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MTF Bulletin

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MTF Summaries S.3012 & H.5159 Conference Reports as Signed by the Governor

On December 30th, Conference reports were released on two major pieces of health care legislation, engrossed earlier in the session:

- [Senate bill 3012](#), *An Act Relative to Pharmaceutical Access, Costs and Transparency*
- [House bill 5159](#), *An Act Enhancing the Market Review Process*

This cover memo summarizes major provisions in both bills as a complement to MTF's section by section summaries of S.3012 and H.5159.

S.3012 An Act Relative to Pharmaceutical Access, Costs and Transparency

S.3012, also called the PACT act, is a compromise of pharmaceutical oversight and drug cost legislation signed into law as [Chapter 342 of the Acts of 2024](#). This memo details the bill's legislative history and notes major provisions, as well as House and Senate proposals not included in the bill signed by the Governor.

Legislative History

2023-2024 was the third session in which some form of the PACT act was considered in the legislature. In the 2019-2020 and 2021-2022 sessions, the Senate engrossed PACT act legislation, but no action was taken by the House. In the session just concluded, the legislative history of the bill is as follows:

- October 30th, 2023: The committee version of the bill ([S.2492](#)) is reported favorably from the Joint Committee on Health Care Financing
- November 15th, 2023: The SWM draft of the bill ([S.2499](#)) is debated by the Senate and engrossed by a vote of 39-0 (becoming [S.2520](#))
- July 24th, 2024: The HWM draft of the bill ([H.4891](#)) is debated by the House and engrossed by a vote of 158-0 (becoming H.4910)
- July 25th, 2024: Conference Committee on the bill is formed
- December 30th, 2024: the Conference Committee report (S.3012) is accepted by both branches and enacted
- January 8th, 2025: Governor Healey signs the bill making it Chapter 342 of the Acts of 2024.

Major topics of the bill include

- **PBM Oversight** – The final bill creates a new chapter in general law (chapter 176Y) empowering the Division of Insurance (DOI) to license and oversee pharmacy benefit managers (PBMs). PBMs manage drug formularies and claims on behalf of health insurers, but until now were not subject to ongoing state licensure. The new law requires all PBMs to be licensed by DOI, requires each PBM to

be reviewed by DOI at least every three years, and allows DOI to establish rules for licensures, and to revoke, suspend or make provisional licenses based on the findings of its investigation. Both the Senate and House bills included versions of PBM licensure.

- **Capping the Cost of Medication for Chronic Conditions** – The final bill requires the Group Insurance Commission, MassHealth, and insurers to limit member cost sharing for insulin, as well as effective medications for asthma and two prevalent chronic heart conditions. Under the language, brand named drugs covered under the program would have a monthly co-pay cap of \$25. The Senate and House bills included versions of these sections.
- **Further Incorporating Pharmaceuticals & PBMs into Health Care Oversight** – The final bill increases involvement of pharmaceutical manufacturing companies within the Health Policy Commission (HPC) and Center for Health Information and Analysis (CHIA) oversight and data collection requirements. The bill also adds PBMs to those processes. Under the changes, a new office of Pharmaceutical Policy and Analysis is created at the HPC, the role of pharmaceutical companies at HPC’s annual cost trend hearing is expanded, PBMs are added to the hearing roster, and the data on pharmaceutical companies and PBMs that can be collected by CHIA is expanded. In addition, PBMs and pharmaceutical companies are added to the entities subject to assessment to pay the operating costs of CHIA and HPC. Increasing HPC oversight and CHIA data collection of pharmaceutical companies and PBMs was an element of both Senate and House bills. The Office of Pharmaceutical Policy and Analysis was a House proposal.

Notable Elements not Included

Generally speaking, the final bill did not go as far as the Senate proposal when it came to pharmaceutical oversight and did not go as far as the House bill in terms of PBM oversight. Specifically, the bill did not:

- Require early notice from pharmaceutical manufacturers to HPC for certain drugs about to enter the market (Senate proposal);
- Create an HPC drug access review process for drugs that exceed certain cost thresholds and require manufacturers to file and implement drug access and affordability improvement plans (Senate proposal);
- Include several additional CHIA drug data collection requirements (Senate proposal);
- Create a licensure process for specialty pharmacies (Senate proposal);
- Prohibit PBMs from denying a pharmacy’s ability to participate in its network if the pharmacy meets certain conditions (House proposal);
- Limit PBM’s ability to place drugs on a maximum allowable cost list (House proposal);
- Prohibit spread pricing by PBMs (House proposal).
- Require a share of PBM-negotiated rebates to be passed-through to health care consumers (House proposal).

