

SENATE No. 2281

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An act relative to substance abuse education and prevention.

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 15 of the General Laws is hereby amended by adding the
2 following section:-

3 Section 68. Each school district shall adopt a substance abuse education and prevention
4 policy, pursuant to guidelines established by the commissioner, in consultation with the
5 commissioner of public health. Each school district shall involve students, parents, guardians,
6 teachers, administrators, school staff, community representatives, and local law enforcement
7 agencies in the development of the policy. The policy shall be in writing and formally adopted
8 by the school committee as a school district policy. A copy of the policy shall be distributed to
9 each student and their parents or legal guardian by October 1st of each year, and shall be
10 provided to any person upon request by the principal of every school within the district. A copy
11 of each school district's policy as adopted shall be sent to the commissioner who shall
12 periodically review each policy for compliance with established guidelines.

13 SECTION 2. The first sentence of subsection (b) of section 91 of chapter 71 of the
14 General Laws, as inserted by section 65 of chapter 27 of the acts of 2009, is hereby amended by

15 striking out the words “chapter 70” and inserting in place thereof the following words:-
16 foundation budget.

17 SECTION 3. Section 1 of chapter 94C of the General Laws, as appearing in the 2008
18 Official Edition, is hereby amended by inserting after the definition of “Agent” the following
19 definition:-

20 “Board”, the board of registration in pharmacy established pursuant to section 22 of
21 chapter 13.

22 SECTION 4. Said section 1 of said chapter 94C, as so appearing, is hereby further
23 amended by inserting after the definition of “Dispense” the following definition:-

24 “Dispenser”, a person who delivers a schedule II to V, inclusive, controlled substance to
25 the ultimate user, but does not include: (a) a licensed hospital pharmacy that distributes such
26 substances for the purpose of inpatient hospital care or the dispensing of prescriptions for
27 controlled substances at the time of discharge from such a facility; or (b) a wholesale distributor
28 of a schedule II to V, inclusive, controlled substance.

29 SECTION 5. Said section 1 of said chapter 94C, as so appearing, is hereby
30 further amended by inserting after the definition of “Drug paraphernalia” the following
31 definition:-

32 “Facility”, a health care provider, registered with the department of public health, which
33 employs more than 1 person who can prescribe drugs.

34 SECTION 6. Section 18 of said chapter 94C, as so appearing, is hereby amended by
35 adding the following subsections:-

36 (e) Prescribing practitioners seeking to obtain or renew a Massachusetts professional
37 license shall be required to demonstrate completion of no less than 10 per cent of the required
38 training hours for each such professional license in effective pain management including, but not
39 limited to the identification of patients at high risk for substance abuse and other aspects of
40 prescription medication abuse. Professional licensing boards may count these hours as part of
41 their regular continuing education licensing requirements. The department of public health shall
42 assist professional education organizations in developing training programs that achieve the
43 stated purposes and which shall qualify toward the satisfaction of continuing education licensing
44 requirements.

45 (f) the board of registration of medicine shall develop a training program, to be
46 required of all physicians prescribing schedule II-V pain medications, that trains patients on the
47 prescriptions they are receiving, the side effects of the medications, the addictive nature of the
48 medications and proper storage and disposal techniques for prescription pain medications. The
49 training program shall require patients to sign a waiver that they understand the information they
50 have been given.

51 SECTION 7. Said chapter 94C is hereby further amended by adding the following 2
52 sections:-

53 Section 49. (a) The board shall designate an official prescription form for use by
54 practitioners authorized to write prescriptions for controlled substances in the commonwealth.

55 (b) The commissioner shall establish security regulations concerning the procurement of
56 the official prescription forms. The forms shall be serialized and tamper resistant so that they
57 cannot be altered, copied or counterfeited. The board may contract with a private vendor to

58 develop and print the official prescription form, provided that the vendor meets security
59 regulations promulgated by the commissioner. Each series of prescriptions shall be issued to a
60 specific practitioner in consecutively numbered blocks of 50 and shall only be used by that
61 practitioner. Official prescription forms shall be provided by the board or by the private vendor
62 to registered practitioners and facilities without charge.

63 (c) A practitioner authorized to write a prescription in the commonwealth shall issue all
64 written prescriptions upon an official prescription form. A pharmacist shall not fill a written
65 prescription from a Massachusetts practitioner unless issued upon an official prescription form.
66 Nothing in this section shall be construed to impact regulations regarding oral, electronic, or out-
67 of-state prescription practices.

