

HOUSE No. 345

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

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 passage of the accompanying:

An Act relative to health care affordability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Patricia D. Jehlen</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>James B. Eldridge</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Michael R. Knapik</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>

<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>

HOUSE No. 345

By Mr. Scibak of South Hadley, a petition (accompanied by bill, House, No. 345) of John W. Scibak and others for legislation to establish a division of health insurance under the supervision and control of the commissioner of health insurance. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

□ □ HOUSE
□ , NO. 1102 OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to health care affordability.

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

1 SECTION 1. The third sentence of the first paragraph of subsection (d) of section 38C of
2 chapter 3 of the General Laws is hereby amended by striking out the words “the division of
3 insurance” and inserting in place thereof the following words:– the division of health insurance.

4 SECTION 2. The second paragraph of section 16 of chapter 6A of the General Laws is
5 hereby amended by striking out the words “and (7) the health facilities appeals board” and
6 inserting in place thereof the following words:– (7) the health facilities appeals board; and (8) the
7 division of health insurance under the direction of the commissioner of health insurance.

8 SECTION 3. The second sentence of subsection (a) of section 16D of chapter 6A of the
9 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
10 inserting in place thereof the following words:– the commissioner of health insurance.

11 SECTION 4. The first sentence of subsection (b) of section 16K of chapter 6A of the
12 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
13 inserting in place thereof the following words:– the commissioner of health insurance.

14 SECTION 5. Sections 7A and 7B of chapter 26 of the General Laws are hereby repealed.

15 SECTION 6. The first paragraph of section 8H of chapter 26 of the General Laws is
16 hereby amended by adding the following sentence:– Assessments received under this paragraph

17 from domestic health insurance companies, including nonprofit hospital, medical and dental
18 service corporations as defined in section 1 of chapter 176A, section 1 of chapter 176B, and
19 section 1 of chapter 176E shall be paid to the division of health insurance.

20 SECTION 7. Section 8H of chapter 26 of the General Laws is hereby amended by
21 striking out the third and forth paragraphs.

22 SECTION 8. The first sentence of section 3 of chapter 32A of the of the General Laws is
23 hereby amended by striking out the words “the commissioner of insurance” and inserting in
24 place thereof the following words:– the commissioner of health insurance.

25 SECTION 9. Subsection (a) of section 2 of chapter 111M of the General Laws is hereby
26 amended by inserting after the words “established by chapter 176Q” the following:- by
27 regulation, in accordance with the requirements of subsection (d).

28 SECTION 10. The first sentence of subsection (b) of said section 2 of said chapter 111M
29 of the General Laws is hereby amended by striking out clauses (ii) and (iii) and inserting in place
30 thereof the following clauses:- (ii) claims an exemption under section 3, (iii) had a certificate
31 issued under section 3 of chapter 176Q, or (iv) had adjusted gross income as shown on the
32 individual’s state tax return such that the amount required to purchase the lowest cost insurance
33 on the market for which an individual would be eligible for creditable coverage, taking into
34 consideration the out of pocket costs, as shown in the schedule created pursuant to subsection (p)
35 of section 3 of chapter 176Q, exceeds the amount which an individual could be expected to
36 contribute towards the purchase of insurance in the report published pursuant to subsection (q) of
37 section 3 of chapter 176Q.

38 SECTION 11. Said section 2 of chapter 111M of the General Laws, as so appearing, is
39 hereby further amended by inserting after subsection (c) the following subsections:-

40 (d) The affordability schedule set by the board of the connector pursuant to subsection
41 (a) shall be subject to the following requirements:

42 (1) in determining whether creditable coverage is affordable, the board of the connector
43 shall consider expected enrollee expenditures as the 90th percentile of out of pocket costs plus
44 premiums for those enrolled in creditable coverage;

45 (2) For the purposes of this section, “out-of-pocket costs” shall mean the amount paid by
46 an enrollee to satisfy the applicable annual deductible, co-payments and co-insurance, not
47 including monthly premiums.

