

HOUSE No. 4248

Text of House document numbered 4236, as changed by the committee on Bills in the Third Reading, and as amended by the House, being the text of the House amendment of the Senate Bill to increase opportunities for long-term substance abuse recovery (Senate, No. 2142). June 30, 2014.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act to increase opportunities for long-term substance abuse recovery.

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 12C of the General Laws is hereby amended by inserting after
2 section 21 the following section:-

3 Section 21A. The center shall establish a continuing program of investigation and study
4 of mental health and substance use disorders in the commonwealth.

5 SECTION 2. Section 13 of chapter 17 of the General Laws, as appearing in the 2012
6 Official Edition, is hereby amended by striking out the first and second paragraphs and inserting
7 in place thereof the following subsection:-

8 (a) There shall be in the department a drug formulary commission consisting of 16
9 members. The commission shall include: the commissioner of public health or a designee, who
10 shall serve as the chair of the commission; the director of Medicaid or a designee; the
11 commissioner of insurance or a designee; and 10 members appointed by the governor, which
12 shall include: a clinical pharmacist; a pharmaceutical chemist; a clinical pharmacologist; a retail
13 pharmacist; a person with experience in insurance pharmacy benefit design; 2 persons with
14 experience in pharmaceutical manufacturing, 1 of whom shall have experience with biologics; 4
15 practicing physicians, 1 of whom shall specialize in addiction medicine and 1 of whom shall
16 specialize in the treatment of chronic pain; and 2 persons who are not involved in the delivery of
17 health services who shall be representatives of the public. One of the 2 public appointees by
18 reason of age, training, experience and affiliation shall represent the interests of the elderly.
19 None of the members may be employed by a pharmaceutical manufacturing company or private

20 insurer. Members shall serve for a term of 3 years, but a person appointed to fill a vacancy shall
21 serve only for the unexpired term.

22 SECTION 3. Said section 13 of said chapter 17, as so appearing, is hereby further
23 amended by striking out, in line 16, the word 'The' and inserting in place thereof the following
24 word:- (b) The.

25 SECTION 4. Said section 13 of said chapter 17, as so appearing, is hereby further
26 amended by inserting after the third paragraph the following 2 paragraphs:-

27 The commission shall also prepare a drug formulary of chemically equivalent
28 substitutions for drugs that are opiates, as defined in section 1 of chapter 94C, and contained in
29 schedule II or III of section 3 of said chapter 94C that the commission has determined have a
30 heightened level of public health risk due to the drug's potential for abuse and misuse. The
31 department shall adopt this drug formulary, as prepared by the commission, by regulation. The
32 formulary shall include formulations of drugs that the commission has determined may be
33 appropriately substituted and that incorporate any of the following abuse deterrent properties:

34 (1) a physical or chemical barrier that (i) prevents chewing, crushing, cutting, grating,
35 grinding, melting or other physical manipulations that enable abuse or (ii) resists extraction of
36 the opioid by common solvents such as water, alcohol or other organic solvents;

37 (2) an agonist or antagonist combination that interferes with, reduces or defeats the
38 euphoria associated with abuse;

39 (3) an aversion quality that produces an unpleasant effect if the dosage form is
40 manipulated or altered or a higher dose than directed is used;

41 (4) a delivery system that, under United States Food and Drug Administration guidance,
42 offers resistance to abuse;

43 (5) a prodrug technique that limits opioid activity until transformed in the gastrointestinal
44 tract; or

45 (6) any other technique, as may be identified or recommended by the United States Food
46 and Drug Administration, that offers significant abuse deterrence.

47 In preparing the formulary, the commission shall consider information contained in drug
48 applications approved by the United States Food and Drug Administration and other regulatory
49 and guidance documents distributed by the United States Food and Drug Administration. A
50 determination of substitution between 2 drug products shall not require that both products
51 incorporate the same methods of abuse deterrence. Inclusion of a drug on the formulary shall not
52 be the basis for a labeling or marketing claim of abuse deterrence potential, unless the United
53 States Food and Drug Administration authorizes such a claim. In considering whether a drug is a

54 chemically equivalent substitution the commission shall consider: the accessibility of the drug
55 and its proposed substitute; whether the drug's substitute is cost prohibitive; the effectiveness of
56 the substitution; and whether, based upon the current patterns of abuse and misuse, the drug's
57 substitute incorporates abuse deterrent technology that will be an effective deterrent to such
58 abuse and misuse. In conducting its analysis, the commission may request an insurance benefit
59 review by the center for health information and analysis.

60 SECTION 5. Said section 13 of said chapter 17, as so appearing, is hereby further
61 amended by striking out, in lines 29, 34 and 39, the word 'formulary' and inserting in place
62 thereof, in each instance, the following word:- formularies.

63 SECTION 6. Said section 13 of said chapter 17, as so appearing, is hereby further
64 amended by striking out, in line 44, the word 'The', the first time it appears, and inserting in
65 place thereof the following word:- (c) The.

