

SENATE No. 2341

SENATE, Thursday, July 31, 2014 – Text of the further Senate amendment (Senator Flanagan) to the Senate Bill to increase opportunities for long-term substance abuse recovery (Senate, No. 2142).

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

1 SECTION 1. Chapter 12C of the General Laws is hereby amended by inserting after
2 section 21 the following section:-

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

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

8 (a) There shall be in the department a drug formulary commission consisting of 16
9 members. The commission shall include: the commissioner of public health or a designee, who
10 shall serve as the chair of the commission; the director of Medicaid or a designee; the
11 commissioner of insurance or a designee; and 10 members appointed by the governor, which
12 shall include: a clinical pharmacist; a pharmaceutical chemist; a clinical pharmacologist; a retail
13 pharmacist; a person with experience in insurance pharmacy benefit design; 2 persons with
14 experience in pharmaceutical manufacturing, 1 of whom shall have experience with biologics; 4
15 practicing physicians, 1 of whom shall specialize in addiction medicine and 1 of whom shall
16 specialize in the treatment of chronic pain; and 2 persons who are not involved in the delivery of
17 health services who shall be representatives of the public. One of the 2 public appointees by
18 reason of age, training, experience and affiliation shall represent the interests of the elderly.
19 None of the members may be employed by a pharmaceutical manufacturing company or private
20 insurer. Members shall serve for a term of 3 years, but a person appointed to fill a vacancy shall
21 serve only for the unexpired term.

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

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

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

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

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

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

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

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

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

47 In preparing the formulary, the commission shall consider information contained in drug
48 applications approved by the United States Food and Drug Administration and other regulatory
49 and guidance documents distributed by the United States Food and Drug Administration. A
50 determination of substitution between 2 drug products shall not require that both products
51 incorporate the same methods of abuse deterrence. Inclusion of a drug on the formulary shall not
52 be the basis for a labeling or marketing claim of abuse deterrence potential, unless the United
53 States Food and Drug Administration authorizes such a claim. In considering whether a drug is a
54 chemically equivalent substitution the commission shall consider: the accessibility of the drug
55 and its proposed substitute; whether the drug's substitute is cost prohibitive; the effectiveness of
56 the substitution; and whether, based upon the current patterns of abuse and misuse, the drug's
57 substitute incorporates abuse deterrent technology that will be an effective deterrent to such
58 abuse and misuse. In conducting its analysis, the commission may request an insurance benefit
59 review by the center for health information and analysis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

126 "Clinical stabilization services", 24-hour clinically managed post detoxification treatment
127 for adults or adolescents, as defined by the department of public health, usually following acute

128 treatment services for substance abuse, which may include intensive education and counseling
129 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
130 and significant others and aftercare planning, for individuals beginning to engage in recovery
131 from addiction.

132 The commission shall provide to any active or retired employee of the commonwealth
133 who is insured under the group insurance commission coverage for medically necessary acute
134 treatment services and medically necessary clinical stabilization services for up to a total of 14
135 days and shall not require preauthorization prior to obtaining such acute treatment services or
136 clinical stabilization services; provided that, the facility shall provide the carrier both notification
137 of admission and the initial treatment plan within 48 hours of admission; provided further, that
138 utilization review procedures may be initiated on day 7.

139 Medical necessity shall be determined by the treating clinician in consultation with the
140 patient and noted in the patient's medical record.

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

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

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

151 (b) On a monthly basis, acute hospitals, as defined in section 64 of chapter 118E, shall
152 file a report with the commissioner of public health in a manner determined by the commissioner
153 of public health. This report shall include the number of infants born in the previous month
154 identified by the hospital as having been exposed to a schedule II through schedule VI, inclusive,
155 controlled substance, under chapter 94C, as well as the number and specific causes of
156 hospitalizations caused by ingestion of a schedule II through schedule VI, inclusive, controlled
157 substance, under said chapter 94C.

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

160 Section 2A. (a) Notwithstanding section 2, the commissioner may, by order, place a
161 substance in schedule I on a temporary basis if the commissioner finds: (i) it is necessary to
162 avoid an imminent hazard to the public safety; (ii) it is necessary for the preservation of the

163 public health, safety or general welfare; (iii) the substance is not listed in any other schedule
164 identified in section 3; (iv) no exception is in effect for the substance pursuant to section 4; and
165 (v) the substance is not excluded under subsection (c) of section 2.