48 SECTION 12. The General Laws are hereby amended by inserting after chapter 111M
49 the following chapter:–

50 Chapter 111N.

51 Division of Health Insurance.

52 Section 1. There is hereby established a division of health insurance under the
53 supervision and control of the commissioner of health insurance. The secretary of health and
54 human services shall appoint the commissioner, with the approval of the governor, who shall
55 serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to
56 the approval of the governor. The commissioner shall have such educational qualifications and
57 administrative and other experience as the secretary of health and human services determines to
58 be necessary for the performance of the duties of commissioner. The position of commissioner
59 shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined
60 in accordance with section 46C of said chapter 30.

61 The commissioner shall appoint and may remove such agents and subordinate officers as
62 the commissioner may deem necessary and may establish bureaus and subdivisions within the
63 division. The division shall adopt and amend rules and regulations, in accordance with chapter
64 30A, for the administration of its duties and powers and to effectuate the provisions and purposes
65 of this chapter and other duties of the division.

66 Section 2. There shall be in the division a health care access bureau overseen by a deputy
67 commissioner for health care access, whose duties shall include, subject to the direction of the
68 commissioner of health insurance, administration of the division's statutory and regulatory
69 authority for oversight of the small group and individual health insurance market, oversight of
70 affordable health plans, including coverage for young adults, as well as the dissemination of
71 appropriate information to consumers about health insurance coverage and access to affordable
72 products. The commissioner shall appoint at least the following employees of the health care
73 access bureau: a deputy commissioner for health access, a health care finance expert, an actuary,
74 and a research analyst. They shall devote their full time to the duties of their office, shall be
75 exempt from chapters 30 and 31, and shall serve at the pleasure of the commissioner. The
76 commissioner may appoint such other employees as the bureau may require.

77 The commissioner may make and collect an assessment against the carriers licensed
78 under chapters 175, 176A, 176B and 176G to pay for the expenses of the bureau. The assessment
79 shall be at a rate sufficient to produce \$600,000 annually. In addition to that amount, the
80 assessment shall include an amount to be credited to the General Fund which shall be equal to
81 the total amount of funds estimated by the secretary for administration and finance to be
82 expended from the General Fund for indirect and fringe benefit costs attributable to the personnel
83 costs of the bureau. If the commissioner fails to expend for the costs and expenses of the bureau
84 in a fiscal year the total amount of \$600,000 for the purposes set forth in this section, any amount
85 unexpended in that fiscal year shall be credited against the assessment to be made in the
86 following fiscal year, and the assessment in the following fiscal year shall be reduced by that
87 unexpended amount. The assessment shall be allocated on a fair and reasonable basis among all
88 carriers licensed under said chapters 175, 176A, 176B and 176G. The funds produced by the

89 assessments shall be expended by the division, in addition to any other funds which may be
90 appropriated, to assist in defraying the general operating expenses of the bureau, and may be
91 used to compensate consultants retained by the bureau. A carrier licensed under said chapters
92 175, 176A, 176B and 176G shall pay the amount assessed against it within 30 days after the date
93 of the notice of assessment from the commissioner.

94 Section 3. (a) For the purposes of implementing chapter 111M and section 8B of chapter
95 62C, the commissioner may consult with the department of revenue and may enter into an
96 interdepartmental service agreement with the department that may include the transfer of
97 information from statements and reports provided under said section 8B.

98 (b) Upon request, carriers licensed under chapters 175, 176A, 176B and 176G and the
99 office of Medicaid shall make information available to the bureau for the purposes of chapter
100 111M. Such information shall be limited to the minimum amount of personal information
101 necessary, shall not include information about diagnoses or treatments and, except for the office
102 of Medicaid, shall not include social security numbers. The information acquired under this
103 section shall be confidential and shall not constitute a public record.

104 (c) The division may consider violations of this section and said section 8B when
105 licensing or authorizing entities to provide health coverage.

