

# Health Policy Commission

Board Meeting

June 19, 2013



# Agenda

- Approval of minutes from April 24, 2013 meeting
- Executive Director Report
- Quality Improvement and Patient Protection
- Cost Trends and Market Performance
- Community Health Care Investment and Consumer Involvement
- Care Delivery and Payment System Reform
- Administration and Finance
- Schedule of next Commission meeting

# Agenda

- **Approval of minutes from April 24, 2013 meeting**
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## Vote: Approving minutes

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**Motion:** That the Commission hereby approves the minutes of the Commission meeting held on April 24, 2013, as presented.

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- **Executive Director Report**
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## Votes today

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1. Approving minutes from April 24, 2013 Board meeting
  2. Adopting guidelines on mandatory overtime for nurses in a hospital setting
  3. Authorizing the promulgation of Office of Patient Protection regulations
  4. Authorizing the continuation of cost and market impact review
  5. Approving the mitigation of the one-time assessment for certain hospitals
  6. Accepting and approving the Commission's operating budget
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# HPC 2013 implementation update

## First quarter (Jan – Mar)

- ✓ Appoint an Executive Director
- ✓ Approve the FY13 budget for HPC operations
- ✓ Announce the HPC Advisory Council and hold the first quarterly meeting
- ✓ Begin to develop strategies for engaging constituencies regarding the implementation of Chapter 224
- ✓ Begin working with other state agencies to minimize duplicative requirements
- ✓ Establish state health care cost growth benchmark for total health care expenditures for calendar year 2014
- ✓ Hold a listening session relative to the definition of “emergency situation” for the purposes of allowing mandatory overtime
- ✓ Hold listening session in conjunction with DOI on the registration of provider organizations
- ✓ Issue interim guidance regarding notice of material changes of providers or provider organizations
- ✓ Promulgate regulations and work with the Department of Public Health to ensure the seamless transfer of the Office of Patient Protection to the HPC
- ✓ Promulgate regulations on the administration of the one-time assessment of qualifying hospitals and surcharge payors
- ✓ Research and prepare a report to the legislature on Consumer-Driven Health Plans

## Second quarter (Apr – Jun)

- ✓ Approve a policy for reviewing notices of material change and initiating a cost and market impact review
- ✓ Begin deliberations on the development of new care delivery models
- ✓ Begin to develop a competitive grant program to enhance the ability of certain distressed community hospitals to implement system transformation
- ✓ Collect the first installment of the one-time assessment
- ✓ Develop key metrics and examination questions for the annual cost trends report
- ✓ Finalize the transfer the Office of Patient Protection
- ✓ Hold a public hearing on draft mandatory nurse overtime guidelines
- ✓ Review and deliberate on the Attorney General’s annual Cost Trends Examination
- Finalize guidance and procedures relative to mandatory nurse overtime*
- Consider any applications for a waiver or mitigation of the one-time assessment by qualifying hospitals*
- Approve the FY14 budget for HPC operations*
- Hold the second quarterly meeting of the Advisory Council

## Upcoming meetings

### HPC Advisory Council Meeting

**When:** Wednesday, June 26, 2013 from 12:00pm - 2:00pm

**Where:** Albert Sherman Center Auditorium  
University of Massachusetts Medical School  
55 Lake Avenue North  
Worcester, MA 01655



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- Approval of minutes from April 24, 2013 meeting
- Executive Director Report
- **Quality Improvement and Patient Protection**
  - **Proposed guidelines on Mandatory Nurse Overtime**
  - Emergency regulations relative to the Office of Patient Protection (OPP)
- Cost Trends and Market Performance
- Community Health Care Investment and Consumer Involvement
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# New law on mandatory nurse overtime

*Section 226 provides in pertinent part that:*

- b) Notwithstanding any general or special law to the contrary, a hospital shall not require a nurse to work mandatory overtime except in the case of an emergency situation where the safety of the patient requires its use and when there is no reasonable alternative.
- c) Under section (b), whenever there is an emergency situation where the safety of a patient requires its use and when there is no reasonable alternative, the facility shall, before requiring mandatory overtime, make a good faith effort to have overtime covered on a voluntary basis. Mandatory overtime shall not be used as a practice for providing appropriate staffing for the level of patient care required.