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

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

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

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

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

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

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

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

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

208 SECTION 14. Section 24A of said chapter 94C, as appearing in the 2012 Official
209 Edition, is hereby amended by adding the following subsection:-

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

215 SECTION 15. Section 12A of chapter 112 of the General Laws, as so appearing, is
216 hereby amended by striking out, in lines 32 to 34, inclusive, the words “de-identified, aggregate
217 information in a manner to be determined in conjunction with the department of public health”
218 and inserting in place thereof the following words:- information related to the incident to the
219 commissioner of public health in a manner determined by the commissioner that complies with
220 42 U.S.C. section 290dd-2, 42 C.F.R. Part 2 and 45 C.F.R. section 164.512. The department of
221 public health may promulgate regulations to enforce this section and to ensure that serious
222 adverse drug events are reported to the Food and Drug Administration’s MedWatch Program.

223 SECTION 16. Section 12D of said chapter 112, as so appearing, is hereby amended by
224 inserting after the definition of “Department” the following definition:- “Interchangeable abuse
225 deterrent drug product”, a drug with abuse deterrent properties identified by the drug formulary
226 commission as an appropriate substitute for a drug that the commission has determined poses a
227 heightened level of risk to the public due to the drug's potential for abuse and misuse pursuant to
228 subsection (b) of section 13 of chapter 17.

229 SECTION 17. The fourth paragraph of said section 12D of said chapter 112, as so
230 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
231 following sentence:- Except in cases where the practitioner has indicated “no substitution”, the
232 pharmacist shall dispense: an interchangeable abuse deterrent product if one exists; or, if none

233 exists, a less expensive, reasonably available, interchangeable drug product as allowed by the
234 most current formulary or supplement thereof.

235 SECTION 18. Said section 12D of said chapter 112, as so appearing, is hereby further
236 amended by striking out, in lines 30 and 31, the words “the pharmacist dispense a brand name
237 drug product” and inserting in place thereof the following words:- no substitution be made.

238 SECTION 19. Chapter 118E of the General Laws is hereby amended by inserting after
239 section 10G the following section:-

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

242 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
243 or adolescents provided in a medically managed or medically monitored inpatient facility, as
244 defined by the department of public health, that provides evaluation and withdrawal management
245 and which may include biopsychosocial assessment, individual and group counseling,
246 psychoeducational groups and discharge planning.

247 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
248 for adults or adolescents, as defined by the department of public health, usually following acute
249 treatment services for substance abuse, which may include intensive education and counseling
250 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
251 and significant others and aftercare planning, for individuals beginning to engage in recovery
252 from addiction.

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

258 The division and its contracted health insurers, health plans, health maintenance
259 organizations, behavioral health management firms and third party administrators under contract
260 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
261 medically necessary clinical stabilization services for up to 14 days and shall not require
262 preauthorization prior to obtaining clinical stabilization services; provided that the facility shall
263 provide the carrier both notification of admission and the initial treatment plan within 48 hours
264 of admission; provided further, that utilization review procedures may be initiated on day 7.

265 Medical necessity shall be determined by the treating clinician in consultation with the
266 patient and noted in the patient’s medical record.

267 SECTION 20. Section 47B of chapter 175 of the General Laws, as appearing in the 2012
268 Official Edition, is hereby amended by inserting after the word “specialist”, in line 114, the
269 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
270 111J,.

271 SECTION 21. Chapter 175 of the General Laws is hereby amended by inserting after
272 section 47DD the following 3 sections:-

273 Section 47EE. Any policy, contract, agreement, plan or certificate of insurance issued,
274 delivered or renewed within the commonwealth, which is considered creditable coverage under
275 section 1 of chapter 118M, shall provide coverage for abuse deterrent opioid drug products listed
276 on the formulary, compiled pursuant to subsection (b) of section 13 of chapter 17, on a basis not
277 less favorable than non-abuse deterrent opioid drug products that are covered by such policy,
278 contract, agreement, plan or certificate of insurance. An increase in patient cost sharing shall not
279 be allowed to achieve compliance with this section.

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

285 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
286 renewed within the commonwealth, which is considered creditable coverage under section 1 of
287 chapter 118M, shall not require a member to obtain a preauthorization for substance abuse
288 treatment if the provider is certified or licensed by the department of public health.

