

SENATE No. 2142

Tuesday, May 13, 2014 – Text of the Senate Bill to increase opportunities for long-term substance abuse recovery (being the text of Senate, No. 2133, printed as amended).

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Fourteen
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An Act to increase opportunities for long-term substance abuse recovery.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase forthwith the opportunities for long-term substance abuse recovery, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

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 6D of the General Laws is hereby amended by inserting after
2 section 15, the following section:-

3 Section 15A. (a) For the purposes of this subsection, the term “substance use disorder
4 treatment” shall include: early intervention services for substance use disorder treatment;
5 outpatient services including medically assisted therapies; intensive outpatient and partial
6 hospitalization services; residential or inpatient services; clinical stabilization services; acute
7 treatment services; and medically managed intensive inpatient services.

8 The commission, in consultation with the department of public health, shall develop
9 standards of certification for substance use disorder treatment providers. In developing these
10 standards, the commission shall review and make recommendations regarding evidence-based
11 substance use disorder treatments and treatment programs and providers available to consumers
12 in the commonwealth. The commission shall consider and evaluate the substance use disorder
13 treatment services provided by substance use disorder treatment programs and shall determine
14 those programs and treatments which are based on evidence and provide effective and high
15 quality outcomes, as demonstrated in data, studies and peer-reviewed literature; provided, that
16 the review shall consider, at a minimum, services provided by programs subject to licensure or
17 approval under chapters 111B and 111E and sections 24 and 24D of chapter 90, facilities or
18 programs required to comply with the requirements of 105 CMR 164.000, services provided by

19 practitioners that provide opioid agonist therapy; and alcohol and drug counselors subject to
20 licensure under chapter 111J.

21 The commission shall consider best practices of programs and providers that have been
22 demonstrated to achieve optimal patient outcomes and shall consider standards based on the
23 following goals of continuing care management: (1) effective discharge planning and patient
24 education; (2) enabling successful transitions from more intensive to less intensive treatment,
25 based on the medical needs of the patient; (3) regular monitoring of patients' behavior and
26 addressing relapse risks; (4) providing support for co-occurring issues; (5) facilitating ongoing
27 participation in self-help programs; (6) providing and linking to social support; and (7) adapting
28 treatment over time, as needed.

29 To develop the certification standards, the commission shall consult with experts in the
30 field of substance use disorders and treatment who shall have expertise with a range of inpatient
31 and outpatient treatment services and modalities. In addition, the commission shall consult with
32 other local and national experts in substance use disorders and treatment, the director of the
33 bureau of substance abuse services within the department of public health, the medical director
34 of MassHealth, medical directors of health plans in the commonwealth, medical directors of
35 behavioral health managed care organizations, organizations that develop and provide or consult
36 with health plans regarding medical necessity and utilization review criteria, local and national
37 providers of inpatient and outpatient services, including, but not limited to, detoxification and
38 opioid treatment programs, residential rehabilitation services and drug and alcohol counseling
39 services and representatives of consumers who have sought or received such services. The
40 commission shall consult with the department of public health to maximize opportunities for
41 administrative simplification and regulatory consistency.

42 (b) The commission shall develop a procedure, through its regulations, for certifying that
43 a provider of substance use disorder treatment complies with the standards developed under
44 subsection (a). The commission may impose a reasonable application fee upon providers that
45 seek certification.

46 (c) Certification under subsection (b) shall be voluntary. Providers of substance use
47 disorder treatment services shall renew their certification every 2 years under similar terms. In
48 order to maintain the certification, under subsection (b), providers shall file with the commission
49 upon application for recertification and at other times as required by the commission, such data,
50 statistics or other information as the commission may reasonably require for the purpose of
51 determining continued compliance with the standards outlined in subsection (a).

52 SECTION 2. Chapter 12C of the General Laws is hereby amended by inserting after
53 section 21 the following section:-

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

56 SECTION 3. Section 13 of chapter 17 of the General Laws, as appearing in the 2012
57 Official Edition, is hereby amended by striking out the first and second paragraphs and inserting
58 in place thereof the following subsection:-

59 (a) There shall be in the department a drug formulary commission consisting of 13
60 members. The commission shall include: the commissioner of public health or a designee, who
61 shall serve as the chair of the commission; the director of Medicaid or a designee; the
62 commissioner of insurance or a designee; and 10 members appointed by the governor, which
63 shall include: a clinical pharmacist; a pharmaceutical chemist; a clinical pharmacologist; a retail
64 pharmacist; 2 persons with experience in pharmaceutical manufacturing, 1 of whom shall have
65 experience with biologics; 2 practicing physicians; and 2 persons who are not involved in the
66 delivery of health services who shall be representatives of the public. One of the 2 public
67 appointees by reason of age, training, experience and affiliation shall represent the interests of
68 the elderly. None of the members may be employed by a pharmaceutical manufacturing
69 company or private insurer. Members shall serve for a term of 3 years, but a person appointed to
70 fill a vacancy shall serve only for the unexpired term.

