

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Matthew C. Patrick

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 to establish the Massachusetts Health Care Trust .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jehlen, Patricia (SEN)	Second Middlesex
Peter v. Kocot	1st Hampshire
Matthew C. Patrick	3rd Barnstable
Frank I. Smizik	15th Norfolk
William Smitty Pignatelli	4th Berkshire
Tom Sannicandro	7th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

11 (a) COST CONTROL AND AFFORDABILITY

12 Controlling costs is the most important component of establishing a sustainable health care
13 system for the Commonwealth. The Health Care Trust will control costs by establishing a global
14 budget, by achieving significant savings on administrative overhead through consolidating the
15 financing of our health care system, by bulk purchasing of pharmaceuticals and medical supplies,
16 and by more efficient use of our health care facilities. The present fragmented health care
17 system also leads to a lack of prevention. By integrating services and removing barriers to
18 access, the Health Care Trust will lead to early detection and intervention, often avoiding more
19 serious illnesses and more costly treatment.

20 (b) UNIVERSAL EQUITABLE ACCESS

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

27 (c) QUALITY OF CARE

28 The World Health Organization rates health outcomes in the United States health care system
29 lower than those of almost all other industrialized countries, and a number of developing
30 countries as well. Poor health outcomes result from the lack of universal access, the lack of
31 oversight on quality due to the fragmentation and complexity of our health care system, and the
32 frequent lack of preventive and comprehensive care benefits offered under commercial health

33 plans. The Trust will reduce errors through information technology, improve medical care by
34 eliminating much of the present administrative complexity, and emphasize culturally competent
35 outreach and care. It will provide for input from patients on the functioning of the health delivery
36 system.

37 Section 2: Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

69 “Resident” means a person who lives in Massachusetts as evidenced by an intent to continue to
70 live in Massachusetts and to return to Massachusetts if temporarily absent, coupled with an act or

71 acts consistent with that intent. The Trust shall adopt standards and procedures for determining
72 whether a person is a resident. Such rules shall include:

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

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

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

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

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

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

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

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

88 There is hereby created an independent body, politic and corporate, to be known as the
89 Massachusetts Health Care Trust, hereinafter referred to as the Trust, to function as the single

90 public agency, or “single payer”, responsible for the collection and disbursement of funds
91 required to provide health care services for every resident of the Commonwealth. The Trust is
92 hereby constituted a public instrumentality of the commonwealth and the exercise by the Trust of
93 the powers conferred by this chapter shall be deemed and held the performance of an essential
94 governmental function. The Trust is hereby placed in the executive office of the health and
95 human services but shall not be subject to the supervision or control of said office or of any
96 board, bureau, department or other agency of the commonwealth except as specifically provided
97 by this chapter.

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

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

109 All officers and employees of the Trust having access to its cash or negotiable securities shall
110 give bond to the Trust at its expense, in such amount and with such surety as the board of

111 trustees shall prescribe. The persons required to give bond may be included in one or more
112 blanket or scheduled bonds.

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

119 Section 4: Powers.

120 The Trust shall have the following powers:

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

122 (2) to adopt an official seal;

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

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

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

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

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

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

135 (9) to establish advisory boards;

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

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

141 (12) to accept, hold, use, apply, and dispose of any and all donations, grants, bequests and
142 devises, conditional or otherwise, of money, property, services or other things of value which
143 may be received from the United States or any agency thereof, any governmental agency, any
144 institution, person, firm or corporation, public or private, such donations, grants, bequests and
145 devises to be held, used, applied or disposed for any or all of the purposes specified in this
146 chapter and in accordance with the terms and conditions of any such grant. Â Receipt of each
147 such donation or grant shall be detailed in the annual report of the Trust; such annual report shall

148 include the identity of the donor, lender, the nature of the transaction and any condition attaching
149 thereto;

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

152 Section 5: Purposes.

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

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

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

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

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

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

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

163 (a) expand covered health care services;

164 (b) contain health care cost increases; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

199 In addition, eight trustees, who are eligible to receive the benefits of the Massachusetts Health
200 Care Trust but who do not fall into any of the aforementioned categories, shall be elected by the
201 citizens of the Commonwealth, one from each of the Governor's Council districts. Candidates

202 shall run in accordance with Fair Campaign Financing Rules. In order to provide for staggered
203 terms, from the first eight to be elected, two shall be elected for two years, three for three years,
204 and three for four years. Afterwards, all elected trustees shall be elected for four-year terms. All
205 elected trustees shall be eligible for reelection, which would enable them to serve a maximum of
206 eight consecutive years.