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

291 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
292 or adolescents provided in a medically managed or medically monitored inpatient facility, as
293 defined by the department of public health, that provides evaluation and withdrawal management
294 and which may include biopsychosocial assessment, individual and group counseling,
295 psychoeducational groups and discharge planning.

296 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
297 for adults or adolescents, as defined by the department of public health, usually following acute
298 treatment services for substance abuse, which may include intensive education and counseling
299 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
300 and significant others and aftercare planning, for individuals beginning to engage in recovery
301 from addiction.

302 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
303 renewed within the commonwealth, which is considered creditable coverage under section 1 of
304 chapter 118M, shall provide coverage for medically necessary acute treatment services and
305 medically necessary clinical stabilization services for up to a total of 14 days and shall not
306 require preauthorization prior to obtaining acute treatment services or clinical stabilization
307 services; provided that the facility shall provide the carrier both notification of admission and the
308 initial treatment plan within 48 hours of admission; provided further, that utilization review
309 procedures may be initiated on day 7.

310 Medical necessity shall be determined by the treating clinician in consultation with the
311 patient and noted in the patient's medical record.

312 SECTION 22. Section 8A of chapter 176A of the General Laws, as appearing in the 2012
313 Official Edition, is hereby amended by inserting after the word "specialist", in line 116, the
314 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
315 111J,.

316 SECTION 23. Chapter 176A of the General Laws is hereby amended by inserting after
317 section 8FF the following 3 sections:-

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

325 Section 8HH. For the purposes of this section the term "substance abuse treatment" shall
326 include: early intervention services for substance use disorder treatment; outpatient services
327 including medically assisted therapies; intensive outpatient and partial hospitalization services;
328 residential or inpatient services, not covered under section 8II; and medically managed intensive
329 inpatient services, not covered under said section 8II.

330 Any contract between a subscriber and the corporation under an individual or group
331 hospital service plan which is delivered, issued or renewed within the commonwealth shall not
332 require a member to obtain a preauthorization for substance abuse treatment if the provider is
333 certified or licensed by the department of public health.

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

336 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
337 or adolescents provided in a medically managed or medically monitored inpatient facility, as
338 defined by the department of public health, that provides evaluation and withdrawal management
339 and which may include biopsychosocial assessment, individual and group counseling,
340 psychoeducational groups and discharge planning.

341 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
342 for adults or adolescents, as defined by the department of public health, usually following acute
343 treatment services for substance abuse, which may include intensive education and counseling
344 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
345 and significant others and aftercare planning, for individuals beginning to engage in recovery
346 from addiction.

347 Any contract between a subscriber and the corporation under an individual or group
348 hospital service plan which is delivered, issued or renewed within the commonwealth shall
349 provide coverage for medically necessary acute treatment services and medically necessary
350 clinical stabilization services for up to a total of 14 days and shall not require preauthorization
351 prior to obtaining acute treatment services or clinical stabilization services; provided that the
352 facility shall provide the carrier both notification of admission and the initial treatment plan
353 within 48 hours of admission; provided further, that utilization review procedures may be
354 initiated on day 7.

355 Medical necessity shall be determined by the treating clinician in consultation with the
356 patient and noted in the patient’s medical record.

357 SECTION 24. Section 4A of chapter 176B of the General Laws, as appearing in the 2012
358 Official Edition, is hereby amended by inserting after the word “specialist”, in line 114, the
359 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
360 111J,.

361 SECTION 25. Chapter 176B of the General Laws is hereby amended by inserting after
362 section 4FF the following 3 sections:-

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

369 Section 4HH. For the purposes of this section the term “substance abuse treatment” shall
370 include: early intervention services for substance use disorder treatment; outpatient services
371 including medically assisted therapies; intensive outpatient and partial hospitalization services;

372 residential or inpatient services, not covered under section 4II; and medically managed intensive
373 inpatient services, not covered under said section 4II.

374 Any subscription certificate under an individual or group medical service agreement
375 delivered, issued or renewed within the commonwealth shall not require a member to obtain a
376 preauthorization for substance abuse treatment if the provider is certified or licensed by the
377 department of public health.

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

380 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
381 or adolescents provided in a medically managed or medically monitored inpatient facility, as
382 defined by the department of public health, that provides evaluation and withdrawal management
383 and which may include biopsychosocial assessment, individual and group counseling,
384 psychoeducational groups and discharge planning.

