

*An Act Relative to Protecting Health Care Consumers*

SECTION 1. Section 13 of chapter 6D of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out subsections (e) to (h), inclusive, and inserting in place thereof the following new paragraphs:-

(e) The commission shall make factual findings and issue a preliminary report on the cost and market impact review. In the report, the commission shall identify any provider or provider organization that meets all of the following criteria: (i) the provider or provider organization has, or will likely have following the proposed material change, a dominant market share for the services it provides; (ii) the provider or provider organization charges, or will likely charge following the proposed material change, prices for services that are materially higher than the median prices charged by all other providers for the same services in the same market; and (iii) the provider or provider organization has, or will likely have following the proposed material change, a health status adjusted total medical expense that is materially higher than the median total medical expense for all other providers for the same service in the same market.

(f) Within 30 days after issuance of a preliminary report, the provider or provider organization may respond in writing to the findings in the report. The commission shall then issue its final report. The commission shall refer to the attorney general its report on any provider organization that meets all 3 criteria under subsection (e). The commission shall issue its final report on the cost and market impact review within 185 days from the date that the provider or provider organization has submitted notice to the commission; provided that the provider or provider organization has certified substantial compliance with the commission's requests for data and information pursuant to subsection (c) within 21 days of the commission's notice, or by a later date set by mutual agreement of the provider or provider organization and the commission.

(g) Nothing in this section shall prohibit a proposed material change under subsection (a); provided, however, that (i) any proposed material change shall not be completed until at least 30 days after the commission has issued its final report, and (ii) the attorney general may bring an action as described in subsection (h). If the attorney general brings such an action, any proposed material change shall not be completed while such action is pending and prior to a final judgment being issued by a court of competent jurisdiction.

(h) Any provider or provider organization that meets the criteria in subsection (e) has engaged, or through a material change will engage, in an unfair method of competition or unfair and deceptive trade practice subject to challenge pursuant to section 4, but not sections 9 or 11, of chapter 93A. When the commission, under subsection (f), refers a report on a provider or provider organization to the attorney general, the report shall be prima facie evidence that, by meeting the three criteria in subsection (e), the provider or provider organization has engaged, or through a material change will engage, in an unfair method of competition or unfair and deceptive trade practice in violation of chapter 93A. The attorney general may take action under chapter 93A or any other law to protect consumers in the health care market, including by bringing an action seeking to restrain such violation of chapter 93A. The commission's final report may be evidence in any such action brought by the attorney general.

SECTION 2. Section 11N of chapter 12 of the General Laws is hereby amended by striking out subsection (b) and inserting in place thereof the following new paragraph:-

(b) The attorney general may, upon a referral by the health policy commission under section 13 of chapter 6D, bring any appropriate action, including for injunctive relief, as may be necessary under chapter 93A or any other law to restrain unfair methods of competition or unfair and deceptive trade practices by a provider or provider organization. The attorney general may take action under chapter 93A or any other law to protect consumers in the health care market.