

SENATE No. 1267

The Commonwealth of Massachusetts

PRESENTED BY:

Jacob R. Oliveira

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act expanding access to mental health services.

PETITION OF:

NAME:

Jacob R. Oliveira

DISTRICT/ADDRESS:

Hampden, Hampshire and Worcester

SENATE No. 1267

By Mr. Oliveira, a petition (accompanied by bill, Senate, No. 1267) of Jacob R. Oliveira for legislation to expand access to mental health services. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act expanding access to mental health services.

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 17S of chapter 32A of the General Laws, as inserted by chapter
2 177 of the Acts of 2022, is hereby amended by striking subsection (b) and inserting in place
3 thereof the following subsection:-

4 (b) The commission shall provide to any active or retired employee of the
5 commonwealth who is insured under the group insurance commission coverage for medically
6 necessary mental health acute treatment, community-based acute treatment and intensive
7 community-based acute treatment and shall not require a preauthorization before obtaining
8 treatment; provided, however, that the facility shall notify the carrier of the admission and the
9 initial treatment plan within three business days of admission; and provided further that services
10 administered prior to notification must be covered. Notification shall be limited to patient’s
11 name, facility name, time of admission, diagnosis, and initial treatment plan.

12 SECTION 2. Section 25C ½ of chapter 111 of the General Laws, as appearing in the
13 2020 Official Edition, is hereby amended by inserting after subsection (a)(4) the following
14 subsection:-

15 (5) A health facility if the facility plans to make a capital expenditure for the
16 development of acute psychiatric services including, inpatient, community based acute treatment,
17 intensive community based acute treatment, partial hospitalization program, and crisis
18 stabilization services; provided that the health facility demonstrates the need for a license from
19 the department of mental health pursuant to paragraph c of section 19 of chapter 19 of the
20 general laws, as so appearing.

21 SECTION 3. Section 51 ½ of Chapter 111 of the General Laws, as so appearing, is
22 hereby amended by striking out the definition of “licensed mental health professional” and
23 inserting in place thereof the following:-

24 “Licensed mental health professional”, a: (i) licensed physician who specializes in the
25 practice of psychiatry or addiction medicine; (ii) licensed psychologist; (iii) licensed independent
26 clinical social worker; (iv) licensed certified social worker; (v) licensed mental health counselor;
27 (vi) licensed mental health counselor; (vii) licensed physician assistant who practices in the field
28 of psychiatry or addiction medicine; (viii) licensed psychiatric clinical nurse specialist; (ix)
29 licensed psychiatric mental health nurse practitioner; (x) certified addictions registered nurse;
30 (xi) licensed alcohol and drug counselor I as defined in section 1 of chapter 111J;(xii) healthcare
31 provider, as defined in section 1, qualified within the scope of the individual's license to perform
32 substance use disorder evaluations, including an intern, resident or fellow pursuant to the policies
33 and practices of the hospital and medical staff; (xiv) other licensed master’s level mental health

34 clinician, including but not limited to licensed alcohol and drug counselor and licensed marriage
35 and family therapist; or (xv) individuals with a master's degree in a clinical behavioral health
36 practice pursuing licensure post master's under the supervision of an appropriately licensed and
37 credentialed clinician.

38 SECTION 4. Section 51 ³/₄ of Chapter 111 of the General Laws, as inserted by Chapter
39 177 of the Acts of 2022, is hereby amended by striking out the second sentence and replacing it
40 with the following sentence:

41 The regulations shall define "licensed mental health professional", which shall include,
42 but not be limited to, a: (i) licensed physician who specializes in the practice of psychiatry or
43 addiction medicine; (ii) licensed psychologist; (iii) licensed independent clinical social worker;
44 (iv) licensed certified social worker; (v) licensed mental health counselor; (vi) licensed
45 supervised mental health counselor; (vii) licensed physician assistant who practices in the field
46 of psychiatry; (viii) licensed psychiatric clinical nurse specialist; (ix) licensed psychiatric mental
47 health nurse practitioner; (x) healthcare provider, as defined in section 1, qualified within the
48 scope of the individual's license to conduct an evaluation of a mental health condition, including
49 an intern, resident or fellow pursuant to the policies and practices of the hospital and medical
50 staff; (xi) other licensed master's level mental health clinician, including but not limited to
51 licensed alcohol and drug counselor and licensed marriage and family therapist; or (x)
52 individuals with a master's degree in a clinical behavioral health practice pursuing licensure post
53 master's under the supervision of an appropriately licensed and credentialed clinician.