385 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
386 for adults or adolescents, as defined by the department of public health, usually following acute
387 treatment services for substance abuse, which may include intensive education and counseling
388 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
389 and significant others and aftercare planning, for individuals beginning to engage in recovery
390 from addiction.

391 Any subscription certificate under an individual or group medical service agreement
392 delivered, issued or renewed within the commonwealth shall provide coverage for medically
393 necessary acute treatment services and medically necessary clinical stabilization services for up
394 to a total of 14 days and shall not require preauthorization prior to obtaining acute treatment
395 services or clinical stabilization services; provided that the facility shall provide the carrier both
396 notification of admission and the initial treatment plan within 48 hours of admission; provided
397 further, that utilization review procedures may be initiated on day 7.

398 Medical necessity shall be determined by the treating clinician in consultation with the
399 patient and noted in the patient’s medical record.

400 SECTION 26. Section 4M of chapter 176G of the General Laws, as appearing in the
401 2012 Official Edition, is hereby amended by inserting after the word “specialist”, in line 110, the
402 following words:- , a licensed alcohol and drug counselor I, as defined in section 1 of chapter
403 111J,.

404 SECTION 27. Chapter 176G of the General Laws is hereby amended by inserting after
405 section 4X the following 3 sections:-

406 Section 4Y. An individual or group health maintenance contract that is issued or renewed
407 shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled
408 pursuant to subsection (b) of section 13 of chapter 17, on a basis not less favorable than non-
409 abuse deterrent opioid drug products that are covered by an individual or group health
410 maintenance contract. An increase in patient cost sharing shall not be allowed to achieve
411 compliance with this section.

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

417 Any individual or group health maintenance contract that is issued or renewed shall not
418 require a member to obtain a preauthorization for substance abuse treatment if the provider is
419 certified or licensed by the department of public health.

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

422 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
423 or adolescents provided in a medically managed or medically monitored inpatient facility, as
424 defined by the department of public health, that provides evaluation and withdrawal management
425 and which may include biopsychosocial assessment, individual and group counseling,
426 psychoeducational groups and discharge planning.

427 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
428 for adults or adolescents, as defined by the department of public health, usually following acute
429 treatment services for substance abuse, which may include intensive education and counseling
430 regarding the nature of addiction and its consequences, relapse prevention, outreach to families
431 and significant others and aftercare planning, for individuals beginning to engage in recovery
432 from addiction.

433 An individual or group health maintenance contract that is issued or renewed shall
434 provide coverage for medically necessary acute treatment services and medically necessary
435 clinical stabilization services for up to a total of 14 days and shall not require preauthorization
436 prior to obtaining acute treatment services or clinical stabilization services; provided that the
437 facility shall provide the carrier both notification of admission and the initial treatment plan
438 within 48 hours of admission; provided further, that utilization review procedures may be
439 initiated on day 7.

440 Medical necessity shall be determined by the treating clinician in consultation with the
441 patient and noted in the patient’s medical record.

442 SECTION 28. There shall be a commission to study and examine the feasibility of
443 requiring insurance providers in the commonwealth, including MassHealth, to monitor and limit
444 the use of opiates, as defined in section 1 of chapter 94C of the General Laws. The commission
445 shall consist of: the commissioner of public health, or a designee; the director of the office of
446 Medicaid, or a designee; the president of the board of registration in pharmacy, or a designee; a
447 representative from the board of registration in medicine; a representative from the division of
448 insurance; a representative from the group insurance commission; and an oncologist, a physician,
449 an advanced practice nurse, a health economist, a physician specializing in pain management and
450 a professor of medicine, each of whom shall be appointed by the governor.

451 The commission shall investigate the public benefit to mandating that insurance
452 providers monitor and limit policy holders' use of schedule II and schedule III opiates, as defined
453 in section 1 of chapter 94C of the General Laws. The investigation shall include, but not be
454 limited to: (i) a review of the system implemented by Blue Cross Blue Shield of Massachusetts,
455 Inc. that limits certain individual's ability to fill more than 2 15-day prescriptions in a 60 day
456 period; (ii) an analysis of whether the blue cross blue shield model hinders patients' access to
457 necessary pain medication; (iii) a cost-benefit analysis of permitting insurance providers to
458 restrict prescription coverage of schedule II and III opiates and consideration of what role the
459 commonwealth should have in regulating access to schedule II and III opiates; (iv) a
460 recommendation about how best to implement the blue cross blue shield model on a statewide
461 basis; and (v) alternatives to the blue cross blue shield model that will limit the over prescription
462 of schedule II and schedule III opiates without limiting patients' access to necessary pain
463 medication.