66 SECTION 7. Said section 13 of said chapter 17, as so appearing, is hereby further
67 amended by adding the following subsection-

68 (d) For purposes of this subsection, the term 'extended release long acting-opioids' shall
69 mean a drug that is subject to the United States Food and Drug Administration's risk evaluation
70 and mitigation strategy for extended release and long-acting opioid analgesics and the term 'non-
71 abuse deterrent opioid' shall mean an opioid drug product that is approved for medical use but
72 does not meet the requirements for listing as a chemically equivalent substitute pursuant to this
73 section. The commission shall also identify drugs that are extended release long acting-opioids
74 and non-abuse deterrent opioids, contained in schedule II or III of section 3 of said chapter 94C,
75 that the commission has determined have a heightened level of public health risk due to the
76 drug's potential for abuse and misuse for which no adequate chemically equivalent substitute is
77 available and shall notify the commissioner of public health that such drugs pose a threat to the
78 public's health.

79 SECTION 8. Said chapter 17 is hereby amended by striking out section 19, as so
80 appearing, and inserting in place thereof the following section:-

81 Section 19. The department shall promulgate regulations relative to coordination of care
82 and management that includes effective discharge planning for substance use disorder treatment
83 programs subject to licensure or approval under sections 24 and 24D of chapter 90, sections 6
84 and 6A of chapter 111B and section 7 of chapter 111E. The regulations shall include, but not be
85 limited to, a requirement that such substance use disorder treatment providers shall:

86 (1) provide enhanced care coordination and management, which shall include
87 effective discharge planning that engages and educates the patient and the patient's outpatient
88 medical and psychiatric providers to ensure continuity of care;

89 (2) provide a discharge plan to each client leaving a licensed substance use disorder
90 treatment program, which shall include recommended follow-up treatment, contact information
91 for certified alcohol and drug free housing pursuant to section 18A, additional resources for
92 substance use disorder treatment, resources for workforce options, information and links to
93 community and social supports and information on family support services;

94 (3) provide patient specific treatment that is individualized based on the patient's past
95 history of treatment, medical history, psychiatric history and social history;

96 (4) facilitate transitions from more intensive to less intensive treatment based on the
97 patient's needs and response to treatment;

98 (5) upon admission, acquire informed consent from each patient regarding the risk
99 and benefit of all medication assisted treatment options, as well as the risk and benefit of not
100 receiving treatment; and

101 (6) provide regular monitoring of patients' behavior and addressing relapse risks.

102 SECTION 9. Chapter 32A of the General Laws is hereby amended by inserting after
103 section 17K the following 3 sections:-

104 Section 17L. Any coverage offered by the commission to an active or retired employee of
105 the commonwealth insured under the group insurance commission shall provide coverage for
106 abuse deterrent opioid drug products listed on the formulary, compiled pursuant to subsection (b)
107 of section 13 of chapter 17, on a basis not less favorable than non-abuse deterrent opioid drug
108 products that are covered by the commission. An increase in patient cost sharing shall not be
109 allowed to achieve compliance with this section.

110 Section 17M. For the purposes of this section the term 'substance abuse treatment' shall
111 include: early intervention services for substance use disorder treatment; outpatient services
112 including medically assisted therapies; intensive outpatient and partial hospitalization services;
113 residential or inpatient services, not covered under section 17N; and medically managed
114 intensive inpatient services, not covered under said section 17N.

115 Any coverage offered by the commission to an active or retired employee of the
116 commonwealth insured under the group insurance commission shall not require a member to
117 obtain a preauthorization for substance abuse treatment if the provider is certified or licensed by
118 the commonwealth.

119 Section 17N. For the purposes of this section the following terms shall have the following
120 meanings, unless the context clearly requires otherwise:-

121 'Acute treatment services', 24-hour medically supervised addiction treatment for adults
122 or adolescents provided in a medically managed or medically monitored inpatient facility, as

123 defined by the department of public health, that provides evaluation and withdrawal management
124 and which may include biopsychosocial assessment, individual and group counseling,
125 psychoeducational groups and discharge planning.

126 'Clinical stabilization services', 24-hour clinically managed detoxification treatment for
127 adults or adolescents, as defined by the department of public health, usually following acute
128 treatment services for substance abuse, which may include intensive education and counseling
129 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
130 and significant others and aftercare planning, for individuals beginning to engage in recovery
131 from addiction.

132 The commission shall provide to any active or retired employee of the commonwealth
133 who is insured under the group insurance commission coverage for acute treatment services and
134 clinical stabilization services for up to a total of 10 days and shall not require preauthorization
135 prior to obtaining such acute treatment services or clinical stabilization services; provided that,
136 utilization review procedures may be initiated on day 8.

137 SECTION 10. Section 22 of said chapter 32A, as appearing in the 2012 Official Edition,
138 is hereby amended by inserting after the word 'specialist', in line 104, the following words:- , a
139 licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J,.

140 SECTION 11. Chapter 38 of the General Laws is hereby amended by adding the
141 following section:-

142 Section 16. The chief medical examiner shall file a report with the Food and Drug
143 Administration's MedWatch Program any time the determined cause of death of an individual
144 was due solely to the ingestion of a schedule II through schedule VI, inclusive, controlled
145 substance, under chapter 94C. A report shall also be sent to the commissioner of public health in
146 a manner determined by the commissioner of public health.