54 SECTION 5. Section 10O of chapter 118E of the General Laws, as inserted by chapter
55 177 of the acts of 2022, is hereby amended by striking out the last paragraph and inserting in
56 place thereof the following new paragraph:-

57 The division and its contracted health insurers, health plans, health maintenance
58 organizations, behavioral health management firms and third-party administrators under contract
59 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
60 medically necessary mental health acute treatment, community-based acute treatment and
61 intensive community-based acute treatment and shall not require a preauthorization before
62 obtaining treatment; provided, however, that the facility shall notify the carrier of the admission
63 and the initial treatment plan within three business days of admission; provided further that
64 notification shall be limited to patient's name, facility name, time of admission, diagnosis, and
65 initial treatment plan; and provided further that services administered prior to notification must
66 be covered.

67 SECTION 6. Chapter 123 of the General Laws, as appearing in the 2020 Official
68 Edition, is hereby amended by striking out section 12, and inserting in place thereof the
69 following section:-

70 Section 12. (a) A physician who is licensed pursuant to section 2 of chapter 112, an
71 advanced practice registered nurse authorized to practice as such under regulations promulgated
72 pursuant to section 80B of said chapter 112, a qualified psychologist licensed pursuant to
73 sections 118 to 129, inclusive, of said chapter 112 or a licensed independent clinical social
74 worker licensed pursuant to sections 130 to 137, inclusive, of said chapter 112 or a qualified
75 physician assistant licensed pursuant to section 9(e) of chapter 112, who, after examining a

76 person, has reason to believe that failure to hospitalize such person would create a likelihood of
77 serious harm by reason of mental illness may restrain or authorize the restraint of such person
78 and apply for the hospitalization of such person for a 3-day period at a public facility or at a
79 private facility authorized for such purposes by the department. If an examination is not possible
80 because of the emergency nature of the case and because of the refusal of the person to consent
81 to such examination, the physician, qualified psychologist, qualified advanced practice registered
82 nurse, qualified physician assistant, or licensed independent clinical social worker on the basis of
83 the facts and circumstances may determine that hospitalization is necessary and may therefore
84 apply. In an emergency situation, if a physician, qualified psychologist, qualified advanced
85 practice registered nurse, qualified physician assistant or licensed independent clinical social
86 worker is not available, a police officer who believes that failure to hospitalize a person would
87 create a likelihood of serious harm by reason of mental illness may restrain such person and
88 apply for the hospitalization of such person for a 3-day period at a public facility or a private
89 facility authorized for such purpose by the department. An application for hospitalization shall
90 state the reasons for the restraint of such person and any other relevant information that may
91 assist the admitting physician or qualified advanced practice registered nurse or qualified
92 physician assistant. Whenever practicable, prior to transporting such person, the applicant shall
93 telephone or otherwise communicate with a facility to describe the circumstances and known
94 clinical history and to determine whether the facility is the proper facility to receive such person
95 and to give notice of any restraint to be used and to determine whether such restraint is
96 necessary.

97 (b) Only if the application for hospitalization under this section is made by a physician, a
98 qualified advanced practice registered nurse or qualified physician assistant specifically

99 designated to have the authority to admit to a facility in accordance with the regulations of the
100 department, shall such person be admitted to the facility immediately after reception. If the
101 application is made by someone other than a designated physician, a qualified advanced practice
102 registered nurse, or a qualified physician assistant such person shall be given a psychiatric
103 examination by a designated physician, a qualified advanced practice registered nurse or
104 qualified physician assistant immediately after reception at such facility. If the physician,
105 qualified advanced practice registered nurse, or qualified physician assistant determines that
106 failure to hospitalize such person would create a likelihood of serious harm by reason of mental
107 illness, the physician or qualified advanced practice registered nurse or qualified physician
108 assistant may admit such person to the facility for care and treatment. Upon admission of a
109 person under this subsection, the facility shall inform the person that it shall, upon such person's
110 request, notify the committee for public counsel services of the name and location of the person
111 admitted. The committee for public counsel services shall immediately appoint an attorney who
112 shall meet with the person. If the appointed attorney determines that the person voluntarily and
113 knowingly waives the right to be represented, is presently represented or will be represented by
114 another attorney, the appointed attorney shall so notify the committee for public counsel
115 services, which shall withdraw the appointment.