## Goals

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- Prohibit the use of mandatory overtime for nurses as a hospital staffing strategy
- Ensure that mandatory overtime is only used in exceptional circumstances, as a last resort
- Protect patient safety

# Role of the Health Policy Commission

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- Section 226 (d) specifies that the Health Policy Commission (“Commission”) established by section 2 of chapter 6D of the General Laws, “**shall develop guidelines and procedures to determine what constitutes an emergency situation for the purposes of allowing mandatory overtime.**”
  - In developing the guidelines, the Commission is required to “consult with employees and employers who would be affected by such a policy” and also “to solicit comment from those same parties through a public hearing.”
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# Process of developing guidelines

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- **Listening Session - QIPP Committee meeting** Feb 22, 2013
    - 200 attendees
    - Testimony from labor unions representing nurses and other workers, hospitals, nurse leaders/executives and community organizations
  
  - **Staff Research and Analysis** Spring 2013
  
  - **QIPP Committee Meeting discussion** Apr 3, 2013
  
  - **Health Policy Commission meeting** Apr 24, 2013
  
  - **Public Hearing** Apr 26, 2013
    - Testimony from nurses and hospital representatives
    - Received additional written testimony through 5/10/13
  
  - **QIPP Committee Meeting discussion** Jun 10, 2013
  
  - **Health Policy Commission meeting** Jun 19, 2013
    - Adopt Guidelines
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# Proposed guidelines for determining what constitutes an emergency situation (1/4)

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- An emergency situation for the purposes of allowing mandatory overtime under Section 226 means an unforeseen event that could not be prudently planned for or anticipated by a hospital and affects patient safety in the hospital and where there is a:
    - Government declaration of emergency
    - Catastrophic event
    - Hospital emergency
  
  - Mandatory overtime shall not be ordered in the case of an emergency situation where there is a reasonable alternative to such overtime.
  
  - Where an unexpected vacancy occurs despite a hospital's implementation of a reasonable alternative, the hospital is required to exercise a good faith effort to fill the shift on a voluntary basis.
  
  - A determination that an emergency situation that affects patient safety in the hospital exists shall be made by a hospital's chief executive officer or a specific senior management designee and must be reasonable under the circumstances.
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# Proposed guidelines for determining what constitutes an emergency situation (2/4)

## Definition

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### Government declaration of emergency

- A federal, state, municipal, or local declaration of emergency that takes effect pursuant to applicable federal or state law.

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### Catastrophic event

- An unforeseen event that substantially affects or increases the need for health care services, such as a natural disaster, an act of terrorism, or an extended power outage.
- Examples of catastrophic events include, but are not limited to, events involving numerous serious injuries (e.g., fires, multiple automobile accidents, a building collapse), a chemical spill, widespread outbreak of disease or illness requiring emergency treatment or hospitalization for many in the hospital's service area.

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### Hospital emergency

- A situation internal to the hospital that is unforeseen and could not be prudently planned for or anticipated by the hospital, and that substantially affects the delivery of medical care or increases the need for health care services.
- Examples of hospital emergencies may include, but are not limited to, a riot or other disturbance within the hospital, an extended power outage, system failure or other unexpected occurrence that impacts care delivery or compromises patient safety. A hospital emergency may include an ongoing medical or surgical procedure in which a nurse is actively engaged and where that particular nurse's continued presence beyond the end of a scheduled shift was unforeseen and necessary to ensure the health and safety of the patient.
- Shall not include a situation that is the result of routine staffing needs caused by typical staffing patterns, expected levels of absenteeism, or time off typically approved by the hospital for vacation, holidays, sick leave, and personal leave.

# Proposed guidelines for determining what constitutes an emergency situation (3/4)

## Reasonable alternative

### Examples include:

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- Maintaining a “float pool”
- Creating and posting any work schedules with minimal staffing gaps at least four weeks in advance of scheduled shifts for the purpose of filling any vacant shifts
- Taking action to fill any remaining vacancies before such shifts occur
- Establishing an “availability list” or “on-call” list of nurses who may be available to volunteer for unexpected vacancies
- Convening daily pre-shift huddles to determine patient placement and staffing requirements
- Ensuring the hospital’s “emergency operations plan” or “disaster plan” provides for staffing assignments during an emergency situation

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## Good faith effort

- Reaching out to all available qualified staff who are working at the time of the emergency situation
- Contacting qualified employees who have made themselves available to work extra time
- Seeking the use of off-duty, per diem, and part-time nurses
- Seeking personnel from a contracted temporary agency when such staff is permitted by law or regulation
- Determining whether coverage is available from other units in the hospital

# Proposed guidelines for determining what constitutes an emergency situation (4/4)

## Ongoing monitoring of implementation by HPC

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*Section 226 requires hospitals to report all incidences of mandatory overtime under the laws to the Department of Public Health*

- To review and monitor the implementation of and hospital compliance with these guidelines and procedures, the Commission shall review reports submitted to the Department of Public Health pursuant to M.G.L. c. 111, section 226 about the instances of overtime for nurses mandated by Massachusetts hospitals and shall determine whether changes should be made to the guidelines in accordance with the purposes of the law



## **Vote: Adopting guidelines on mandatory overtime for nurses in a hospital setting**

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**Motion:** That the Commission hereby approves and issues the attached guidelines on mandatory overtime for nurses in hospital settings, developed pursuant to section 226(d) of Chapter 224 of the Acts of 2012 by the Commission's committee on Quality Improvement and Patient Protection, and directs the committee to monitor and report to the Commission on the implementation as provided in the guidelines.