147 SECTION 12. Chapter 94C of the General Laws is hereby amended by inserting after
148 section 2 the following section:-

149 Section 2A. (a) Notwithstanding section 2, the commissioner may, by order, place a
150 substance in schedule I on a temporary basis if the commissioner finds: (i) it is necessary to
151 avoid an imminent hazard to the public safety; (ii) it is necessary for the preservation of the
152 public health, safety or general welfare; (iii) the substance is not listed in any other schedule
153 identified in section 3; (iv) no exception is in effect for the substance pursuant to section 4; and
154 (v) the substance is not excluded under subsection (c) of section 2.

155 (b) Prior to finding that a substance is an imminent hazard to the public safety under
156 clause (i) of subsection (a), the commissioner shall consider the substance's actual or relative
157 potential for abuse and its history and current patterns of abuse.

158 (c) An order issued under subsection (a) shall be an emergency regulation and subject to
159 section 3 of chapter 30A; provided, however, that: (i) no further approval by designated persons
160 or bodies, as referenced in said section 3 of said chapter 30A, shall be required before the
161 emergency regulation becomes effective; and (ii) the emergency regulation may remain in effect
162 for up to 1 year.

163 (d) An order issued under subsection (a) shall take effect upon the completion of a 14-day
164 notice period. For the purposes of this section, the notice period shall begin when the order is
165 published on the department of public health's website, or by any other means the commissioner
166 may deem necessary. The commissioner shall forward a copy of the order to all acute inpatient
167 hospitals in the commonwealth, in a form and manner to be determined by the commissioner, to
168 disseminate information regarding the dangers of the substance.

169 (e) Upon issuing an order under subsection (a), the commissioner shall forward a copy of
170 the order to the chairs of the joint committee on public health.

171 (f) Upon issuing an order under subsection (a), the commissioner shall forward a copy of
172 the order to the attorney general of the United States to request that the attorney general
173 temporarily place the substance in schedule I under the Controlled Substances Act, 21 U.S.C
174 section 811(h).

175 (g) Upon issuing an order under subsection (a), the commissioner shall forward a copy of
176 the order to all local and regional boards of health, with guidance that possession or distribution
177 of the substance by any food, retail or other commercial establishment shall constitute an
178 imminent health hazard. While the order is in effect, a board of health or an authorized agent,
179 the local inspection department or the equivalent, or a municipal government or its agent may,
180 pursuant to section 30 of chapter 111 and any regulation promulgated pursuant thereto, take any
181 enforcement action consistent with a finding of an imminent health hazard, up to and including
182 summary suspension of a municipal license or permit held by the establishment including, but
183 not limited to, a permit to operate.

184 SECTION 13. Said chapter 94C is hereby further amended by inserting after section 6 the
185 following section:-

186 Section 6A. A corporate entity, other than a hospital or clinic licensed under section 51 of
187 chapter 111 or an opioid treatment program licensed under chapter 111E, doing business in the
188 commonwealth, which has more than 300 patients receiving treatment for opioid dependency in
189 the form of opioid agonist therapy provided by physicians who are associated with the entity by
190 contract, fee for service or other arrangement other than as members of the practice, shall be
191 licensed by the department and shall comply with requirements established by the department to
192 limit the diversion of opioid drugs and ensure patient safety.

193 The department shall issue best practice guidance related to routine toxicology
194 screenings, maximum take home dosages and behavioral health referrals for practitioners who
195 provide opioid agonist therapy in the commonwealth. Practitioners shall adhere to said best
196 practices promulgated by the department.

197 SECTION 14. Section 12A of chapter 112 of the General Laws, as so appearing, is
198 hereby amended by striking out, in lines 32 to 34, inclusive, the words ‘de-identified, aggregate
199 information in a manner to be determined in conjunction with the department of public health’
200 and inserting in place thereof the following words:- information related to the incident to the
201 commissioner of public health in a manner determined by the commissioner that complies with
202 42 U.S.C. section 290dd-2, 42 C.F.R. Part 2 and 45 C.F.R. section 164.512. The department of
203 public health may promulgate regulations to enforce this section and to ensure that serious
204 adverse drug events are reported to the Food and Drug Administration’s MedWatch Program.

205 SECTION 15. Section 12D of said chapter 112, as so appearing, is hereby amended by
206 inserting after the definition of ‘Department’ the following definition:- ‘Interchangeable abuse
207 deterrent drug product’, a drug with abuse deterrent properties identified by the drug formulary
208 commission as an appropriate substitute for a drug that the commission has determined poses a
209 heightened level of risk to the public due to the drug's potential for abuse and misuse pursuant to
210 subsection (b) of section 13 of chapter 17.

211 SECTION 16. The fourth paragraph of said section 12D of said chapter 112, as so
212 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
213 following sentence:- Except in cases where the practitioner has indicated ‘no substitution’, the
214 pharmacist shall dispense: an interchangeable abuse deterrent product if one exists; or, if none
215 exists, a less expensive, reasonably available, interchangeable drug product as allowed by the
216 most current formulary or supplement thereof.

