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MTF Summary of H.4643
Version as reported from the House Committee on Ways & Means

On May 14th, [House Bill 4643](#), *An Act enhancing the market review process* was polled out of the House Committee on Ways and Means (HWM). Members filed amendments to the bill on Tuesday, and it will be debated before the full House on Thursday, May 16th.

The bill is a redraft of [H.4620](#), which was reported out of the Joint Committee on Health Care Financing on May 2nd. The HWM redraft includes many of the same provisions and themes as H.4620, but differs in several notable ways. The HWM version:

- Changes the “rate equity target” created in the bill.
 - Among the changes, the target establishes a rate floor for one, three-year benchmark cycle that will apply to independent and other eligible hospitals who fall below a 0.85 relative price threshold, and sets minimum rate growth standard for those hospitals for the next two benchmark cycles.
- Adjusts the new three-year health care cost benchmark, as proposed in the original bill.
 - Under the changes, adjustments to the benchmark will consider past Gross State Product (GSP) growth, and recommendations to the adjustment factor will be approved by a majority – not a supermajority – of the Technical Advisory Committee created in the bill.
 - The bill adds a section limiting the Health Policy Commission’s (HPC) ability to pursue performance improvement plans for any three-year period ending between 2021 and 2025 to entities whose growth exceeds 4 percent.
- Removes mergers of insurance payers from the HPC’s Market Impact Review process.
- Changes language governing the Division of Health Insurance’s charge to ensure that they consider solvency and actuarial soundness in the development of the affordability standard and amends language related to the Division’s role in assessing excessive price variation.
- Adjusts language governing the granting of hospital licenses to providers to lease their facilities.
 - Under the updated language, licensure is prohibited for acute care hospitals who lease their main campus from real estate investment trusts after April of 2024. The bill requires disclosure of lease terms for all other lease arrangements.
- Establishes a registration requirement with the Board of Registration of Medicine for physician practices with greater than 10 physicians.

MTF has prepared a comprehensive and accessible summary of H.4643, which includes the following materials:

- A high-level overview of the bill, including its recent legislative history and a breakdown of notable bill sections related to health equity; and
- A detailed section-by-section excel summary of the legislation, which includes:
 - The statutory citation of each section.
 - A summary of each section.

MTF’s work of summarizing major pieces of health care legislation is funded by a grant from the Blue Cross Blue Shield of Massachusetts Foundation (Foundation) whose mission is to ensure equitable access to health care for all those in the Commonwealth who are economically, racially, culturally, or socially marginalized. The Foundation collaborates with public and private organizations to broaden health coverage and reduce barriers to care through grants, research, and policy initiatives.

- Fields indicating whether or not MTF identifies the sections as related to goals of health equity, or as having a fiscal impact to the state.
- A field indicating whether or not the section is materially changed from H.4620.

Legislative History

The Market Review legislation the House is acting on this session is a much-expanded version of legislation engrossed by the House in the 2021 – 2022 legislative session. Last session’s version, [H.4262](#) (also titled *An Act enhancing market review*), was engrossed by the House 158-1 on November 17, 2021. The bill was not acted on by the Senate.

This session, *An Act enhancing market review* ([H.1219](#)), was filed by Representative John Lawn and was identical (aside from date changes) to the bill engrossed by the House the previous session. The bill received a legislative hearing from the Joint Committee on Health Care Financing on June 20, 2023.

The bill released from HWM, and the earlier version polled out of the Joint Committee on Health Care Financing last week, expands on last session’s House bill, but retains several key elements:

- Moving the Health Planning Council to HPC and expanding its role;
- Updating and expanding the HPC Market Impact Review Process; and
- Amending the Determination of Need process to consider analysis provided by HPC and the Center for Health Information Analysis (CHIA), and adjusting the process in cases where a proposed expansion overlaps with the service area of an independent community hospital.

Bill Summary

Major topics of the bill include:

- **Health Insurance Oversight**– The bill creates a new Division of Health Insurance separate from the current Division of Insurance responsible for overseeing health insurance carriers and approving rates. The DOHI statute establishes six broad responsibilities for the DOHI. DOHI is tasked with the development of “affordability standards” for the approval of rates and three criteria for that standard are set forth, provided that they adhere to principles of solvency and actuarial soundness.
- **Health Care Cost Benchmark** – The bill overhauls the existing health care cost benchmark process, replacing an annual health cost benchmark with a three-year health cost benchmark cycle. The new benchmark would continue to be based on potential GSP, but subject to an adjustment factor recommended by a new HPC Technical Advisory Committee, which will consider health care cost growth, past GSP growth, as well as other economic and industry factors.
- **Health Care Performance Improvement Plan** – The bill overhauls the existing Performance Improvement Plan (PIP) process for health care entities exceeding the cost benchmark. The new process will allow the HPC to include insurance carriers who have exceeded the growth benchmark and have not met health insurance rate equity targets established in the bill. The timeline of the PIP process for impacted entities is extended to three years and gives HPC additional power to disclose the names of PIP participants, require action from entities, and increase fines for failure to provide requested information.
- **Health Care Merger, Investment & Expansion Oversight** – The bill overhauls the HPC’s material change notification process to capture additional transaction types, including changes in ownership or control related to significant equity investors, and expands the scope of the Market Impact Review Process. The bill also expands the DPH Determination of Need to better coordinate with the work of the Health Resource Planning Council, HPC and CHIA. The bill also requires significant investors in health care entities to be part of information disclosure, subject to enforcement mechanisms.

- **Health Care Financial Data** – The bill expands the scope of data collected by the HPC, CHIA, and the Attorney General. Health care entities would be required to submit additional information related to their financial condition and significant investors. The bill also significantly increases consequences for failure to comply with required data requests.

Health Equity

For the purpose of this table, a health equity-related section includes provisions that explicitly empower a state agency to collect information, assess implications, or take action related to health equity.

Bill Section	Description
12	Adds definitions (among others) for ‘health disparities’ and ‘health equity’ to the HPC statute.
23	Adds efforts to “advance health equity” to the categories of proposals eligible for funding through the Healthcare Payment Reform Fund.
37	Requires ACOs to demonstrate that in-person and telehealth care is provided in compliance with the certification standard of the National Committee for Quality Assurance for distinction in multicultural health.
40	Requires State Health Plan recommendations to reflect goals related to the advancement of goals to improve health equity and address health disparities.
50	Adds definitions (among others) for ‘health disparities’ and ‘health equity’ to the CHIA statute.
70	Requires the statewide advisory committee responsible for developing the health care standard quality measure set to incorporate nationally recognized quality measures that include outcomes on health disparities.
83	Identifies the enhancement of equity as one of the Commissioner of Health Insurance’s responsibilities.
116	Requires the HPC’s Essential Closure Impact Assessment to analyze (among other factors) the impact of the closure on vulnerable populations.