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

468 SECTION 29. The department of public health shall compile a list of prescription drug
469 drop boxes and other safe locations at which to dispose of prescription drugs within the
470 commonwealth. The list shall be published on the department's website, not later than January 2,
471 2015, and shall be updated on a regular basis.

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

477 SECTION 30. The center for health information and analysis shall conduct a review of
478 the accessibility of substance use disorder treatment and the adequacy of insurance coverage for

479 such treatment in the commonwealth and shall issue a report, not later than February 15, 2015.
480 The review shall be posted on the center's website and shall be filed with the clerks of the house
481 of representatives and the senate, the house and senate committees on ways and means and the
482 health policy commission.

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

489 SECTION 31. The health policy commission shall issue a report recommending policies
490 intended to ensure access to and coverage for substance use disorder treatment throughout the
491 commonwealth, which shall be filed with the clerks of the house of representatives and the
492 senate and shall be available on the general court's website, not later than May 30, 2015. In
493 preparing the report, the commission shall consider the report of the center for health information
494 and analysis, issued pursuant to section 30, and the recommendations of the senate special
495 committee on drug abuse and treatment options, established by a senate order adopted on
496 January 16, 2014. The commission shall provide opportunity for public comment during the
497 development of its report, and shall provide at least one hearing in each county of the
498 commonwealth prior to the issuance of a final report. The report shall include but not be limited
499 to: (i) specific recommendations for legislation or regulatory changes, including appropriate
500 coverage mandates; (ii) an evaluation of the availability of medication-assisted opioid therapy
501 such as methadone, buprenorphine and extended-release naltrexone in critical stabilization
502 services, including insurance coverage, regulatory or licensure barriers to accessing such
503 medications prior to discharge and recommendations for changes to ensure patient access; and
504 (iii) recommendations for the continuing study of substance use disorder by the center for health
505 information and analysis, pursuant to section 21A of chapter 12C of the General Laws, including
506 appropriate data collection and sharing activities.

507 SECTION 32. The center for health information and analysis shall conduct a mandated
508 benefit review consistent with section 38C of chapter 3 of the General Laws: (a) mandating that
509 insurance companies reimburse providers for medication assisted opioid treatment, such as
510 methadone, buprenorphine and extended-release naltrexone; and (b) mandating that insurance
511 companies reimburse providers for mental health and substance use disorder screening when a
512 primary care physician deems it necessary.

513 SECTION 33. The center for health information and analysis shall conduct a review and
514 evaluation of the mandated insurance benefits in sections 9, 10 and 20 to 27, inclusive, of this
515 act, under section 38C of chapter 3 of the General Laws; provided, that said report shall include
516 an estimate of costs to the state under 45 C.F.R. § 155.170. The review and evaluation shall be

517 posted on the center's website and shall be filed with the clerks of the senate and the house of
518 representatives and the house and senate committees on ways and means, not later than 90 days
519 from the effective date of this act.

520 SECTION 34. The division of medical assistance shall conduct a review and evaluation
521 of the mandated benefit in section 19 and shall file a report with the clerks of the senate and the
522 house of representatives and the house and senate committees on ways and means, not later than
523 90 days from the effective date of this act. The report's analysis and evaluation of the mandated
524 benefit in said section 19 shall include, but not be limited to: the financial impact to the
525 commonwealth of mandating the benefit, including the extent to which the proposed coverage
526 would increase or decrease the cost of the treatment or service over the next 5 years; the extent to
527 which the proposed coverage might increase the appropriate or inappropriate use of the treatment
528 or service over the next 5 years; the extent to which the mandated treatment or service might
529 serve as an alternative for more expensive or less expensive treatment or service; the extent to
530 which the coverage may affect the number and types of providers of the mandated treatment or
531 service over the next 5 years; the effects of mandating the benefit on the cost of health care; the
532 cost to health care consumers of not mandating the benefit in terms of out of pocket costs for
533 treatment or delayed treatment; the effect on the overall cost of the health care delivery system in
534 the commonwealth; and the medical efficacy of mandating the benefit, including the impact of
535 the benefit to the quality of patient care and the health status of the population and the results of
536 any research demonstrating the medical efficacy of the treatment or service compared to
537 alternative treatments or services or not providing the treatment or service. The division of
538 medical assistance shall consult with the center for health information and analysis in creating
539 the report to maximize opportunities for administrative simplification.