217 SECTION 17. Said section 12D of said chapter 112, as so appearing, is hereby further
218 amended by striking out, in lines 30 and 31, the words ‘the pharmacist dispense a brand name
219 drug product’ and inserting in place thereof the following words:- no substitution be made.

220 SECTION 18. Chapter 118E of the General Laws is hereby amended by inserting after
221 section 10G the following section:-

222 Section 10H. For the purposes of this section the following terms shall, unless the context
223 clearly requires otherwise, have the following meanings:-

224 ‘Acute treatment services’, 24-hour medically supervised addiction treatment for adults
225 or adolescents provided in a medically managed or medically monitored inpatient facility, as
226 defined by the department of public health, that provides evaluation and withdrawal management
227 and which may include biopsychosocial assessment, individual and group counseling,
228 psychoeducational groups and discharge planning.

229 'Clinical stabilization services', 24-hour clinically managed detoxification treatment for
230 adults or adolescents, as defined by the department of public health, usually following acute
231 treatment services for substance abuse, which may include intensive education and counseling
232 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
233 and significant others and aftercare planning, for individuals beginning to engage in recovery
234 from addiction.

235 The division and its contracted health insurers, health plans, health maintenance
236 organizations, behavioral health management firms and third party administrators under contract
237 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
238 acute treatment services and shall not require a preauthorization prior to obtaining treatment.

239 The division and its contracted health insurers, health plans, health maintenance
240 organizations, behavioral health management firms and third party administrators under contract
241 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
242 clinical stabilization services for up to 10 days and shall not require preauthorization prior to
243 obtaining clinical stabilization services; provided that, utilization review procedures may be
244 initiated on day 8.

245 SECTION 19. Section 47B of chapter 175 of the General Laws, as appearing in the 2012
246 Official Edition, is hereby amended by inserting after the word 'specialist', in line 114, the
247 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
248 111J,.

249 SECTION 20. Chapter 175 of the General Laws is hereby amended by inserting after
250 section 47DD the following 3 sections:-

251 Section 47EE. Any policy, contract, agreement, plan or certificate of insurance issued,
252 delivered or renewed within the commonwealth shall provide coverage for abuse deterrent opioid
253 drug products listed on the formulary, compiled pursuant to subsection (b) of section 13 of
254 chapter 17, on a basis not less favorable than non-abuse deterrent opioid drug products that are
255 covered by such policy, contract, agreement, plan or certificate of insurance. An increase in
256 patient cost sharing shall not be allowed to achieve compliance with this section.

257 Section 47FF. For the purposes of this section the term 'substance abuse treatment' shall
258 include: early intervention services for substance use disorder treatment; outpatient services
259 including medically assisted therapies; intensive outpatient and partial hospitalization services;
260 residential or inpatient services, not covered under section 47GG; and medically managed
261 intensive inpatient services, not covered under said section 47GG.

262 No policy, contract, agreement, plan or certificate of insurance issued, delivered or
263 renewed within the commonwealth shall require a member to obtain a preauthorization for
264 substance abuse treatment if the provider is certified or licensed by the commonwealth.

265 Section 47GG. For the purposes of this section the following terms shall, unless the
266 context clearly requires otherwise, have the following meanings:-

267 'Acute treatment services', 24-hour medically supervised addiction treatment for adults
268 or adolescents provided in a medically managed or medically monitored inpatient facility, as
269 defined by the department of public health, that provides evaluation and withdrawal management
270 and which may include biopsychosocial assessment, individual and group counseling,
271 psychoeducational groups and discharge planning.

272 'Clinical stabilization services', 24-hour clinically managed detoxification treatment for
273 adults or adolescents, as defined by the department of public health, usually following acute
274 treatment services for substance abuse, which may include intensive education and counseling
275 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
276 and significant others and aftercare planning, for individuals beginning to engage in recovery
277 from addiction.

278 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
279 renewed within the commonwealth shall provide coverage for acute treatment services and
280 clinical stabilization services for up to a total of 10 days and shall not require preauthorization
281 prior to obtaining acute treatment services or clinical stabilization services; provided that,
282 utilization review procedures may be initiated on day 8.

283 SECTION 21. Section 8A of chapter 176A of the General Laws, as appearing in the 2012
284 Official Edition, is hereby amended by inserting after the word 'specialist', in line 116, the
285 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
286 111J,.

287 SECTION 22. Chapter 176A of the General Laws is hereby amended by inserting after
288 section 8FF the following 3 sections:-

289 Section 8GG. Any contract between a subscriber and the corporation under an individual
290 or group hospital service plan which is delivered, issued or renewed within the commonwealth
291 shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled
292 pursuant to subsection (b) of section 13 of chapter 17, on a basis not less favorable than non-
293 abuse deterrent opioid drug products that are covered by the individual or group hospital service
294 plan. An increase in patient cost sharing shall not be allowed to achieve compliance with this
295 section.

