SENATE DOCKET, NO. 1059 FILED ON: 1/17/2013

SENATE . . . . No. 515

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 establishing Medicare for all in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Jason M. Lewis	*31st Middlesex*
Martha M. Walz	*8th Suffolk*
William Smitty Pignatelli	*4th Berkshire*
Michael Barrett	*Third Middlesex*
Patricia D. Jehlen	*Second Middlesex*
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*
Sonia Chang-Diaz	*Second Suffolk*
Denise Andrews	*2nd Franklin*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Mary S. Keefe	*15th Worcester*
Daniel A. Wolf	*Cape and Islands*
Cynthia S. Creem	*First Middlesex and Norfolk*
Kay Khan	*11th Middlesex*
Benjamin Swan	*11th Hampden*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
John P. Fresolo	*16th Worcester*

Thomas M. McGee	*Third Essex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Byron Rushing	*9th Suffolk*
Chris Walsh	*6th Middlesex*
Sal N. DiDomenico	*Middlesex and Suffolk*

SENATE DOCKET, NO. 1059   FILED ON: 1/17/2013

SENATE . . . . No. 515

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 515) of James B. Eldridge, Jason M. Lewis, Martha M. Walz, William Smitty Pignatelli and other members of the General Court for legislation to establish Medicare for all in Massachusetts. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *501* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act establishing Medicare for all in Massachusetts.

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 Laws are hereby amended by inserting after chapter 175K the
2 following chapter:–

3 CHAPTER 175L.

4 MASSACHUSETTS HEALTH CARE TRUST.

5 Section 1. Preamble

6 Section 2. Definitions

7 Section 3. Establishment of the Massachusetts Health Care Trust

8 Section 4. Powers of the Trust

9 Section 5. Purposes of the Trust

10 Section 6. Board of Trustees; Composition, Powers and Duties

11 Section 7. Executive Director; Purpose and Duties

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

13 Section 9. Administrative Division; Director, Purpose and Duties

14 Section 10. Planning Division; Director; Purpose and Duties

15 Section 11. Information Technology Division, Purpose and Duties

16 Section 12. Quality Assurance Division, Director; Purpose and Duties

17 Section 13. Eligible Participants

18 Section 14. Eligible Health Care Providers and Facilities

19 Section 15. Budgeting and Payments to Eligible Health Care Providers and Facilities

20 Section 16. Covered Benefits

21 Section 17. Wraparound Coverage for Federal Health Programs

22 Section 18. Establishment of the Health Care Trust Fund

23 Section 19. Purpose of the Trust Fund

24 Section 20. Funding Sources

25 Section 20A. Overview

26 Section 20B. Health Care Funding

27 Section 20C. Consolidating Public Health Care Spending and Collateral Sources of
28 Revenue

29 Section 20C.1. Consolidation of State and Municipal Health Care Spending

30 Section 20C.2. Federal Sources of Revenue

31 Section 20C.3. Collection of Collateral Sources of Revenue

32 Section 20C.4. Retention of Funds

33 Section 20D. Transitional Provisions

34 Section 21. Insurance Reforms

35 Section 22. Health Trust Regulatory Authority

36 Section 23. Implementation of the Health Care Trust

37 Section 1: The foundation for a productive and healthy Massachusetts is a health care
38 system that provides equal access to quality health care for all its residents. Massachusetts
39 spends more on health care per capita than any most states or any other country in the world,
40 causing undue hardship for the state, municipalities, businesses, and residents, but without
41 achieving universal access to quality health care. Medicare for All will allow us to achieve and
42 sustain the three main pillars of a just, efficient health care system: (a) cost control and
43 affordability, (b) universal equitable access, and (c) high quality medical care.

44 (a) Cost Control and Affordability

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

53 (b) Universal Equitable Access

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

61 (c) High Quality Medical Care

62 The World Health Organization rates health outcomes in the United States health care
63 system lower than those of almost all other industrialized countries, and a number of developing
64 countries as well. Poor health outcomes result from the lack of universal access, the lack of
65 oversight on quality due to the fragmentation and complexity of our health care system, and the
66 frequent lack of preventive and comprehensive care benefits offered under commercial health
67 plans. The Trust will reduce errors through information technology, improve medical care by
68 eliminating much of the present administrative complexity, and emphasize culturally competent
69 outreach and care. It will provide for input from patients on the functioning of the health delivery
70 system.