71 SECTION 4. Said section 13 of said chapter 17, as so appearing, is hereby further
72 amended by striking out, in line 16, the word "The" and inserting in place thereof the following
73 word:- (b) The.

74 SECTION 5. Said section 13 of said chapter 17, as so appearing, is hereby further
75 amended by inserting after the third paragraph the following 2 paragraphs:-

76 The commission shall also prepare a drug formulary of appropriate substitutions for drugs
77 that are opiates, as defined in section 1 of chapter 94C, and contained in schedule II or III of
78 section 3 of said chapter 94C that the commission has determined have a heightened level of
79 public health risk due to the drug's potential for abuse and misuse. The department shall adopt
80 this drug formulary, as prepared by the commission, by regulation. The formulary shall include
81 formulations of drugs that the commission has determined may be appropriately substituted and
82 that incorporate any of the following abuse deterrent properties:

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

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

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

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

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

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

96 In preparing the formulary, the commission shall consider information contained in drug
97 applications approved by the United States Food and Drug Administration and other regulatory
98 and guidance documents distributed by the United States Food and Drug Administration. A
99 determination of substitution between 2 drug products shall not require that both products
100 incorporate the same methods of abuse deterrence. Inclusion of a drug on the formulary shall not
101 be the basis for a labeling or marketing claim of abuse deterrence potential, unless the United
102 States Food and Drug Administration authorizes such a claim. In considering whether a drug is
103 an appropriate substitution the commission shall consider: the accessibility of the drug and its
104 proposed substitute; whether the drug's substitute is cost prohibitive; and whether, based upon
105 the current patterns of abuse and misuse, the drug's substitute incorporates abuse deterrent
106 technology that will be an effective deterrent to such abuse and misuse. In conducting its
107 analysis, the commission may request an insurance benefit review by the center for health
108 information and analysis.

109 SECTION 6. Said section 13 of said chapter 17, as so appearing, is hereby further
110 amended by striking out, in lines 29, 34 and 39, the word "formulary" and inserting in place
111 thereof, in each instance, the following word:- formularies.

112 SECTION 7. Said section 13 of said chapter 17, as so appearing, is hereby further
113 amended by striking out, in line 44, the word "The" the first time it appears and inserting in place
114 thereof the following word:- (c) The.

115 SECTION 8. Said section 13 of said chapter 17, as so appearing, is hereby further
116 amended by adding the following subsection:-

117 (d) The commission shall also identify drugs that are opiates, as defined in section 1 of
118 chapter 94C, that the commission has determined have a heightened level of public health risk
119 due to the drug's potential for abuse and misuse for which no adequate substitute is available and
120 shall notify the commissioner of public health that such drugs pose a threat to the public's health.

121 SECTION 8A. Chapter 17 of the General Laws is hereby amended by striking out section
122 19, as so appearing, and inserting in place thereof the following section:-

123 Section 19. The department shall promulgate regulations relative to coordination of care
124 and management that includes effective discharge planning for substance use disorder treatment

125 programs subject to licensure or approval under sections 24 and 24D of chapter 90, sections 6
126 and 6A of chapter 111B and section 7 of chapter 111E. The regulations shall include, but not be
127 limited to, a requirement that such substance use disorder treatment providers shall:

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

131 (2) provide a discharge plan to each client leaving a licensed substance use disorder
132 treatment program, which shall include recommended follow-up treatment, contact information
133 for shelters in the area, additional resources for substance use disorder treatment, resources for
134 workforce options, information and links to community and social supports and information on
135 family support services;

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

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

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

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

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

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

152 Section 17M. For the purposes of this section the term "substance abuse treatment" shall
153 include: early intervention services for substance use disorder treatment; outpatient services
154 including medically assisted therapies; intensive outpatient and partial hospitalization services;
155 residential or inpatient services, not covered under section 17N; and medically managed
156 intensive inpatient services, not covered under said section 17N.

157 Any coverage offered by the commission to an active or retired employee of the
158 commonwealth insured under the group insurance commission shall not require a member to

159 obtain a preauthorization for substance abuse treatment if the provider is certified under section
160 15A of chapter 6D.

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

163 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
164 a medically managed or medically monitored facility that provides evaluation and withdrawal
165 management and which may include biopsychosocial assessment, individual and group
166 counseling, psychoeducational groups and discharge planning.

167 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
168 services for substance abuse, which may include intensive education and counseling regarding
169 the nature of addiction and its consequences, relapse prevention, outreach to families and
170 significant others and aftercare planning, for individuals beginning to engage in recovery from
171 addiction.

172 The commission shall provide coverage to any active or retired employee of the
173 commonwealth who is insured under the group insurance commission coverage for medically
174 necessary acute treatment services and medically necessary clinical stabilization services for up
175 to a total of 21 days before initiating utilization review procedures and shall not require
176 preauthorization prior to obtaining such acute treatment services or clinical stabilization services.

