

## House Docket 4332

### An Act Relative to Health Care Surcharges

#### I. Language:

Section 30 of Chapter 58 of the Acts of 2006, as amended by Chapter 324 of the Acts of 2006 (the “Act”), concerning G.L. 118E, section 55, shall be amended as follows:

A. By replacing the existing definitions for such terms with the following:

“Ambulatory surgical center services”, notwithstanding any provision of general or special law or regulation to the contrary, shall be defined as services described for purposes of the Medicare program under 42 U.S.C. 1395k(a)(2)(F)(I). These services include both facility services and surgical and other related medical procedures.”

“Payments subject to surcharge”, notwithstanding any provision of general or special law or regulation to the contrary, shall be defined as all amounts paid, directly or indirectly, by surcharge payors to acute hospitals for health care services, to ambulatory surgical centers for ambulatory surgical center services, to specialty health care providers for specialty health care services, and to laboratories as defined in this section; and provided, however, that “payments subject to surcharge” shall not include: (i) payments, settlements and property or casualty insurance policies; (ii) payments made on behalf of Medicaid recipients, Medicare beneficiaries or persons enrolled in policies issued under chapter 176K or similar policies issued on a group basis; and provided further, that “payments subject to surcharge” may exclude amounts established by regulations promulgated by the division for which the costs and efficiency of billing a surcharge payor or enforcing collection of the surcharge from a surcharge payor would not be cost effective.”

“Surcharge payor”, notwithstanding any provision of general or special law or regulation to the contrary, shall be defined as an individual or entity that pays for or arranges for the purchase of health care services provided by acute hospitals, ambulatory surgical center services provided by ambulatory surgical centers, specialty health care services provided by specialty health care providers, and laboratory services provided by laboratories, as defined in this section; provided, however, that the term “surcharge payor” shall not include Title XVIII and Title XIX programs and their beneficiaries or recipients, other governmental programs of public assistance and their beneficiaries or recipients and the workers’ compensation program established by chapter 152.

B. By inserting the following new definitions after the existing definition of “Resident”:

“Specialty health care provider”, shall be defined as a individual or entity that implements any new technology and/or provides any innovative service, as such terms are defined in Chapter 111, section 25B, and which is not either an acute hospital or an ambulatory surgical center.

“Specialty Health Care Services”, shall be defined as services provided by specialty health care providers that are recognized under the Medicare program, including without limitation facility services, diagnostic testing, and therapeutic treatments.

“Laboratory,” shall be defined for these purposes as a laboratory that is licensed by the department of public health and pursuant to M.G.L. c. 111D section 1(1) that is not operated by a community health center.

C. Section 30 of the Act, concerning G.L. 118E, section 56 shall be amended as follows:

In subsection (b)(1), by inserting after the phrase “acute hospitals” the following: “, ambulatory surgical centers’, specialty health care providers’, laboratories’,”.

D. Section 30 of the Act, concerning G.L. 118E, section 57 shall be amended as follows:

In subsection (b), by inserting after the phrase “all amounts paid by acute hospitals” the following: “, ambulatory surgical centers’, specialty health care providers’, laboratories’,”.

E. Section 30 of the Act, concerning G.L. 118E, section 58 shall be amended as follows:

By adding a new subsection (a), prior to the existing subsection (a), and re-lettering the existing subsections, as follows:

“(a) Ambulatory surgical centers, specialty health care providers, and laboratories, notwithstanding any provision of general or special law or regulation to the contrary, shall be liable to the health care safety net trust fund in the same manner as acute care hospitals. The division of health care finance and policy, in consultation with the office of Medicaid, shall establish through implementing regulations the mechanism by which the liability of said providers is to be assessed, paid, monitored, and enforced.”

The existing subsection (a) shall be re-lettered as subsection (b); the existing subsection (b) shall be re-lettered as subsection (c); and the existing subsection (c) shall be re-lettered as a new subsection (d).

F. Section 124 of the Act shall be amended as follows:

By inserting in the third paragraph after the sentence, “Each acute care hospital’s liability to the fund shall be equal to the product of the percentage rate and its private sector charges,” the following:

“The total liability of all ambulatory surgical centers, specialty health care providers, and laboratories shall be established by the division through implementing regulations. The division shall also establish a methodology for calculating each ambulatory surgical center, specialty health care provider, and laboratory’s liability to the uncompensated care trust fund, to be set forth in implementing regulations.”

G. By enacting the following conforming amendments: Inserting in sections 30 and 124 of the Act, and in any existing law concerning the assessment of hospital liability to the pool, after each instance of the appearance of the term “acute hospital” the phrase “and ambulatory surgical center, specialty health care provider, and laboratory” regarding liability to the pool or the health care safety net trust fund; and by inserting in sections 30 and 124 of the Act and in any existing law concerning the operation of the surcharge, after each instance of the appearance of the term “ambulatory surgical center” the phrase “, specialty health care provider, and laboratory”.