71 Section 2: The following words and phrases as used in this chapter shall have the
72 following meanings, except where the context clearly requires otherwise:–

73 "Board" means the board of trustees of the Massachusetts Health Care Trust.

74 "Employer" means every person, partnership, association, corporation, trustee, receiver,
75 the legal representatives of a deceased employer and every other person, including any person or
76 corporation operating a railroad and any public service corporation, the state, county, municipal
77 corporation, township, school or road, school board, board of education, curators, managers or
78 control commission, board or any other political subdivision, corporation, or quasi-corporation,
79 or city or town under special charter, or under the commission for of government, using the
80 service of another for pay in the commonwealth.

81 "Executive Director" means the executive director of the Massachusetts Health Care
82 Trust.

83 "Health care" means care provided to a specific individual by a licensed health care
84 professional to promote physical and mental health, to treat illness and injury and to prevent
85 illness and injury.

86 "Health care facility" means any facility or institution, whether public or private,
87 proprietary or nonprofit, that is organized, maintained, and operated for health maintenance
88 or for the prevention, diagnosis, care and treatment of human illness, physical or mental, for one
89 or more persons.

90 "Health care provider" means any professional person, medical group, independent
91 practice association, organization, health care facility, or other person or institution licensed or
92 authorized by law to provide professional health care services to an individual in the
93 commonwealth.

94 "Health maintenance organization" means a provider organization that meets the
95 following criteria:

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

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

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

102 "Professional advisory committee" means a committee of advisors appointed by the
103 director of the Administrative, Planning, Information, Technology, or any Regional division of
104 the Massachusetts Health Care Trust.

105 “Resident” means a person who lives in Massachusetts as evidenced by an intent to
106 continue to live in Massachusetts and to return to Massachusetts if temporarily absent, coupled
107 with an act or acts consistent with that intent. The Trust shall adopt standards and procedures for
108 determining whether a person is a resident. Such rules shall include:

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

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

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

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

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

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

122 “Trust Fund” means the Massachusetts Health Care Trust Fund established in section
123 eighteen of this chapter.

124 Section 3. There is hereby created an independent body, politic and corporate, to be
125 known as the Massachusetts Health Care Trust, hereinafter referred to as the Trust, to function as
126 the single public agency, or “single payer,” responsible for the collection and disbursement of
127 funds required to provide health care services for every resident of the Commonwealth. The
128 Trust is hereby constituted a public instrumentality of the commonwealth and the exercise by the
129 Trust of the powers conferred by this chapter shall be deemed and held the performance of an
130 essential governmental function. The Trust is hereby placed in the executive office of health and
131 human services, but shall not be subject to the supervision or control of said office or of any
132 board, bureau, department or other agency of the commonwealth except as specifically provided
133 by this chapter.

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

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

145 All officers and employees of the Trust having access to its cash or negotiable securities
146 shall give bond to the Trust at its expense, in such amount and with such surety as the board of
147 trustees shall prescribe. The persons required to give bond may be included in one or more
148 blanket or scheduled bonds.

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

155 Section 4: The Trust shall have the following powers:

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

158 (2) to adopt an official seal;

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

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

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

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

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

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

171 (9) to establish advisory boards;

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

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

177 (12) to accept, hold, use, apply, and dispose of any and all donations, grants, bequests and
178 devises, conditional or otherwise, of money, property, services or other things of value which
179 may be received from the United States or any agency thereof, any governmental agency, any
180 institution, person, firm or corporation, public or private, such donations, grants, bequests and
181 devises to be held, used, applied or disposed for any or all of the purposes specified in this
182 chapter and in accordance with the terms and conditions of any such grant. Â Receipt of each
183 such donation or grant shall be detailed in the annual report of the Trust; such annual report shall
184 include the identity of the donor, lender, the nature of the transaction and any condition attaching
185 thereto;

186 (13) to do any and all other things necessary and convenient to carry out the purposes of
187 this chapter.

