SENATE DOCKET, NO. 1790 FILED ON: 1/16/2015

SENATE . . . . No. 485

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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

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

An Act relative to cognitive rehabilitation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	*First Worcester*
Kimberly N. Ferguson	*1st Worcester*
Angelo L. D'Emilia	*8th Plymouth*
Tricia Farley-Bouvier	*3rd Berkshire*
William C. Galvin	*6th Norfolk*
Thomas J. Calter	*12th Plymouth*
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*
Barbara L'Italien	*Second Essex and Middlesex*
Eileen M. Donoghue	*First Middlesex*
Todd M. Smola	*1st Hampden*
Brian M. Ashe	*2nd Hampden*
Michael J. Barrett	*Third Middlesex*
Marjorie C. Decker	*25th Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Bruce J. Ayers	*1st Norfolk*
Michelle M. DuBois	*10th Plymouth*
Joan B. Lovely	*Second Essex*

Diana DiZoglio	*14th Essex*
Sal N. DiDomenico	*Middlesex and Suffolk*
Thomas M. Stanley	*9th Middlesex*
Thomas M. McGee	*Third Essex*

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By Ms. Chandler, a petition (accompanied by bill, Senate, No. 485) of Harriette L. Chandler, Kimberly N. Ferguson, Angelo L. D'Emilia, Tricia Farley-Bouvier and other members of the General Court for legislation relative to cognitive rehabilitation. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to cognitive rehabilitation.

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 175 of the General Laws is hereby amended by inserting after
2 section 47GG the following section:-

3 Section 47HH. (a)(1) This section shall apply only to a health benefit plan that provides
4 benefits for medical or surgical expenses incurred as a result of a health condition, accident or
5 sickness, including an individual, group, blanket, or franchise insurance policy or insurance
6 agreement, a group hospital service contract or an individual or group evidence of coverage or
7 similar coverage document that is offered by:

8 (i) an insurance company operating under chapter 175;

9 (ii) a group hospital service corporation operating under said chapter 175;

10 (iii) a fraternal benefit society operating under chapter 176;

11 (iv) a small group health insurance operating under chapter 176J;

12 (v) a nonprofit hospital service corporation operating under chapter 176A;

13 (vi) a medical service corporation operating under chapter 176B

14 (vii) a nongroup health insurance company operating under chapter 176M;

15 (viii) a health maintenance organization operating under chapter 176G; and

16 (ix) an approved nonprofit health corporation that holds a certificate of organization

17 under chapter 176C.

18 (2) This section shall not apply to:

19 (i) a plan that provides coverage:

20 (A) only for a specified disease or for another limited benefit other than an accident

21 policy;

22 (B) only for accidental death or dismemberment;

23 (C) for wages or payments in lieu of wages for a period during which an employee is

24 absent from work because of sickness or injury;

25 (D) as a supplement to a liability insurance policy;

26 (E) for credit insurance;

27 (F) only for dental or vision care;

28 (G) only for hospital expenses;

29 (H) only for indemnity for hospital confinement; or

30 (I) a nonprofit medical service plan operating under chapter 176C

31 (ii) a workers' compensation insurance policy;

32 (iii) a long-term care insurance policy under chapter 176U, including a nursing home
33 fixed indemnity policy, unless the commissioner determines that the policy provides benefit
34 coverage so comprehensive that the policy is a health benefit plan as described in chapter 175 ;

35 (iv) the commonwealth care health insurance program regulated under chapter 118H.

36 (b)(1) A health benefit plan shall include, but shall not be limited to including, coverage
37 for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy
38 and rehabilitation, neurobehavioral, neurophysiological, neuropsychological and
39 psychophysiological testing and treatment, neurofeedback therapy, functional rehabilitation
40 therapy and remediation required for and related to treatment of an acquired or traumatic brain
41 injury.

42 (2) A health benefit plan shall include coverage for acute and post-acute:

43 (i) transition services;

44 (ii) community reintegration services;

45 (iii) residential services;

46 (iv) inpatient services;

47 (v) outpatient day treatment services; and

48 (vi) other post-acute care treatment services deemed necessary as a result of, or related to,
49 an acquired or traumatic brain injury.

50 (3) A health benefit plan shall not include any lifetime limitation or unreasonable annual
51 limitation on the number of days or sessions of acute care treatment. A health benefit plan shall
52 not include any lifetime limitation or unreasonable annual limitation on the number of days or
53 sessions of post-acute care treatment. Any limitations imposed under the plan for acute care
54 treatment or post-acute care treatment shall be separately stated in the plan.

