



Massachusetts Health Reform, Part III

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Today, **Massachusetts Governor Deval Patrick filed health care reform legislation** that, if enacted, will take the Commonwealth to the next level, taking the third step in the process that began in 2006 with the universal coverage law, and continued in 2008 with the **legislation directed at containing cost and improving quality**. One of the provisions of the 2008 law established

a special commission on the health care payment system that shall investigate reforming and restructuring the system to provide incentives for efficient and effective patient-centered care and to reduce variations in the quality and cost of care.

The 2009 **report of the special commission on the health care payment system** was followed in 2010 by **a report by the Office of the Attorney General and legislative hearings** that focused on cost increases divorced from quality improvement. Also in 2010, the Governor was engaged in close combat with health insurers over rate increases.

2011 has brought a legislative proposal designed to implement recommendations of the special commission. The Commonwealth's **blog** says:

- The bill encourages the market to move away from the current model of health care - which pays for quantity of care, not quality – toward a system that integrates care and rewards healthier outcomes.
- It achieves this goal in large part by encouraging the growth of integrated care organizations that support innovation and brings down costs by promoting health, not just dealing with chronic emergencies.

It also links to resources including the full text of the legislation -- **An Act Improving the Quality of Health Care and Controlling Costs by Reforming Health Systems and Payments** -- and a **section-by-section summary**.

So can you guess what the Governor has proposed?

That's right -- ACOs for all.

His [filing letter](#) says:

The bill I am filing will lower health care costs for consumers while providing the health care industry both the incentives and the freedom to innovate and find lower cost ways to deliver better care.

This legislation will realize these goals by:

- Giving the Commissioner of the Division of Insurance authority to consider several new criteria when deciding whether or not to disapprove excessive health insurance premium increases;
- Encouraging the formation and use of integrated care organizations, comprised of groups of providers that work together to achieve improved health outcomes for patients at lower costs;
- Establishing benchmarks and timelines for the transition to “alternatives to fee for service” and the predominant use of integrated care organizations by 2015;
- Encouraging the use of payment methods (such as global payments, bundled payments, etc.) that will decrease total per capita expenditures on health care, and the rate of growth in expenditures for health care in the Commonwealth, and improve the efficiency, effectiveness and quality of health care delivery;
- Ensuring transparency and accuracy of payer and provider costs, provider payments, clinical outcomes, quality measures, and other information which is necessary to discern the value of health services;
- Empowering the relevant state entities to monitor and address disparities in the health care market that contribute to high health care costs; and
- Discouraging the practice of defensive medicine and improving the quality of health care by requiring open communication between providers and patients during a “cooling off period” before litigation can commence and limiting the use of a physician’s apology in litigation.

Well, OK, he said ICOs (“integrated care organizations”), not ACOs, but you get the idea.

I have read much commentary lately suggesting that the ACO is not the holy grail of health reform, as its adoption as a model for health care finance can only result in the concentration of market power in hospital-led organizations employing more and more physicians (though never enough PCPs to deliver all the much-vaunted primary and preventive care), resulting in upward pressure on pricing, and the

financial incentives that will lead to limiting of care by providers in service to the almighty dollar.

Providers have their concerns as well. Consider Massachusetts Hospital Association Executive Director [Lynn Nicholas' concerns](#) expressed nearly eighteen months ago:

The hospital association wants legislators to include health care providers on the oversight board; shield providers from financial risks they can't control and don't have reserves to cover, such as a swine flu outbreak; change insurance plans so that patients are encouraged to stay within their accountable care organizations for all of their medical needs; provide extra compensation for providers who treat low-income patients and for teaching hospitals that have extra costs associated with training residents, research, and 24-hour trauma services; and offer incentives for providers to jump in and test the global payment system.

Not all of these concerns have been addressed in the Governor's bill. I was happy to see the [medical apology](#) section, though (the bill would make medical apologies inadmissible in malpractice cases).

As always, the devil is in the details. Most of the naysayers do not have alternative proposals. I believe that it is important to move forward in this direction, simply because the status quo is completely untenable. Patrick is to be commended for keeping many key players at the table for several years now (hospitals, physicians, insurance companies, business). As I've observed before, ideals and interests help keep folks focused on making health reform work in Massachusetts. We shall see how Patrick continues to keep this unholy alliance together as this bill moves through the legislative process.

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