188 Section 5: The purposes of the Massachusetts Health Care Trust shall include the
189 following:

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

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

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

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

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

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

201 (a) expand covered health care services;

202 (b) contain health care cost increases; and

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

205 (d) expand preventive health care programs and the delivery of primary care.

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

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

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

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

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

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

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

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

219 (11) To implement policies which strengthen and improve culturally and linguistically
220 sensitive care;

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

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

225 Section 6: The Trust shall be governed by a board of trustees with twenty-three members.
226 The board shall include the secretary of health and human services, the secretary of
227 administration and finance, and the commissioner of public health.

228 The governor shall appoint: three trustees nominated by organizations of health care
229 professionals who deliver direct patient care; one nominated by a statewide organization of
230 health care facilities; one nominated by an organization representing non-health care employers;
231 and a health care economist.

232 The attorney general shall appoint: one trustee nominated by a statewide labor
233 organization; two trustees nominated by statewide organizations who have a record of

234 advocating for universal single payer health care in Massachusetts; one nominated by an
235 organization representing Massachusetts senior citizens; one nominated by a statewide
236 organization defending the rights of children; and one nominated by an organization providing
237 legal services to low-income clients.

238 In addition, eight trustees, who are eligible to receive the benefits of the Massachusetts
239 Health Care Trust but who do not fall into any of the aforementioned categories, shall be elected
240 by the citizens of the Commonwealth, one from each of the Governor's Council districts.
241 Candidates shall run in accordance with Fair Campaign Financing Rules. In order to provide for
242 staggered terms, from the first eight to be elected, two shall be elected for two years, three for
243 three years, and three for four years. Afterwards, all elected trustees shall be elected for four-year
244 terms. All elected trustees shall be eligible for reelection, which would enable them to serve a
245 maximum of eight consecutive years.

246 Each appointed trustee shall serve a term of five years: provided, however, that initially
247 four appointed trustees shall serve three year terms, four appointed trustees shall serve four year
248 terms, and four appointed trustees shall serve five year terms. The initial appointed trustees shall
249 be assigned to a three, four, or five year term by lot. Any person appointed to fill a vacancy on
250 the board shall serve for the unexpired term of the predecessor trustee. Any appointed trustee
251 shall be eligible for reappointment. Any appointed trustee may be removed from his appointment
252 by the governor for just cause.

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

258 The trustees shall be reimbursed for actual and necessary expenses and loss of income
259 incurred for each full day serving in the performance of their duties to the extent that
260 reimbursement of those expenses is not otherwise provided or payable by another public agency
261 or agencies. For purposes of this section, "full day of attending a meeting" shall mean presence
262 at, and participation in, not less than 75 percent of the total meeting time of the board during any
263 particular 24-hour period.

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

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

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

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

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

279 Section 7: The board of trustees shall hire an executive director who shall be the
280 executive and administrative head of the Trust and shall be responsible for administering and
281 enforcing the provisions of law relative to the Trust.

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

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

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

290 The executive director shall:

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

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

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

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

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

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

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

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

313 Section 8: There shall be a regional division within the Trust which shall be under the
314 supervision and control of a director. The powers and duties given the director in this chapter and
315 in any other general or special law shall be exercised and discharged subject to the control and
316 supervision of the executive director of the Trust. The director of the regional division shall be
317 appointed by the executive director of the Trust, with the approval of the board of trustees, and
318 may, with like approval, be removed. The director may, at his/her discretion, establish a
319 professional advisory committee to provide expert advice: provided, however, that such
320 committee shall have at least 25 percent consumer representation.

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

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

334 Section 9: There shall be an administrative division within the Trust which shall be under
335 the supervision and control of a director. The powers and duties given the director in this chapter
336 and in any other general or special law shall be exercised and discharged subject to the direction,
337 control and supervision of the executive director of the Trust. The director of the administrative
338 division shall be appointed by the executive director of the Trust, with the approval of the board

339 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,
340 establish a professional advisory committee to provide expert advice: provided, however, that
341 such committee shall have at least 25 percent consumer representation.