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# Adoption of OPP Regulations

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- Adoption of Office of Patient Protection Regulations
    - 958 CMR 3.00 – Health Insurance Consumer Protection
    - 958 CMR 4.00 – Health Insurance Open Enrollment Waivers
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# Vote: Authorizing the promulgation of Office of Patient Protection Regulations

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**Motion:** That the Commission hereby accepts and approves the final regulations related to the Office of Patient Protection, 958 CMR 3.00 Health Insurance Consumer Protection and 958 CMR 4.00 Health Insurance Open Enrollment Waivers, in substantially the form attached hereto, and authorizes the Executive Director to do all acts and things necessary to promulgate these regulations.

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  - **Cost and market impact review update**
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# Overview of cost and market impact reviews

## Cost and market impact reviews (CMIRs) can be initiated when...

1. ...a material change “...is likely to result in a significant impact on the commonwealth’s ability to meet the health care cost growth benchmark, established in section 9, or on the competitive market.”
2. ...a provider is identified by CHIA as having excessive growth relative to the benchmark

### What it is

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- Comprehensive and multi-factor review of the provider organization and its proposed change
- Following a preliminary report and opportunity for the provider to respond, HPC issues a final public report summarizing its findings
- Potential referral to the Attorney General’s Office
- Proposed change cannot be completed until 30 days after the Commission issues its final report

