

# Massachusetts Health Care Update: Senate Bill, Medication Switching, and Opioids

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Massachusetts policymakers continue to debate health care reform proposals with important implications for industry stakeholders. This month the Senate passed sweeping health care reform legislation, a special commission held a listening session to hear public testimony on medication switching, and Governor Charlie Baker filed legislation containing a new set of proposals targeting the state's opioid addiction crisis. This alert provides a summary of these developments.

## Senate Passes Comprehensive Health Care Legislation

On November 9th the Senate passed comprehensive health care legislation ([SB 2202](#)) that includes a broad set of reforms to the state's health insurance market. The bill passed on a 33-6 vote after two days of debate with all six Senate Republicans voting no. The bill closely resembles the legislation Senate leaders released on October 17. ML Strategies' summary of the original Senate proposal can be found [here](#).

Note the following amendments to the original bill made during the Senate debate:

- The Senate modified a provision that would have penalized the state's three largest hospitals if they failed to meet benchmarks for health care spending. The final bill does not limit the fines to just three hospitals.
- The Group Insurance Commission will be required to conduct a review and submit a report on the use coverage of medically-necessary brand name prescription drugs.
- The final bill calls for a study on how the costs of a single-payer health care system would compare to the state's current health care spending. The Health Policy Commission would be required to submit a proposed single payer health care implementation plan to the legislature if the single-payer projections are found to be less costly than the current system.

Governor Charlie Baker criticized the legislation, saying that the bill "doesn't save the state any money." Senate Ways and Means Chairwoman Karen Spilka disagreed with the Governor's assessment and pointed to estimates that the bill will yield \$115 million in savings from MassHealth and between \$475 and \$525 million from commercial market reforms by 2020.

The debate now moves to the House, which is likely to make major changes to the Senate bill. The House has not yet said when they will take up health care legislation, though the earliest this could happen is January when formal sessions are resumed after the holiday recess.

## Medication Switching Commission Holds Listening Session

On November 13 the Special Commission to Study Switching Medications held a listening session to receive public input for the report it is developing for the legislature on medication switching. The listening session consisted largely of testimony from advocacy groups and patients voicing concerns about non-medical switching. Dr. Paul Jeffrey, a Professor at UMass Medical School and Commission Chair, moderated the listening session, and several other members of the Commission were in attendance.

Created as part of the FY2017 budget, the Commission is charged with investigating and studying: the frequency by which patients are switched from prescription medications to other medications for non-medical reasons and without the consent or notification of the patients' prescribing physicians; the frequency of a health provider prescribing an alternative drug in response to changes in health plan policies mid-year for non-medical reasons; the role of financial incentives to pharmacists and prescribers in prescription drug switching decisions, including fee, incentive or other contractual reward for choosing a drug alternative; the total cost to the commonwealth when individuals are switched from prescription drugs that have been safe and effective, including increased use of services, emergency rooms visits, inpatient hospital stays and outpatient office visits; and the patient populations most impacted by and vulnerable to being switched from prescription drugs for non-medical reasons.

During the listening session, advocacy groups cautioned against allowing switching without adequate patient protections. The Director of Advocacy for the National Multiple Sclerosis (MS) Society explained that switching can be dangerous for individuals with MS and may reverse the direction of the disease. A representative of the Epilepsy Foundation of New England said that it only supports non-medical

switching when both the patient and physician are informed and provide consent for the substitution.

Several individuals afflicted with diseases noted the importance of using physician-prescribed medications and highlighted the risks involved with switching. Arguments were made in favor of preventing all non-medical switching and deferring to the recommendations of doctors and other providers. One person argued that if medication switching is to take place, there should be a requirement for advanced notice to be given to the affected patient and provider.

The Commission will file a report with the legislature on or before January 1, 2018. In addition to this listening session, the Commission has also been conducting a literature review, identifying developments in other states, surveying patients, prescribers, and health plans, and analyzing various state databases as part of its development of the report.

### **Governor Baker Files Opioid Legislation**

Last week, Governor Baker unveiled new legislation to address the ongoing opiate epidemic in the Commonwealth. The CARE Act, which serves as a follow up to legislation he filed last year to address the scourge of addiction, includes provisions relative to substance abuse education and prevention, increased access to lifesaving medications, and improving access to treatment across health care settings. New data released by public health officials this week showed a decline in opiate-related deaths over the past two quarters, however Governor Baker noted that continued efforts are necessary in order for progress to continue. Below are highlights of the proposed legislation:

- Expands the type of clinicians authorized to conduct substance abuse evaluations in emergency departments, and allows emergency rooms to offer access to voluntary treatment options including recovery coach services.
- Allows medical professionals to authorize transportation of a patient refusing voluntary treatment, but considered to present a danger to themselves or others, to a treatment facility for emergency assessment. If it is determined by the examining physician that failure to treat the individual would create a likelihood of harm, the physician may admit the individual for care for up to 72 hours.
- Requires that by 2020 all prescribers utilize electronic prescriptions when issuing scripts for Schedule II controlled substances.
- Increases access to Naloxone, commonly referred to as Narcan, by requiring the Department of Public Health to issue a standing order that authorizes all pharmacies to dispense Narcan.
- Directs state agencies to develop licensing standards for treatment facilities to offer both substance abuse and mental health disorder treatment simultaneously and bar such facilities from discriminating against those covered by Medicaid.
- Establishes a trust fund for the purpose of supporting school-based programs that educate youth on addiction and substance misuse.

ML Strategies will continue to monitor and periodically report on discussions among political and industry leaders as they debate proposals reforming the health care system in the Commonwealth.

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