

SENATE No. 790

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

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 relative to hospital profit and fairness.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/26/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/15/2023</i>

SENATE No. 790

By Mr. Moore, a petition (accompanied by bill, Senate, No. 790) of Michael O. Moore, Jack Patrick Lewis, Paul R. Feeney and James B. Eldridge for legislation relative to hospital profit and fairness. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 805 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to hospital profit and fairness.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by inserting after section 237 the
2 following section:-

3 Section 238. Hospital Profit and Fairness

4 Definitions

5 (a) As used in this section, the following words shall have the following meanings:-

6 “Facility”, a hospital licensed under section 51 of chapter 111 of the General Laws, the
7 teaching hospital of the University of Massachusetts medical school, any licensed private or
8 state-owned and state-operated general acute care hospital, an acute psychiatric hospital, an acute

9 care specialty hospital, or any acute care unit within a state operated healthcare facility. This
10 definition shall not include rehabilitation facilities or long-term care facilities.

11 "Compensation", salary; bonus payments, whether based on performance or otherwise;
12 deferred compensation; incentive payments; severance payments; loans to be repaid on terms,
13 including interest, less burdensome than market rate; value of use of facility-provided vehicles,
14 housing or other perquisites not available to all employees; stock or stock options and any
15 dividends or other incidents of the ownership thereof.

16 "Minimum facility compensation", the value of the annual compensation received by a
17 full time employee of a facility earning minimum wage as set under G.L. c. 151 1, or if none,
18 then the lowest-paid full time employee.

19 (b) If in any fiscal year a facility that accepts funds from the Commonwealth, and whose
20 patient mix is less than 60% government payer, reports to the Center for Health Information and
21 Analysis an annual operating margin, including amortization and depreciation, that exceeds 8%,
22 that facility shall be subject to a civil penalty equal to the amount by which the annual operating
23 margin exceeds 8%.

24 (c) If the chief executive officer of a facility that accepts funds from the Commonwealth
25 receives annual compensation greater than 100 times the minimum facility compensation, the
26 facility shall be subject to a civil penalty equal to the amount by which the Chief Executive
27 Officer's annual compensation exceeds 100 times the value of the minimum facility
28 compensation.

29 (d) Each facility that accepts funds from the Commonwealth shall report annually to the
30 Center for Health Information and Analysis all financial assets owned by the facility, including

31 those held in financial institutions outside the United States or invested outside the United States.
32 Unless prohibited by other law, the Center for Health Information and Analysis shall make this
33 information public within 7 calendar days of receipt.

34 (e) There is hereby established on the books of the Commonwealth a fund to be known as
35 the Medicaid Reimbursement Enhancement Fund. Any penalties collected as a result of
36 violations of this act shall be deposited into this fund, and subject to appropriation, shall be used
37 to improve Medicaid reimbursement to eligible hospitals.

38 (f) This act shall not be construed to impair any contract or agreement in effect as of
39 January 1, 2023.

40 (g) The Health Policy Commission shall promulgate regulations governing the
41 implementation, operation, and enforcement of this act.

42 (h) Severability. The provisions of this act are severable, and if any clause, sentence,
43 paragraph or section of this law or an application thereof shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the
45 remainder thereof but shall be confined in its operation to the clause, sentence, paragraph,
46 section or application adjudged invalid and such clause, sentence, paragraph, section or
47 application shall be reformed and construed so that it would be valid to the maximum extent
48 permitted.