

Bay State Health Mandates Threaten Expanded Insurance Coverage



By **John R. Graham**
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In its first year, the Bay State's subsidized insurance plan -- Commonwealth Care -- was supposed to cost \$472 million. The bill came in at \$630 million.

The \$158 million overrun hasn't phased state lawmakers, however. If anything, they seem hell-bent on making the plan even more expensive. They're interested in outlawing certain high-deductible plans and forcing all policies to cover prescription drugs. Gov. Patrick proposes to raise funds for this project by "collecting" more from businesses. These measures would effectively guarantee that thousands more Bay Staters will end up on the state dole next year.

Massachusetts can't expect to tax and mandate its way to universal coverage, much less a better health system. Instead, policymakers must relax their regulatory stranglehold on private insurance and address the state's bloated government healthcare programs. Such reforms, which would improve "health ownership" in the state, would also enhance the quality of care.

States with higher levels of health ownership spend just a fraction of what Massachusetts does on health care each year. In the Pacific Research Institute's annual state-by-state ranking of health ownership, Massachusetts placed near the bottom for the second year in a row.

Lawmakers can start their reforms by cutting the number of burdensome benefit mandates. Today in Massachusetts, no matter a policyholder's age, medical condition, or behavior, every insurance policy is required to cover hair prostheses, in vitro fertilization, chiropractics, and a host of other extraneous medical procedures and

providers. Massachusetts has 43 of these mandates, and they significantly drive up the cost of insurance, pricing many families out of the market.

States at the top of the health ownership rankings, by contrast, don't overload private health plans with onerous benefit mandates. Alabama, which has the highest level of health ownership in the country, imposes just 19 of them.

In addition, Massachusetts health plans are both required to accept all applicants for insurance -- without taking their health status into account -- and limited in their ability to set prices, thanks to the twin policies of "guaranteed issue" and a form of "community rating."

That may seem necessary, given the state health insurance mandate, but it means that young and healthy individuals are forced to pay more than they otherwise would, in order to subsidize the old and sick. If premiums go too high, many Bay Staters -- particularly the young -- will decide to

forego insurance while their employers pay the modest penalty for not offering coverage.

At the same time, outlawing the low-cost, high-deductible plans that are perfect for many of these young and healthy individuals -- as the Commonwealth Connector authority proposes to do -- will either drive up the number of uninsured or force more people into government-funded programs. Neither outcome is a good one.

All told, the monetary burden of excessive health regulations like these amounted to \$169.1 billion nationally in 2002. In fact, 4,000 more people die per year thanks to excess regulation than do because they lack health insurance.

With such examples of government over-reach in mind, it's no surprise that Massachusetts has among the highest private insurance premiums in the nation.

Private coverage is prohibitively expensive for many, so the state is forced to subsidize insurance policies

for thousands. Bay State officials love to congratulate themselves for extending coverage to 439,000 previously uninsured residents since the mandate law went into effect in 2006, but 248,000 of those went straight into a government program.

Massachusetts' leaders must do more to rein in health spending if they want to avoid bankrupting the state. Tax increases and regulations won't do the job.

That's why lawmakers should work to improve health ownership. Only by granting Bay Staters greater control over their healthcare decisions and freeing the insurance market from high-cost regulations can policymakers simultaneously cut costs and improve health care in the state.

John R. Graham is Director of Health Care Studies at the Pacific Research Institute. He is also the author of the U.S. Index of Health Ownership, an annual report published by PRI.

Congress Battle over Biologics

By **Merrill Matthews**



Congress is debating a bill that would establish new rules for an incredibly promising field of medical technology. The Pathway for Biosimilars Act includes new rules for

intellectual property protection for "biologics," or pharmaceuticals derived from living organisms.

Most of what you know about traditional prescription drugs doesn't apply to biologics. They usually come in a vial, not a pill. They are as effective as they are complex; indeed they are effective because they are complex. Biologic drugs have proven effective against diseases like cancer, multiple sclerosis, and diabetes.

The Act is a step in the right direction. A robust legal framework for the industry will keep investment dollars flowing and preserve incentives for firms to develop treatments. The bill's major problem is its "data exclusivity" provision, which grants a fixed time period before other firms can use a biologic inventor's research data.

The period granted by the bill isn't long enough to allow new products to recoup the cost of

their development. If the bill passes, biologic innovation could slow down, and patients would lose out on life-saving treatments.

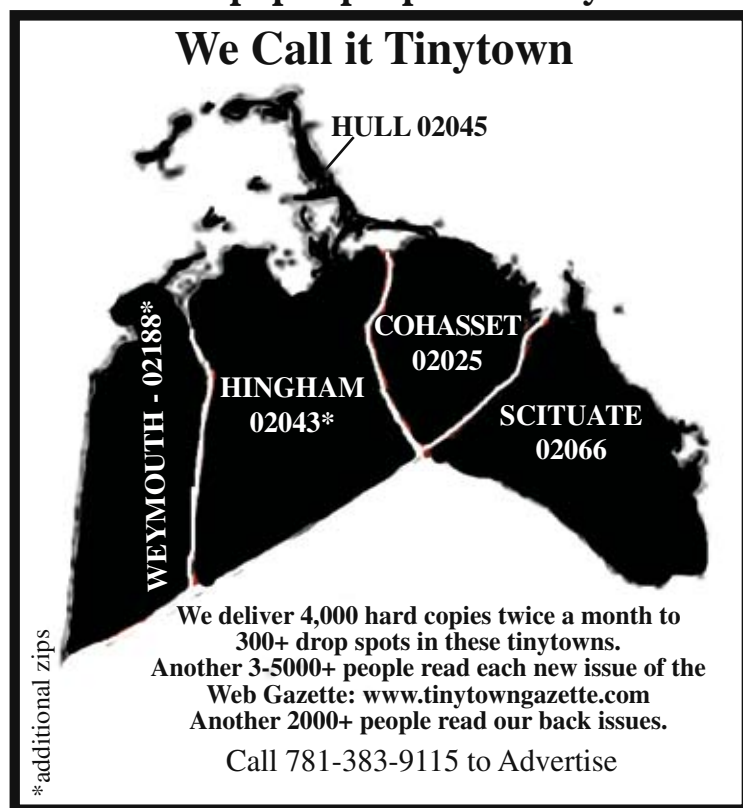
Traditional pharmaceuticals are usually protected by one or more patents. The patent, which is granted for 20 years, gives a drug company the exclusive right to produce and sell that drug once it has been approved by the Food and Drug Administration -- though the development and testing periods take up part of that time. But patent protections alone aren't enough for biologics. These drugs are so complex that a generic manufacturer can take a biologic's clinical data and produce a copycat version without technically violating patent rules. Without data exclusivity, producers of generic biologics -- commonly called "biosimilars" -- could quickly siphon away innovator profits.

Creating new drugs would be a less profitable enterprise, and there would be fewer new biologics developed. According to Duke University economist Henry Grabowski, it takes between 12.9 to 16.2 years of exclusivity for a biologic to break even -- not to make a profit, but to cover research and development costs. The Biosimilars Act only provides 12 years of data exclusivity. That all but guarantees that most biologics will be losing

investments. Biologic manufacturers are already on shaky ground. Less than a fifth of publicly traded American biologic companies were profitable in 2006. If these firms don't get the legal protections they need, they'll close down. And patients will be on the losing end.

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