H.5159 An Act Enhancing the Market Review Process

H.5159 is compromise legislation which overhauls the state’s health care market review and hospitals oversight processes, signed into law as [Chapter 343 of the Acts of 2024](#). This section of the memo details the bill’s legislative history and notes major provisions as well as House and Senate proposals not included in the bill signed by the Governor.

Legislative History

2023-2024 was the second session in which some form of the market review bill was considered in the legislature. In the 2021-2022 session, the House engrossed a version of the legislation, but no action was taken by the Senate. In the session just concluded, the legislative history of the bill is as follows:

- May 2nd, 2024: The committee version of the bill ([H.4620](#)) is reported favorably from the Joint Committee on Health Care Financing
- May 16th, 2024: The HWM draft of the bill ([H.4643](#)) is debated by the House and engrossed by a vote of 152-1 (becoming [H.4653](#))
- July 18th, 2024: The SWM draft of the bill ([S.2871](#)) is debated by the Senate and engrossed by a vote of 38-2 (becoming [S.2881](#))
- July 24th, 2024: Conference Committee on the bill is formed
- December 30th, 2024: the Conference Committee report (H.5159) is accepted by both branches and enacted
- January 8th, 2025: Governor Healey signs the bill making it Chapter 343 of the Acts of 2024.

Major Topics of the Bill Include

- **HPC Board Makeup** – The bill changes the composition of the HPC board, eliminating three appointments of the Auditor and replacing them with additional gubernatorial appointments. The Senate President and Speaker will provide nominees for two of the Governor’s appointments (with a focus on labor and life sciences respectively). The bill also provides a stipend to Board members. Both the House and Senate bills changed the composition of the HPC board; the final bill represents a compromise between those two proposals.
- **Private Equity Investment in Health Care** – The bill includes a number of provisions to better monitor significant equity investment in health care and to allow for that investment to be a factor in review and approval of expansions and mergers. Significant equity investment will now be an element reviewed at HPC’s annual Cost Trends hearing. The bill would also make significant equity investment a trigger for an HPC Material Change notification. Further, the bill would enable CHIA to collect financial information related to significant equity investment and include investors, health care real estate investment trusts, and management services organizations to the entities from whom the Attorney General can require information. The bill also prohibits hospitals, prospectively, from being licensed if the main campus is leased from a health care real estate investment trust.
- **HPC Material Change Process** – The bill expands the scope of provider actions that fall under the Material Change review process, including significant equity investment, major expansions, sales or transfers of assets, and conversion of a provider from a non-profit entity to a for-profit entity. Both the House and Senate bills included provisions overhauling the Material Change process.
- **Health Care Resource Plan** – The bill directs the HPC to create and maintain a state Health Care Resource Plan and requires the DPH health resource inventory to inform the plan. The plan will assess current and forecasted need for health services by region and make policy recommendations to improve access, equity, affordability, and efficiency of health resources. The HPC is also empowered to conduct focused assessments on health care resource supply, distribution and capacity.
- **Determination of Need Process** – The bill makes changes to the DPH Determination of Need (DON) process, requiring DPH to consider several factors, including any relevant HPC cost and market impact review, the state Health Resource Plan, as well as impact on cost and surrounding providers’

workforce. The new language also provides roles for other “parties of record” in the process and adjusts the DON timeline.

- **Health Care Plan Affordability** – The bill requires the Division of Insurance to consider affordability, among other factors, when approving health insurance rates. Under the language, approved rates would still need to meet solvency and actuarial soundness principles.

Notable Elements not Included

The final bill focused on proposals largely shared by both the House and Senate, while a number of areas of difference or unique elements of the original bills were not included. Specifically, the bill did not:

- Create a rate equity target for providers. The House bill established a rate equity target for qualifying providers that would establish minimum rates of payment between 2026 and 2029.
- Create a new Division of Health Insurance. The House bill proposed a new Division of Health Insurance, separate from the Division of Insurance.
- Change the state’s Health Care Growth benchmark process. Both the House and Senate bills proposed changing the current process for determining an annual health care cost growth benchmark. No changes were included in the final bill.
- Include any provisions related to prior authorization of health care procedures. The Senate bill created a Prior Authorization Taskforce to make recommendations on policy changes and directed DOI to consider those recommendations when establishing standards and practices.
- Change the HPC Performance Improvement Plan process. The House and Senate bills proposed overhauling the Performance Improvement Plan process.