106 Section 4. The division, in consultation with the commonwealth health insurance
107 connector established by chapter 176Q, shall establish and publish minimum standards and
108 guidelines at least annually for each type of health benefit plans, except qualified student health
109 insurance plans as set forth in section 18 of chapter 15A, provided by insurers and health
110 maintenance organizations doing business in the commonwealth.

111 Section 5. The division shall require all health insurers and health maintenance
112 organizations doing business in the commonwealth to identify persons who are recipients of
113 medical assistance under chapter one hundred and eighteen E or recipients of health care
114 services, including hospital and other services funded through the uncompensated care pool
115 under section 18 of chapter 118G, or who are responsible for supporting such recipients, and
116 who are also beneficiaries under any policy for health insurance or parties to any health
117 maintenance contract in force and effect in the commonwealth. The department of public welfare
118 and the division of health care finance and policy shall provide information to the extent
119 sufficient to allow all insurers to identify such persons. Such information shall be made available
120 by such insurers and health maintenance organizations and by the department and the division of
121 health care finance and policy only for the purposes of and to the extent necessary for identifying
122 such persons. No health insurer or health maintenance organization which complies with this
123 section shall be liable in any civil or criminal action or proceedings brought by such beneficiaries
124 or members on account of such compliance. The division of health insurance shall further direct
125 all health insurers and health maintenance organizations doing business in the commonwealth to

126 participate with the department and the division of health care finance and policy in any
127 procedures, including but not limited to automated file matches, conducted under the direction of
128 the department and the division of health care finance and policy for the purpose of identifying
129 those persons who are recipients of medical assistance under chapter 118E or recipients of health
130 care services, including hospital and other services funded through the uncompensated care pool,
131 under section 18 of chapter 118G, or who are responsible for supporting such recipients, and
132 who are also beneficiaries under any policy for health insurance or parties to any health
133 maintenance contract in force in the commonwealth. Participation in such a procedure by a
134 health insurer or health maintenance organization doing business in the commonwealth shall
135 include but not be limited to reasonable financial participation in the cost of any such procedure.
136 The commissioner of health insurance is authorized to promulgate regulations necessary to
137 ensure the effectiveness of this section

138 Section 6. (a)As used in this section the following words shall have the following
139 meanings, unless the context clearly requires otherwise:-

140 "Adjusted weighted average market premium price", the arithmetic mean of all premium
141 rates for a given prototype plan sold to eligible insureds with similar rate basis type by all
142 carriers selling prototype plans or alternative prototype plans in the commonwealth, weighted
143 pursuant to regulations promulgated by the commissioner.

144 "Alternative prototype plan", a health plan which meets the criteria established by the
145 commissioner and which is intended for sale under section 4 of chapter 176Q, to eligible
146 individuals and to eligible small groups, as defined in section 1 of chapter 176Q.

147 "Carrier", an insurer licensed or otherwise authorized to transact accident and health
148 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
149 176A; a non-profit medical service corporation organized under chapter 176B; or a health
150 maintenance organization organized under chapter 176G.

151 "Health plan", any individual, general, blanket or group policy of health, accident or
152 sickness insurance issued by an insurer licensed under chapter 175 or the laws of any other
153 jurisdiction; a hospital service plan issued by a nonprofit hospital service corporation under
154 chapter 176A or the laws of any other jurisdiction; a medical service plan issued by a nonprofit
155 hospital service corporation under chapter 176B or the laws of any other jurisdiction; a health
156 maintenance contract issued by a health maintenance organization under chapter 176G or the
157 laws of any other jurisdiction; and an insured health benefit plan that includes a preferred
158 provider arrangement issued under chapter 176I or the laws of any other jurisdiction. "Health
159 plan" shall not include accident only, credit-only, limited scope dental or vision benefits if
160 offered separately, hospital indemnity insurance policies if offered as independent,
161 noncoordinated benefits which for the purposes of this chapter shall mean policies issued
162 pursuant to chapter 175 which provide a benefit not to exceed \$500 per day, as adjusted on an