116 Any person admitted under this subsection who has reason to believe that such admission
117 is the result of an abuse or misuse of this subsection may request or request through counsel an
118 emergency hearing in the district court in whose jurisdiction the facility is located and unless a
119 delay is requested by the person or through counsel, the district court shall hold such hearing on
120 the day the request is filed with the court or not later than the next business day.

121 (c) No person shall be admitted to a facility under this section unless the person, or the
122 person's parent or legal guardian on the person's behalf, is given an opportunity to apply for
123 voluntary admission under paragraph (a) of section 10 and unless the person, or the person's
124 parent or legal guardian, has been informed that: (i) the person has a right to such voluntary
125 admission; and (ii) the period of hospitalization under this section cannot exceed 3 days. At any
126 time during such period of hospitalization, the superintendent may discharge such person if the
127 superintendent determines that such person is not in need of care and treatment.

128 (d) A person shall be discharged at the end of the 3-day period unless the superintendent
129 applies for a commitment under sections 7 and 8 or the person remains on a voluntary status.

130 (e) Any person may make an application to a district court justice or a justice of the
131 juvenile court department for a 3-day commitment to a facility of a person with a mental illness
132 if the failure to confine said person would cause a likelihood of serious harm. The court shall
133 appoint counsel to represent said person. After hearing such evidence as the court may consider
134 sufficient, a district court justice or a justice of the juvenile court department may issue a warrant
135 for the apprehension and appearance before the court of the alleged person with a mental illness
136 if in the court's judgment the condition or conduct of such person makes such action necessary
137 or proper. Following apprehension, the court shall have the person examined by a physician, a
138 qualified advanced practice registered nurse or a qualified physician assistant designated to have
139 the authority to admit to a facility or examined by a qualified psychologist in accordance with the
140 regulations of the department. If the physician, qualified advanced practice registered nurse,
141 qualified physician assistant or qualified psychologist reports that the failure to hospitalize the
142 person would create a likelihood of serious harm by reason of mental illness, the court may order
143 the person committed to a facility for a period not to exceed 3 days; provided, however, that the

144 superintendent may discharge said person at any time within the 3-day period. The periods of
145 time prescribed or allowed under this section shall be computed pursuant to Rule 6 of the
146 Massachusetts Rules of Civil Procedure.

147 SECTION 7. Said chapter 123 is hereby further amended by striking out section 21, as
148 so appearing, and inserting in place thereof the following section:-

149 Section 21. Any person who transports a person with a mental illness to or from a facility
150 for any purpose authorized under this chapter shall not use any restraint that is unnecessary for
151 the safety of the person being transported or other persons likely to come in contact with the
152 person.

153 In the case of persons being hospitalized under section 6, the applicant shall authorize
154 practicable and safe means of transport including, where appropriate, departmental or police
155 transport.

156 Restraint of a person with a mental illness may only be used in cases of emergency, such
157 as the occurrence of, or serious threat of, extreme violence, personal injury or attempted suicide;
158 provided, however, that written authorization for such restraint is given by the superintendent or
159 director of the facility or by a physician, or by a qualified advanced practice registered nurse or
160 qualified physician assistant designated by the superintendent or director for this purpose who is
161 present at the time of the emergency or if the superintendent, director, designated physician,
162 designated qualified advanced practice registered nurse or designated qualified physician
163 assistant is not present at the time of the emergency, non-chemical means of restraint may be
164 used for a period of not more than 1 hour; provided further, that within 1 hour the person in
165 restraint shall be examined by the superintendent, director, designated physician, designated

166 qualified advanced practice registered nurse, or designated qualified physician assistant,; and
167 provided further, that if the examination has not occurred within 1 hour, the patient may be
168 restrained for an additional period of not more than 1 hour until such examination is conducted
169 and the superintendent, director, designated physician, designated qualified advanced practice
170 registered nurse, or designated qualified physician assistant shall attach to the restraint form a
171 written report as to why the examination was not completed by the end of the first hour of
172 restraint.