177 Medical necessity shall be determined by the substance use disorder treatment facility or
178 the treating clinician in consultation with the patient.

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

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

184 Section 16. (a) The chief medical examiner shall file a report with the federal Food and
185 Drug Administration’s MedWatch Program any time the determined cause of death of an
186 individual was due fully or in part to the ingestion of a schedule II through schedule VI,
187 inclusive, controlled substance, under chapter 94C. A report shall also be sent to the
188 commissioner of public health in a manner determined by the commissioner of public health.

189 (b) On a monthly basis, acute hospitals, as defined in section 64 of chapter 118E, shall
190 file a report with the commissioner of public health in a manner determined by the commissioner
191 of public health. This report shall include the number of infants born in the previous month
192 identified by the hospital as having been exposed to a schedule II through schedule VI, inclusive,
193 controlled substance, under chapter 94C, as well as the number and specific causes of

194 hospitalizations caused by ingestion of a schedule II through schedule VI, inclusive, controlled
195 substance, under said chapter 94C.

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

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

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

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

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

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

219 (f) Upon issuing an order under subsection (a), the commissioner shall forward a copy of
220 the order to the attorney general of the United States to request that the attorney general
221 temporarily place the substance in schedule I under the federal Controlled Substances Act, 21
222 USC § 811(h).

223 (g) Upon issuing an order under subsection (a), the commissioner shall forward a copy of
224 the order to all local and regional boards of health, with guidance that possession or distribution
225 of the substance by any food, retail or other commercial establishment shall constitute an
226 imminent health hazard. While the order is in effect the board of health or an authorized agent,
227 the local inspection department or the equivalent or a municipal government or its agent may,
228 under section 30 of chapter 111 and any regulation promulgated pursuant thereto, take any

229 enforcement action consistent with a finding of an imminent health hazard, up to and including
230 summary suspension of a municipal license or permit held by the establishment including, but
231 not limited to, a permit to operate.

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

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

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

245 SECTION 14. Subsection (e) of section 18 of said chapter 94C, as appearing in the 2012
246 Official Edition, is hereby amended by striking out, in line 101, the word “and (iii)” and inserting
247 in place thereof the following words:- (iii) use of the prescription monitoring program; and (iv).

248 SECTION 15. Said section 18 of said chapter 94C, as so appearing, is hereby further
249 amended by adding the following subsection:-

250 (f) For the purposes of this subsection the term “identified drug” shall mean a drug
251 identified under subsection (d) of section 13 of chapter 17 by the drug formulary commission as
252 posing a heightened level of risk to the public due to the drug’s potential for abuse and misuse.

253 In response to a notification filed by the drug formulary commission under subsection (d)
254 of section 13 of chapter 17, the commissioner of public health may promulgate regulations,
255 including, but not limited to: ensuring that a legitimate patient practitioner relationship exists
256 prior to prescribing the identified drug; requiring practitioners to check the prescription
257 monitoring program, established by section 24A, and review the patient’s prescription history
258 prior to prescribing the identified drug; ensuring that patients and their parents or legal guardians
259 if the patient is a minor have been provided information about the addictive nature of opiates;
260 limiting the quantity of the identified drug that may be prescribed at 1 time; limiting the
261 prescribing of the identified drug in the emergency department; requiring the practitioner to
262 conduct a risk assessment prior to prescribing the identified drug; requiring the practitioner to
263 certify and document that alternative treatment options are inadequate prior to prescribing the
264 identified drug; requiring practitioners to obtain a special certification prior to prescribing the

265 identified drug; limiting the type of practitioner or physician who may prescribe the identified
266 drug; and establishing special continuing education requirements for practitioners who prescribe
267 the identified drug; provided, that the department shall ensure the regulations adopted under this
268 subsection do not limit the ability of patients, who are receiving palliative or non-palliative long-
269 term pain therapy or being treated for cancer or a terminal illness, to obtain necessary pain
270 medication; provided further, that prior to establishing regulations related to an identified drug
271 under this subsection, the department shall determine whether there is an actual pattern of abuse
272 and misuse of the identified drug in the commonwealth or a drug that is substantially similar.

273 SECTION 16. Section 19 of said chapter 94C, as so appearing, is hereby amended by
274 adding the following subsection:-

275 (e) Prior to issuing a prescription, a practitioner shall query the prescription monitoring
276 program, established under section 24A, with respect to an individual patient in the following
277 circumstances:

278 (1) at least annually for patients who are receiving ongoing treatment with an
279 opiate contained in schedule II, III or IV;

280 (2) when starting a patient on an opiate, contained in schedule II, III or IV, for
281 non-palliative long-term pain therapy of 90 days or more;

282 (3) the first time the practitioner prescribes an opiate contained in schedule II, III
283 or IV to treat a patient for chronic pain;

284 (4) prior to writing a replacement prescription for an opiate contained in schedule
285 II, III or IV; and

286 (5) any other scenario mandated by the department through regulation.