163 annual basis by the amount of increase in the average weekly wages in the commonwealth as
164 defined in section 1 of chapter 152, to be paid to an insured or a dependent, including the spouse
165 of an insured, on the basis of a hospitalization of the insured or a dependent, disability income
166 insurance, coverage issued as a supplement to liability insurance, specified disease insurance that
167 is purchased as a supplement and not as a substitute for a health plan and meets any requirements
168 the commissioner by regulation may set, insurance arising out of a workers' compensation law or
169 similar law, automobile medical payment insurance, insurance under which benefits are payable
170 with or without regard to fault and which is statutorily required to be contained in a liability
171 insurance policy or equivalent self insurance, long-term care if offered separately, coverage
172 supplemental to the coverage provided under 10 U.S.C. chapter 55 if offered as a separate
173 insurance policy, or any policy subject to the provisions of chapter 176K. The commissioner
174 may by regulation define other health coverage as a health plan for the purposes of this chapter.

175 "Prototype plan", a health plan which meets the criteria established by the commissioner.

176 "Rate basis type", each category of individual or family composition for which separate
177 rates are charged for a health benefit plan as determined by the carrier subject to restrictions set
178 forth in regulations promulgated by the commissioner.

179 (b) After a date established annually by the commissioner pursuant to regulation, every
180 carrier desiring to increase or decrease premiums for any health insurance policy or desiring to
181 set the initial premium for a new health insurance policy under any health plan shall file its rates
182 with the commissioner at least 90 days before the proposed effective date of such new health
183 insurance rates.

184 (c) Any increase in premium rates shall continue in effect for not less than 12 months,
185 except that an increase in benefits or decrease in rates may be permitted at any time.

186 (d) A carrier shall annually report to the commissioner and to the health care quality and
187 cost council, established under section 16K of chapter 6A, no later than May 1, the actual loss
188 ratio calculated for each health plan for the previous calendar year.

189 (e) If a carrier files for an increase in premium of 7 per cent or more than the premium
190 previously charged for any rate classification or coverage, or if a carrier files an initial premium
191 request that is 7 per cent or more than the adjusted weighted average market premium price, or if
192 the attorney general files with the commissioner, within 30 days of the carrier's filing, a
193 preliminary determination that the benefits provided in any health insurance policy are
194 unreasonable in relation to the premium charged, the commissioner shall initiate a hearing
195 conducted pursuant to chapter 30A on any such filing prior to its effective date on at least 10
196 days notice. The commissioner may consolidate hearings for more than 1 carrier, and may
197 consolidate hearings for multiple health plans filed by one carrier. The carrier shall provide
198 information on the reasons for the proposed premium increase, and members of the public may
199 testify. All testimony and evidence received shall be public records. The commissioner may

200 promulgate guidelines to safeguard the confidentiality of contracts that establish rates between
201 insurers and institutional providers licensed under section 51 of chapter 111 which shall apply
202 when the commissioner obtains such contracts under his authority in section 8A of chapter 175
203 for purposes of a hearing under this section.

204 The attorney general shall have the authority to intervene in any hearing called for under
205 this section.

206 Such requested premium increase or initial premium request shall be filed at least 90 days
207 before the proposed effective date of such increase, and shall be communicated to the insureds at
208 least 90 days before the proposed effective date of such increase, in the manner directed by the
209 commissioner.

210 The rate filer shall advertise any public hearing conducted under this section in
211 newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and
212 Lowell.

