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SENATE . . . . . No. 2142

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

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act to increase opportunities for long-term substance abuse recovery.

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

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

SECTION 1. Chapter 6D of the General Laws is hereby amended by inserting after section 15, the following section:-

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

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

programs required to comply with the requirements of 105 CMR 164.000, services provided by practitioners that provide opioid agonist therapy; and alcohol and drug counselors subject to licensure under chapter 111J.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall not require a member to obtain a preauthorization for substance abuse treatment if the provider is certified under section 15A of chapter 6D.

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

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

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

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

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

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

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

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

(b) On a monthly basis, acute hospitals, as defined in section 64 of chapter 118E, shall file a report with the commissioner of public health in a manner determined by the commissioner of public health. This report shall include the number of infants born in the previous month

identified by the hospital as having been exposed to a schedule II through schedule VI, inclusive, controlled substance, under chapter 94C, as well as the number and specific causes of hospitalizations caused by ingestion of a schedule II through schedule VI, inclusive, controlled substance, under said chapter 94C.

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

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

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

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

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

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

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

(g) Upon issuing an order under subsection (a), the commissioner shall forward a copy of the order to all local and regional boards of health, with guidance that possession or distribution of the substance by any food, retail or other commercial establishment shall constitute an imminent health hazard. While the order is in effect the board of health or an authorized agent,

the local inspection department or the equivalent or a municipal government or its agent may, under section 30 of chapter 111 and any regulation promulgated pursuant thereto, take any enforcement action consistent with a finding of an imminent health hazard, up to and including summary suspension of a municipal license or permit held by the establishment including, but not limited to, a permit to operate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Upon receiving a report of an overdose-related death from the chief medical examiner, under section 16 of chapter 38, or a report of examination or treatment of a person with injuries resulting from an opiate, illegal or illicit drug overdose, under section 12A of chapter 112, the

department shall review the prescription monitoring program to determine if a notification should be made under subsection (e).

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

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

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

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

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

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

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

“Clinical stabilization services”, 24-hour treatment, usually following acute treatment services for substance abuse, which may include intensive education and counseling regarding

the nature of addiction and its consequences, relapse prevention, outreach to families and significant others and aftercare planning, for individuals beginning to engage in recovery from addiction.

The division and its 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 shall cover the cost of medically necessary acute treatment services and shall not require a preauthorization prior to obtaining treatment.

The division and its 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 shall cover the cost of medically necessary clinical stabilization services for up to 15 days before initiating utilization review procedures and shall not require preauthorization prior to obtaining clinical stabilization services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8HH. For the purposes of this section the term "substance abuse treatment" shall include: early intervention services for substance use disorder treatment; outpatient services

including medically assisted therapies; intensive outpatient and partial hospitalization services; residential or inpatient services, not covered under section 8II; and medically managed intensive inpatient services, not covered under said section 8II.

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall not require a member to obtain a preauthorization for substance abuse treatment if the provider is certified under section 15A of chapter 6D.

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

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

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

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

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

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

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

Section 4GG. Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled under subsection (b) of

section 13 of chapter 17, on a basis not less favorable than non-abuse deterrent opioid drug products that are covered by an individual or group medical service agreement. An increase in patient cost sharing shall not be allowed to achieve compliance with this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 32. The department of public health shall submit a report, not later than January 5, 2015, to the clerks of the house and senate, who shall forward the report to the house and senate committees on ways and means, the joint committee on health care financing and the joint committee on mental health and substance abuse. The report shall include, but not be limited to the following information: an analysis of whether practitioners are using the prescription monitoring program prior to prescribing drugs contained in schedule II; the number of violations of law or breaches of professional standards that were referred to law enforcement or a professional licensing, certification or regulatory agency or entity, under 105 CMR 700.012 (D) (5)(a), between January 1, 2013 and November 1, 2014; the type of violations of law or breaches of professional standards that were referred to an outside entity between January 1, 2013 and November 1, 2014; the outcome of the referrals; and recommendations about how to improve the use of the prescription monitoring program's data to establish best practices for prescribing, to identify indicators of risk for addiction and to prevent prescription drug abuse and the diversion of prescription drugs.

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

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

The commission shall investigate the public benefit to mandating that insurance providers monitor and limit policy holders' use of schedule II and schedule III opiates, as defined in

section 1 of chapter 94C of the General Laws. The investigation shall include, but not be limited to: (i) a review of the system implemented by blue cross blue shield that limits certain individual's ability to fill more than 2 15-day prescriptions in a 60 day period; (ii) an analysis of whether the blue cross blue shield model hinders patients' access to necessary pain medication; (iii) a cost-benefit analysis of permitting insurance providers to restrict prescription coverage of schedule II and III opiates and consideration of what role the commonwealth should have in regulating access to schedule II and III opiates; (iv) a recommendation about how best to implement the blue cross blue shield model on a statewide basis; and (v) alternatives to the blue cross blue shield model that will limit the over prescription of schedule II and schedule III opiates without limiting patients' access to necessary pain medication.

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

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

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

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

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

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

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

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

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

SECTION 39A. The division of medical assistance shall conduct a review and evaluation of the mandated benefit in section 23 and shall file a report with the clerks of the senate and the house of representatives and the house and senate committees on ways and means, not later than 90 days from the effective date of this act. The report's analysis and evaluation of the mandated benefit in said section 23 shall include, but not be limited to: the financial impact to the commonwealth of mandating the benefit, including the extent to which the proposed coverage

would increase or decrease the cost of the treatment or service over the next 5 years; the extent to which the proposed coverage might increase the appropriate or inappropriate use of the treatment or service over the next 5 years; the extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service; the extent to which the coverage may affect the number and types of providers of the mandated treatment or service over the next 5 years; the effects of mandating the benefit on the cost of health care; the cost to health care consumers of not mandating the benefit in terms of out of pocket costs for treatment or delayed treatment; the effect on the overall cost of the health care delivery system in the commonwealth; and the medical efficacy of mandating the benefit, including the impact of the benefit to the quality of patient care and the health status of the population and the results of any research demonstrating the medical efficacy of the treatment or service compared to alternative treatments or services or not providing the treatment or service. The division of medical assistance shall consult with the center for health information and analysis in creating the report to maximize opportunities for administrative simplification.

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

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

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

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

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

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

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

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

The commission shall investigate ways to improve and expand programs to treat incarcerated individuals with substance addictions. The investigation shall include, but not be limited to: (i) a survey of the statewide system, including existing programs in prisons and houses of correction; (ii) an analysis comparing capacity to need at each prison and house of correction; (iii) standards for certification and evaluation of such programs and treatments, based on evidence and research; (iv) the cost associated with conducting substance abuse screenings of all newly admitted persons to prisons and houses of correction, and making treatment available

to all such persons who request it; and (v) research into possible funding sources for such programs, including Medicaid funding for eligible participants.

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

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

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