
By Mr. King, a petition (accompanied by bill, Senate, No. 543) of John G. King and John F. Aylmer for legislation to further provide for economy in hospital costs. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT FURTHER PROVIDING FOR ECONOMY IN HOSPITAL COSTS.

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

1 The General Laws are hereby amended by inserting after
2 Chapter 111D the following chapter: —

3 CHAPTER 111E

4 PROHIBITION OF CONFLICTING
5 HOSPITAL INSPECTIONS

6 *Section 1. Declaration of Purpose.*

7 The general court finds and declares that inspections of
8 hospitals by agencies of every level of government of the
9 commonwealth inquire into the same or similar matters and
10 result in conflicting inspections of hospitals. As such, con-
11 flicting inspections are burdensome to hospitals and have re-
12 sulted in hospitals and the public incurring unnecessary
13 health care costs. Accordingly this act is to be construed in
14 such a manner as to insure that no hospital shall be subject
15 to any inspection, by any branch or subdivision of govern-
16 ment of the commonwealth, that inquires into the same or
17 any substantially similar matter and/or condition.

18 *Section 2.* In this chapter the following words and terms
19 shall, unless the context requires otherwise, have the follow-
20 ing meaning: —

21 (1) "secretary", the head of the executive office of human
22 services.

23 (2) "hospital", any hospital licensed under or applicant
24 for original licensure under section fifty-one of chapter one

25 hundred and eleven, the teaching hospital of The University
26 of Massachusetts Medical School, and any psychiatric facility
27 licensed under section twenty-nine of Chapter nineteen.

28 (3) "inspecting agency", any agency, person, department,
29 division or/and instrumentality, of the commonwealth or sub-
30 division thereof including, but not limited to, any city, town,
31 county, independent body politic including any agency, depart-
32 ment or official thereof. The term inspection agency shall not
33 include any federal inspection agency or The Joint Commis-
34 sion on Accreditation of Hospitals.

35 (4) "inspection", any periodic or regular inquiry, review
36 or civil investigation, of a hospital, conducted by any inspec-
37 tion agency, and which relates to hospital public health,
38 safety and welfare, premises, building, construction or main-
39 tenance, quality of care, maintenance of patient records
40 or/and other matter whatsoever. The word "inspection" shall
41 include, but not be limited to, any regular or periodic inquiry,
42 review or civil investigation for the purpose of determining
43 whether to award, renew, alter, suspend or revoke any license,
44 permit or accreditation maintained or applied for by a hos-
45 pital or/and which may subject a hospital to an adverse action
46 or recommendation by an inspecting agency. The word "in-
47 spection" shall not include any criminal investigation con-
48 ducted by any law enforcement agency, or any civil investi-
49 gation conducted upon specific complaint by any inspection
50 agency with competent jurisdiction of the subject matter of
51 the complaint, or any single inquiry for research purposes, or
52 any inquiry or investigation by members of the general
53 court.

54 (5) "conflicting inspection", any inspection where more
55 than one inspecting agency inquires into the same or similar
56 matter and/or condition of any hospital including but not
57 limited to the premises, records, quality of care, building con-
58 struction, maintenance or other matter or condition whether
59 or not such inquiry is for a different purpose.

60 (6) "exclusive inspection agency", the inspection agency
61 designated by the secretary or selected by the court as pro-
62 vided in section thirteen of this Chapter, as the sole agency

63 authorized to conduct an inspection(s).

64 (7) "federal inspection", any inspection conducted by the
65 United States or any department, agency, intermediary, or
66 officer thereof.

67 (8) "same or similar matter and/or condition" all stand-
68 ards, requirements substances, books, records, documents,
69 buildings including any portion, part or component thereof,
70 or anything whatsoever; which are identical to, or which are
71 related to each other in any way whatsoever.

72 *Section 3.* Effective July 1, 1981 inspections may only be
73 conducted by exclusive inspection agencies and no inspecting
74 agency shall conduct a conflicting inspection.

75 *Section 4.* It shall be the duty of the secretary, on or before
76 July 1, 1980 to identify and determine which inspection
77 agencies are conducting conflicting inspections. As part of
78 such determinations the secretary shall additionally and sepa-
79 rately identify and determine inspection agencies who in-
80 quire into the same matter and/or condition for a different
81 purpose. The secretary shall further determine whether any
82 federal inspection inquires into the same or similar matter
83 and/or condition of any inspection conducted by an inspection
84 agency.

85 *Section 5.* It shall be the duty of the secretary, on or before,
86 July 1, 1980 to formulate and draft proposals to insure the
87 elimination of conflicting inspections. (1) Where in the opin-
88 ion of the secretary two inspection agencies make inquiry
89 into the same or any similar matter and/or condition for a
90 different purpose, the secretary shall recommend and propose,
91 with a statement of reasons therefor, that one inspection
92 agency inquire into the same or similar matter and/or con-
93 dition for all purposes. (2) Where the secretary determines
94 that a federal inspection inquires into the same or similar
95 matter and/or condition as an inspection agency the secretary
96 shall, to the extent feasible and consistent with the public
97 health, welfare and safety, propose elimination of the inspec-
98 tion conducted by the inspection agency. (3) The secretary's
99 recommendations and proposals pursuant to this section shall
100 list proposed exclusive inspection agencies, the matters and/or

101 conditions that it is proposed each such agency inspect, and
102 the purposes and reasons for each such inspection. The secre-
103 tary shall make proposals and recommendations, pursuant to
104 this section, without regard to the secretary's opinion as to
105 the effect of any general or special law, ordinance, by-law,
106 regulation or other requirement of general applicability
107 which may govern or relate to the jurisdiction of inspection
108 agencies.

