

By Mr. Forman of Plymouth, petition of Peter Forman for legislation relative to the Acute Hospital Conversion Board. Health Care.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Nine.

**AN ACT TO MODIFY THE ACUTE HOSPITAL CONVERSION BOARD.**

*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 6A of the General Laws as appearing in  
2 the 1986 Official Edition and as recently amended by Chapter 23  
3 of the Acts of 1988, is hereby amended by deleting paragraphs  
4 (e) through (g) of Section 101 and inserting the following: —

5 (e) In carrying out its duties pursuant to this section, the board  
6 shall seek the advice of an advisory council consisting of the  
7 following members: one representative each designated by the  
8 Massachusetts Hospital Association, the Massachusetts Nurses'  
9 Association, the Massachusetts Health and Education Facilities  
10 Authority, and Blue Cross of Massachusetts, Inc.; a representative  
11 of a collective bargaining unit for hospital workers designated by  
12 the Massachusetts federation of labor-congress of industrial  
13 organizations; and one representative each, to be appointed by  
14 the board, of the following: large teaching hospitals, community  
15 hospitals, large businesses, small businesses, commercial  
16 insurance companies and health care consumers.

1 SECTION 2. Chapter 6A of the General Laws, is hereby  
2 further amended by inserting after Section 101 the following: —

3 Section 101A. A hospital certifying substantial doubt about its  
4 ability to continue providing care for the community,  
5 notwithstanding the provisions of sections seventy-eight to one  
6 hundred of this chapter, may apply to the rate setting commission  
7 for revenue relief. The rate setting commission shall grant revenue

8 relief if it determines that the hospital, without rates of payment  
9 greater than those permitted pursuant to sections seventy-eight  
10 to one hundred, will be unable to continue to admit or care for  
11 patients in its medical, surgical, pediatric, obstetric and maternity  
12 beds or upon the recommendation by the department of public  
13 health that the unavailability of said services beds would  
14 necessarily seriously jeopardize the health and well-being of a  
15 significant number of persons.

16 In making its final determination regarding the amount,  
17 duration and composition of said revenue relief, the rate setting  
18 commission shall give weight to the following factors: 1) the  
19 percentage of inpatient services rendered to government payers;  
20 2) the occupancy level of the hospital; 3) the surplus or deficit  
21 incurred by the hospital for the two fiscal years immediately  
22 preceding the date of application; 4) the surplus or deficit  
23 projected to be incurred by the hospital for the current fiscal year  
24 and fiscal year following the date of application; 5) the institution's  
25 current and projected cash flow; 6) increases in the hospital's  
26 patient care costs and medicaid rates of payment as allowed by  
27 this chapter but excluding capital, malpractice and exception  
28 costs; 7) increases in the hospital's Medicare prospective payment  
29 system rate; 8) payment per adjusted case mix adjusted discharge  
30 relative to other similar institutions; 9) wage and salary levels  
31 necessary to attract and retain an adequate complement of health  
32 care workers; 10) the ability of the hospital to secure additional  
33 working capital loans and the extent to which the institution will  
34 be leveraged if said loans are secured; and 11) designation by the  
35 federal government as a "sole-community provider."

36 Revenue relief granted by the commission may include, but  
37 shall not be limited to, one or a combination of the following:  
38 1) an increase in the allowable patient care costs; 2) a forgiveness  
39 of any outstanding compliance liability pursuant to section eighty-  
40 five of Chapter 6A or its predecessor or successor section; and  
41 3) a mandate to Blue Cross and the Department of Public Welfare  
42 to a) immediately forward to the institution fifty percent of all  
43 dollars owed for services rendered to persons covered by  
44 respective policies or programs and b) maintain all outstanding  
45 obligations at this reduced amount. In no event shall the rate

46 setting commission grant a form of revenue relief which reduces  
47 the revenues due and owing to other acute care hospitals under  
48 this or any other section of this chapter.

49 Upon receipt of the application for revenue relief, the rate  
50 setting commission shall review all documentation provided  
51 within a period of thirty days and notify the hospital of any  
52 additional documentation needed for final determination. Any  
53 hospital so notified shall have ten working days within which to  
54 respond to the rate setting commission's request and, at the end  
55 of this period, the application shall be considered complete. The  
56 rate setting commission shall not deny an application for revenue  
57 relief based upon insufficient documentation if the information  
58 was not requested during this period. Upon receipt of a complete  
59 application the rate setting commission shall have fifteen working  
60 days to issue its determination and notify the hospital of its  
61 decision. In the event a hospital can demonstrate the time frame  
62 of this review process, as so specified, will jeopardize its ability  
63 to continue as an ongoing concern in the interim, the rate setting  
64 commission shall grant whatever emergency rate relief is necessary  
65 for the hospital to continue operations until a final determination  
66 can be made.

67 If the rate setting commission grants relief under this section,  
68 said revenue relief may be conditional upon the hospital allowing  
69 an in-depth examination of permanent steps which could be taken  
70 to reduce its financial distress. Said examination may include, but  
71 not be limited to, changes in the hospital's management personnel,  
72 expense reductions, closure of under-utilized or non-essential  
73 services and merger and consolidation of services with  
74 neighboring hospitals. Any plan of action resulting from this  
75 examination shall be developed by the chairperson of the rate  
76 setting commission in conjunction with hospital management. All  
77 outstanding disagreements will be submitted for arbitration in  
78 accordance with chapter two hundred and fifty-one and any  
79 resulting decision shall be binding upon both the rate setting  
80 commission and the hospital.

81 The plan of action authorized by this section shall be exempt  
82 from a determination required by chapter one hundred and eleven.  
83 If the plan of action requires termination of employees, said