207 Each appointed trustee shall serve a term of five years: provided, however, that initially four
208 appointed trustees shall serve three year terms, four appointed trustees shall serve four year
209 terms, and four appointed trustees shall serve five year terms. The initial appointed trustees shall
210 be assigned to a three, four, or five year term by lot. Any person appointed to fill a vacancy on
211 the board shall serve for the unexpired term of the predecessor trustee. Any appointed trustee
212 shall be eligible for reappointment. Any appointed trustee may be removed from his appointment
213 by the governor for just cause.

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

219 The trustees shall be reimbursed for actual and necessary expenses and loss of income incurred
220 for each full day serving in the performance of their duties to the extent that reimbursement of
221 those expenses is not otherwise provided or payable by another public agency or agencies. For
222 purposes of this section, “full day of attending a meeting” shall mean presence at, and

223 participation in, not less than 75 percent of the total meeting time of the board during any
224 particular 24-hour period.

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

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

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

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

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

239 Section 7: Executive Director; Purpose and Duties.

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

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

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

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

251 The executive director shall:

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

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

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

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

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

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

265 (7) prepare an annual report to be submitted to the governor, the president of the senate and
266 speaker of the house of representatives and to be easily accessible to every Massachusetts
267 resident.

268 The executive director of the trust may utilize and shall coordinate with the offices, staff and
269 resources of any agencies of the executive branch including, but not limited to, the executive
270 office of health and human services and all line agencies under its jurisdiction, the division of
271 health care finance and policy, the department of revenue, the insurance division, the group
272 insurance commission, the department of employment and training, the industrial accidents
273 board, the health and educational finance authority, and all other executive agencies.

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

275 There shall be a regional division within the Trust which shall be under the supervision and
276 control of a director. The powers and duties given the director in this chapter and in any other
277 general or special law shall be exercised and discharged subject to the control and supervision of
278 the executive director of the Trust. The director of the regional division shall be appointed by the
279 executive director of the Trust, with the approval of the board of trustees, and may, with like
280 approval, be removed. The director may, at his/her discretion, establish a professional advisory

281 committee to provide expert advice: provided, however, that such committee shall have at least
282 25% consumer representation.

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

289 Each regional office shall be professionally staffed to perform local outreach and informational
290 functions and to respond to questions, complaints, and suggestions from health care consumers
291 and providers. Each regional office shall hold hearings annually to determine unmet health care
292 needs and for other relevant reasons. Regional office staff shall immediately refer evidence of
293 unmet needs or of poor
294 quality care to the director of the regional division who will plan and implement remedies in
295 consultation with the directors of the administrative, planning, quality assurance, and information
296 technology divisions.

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

298 There shall be an administrative division within the Trust which shall be under the supervision
299 and control of a director. The powers and duties given the director in this chapter and in any
300 other general or special law shall be exercised and discharged subject to the direction, control
301 and supervision of the executive director of the Trust. The director of the administrative division

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

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

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

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

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

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

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

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

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

316 There shall be a planning division within the Trust which shall be under the supervision and
317 control of a director. The powers and duties given the director in this chapter and in any other
318 general or special law shall be exercised and discharged subject to the direction, control and
319 supervision of the executive director of the Trust. The director of the planning division shall be
320 appointed by the executive director of the Trust, with the approval of the board of trustees, and

321 may, with like approval, be removed. The director may, at his/her discretion, establish a
322 professional advisory committee to provide expert advice: provided, however, that such
323 committee shall have at least 25% consumer representation.

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

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

332 (2) An annual review of capital health care needs. Included in this evaluation, but not limited to
333 it are recommendations for a budget for all health care facilities, evaluating all capital expenses
334 in excess of a threshold amount to be determined annually by the executive director , and
335 collaborating with local and statewide government and health care institutions to coordinate
336 capital health planning and investment. The director will develop short term and long term plans
337 to meet capital expenditure needs.

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

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

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

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

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

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

357 Notwithstanding that all billing shall be performed electronically, patients shall have the option
358 of keeping any portion of their medical records separate from their electronic medical record.

359 The information technology director shall work closely with the directors of the regional,
360 administrative, planning and quality assurance divisions. The information technology division
361 shall make an annual report to the board of trustees by October 1 of each year. Subject to board
362 approval, the Trust shall adopt the recommendations.

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

364 There shall be a quality assurance division within the Trust which shall be under the supervision
365 and control of a director. The powers and duties given the director in this chapter and in any
366 other general or special law shall be exercised and discharged subject to the direction, control
367 and supervision of the executive director of the Trust. The director of the quality assurance
368 division shall be appointed by the executive director of the Trust, with the approval of the board
369 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,
370 establish a professional advisory committee to provide expert advice: provided, however, that
371 such committee shall have at least 25% consumer representation.

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

374 (a) appropriate staffing levels;

375 (b) appropriate medical technology;

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

377 (d) evidence-based best clinical practices.