296 Section 8HH. For the purposes of this section the term 'substance abuse treatment' shall
297 include: early intervention services for substance use disorder treatment; outpatient services
298 including medically assisted therapies; intensive outpatient and partial hospitalization services;
299 residential or inpatient services, not covered under section 8II; and medically managed intensive
300 inpatient services, not covered under said section 8II.

301 No contract between a subscriber and the corporation under an individual or group
302 hospital service plan which is delivered, issued or renewed within the commonwealth
303 shall require a member to obtain a preauthorization for substance abuse treatment if the provider
304 is certified or licensed by the commonwealth.

305 Section 8II. For the purposes of this section the following terms shall, unless the context
306 clearly requires otherwise, have the following meanings:-

307 'Acute treatment services', 24-hour medically supervised addiction treatment for adults
308 or adolescents provided in a medically managed or medically monitored inpatient facility, as
309 defined by the department of public health, that provides evaluation and withdrawal management
310 and which may include biopsychosocial assessment, individual and group counseling,
311 psychoeducational groups and discharge planning.

312 'Clinical stabilization services', 24-hour clinically managed detoxification treatment for
313 adults or adolescents, as defined by the department of public health, usually following acute
314 treatment services for substance abuse, which may include intensive education and counseling
315 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
316 and significant others and aftercare planning, for individuals beginning to engage in recovery
317 from addiction.

318 Any contract between a subscriber and the corporation under an individual or group
319 hospital service plan which is delivered, issued or renewed within the commonwealth shall
320 provide coverage for acute treatment services and clinical stabilization services for up to a total
321 of 10 days and shall not require preauthorization prior to obtaining acute treatment services or
322 clinical stabilization services; provided that, utilization review procedures may be initiated on
323 day 8.

324 SECTION 23. Section 4A of chapter 176B of the General Laws, as appearing in the 2012
325 Official Edition, is hereby amended by inserting after the word 'specialist', in line 114, the
326 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
327 111J,.

328 SECTION 24. Chapter 176B of the General Laws is hereby amended by inserting after
329 section 4FF the following 3 sections:-

330 Section 4GG. Any subscription certificate under an individual or group medical service
331 agreement delivered, issued or renewed within the commonwealth shall provide coverage for
332 abuse deterrent opioid drug products listed on the formulary, compiled pursuant to subsection (b)
333 of section 13 of chapter 17, on a basis not less favorable than non-abuse deterrent opioid drug
334 products that are covered by an individual or group medical service agreement. An increase in
335 patient cost sharing shall not be allowed to achieve compliance with this section.

336 Section 4HH. For the purposes of this section the term ‘substance abuse treatment’ shall
337 include: early intervention services for substance use disorder treatment; outpatient services
338 including medically assisted therapies; intensive outpatient and partial hospitalization services;
339 residential or inpatient services, not covered under section 4II; and medically managed intensive
340 inpatient services, not covered under said section 4II.

341 No subscription certificate under an individual or group medical service agreement
342 delivered, issued or renewed within the commonwealth shall require a member to obtain a
343 preauthorization for substance abuse treatment if the provider is certified or licensed by the
344 commonwealth.

345 Section 4II. For the purposes of this section the following terms shall, unless the context
346 clearly requires otherwise, have the following meanings:-

347 ‘Acute treatment services’, 24-hour medically supervised addiction treatment for adults
348 or adolescents provided in a medically managed or medically monitored inpatient facility, as
349 defined by the department of public health, that provides evaluation and withdrawal management
350 and which may include biopsychosocial assessment, individual and group counseling,
351 psychoeducational groups and discharge planning.

352 ‘Clinical stabilization services’, 24-hour clinically managed detoxification treatment for
353 adults or adolescents, as defined by the department of public health, usually following acute
354 treatment services for substance abuse, which may include intensive education and counseling
355 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
356 and significant others and aftercare planning, for individuals beginning to engage in recovery
357 from addiction.

358 Any subscription certificate under an individual or group medical service agreement
359 delivered, issued or renewed within the commonwealth shall provide coverage for acute
360 treatment services and clinical stabilization services for up to a total of 10 days and shall not
361 require preauthorization prior to obtaining acute treatment services or clinical stabilization
362 services; provided that, utilization review procedures may be initiated on day 8.

363 SECTION 25. Section 4M of chapter 176G of the General Laws, as appearing in the
364 2012 Official Edition, is hereby amended by inserting after the word ‘specialist’, in line 110, the
365 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
366 111J,.

367 SECTION 26. Chapter 176G of the General Laws is hereby amended by inserting after
368 section 4X the following 3 sections:-

369 Section 4Y. An individual or group health maintenance contract that is issued or renewed
370 shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled

371 pursuant to subsection (b) of section 13 of chapter 17, on a basis not less favorable than non-
372 abuse deterrent opioid drug products that are covered by an individual or group health
373 maintenance contract. An increase in patient cost sharing shall not be allowed to achieve
374 compliance with this section.

375 Section 4Z. For the purposes of this section the term ‘substance abuse treatment’ shall
376 include: early intervention services for substance use disorder treatment; outpatient services
377 including medically assisted therapies; intensive outpatient and partial hospitalization services;
378 residential or inpatient services, not covered under section 4AA; and medically managed
379 intensive inpatient services, not covered under said section 4AA.