213 Within 30 days of the conclusion of any hearing initiated under this section, the
214 commissioner shall issue a report containing findings of fact from the evidence presented in the
215 carrier's filing and in the hearing. The findings of fact shall include, but shall not be limited to:

216 the carrier's administrative expenses, including but not limited to the carrier's salary
217 structure, advertising and other marketing expenses, and commissions, brokerage fees and other
218 distribution expenses, as compared to other carriers within and without the commonwealth;

219 the carrier's expenses related to health care contract, including but not limited to the costs
220 of services rendered by health care providers, the rates at which it pays for such services and the
221 volume of services provided;

222 the carrier's loss experience under the health plan, including evaluations of the carrier's
223 loss ratio and of utilization by the carrier's insureds, and of identifiable cost drivers for that
224 health plan, as compared to other carriers within and without the commonwealth;

225 cost-sharing assumptions made in the health plan, including, but not limited to, the use of
226 deductibles, co-payments and coinsurance;

227 the carrier's provisions in the rates for reserves and surplus; and

228 the carrier's programs of cost containment, as compared to other carriers within and
229 without the commonwealth.

230 Nothing in this paragraph shall be construed to prohibit the attorney general from
231 publishing any report concerning a hearing under this section.

232 This section is not intended to alter any procedures for the approval or disapproval of
233 health plan rates provided elsewhere in the General Laws, except as specifically provided herein.

234 The commissioner shall promulgate regulations to specify the conduct and scheduling of
235 the hearings required pursuant to this section, provided that any such regulation shall facilitate
236 adequate discovery of information related to the filed rates.

237 (f) The supreme judicial court shall have jurisdiction in equity upon the petition of the
238 attorney general, on behalf of the commissioner and upon a summary hearing, to enforce all
239 lawful orders of the commissioner.

240 Any person aggrieved by any final action, order, finding or decision of the commissioner
241 under this section may, within 20 days from the filing of such final action, order, finding or
242 decision in his office, file a petition in the supreme judicial court for the county of Suffolk for a
243 review of such action, order, finding or decision. The final action, order, finding, or decision of
244 the commissioner shall remain in full force and effect, pending the final decision of the court,
245 unless the court or a justice thereof after notice to the commissioner shall by a special order
246 otherwise direct. Review by the court on the merits shall be limited to the record of proceedings
247 before the commissioner. The court shall have jurisdiction to modify, amend, annul, reverse or
248 affirm such action, order, finding or decision and shall uphold the commissioner's action, order,
249 finding, or decision if it is consistent with the standards set forth in paragraph 7 of section 14 of
250 chapter 30A. The court may make any appropriate order or decree and may make such order as
251 to costs as it deems equitable. The court may make such rules or orders as it deems proper
252 governing proceedings under this section to secure prompt and speedy hearings and to expedite
253 final decisions thereon.

254 (g) The commissioner may promulgate regulations to facilitate the administration and
255 enforcement of this section and to govern hearings and investigations thereunder, and may issue
256 such orders as he finds proper, expedient or necessary to enforce and administer this chapter and
257 to secure compliance with any rules and regulations made thereunder.

258 SECTION 13. Clause (ii) of the second paragraph of subsection (d) of section 2 of
259 chapter 118G of the General Laws is hereby amended by striking out the words “the division of
260 insurance” and inserting in place thereof the following words:– the division of health insurance.

261 SECTION 14. Clause (i) of the second sentence of the third paragraph of section 6 of
262 chapter 118G of the General Laws is hereby amended by striking out the words “the division of
263 insurance under section 8H of chapter 26” and inserting in place thereof the following words:–
264 the division of health insurance.

265 SECTION 15. The second sentence of subsection (b) of section 6½ of chapter 118G of
266 the General Laws is hereby amended by striking out the words “the division of insurance” and
267 inserting in place thereof the following words:– the division of health insurance.

268 SECTION 16. Section 1 of chapter 175 of the General Laws is hereby amended by
269 striking out the definition of “Commissioner” and inserting in place thereof the following
270 definition:–

271 “Commissioner”, the commissioner of insurance; provided, that the term
272 “Commissioner” shall mean the commissioner of health insurance established by chapter 111N
273 with respect to all health insurance, including accident and sickness insurance under sections 108
274 and 110 and any other insurance that provides medical, surgical, dental, or hospital expense
275 benefits.