68 (d) A practitioner or facility shall register with the department in order to be issued
69 official prescription forms. Registration shall be without charge. Registration shall include, but
70 not be limited to:

- 71 (1) the name of a practitioner authorized to prescribe controlled substances;
- 72 (2) the primary address and the address of additional places of business;
- 73 (3) the practitioner's federal Drug Enforcement Agency number; and
- 74 (4) practitioner's license number.

75 A practitioner's or facility's registration shall be subject to approval by the department,
76 pursuant to rules promulgated by the commissioner. Any change to a practitioner's or a facility's
77 registered information shall be promptly reported to the department in a manner promulgated by
78 the commissioner.

79 (e) A registered facility shall obtain official prescription forms for use at the facility and
80 shall assign the forms to registered staff practitioners. The number of official prescription forms
81 issued to a registered practitioner or facility, by the department or the private vendor, shall be a
82 reasonable quantity and at the discretion of the commissioner. Official prescription forms shall
83 be imprinted with:

84 (1) the name of the registered practitioner or the registered practitioners at a registered
85 facility;

86 (2) the registered practitioner's federal Drug Enforcement Agency's identification
87 number;

88 (3) the primary address and the address of additional places of business of the registered
89 practitioner; and

90 (4) the registered practitioner's license number.

91 An official prescription form is not transferable and shall be used only by the registered
92 practitioner or facility to whom issued.

93 (f) A registered practitioner or facility shall undertake adequate safeguards and security
94 measures promulgated by the commissioner to assure against destruction, theft, or unauthorized
95 use of an official prescription form. A registered practitioner shall, at minimum, maintain a
96 record of official prescription forms received and establish a system requiring forms be secure
97 pursuant to security measures promulgated by the commissioner. A registered facility shall, at
98 minimum, maintain a record of official prescription forms received, maintain a record of forms
99 assigned to its registered staff practitioners, establish a system requiring forms be secure

100 pursuant to security measures promulgated by the commissioner and require a registered staff
101 practitioner to surrender their assigned forms when the practitioner terminates affiliation with the
102 registered facility.

103 (g) A registered practitioner or facility shall immediately notify the department, in a
104 manner promulgated by the commissioner, upon their knowledge of the loss, destruction, theft or
105 unauthorized use of an official prescription form. A registered practitioner or facility shall report
106 the failure to receive official prescription forms to the department within a reasonable time after
107 ordering the forms. A registered practitioner or facility shall immediately notify the board upon
108 their knowledge of prescription diversion or suspected diversion pursuant to the loss, theft, or
109 unauthorized use of an official prescription form.

110 (h) Whoever violates a provision of this section shall be punished by imprisonment for
111 not more than 2 1/2 years in a house of correction or by imprisonment in a state prison for 3
112 years or by a fine of not more than \$2,000, or both; and, for a second or subsequent offense in
113 this section or in this chapter, by imprisonment for not more than 2 1/2 years in a house of
114 correction or by imprisonment in a state prison for 10 years or by a fine of not more than
115 \$10,000, or both.

116 (i) The board, in conjunction with the executive office of public safety, shall submit an
117 annual report on the effectiveness the official Massachusetts prescription form to the general
118 court by filing the report with the clerk of the house of representatives and the clerk of the
119 senate.

120 Section 50. The executive office of public safety, in consultation with the board, shall
121 enforce section 49. To carry out this purpose, the executive office of public safety shall:

122 (a) inspect, copy, and audit records, inventories of controlled substances, and reports
123 required under said section and rules adopted under said sections;

124 (b) enter the premises of regulated distributors and dispensers during normal business
125 hours to conduct administrative inspections;

126 (c) assist the law enforcement agencies of the state in enforcing this chapter;

127 (d) conduct investigations to enforce this chapter;

128 (e) present evidence obtained from investigations conducted in conjunction with the
129 office of the attorney general and the appropriate district attorneys for civil or criminal
130 prosecution or for administrative action against regulated distributors, dispensers and licensees;
131 and

132 (f) work in cooperation with the board, to accomplish the purposes of said section.