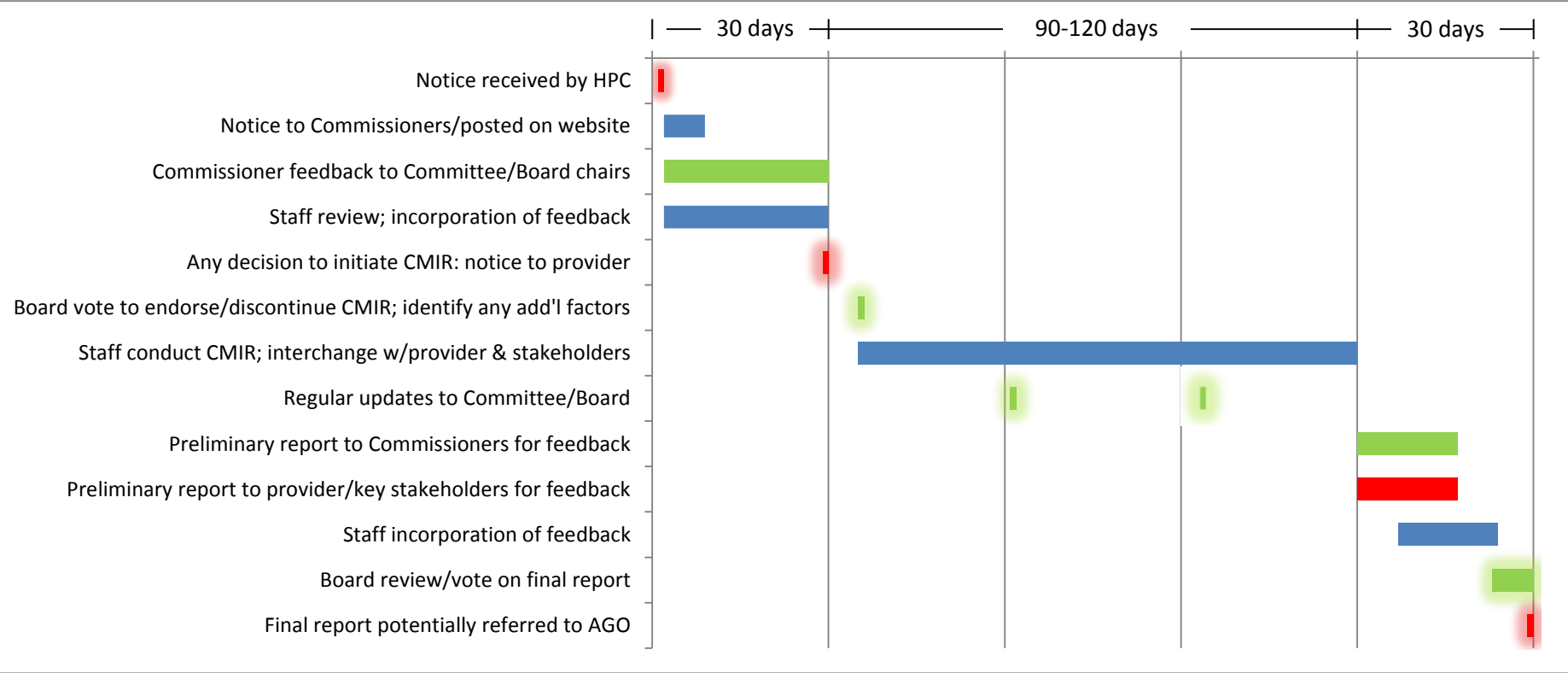
### What it is not

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- Differs from Determination of Need reviews by Department of Public Health
- Differs from antitrust or other law enforcement review by state or federal agencies

# Sample timeline for CMIR

- = Board
- = Staff
- = External touch points



# Notices received and reviews initiated

2013 YTD

## Decision to initiate cost and market impact review





# Update on notices

## Elected not to proceed

### Description

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Clinical affiliation among Beth Israel Deaconess Medical Center, Harvard Medical Faculty Physicians (at BIDMC), and Cambridge Health Alliance

Merger of Cooley Dickinson Hospital and Partners HealthCare System

## Pending decision

### Description

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### Deadline to initiate any CMIR

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Steward's acquisition of Hawthorn Medical Associates

Jun 23

Clinical affiliation among Beth Israel Deaconess Medical Center, Harvard Medical Faculty Physicians (at BIDMC), and Signature Brockton

Jul 4

Formation of new Children's Hospital contracting entity

Jul 12

# Partners-South Shore Hospital CMIR: Basis for review

## Description of transaction

- South Shore Hospital (“SSH”) proposes to merge with Partners HealthCare System (“Partners”), with which it has had a longstanding clinical relationship. As a result of the merger, Partners would own SSH, with anticipated changes in both governance and operations.
- The parties have described their merger objectives as allowing for the redesign of care along the full care continuum, including the redirection of resources to community based care and the development of new capabilities to deliver population health in and for southeastern MA.

## Basis for review

- The nature of the proposed transaction and its potential to impact costs and market functioning, including:
  - Acquisition that changes governance and operations structure
  - Anticipated joint contracting, which can impact payer relationships and contracted rates
  - Contemplated changes in physician affiliations and contracting
- The parties’ cost and size in the areas they serve:
  - Partners is the largest provider system in MA and one of the highest-cost, and would be expanding into a new area in which it does not currently own any hospitals
  - SSH is one of the largest remaining independent community hospitals in MA and is the largest and highest-cost hospital on the South Shore
- Commissioner input

# Factors for review and information requested

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- A. The impact of the proposed acquisition on **cost and market dynamics** in Massachusetts, including:
  - Prices (e.g., for hospitals, physicians, and other providers, including fee-for-service, capitated, and other prices)
  - Total medical expenses (“TME”)
  - Patient care referral patterns
  - Competing options for care delivery
  - Quality of and access to care
- B. **Physician dynamics**, including Partners’ and SSH’s plans for South Shore Physician Hospital Organization (“SSPHO”) and Partners Community Healthcare, Inc. (“PCHI”)
- C. The Parties’ **size and market position in the geographies they serve**, including facility and physician market share by major service category
- D. The Parties’ **role in serving at-risk, underserved, and government payer populations**, and in **providing low or negative margin services**
- E. The Parties’ **plans for population care management**, including the proposed integration of the Parties’ governance, clinical, and business operations, and the projected **impact of those plans on quality, costs, and market dynamics**
- F. The cost and market impact of this proposed material change in light of Partners’ **proposed acquisitions of Cooley Dickinson Hospital and Hallmark Health System**
- G. Other factors concerning cost and market impact as the HPC may identify

**Information requested includes parties’ documents and analysis of the transaction’s impact, and financial and operational data for HPC to calculate statutory metrics of impact**

# Questions for commissioners and next steps

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- **Question for Commissioners: Factors to review in the Partners-South Shore Hospital transaction?**
  
  - **Next steps:**
    - Interchange with providers and stakeholders to gather information
    - Regular updates to Committee / Board
    - Preliminary and final reports
    - Board vote on final report
  
  - **Other questions or comments?**
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## Vote: Authorizing the continuation of cost and market impact review

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**Motion:** That the Commission hereby authorizes the continuation of the cost and market impact review of the proposed material change to Partners HealthCare System, Inc. and South Shore Hospital, Inc., pursuant to section 13 of chapter 6D of the Massachusetts General Laws and the Commission's Policy 2013-01 (Process for Review of Notices of Material Change).