287 SECTION 17. Subsection (c) of section 24A of said chapter 94C is hereby amended by
288 striking out the first sentence, as appearing in section 87 of chapter 38 of the acts of 2013, and
289 inserting in place thereof the following 2 sentences:- The department shall promulgate rules and
290 regulations relative to the use of the prescription monitoring program by registered participants.
291 The rules and regulations shall be consistent with subsection (e) of section 19.

292 SECTION 18. Said section 24A of said chapter 94C, as appearing in the 2012 Official
293 Edition, is hereby amended by adding the following subsection:-

294 (l) Upon receiving a report of an overdose-related death from the chief medical examiner,
295 under section 16 of chapter 38, or a report of examination or treatment of a person with injuries
296 resulting from an opiate, illegal or illicit drug overdose, under section 12A of chapter 112, the
297 department shall review the prescription monitoring program to determine if a notification
298 should be made under subsection (e).

299 SECTION 19. Section 12A of chapter 112 of the General Laws, as so appearing, is
300 hereby amended by striking out, in lines 32 and 33, the words “de-identified, aggregate
301 information in a manner to be determined in conjunction with the department of public health”
302 and inserting in place thereof the following words:- information related to the incident to the
303 commissioner of public health in a manner determined by the commissioner that complies with
304 42 U.S.C. § 290dd-2, 42 C.F.R. Part 2 and 45 C.F.R. § 164.512. The department of public health
305 may promulgate regulations to enforce this section and to ensure that serious adverse drug events
306 are reported to the federal Food and Drug Administration’s MedWatch Program.

307 SECTION 20. Section 12D of said chapter 112, as so appearing, is hereby amended by
308 inserting after the definition of “Department” the following definition:- “Interchangeable abuse
309 deterrent drug product”, a drug with abuse deterrent properties identified by the drug formulary
310 commission as an appropriate substitute for a drug that the commission has determined poses a
311 heightened level of risk to the public due to the drug’s potential for abuse and misuse under
312 subsection (b) of section 13 of chapter 17.

313 SECTION 21. The fourth paragraph of said section 12D of said chapter 112, as so
314 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
315 following sentence:- Except in cases where the practitioner has indicated “no substitution”, the
316 pharmacist shall dispense: an interchangeable abuse deterrent product if one exists; or, if none
317 exists, a less expensive, reasonably available, interchangeable drug product as allowed by the
318 most current formularies or supplement thereof.

319 SECTION 22. Said section 12D of said chapter 112, as so appearing, is hereby further
320 amended by striking out, in lines 30 and 31, the words “the pharmacist dispense a brand name
321 drug product” and inserting in place thereof the following words:- no substitution be made.

322 SECTION 23. Chapter 118E of the General Laws is hereby amended by inserting after
323 section 10G the following section:-

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

326 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
327 a medically managed or medically monitored facility that provides evaluation and withdrawal
328 management and which may include biopsychosocial assessment, individual and group
329 counseling, psychoeducational groups and discharge planning.

330 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
331 services for substance abuse, which may include intensive education and counseling regarding
332 the nature of addiction and its consequences, relapse prevention, outreach to families and
333 significant others and aftercare planning, for individuals beginning to engage in recovery from
334 addiction.

335 The division and its contracted health insurers, health plans, health maintenance
336 organizations, behavioral health management firms and third party administrators under contract
337 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
338 medically necessary acute treatment services and shall not require a preauthorization prior to
339 obtaining treatment.

340 The division and its contracted health insurers, health plans, health maintenance
341 organizations, behavioral health management firms and third party administrators under contract
342 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
343 medically necessary clinical stabilization services for up to 15 days before initiating utilization
344 review procedures and shall not require preauthorization prior to obtaining clinical stabilization
345 services.

346 Medical necessity shall be determined by the substance use disorder treatment facility or
347 the treating clinician in consultation with the patient.

348 SECTION 24. Section 47B of chapter 175 of the General Laws, as appearing in the 2012
349 Official Edition, is hereby amended by inserting after the word “specialist”, in line 114, the
350 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
351 111J,.

352 SECTION 25. Chapter 175 of the General Laws is hereby amended by inserting after
353 section 47DD the following 3 sections:-

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

360 Section 47FF. For the purposes of this section the term “substance abuse treatment” shall
361 include: early intervention services for substance use disorder treatment; outpatient services
362 including medically assisted therapies; intensive outpatient and partial hospitalization services;
363 residential or inpatient services, not covered under section 47GG; and medically managed
364 intensive inpatient services, not covered under said section 47GG.

365 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
366 renewed within the commonwealth shall not require a member to obtain a preauthorization for
367 substance abuse treatment if the provider is certified under section 15A of chapter 6D.

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

370 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
371 a medically managed or medically monitored facility that provides evaluation and withdrawal
372 management and which may include biopsychosocial assessment, individual and group
373 counseling, psychoeducational groups and discharge planning.

374 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
375 services for substance abuse, which may include intensive education and counseling regarding
376 the nature of addiction and its consequences, relapse prevention, outreach to families and
377 significant others and aftercare planning, for individuals beginning to engage in recovery from
378 addiction.

