

# SENATE NO. 687

## **AN ACT** TO ESTABLISH A FAIR STANDARD FOR RATE SETTING

*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. Section 7 of chapter 112 of the general laws, as appearing in the 2004 Official  
2 Edition, is hereby amended by inserting in the second sentence of the second paragraph after the  
3 phrase, "adjusted for reasonableness," the following:-  
4 "Reasonableness" shall include payment for such necessary services, which basis shall take into  
5 account as a factor the costs of such services including a projected cost for health care inflation.  
6 Cost of such services shall include reasonable costs mandated by collective bargaining agreements  
7 with certified collective bargaining agents or other agreements between the employer and  
8 employees, provided "employees" shall not include persons employed as managers or chief  
9 administrators or required to be licensed as nursing home administrators, and compensation for  
10 services rendered by proprietors at prevailing wage rates, as determined by application of principles  
11 of accounting as prescribed by said commissioner. Cost of such services shall not include amounts  
12 paid by the facilities to employees as salary, or to attorneys or consultants as fees, where the  
13 responsibility of the employees, attorneys, or consultants is to persuade or seek to persuade the  
14 other employees of the facility to support or oppose unionization. Nothing in this subsection shall

15 prohibit inclusion of amounts paid for legal counsel related to the negotiation of collective  
16 bargaining agreements, the settlement of grievances or normal administration of labor relations. The  
17 commissioner may, in his discretion, allow the inclusion of extraordinary and unanticipated costs of  
18 providing services which were incurred to avoid an immediate negative impact on the health and  
19 safety of patients. The commissioner may, in his discretion, based upon review of a facility's costs,  
20 patient acuity and any other related information, revise a facility's rate for any increases or  
21 decreases in nursing hours per patient day, total care hours per patient day, patient acuity, utilization  
22 of technology, and other appropriate factors.

23 SECTION 2. This act shall be effective as of January 1, 2006 and thereafter.