380 No individual or group health maintenance contract that is issued or renewed shall
381 require a member to obtain a preauthorization for substance abuse treatment if the provider is
382 certified or licensed by the commonwealth.

383 Section 4AA. For the purposes of this section the following terms shall have the
384 following meanings, unless the context clearly requires otherwise:-

385 ‘Acute treatment services’, 24-hour medically supervised addiction treatment for adults
386 or adolescents provided in a medically managed or medically monitored inpatient facility, as
387 defined by the department of public health, that provides evaluation and withdrawal management
388 and which may include biopsychosocial assessment, individual and group counseling,
389 psychoeducational groups and discharge planning.

390 ‘Clinical stabilization services’, 24-hour clinically managed detoxification treatment for
391 adults or adolescents, as defined by the department of public health, usually following acute
392 treatment services for substance abuse, which may include intensive education and counseling
393 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
394 and significant others and aftercare planning, for individuals beginning to engage in recovery
395 from addiction.

396 An individual or group health maintenance contract that is issued or renewed shall
397 provide coverage for acute treatment services and clinical stabilization services for up to a total
398 of 10 days and shall not require preauthorization prior to obtaining acute treatment services or
399 clinical stabilization services; provided that, utilization review procedures may be initiated on
400 day 8.

401 SECTION 27. The department of public health shall compile a list of prescription drug
402 drop boxes and other safe locations at which to dispose of prescription drugs within the
403 commonwealth. The list shall be published on the department’s website, not later than January 2,
404 2015, and shall be updated on a regular basis.

405 The department shall compile a list of communities within the commonwealth that do not
406 have a prescription drug drop box or other safe location at which to dispose of prescription
407 drugs. The department shall file the list with the clerks of the house of representatives and the
408 senate, who shall forward the list to the house and senate committees on ways and means and the
409 joint committee on mental health and substance abuse, not later than January 2, 2015.

410 SECTION 28. The center for health information and analysis shall conduct a review of
411 the accessibility of substance use disorder treatment and the adequacy of insurance coverage for
412 such treatment in the commonwealth and shall issue a report, not later than February 15, 2015.
413 The review shall be posted on the center's website and shall be filed with the clerks of the house
414 of representatives and the senate, the house and senate committees on ways and means and the
415 health policy commission.

416 The report shall include, but not be limited to: (i) a description of the continuum of care
417 for substance use disorder treatment; (ii) an evaluation of access to the continuum of care for
418 patients eligible for MassHealth and department of public health programs; (iii) an evaluation of
419 access to the continuum of care for commercially insured patients; and (iv) a description of
420 specific barriers to treatment access, including utilization review, prior authorization and patient
421 cost sharing.

422 SECTION 29. The health policy commission shall issue a report recommending policies
423 intended to ensure access to and coverage for substance use disorder treatment throughout the
424 commonwealth, which shall be filed with the clerks of the house of representatives and the
425 senate and shall be available on the general court's website, not later than May 30, 2015. In
426 preparing the report, the commission shall consider the report of the center for health information
427 and analysis, issued pursuant to section 28, and the recommendations of the senate special
428 committee on drug abuse and treatment options, established by a senate order adopted on
429 January 16, 2014. The commission shall provide opportunity for public comment during the
430 development of its report, and shall provide at least one hearing in each county of the
431 Commonwealth prior to the issuance of a final report. The report shall include but not be limited
432 to: (i) specific recommendations for legislation or regulatory changes, including appropriate
433 coverage mandates; (ii) an evaluation of the availability of medication-assisted opioid therapy
434 such as methadone, buprenorphine and extended-release naltrexone in critical stabilization
435 services, including insurance coverage, regulatory or licensure barriers to accessing such
436 medications prior to discharge and recommendations for changes to ensure patient access; and
437 (iii) recommendations for the continuing study of substance use disorder by the center for health
438 information and analysis, pursuant to section 21A of chapter 12C of the General Laws, including
439 appropriate data collection and sharing activities.

440 SECTION 30. In carrying out its responsibilities under this act, the center for health
441 information and analysis and the health policy commission may use all department of public
442 health data; provided, however, that such data shall not be considered a public record and the

443 health policy commission and the center for health information and analysis shall protect the
444 privacy of any protected health information in accordance with federal and state laws and
445 applicable rules and regulations.

446 SECTION 31. Notwithstanding any general or special law to the contrary, the governor
447 shall appoint the 4 new members to the drug formulary commission, established pursuant to
448 section 13 of chapter 17 of the General Laws, not later than 30 days from the effective date of
449 this act. Of the 4 new appointments pursuant to said section 13 of said chapter 17, 2 shall be
450 appointed for a term of 3 years; 1 shall be appointed for a term of 2 years; and 1 shall be
451 appointed for a term of 1 year. As the term of a member expires, the member's successor shall be
452 appointed to serve for a term of 3 years.

453 SECTION 32. The division of medical assistance shall implement section 18 subject to
454 all required federal approvals.