379 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
380 renewed within the commonwealth shall provide coverage for medically necessary acute
381 treatment services and medically necessary clinical stabilization services for up to a total of 21
382 days before initiating utilization review procedures and shall not require preauthorization prior to
383 obtaining acute treatment services or clinical stabilization services.

384 Medical necessity shall be determined by the substance use disorder treatment facility or
385 the treating clinician in consultation with the patient.

386 SECTION 26. Section 8A of chapter 176A of the General Laws, as appearing in the 2012
387 Official Edition, is hereby amended by inserting after the word “specialist”, in line 116, the
388 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
389 111J,.

390 SECTION 27. Chapter 176A of the General Laws is hereby amended by inserting after
391 section 8FF the following 3 sections:-

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

398 Section 8HH. For the purposes of this section the term “substance abuse treatment” shall
399 include: early intervention services for substance use disorder treatment; outpatient services
400 including medically assisted therapies; intensive outpatient and partial hospitalization services;
401 residential or inpatient services, not covered under section 8II; and medically managed intensive
402 inpatient services, not covered under said section 8II.

403 Any contract between a subscriber and the corporation under an individual or group
404 hospital service plan which is delivered, issued or renewed within the commonwealth shall not

405 require a member to obtain a preauthorization for substance abuse treatment if the provider is
406 certified under section 15A of chapter 6D.

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

409 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
410 a medically managed or medically monitored facility that provides evaluation and withdrawal
411 management and which may include biopsychosocial assessment, individual and group
412 counseling, psychoeducational groups and discharge planning.

413 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
414 services for substance abuse, which may include intensive education and counseling regarding
415 the nature of addiction and its consequences, relapse prevention, outreach to families and
416 significant others and aftercare planning, for individuals beginning to engage in recovery from
417 addiction.

418 Any contract between a subscriber and the corporation under an individual or group
419 hospital service plan which is delivered, issued or renewed within the commonwealth shall
420 provide coverage for medically necessary acute treatment services and medically necessary
421 clinical stabilization services for up to a total of 21 days before initiating utilization review
422 procedures and shall not require preauthorization prior to obtaining acute treatment services or
423 clinical stabilization services.

424 Medical necessity shall be determined by the substance use disorder treatment facility or
425 the treating clinician in consultation with the patient.

426 SECTION 28. Section 4A of chapter 176B of the General Laws, as appearing in the 2012
427 Official Edition, is hereby amended by inserting after the word “specialist”, in line 114, the
428 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
429 111J,.

430 SECTION 29. Chapter 176B of the General Laws is hereby amended by inserting after
431 section 4FF the following 3 sections:-

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

438 Section 4HH. For the purposes of this section the term “substance abuse treatment” shall
439 include: early intervention services for substance use disorder treatment; outpatient services

440 including medically assisted therapies; intensive outpatient and partial hospitalization services;
441 residential or inpatient services, not covered under section 4II; and medically managed intensive
442 inpatient services, not covered under said section 4II.

443 Any subscription certificate under an individual or group medical service agreement
444 delivered, issued or renewed within the commonwealth shall not require a member to obtain a
445 preauthorization for substance abuse treatment if the provider is certified under section 15A of
446 chapter 6D.

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

449 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
450 a medically managed or medically monitored facility that provides evaluation and withdrawal
451 management and which may include biopsychosocial assessment, individual and group
452 counseling, psychoeducational groups and discharge planning.

453 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
454 services for substance abuse, which may include intensive education and counseling regarding
455 the nature of addiction and its consequences, relapse prevention, outreach to families and
456 significant others and aftercare planning, for individuals beginning to engage in recovery from
457 addiction.

458 Any subscription certificate under an individual or group medical service agreement
459 delivered, issued or renewed within the commonwealth shall provide coverage for medically
460 necessary acute treatment services and medically necessary clinical stabilization services for up
461 to a total of 21 days before initiating utilization review procedures and shall not require
462 preauthorization prior to obtaining acute treatment services or clinical stabilization services.

463 Medical necessity shall be determined by the substance use disorder treatment facility or
464 the treating clinician in consultation with the patient.

465 SECTION 30. Section 4M of chapter 176G of the General Laws, as appearing in the
466 2012 Official Edition, is hereby amended by inserting after the word “specialist”, in line 110, the
467 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
468 111J,.

469 SECTION 31. Chapter 176G of the General Laws is hereby amended by inserting after
470 section 4X the following 3 sections:-

471 Section 4Y. An individual or group health maintenance contract that is issued or renewed
472 shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled
473 under subsection (b) of section 13 of chapter 17, on a basis not less favorable than non-abuse
474 deterrent opioid drug products that are covered by an individual or group health maintenance

475 contract. An increase in patient cost sharing shall not be allowed to achieve compliance with this
476 section.