540 SECTION 35. The center for health information and analysis shall conduct a review and
541 issue a report, not later than 60 days from the effective date of this act, on the rates of denial for
542 substance use disorder treatment coverage by commercial insurers. The report shall be posted on
543 the center's website and shall be filed with the house of representatives and senate clerks, the
544 house and senate committees on ways and means, the joint committee on mental health and
545 substance abuse and the health policy commission.

546 SECTION 36. In carrying out its responsibilities under this act, the center for health
547 information and analysis and the health policy commission may use all department of public
548 health data; provided, however, that such data shall not be considered a public record and the
549 health policy commission and the center for health information and analysis shall protect the
550 privacy of any protected health information in accordance with federal and state laws and
551 applicable rules and regulations.

552 SECTION 37. The department of public health shall submit a report, not later than
553 January 5, 2015, to the clerks of the house and senate, who shall forward the report to the house
554 and senate committees on ways and means, the joint committee on health care financing and the

555 joint committee on mental health and substance abuse. The report shall include, but not be
556 limited to the following information: an analysis of whether practitioners are using the
557 prescription monitoring program prior to prescribing drugs contained in schedule II; the number
558 of violations of law or breaches of professional standards that were referred to law enforcement
559 or a professional licensing, certification or regulatory agency or entity, under 105 CMR 700.012
560 (D) (5)(a), between January 1, 2013 and November 1, 2014; the type of violations of law or
561 breaches of professional standards that were referred to an outside entity between January 1,
562 2013 and November 1, 2014; the outcome of the referrals; and recommendations about how to
563 improve the use of the prescription monitoring program's data to establish best practices for
564 prescribing, to identify indicators of risk for addiction and to prevent prescription drug abuse
565 and the diversion of prescription drugs.

566 The department of public health shall submit a report, not later than January 4, 2016, to
567 the clerks of the house and senate, who shall forward the report to the house and senate
568 committees on ways and means, the joint committee on health care financing and the joint
569 committee on mental health and substance abuse. The report shall include, but not be limited to,
570 the following information: an analysis of whether practitioners are using the prescription
571 monitoring program prior to prescribing drugs contained in schedule II; the number of violations
572 of law or breaches of professional standards that were referred to law enforcement or a
573 professional licensing, certification or regulatory agency or entity, under 105 CMR 700.012 (D)
574 (5)(a), between November 2, 2014 and December 15, 2015; the type of violations of law or
575 breaches of professional standards that were referred to an outside entity between November 2,
576 2014 and December 15, 2015; the outcome of the referrals; recommendations about how to
577 improve the use of prescription monitoring program's data to prevent prescription drug abuse
578 and the diversion of prescription drugs; and an explanation of how the department has improved
579 its use of the prescription monitoring program's data over the past year.

580 SECTION 38. Notwithstanding any general or special law to the contrary, the governor
581 shall appoint the 4 new members to the drug formulary commission, established pursuant to
582 section 13 of chapter 17 of the General Laws, not later than 30 days from the effective date of
583 this act. Of the 4 new appointments pursuant to said section 13 of said chapter 17, 2 shall be
584 appointed for a term of 3 years; 1 shall be appointed for a term of 2 years; and 1 shall be
585 appointed for a term of 1 year. As the term of a member expires, the member's successor shall be
586 appointed to serve for a term of 3 years.

587 SECTION 39. The division of medical assistance shall implement section 19 subject to
588 all required federal approvals.

589 SECTION 40. Notwithstanding any general or special law to the contrary, the drug
590 formulary commission shall issue the first draft of its formulary of abuse deterrent drugs that are
591 a chemically equivalent substitute for drugs that are opiates and pose a risk to the public's health,

592 under subsection (b) of section 13 of chapter 17 of the General Laws, not later than 120 days
593 from the effective date of this act.