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  - **Mitigation applications for the one-time assessment**
- Care Delivery and Payment System Reform
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## Section 241: One-time assessment

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- Chapter 224 requires the Health Policy Commission to administer a one-time assessment on certain qualifying hospitals and surcharge payers
  - In the case of hospitals, the assessment total is \$60 million and is proportioned among the eligible hospitals based on their FY10 operating surplus
  - The law further authorizes the HPC to grant mitigation of up to 66% to assessed hospitals, if they meet certain statutory requirements
  - The law does not specify the criteria by which the HPC should consider these applications
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# Eight hospitals applied for mitigation

## The following acute hospitals applied for mitigation:

Partners

- Brigham & Women's
- Newton Wellesley
- Faulkner
- Martha's Vineyard

CareGroup

- Beth Israel Deaconess
- Mount Auburn
- New England Baptist

Children's  
Hospital

- Boston Children's



## Staff analysis: Key considerations

1

Rationale for mitigation included by hospital in each application

2

Recent trends in relative financial strength across multiple metrics

3

Impact of awarding mitigation on the Distressed Hospital Fund

# Staff recommendation on mitigation

<b>Hospital</b>	<b>Total assessment</b>	<b>Recommended mitigation</b>
Children’s Hospital	\$7,831,374	50%
Beth Israel Deaconess	\$7,606,395	50%
Mount Auburn	\$2,277,928	50%
New England Baptist	\$617,576	50%
Martha’s Vineyard	\$3,841	50%



Distressed hospital fund reduced by \$2.3 million annually

# Vote: Accepting and Approving the Recommendations of the Community Health Care Investment and Consumer Involvement Committee Regarding Assessment Mitigation

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**Motion:** That the Commission hereby accepts and approves the recommendations of the Commission's Committee on Community Health Care Investment and Consumer Involvement to provide assessment mitigation in accordance with the materials attached hereto as Exhibit A, pursuant to section 241(c) of chapter 224 of the acts of 2012, and authorizes the Executive Director to do all acts and things necessary or desirable to provide such mitigation.

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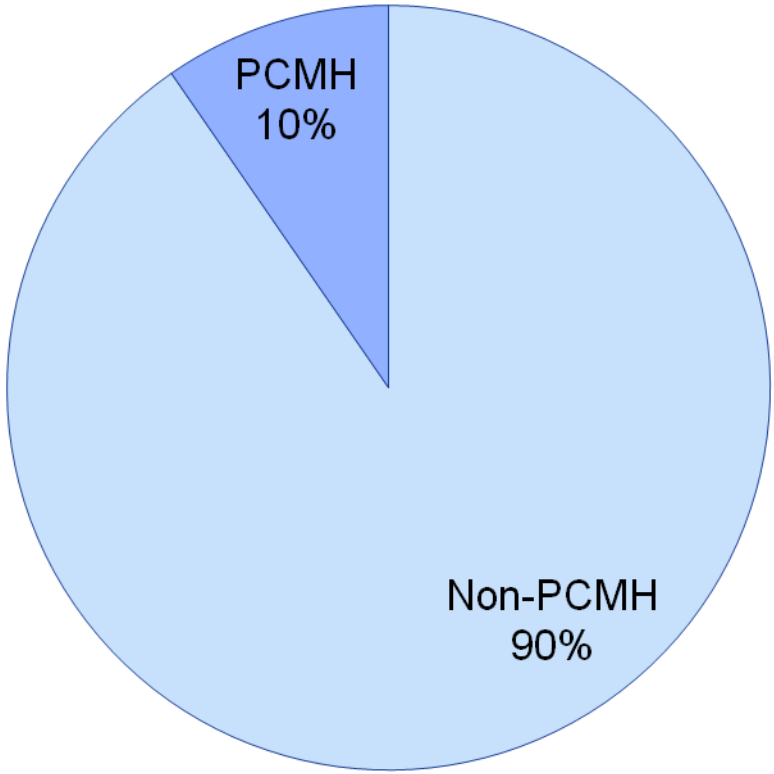
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  - **Patient centered medical home (PCMH) certification update**
- Administration and Finance
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# Proportion of PCMH for all Primary Care in MA