173 Any minor placed in restraint shall be examined within 15 minutes of the order for
174 restraint by a physician, qualified advanced practice registered nurse, or qualified physician
175 assistant, or, if a physician, qualified advanced practice registered nurse or qualified physician
176 assistant is not available, by a registered nurse; provided, however, that said minor shall be
177 examined by a physician, qualified advanced practice registered nurse or qualified physician
178 assistant within 1 hour of the order for restraint. A physician, qualified advanced practice
179 registered nurse or qualified physician assistant, or, if a physician, qualified advanced practice
180 registered nurse or qualified physician assistant are not available, a registered nurse shall review
181 the restraint order by personal examination of the minor or consultation with ward staff attending
182 the minor every hour thereafter.

183 No minor shall be secluded for more than 2 hours in any 24-hour period; provided,
184 however, that no such seclusion of a minor may occur except in a facility with authority to use
185 such seclusion after said facility has been inspected and specially certified by the department.
186 The department shall issue regulations establishing procedures by which a facility may be
187 specially certified with authority to seclude a minor. Such regulations shall provide for review
188 and approval or disapproval by the commissioner of a biannual application by the facility, which

189 shall include: (i) a comprehensive statement of the facility's policies and procedures for the
190 utilization and monitoring of restraint of minors including a statistical analysis of the facility's
191 actual use of such restraint; and (ii) a certification by the facility of its ability and intent to
192 comply with all applicable statutes and regulations regarding physical space, staff training, staff
193 authorization, record keeping, monitoring and other requirements for the use of restraints.

194 Any use of restraint on a minor exceeding 1 hour in any 24-hour period shall be reviewed
195 within 2 working days by the director of the facility. The director shall forward a copy of the
196 report on each such instance of restraint to the human rights committee of that facility and, if
197 there is no human rights committee, to the appropriate body designated by the commissioner of
198 mental health. The director shall also compile a record of every instance of restraint in the
199 facility and shall forward a copy of said report on a monthly basis to the human rights committee
200 or the body designated by the commissioner of mental health.

201 No order for restraint for an individual shall be valid for a period of more than 3 hours
202 beyond which time it may be renewed upon personal examination by the superintendent,
203 director, designated physician, designated qualified advanced practice registered nurse, or
204 qualified physician assistant or, for adults, by a registered nurse; provided, however, that no adult
205 shall be restrained for more than 6 hours beyond which time an order may be renewed only upon
206 personal examination by a physician, qualified advanced practice registered nurse or qualified
207 physician assistant. The reason for the original use of restraint, the reason for its continuation
208 after each renewal and the reason for its cessation shall be noted upon the restraining form by the
209 superintendent, director, designated physician, qualified physician assistant, or, when applicable,
210 by the registered nurse, certified physician, qualified advanced practice registered nurse assistant
211 at the time of each occurrence.

212 When a designated physician, qualified advanced practice registered nurse, or qualified
213 physician assistant is not present at the time and site of the emergency, an order for chemical
214 restraint may be issued by a designated physician, qualified advanced practice registered nurse,
215 or qualified physician assistant who has determined, after telephone consultation with a
216 physician, qualified advanced practice registered nurse, registered nurse, or qualified physician
217 assistant, who is present at the time and site of the emergency and who has personally examined
218 the patient, that such chemical restraint is the least restrictive, most appropriate alternative
219 available; provided, however, that the medication so ordered has been previously authorized as
220 part of the individual’s current treatment plan.