594 SECTION 41. Notwithstanding any general or special law to the contrary, the department
595 of public health shall promulgate regulations, which shall apply to: any programs that are subject
596 to licensure or approval under chapters 111B and 111E of the General Laws; any programs that
597 are subject to licensure or approval under section 24 of chapter 90 of the General Laws; facilities
598 or programs required to comply with the requirements of 105 CMR 164.000; services provided
599 by practitioners that provide opioid agonist therapy; and alcohol and drug counselors subject to
600 licensure under chapter 111J. The regulations shall require that said providers, at the time of an
601 individual's admission into substance abuse treatment, provide information on family support
602 services. For the purposes of this section, the term "family support services" shall include any
603 service that provides family or group therapies or social or educational services for adults and
604 adolescents.

605 SECTION 42. There is hereby established a special commission for the purposes of
606 investigating and studying the development of criteria for mandated treatment or monitoring of
607 nonviolent offenders with substance addictions and to expand effective, evidence based addiction
608 treatment programs for nonviolent substance addicted offenders. The commission shall consist of
609 the court administrator or a designee and the director of the bureau of substance abuse services or
610 a designee, who shall serve as co-chairs; the chief justice of the trial court or a designee; the
611 attorney general or a designee; the secretary of public safety or a designee; the commissioner of
612 the department of correction or a designee; the chair of the parole board or a designee; the
613 commissioner of probation or a designee; the chief counsel of the committee for public counsel
614 services or a designee; the commissioner of mental health or a designee; the secretary of the
615 veterans' services or a designee; 2 members of the senate, 1 of whom shall be appointed by the
616 senate minority leader; 2 members of the house of representatives, 1 of whom shall be appointed
617 by the house minority leader; the president of the Massachusetts District Attorneys Association
618 or a designee; the president of the Massachusetts Bar Association or a designee; and 2 members
619 appointed by the governor, 1 of whom shall be a substance addiction treatment expert and 1 of
620 whom shall be a mental health treatment expert. Such investigation and study shall include, but
621 not be limited to: (a) an evaluation of the application and effectiveness of Standards on
622 Substance Abuse, approved by the justices of the supreme judicial court on April 28, 1998, and
623 recommendations to improve and ensure the consistent application of the standards in the courts;
624 (b) an evaluation and recommendations for improvement of specialty courts that address
625 substance addictions, including current eligibility requirements or practices, availability of such
626 courts and use of best practices in establishing quality of services; (c) the optimum number and
627 estimated expansion costs associated with the drug courts necessary to meet the needs of the total
628 annual number of nonviolent substance addicted offenders; (d) an evaluation of the number and
629 type of nonviolent offenses committed by substance addicted defendants adjudicated in the
630 commonwealth; (e) the development of a definition of nonviolent substance addicted offender;

631 (f) an examination of best practices relative to specialty courts that deal with substance addicted
632 offenders, both within the commonwealth and in other states; (g) an assessment of the quantity,
633 quality and availability of effective, evidence based addiction treatment programs in the
634 commonwealth; and (h) an assessment of the cost of expanding addiction treatment resources to
635 meet the needs of the total annual number of nonviolent substance addicted offenders. The
636 commission shall submit its report and findings, along with any draft of legislation, to the house
637 and senate committees on ways and means, the joint committee on the judiciary, the joint
638 committee on public health, the joint committee on mental health and substance abuse and the
639 clerks of the house of representatives and the senate, not later than December 31, 2015.

640 SECTION 43. (a) There shall be a Massachusetts Interagency Council on Substance
641 Abuse and Prevention. The interagency council shall: (i) support the efforts of the department of
642 public health to supervise, coordinate and establish standards for the operation of substance use
643 prevention and treatment services; (ii) oversee implementation of initiatives and programs that
644 effectively direct the existing resources and minimize the impact of substance abuse; (iii)
645 develop and recommend formal policies and procedures for the coordination and efficient
646 utilization of programs and resources across state agencies and secretariats; (iv) develop an
647 annual report and submit said report to the governor, on or before November 30 of each year,
648 detailing all activities of the council and recommend further efforts and resource needs; and (v)
649 review the role and functions of the advisory council on alcoholism and the drug rehabilitation
650 advisory board pursuant to chapter 118E, and recommend changes as necessary.