455 SECTION 33. Notwithstanding any general or special law to the contrary, the drug
456 formulary commission shall issue the first draft of its formulary of abuse deterrent drugs that are
457 a chemically equivalent substitute for drugs that are opiates and pose a risk to the public's health,
458 under subsection (b) of section 13 of chapter 17 of the General Laws, not later than 120 days
459 from the effective date of this act.

460 SECTION 34. Sections 9, 10 and 18 to 26, inclusive, shall take effect on October 1, 2015.

461 SECTION 35. Sections 13, 16 and 17 shall take effect 6 months from the effective date of
462 this act.

463 SECTION 36. There is hereby established a special commission for the purposes of
464 investigating and studying the development of criteria for mandated treatment or monitoring of
465 nonviolent offenders with substance addictions and to expand effective, evidence based addiction
466 treatment programs for nonviolent substance addicted offenders. The commission shall consist of
467 the court administrator or a designee, who shall serve as co-chair; the director of the bureau of
468 substance abuse services or a designee, who shall serve as co-chair; the chief justice of the trial
469 court or a designee; the attorney general or a designee; the secretary of public safety and security
470 or a designee; the commissioner of the department of correction or a designee; the chair of the
471 parole board or a designee; the commissioner of the department of probation or a designee; the
472 chief counsel of the committee for public counsel services or a designee; the commissioner of the
473 department of mental health or a designee; the secretary of the department of veterans' services
474 or a designee; 2 members of the senate, 1 of whom shall be appointed by the senate president and
475 1 of whom shall be appointed by the senate minority leader; 2 members of the house of
476 representatives, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall
477 be appointed by the house minority leader; the president of the Massachusetts District Attorneys
478 Association or a designee; the president of the Massachusetts Bar Association or a designee; and
479 2 members appointed by the governor, 1 of whom shall be a substance addiction treatment expert

480 and 1 of whom shall be a mental health treatment expert. Such investigation and study shall
481 include, but not be limited to: (a) an evaluation of the application and effectiveness of ‘Standards
482 on Substance Abuse,’ approved by the justices of the supreme judicial court on April 28, 1998,
483 and recommendations to improve and ensure the consistent application of the standards in the
484 courts; (b) an evaluation and recommendations for improvement of specialty courts that address
485 substance addictions, including current eligibility requirements or practices, availability of such
486 courts and use of best practices in establishing quality of services; (c) the optimum number and
487 estimated expansion costs associated with the drug courts necessary to meet the needs of the total
488 annual number of nonviolent substance addicted offenders; (d) an evaluation of the number and
489 type of nonviolent offenses committed by substance addicted defendants adjudicated in the
490 commonwealth; (e) the development of a definition of nonviolent substance addicted offender;
491 (f) an examination of best practices relative to specialty courts that deal with substance addicted
492 offenders, both within the commonwealth and in other states; (g) an assessment of the quantity,
493 quality and availability of effective, evidence based addiction treatment programs in the
494 commonwealth; and (h) an assessment of the cost of expanding addiction treatment resources to
495 meet the needs of the total annual number of nonviolent substance addicted offenders. The
496 commission shall submit its report and findings, along with any draft of legislation, to the house
497 and senate committees on ways and means, the joint committee on the judiciary, the joint
498 committee on public health, the joint committee on mental health and substance abuse, and the
499 clerks of the house of representatives and the senate on or before December 31, 2015.

500 SECTION 37. (a) There shall be a Massachusetts Interagency Council on Substance
501 Abuse and Prevention. The interagency council shall: (i) support the efforts of the department of
502 public health to supervise, coordinate and establish standards for the operation of substance use
503 prevention and treatment services; (ii) oversee implementation of initiatives and programs that
504 effectively direct the existing resources and minimize the impact of substance abuse; (iii)
505 develop and recommend formal policies and procedures for the coordination and efficient
506 utilization of programs and resources across state agencies and secretariats; (iv) develop an
507 annual report and submit to the governor, on or before November 30 of each year, all activities
508 of the council and recommend further efforts and resource needs; and (v) review the role and
509 functions of the advisory council on alcoholism, and the drug rehabilitation advisory board
510 pursuant to chapter 118E, and recommend changes as necessary. (b) The interagency council
511 shall consist of the following members or their designees: the secretary of health and human
512 services, who shall serve as chair; the secretary of public safety; the secretary of elder affairs; the
513 secretary of veterans affairs; the commissioner of education; the commissioner of correction; the
514 chair of the parole board; the commissioner of probation; the commissioner of public health; the
515 commissioner of youth services; the commissioner of mental health; the commissioner of
516 developmental services; the commissioner of the Massachusetts rehabilitation commission; the
517 commissioner of transitional assistance; the commissioner of children and families; the
518 commissioner of the center for health information and analysis; the commissioner for the deaf
519 and hard of hearing; the commissioner for early education and care; the assistant commissioner