378 The director shall conduct a comprehensive annual review of the quality of health care services
379 and outcomes throughout the commonwealth and submit such recommendations to the board of
380 trustees as may be required to maintain and improve the quality of health care service delivery
381 and the overall health of Massachusetts residents. In making its reviews, the quality assurance
382 division shall consult with the regional, administrative, and planning divisions and hold hearings

383 throughout the state on quality of care issues. The division shall submit to the board of trustees
384 its final review and recommendations on how to ensure the highest quality health care service
385 delivery by October 1 of each year. Subject to board approval, the Trust shall adopt the
386 recommendations.

387 Section 13: Eligible Participants.

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

390 (1) all Massachusetts residents,

391 (2) all non-residents who:

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

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

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

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

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

398 Payment for emergency care of Massachusetts residents obtained out of state shall be at
399 prevailing local rates. Payment for non-emergency care of Massachusetts residents obtained out
400 of state shall be according to rates and conditions established by the executive director. The

401 executive director may require that a resident be transported back to Massachusetts when
402 prolonged treatment of an emergency condition is necessary.

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

406 Section 14: Eligible Health Care Providers and Facilities.

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

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

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

417 (3) furnishes a signed agreement that:

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

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

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

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

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

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

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

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

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

440 Payment provided under this section can be used only to pay for the operating costs of eligible
441 health care providers or facilities, including reasonable expenditures, as determined through
442 budget negotiations with the Trust, for the maintenance, replacement and purchase of equipment.
443 Payments for operating expenses shall not be used to finance capital expenditures; payment of
444 exorbitant salaries; or for activities to assist, promote, deter or discourage union organizing. Any
445 prospective payments made in excess of actual costs for covered services shall be returned to the
446 Trust. Prospective payment rates and schedules shall be adjusted annually to incorporate
447 retrospective adjustments.

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

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

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

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

458 Payments provided under this section can be used only to pay for the operating costs of eligible
459 health care providers and facilities, including reasonable expenditures, as determined through
460 budget negotiations with the Trust, for the maintenance, replacement and purchase of equipment.

461 Payments for operating costs shall not be used to finance capital expenditures; for the payment of
462 exorbitant salaries; or for activities to assist, promote, deter or discourage union organizing.

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

465 The Trust, through its planning division, shall negotiate with eligible health care providers,
466 health care facilities, or groups of providers or facilities, capital budgets to ensure adequate
467 access to high quality health care for all Massachusetts residents. The Trust shall provide funding
468 for payment of debt service on outstanding bonds as of the effective date of this Act and shall be
469 the sole source of future funding, whether directly or indirectly, through the payment of debt
470 service, for capital expenditures by health care providers and facilities covered by the Trust in
471 excess of a threshold amount to be determined annually by the executive director.

472 Section 18: Covered Benefits.

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

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

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

477 and

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

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

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

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

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

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

490 (5) home health care including personal care;

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

492 (7) hospice care;

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

495 (9) emergency and other medically necessary transportation;

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

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

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

499 (13) prescription drugs; and

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

501 No deductibles, co-payments, co-insurance, or other cost sharing shall be imposed with respect

502 to covered benefits. Patients shall have free choice of participating physicians and other

503 clinicians, hospitals, inpatient care facilities and other providers and facilities.

504 Prior to obtaining any federal program's financing through the Health Care Trust, the Trust will

505 seek to ensure that participants eligible for federal program coverage receive access to care and

506 coverage equal to that of all other Massachusetts participants. It shall do so by (a) paying for all

507 services enumerated above not covered under the relevant federal plans; (b) paying for all such

508 services during any federally mandated gaps in participants' coverage; and (c) paying for any

509 deductibles, co-payments, co-insurance, or other cost sharing incurred by such participants.

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

511 In order to support the Trust effectively, there is hereby established the health care trust fund,

512 hereinafter the Trust Fund, which shall be administered and expended by the executive director

513 of the Trust subject to the approval of the board. The Fund shall consist of all revenue sources

514 defined in section twenty one, and, all property and securities acquired by and through the use of

515 monies deposited to the Trust Fund and all interest thereon less payments therefrom to meet

516 liabilities incurred by the Trust in the exercise of its powers and the performance of its duties
517 under this chapter.