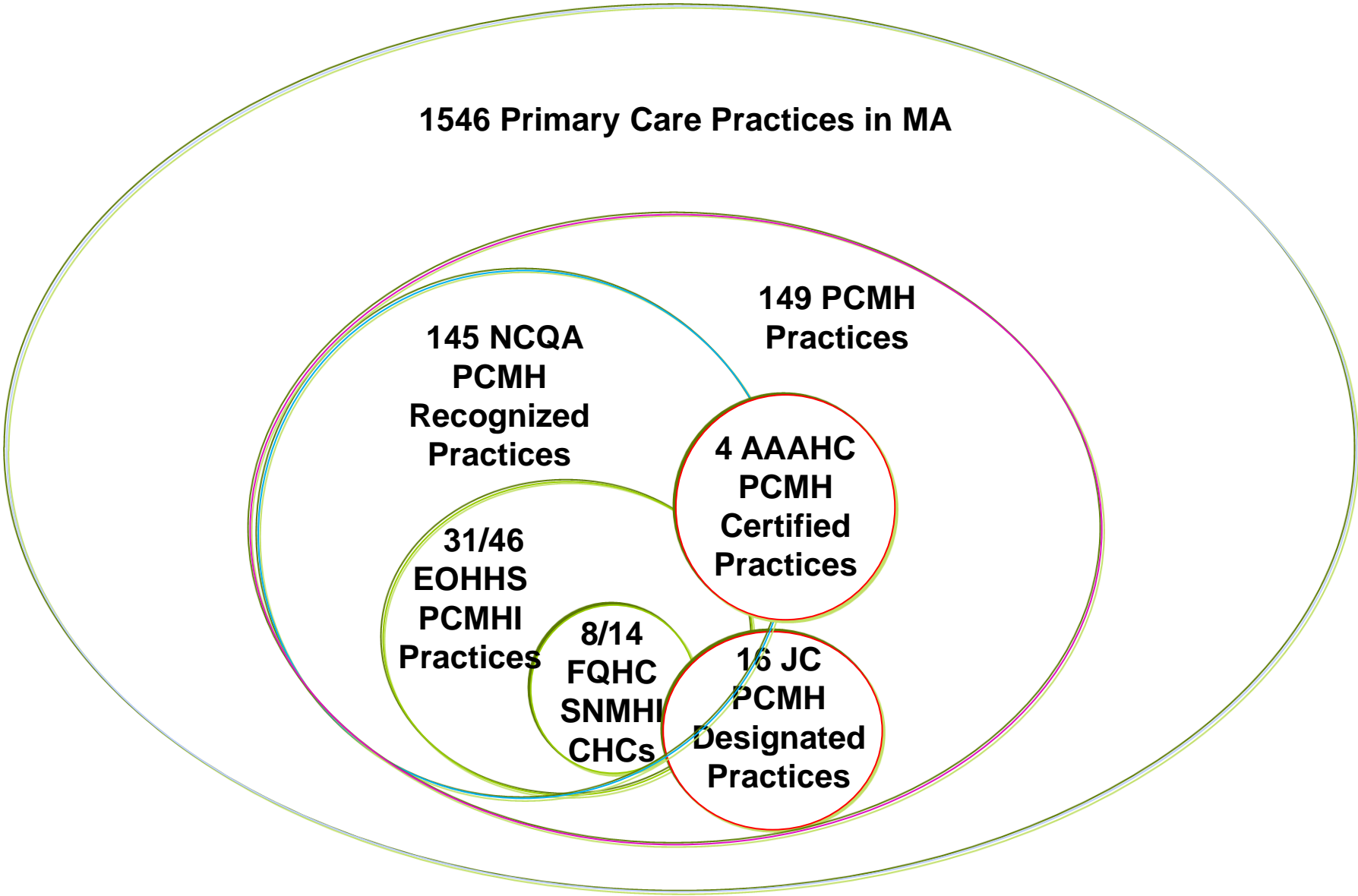
**Breakdown of primary care practices**  
100% = 1,546 practices

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Note: Of 1,546 practices , 788 solo PCPs, 214 two PCPs, and 588 with ≥3 PCPs

# Massachusetts medical home movement



# PCMH recognition and certification in MA

			Practices			
	Organizations	Providers	Total	Level 1	Level 2	Level 3
NCQA	63	1,242	145	22	10	113
PPC (2008)	33	645	96	20	0	76
PCMH (2011)	30	597	49	2	10	37
JC	3*	75	16**	N/A	N/A	N/A
AAAHC	4***	80	4	N/A	N/A	N/A
<b>Total****</b>	<b>67</b>	<b>1,301</b>	<b>149</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

\* Two practices (Lynn Community Health Center & Harbor Health Services) accredited by NCQA and JC  
 \*\* One practice (Harvard University Health Services) accredited by NCQA and AAAHC  
 \*\*\* Lynn Community Health Center operates 8 school based clinical programs  
 \*\*\*\* Totals reflect unduplicated count from each column

