ATTACHMENT G

July 26, 2018

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 63 of House Bill No. 4800, “An Act Making Appropriations for the Fiscal Year 2019 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements.”

Section 63 extends the sunset on sections that permit pharmaceutical manufacturing companies to offer drug rebates and coupons. These sections were originally scheduled to sunset on July 1, 2015, but have already been extended two times.

The policy allowing drug rebates and coupons warrants more study before we extend this sunset for two years a third time. These rebates were originally prohibited because of concerns that that they can drive up the cost of health care and undermine pharmacy management strategies. On the other hand, these rebates may also help consumers afford otherwise cost-prohibitive drugs.

Massachusetts now has multiple years of experience under this policy. We should learn from those years of experience before approving a longer extension of the current policy. That is why I propose to extend the sunset by one year, rather than two, and have the Health Policy Commission undertake a study to review the available data and examine the effect of drug couponing on pharmaceutical spending and consumer access to prescription drugs in Massachusetts. Such a study will help inform this important policy decision.

For these reasons, I recommend that Section 63 be amended by striking out the text and inserting in place thereof the following text:-

Section 63. Section 226 of chapter 139 of the acts of 2012 is hereby amended by striking out the figure “2019”, inserted by section 129 of chapter 133 of the acts of 2016, and inserting in place thereof the following figure:- 2020;

And that the bill be amended by inserting after section 79 the following section

Section 79A. Notwithstanding any general or special law to the contrary, not later than June 1, 2019, the health policy commission shall conduct an analysis and issue a report evaluating the effect of discounts, rebates, product vouchers and other reductions for biological products and prescription drugs, as authorized under section 3 of chapter 175H, on pharmaceutical spending and health care costs in Massachusetts. The study shall include, but not be limited to, (i) the total number coupons and discounts redeemed in the commonwealth; (ii) the total value of coupons and discounts redeemed in the commonwealth; (iii) an analysis of the types of biological products and prescription drugs for which coupons and discounts were most frequently redeemed; (iv) a comparison of any change in utilization of generic versus brand name prescription drugs; (v) a comparison of any change in utilization among therapeutically-equivalent brand name drugs; (vi) the effect on patient adherence to prescribed drugs; (vii) patient access to innovative therapies; (viii) an analysis of the availability of the coupons or discounts upon renewals; (ix) an analysis of the cost impact to consumers upon expiration of the coupon or discount; (x) an analysis of the impact on commercial health insurance premiums, attributed to both employers and individuals; (xi) an analysis of the impact on any health care cost containment goals adopted by the commonwealth; and (xii) an analysis of the impact on prescription drug costs and premiums for health plans offered by the group insurance commission. The commission may require manufacturers of biological products and prescription drugs to report on the number and types of coupons that such manufacturers have issued and which have been redeemed in the commonwealth. The report shall be made available electronically on the commission’s website, and shall be filed with the secretary of administration and finance, the secretary of health and human services, the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on health care financing.

Respectfully submitted,

Charles D. Baker

Governor