477 Section 4Z. For the purposes of this section the term “substance abuse treatment” shall
478 include: early intervention services for substance use disorder treatment; outpatient services
479 including medically assisted therapies; intensive outpatient and partial hospitalization services;
480 residential or inpatient services, not covered under section 4AA; and medically managed
481 intensive inpatient services, not covered under said section 4AA.

482 An individual or group health maintenance contract that is issued or renewed shall not
483 require a member to obtain a preauthorization for substance abuse treatment if the provider is
484 certified under section 15A of chapter 6D.

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

487 “Acute treatment services”, 24 hour medically supervised addiction treatment provided in
488 a medically managed or medically monitored facility that provides evaluation and withdrawal
489 management and which may include biopsychosocial assessment, individual and group
490 counseling, psychoeducational groups and discharge planning.

491 “Clinical stabilization services”, 24-hour treatment, usually following acute treatment
492 services for substance abuse, which may include intensive education and counseling regarding
493 the nature of addiction and its consequences, relapse prevention, outreach to families and
494 significant others and aftercare planning, for individuals beginning to engage in recovery from
495 addiction.

496 An individual or group health maintenance contract that is issued or renewed shall
497 provide coverage for medically necessary acute treatment services and medically necessary
498 clinical stabilization services for up to a total of 21 days before initiating utilization review
499 procedures and shall not require preauthorization prior to obtaining acute treatment services or
500 clinical stabilization services.

501 Medical necessity shall be determined by the substance use disorder treatment facility or
502 the treating clinician in consultation with the patient.

503 SECTION 32. The department of public health shall submit a report, not later than
504 January 5, 2015, to the clerks of the house and senate, who shall forward the report to the house
505 and senate committees on ways and means, the joint committee on health care financing and the
506 joint committee on mental health and substance abuse. The report shall include, but not be
507 limited to the following information: an analysis of whether practitioners are using the
508 prescription monitoring program prior to prescribing drugs contained in schedule II; the number
509 of violations of law or breaches of professional standards that were referred to law enforcement

510 or a professional licensing, certification or regulatory agency or entity, under 105 CMR 700.012
511 (D) (5)(a), between January 1, 2013 and November 1, 2014; the type of violations of law or
512 breaches of professional standards that were referred to an outside entity between January 1,
513 2013 and November 1, 2014; the outcome of the referrals; and recommendations about how to
514 improve the use of the prescription monitoring program's data to establish best practices for
515 prescribing, to identify indicators of risk for addiction and to prevent prescription drug abuse
516 and the diversion of prescription drugs.

517 The department of public health shall submit a report, not later than January 4, 2016, to
518 the clerks of the house and senate, who shall forward the report to the house and senate
519 committees on ways and means, the joint committee on health care financing and the joint
520 committee on mental health and substance abuse. The report shall include, but not be limited to,
521 the following information: an analysis of whether practitioners are using the prescription
522 monitoring program prior to prescribing drugs contained in schedule II; the number of violations
523 of law or breaches of professional standards that were referred to law enforcement or a
524 professional licensing, certification or regulatory agency or entity, under 105 CMR 700.012 (D)
525 (5)(a), between November 2, 2014 and December 15, 2015; the type of violations of law or
526 breaches of professional standards that were referred to an outside entity between November 2,
527 2014 and December 15, 2015; the outcome of the referrals; recommendations about how to
528 improve the use of prescription monitoring program's data to prevent prescription drug abuse
529 and the diversion of prescription drugs; and an explanation of how the department has improved
530 its use of the prescription monitoring program's data over the past year.

531 SECTION 33. There shall be a commission to study and examine the feasibility of
532 requiring insurance providers in the commonwealth, including MassHealth, to monitor and limit
533 the use of opiates, as defined in section 1 of chapter 94C of the General Laws. The commission
534 shall consist of: the commissioner of public health, or a designee; the director of the office of
535 Medicaid, or a designee; the president of the board of registration in pharmacy, or a designee; a
536 representative from the board of registration in medicine; a representative from the division of
537 insurance; a representative from the group insurance commission; and an oncologist, a physician,
538 an advanced practice nurse, a health economist, a physician specializing in pain management and
539 a professor of medicine, each of whom shall be appointed by the governor.

540 The commission shall investigate the public benefit to mandating that insurance providers
541 monitor and limit policy holders' use of schedule II and schedule III opiates, as defined in
542 section 1 of chapter 94C of the General Laws. The investigation shall include, but not be limited
543 to: (i) a review of the system implemented by blue cross blue shield that limits certain
544 individual's ability to fill more than 2 15-day prescriptions in a 60 day period; (ii) an analysis of
545 whether the blue cross blue shield model hinders patients' access to necessary pain medication;
546 (iii) a cost-benefit analysis of permitting insurance providers to restrict prescription coverage of
547 schedule II and III opiates and consideration of what role the commonwealth should have in
548 regulating access to schedule II and III opiates; (iv) a recommendation about how best to

549 implement the blue cross blue shield model on a statewide basis; and (v) alternatives to the blue
550 cross blue shield model that will limit the over prescription of schedule II and schedule III
551 opiates without limiting patients' access to necessary pain medication.

