

HOUSE No. 1526

The Commonwealth of Massachusetts

PRESENTED BY:

Allen J. McCarthy

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 pharmacists liability actions.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------|-------------------|
| Allen J. McCarthy | 7th Plymouth |
| Robert M. Koczera | 11th Bristol |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1596 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PHARMACISTS LIABILITY ACTIONS.

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. Chapter 19A of the General Laws is hereby amended by adding at the end thereof
2 the following new section:—

3 Section 41. Equity in provision of prescription drug coverage in general — A health plan, and a
4 health insurance issuer offering health insurance coverage, that provides for mail-order prescription drug
5 coverage (as defined in paragraph (3)(A)) shall also provide non-mail-order prescription drug coverage
6 consistent with paragraph (2).

7 (2) Equitable coverage — A plan or coverage provides non-mail-order prescription drug coverage
8 consistent with this paragraph only if—

9 (A) benefits under the non-mail-order prescription coverage are provided for in the case of all
10 drugs and all circumstances under which benefits are provided under the mail-order prescription drug
11 coverage;

12 (B) no deductible or similar cost-sharing is imposed with respect to benefits under the non-mail-
13 order prescription drug coverage unless such a deductible or similar cost-sharing is imposed with respect
14 to benefits under the mail-order prescription drug coverage; and

15 (C) the benefits for the non-mail-order coverage assures payments consistent with either (or both)
16 of the following clauses:

17 (1) The dollar amount of payment for prescription drug coverage is not less than the dollar
18 amount of benefits provided with respect to the mail-order coverage for that same coverage.

19 (2) The cost-sharing (including deductibles, copayments, or coinsurance) imposed with respect to
20 non-mail-order coverage is not greater (as a percentage of charges or dollar amount, as specified under
21 the coverage) than the cost-sharing imposed with respect to the mail-order coverage.

22 (3) Definitions — For purposes of this subsection:

23 (A) Mail-order prescription drug coverage — The term “mail-order prescription drug coverage”
24 means provision of benefits for prescription drugs and biologicals that are delivered directly to
25 participants and beneficiaries through the mail or similar means.

26 (B) Non-mail-order prescription drug coverage — The term “non-mail-order prescription drug
27 coverage” means the provision of benefits for prescription drugs and biologicals through one or more
28 local pharmacies.

29 (D) Health plan — The term “health plan” means an accident and health insurance policy or
30 certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization
31 subscriber contract; a plan provided by a multiple employer welfare arrangement; a Medicare+Choice
32 plan; Medigap and Medicare Select Policies; or a plan provided by another benefit arrangement, to the
33 extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver
34 of or other exception to that Act provided under federal law or regulation. Without limitation, “health
35 plan” does not mean any of the following types of insurance: Accident, Credit, Disability income,
36 Specified disease, Dental or vision, Coverage issued as a supplement to liability insurance, Medical
37 payments under automobile or homeowners, Insurance under which benefits are payable with or without
38 regard to fault and is statutorily required to be contained in any liability policy or equivalent self-
39 insurance, and Hospital indemnity policy or certificate.

40 (b) Prohibitions — A health plan as defined in paragraph (3)(D), may not provide monetary
41 payments or rebates to an individual to encourage such individual to accept less than the minimum
42 protections available under this section.