221 No person shall be kept in restraint without a person in attendance specially trained to
222 understand, assist and afford therapy to the person in restraint. The person may be in attendance
223 immediately outside the room in full view of the patient when an individual is being secluded
224 without mechanical restraint; provided, however, that in emergency situations when a person
225 specially trained is not available, an adult may be kept in restraint unattended for a period not to
226 exceed 2 hours. In that event, the person kept in restraints shall be observed at least every 5
227 minutes; provided, further, that the superintendent, director, designated physician, designated
228 qualified advanced practice registered nurse or designated physician assistant shall attach to the
229 restraint form a written report as to why the specially trained attendant was not available. The
230 maintenance of any adult in restraint for more than 8 hours in any 24-hour period shall be
231 authorized by the superintendent or director or the person specifically designated to act in the
232 absence of the superintendent or director; provided, however, that when such restraint is
233 authorized in the absence of the superintendent or director, such authorization shall be reviewed
234 by the superintendent or director upon the return of the superintendent or director.

235 No "P.R.N." or "as required" authorization of restraint may be written. No restraint is
236 authorized except as specified in this section in any public or private facility for the care and
237 treatment of mentally ill persons including Bridgewater state hospital.

238 Not later than 24 hours after the period of restraint, a copy of the restraint form shall be
239 delivered to the person who was in restraint. A place shall be provided on the form or on
240 attachments thereto for the person to comment on the circumstances leading to the use of
241 restraint and on the manner of restraint used.

242 A copy of the restraint form and any such attachments shall become part of the chart of
243 the patient. Copies of all restraint forms and attachments shall be sent to the commissioner of
244 mental health, or, with respect to Bridgewater state hospital to the commissioner of correction,
245 who shall review and sign them within 30 days and statistical records shall be kept thereof for
246 each facility, including Bridgewater state hospital, and each designated physician, qualified
247 advanced practice registered nurse or qualified physician assistant. Furthermore, such reports,
248 excluding personally identifiable patient identification, shall be made available to the general
249 public at the department's central office, or, with respect to Bridgewater state hospital at the
250 department of correction's central office.

251 Responsibility and liability for the implementation of this section shall rest with the
252 department, the superintendent or director of each facility or the physician, qualified advanced
253 practice registered nurse or qualified physician assistant designated by such superintendent or
254 director for this purpose.

255 SECTION 8. Said chapter 123 is hereby further amended by striking out section 22, as
256 so appearing, and inserting in place thereof the following section:-

257 Section 22. Physicians, qualified advanced practice registered nurses, qualified physician
258 assistant, qualified psychologists, qualified psychiatric nurse mental health clinical specialists,
259 police officers and licensed independent clinical social workers shall be immune from civil suits
260 for damages for restraining, transporting, applying for the admission of or admitting any person
261 to a facility or Bridgewater state hospital if the physician, qualified advanced practice registered
262 nurse, or qualified physician assistant, qualified psychologist, qualified psychiatric nurse mental
263 health clinical specialist, police officer or licensed independent clinical social workers acts in
264 accordance with this chapter.”

265 SECTION 9. Section 2 of Chapter 111O of the General Laws, as so appearing, is hereby
266 amended by adding the following subsection:-

267 (c) MIH programs that are focused on behavioral health services shall not be subject to
268 application and registration fees.

269 SECTION 10. Section 1 of chapter 175 of the General Laws, as amended by chapter 177
270 of the acts of 2022, is hereby amended by inserting after the definition of “Domestic company”
271 the following definition:-

272 “Emergency services programs”, all programs subject to contract between the
273 Massachusetts Behavioral Health Partnership and provider organizations for the provision of
274 acute care hospital and community-based emergency behavioral health services, including, but
275 not limited to, behavioral health crisis assessment, intervention and stabilization services 24
276 hours per day, 7 days per week, through: (i) mobile crisis intervention services for youth; (ii)
277 mobile crisis intervention services for adults; (iii) emergency service provider community-based
278 locations; (iv) emergency departments of acute care hospitals or satellite emergency facilities;

279 (v) adult community crisis stabilization services; and (vi) youth community crisis stabilization
280 services.