520 of public health for substance abuse services; the director of the office of Medicaid; a
521 representative of the juvenile court; a representative of the superior court; a representative of the
522 district court; a representative of the governor's office; 1 private citizen who is recovering from
523 substance abuse problems, appointed by the governor; 1 member appointed by the president of
524 the senate; 1 member appointed by the speaker of the house; 1 member appointed by the senate
525 minority leader; 1 member appointed by the house minority leader; and other appropriate
526 representatives as determined by the governor. The council may appoint an executive director to
527 perform administrative functions and advocate on behalf of the council. All members shall serve
528 without compensation in an advisory capacity and at the pleasure of the governor. (c) The
529 interagency council shall meet at least 4 times annually and shall establish task groups, meetings,
530 forums and any other activity deemed necessary to carry out its mandate. (d) The interagency
531 council will establish an executive committee composed of a minimum of 11 members that will
532 meet on a bi-monthly basis to provide guidance on the recommendations of the council. At
533 minimum, the executive committee will be comprised of the following members or their
534 designees: the secretary of health and human services, the secretary of public safety; the
535 commissioner of public health; the commissioner of children and families; the commissioner of
536 correction; the commissioner of mental health; the commissioner of youth services; the director
537 of the office of Medicaid; the assistant commissioner of public health for substance abuse
538 services; and at least 2 additional members from the council. (e) All affected agencies,
539 departments and boards of the commonwealth shall fully cooperate with the interagency council.
540 The council may call and rely upon the expertise and services of individuals and entities outside
541 of its membership for research, advice, support or other functions necessary and appropriate to
542 further accomplish its mission.

543 SECTION 38. Chapter 17 of the General Laws is hereby further amended by inserting
544 after section 20 the following new section:-

545 Section 21. Regional Walk-in Centers

546 Section 21. Subject to appropriation the department of public health shall promulgate
547 regulations that govern the establishment of regional walk-in centers that provide assessment,
548 liaison with central intake to place a person in the best treatment setting, daily open clinically run
549 group sessions, and emergency one on one counseling. These walk-in centers shall coordinate
550 with the Central Navigation System in Section 20 of this Chapter.

551 SECTION 39. The department of public health in consultation with the center for health
552 information and analysis shall publish an annual report on the effectiveness of substance abuse
553 disorder treatment and prevention interventions across the commonwealth. The report should
554 document year-to-year progress in achieving the goals of improving access to substance abuse
555 disorder services and outcomes. The report shall include year-to-year changes in reported opioid-
556 related overdose cases; mortality rates; geographic disparities in opioid-related overdose cases;
557 and total section 35 civil commitments. The report shall also include an analysis of utilization

558 patterns for substance use disorder services, across the continuum of care, including number and
559 length of withdrawal management services, clinical stabilization services, inpatient stays,
560 outpatient visits, community-based therapies, and medication assisted therapies. The department
561 shall publish an annual report, not later than December 31 of each year, of its findings. The
562 report shall be posted on the department's website and shall be filed with the house of
563 representatives and senate clerks, the house and senate committees on ways and means, the joint
564 committee on mental health and substance abuse and the health policy commission.

565 SECTION 40. (a) There shall be a special commission to investigate the expansion and
566 enhancement of the Massachusetts Behavioral Health Access (MABHA) website, operated by
567 the office of Medicaid's behavioral health vendor. The commission shall make
568 recommendations on ways to improve provider, carrier and public search capabilities to locate
569 inpatient beds, services and placement for individuals with mental health and substance abuse
570 needs in real-time for the purpose of referring individuals in need of services. The committee
571 shall (1) develop a list of additional services and facilities to include as part of the website, (2)
572 develop requirements for submission of information on service availability and publication of the
573 information on the website in real-time, including requirements for frequency of data submission
574 and reporting, and (3) develop requirements for additional information to be posted on the
575 website, including any admission requirements or restrictions. (4) develop recommendations that
576 the department of mental health; the department of public health and other appropriate state
577 agencies may take under existing regulatory authority to create and enhance access for said
578 placement services. (5) develop recommendations as to whether the website shall should be a
579 state run and operated function.

580 (b) The special committee shall be comprised of the following 9 members: The
581 commissioner of the department of mental health or designee, who shall serve as chair, the
582 commissioner of the department of public health or designee, the director of the office of
583 Medicaid or designee, 1 representative of each of the following 6 organizations: the
584 Massachusetts Behavioral Health Partnership, the Massachusetts Association of Health Plans, the
585 Massachusetts Hospital Association, the Massachusetts Medical Society, the Massachusetts
586 Association of Behavioral Health Systems, and the Massachusetts College of Emergency
587 Physicians.

588 (c) The commission shall hold its first meeting within 90 days after passage of this act.
589 The commission shall file a report detailing its work and findings, including any legislative or
590 regulatory recommendations, with the house and senate committees on ways and means, the joint
591 committee on health care financing, the joint committee on mental health and substance abuse
592 and the clerks of the house of representatives and the senate on or before December 31, 2014.

593 SECTION 41. Section 12A of Chapter 112 of the Massachusetts General Laws, as
594 appearing in the 2012 official edition, is hereby amended by inserting at the end thereof the
595 following:- In cases of physician examination or treatment of a person with injuries resulting

596 from opiate, illegal, or illicit drug overdose, a hospital, community health center, or clinic shall
597 report such de-identified, aggregate information in such a manner as to be determined by the
598 department of public health.”.