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

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

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

346 (3) developing information management systems needed for provider payment, rebate
347 collection and utilization review;

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

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

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

352 Section 10: There shall be a planning division within the Trust which shall be under the
353 supervision and control of a director. The powers and duties given the director in this chapter and
354 in any other general or special law shall be exercised and discharged subject to the direction,
355 control and supervision of the executive director of the Trust. The director of the planning
356 division shall be appointed by the executive director of the Trust, with the approval of the board
357 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,
358 establish a professional advisory committee to provide expert advice: provided, however, that
359 such committee shall have at least 25 percent consumer representation.

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

363 (1) An annual review of the adequacy of health care resources throughout the
364 commonwealth and recommendations for changes. Specific areas to be evaluated include but are
365 not limited to the resources needed for underserved populations and geographic areas, for
366 recruitment of primary care physicians, dentists, and other specialists needed to provide quality
367 health care, for culturally and linguistically competent care, and for emergency and trauma care.
368 The director will develop short term and long term plans to meet health care needs.

369 (2) An annual review of capital health care needs. Included in this evaluation, but not
370 limited to it are recommendations for a budget for all health care facilities, evaluating all capital
371 expenses in excess of a threshold amount to be determined annually by the executive director,
372 and collaborating with local and statewide government and health care institutions to coordinate

373 capital health planning and investment. The director will develop short term and long term plans
374 to meet capital expenditure needs.

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

379 Section 11: There shall be an information technology division within the Trust which
380 shall be under the supervision and control of a director. The powers and duties given the director
381 in this chapter and in any other general or special law shall be exercised and discharged subject
382 to the direction, control and supervision of the executive director of the Trust. The director of the
383 information technology division shall be appointed by the executive director of the Trust, with
384 the approval of the board of trustees, and may, with like approval, be removed. The director may,
385 at his/her discretion, establish a professional advisory committee to provide expert advice:
386 provided, however, that such committee shall have at least 25 percent consumer representation.

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

389 developing an information technology system that is compatible with all medical and
390 dental facilities in Massachusetts.

391 (2) maintaining a confidential electronic medical records system and prescription system
392 in accordance with laws and regulations to maintain accurate patient records and to simplify the
393 billing process, thereby reducing medical errors and bureaucracy;

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

396 Notwithstanding that all billing shall be performed electronically, patients shall have the
397 option of keeping any portion of their medical records separate from their electronic medical
398 record. The information technology director shall work closely with the directors of the regional,
399 administrative, planning and quality assurance divisions. The information technology division
400 shall make an annual report to the board of trustees by October 1 of each year. Subject to board
401 approval, the Trust shall adopt the recommendations.

402 Section 12: There shall be a quality assurance division within the Trust which shall be
403 under the supervision and control of a director. The powers and duties given the director in this
404 chapter and in any other general or special law shall be exercised and discharged subject to the
405 direction, control and supervision of the executive director of the Trust. The director of the
406 quality assurance division shall be appointed by the executive director of the Trust, with the
407 approval of the board of trustees, and may, with like approval, be removed. The director may, at

408 his/her discretion, establish a professional advisory committee to provide expert advice:
409 provided, however, that such committee shall have at least 25 percent consumer representation.

410 The quality assurance division shall support the establishment of best quality standard of
411 care with respect to:

412 (a) appropriate hospital staffing levels for quality care;

413 (b) evidence based best clinical practices developed from analysis of outcomes of
414 medical interventions;

415 (c) development of clinical practices that lead toward elimination of medical errors;

416 (d) timely access to needed medical and dental care;

417 (e) development of medical homes that provide efficient patient centered integrated care;
418 and

419 (f) compassionate end of life care that provides comfort and relief of pain in an
420 appropriate setting.

421 The director shall conduct a comprehensive annual review of the quality of health care
422 services and outcomes throughout the commonwealth and submit such recommendations to the
423 board of trustees as may be required to maintain and improve the quality of health care service
424 delivery and the overall health of Massachusetts residents. In making its reviews, the quality
425 assurance division shall consult with the regional, administrative, and planning divisions and
426 hold hearings throughout the state on quality of care issues. The division shall submit to the
427 board of trustees its final review and recommendations on how to ensure the highest quality
428 health care service delivery by October 1 of each year. Subject to board approval, the Trust shall
429 adopt the recommendations.