552 The commission shall file a report on its findings and recommendations, together with
553 any draft legislation, with the clerks of the house of representatives and the senate, the chairs of
554 the joint committee on health care financing, and the chairs of the house and senate committees
555 on ways and means, not later than March 15, 2015.

556 SECTION 34. The department of public health shall compile a list of prescription drug
557 drop boxes and other safe locations to dispose of prescription drugs within the commonwealth.
558 The list shall be published on the department's website, not later than January 2, 2015, and shall
559 be updated on a regular basis.

560 The department shall compile a list of counties within the commonwealth that do not
561 have a prescription drug drop box or other safe location to dispose of prescription drugs. The
562 department shall file the list with the house and senate clerks, who shall forward the list to the
563 senate and house committees on ways and means and the joint committee on mental health and
564 substance abuse, not later than January 2, 2015.

565 SECTION 35. The commissioner of public health shall file a report with the senate
566 president, the speaker of the house, the clerks of the house of representatives and the senate, the
567 chairs of the joint committee on health care financing and the chairs of the house and senate
568 committees on ways and means, not later than 30 days from the effective date of this act. The
569 report shall: detail the progress made by the joint policy working group on completing the report
570 required by section 21 of chapter 244 of the acts of 2012; detail any preliminary findings made
571 by the joint policy work group; identify the members of the joint policy work group; and identify
572 the date that the report shall be completed, which shall not be later than March 15, 2015.

573 SECTION 36. The center for health information and analysis shall conduct a review of the
574 accessibility of substance use disorder treatment and adequacy of insurance coverage in the
575 commonwealth and shall issue a report, not later than February 15, 2015. The review shall be
576 posted on the center's website and shall be filed with the house of representatives and senate
577 clerks, the house and senate committees on ways and means and the health policy commission.

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

584 SECTION 37. The health policy commission shall issue a report recommending policies
585 intended to ensure access to and coverage for substance use disorder treatment throughout the
586 commonwealth, which shall be filed with the clerks of the house of representatives and the
587 senate and shall be available on the general court's website, not later than May 30, 2015. In
588 preparing the report, the commission shall consider the report of the center for health information
589 and analysis, under section 36, and the recommendations of the senate special committee on drug
590 abuse and treatment options, established by a senate order adopted on January 16, 2014. The
591 commission shall provide opportunity for public comment during the development of this report.
592 The report shall include but not be limited to: (1) specific legislation or regulatory changes
593 recommended, including appropriate coverage mandates; and (2) recommendations for the
594 continuing study of substance use disorder by the center for health information and analysis,
595 under section 21A of chapter 12C of the General Laws, including appropriate data collection and
596 sharing activities.

597 SECTION 38. The center for health information and analysis shall conduct a mandated
598 benefit review consistent with section 38C of chapter 3 of the General Laws: (a) mandating that
599 insurance companies reimburse providers for medication assisted opioid treatment, such as
600 methadone, buprenorphine and extended-release naltrexone; and (b) mandating that insurance
601 companies reimburse providers for mental health and substance use disorder screening when a
602 primary care physician deems it necessary.

603 SECTION 39. The center for health information and analysis shall conduct a review and
604 evaluation of the mandated insurance benefits in sections 9, 10 and 24 to 31, inclusive, of this act,
605 under section 38C of chapter 3 of the General Laws; provided, that said report shall include an
606 estimate of costs to the state under 45 C.F.R. § 155.170. The review and evaluation shall be
607 posted on the center's website and shall be filed with the clerks of the senate and the house of
608 representatives and the house and senate committees on ways and means, not later than 90 days
609 from the effective date of this act.

610 SECTION 39A. The division of medical assistance shall conduct a review and evaluation
611 of the mandated benefit in section 23 and shall file a report with the clerks of the senate and the
612 house of representatives and the house and senate committees on ways and means, not later than
613 90 days from the effective date of this act. The report's analysis and evaluation of the mandated
614 benefit in said section 23 shall include, but not be limited to: the financial impact to the
615 commonwealth of mandating the benefit, including the extent to which the proposed coverage
616 would increase or decrease the cost of the treatment or service over the next 5 years; the extent to
617 which the proposed coverage might increase the appropriate or inappropriate use of the treatment
618 or service over the next 5 years; the extent to which the mandated treatment or service might
619 serve as an alternative for more expensive or less expensive treatment or service; the extent to
620 which the coverage may affect the number and types of providers of the mandated treatment or
621 service over the next 5 years; the effects of mandating the benefit on the cost of health care; the
622 cost to health care consumers of not mandating the benefit in terms of out of pocket costs for

623 treatment or delayed treatment; the effect on the overall cost of the health care delivery system in
624 the commonwealth; and the medical efficacy of mandating the benefit, including the impact of
625 the benefit to the quality of patient care and the health status of the population and the results of
626 any research demonstrating the medical efficacy of the treatment or service compared to
627 alternative treatments or services or not providing the treatment or service. The division of
628 medical assistance shall consult with the center for health information and analysis in creating
629 the report to maximize opportunities for administrative simplification.

