

HOUSE No. 2219

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 adoption of the accompanying bill:

An Act ensuring community hospital acceleration, revitalization and transformation.

PETITION OF:

NAME:

Michael J. Moran

DISTRICT/ADDRESS:

18th Suffolk

HOUSE No. 2219

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 2219) of Michael J. Moran for legislation to establish a one-time surcharge assessment by the Health Policy Commission on all surcharge payers. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1015 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act ensuring community hospital acceleration, revitalization and transformation.

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. (a) Notwithstanding any special or general law to the contrary, the health
2 policy commission shall establish a one-time surcharge assessment on all surcharge payors. The
3 surcharge amount shall equal the product of: (i) the surcharge percentage; and (ii) \$100,000,000.
4 The commission shall calculate the surcharge percentage by dividing the surcharge payor’s total
5 surplus as of December 31, 2016 by the total surplus of all surcharge payors. The commission
6 shall determine the surcharge percentage for the assessment by June 30, 2017. In the
7 determination of the surcharge percentage, the commission shall use the best data available as
8 determined by the commission. The commission may waive the assessment for certain surcharge
9 payors, if the commission reasonably determines the payor lacks access to resources available to
10 pay the assessment.

11 (b) Surcharge payors shall pay the full amount of the surcharge amount as follows:

12 (1) a single payment to be made no later than December 31, 2017; or

13 (2) in 4 equal annual installments to be paid on or before December 31 of each year
14 beginning on December 31, 2017.

15 (c) The assessment shall be distributed to the Distressed Hospital Trust Fund, established
16 in section 2GGGG of chapter 29 of the General Laws, as such assessments are collected. The
17 funds received from this assessment shall be distributed through a competitive grant process
18 developed by the commission to qualified acute hospitals. To be eligible to receive a grant, a
19 qualified acute hospital shall only include (1) any acute hospital that is not a teaching hospital;
20 and (2)(i) any hospital whose relative prices are below the statewide median relative price, as
21 determined by the center for health information and analysis, or (ii) whose public payer mix is
22 equal to or greater than 51 per cent. Not more than 10 per cent of the amounts from this
23 assessment in any 1 year shall be used by the commission of the combined cost of program
24 administration, technical assistance to grantees or program evaluation.

25 (d) The commission shall specify by regulation appropriate mechanisms that provide for
26 determination of a surcharge payor's liability, including requirements for data to be submitted by
27 surcharge payors.

28 (e) A surcharge payor's liability to the fund shall in the case of a transfer of ownership be
29 assumed by the successor in interest to the surcharge payor.

30 (f) The commission shall establish by regulation an appropriate mechanism for enforcing
31 a surcharge payor's liability to the fund if a surcharge payor does not make a scheduled payment

32 to the fund; provided, however, that the commission may, for the purpose of administrative
33 simplicity, establish threshold liability amounts below which enforcement may be modified or
34 waived. Such enforcement mechanism may include assessment of interest on the unpaid liability
35 at a rate not to exceed an annual percentage rate of 18 per cent and late fees or penalties at a rate
36 not to exceed 5 per cent per month. Such enforcement mechanism may also include notification
37 to the office of Medicaid requiring an offset of payments on the claims of the surcharge payor,
38 any entity under common ownership or any successor in interest to the surcharge payor, from the
39 office of Medicaid in the amount of payment owed to the fund, including any interest and
40 penalties, and to transfer the withheld funds into said fund. If the office of Medicaid offsets
41 claims payments as ordered by the commission, the office of Medicaid shall be considered not to
42 be in breach of contract or any other obligation for payment of non-contracted services, and a
43 surcharge payor whose payment is offset under an order of the commission shall serve all Title
44 XIX recipients under the contract then in effect with the executive office of health and human
45 services. In no event shall the commission direct the office of Medicaid to offset claims unless
46 the surcharge payor has maintained an outstanding liability to the fund for a period longer than
47 45 days and has received proper notice that the commission intends to initiate enforcement
48 actions under regulations promulgated by the commission.

49 (g) If a surcharge payor fails to file any data, statistics or schedules or other information
50 required under this chapter or by any regulation promulgated by the commission, the commission
51 shall provide written notice to the surcharge payor. If a surcharge payor fails to provide required
52 information within 14 days after the receipt of written notice, or falsifies the same, such payor
53 shall be subject to a civil penalty of not more than \$5,000 for each day on which the violation
54 occurs or continues, which penalty may be assessed in an action brought on behalf of the

55 commonwealth in any court of competent jurisdiction. The attorney general shall bring any
56 appropriate action, including injunctive relief, necessary for the enforcement of this chapter.

57 (h) Surcharge payors shall not seek an increase in premiums to pay for this assessment.