281 SECTION 11. Section 47B of chapter 175 of the General Laws, as so appearing, is
282 hereby amended by striking out the second paragraph of subsection (i) and replacing it with the
283 following paragraph:-

284 For the purposes of this section, "licensed mental health professional" shall mean a
285 licensed physician who specializes in the practice of psychiatry or addiction medicine; a licensed
286 psychologist; a licensed independent clinical social worker; a licensed mental health counselor; a
287 licensed nurse mental health clinical specialist; a licensed physician assistant who practices in
288 the field of psychiatry or addiction medicine; a licensed psychiatric mental health nurse
289 practitioner, other licensed master's level mental health clinician including but not limited to a
290 licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed
291 marriage and family therapist within the lawful scope of practice for such therapist; or a clinician
292 practicing under the supervision of a licensed professional, and working towards licensure, in a
293 clinic or hospital licensed under chapter 111.

294 SECTION 12. Section 47SS of chapter 175 of the General Laws, as inserted by chapter
295 177 of the acts of 2022, is hereby amended by striking subsection (b) and inserting in place
296 thereof the following subsection:-

297 (b) A policy, contract, agreement, plan or certificate of insurance issued, delivered or
298 renewed within or without the commonwealth, which is considered creditable coverage under
299 section 1 of chapter 111M, shall provide coverage for medically necessary mental health acute
300 treatment, community-based acute treatment and intensive community-based acute treatment and

301 shall not require a preauthorization before the administration of such treatment; provided,
302 however, that the facility shall notify the carrier of the admission and the initial treatment plan
303 within three business days of admission; and provided further that services administered prior to
304 notification must be covered. Notification shall be limited to patient's name, facility name, time
305 of admission, diagnosis, and initial treatment plan.

306 SECTION 13. Section 8A of chapter 176A of the General Laws, as amended by chapter
307 177 of the acts of 2022, is hereby amended by striking out the second paragraph of subsection (i)
308 and replacing it with the following paragraph:-

309 For the purposes of this section, "licensed mental health professional" shall mean a
310 licensed physician who specializes in the practice of psychiatry or addiction medicine; a licensed
311 psychologist; a licensed independent clinical social worker; a licensed mental health counselor; a
312 licensed nurse mental health clinical specialist; a licensed physician assistant who practices in
313 the field of psychiatry or addiction medicine; a licensed psychiatric mental health nurse
314 practitioner, other licensed master's level mental health clinician including but not limited to a
315 licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed
316 marriage and family therapist within the lawful scope of practice for such therapist; or a clinician
317 practicing under the supervision of a licensed professional, and working towards licensure, in a
318 clinic or hospital licensed under chapter 111.

319 SECTION 14 . Section 8SS of chapter 176A of the General Laws, as inserted by chapter
320 177 of the acts of 2022, is hereby amended by striking subsection (b) and inserting in place
321 thereof the following subsection:-

322 (b) A contract between a subscriber and the corporation under an individual or group
323 hospital service plan that is delivered, issued or renewed within the commonwealth shall provide
324 coverage for medically necessary mental health acute treatment, community-based acute
325 treatment and intensive community-based acute treatment and shall not require a
326 preauthorization before the administration of any such treatment; provided, however, that the
327 facility shall notify the carrier of the admission and the initial treatment plan within three
328 business days of admission; and provided further that services administered prior to notification
329 must be covered. Notification shall be limited to patient's name, facility name, time of
330 admission, diagnosis, and initial treatment plan.

331 SECTION 15 . Section 4A of chapter 176B of the General Laws, as amended by chapter
332 177 of the acts of 2022, is hereby amended by striking out the second paragraph of subsection (i)
333 and replacing it with the following paragraph:-

334 For the purposes of this section, "licensed mental health professional" shall mean a
335 licensed physician who specializes in the practice of psychiatry or addiction medicine; a licensed
336 psychologist; a licensed independent clinical social worker; a licensed mental health counselor; a
337 licensed nurse mental health clinical specialist; a licensed physician assistant who practices in
338 the field of psychiatry or addiction medicine; a licensed psychiatric mental health nurse
339 practitioner, other licensed master's level mental health clinician including but not limited to a
340 licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed
341 marriage and family therapist within the lawful scope of practice for such therapist; or a clinician
342 practicing under the supervision of a licensed professional, and working towards licensure, in a
343 clinic or hospital licensed under chapter 111.