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

522 Section 20: Purpose of the Trust Fund.

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

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

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

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

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

533 (5) to supplement other sources of financing for medical research and innovation, not to exceed
534 1% of Trust income in any fiscal year;

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

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

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

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

549 Section 21: Funding Sources.

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

552 (1) All monies saved by

553 (a) simplifying administration of health care finance,

554 (b) achieving bulk purchase discounts on pharmaceuticals and medical supplies, and
555 (c) early detection and intervention for health problems through timely, universally available
556 primary and preventive care;

557 (2) All monies the commonwealth currently appropriates to pay for health care services or health
558 insurance premiums, including but not limited to, all current state programs which provide
559 covered benefits and appropriations to cities, towns and other governmental subdivisions to pay
560 for health care services or health insurance premiums; provided, however, that the Trust shall
561 then assume responsibility for all benefits and services previously paid for by the commonwealth
562 with these funds. All current state health care programs which provide covered benefits shall be
563 included in this requirement. The executive director shall seek from the Legislature a
564 contribution for health care services that shall not decrease in relation to state government
565 expenditures of health care services in the year that this chapter is enacted. (3) All monies
566 collected by cities, towns and other governmental subdivisions to pay for health care services or
567 health insurance premiums; provided, however, that the Trust shall then assume responsibility
568 for all benefits and services previously paid for by those governmental subdivisions with these
569 funds.

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

574 (4) All monies the commonwealth receives from the federal government to pay for health care
575 services or health insurance premiums; provided, however, that the commonwealth shall then
576 assume responsibility for all benefits and services previously paid by the federal government
577 with these funds. The Trust shall seek to maximize all sources of federal financial support for
578 health care services in Massachusetts. Accordingly, the executive director shall seek all
579 necessary waivers, exemptions, agreements, or legislation, if needed, so that all current federal
580 payments for health care shall, consistent with the federal law, be paid directly to the Trust Fund.
581 In obtaining the waivers, exemptions, agreements, or legislation, the executive director shall seek
582 from the federal government a contribution for health care services in Massachusetts that shall
583 not decrease in relation to the contribution to other states as a result of the waivers, exemptions,
584 agreements, or legislation.

585 (5) All monies collected from taxes imposed on items that contribute to increased health care
586 costs. Surtaxes, to be determined by the Legislature, in consultation with the executive director
587 of the Trust, shall be imposed on products and facilities to the extent that they can be determined
588 to contribute to the health care costs of the commonwealth. These may include, but shall not be
589 limited to: alcohol, gasoline, firearms, and facilities operating in the commonwealth that generate
590 air and/or water pollution.

591 (6) All monies collected through payment by all employers in the commonwealth of a Health
592 Trust premium, based on their payroll, starting with the enactment of the benefit plan of the
593 Trust, as determined by the Trust in consultation with the Department of Revenue. The amount
594 of this premium shall be in line with, or less than, the average contributions that employers make
595 toward employee health benefits as of the effective date of this act, adjusted to a rate less than

596 national health care inflation or deflation. The premium shall be collected through the
597 Department of Revenue for deposit in the Trust Fund.

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

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

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

612 (7) All monies collected through payment of a Health Trust premium by all individuals and
613 families in the commonwealth. Starting with the enactment of the benefit plan of the Trust,
614 families and individuals receiving covered benefits under the Trust shall contribute premiums on
615 a sliding scale as determined by the Trust in consultation with the Department of Revenue. There
616 shall be no premiums for families or individuals with income below three hundred percent of

617 federal poverty level guidelines. The premium for employed workers shall be negotiated to be
618 less than the amount such an individual or family would pay through an employer or private
619 insurance plan for a comparable benefits package. The premium shall be collected through the
620 Department of Revenue for deposit in the Trust Fund.

621 (8) The Trust shall retain:

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

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

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

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

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

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

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

638 (c) employers;

639 (d) employee benefit contracts;

640 (e) government benefit programs;

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

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

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

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

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

646 An entity described as a collateral source is not excluded from the obligations imposed by this

647 section by virtue of a contract or relationship with a governmental unit, agency, or service.

648 The executive director shall attempt to negotiate waivers, seek federal legislation, or make other

649 arrangements to incorporate collateral sources in Massachusetts into the Trust.

650 Whenever an individual receives health care services under the system and s/he is entitled to

651 coverage, reimbursement, indemnity, or other compensation from a collateral source, s/he shall

652 notify the health care provider or facility and provide information identifying the collateral

653 source other than federal sources, the nature and extent of coverage or entitlement, and other

654 relevant information. The health care provider or facility shall forward this information to the

655 executive director. The individual entitled to coverage, reimbursement, indemnity, or other
656 compensation from a collateral source shall provide additional information as requested by the
657 executive director.

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

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

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

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

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

675 Section 22: Insurance reforms.

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

680 Section 23: Health Trust regulatory authority.

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

685 Section 24: Implementation of the Health Care Trust.

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

689 The Trust shall complete its period of transition within three years of enactment of this
690 legislation. Full implementation of the benefit plan of the Trust shall be completed within five
691 years of enactment of this legislation.