# PCMH Practices Participating in Medicare ACOs

## Participation rate

100% = 149 PCMH accredited practices in MA

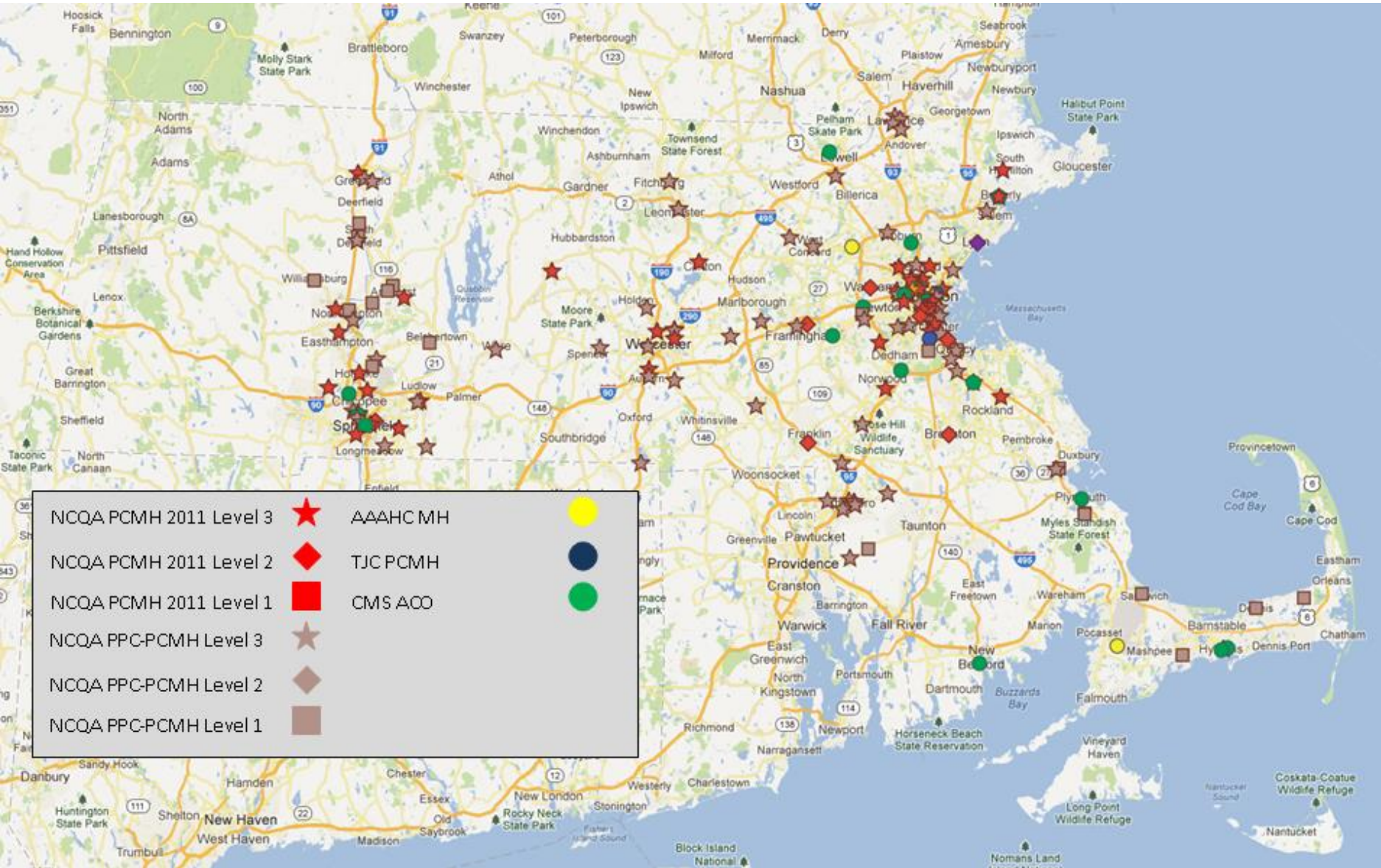
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Note: 149 represents unduplicated count of practices accredited by NCQA, JC and AAAHC



# Massachusetts – Medical Homes and ACOs



Source: Primary address of PCMH accredited practice sites and CMS ACOs in MA

# PCMH payment model considerations

- No one payment system is universally best for PCMH
- Blended strategy can minimize shortcomings of any single approach
- Risk-adjustment should incorporate biomedical and psychosocial factors
- P4P should be based on evidence, focused on outcomes and complemented by process measures, especially in early implementation
- PCMH sustainability is proportional to the penetration of payment reform in the practice and it's ability to fund PCMH services

Multi-payer model necessary to demonstrate the real effects of PCMH

## Next steps and considerations for “certifying” medical homes

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- Identify core standards and criteria for HPC certification program
  - Consider performance thresholds for HPC integration priorities
  - Develop eligibility and pathway for certification
  - Explore payment model systems and recommendations
  - Design framework for HPC care delivery and innovation programs
  - Define collaboration opportunities with PCPR and SIM
  - Recommend approach and timeline for HPC PCMH certification
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# Health Care Payment Reform Trust Fund