276 SECTION 17. Section 2 of chapter 175I of the General Laws is hereby amended by
277 striking out the definition of “Commissioner” and inserting in place thereof the following
278 definition:–

279 “Commissioner”, the commissioner of insurance or his designee; provided, that the term
280 “Commissioner” shall mean the commissioner of health insurance established by chapter 111N
281 with respect to all health insurance.

282 SECTION 18. Section 1 of chapter 176A of the General Laws is hereby amended by
283 inserting before the first paragraph the following paragraph:–

284 Notwithstanding any general or special law to the contrary, the words “commissioner”
285 and “commissioner of insurance” as used in this chapter shall mean the commissioner of health
286 insurance.

287 SECTION 19. Section 1 of chapter 176B of the General Laws is hereby amended by
288 striking out the definition of “Commissioner” and inserting in place thereof the following
289 definition:–

290 “Commissioner”, the commissioner of health insurance.

291 SECTION 20. Section 1 of chapter 176D of the General Laws is hereby amended by
292 striking out the definition of “Commissioner” and inserting in place thereof the following
293 definition:–

294 “Commissioner”, the commissioner of insurance; provided, that the terms
295 “Commissioner” and “commissioner of the division of insurance” shall mean the commissioner
296 of health insurance established by chapter 111N with respect to all health insurance, including
297 accident and sickness insurance under sections 108 and 110 and any other insurance that
298 provides medical, surgical, dental, or hospital expense benefits.

299 SECTION 21. Section 1 of chapter 176E of the General Laws is hereby amended by
300 striking out the definition of “Commissioner” and inserting in place thereof the following
301 definition:–

302 “Commissioner”, the commissioner of health insurance.

303 SECTION 22. Section 1 of chapter 176G of the General Laws is hereby amended by
304 striking out the definition of “Commissioner” and inserting in place thereof the following
305 definition:–

306 “Commissioner”, the commissioner of health insurance.

307 SECTION 23. Section 1 of chapter 176I of the General Laws is hereby amended by
308 striking out the definition of “Commissioner” and inserting in place thereof the following
309 definition:–

310 “Commissioner”, the commissioner of health insurance.

311 SECTION 24. Section 1 of chapter 176J of the General Laws is hereby amended by
312 striking out the definition of “Commissioner” and inserting in place thereof the following
313 definition:–

314 “Commissioner”, the commissioner of health insurance.

315 SECTION 25. Section 1 of chapter 176K of the General Laws is hereby amended by
316 striking out the definition of “Commissioner” and inserting in place thereof the following
317 definition:–

318 “Commissioner”, the commissioner of health insurance.

319 SECTION 26. Section 1 of chapter 176M of the General Laws is hereby amended by
320 striking out the definition of “Commissioner” and inserting in place thereof the following
321 definition:–

322 “Commissioner”, the commissioner of health insurance.

323 SECTION 27. Section 1 of chapter 176N of the General Laws is hereby amended by
324 striking out the definition of “Commissioner” and inserting in place thereof the following
325 definition:–

326 “Commissioner”, the commissioner of health insurance.

327 SECTION 28. Section 1 of chapter 176O of the General Laws is hereby amended by
328 striking out the definition of “Commissioner” and inserting in place thereof the following
329 definition:–

330 “Commissioner”, the commissioner of health insurance.

331 SECTION 29. Section 1 of chapter 176O of the General Laws is hereby amended by
332 striking out the definition of “Commissioner” and inserting in place thereof the following
333 definition:–

334 “Commissioner”, the commissioner of health insurance.

335 SECTION 30. Said section 1 of said chapter 176O of the General Laws is hereby
336 amended by striking out the definition of “Division” and inserting in place thereof the following
337 definition:–

338 “Division”, the division of health insurance.

