

HOUSE No. 948**The Commonwealth of Massachusetts**

PRESENTED BY:

Elizabeth A. Malia and John F. Keenan*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 to expand coverage and access to behavioral health services.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------------|--------------------------------------|------------------|
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>1/17/2013</i> |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | <i>1/17/2013</i> |
| <i>Brian A. Joyce</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>2/1/2013</i> |
| <i>Ann-Margaret Ferrante</i> | <i>5th Essex</i> | |
| <i>Kenneth J. Donnelly</i> | <i>Fourth Middlesex</i> | |
| <i>Daniel A. Wolf</i> | <i>Cape and Islands</i> | |
| <i>Anne M. Gobi</i> | <i>5th Worcester</i> | |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | |
| <i>Jennifer L. Flanagan</i> | <i>Worcester and Middlesex</i> | |
| <i>Ruth B. Balser</i> | <i>12th Middlesex</i> | |
| <i>Angelo M. Scaccia</i> | <i>14th Suffolk</i> | |
| <i>Jonathan D. Zlotnik</i> | <i>2nd Worcester</i> | |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | |
| <i>Robert M. Koczera</i> | <i>11th Bristol</i> | |
| <i>Michael R. Knapik</i> | <i>Second Hampden and Hampshire</i> | |
| <i>Antonio F. D. Cabral</i> | <i>13th Bristol</i> | |
| <i>James J. O'Day</i> | <i>14th Worcester</i> | |

William M. Straus

10th Bristol

Kay Khan

11th Middlesex

HOUSE No. 948

By Representative Malia of Boston and Senator Keenan, a joint petition (accompanied by bill, House, No. 948) of Elizabeth A. Malia, John F. Keenan and others for legislation to expand coverage and access to behavioral health services. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to expand coverage and access to behavioral health services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law, rule or regulation to the
2 contrary, the Office of Medicaid and the Commissioner of Insurance shall develop regulations to
3 require any Carrier as defined under section 1 of chapter 176O and their respective contractors,
4 and any Medicaid contracted health insurers, health plans, health maintenance organizations,
5 behavioral health management firms and third party administrators under contract to a Medicaid
6 managed care organization or a primary care clinician plan to review the current prior
7 authorization requirements related to the coverage of inpatient level mental health and substance
8 abuse services. The regulations shall, consistent with the requirements for coverage of
9 emergency services as provided in Chapter 141 of the Acts of 2000 and in following the
10 requirements of the federal Mental Health Parity and Addiction Equity Act of 2008 (Section 511
11 of Public Law 110-343) as well as similar provisions required in chapter 224 of the Acts of 2012,
12 require any carrier and their respective contractors, and any Medicaid contracted health insurers,
13 health plans, health maintenance organizations, behavioral health management firms and third
14 party administrators under contract to a Medicaid managed care organization or a primary care
15 clinician plan to remove any prior authorization related to the admission of a patient deemed by
16 the treating healthcare provider to have an emergency medical condition, as defined in section 1
17 of chapter 176O of the General Laws, that is related to substance abuse disorder or mental or
18 behavioral health.

19 SECTION 2. Notwithstanding any general or special law, rule or regulation to the
20 contrary, Medicaid contracted health insurers, health plans, health maintenance organizations,
21 behavioral health management firms and third party administrators under contract to a Medicaid
22 managed care organization or the Medicaid primary care clinician plans shall develop a process

that will enhance the current community based behavioral health screening to increase authorized direct admissions to inpatient behavioral health services from a community based setting where a patient is not presenting with an emergency medical condition that requires a medical screening examination, so called, in an Emergency Department. Such process shall include: (1) additional incentives for such screening teams who are able to provide more reviews, especially for difficult to place patients, in the community and not in the Emergency Department setting; (2) requirements for the Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan to pay the screening teams for community based screening at not less than the rates for adult emergency and crisis services which the Massachusetts Behavioral Health Partnership paid for emergency services as of January 1, 2010 in the following settings: community-based; mobile response; and community crisis stabilization; and (3) develop a new procurement process that will require the Office of Medicaid and its contractors to coordinate and pay for emergency level behavioral health screening services in the hospital emergency department by either the hospital where the patient is being treated or the behavioral health screening team that is called to come onsite to the hospital to conduct the screening. The Office of Medicaid shall develop this process no later than October 1, 2013 after consultation with a statewide advisory committee composed of but not limited to a representative from the Association for Behavioral Healthcare, the Massachusetts Association of Behavioral Health Systems, the Massachusetts College of Emergency Physicians, the Massachusetts Hospital Association, the Massachusetts Medical Society, and the Massachusetts Psychiatric Society.

SECTION 3: Notwithstanding any general or special law to the contrary, the Office of Medicaid and the Commissioner of Insurance shall develop regulations requiring that: (1) Carriers, as so defined, their contractors and Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or a primary care clinician plan to conduct searches for inpatient mental health or substance abuse placements for their members or insured if the individuals suffering from a mental health or substance abuse condition remain in a hospital's emergency department two hours after the decision to admit has been made by the emergency department physician, psychiatric physician, or the behavioral health screening team called onsite as described in section 2; and (2) the development of a payment rate by Carriers and their contractors as well as Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan which shall not be less than twice the Medicaid, carrier's or contractor's average contracted rate for inpatient psychiatric services that reimburses hospitals and physicians for the services provided for each calendar day that a patient remains continuously boarded in a hospital's emergency department beyond 24 hours from the decision to admit. Any aforementioned regulations adopted pursuant to this section must be utilized and included by the

Office of Medicaid and a Carrier with a contracted entity in developing future payment reform and alternative contract arrangements.

SECTION 4: Notwithstanding any general or special law, rule or regulation to the contrary, the requirement for the adoption of the American Medical Association's Current Procedural Terminology codes pursuant to Section 62 of Chapter 118E of the General Laws, as appearing in the 2008 Official Edition and Section 5A of Chapter 176O of the General Laws, as so appearing, shall further require Carriers, as so defined, their contractors and Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or a primary care clinician plan to cover and pay for evaluation and management services provided in the emergency department, psychopharmacological services, and neuropsychological assessment services as a medical benefit at an amount that is not less than the amount paid for the same or most similar coded procedure that is ordered by the treating healthcare provider. Provided further, that the coverage and payment for evaluation and management services, psychopharmacological services, and neuropsychological assessment services shall occur notwithstanding the medical specialty of the treating healthcare provider, provided that said provider is credentialed for such services by the office of Medicaid or the Carrier.

SECTION 5: Notwithstanding section 47BB of chapter 175, as appearing in section 158 of the chapter 224 of the acts of 2012, or any other general or special law to the contrary, an insurer shall be required to cover the cost of psychiatric telemedicine services at a rate not less than the cost of the applicable in-person consultation services that is covered by the insurer.

SECTION 6: The Office of Medicaid and the Commissioner of Insurance shall promulgate regulations to enforce the provisions of this Act no later than 90 days after the effective date of the Act. Any aforementioned regulations shall be utilized and included by the Office of Medicaid and a Carrier with a contracted entity in developing future payment reform and alternative contract arrangements.