109 *Section 6.* On or before July 1, 1980 the secretary shall
110 notify and transmit his recommendations and proposals, pur-
111 suant to section five, to all inspection agencies, the federal
112 inspection agencies, and upon request to all interested per-
113 sons.

114 *Section 7.* Subsequent to submission of recommendations
115 the secretary shall receive and consider comments by inter-
116 ested persons and in promulgating proposed regulations pur-
117 suant to section eight of this Chapter, shall give deference to
118 any written agreement of inspection agencies, including fed-
119 eral inspection agencies, filed with the secretary setting forth
120 that one inspection agency is to be the exclusive inspection
121 agency relative to the same or any similar matter and/or
122 condition, for all purposes.

123 *Section 8.* On or before July 1, 1980 the secretary by regula-
124 tions promulgated in accordance with Chapter thirty A, shall
125 designate exclusive inspecting agencies. In the event the sec-
126 retary determines that the public health, safety and wel-
127 fare require that more than one inspecting agency be desig-
128 nated as the exclusive inspecting agency the regulations
129 promulgated in accordance with this section shall state the
130 reason therefor, and shall designate the two or more inspec-
131 tion agencies as the exclusive inspection agency for the same
132 or similar matters and/or conditions. In the event two or
133 more inspection agencies are designated as the exclusive in-
134 spection agency the inspection agencies so designated shall
135 conduct inspections simultaneously.

136 *Section 9.* Regulations promulgated under section eight of
137 this Chapter shall supersede and pre-empt provisions of any
138 ordinance, by-law, inconsistent regulation or other require-

139 ment of general applicability except the general and special
140 laws. In the event the secretary is of the opinion that any
141 recommendation pursuant to section five of this Chapter is in
142 conflict with any general or special law, the secretary shall,
143 forthwith, make a report to the general court along with
144 recommended amendments to the general or special laws. In
145 promulgating regulations pursuant to section eight of this
146 Chapter the secretary shall not require any inspection agency
147 to act contrary to any general or special law. In the event
148 the secretary is of the opinion that any general law requires
149 the conduct of any conflicting inspection, the secretary shall
150 forthwith report the same to the general court along with
151 recommended amendments to the general laws, which would
152 eliminate the conflicting inspection. In determining matters
153 under section eleven, twelve and thirteen of this Chapter a
154 superior law inconsistent with this Chapter as pre-empted and
155 superseded by this Chapter.

156 *Section 10.* In promulgating regulations under section eight
157 of this Chapter the secretary shall not impose any responsi-
158 bility on any federal inspection agency, but may rely upon
159 any agreement with a federal inspection agency, entered into
160 pursuant to section seven of this Chapter, for such a period
161 of time as said agreement remains in existence.

162 *Section 11.* Notwithstanding the provisions of any general
163 or special law any hospital, inspection agency, the secretary
164 or any person subject to an inspection, and who has reason
165 to believe that the regulations promulgated pursuant to sec-
166 tion eight of this Chapter do not establish exclusive inspection
167 agencies or that an inspection agency is conducting or has
168 given notice, in any way, that it intends to conduct a con-
169 flicting inspection, may file a complaint in superior court
170 sitting in equity. In any such complaint the Secretary and
171 each inspection agency alleged to be concerned with conflict-
172 ing inspections shall be parties. In no event shall any federal
173 inspection agency be deemed a necessary party to any com-
174 plaint under this Chapter.

175 *Section 12.* In any judicial determination of any complaint
176 brought pursuant to section eleven the following shall, con-

177 stitute a prima facie violation of this Chapter: —

178 1. If two or more inspection agencies not designated by the
179 secretary, as the exclusive inspection agency, conduct or give
180 notice in any way that they intend to conduct an inspection
181 of the same or any similar matter and/or condition, what-
182 soever.

183 2. If two or more inspection agencies designated by the
184 secretary as the exclusive inspection agency conduct or give
185 notice, in any way, that either one of them intends to conduct
186 an inspection of the same or any similar matter and/or con-
187 dition whatsoever, unless conducted simultaneously.

188 3. Any other instance where more than one inspection
189 agency inquires or gives notice in any way that it intends to
190 inquire into the same or any similar condition or matter.

191 Nothing contained in this section shall preclude the court
192 from finding a violation of this Chapter based upon other evi-
193 dence where it is found a conflicting inspection has occurred
194 or that a hospital has received notice that a conflicting in-
195 spection will occur.

196 *Section 13.* Upon finding that a conflicting inspection has
197 or is about to take place the court shall issue a final judgment
198 and designate, an interim exclusive inspection agency. The
199 court as part of any final judgment shall provide that the
200 secretary shall within thirty (30) days of the final judgment,
201 submit to the court a proposed exclusive inspection agency.
202 After hearing the court may confirm and approve the secre-
203 tary's proposed exclusive inspection agency or may select
204 any other inspection agency or agencies as the exclusive in-
205 spection agency. Any proposal by the secretary and approval
206 or selection by the court under this section shall supersede
207 and pre-empt any inconsistent general or special law, ordi-
208 nance, by-laws, regulation or other requirement of general
209 applicability. As part of the approval or selection of any
210 exclusive inspection agency, under this section the court,

The first part of the report is devoted to a general survey of the state of the country, and to a description of the principal towns and cities. It then proceeds to a detailed account of the various branches of the commerce, and to a description of the principal manufactures and articles of export.

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