430 Section 13: Those persons who shall be recognized as eligible participants in the
431 Massachusetts Health Care Trust shall include:

432 (1) all Massachusetts residents,

433 (2) all non-residents who:

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

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

436 (c) pay any additional premiums established by the Trust to cover non-residents; and

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

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

440 Payment for emergency care of Massachusetts residents obtained out of state shall be at
441 prevailing local rates. Payment for non-emergency care of Massachusetts residents obtained out
442 of state shall be according to rates and conditions established by the executive director. The
443 executive director may require that a resident be transported back to Massachusetts when
444 prolonged treatment of an emergency condition is necessary.

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

448 Section 14: Eligible health care providers and facilities shall include an agency, facility,
449 corporation, individual, or other entity directly rendering any covered benefit to an eligible
450 patient: provided, however, that the provider or facility:

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

452 (2) does not provide health care services covered by, but not paid for, by the trust;

453 (3) furnishes a signed agreement that:

454 (a) all health care services will be provided without discrimination on the basis of
455 factors including, but not limited to age, sex, race, national origin, sexual orientation, income
456 status or preexisting condition;

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

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

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

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

468 (6) meets whatever additional requirements that may be established by the Trust.

469 Section 15: To carry out this Act there are established on an annual basis:

470 (1) an operating budget;

471 (2) a capital expenditures budget; and

472 (3) reimbursement levels for providers consistent with section 20;

473 The operating budget shall be used for:

474 (a) payment for services rendered by physicians and other clinicians;

475 (b) global budgets for institutional providers;

476 (c) capitation payments for capitated groups; and

477 (d) administration of the Trust.

478 Payments for operating expenses shall not be used to finance capital expenditures;
479 payment of exorbitant salaries; or for activities to assist, promote, deter or discourage union
480 organizing. Any prospective payments made in excess of actual costs for covered services shall
481 be returned to the Trust. Prospective payment rates and schedules shall be adjusted annually to
482 incorporate retrospective adjustments. Except as provided in section sixteen of this chapter,
483 reimbursement for covered services by the Trust shall constitute full payment for the services
484 rendered.

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

487 (a) assure that payments to such providers and facilities reflect the difference between
488 actual and projected utilization and expenditures for covered services; and

489 (b) protect health care providers and facilities who serve a disproportionate share of
490 eligible participants whose expected utilization of covered health care services and expected
491 health care expenditures for such services are greater than the average utilization and expenditure
492 rates for eligible participants statewide.

493 The capital expenditures budget shall be used for funds needed for--

494 (a) the construction or renovation of health facilities; and

495 (b) for major equipment purchases.

496 Payment provided under this section can be used only to pay for the operating costs of
497 eligible health care providers or facilities, including reasonable expenditures, as determined
498 through budget negotiations with the Trust, for the maintenance, replacement and purchase of
499 equipment.

500 The Trust shall provide funding for payment of debt service on outstanding bonds as of
501 the effective date of this Act and shall be the sole source of future funding, whether directly or
502 indirectly, through the payment of debt service, for capital expenditures by health care providers
503 and facilities covered by the Trust in excess of a threshold amount to be determined annually by
504 the executive director.

505 Section 16: The Trust shall pay for all professional services provided by eligible
506 providers and facilities to eligible participants needed to:

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

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

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

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

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

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

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

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

523 (5) home health care including personal care;

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

525 (7) hospice care;

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

528 (9) emergency and other medically necessary transportation;

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

530 (11) basic vision care and correction, including glasses, other than laser vision correction
531 for cosmetic purposes;

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

533 (13) prescription drugs; and

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

535 No deductibles, co-payments, co-insurance, or other cost sharing shall be imposed with
536 respect to covered benefits. Patients shall have free choice of participating physicians and other
537 clinicians, hospitals, inpatient care facilities and other providers and facilities.

538 Section 17. Prior to obtaining waivers to receive federal matching funds through the
539 Health Care Trust, the Trust will seek to ensure that participants eligible for federal program
540 coverage receive access to care and coverage equal to that of all other Massachusetts
541 participants. It shall do so by (a) paying for all services enumerated under section 16 not covered
542 by the relevant federal plans; (b) paying for all such services during any federally mandated gaps
543 in participants' coverage; and (c) paying for any deductibles, co-payments, co-insurance, or other
544 cost sharing incurred by such participants.

