

# HOUSE . . . . . No. 3359

By Mr. Mara of Brockton, petition of Shannon P. O'Brien, Francis G. Mara and Theodore J. Aleixo, Jr., for legislation to regulate the practices of property and casualty insurance companies. Insurance.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT RELATIVE TO THE PRACTICES OF PROPERTY AND CASUALTY INSURERS.

*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. Chapter 175 of the General Laws as appearing  
2 in the 1988 Official Edition is hereby amended by adding after  
3 Section 193T the following new section: —

4 Section 193U. Insurance companies insuring employees under  
5 this chapter shall, at the request of the department, furnish it in  
6 writing or computer disk any information required in connection  
7 with the administration by said department of this chapter,  
8 including any statistics and the names of all employers insured  
9 by them. Notice of issuance of a policy of insurance insuring  
10 employers under this chapter shall be given to the department of  
11 industrial accidents by the company issuing such policy within five  
12 days after the date of issuance thereof. No further notice need be  
13 filed in case such insurance is renewed, extended or otherwise  
14 continued by such company. Such insurance shall not be cancelled  
15 or shall not be otherwise terminated until ten days after written  
16 notice of such cancellation or termination is given to the  
17 department or until a notice has been received by said department  
18 that the employer has secured insurance from another insurance  
19 company or has otherwise insured the payment of compensation  
20 provided for by this chapter.

1 SECTION 2. Chapter 175 of the General Laws as appearing  
2 in the 1988 Official Edition is hereby amended by adding after  
3 section 193U the following new section: —

4 Section 193R. Each insurer providing medical and hospital  
5 services and medicines to injured employees under chapter 152  
6 shall establish medical cost containment measures in connection  
7 with the provision of such services, including but not limited to  
8 those measures specified in clauses (a) through (f) of this section.  
9 The commissioner shall promulgate regulations specifying  
10 guidelines for the administration of cost containment measures.  
11 including to the extent appropriate provision for appeal  
12 procedures within each insurer's organization.

13 (a) Case Management — The insurer shall have the right to  
14 monitor out-patient care and establish reasonable directions in  
15 each case with respect to the type and frequency of medical care  
16 provided to the employee.

17 (b) Preadmission Planning — An insurer will not be required  
18 to pay for expenses in connection with any non-emergency  
19 hospital stay for which prior approval has not been obtained from  
20 the insurer.

21 (c) Second Surgical Opinion — An insurer will not be required  
22 to pay expenses in connection with non-emergency surgery unless  
23 the employee has complied with the procedure established by the  
24 insurer for obtaining second opinions. If the employee is not  
25 satisfied with the second opinion and elects to obtain a third  
26 opinion, the cost of such third opinion shall be equally divided  
27 between the employee and the insurer.

28 (d) Concurrent Review and Discharge Planning — Each  
29 insurer shall establish appropriate procedures for concurrent  
30 review and discharge planning.

31 (e) Review of Prescriptions — Each insurer shall establish a  
32 procedure for reviewing prescriptions issued by health care  
33 providers for employees receiving medical care under this chapter.

34 (f) Diagnostic Review Groups — the commissioner shall  
35 establish appropriate diagnostic review groups upon which  
36 insurers can evaluate the length of hospital stays by an employee  
37 being provided medical care for injuries covered under chapter  
38 152.

39 (g) Hospital or Physician Bill Audit — Each insurer shall  
40 establish and implement a procedure for regular audits of all  
41 hospital and medical bills paid for medical care provided in  
42 connection with injuries covered under chapter 152.

1 SECTION 3. Chapter 175 of the General Laws as appearing  
2 in the 1988 Official Edition is hereby amended by adding after  
3 section 193R, the following new section: —

4 Section 193S. Whenever it appears to the insurer that an  
5 employee who is receiving benefits under this chapter is  
6 fraudulently claiming that he or she is disabled from employment  
7 within the meaning of the chapter, the insurer may apply to the  
8 commissioner for a temporary suspension of benefits. Such  
9 application will be made in writing upon sworn affidavits attesting  
10 to the facts with respect to the fraudulent claim and served upon  
11 the employee or his attorney prior to filing. The commissioner  
12 shall assign the application to an administrative judge who shall  
13 make a decision within forty-eight (48) hours. If the administrative  
14 judge determines that there is reasonable cause to believe that the  
15 employee is not entitled to a continuation of benefits, such benefits  
16 shall be suspended pending a hearing pursuant to section eleven  
17 B. In the event such application is denied, a hearing shall be held  
18 within five (5) days of denial. If, after a hearing, no such  
19 reasonable cause for suspension of benefits is found to exist, the  
20 employee shall be entitled to reasonable attorneys' fees and costs  
21 of defending against the request for temporary suspension of  
22 benefits.