630 SECTION 40. The center for health information and analysis shall conduct a review and
631 issue a report, not later than 60 days from the effective date of this act, on the rates of denial for
632 substance use disorder treatment coverage by commercial insurers. The report shall be posted on
633 the center's website and shall be filed with the house of representatives and senate clerks, the
634 house and senate committees on ways and means, the joint committee on mental health and
635 substance abuse and the health policy commission.

636 SECTION 41. In carrying out its responsibilities under this act, the center for health
637 information and analysis and the health policy commission may use all department of public
638 health data; provided, that such data shall not be a public record and the health policy
639 commission and the center for health information and analysis shall protect the privacy of any
640 protected health information in accordance with federal and state laws and applicable rules and
641 regulations.

642 SECTION 42. The health policy commission shall report on the results of its review and
643 recommended certification standards, under section 15A of chapter 6D of the General Laws, to
644 the department of public health, the department of mental health, the division of insurance and
645 the joint committee on mental health and substance abuse, not later than April 1, 2015.

646 SECTION 43. Notwithstanding any general or special law to the contrary, the governor
647 shall appoint the new members to the drug formulary commission, under section 13 of chapter 17
648 of the General Laws, not later than 30 days from the effective date of this act. Of the 4 new
649 appointments under said section 13 of said chapter 17, 2 shall be appointed for a term of 3 years;
650 1 shall be appointed for a term of 2 years; and 1 shall be appointed for a term of 1 year. As the
651 term of a member expires the successor shall be appointed to serve for a term of 3 years.

652 SECTION 44. The division shall implement section 23 subject to all required federal
653 approvals.

654 SECTION 45. Notwithstanding any general or special law to the contrary, the drug
655 formulary commission shall issue the first draft of its formulary of abuse deterrent drugs that are
656 an appropriate substitute for drugs that are opiates and pose a risk to the public's health, under
657 subsection (b) of section 13 of chapter 17 of the General Laws, not later than 120 days from the
658 effective date of this act.

659 SECTION 45A. Notwithstanding any general or special law to the contrary, the
660 department of public health shall promulgate regulations, which shall apply to: any programs that
661 are subject to licensure or approval under chapters 111B and 111E of the General Laws; any
662 programs that are subject to licensure or approval under section 24 of chapter 90 of the General
663 Laws; facilities or programs required to comply with the requirements of 105 CMR 164.000;
664 services provided by practitioners that provide opioid agonist therapy; and alcohol and drug
665 counselors subject to licensure under chapter 111J. The regulations shall require that said
666 providers, at the time of an individual's admission into substance abuse treatment, provide
667 information on family support services. For the purposes of this section, the term "family support
668 services" shall include any service that provides family or group therapies or social or
669 educational services for adults and adolescents.

670 SECTION 45B. There shall be a commission to study and examine substance abuse
671 treatment programs and providers within the correctional system in the commonwealth. The
672 commission shall consist of: the secretary of administration and finance, or a designee; the
673 commissioner of public health, or a designee; the director of the office of Medicaid, or a
674 designee; the director of the bureau of substance abuse services, or a designee; the commissioner
675 of the department of correction, or a designee; the chair of the parole board, or a designee; the
676 commissioner of probation, or a designee; a representative from the Massachusetts sheriffs'
677 association; a representative from Prisoners' Legal Services of Massachusetts; a representative
678 from the American Civil Liberties Union of Massachusetts; the senate chair of the joint
679 committee on public safety and homeland security; 1 senator appointed by the senate minority
680 leader; 1 representative appointed by the speaker of the house; and 1 member of the house of
681 representatives appointed by the house minority leader.

682 The commission shall investigate ways to improve and expand programs to treat
683 incarcerated individuals with substance addictions. The investigation shall include, but not be
684 limited to: (i) a survey of the statewide system, including existing programs in prisons and
685 houses of correction; (ii) an analysis comparing capacity to need at each prison and house of
686 correction; (iii) standards for certification and evaluation of such programs and treatments, based
687 on evidence and research; (iv) the cost associated with conducting substance abuse screenings of
688 all newly admitted persons to prisons and houses of correction, and making treatment available
689 to all such persons who request it; and (v) research into possible funding sources for such
690 programs, including Medicaid funding for eligible participants.

691 The commission shall file a report on its findings and recommendations, together with
692 any draft legislation, with the clerks of the house of representatives and the senate, the chairs of
693 the joint committee on health care financing, the chairs of the joint committee on public safety
694 and homeland security, and the house and senate committees on ways and means, not later than
695 March 15, 2015.

696 SECTION 46. Sections 9, 10 and 23 to 31, inclusive, shall take effect on August 1, 2015.

697 SECTION 47. Sections 13, 21 and 22 shall take effect 6 months from the effective date of
698 this act.