545 Section 18: In order to support the Trust effectively, there is hereby established the health
546 care trust fund, hereinafter the Trust Fund, which shall be administered and expended by the
547 executive director of the Trust subject to the approval of the board. The Fund shall consist of all
548 revenue sources defined in section 20, and all property and securities acquired by and through
549 the use of monies deposited to the Trust Fund and all interest thereon less payments therefrom to
550 meet liabilities incurred by the Trust in the exercise of its powers and the performance of its
551 duties.

552 All claims for health care services rendered shall be made to the Trust Fund and all
553 payments made for health care services shall be disbursed from the Trust Fund.

554 Section 19: Amounts credited to the Trust Fund shall be used for the following purposes:

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

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

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

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

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

566 (6) to supplement other sources of financing for training and retraining programs for
567 workers displaced as a result of administrative streamlining gained by moving from a multi-
568 payer to a single payer health care system, not to exceed 2 percent of Trust income in any fiscal
569 year: provided, however, that eligible workers must have enrolled by June 20 of the third year
570 following full implementation of this chapter;

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

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

578 Unexpended Trust assets shall not be deemed to be "surplus" funds as defined by chapter
579 twenty-nine of the general laws.

580 Section 20.A: The Trust shall be the repository for all health care funds and related
581 administrative funds. A fairly apportioned, dedicated health care tax on employers, workers, and
582 citizens will replace spending on insurance premiums and out-of-pocket spending for services
583 covered by the Trust. The Trust will enable the state to pass lower health care costs on to
584 residents and businesses through savings from administrative simplification, bulk purchasing
585 discounts on pharmaceuticals and medical supplies, and through early detection and intervention
586 by universally available primary and preventive care. Additionally, collateral sources of revenue
587 – such as from the federal government, non-residents receiving care in the state, or from personal
588 liability – will be recovered by the Trust. Lastly, the Trust shall enact provisions ensuring a
589 smooth transition to a universal health care system for employers and residents.

590 Section 20.B: The following dedicated health care taxes will replace spending on
591 insurance premiums and out-of-pocket spending for services covered by the Trust. Prior to each
592 state fiscal year of operation, the Trust will prepare for the Legislature a projected budget for the
593 coming fiscal year, with recommendations for rising or declining revenue needs.

594 • An employer payroll tax of 7.5 percent will be assessed, exempting the first $30,000 of
595 payroll per establishment, replacing previous spending by employers on health premiums. An

596 additional employer payroll tax of 0.44 percent will be assessed on establishments with 100 or
597 more employees;

598 • An employee payroll tax of 2.5 percent will be assessed, replacing previous spending by
599 employees on health premiums and out-of-pocket expenses;

600 • A payroll tax on the self-employed of 10 percent will be assessed, exempting the first
601 $30,000 of payroll per self-employed resident; and

602 • A tax on unearned income (dividends, capital gains, rents, and profits of 10 percent will
603 be assessed to fairly distribute the costs of health care.

604 An employer, private or public, may agree to pay all or part of an employee’s payroll tax
605 obligation. Such payment shall not be considered income for Massachusetts income tax
606 purposes.

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

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

612 Section 20.C: It is the intent of this act to establish a single public payer for all health
613 care in the commonwealth. Towards this end, public spending on health insurance will be
614 consolidated into the Trust to the greatest extent possible. Until such time as the role of all other
615 payers for health care has been terminated, health care costs shall be collected from collateral
616 sources whenever medical services provided to an individual are, or may be, covered services
617 under a policy of insurance, health care service plan, or other collateral source available to that
618 individual, or for which the individual has a right of action for compensation to the extent
619 permitted by law.

620 Section 20.C.1: The Legislature will be empowered to transfer funds from the General
621 Fund sufficient to meet the Trust’s projected expenses beyond projected income from dedicated
622 tax revenues. This lump transfer will replace current General Fund spending on health benefits
623 for state employees, services for patients at public in-patient facilities, and all means- or needs-
624 tested health benefit programs. Additionally, the Legislature will reduce local aid to
625 municipalities commensurate with the reduced burden of health insurance premiums for
626 municipal employees and contractors.