133 SECTION 8. Section 12F of chapter 112 of the General Laws, as appearing in the 2008
134 Official Edition, is hereby amended by striking out, in lines 37 and 38, the words “minor or a
135 proper judicial order” and inserting in place thereof the following words: - minor, a proper
136 judicial order or in case of the minor’s treatment for a drug or alcohol overdose, as defined by
137 department of public health in its regulations.

138 SECTION 9. Said chapter 112 is hereby further amended by inserting after section 12F
139 the following section:-

140 Section 12F ½. Any physician or hospital that treats a person under the age of 18 for a
141 drug or alcohol overdose, as defined by department of public health in its regulations, shall
142 notify the minor’s parents or legal guardian of the overdose as part of the discharge planning

143 process. The parents or legal guardian shall be provided with contact information for the bureau
144 of substance abuse services within the department of public health and the substance abuse
145 helpline operated by the department of public health. The department of public health will
146 produce a pamphlet to be distributed in emergency departments to the parents or legal guardian
147 of a person under the age of 18 who is treated for a non fatal drug or alcohol overdose. The
148 pamphlet shall include: information on how treatment can help, information on what a parent or
149 legal guardian can do to prevent future overdoses, and information on where the patient can go to
150 get treatment.

151 SECTION 10. Said chapter 112 hereby further amended by inserting after section 12CC
152 the following section:-

153 Section 12DD. (a) Any person, who in good faith, seeks medical assistance for someone
154 who is or there is reason to believe is experiencing a drug related overdose shall not be charged
155 or prosecuted for possession of a controlled substance, pursuant chapter 94C, if the evidence for
156 the charge of or prosecution for possession of a controlled substance was obtained as a result of
157 the seeking of medical assistance.

158 (b) Any person who experiences or has reason to believe he or she is experiencing a drug-
159 related overdose and is in need of medical assistance shall not be charged or prosecuted for
160 possession of a controlled substance, pursuant to chapter 94C, if the evidence for the charge of or
161 prosecution for possession of a controlled substance was obtained as a result of the seeking of
162 medical assistance.

163 (c) Nothing in this section shall prohibit a charge or prosecution for possession with
164 intent to manufacture, distribute or dispense a controlled substance or the entry of a plea or

165 verdict of guilty for possession of a controlled substance as a lesser included offense of a
166 complaint or indictment charging possession of a controlled substance with intent to
167 manufacture, distribute, or dispense. The act of seeking medical assistance for someone who is
168 or there is reason to believe is experiencing a drug-related overdose shall be admissible as
169 evidence in a criminal prosecution pursuant to chapter 94C, if the evidence for the charge or
170 prosecution was obtained as a result of the seeking of medical assistance.

171 SECTION 11. Section 12 of chapter 176O of the General Laws, as appearing in the 2008
172 Official Edition, is hereby amended by inserting after the word “provider”, in line 20, the
173 following words:- provided, however, that in making an adverse determination for mental health
174 or substance abuse treatment, the carrier or its designated utilization review organization shall
175 defer to the judgment of the treating clinician unless there is a preponderance of evidence that the
176 requested admission, continued stay or other health care service does not meet the requirements
177 for coverage based on medical necessity, appropriateness of health care setting and level of care,
178 or effectiveness.

179 SECTION 12. Section 99 of chapter 276 of the General Laws, as so appearing, is hereby
180 amended by adding the following paragraph:-

181 The commissioner shall, in conjunction with the criminal history systems board and the
182 bureau of substance abuse services within the department of public health, create a substance
183 abuse certificate program for those individuals with criminal offender record information. The
184 substance abuse certificate program shall enable a person convicted of or adjudicated delinquent
185 by reason of any felony or misdemeanor charges in the commonwealth or a person who has been
186 charged with a crime in the commonwealth but which charges did not result in a conviction to

187 petition the superior court of the trial court department in the county in which he then resides, to
188 enter a substance abuse certificate program if the charges were a consequence of substance
189 abuse, for ascertainment and declaration of the fact of his rehabilitation or recovery and
190 rehabilitation on that individual's criminal offender record information, if the following
191 conditions are met:

192 (a) the petitioner has not been sentenced to incarceration since being discharged from a
193 felony or misdemeanor or since the termination of any ancillary proceedings related to such
194 felony or misdemeanor including, but not limited to, any period of probation, parole or
195 continuation;

196 (b) the petitioner is not the subject of a probationary or parole term for the commission of
197 any other felony or misdemeanor;