55 (4) Except as provided by subsection (c), a health benefit plan shall include the same
56 payment limitations, deductibles, copayments and coinsurance factors for coverage required
57 under this chapter as applicable to other similar coverage provided under the health benefit plan.

58 (5) To ensure that appropriate post-acute care treatment is provided, a health benefit plan
59 shall include coverage for reasonable expenses related to periodic reevaluation of the care of an
60 individual covered under the plan who:

61 (i) has incurred an acquired or traumatic brain injury;

62 (ii) has been unresponsive to treatment; and

63 (iii) may become responsive to treatment at a later date.

64 (6) A determination of whether expenses, as described in subsection (c), are reasonable
65 may include consideration of such factors as:

66 (i) cost;

67 (ii) the time that has expired since the previous evaluation;

68 (iii) any significant difference in the specialization of the physician or practitioner
69 performing the evaluation;

70 (iv) changes in technology; and

71 (v) advances in medicine.

72 (7) The commissioner shall adopt rules as necessary to implement this chapter.

73 (c)(1) For the purposes of this section, "preauthorization" shall mean the provision of a
74 reliable representation to a physician or health care provider of whether a health benefit plan
75 issuer will pay the physician or provider for proposed medical or health care services if the
76 physician or provider provides those services to the patient for whom the services are proposed.
77 “Preauthorization shall include precertification, certification, recertification or any other activity
78 that involves providing a reliable representation by the issuer to a physician or health care
79 provider.

80 (2) The commissioner by rule shall require a health benefit plan issuer to provide
81 adequate training to personnel responsible for preauthorization of coverage or utilization review
82 under the plan. The purpose of the training shall be to prevent denial of coverage in violation of
83 subsection (b) to avoid confusion of medical benefits with mental health benefits. The
84 commissioner, in consultation with the Massachusetts Brain Injury Advisory Board, shall
85 prescribe by rule the basic requirements for the training.

86 (d)(1) A health benefit plan issuer subject to this chapter shall annually notify each
87 insured or enrollee under the plan in writing about the coverage prescribed in subsection (b).

88 (2) The commissioner, in consultation with the Massachusetts Brain Injury Advisory
89 Board, shall prescribe by rule the specific contents and wording of the notice required under this
90 section.

91 (3) The notice required under this section shall include:

92 (i) a description of the benefits listed under subsection (b); and

93 (ii) a statement that the fact that an acquired or traumatic brain injury does not result in
94 hospitalization or receipt of a specific treatment or service described in said subsection (b) for
95 acute care treatment shall not affect the right of the insured or enrollee to receive benefits
96 described by said subsection (b) commensurate with the condition of the insured or enrollee.

97 (4) A statement of the fact that benefits prescribed in subsection (b) may be provided in a
98 facility listed in subsection (f)

99 (e)(1) For the purposes of this section, "utilization review" shall mean a system for
100 prospective or concurrent review of the medical necessity and appropriateness of health care
101 services being provided or proposed to be provided to an individual; provided, however, that
102 "utilization review" shall not include a review in response to an elective request for clarification
103 of coverage.

104 (2) A health benefit plan shall respond to a person requesting utilization review of
105 determination of medical necessity or appealing for an extension of coverage based on an
106 allegation of medical necessity not later than 3 business days after the date on which the request
107 was made or the appeal was submitted. The person shall make the request or submit the appeal in
108 the manner prescribed by the terms of the plan's health insurance policy or agreement, contract,

109 evidence of coverage or similar coverage document. The health benefit plan issuer shall respond
110 through a direct telephone contact made by a representative of the issuer and in writing to the
111 person requesting review.

112 (f)(1) A health benefit plan shall not deny coverage under this chapter based solely on the
113 fact that the treatment or services will be provided at a facility other than a hospital. Treatment
114 for an acquired or traumatic brain injury may be provided under the coverage required by this
115 chapter, as appropriate, at a facility at which appropriate services may be provided including, but
116 not limited to:

117 (i) a hospital regulated under chapter 111, including an acute or post-acute rehabilitation
118 hospital;

119 (ii) an assisted living facility regulated under chapter 19D; and

120 (iii) a skilled nursing and rehabilitative care facility, Level I, or skilled nursing care
121 facility, Level II, as designated under department of public health regulations.

122 (2) Individual practitioners and treatment facilities shall be qualified to provide acute care
123 and post-acute care rehabilitation services through possession of the appropriate licenses,
124 accreditation, training and experience deemed customary and routine in the trade practice.

125 (g) The commissioner shall prepare information for use by consumers, purchasers of
126 health benefit plan coverage and self-insurers regarding coverage recommended for acquired or
127 traumatic brain injuries. The department shall publish information prepared under this section on
128 the department's website.