## Receives funding from:

- \$11.25 million of the \$225 million assessment on certain hospitals and payers, collected in annual installments over four years (FY13-FY16)
- 23% of any one-time licensing fees collected by the Massachusetts Gaming Commission (approx. \$20 million per gaming license)
- Other amounts transferred to support interagency activities or as otherwise appropriated by the General Court
- An annual assessment on hospitals, ambulatory surgery centers, and payers (starting in FY17)

## Primary purposes:

- To support the activities of the HPC
- To foster innovation in health care payment and service delivery through a competitive grant program

# Key results for FY13

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- Significant progress in developing the operational foundation necessary to support the Board and meet our ambitious statutory responsibilities
  - On-track to meet key deadlines and deliverables
  - Secured support from a number of state agencies, including:
    - The Office of the State Comptroller agreed to provide financial and operational services including HR, procurement, and payroll support (no cost through FY13)
    - CHIA agreed to provide office space and facility management at Two Boylston Street (at no cost through FY13)
    - ANF agreed to provide basic IT support, procurement support, and website maintenance (funded through a service agreement)
  - Successfully transferred the Office of Patient Protection from DPH to the HPC with no disruption in essential consumer services
  - Final FY13 spending consistent with the Interim Budget approved by the Board in January, 2013
  - Expected to close FY13 with approximately a \$3.7 million positive balance in the Health Care Payment Reform Trust Fund
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# Health Care Payment Reform Trust Fund – key FY14 considerations

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- **FY14:** July 1, 2013 - June 30, 2014
  - The balance at the beginning of FY14 is expected to be \$3.7 million
  - The second installment of the assessment is expected to generate approximately \$2.5 million by June 30, 2014
    - The HPC has legislative authority to expend funds in anticipation of revenues, so long as the Trust Fund is in balance at the end of the FY
  - Certain FY13 interagency agreements are not expected to be renewed in FY14
  - The Commonwealth is expected to issue at least two gaming licenses in FY14, with a one-time transfer to the Health Care Payment Reform Trust Fund of \$40 million
  - Both the House and Senate FY14 budget proposals seek to repurpose a portion of these gaming funds to support the MassHealth program (final amount is unknown at this time)
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# HPC operations in FY14 – goals and challenges

## Goals

- Continue to build the necessary internal capacity to meet our statutory responsibilities and operational management needs
- Ensure accountability for the distribution of funds through any grant programs administered by the HPC
- Identify opportunities for collaboration with public and private partners
- Coordinate with existing state agencies for IT security and data storage
- Exhibit exceptional fiscal management and discipline
- Uphold the highest standards for ethical and legal compliance
- Promote transparency and public engagement in all activities of the HPC

## Challenges

- Ambitious statutory responsibilities, including:
  - Developing and administering new care delivery certification programs and external grant programs;
  - Reviewing material change notices on a rolling basis and, in some cases, conducting a comprehensive cost and market impact review;
  - Developing a new provider registration program;
  - Holding annual cost trends hearings and preparing a final report on trends in the Commonwealth.
- Obligation to absorb the full annualized cost of the Office of Patient Protection within the HPC budget (formerly supported through a DPH appropriation in FY13)
- Existing no-cost support agreements (CTR/CHIA) set to expire on June 30, 2013



# FY14 projected cash flow

<b>FY14- Health Care Payment Reform Trust Fund and Proposed HPC Operating Budget</b>	
<i>Beginning Balance</i>	\$3,702,094
<i>Estimated Deposits</i>	
Second Installment from the Industry Assessment	\$2,500,000
One-Time Gaming License Revenue	\$39,500,000
<b>Total Deposits</b>	<b>\$42,000,000</b>
<i>Estimated HPC Operating Expenditures</i>	
<b>HPC Operating Total</b>	<b>(\$5,647,812)</b>
<i>Estimated Other Trust Fund Expenditures</i>	
Innovation Investment Program	TBD*
<i>Estimated Year-End Balance</i>	<b>\$40,054,282</b>

\* Projected budget for Innovation Investment program under development for FY14

## Vote: Accepting and approving the Commission's operating budget

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**Motion:** That the Commission hereby accepts and approves the Commission's total operating budget for fiscal year 2014 as recommended by the Commission's Committee on Administration and Finance Committee and as presented and attached hereto, and authorizes the Executive Director to expend these budgeted funds.

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# Contact information

For more information about the Health Policy Commission:

- Visit us: <http://www.mass.gov/hpc>
- Follow us: [@Mass\\_HPC](#)
- E-mail us: [HPC-Info@state.ma.us](mailto:HPC-Info@state.ma.us)