651 (b) The interagency council shall consist of the following members or their designees: the
652 secretary of health and human services, who shall serve as chair; the secretary of public safety;
653 the secretary of elder affairs; the secretary of veterans affairs; the commissioner of education; the
654 commissioner of correction; the chair of the parole board; the commissioner of probation; the
655 commissioner of public health; the commissioner of youth services; the commissioner of mental
656 health; the commissioner of developmental services; the commissioner of the Massachusetts
657 rehabilitation commission; the commissioner of transitional assistance; the commissioner of
658 children and families; the executive director of the center for health information and analysis; the
659 commissioner for the deaf and hard of hearing; the commissioner for early education and care;
660 the assistant commissioner of public health for substance abuse services; the director of the
661 office of Medicaid; a representative of the juvenile court; a representative of the superior court; a
662 representative of the district court; a representative of the governor's office; 1 private citizen who
663 is recovering from substance abuse problems, appointed by the governor; 1 member appointed
664 by the president of the senate; 1 member appointed by the speaker of the house; 1 member
665 appointed by the senate minority leader; 1 member appointed by the house minority leader; and
666 other appropriate representatives as determined by the governor. The council may appoint an
667 executive director to perform administrative functions and advocate on behalf of the council. All
668 members shall serve without compensation in an advisory capacity and at the pleasure of the
669 governor.

670 (c) The interagency council shall meet at least 4 times annually and shall establish task
671 groups, meetings, forums and any other activity deemed necessary to carry out its mandate.

672 (d) The interagency council will establish an executive committee composed of a
673 minimum of 11 members that will meet on a bi-monthly basis to provide guidance on the
674 recommendations of the council. At minimum, the executive committee will be comprised of the
675 following members or their designees: the secretary of health and human services, the secretary
676 of public safety; the commissioner of public health; the commissioner of children and families;
677 the commissioner of correction; the commissioner of mental health; the commissioner of youth
678 services; the director of the office of Medicaid; the assistant commissioner of public health for
679 substance abuse services; and at least 2 additional members from the council.

680 (e) All affected agencies, departments and boards of the commonwealth shall fully
681 cooperate with the interagency council. The council may call and rely upon the expertise and
682 services of individuals and entities outside of its membership for research, advice, support or
683 other functions necessary and appropriate to further accomplish its mission.

684 SECTION 44. (a) There shall be a special commission to investigate the expansion and
685 enhancement of the Massachusetts Behavioral Health Access (MABHA) website, operated by
686 the office of Medicaid's behavioral health vendor. The commission shall make recommendations
687 on ways to improve provider, carrier and public search capabilities to locate inpatient beds,
688 services and placement for individuals with mental health and substance abuse needs in real-time
689 for the purpose of referring individuals in need of services. The committee shall (1) develop a list
690 of additional services and facilities to include as part of the website, (2) develop requirements for
691 submission of information on service availability and publication of the information on the
692 website in real-time, including requirements for frequency of data submission and reporting, (3)
693 develop requirements for additional information to be posted on the website, including any
694 admission requirements or restrictions, (4) develop recommendations that the department of
695 mental health, the department of public health and other appropriate state agencies may adopt
696 under existing regulatory authority to create and enhance access for said placement services and
697 (5) develop recommendations as to whether the website should be a state run and operated
698 function.

699 (b) The special committee shall be comprised of the following 9 members: the
700 commissioner of mental health or designee, who shall serve as chair, the commissioner of public
701 health or designee, the director of the office of Medicaid or designee, 1 representative of each of
702 the following 6 organizations: the Massachusetts Behavioral Health Partnership, the
703 Massachusetts Association of Health Plans, the Massachusetts Hospital Association, the
704 Massachusetts Medical Society, the Massachusetts Association of Behavioral Health Systems
705 and the Massachusetts College of Emergency Physicians.

706 (c) The commission shall hold its first meeting within 90 days after the effective date of
707 this act. The commission shall file a report detailing its work and findings, including any
708 legislative or regulatory recommendations, with the house and senate committees on ways and
709 means, the joint committee on health care financing, the joint committee on mental health and
710 substance abuse and the clerks of the house of representatives and the senate, not later than
711 December 31, 2014.

712 SECTION 45. Sections 9, 10 and 19 to 27, inclusive, shall take effect on October 1, 2015.

713 SECTION 46. Sections 13, 17 and 18 shall take effect 6 months from the effective date of
714 this act.