

SENATE No. 557

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 to protect access to confidential healthcare.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>

<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>

SENATE No. 557

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 557) of Karen E. Spilka, David Paul Linsky, Jason M. Lewis, Michael O. Moore and other members of the General Court for legislation to protect access to confidential healthcare. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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.

2 Chapter 176O of the General Laws is hereby amended by striking out section 27 and
3 inserting in place thereof the following:-

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

11 The division shall consult with stakeholders to develop these forms.

12 (b) Carriers shall issue common summary of payments forms at the member level for all
13 insureds. Carriers shall permit an insured who is legally authorized to consent to care, or a party
14 legally authorized to consent to care for the insured, to choose his or her preferred method of
15 receiving the common summary of payments form, which shall include, but not be limited to, the
16 following: (1) sending the form to the address of the subscriber; (2) sending the form to the
17 address of the insured dependent; (3) sending the form to an alternate address upon request of the
18 insured; or (4) sending the form through electronic means when available. The preferred method
19 of receipt shall be valid until the insured submits a new preferred method.

20 (c) Unless specifically requested by the insured, a carrier shall not provide a common
21 summary of payments form if the insured has no liability for payment for any procedure or
22 service, including, but not limited to, the United States Preventive Services Taskforce
23 recommended A and B preventive services.

24 (d) Carriers shall not identify the descriptions for sensitive health care services in a
25 common summary of payments form. The division shall define by regulation sensitive health
26 care services for purposes of this section. The division shall refer to the National Committee on
27 Vital and Health Statistics and similar regulations in other states, and shall consult with experts
28 in fields including, but not limited to, infectious disease, reproductive and sexual health,
29 domestic violence and sexual assault, and mental health and substance use disorders, in
30 promulgating the regulation.

31 (e) Carriers shall permit all insureds who are legally authorized to consent to care, or
32 parties legally authorized to consent to care for the insured, to request suppression of summary of
33 payments forms, in which case summary of payments forms shall not be issued unless and until

34 the insured submits a revocation of the request; provided that the insured clearly states orally or
35 in writing that the communication of medical or provider information on the form discloses the
36 receipt of sensitive services that could endanger the insured or limit access to future health
37 services. Carriers shall not require an explanation as to the basis for an insured's confidential
38 communications request, unless otherwise required by law or court order.

39 (f) The right to request suppression of summary of payments forms pursuant to
40 subsection (e) shall be communicated in plain language and in a clear and conspicuous manner to
41 all insureds, including insured dependents, in evidence of coverage documents, member privacy
42 communications and on every summary of payments form.

43 (g) The division shall promulgate regulations necessary to implement and enforce this
44 section, which shall include reasonable reporting regarding compliance and breaches of
45 confidentiality.

46 (h) The division, in collaboration with the department of public health, shall develop and
47 implement a plan to educate providers and consumers regarding the rights of insureds to promote
48 compliance with this section. The plan shall include, but not be limited to, staff training and
49 other education for hospitals, community health centers, school-based health centers, physicians,
50 nurses and other licensed health care professionals, as well as administrative staff, which shall
51 include all staff involved in patient registration and education about confidentiality, and billing
52 staff involved in processing of insurance claims. The plan shall be developed in consultation
53 with groups representing health care insurers, providers, and consumers, including consumer
54 organizations concerned with the provision of sensitive health services.

55 SECTION 2. Subsections (a), (g), and (h) of Chapter 176O shall take effect 6 months
56 from the effective date of this act.

57 Subsections (b)-(f) of Section 27 of Chapter 176O shall take effect at such time as each
58 carrier revises its plans subsequent to the promulgation of the regulations described in subsection
59 (g).