pay patient program as a condition of admission for the provision of non-
28 emergency health care services and as soon as reasonably practicable for the provision of
29 emergency health care services.

30 (2) A health facility shall develop and implement procedures for self-pay patients to apply for
31 reduced charges or an alternative payment arrangement. The health care facility shall design the
32 application form and procedures in a manner calculated to encourage participation in the
33 program by eligible self-pay patients.

34 (C) Publication of self-pay program; reports

35 (1) A health facility shall make available to the public on its Internet website, in a format that can
36 be downloaded, a copy of its self-pay program. It shall post a clear and conspicuous notice in its
37 (a) reception areas open to the public, in its admissions office, if applicable, and (b) in its billing
38 office informing patients of the health facility's self-pay program and the ability to obtain a copy
39 of educational materials regarding the program upon request.

40 (2) Each health facility shall, on a quarterly basis, report to the division the number of patients
41 applying for the self-pay program and the number of patients accepted for reduced charges under
42 the self-pay program.

43 (D) Charges for Services

44 (1) A health facility shall not, as a condition of admission or the provision of non-emergency
45 services, require a patient or a patient’s representative to sign any form that requires or binds the
46 patient or the patient's representative to make an unspecified or unlimited financial payment to
47 the health facility or to waive the patient's right to appeal charges billed.

48 (2) A health facility may require a financial commitment from a patient or a patient’s
49 representative for non-emergency services only if it provides a prior written estimate of charges
50 for the health facility, its contractors, and facility-based physicians for the items and services

51 generally required to treat the patient's condition. The health facility shall notify the patient or
52 the ay patient's representative of any revision to the estimate in a timely manner. If the health
53 facility makes a revision to the estimate that exceeds the lesser of either 20% of the original
54 estimate or \$1,000.00, any financial commitment made by the self-pay patient or the self-pay
55 patient's representative shall be null and void.

56 (3) In the event of any unanticipated complications or unforeseen circumstances in providing
57 non-emergency services to a self-pay patient, the health facility may charge the patient for
58 additional treatment, services, or supplies rendered in connection with the complication or
59 unforeseen circumstance, if such charges are itemized on the patient's billing statement.

60 (4) Each health facility shall provide a patient with an itemized bill for the medical service or
61 item rendered to the patient detailing the following:

62 (a)the original full charge for each medical service or item rendered

63 (b)the reduced charge to be paid by the patient for each medical service or item rendered; and

64 (c)the expected amount that would be paid under the Medicare program for that item or service,
65 including the amount of any required cost-sharing, and excluding the amount of any add-on or
66 supplemental Medicare payments, such as for graduate medical education or the disproportionate
67 share or critical access hospital adjustment.

68 (5) A health facility shall not condition the provision of health care services to a self-pay patient
69 based upon the patient waiving any provision of this Act.

70 (E)Right to contest billings

71 (1) A patient or a patient's representative shall have the right to appeal any charges in their
72 health facility bill, including charges for any of the health facility's contractors or facility-based
73 medical providers. All health facility bills shall conspicuously display at the bottom of each bill
74 in at least twelve-point boldface capital letters a prominent notice of the patient or patient's
75 representative right to appeal any of the charges in the bill.

76 (2) A patient or a patient's representative with appropriate authorization shall have unlimited
77 access to the patient's complete medical record and all health facility billing records relating to
78 the patient's bill to enable the patient or the patient's representative to determine the
79 appropriateness and correctness of all charges. A health facility may not charge any fee for this
80 access, but may charge reasonable fee for copies of these records.

81 (3) A health facility shall establish an impartial method for reviewing billing complains that
82 includes, at a minimum:

83 (a) review by an individual who was not involved in the initial billing; and

84 (b) the provision of a written decision with a clear explanation of the grounds for the decision to
85 (i) the patient or patient's representative making the appeal and (ii) the division within thirty (30)
86 days of the receipt of the appeal.

87 (4) A health facility shall maintain a complete and accurate log of all appeals that includes, at a
88 minimum, the name of the patient or patient's representative making the appeal, the basis for the
89 appeal, the charges and the amount of the charges under appeal, and the disposition of the
90 appeal.

91 (5) A health facility shall annually report to the division the number of appeals, the total of the
92 charges subject to appeal, and a summary of the dispositions of the appeals.

93 (F) Investigations and penalties

94 (1) The division may fine a health facility up to five thousand dollars (\$5,000) per violation of
95 this section.

96 (2) Actions taken by the division pursuant to this section shall not preclude any other remedy by
97 an individual, a health insurance plan, or other party that is available under contract or any other
98 provision of law.

99 (3) Any person may file a claim with the division alleging a violation of Act. The division shall
100 investigate and inform the complaining person of its determination of whether a violation has
101 occurred and what action it will take.

102 (G) Division reports

103 (1) The division shall make public and post on its Internet website, information regarding the
104 reports submitted by each health facility under sections (C) and (D).

105 (2) Upon enactment, on or before March 1 of each year, the division shall issue a report to the
106 general court and the governor that includes all of the following:

107 (a) the total number of patients applying for reduced charges under a health facility's self-pay
108 program;

109 (b) the total number receiving reduced charges under a health facility's self-pay program;

110 (c) the number of investigations it has conducted for alleged violations of this Act;

111 (d) the number of violations the division determined occurred; and

112 (e) the name of each health facility that has violated this article and

113 (f) the actions it has taken against these facilities.

114 (3) Copies of reports prepared pursuant to this section shall be made available free of charge to
115 the public upon request.

116 (H)Privacy

117 Any patient data collected or reported pursuant to this Act must be consistent with state and
118 federal law, including, but not limited to, the Gramm-Leach-Bliley Act (12 U.S.C. §1811 et.
119 seq.) and the Health Insurance Portability and Accountability Act privacy regulations (45 C.F.R.
120 Part 164).