SENATE DOCKET, NO. 493 FILED ON: 1/16/2013

SENATE . . . . . No. 1094

The Commonwealth of Massachusetts

PRESENTED BY:

Stanley C. Rosenberg

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 establishing a statewide discount program for pharmaceuticals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*
John W. Scibak	*2nd Hampshire*
Richard T. Moore	*Worcester and Norfolk*
Steven M. Walsh	*11th Essex*
Gale D. Candaras	*First Hampden and Hampshire*

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By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 1094) of Stanley C. Rosenberg, John W. Scibak, Richard T. Moore, Steven M. Walsh and other members of the General Court for legislation to establish a statewide discount program for pharmaceuticals. Public Health.

The Commonwealth of Massachusetts

An Act establishing a statewide discount program for pharmaceuticals.

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

SECTION 1. For the purpose of this act, the following words shall have the following meanings:

"Pharmacy benefit manager" means an entity that, in addition to being a prescription drug claims processor, negotiates and executes contracts with pharmacies, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Massachusetts Prescription Drug Program established in section 2 of this act, prescription drug manufacturers and pharmacies.

"Prescription drug claims processor" means an entity that processes and pays prescription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data between pharmacies and the Massachusetts Prescription Drug Program and processes related payments to pharmacies.

SECTION 2 (a) There shall be established a Massachusetts Prescription Drug Program, hereinafter referred to as the program, the purpose of which is to:

(1) purchase prescription drugs or reimburse pharmacies for prescription drugs in order to receive discounted prices and rebates;

(2) make prescription drugs available at the lowest possible cost to participants in the program; and

(3) maximize the purchasing power of prescription drug consumers in the Commonwealth in order to negotiate the lowest possible prices for said consumers

(b) The program shall be administered by a director who shall be appointed by the Governor. The director shall:

22 (1) negotiate price discounts and rebates on prescription drugs with prescription drug
23 manufacturers;

24 (2) purchase prescription drugs on behalf of individuals and entities that participate in the
25 program;

26 (3) determine program prices and reimburse pharmacies for prescription drugs;

27 (4) develop a system for allocating and distributing the operational costs of the program
28 and any rebates obtained to participants of the program;

29 (5) cooperate with other states or regional consortia in the bulk purchase of prescription
30 drugs; and,

31 (6) establish terms and conditions for pharmacies to enroll in the program.

32 The director may, subject to the provisions of chapter 30B of the General Laws, enter
33 into contracts with prescription drug claims processors or pharmacy benefit managers.

34 (c) The director shall cause to be made available and distributed an application for
35 program enrollment. The director may charge participants a nominal fee to process applications
36 as well as produce and distribute program identification cards.

37 SECTION 3. The program shall calculate and transmit the program prices for
38 prescription drugs to any enrolled pharmacy. The pharmacy shall charge a participant the
39 program price for a pharmaceutical provided that the participant presents a valid program
40 identification card.

41 SECTION 4. Notwithstanding any special or general law to the contrary, in order to
42 maximize the Commonwealth's purchasing power as well as any potential savings for
43 prescription drug consumers that receive coverage through the Commonwealth, the director shall
44 automatically enroll all consumers receiving pharmaceuticals through a department or agency of
45 the Commonwealth into the program; provided however, that if a department, agency or entity
46 can empirically demonstrate to the director that such enrollment would result in a net increase in
47 costs either to the Commonwealth or to their consumers, then the department or agency shall be
48 exempt from automatic enrollment. In those cases where a federal waiver is necessary for the
49 participation of the consumer, each agency or entity shall take all necessary steps to obtain such
50 a waiver.

51 SECTION 5. The director shall establish guidelines to implement and administer sections
52 2 to 4 of this act, which shall include, but not be limited to, establishing guidelines for:

53 (1) issuing prescription drug identification cards to individuals and entities that
54 participate in the program; and

55 (2) enrolling pharmacies in the program.

56 SECTION 6. Beginning one year after enactment and annually thereafter the director
57 shall submit a report to the secretary of administration and finance, the chairs of the joint
58 committee on health care financing, the chairs of the joint committee on public health and the
59 chairs of the senate and house committees on ways and means on the progress of program
60 implementation. The report shall include, but not be limited to:

61 (1) the number of individuals that the director has enrolled and expects to enroll in the
62 program

63 (2) the number of participants for whom the program has purchased and expects to
64 purchase prescription drugs;

65 (3) total and average individual savings of prescription drug prices for participants as
66 well as projected total and average individual savings of prescription drug prices for participants;

67 (4) progress towards expanding the program; and

68 (5) any recommendations for legislation that the director feels is needed to further
69 implementation and expand program participation.