344 SECTION 16. Section 4SS of chapter 176B of the General Laws, as inserted by chapter
345 177 of the acts of 2022, is hereby amended by striking subsection (b) and inserting in place
346 thereof the following subsection:-

347 (b) A subscription certificate under an individual or group medical service agreement
348 delivered, issued or renewed within the commonwealth shall provide coverage for medically
349 necessary mental health acute treatment, community-based acute treatment, intensive
350 community-based acute treatment and shall not require a preauthorization before obtaining
351 treatment; provided, however, that the facility shall notify the carrier of the admission and the
352 initial treatment plan within three business days of admission; and provided further that services
353 administered prior to notification must be covered. Notification shall be limited to patient's
354 name, facility name, time of admission, diagnosis, and initial treatment plan.

355 SECTION 17 . Section 4M of chapter 176G of the General Laws, as amended by chapter
356 177 of the acts of 2022, is hereby amended by striking out the second paragraph of subsection (i)
357 and replacing it with the following paragraph:-

358 For the purposes of this section, "licensed mental health professional" shall mean a
359 licensed physician who specializes in the practice of psychiatry or addiction medicine; a licensed
360 psychologist; a licensed independent clinical social worker; a licensed mental health counselor; a
361 licensed nurse mental health clinical specialist; a licensed physician assistant who practices in
362 the field of psychiatry or addiction medicine; a licensed psychiatric mental health nurse
363 practitioner, other licensed master's level mental health clinician including but not limited to a
364 licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed
365 marriage and family therapist within the lawful scope of practice for such therapist; or a clinician

366 practicing under the supervision of a licensed professional, and working towards licensure, in a
367 clinic or hospital licensed under chapter 111.

368 SECTION 18 . Section 4KK of chapter 176G of the General Laws, as inserted by chapter
369 177 of the acts of 2022, is hereby amended by striking subsection (b) and inserting in place
370 thereof the following subsection: _ -

371 An individual or group health maintenance contract that is issued or renewed within or
372 without the commonwealth shall provide coverage for medically necessary mental health acute
373 treatment, community-based acute treatment and intensive community-based acute treatment and
374 shall not require a preauthorization before the administration of such treatment; provided,
375 however, that the facility shall notify the carrier of the admission and the initial treatment plan
376 within three business days of admission; and provided further that services administered prior to
377 notification must be covered. Notification shall be limited to patient's name, facility name, time
378 of admission, diagnosis, and initial treatment plan.

379 SECTION 19. (a) There shall be a task force to: (i) evaluate ways to ensure the financial
380 stability of inpatient behavioral health units and facilities; (ii) consider the role of inpatient
381 behavioral health units and facilities within the continuum of behavioral health services; and (iii)
382 address current behavioral health workforce challenges. The task force shall consist of the
383 following members: the executive director of the health policy commission, who shall serve as
384 co-chair; the executive director of the center for health information and analysis, who shall serve
385 as co-chair; the assistant secretary for MassHealth or his/her designee, the commissioner of the
386 department of mental health or his/her designee, the commissioner of the department of public
387 health or his/her designee, and 1 representative from each of the following organizations: the

388 Massachusetts Health & Hospital Association; the Massachusetts Psychiatric Society; the
389 Massachusetts Association of Behavioral Health Systems; the Massachusetts Psychological
390 Association; the Massachusetts Association of Advanced Practice Psychiatric Nurses; the
391 National Association of Social Workers-Massachusetts Chapter; and the Massachusetts
392 Association for Mental Health.

393 (b) The task force shall conduct an analysis and issue a report which shall include but not
394 be limited to: (i) a review of the methodologies used for determining reimbursement rates for
395 inpatient hospital behavioral health services provided to MassHealth members including those by
396 MassHealth's contracted health insurers, health plans, behavioral health management firms, and
397 third party administrators under contract to a Medicaid managed care organization or primary
398 care clinician plan; (ii) an analysis of the estimated payment levels associated with MassHealth
399 reimbursement relative to the cost of providing inpatient hospital behavioral health care in acute
400 hospital units and freestanding facilities; (iii) recommended improvements to MassHealth
401 reimbursement for care provided by inpatient behavioral health units and facilities to promote
402 financial stability, including a review of a cost-based method for rate determination; (iv) an
403 assessment of the utility and limitations of incorporating diagnosis-related group DRG
404 classifications in said rate calculation; (v) industry-wide workforce initiatives including, but not
405 limited to, ways to improve recruitment, training, including transitional training opportunities for
406 employment in behavioral health units and facilities and training in new behavioral healthcare
407 modalities including but not limited to telehealth, retention, rates of pay and other methods of
408 ensuring a sustainable, culturally and linguistically-competent behavioral health workforce; and
409 (vi) the role of external economic factors on the development and retention of the behavioral