627 Section 20.C.2: The Trust shall receive all monies paid to the commonwealth by the
628 federal government for health care services covered by the Trust. The Trust shall seek to
629 maximize all sources of federal financial support for health care services in Massachusetts.
630 Accordingly, the executive director shall seek all necessary waivers, exemptions, agreements, or

631 legislation, if needed, so that all current federal payments for health care shall, consistent with
632 the federal law, be paid directly to the Trust Fund. In obtaining the waivers, exemptions,
633 agreements, or legislation, the executive director shall seek from the federal government a
634 contribution for health care services in Massachusetts that shall not decrease in relation to the
635 contribution to other states as a result of the waivers, exemptions, agreements, or legislation.

636 Section 20.C.3: As used in this section, collateral source includes all of the following:

637 • insurance policies written by insurers, including the medical components of automobile,
638 homeowners, workers' compensation, and other forms of insurance;

639 • health care service plans and pension plans;

640 • employee benefit contracts;

641 • government benefit programs;

642 • a judgment for damages for personal injury;

643 • any third party who is or may be liable to an individual for health care services or costs;

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

645 • a contract or plan that is subject to federal preemption;

646 • any governmental unit, agency, or service, to the extent that subrogation is prohibited
647 by law.

648 An entity described as a collateral source is not excluded from the obligations imposed by
649 this section by virtue of a contract or relationship with a governmental unit, agency, or service.

650 Whenever an individual receives health care services under the Trust and s/he is entitled
651 to coverage, reimbursement, indemnity, or other compensation from a collateral source, s/he
652 shall 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
659 the individual, and may institute appropriate action, including suit, to recover the costs to the
660 Trust. Upon demand, the collateral source shall pay to the Trust Fund the sums it would have
661 paid or 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
663 as provided in this section, the executive director may require that an individual who is entitled
664 to 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
667 employers shall be subject to the same subrogation as other contracts, allowing the Trust to
668 recover the cost of services provided to individuals covered by the retiree benefits, unless and
669 until arrangements are made to transfer the revenues of the benefits directly to the Trust.

670 Section 20.C.4: The Trust shall retain:

671 • all charitable donations, gifts, grants or bequests made to it from whatever source
672 consistent with state and federal law;

673 • payments from third party payers for covered services rendered by eligible providers to
674 non-eligible patients but paid for by the Trust;

675 • income from the investment of Trust assets, consistent with state and federal law.

676 Section 20.D: Any employer that has a contract with an insurer, health services
677 corporation or health maintenance organization to provide health care services or benefits for its
678 employees, which is in effect on the effective date of this section, shall be entitled to an income
679 tax credit against premiums otherwise due in an amount equal to the Trust fund premium due
680 pursuant to this section.

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

687 Six months prior to the establishment of a single payer system, all laws and regulations
688 requiring health insurance carriers to maintain cash reserves for purposes of commercial stability
689 (such as under chapter 176G, section 25 of the General Laws) shall be repealed. In their place,
690 the Executive Director of the Trust shall assess an annual health care stabilization fee upon the
691 same carriers, amounting to the same sum previously required to be held in reserves, which shall
692 be credited to the Health Care Trust Fund.

693 Section 21: Insurers regulated by the division of insurance are prohibited from charging
694 premiums to eligible participants for coverage of services already covered by the Trust. The
695 commissioner of insurance shall adopt, amend, alter, repeal and enforce all such reasonable rules
696 and regulations and orders as may be necessary to implement this section.

697 Section 22: The Trust shall adopt and promulgate regulations to implement the provisions
698 of this chapter. The initial regulations may be adopted as emergency regulations but those
699 emergency regulations shall be in effect only from the effective date of this chapter until the
700 conclusion of the transition period.

701 Section 23: Not later than thirty days after enactment of this legislation, the governor
702 shall make the initial appointments to the board of the Massachusetts Health Care Trust. The first
703 meeting of the trustees shall take place within 60 days of the election of trustees to the board.