339 SECTION 31. Section 1 of chapter 176Q of the General Laws is hereby amended by
340 striking out the definition of “Commissioner” and inserting in place thereof the following
341 definition:–

342 “Commissioner”, the commissioner of health insurance.

343 SECTION 32. The second sentence of subsection (b) of section 2 of chapter 176Q of the
344 General Laws is hereby amended by striking out the words “the commissioner of insurance” and
345 inserting in place thereof the following words:– the commissioner of health insurance.

346 SECTION 33. Subsection (m) of section 3 of chapter 176Q of the General Laws is hereby
347 amended by striking out the words “the division of insurance” and inserting in place thereof the
348 following words:– the division of health insurance.

349 SECTION 34. Section 1 of chapter 176R of the General Laws is hereby amended by
350 striking out the definition of “Commissioner” and inserting in place thereof the following
351 definition:–

352 “Commissioner”, the commissioner of health insurance.

353 SECTION 35. (a) Notwithstanding any general or special law to the contrary, this
354 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
355 property and legal obligations and functions of state government from the division of insurance,
356 solely to the extent that they relate to health insurance, as transferor agency, to the division of
357 health insurance, as transferee agency.

358 (b) Subject to appropriation, the employees of the transferor agency, including those who
359 immediately before the effective date of this act held permanent appointment in positions
360 classified under chapter 31 of the General Laws or have tenure in their positions as provided by
361 section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential
362 positions, are hereby transferred to the transferee agency, without interruption of service within
363 the meaning of section 9A of chapter 30, without impairment of seniority, retirement or other
364 rights of the employee, and without reduction in compensation or salary grade, notwithstanding

365 any change in title or duties resulting from such reorganization, and without loss of accrued
366 rights to holidays, sick leave, vacation and benefits, and without change in union representation
367 or certified collective bargaining unit as certified by the state labor relations commission or in
368 local union representation or affiliation. Any collective bargaining agreement in effect
369 immediately before the transfer date shall continue in effect and the terms and conditions of
370 employment therein shall continue as if the employees had not been so transferred. The
371 reorganization shall not impair the civil service status of any such reassigned employee who
372 immediately before the effective date of this act either held a permanent appointment in a
373 position classified under chapter 31 of the General Laws or had tenure in a position by reason of
374 section 9A of chapter 30 of the General Laws.

375 (c) Notwithstanding any general or special law to the contrary, all such employees shall
376 continue to retain their right to bargain collectively pursuant to chapter 150E of the General
377 Laws and shall be considered employees for the purposes of chapter 150E.

378 Nothing in this section shall confer upon any employee any right not held immediately
379 before the date of the transfer, or to prohibit any reduction of salary grade, transfer,
380 reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything
381 in this section prohibit the abolition of any management position within the divisions of
382 telecommunications or community antenna television after transfer to the department.

383 (d) All petitions, requests, investigations, filings and other proceedings appropriately and
384 duly brought before the transferor agency, or pending before it before the effective date of this
385 act, shall continue unabated and remain in force, but shall be assumed and completed by the
386 transferee agency.

387 (e) All orders, advisories, findings, rules and regulations duly made and all approvals
388 duly granted by the transferor agency, which are in force immediately before the effective date of
389 this act, shall continue in force and shall thereafter be enforced, until superseded, revised,
390 rescinded or canceled, in accordance with law, by the transferee agency.

391 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other
392 property, both personal and real, including all such property held in trust, which immediately
393 before the effective date of this act are in the custody of the transferor agency, shall be
394 transferred to the transferee agency.

395 (g) All duly existing contracts, leases and obligations of the transferor agency, shall
396 continue in effect but shall be assumed by the transferee agency. No such existing right or
397 remedy of any character shall be lost, impaired or affected by this act.

398 (h) Whenever the term "division of insurance" appears in any statute, regulation,
399 contract or other document, it shall be taken to mean the division of health insurance to the

400 extent that it relates to health insurance. Otherwise, it shall be continue to be taken to mean the
401 division of insurance.