410 health workforce such as the increases in the minimum wage and competition from other
411 industries.

412 (c) The task force shall convene its first meeting within 30 days after the effective date of
413 this act. The task force shall submit its report, including any proposed legislation necessary to
414 carry out its recommendations, by filing the same with the clerks of the house of representatives
415 and senate, the joint committee on health care financing, the joint committee on mental health,
416 substance use and recovery, the joint committee on labor and workforce development and the
417 house and senate committees on ways and means not later than December 31, 2024.

418 SECTION 20. Notwithstanding any general or special law to the contrary, the health
419 policy commission, the division of medical assistance, four representatives from academic
420 medical centers currently rendering inpatient services in a patient's home, the department of
421 public health and the department of mental health, shall conduct a study and issue a report
422 regarding the design of a behavioral health home hospital program, herein referred to as the
423 program. The study shall include, but not be limited to: (i) the recommendation of patient
424 populations who would be best served by the provision of behavioral healthcare in a home
425 environment; (ii) the identification of healthcare providers who would make up the program care
426 team; (iii) the projected impact of the program on the rate of psychiatric emergency department
427 boarding statewide; (iv) the identification of safety concerns regarding the provision of
428 behavioral healthcare in a home environment and recommendations to address said concerns; (v)
429 the projected impact of the program on the availability of psychiatric hospital beds in the
430 commonwealth; (vi) the projected cost estimates of the program; (vii) a comparison of cost
431 estimates of providing behavioral healthcare in the home versus in a healthcare facility; (viii) an
432 analysis of the quality of patient care received through the program; (ix) the identification of

433 screening protocols before care at home begins to assess medical and non-medical factors,
434 including working utilities, assessment of physical barriers and screenings for domestic violence
435 concerns; (x) recommendations for minimum personnel visits, the provision of immediate, on-
436 demand telehealth connections with program staff; and (xi) recommendations for minimum
437 emergency response times. The report shall be submitted to the governor, the chairs of the joint
438 committee on health care financing, the chairs of the joint committee on mental health, substance
439 use and recovery and the house and senate committees on ways and means no later than July 31,
440 2024.

441 SECTION 21. Notwithstanding any general or special law to the contrary, the division of
442 insurance, in consultation with the division of medical assistance, shall promulgate regulations or
443 issue sub-regulatory guidance, within 30 days of the effective date of this act, to require carriers
444 reimburse acute care hospitals with emergency departments or satellite emergency facilities for
445 the provision of emergency behavioral health services, including but not limited to, behavioral
446 health crisis assessment, intervention, and stabilization services. The regulations or sub-
447 regulatory guidance shall include reimbursement for the provision of emergency behavioral
448 services via telemedicine, electronic or telephonic consultation, in accordance with section 51 ³/₄
449 of chapter 111 of the General Laws. The contractual rate for these services may be no less than
450 the prevailing MassHealth rate for behavioral health emergency department crisis evaluations.
451 This does not preclude a hospital from billing for other medically necessary services traditionally
452 reimbursed through an emergency department visit and is also in addition to required
453 reimbursement by carriers for each day a member waits in an emergency department,
454 observation unit or inpatient floor for placement in an appropriate inpatient psychiatric
455 placement, as required by section 78 of chapter 177 of the acts of 2022. The insurer shall

456 reimburse other medically necessary services and for patients awaiting an inpatient psychiatric
457 placement in addition to payment for emergency behavioral health services. Behavioral health
458 services provided in this setting under this section shall be deemed medically necessary and shall
459 not require prior authorization by an insurer.