

SENATE No. 2138

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, February 18, 2016

The committee on Ways and Means, to whom was referred the Senate Bill to protect access to confidential healthcare (Senate, No. 2081),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2138).

For the committee,
Karen E. Spilka

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In the One Hundred and Eighty-Ninth General Court
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An Act to protect access to confidential healthcare.

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 176O of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by striking out section 27 and inserting in place thereof the following
3 section:-

4 Section 27. (a) The division shall develop a common summary of payments form to be
5 used by all carriers in the commonwealth and provided to health care consumers with respect to
6 provider claims submitted to a payer. The common summary of payments form shall be written
7 in an easily readable and understandable format showing the consumer's responsibility, if any,
8 for payment of any portion of a health care provider claim; provided, however, that the division
9 shall allow the development and use of forms that maybe exchanged securely through electronic
10 means; and, provided further, that carriers shall not be obligated to issue a summary of payments
11 form for provider claims that consist solely of requests for co-payment.

12 (b) Carriers shall issue common summary of payments forms at the member level for
13 each insured member. Carriers may establish a standard method of delivery of summary of
14 payments forms. All carriers shall permit an insured member who is legally authorized to

15 consent to care, or a party legally authorized to consent to care for the insured member to choose
16 an alternative method of receiving the common summary of payments form, which shall include,
17 but not be limited to, the following: (i) sending a paper form to the address of the subscriber; (ii)
18 sending a paper form to the address of the insured member; (iii) sending a paper form to any
19 alternate address upon request of the insured member; or (iv) allowing only the insured member
20 to access the form through electronic means, provided, however that such access is provided in
21 compliance with any applicable state and federal laws and regulations pertaining to data security,
22 including, but not limited to, 45 CFR part 160, subparts A and C of 45 CFR part 164, chapters
23 93H and 93I of the General Laws , and 201 C.M.R. 17.00, as may be amended. Any insured
24 member who is legally authorized to consent to certain care shall have access to the forms
25 through electronic means. The preferred method of receipt shall be valid until the insured
26 member submits a request orally or in writing for a different method; provided, however, that the
27 carrier may request verification of the request in writing following an oral request. Carriers shall
28 comply with an insured member's request pursuant to this subsection within 3 business days of
29 the request.

30 (c) Carriers shall not identify or describe sensitive health care services in a common
31 summary of payments form. The division shall define sensitive health care services for purposes
32 of this section. In determining the definition the division shall consider the advice of the National
33 Committee on Vital and Health Statistics and similar regulations in other states, and shall consult
34 with experts in fields including, but not limited to, infectious disease, reproductive and sexual
35 health, domestic violence and sexual assault, and mental health and substance use disorders.

36 (d) In the event that the insured member has no liability for payment for any procedure
37 or service, carriers shall permit all insured members who are legally authorized to consent to

38 care, or parties legally authorized to consent to care for the insured member, to request
39 suppression of summary of payments forms for a specific service or procedure, in which case
40 summary of payments forms shall not be issued; provided, however, that the insured member
41 clearly makes the request orally or in writing. The carrier may request verification of the request
42 in writing following an oral request. Carriers shall not require an explanation as to the basis for
43 an insured member's request to suppress summary of payments forms, unless otherwise required
44 by law or court order.

45 (e) The ability to request the preferred method of receipt pursuant to subsection (b) and
46 to request suppression of summary of payments forms pursuant to subsection (e) shall be
47 communicated in plain language and in a clear and conspicuous manner in evidence of coverage
48 documents, member privacy communications and on every summary of payments form and shall
49 be conspicuously displayed on the carrier's member website and online portals for individual
50 members.

51 (f) The division shall promulgate regulations necessary to implement and enforce this
52 section, which shall include requirements for reasonable reporting by carriers to the division
53 regarding compliance and the number and type of complaints received regarding noncompliance
54 with this section.

55 (g) The division, in collaboration with the department of public health, shall develop and
56 implement a plan to educate providers and consumers regarding the rights of insured members
57 and the responsibilities of carriers to promote compliance with this section. The plan shall
58 include, but not be limited to, staff training and other education for hospitals, community health
59 centers, school-based health centers, physicians, nurses and other licensed health care

60 professionals, as well as administrative staff, including but not limited to all staff involved in
61 patient registration and confidentiality education and billing staff involved in processing
62 insurance claims. The plan shall be developed in consultation with groups representing health
63 care insurers, providers, and consumers, including consumer organizations concerned with the
64 provision of sensitive health services.

65 SECTION 2. The regulations required pursuant to subsection (g) of section 27 of chapter
66 176O of the General Laws shall take effect no later than 3 months after the effective date of this
67 act.

68 SECTION 3. Subsection (h) of section 27 of chapter 176O of the General Laws shall take
69 effect 6 months after the effective date of this act.

70 SECTION 4. Subsections (b) to (f), inclusive of section 27 of chapter 176O of the
71 General Laws shall take effect 9 months after the effective date of this act.