198 (c) the petitioner presents satisfactory evidence of 2 years of residence in the
199 commonwealth prior to the filing of the petition;

200 (d) the petitioner has demonstrated a period of rehabilitation, as defined in the General
201 Laws, and

202 (e) the petitioner has completed a substance abuse treatment program approved by the
203 bureau of substance abuse treatment services;

204 SECTION 13. The commissioner of elementary and secondary education, in consultation
205 with the commissioner of public health, shall establish a pilot program for the purpose of
206 providing substance abuse and addiction training to a teacher, a guidance counselor or a school
207 nurse in at least 1 middle school and at least 1 high school in each county of the commonwealth.

208 The teacher, guidance counsel, or school nurse shall conduct an initial screening, intervention
209 and referral of those students who are identified as having substance abuse or addiction needs for
210 a subsequent comprehensive assessment and appropriate treatment.

211 SECTION 14. The bureau of substance abuse services within the department of public
212 health, in consultation with the supreme judicial court, shall develop and implement a program
213 for judges and court personnel that examines substance abuse treatment resources in the
214 commonwealth for persons convicted of or adjudicated delinquent by reason of any felony or
215 misdemeanor charges in the commonwealth or a person who has been charged with a crime in
216 the commonwealth but which charges did not result in a conviction. The program shall also
217 include instruction for said participating individuals in developing skills to recognize the signs of
218 persons with a substance abuse disorder that could benefit from treatment.

219 SECTION 15. The bureau of substance abuse services within the department of public
220 health shall establish and advertise a free, anonymous, and confidential toll free telephone
221 helpline that shall provide comprehensive, accurate, and current information and referrals related
222 to addiction treatment and prevention services. The administration of the helpline shall be
223 coordinated with the other departments and agencies of the commonwealth in order to prevent
224 the duplication of similar services. The operation of the helpline may be contracted to third
225 parties, provided that any such contracts shall be performance based and subject to approval by
226 the commissioner of the department of public health.

227 SECTION 16. The department of public health shall issue regulations to include all
228 schedule II, schedule III, schedule IV, and schedule V prescriptions in electronic reporting and
229 prescription monitoring program requirements within 90 days of the passage of this act.

230 SECTION 17. The department of public health shall issue a report relative to the
231 modification and improvement of health care to increase the flow of information to prescribing
232 physicians and law enforcement personnel. The report shall include the department's efforts to
233 update the prescription monitoring program by streamlining case reporting, expanding proactive
234 reporting, including additional prescription schedules, increasing reporting frequency,
235 implementing an online system accessible to prescribers, pharmacies and law enforcement
236 personnel, reducing Medicaid fraud, and improving interstate operability. The report shall
237 include specific timelines to achieve the goals stated in the report. The report shall be issued
238 within 90 days of the passage of this act.

239 SECTION 18. The department of public health shall issue requirements on all state
240 licensed treatment facilities to include mandated discharge plans for all clients leaving said
241 facility. The discharge plans shall include follow up treatment, contact information for shelters
242 in the area, additional resources for substance abuse treatment and workforce options.

243 SECTION 19. The department of labor and workforce development, in consultation with
244 the department of public health, shall conduct an investigation and study on the feasibility of a
245 post treatment job skills training program and/or re-entry program for individuals recovering
246 from substance use disorders. The study shall include information on best practices for similar
247 job training programs, guidelines by which the commonwealth can use to establish an effective
248 job skills training program, projected costs of such a program, and types of job skills that can be
249 utilized by a program. Results of said study shall be filed with the clerk of the house of
250 representatives and the clerk of the senate and, the joint committee on mental health and
251 substance abuse, and the joint committee on labor and workforce development by July 15, 2011.

252 SECTION 20. The bureau of substance abuse services within the department of public
253 health shall develop a statewide parent support network. The network shall include a support
254 group that assists parents with issues of substance abuse disorders, facilitation of local forums to
255 help educate the public on the issues of substance use disorders and coordination with other state
256 agencies to disseminate information throughout the commonwealth.

257 SECTION 21. The board of registration in pharmacy and the executive office of public
258 safety shall submit a report on the status of this act to the general court by filing it with the clerk
259 of the house of representatives and the clerk of the senate on or before July 15, 2011.

260 SECTION 22. Section 7 shall take effect on July 1, 2011.