SENATE . . . . . No. 2341

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

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

SECTION 1. 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 2. 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 16 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; a person with experience in insurance pharmacy benefit design; 2 persons with experience in pharmaceutical manufacturing, 1 of whom shall have experience with biologics; 4 practicing physicians, 1 of whom shall specialize in addiction medicine and 1 of whom shall specialize in the treatment of chronic pain; 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 3. 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 4. 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 chemically equivalent 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 drugs' 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 a chemically equivalent substitution the commission shall consider: the accessibility of the drug and its proposed substitute; whether the drug's substitute is cost prohibitive; the effectiveness of the substitution; 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 5. 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 6. 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 7. Said section 13 of said chapter 17, as so appearing, is hereby further amended by adding the following subsection-

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

SECTION 8. Said chapter 17 is hereby further 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 certified alcohol and drug free housing pursuant to section 18A, 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 pursuant to 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 or licensed by the department of public health.

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 for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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 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 14 days and shall not require preauthorization prior to obtaining such acute treatment services or clinical stabilization services; provided that, the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 10. Section 22 of said chapter 32A, as appearing in the 2012 Official 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 Food and Drug Administration's MedWatch Program any time the determined cause of death of an individual was due solely 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 of said chapter 30A, 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, or 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 Controlled Substances Act, 21 U.S.C section 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, a board of health or an authorized agent, the local inspection department or the equivalent, or a municipal government or its agent may, pursuant to 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. 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 15. Section 12A of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 32 to 34, inclusive, 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. section 290dd-2, 42 C.F.R. Part 2 and 45 C.F.R. section 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 Food and Drug Administration’s MedWatch Program.

SECTION 16. 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 pursuant to subsection (b) of section 13 of chapter 17.

SECTION 17. 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 formulary or supplement thereof.

SECTION 18. 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 19. 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, unless the context clearly requires otherwise, have the following meanings:-

“Acute treatment services”, 24-hour medically supervised addiction treatment for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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 14 days and shall not require preauthorization prior to obtaining clinical stabilization services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 20. 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 21. 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, which is considered creditable coverage under section 1 of chapter 118M, shall provide coverage for abuse deterrent opioid drug products listed on the formulary, compiled pursuant to 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, which is considered creditable coverage under section 1 of chapter 118M, shall not require a member to obtain a preauthorization for substance abuse treatment if the provider is certified or licensed by the department of public health.

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

“Acute treatment services”, 24-hour medically supervised addiction treatment for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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, which is considered creditable coverage under section 1 of chapter 118M, shall provide coverage for medically necessary acute treatment services and medically necessary clinical stabilization services for up to a total of 14 days and shall not require preauthorization prior to obtaining acute treatment services or clinical stabilization services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 22. 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 23. 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 pursuant to 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 or licensed by the department of public health.

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

"Acute treatment services", 24-hour medically supervised addiction treatment for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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 14 days and shall not require preauthorization prior to obtaining acute treatment services or clinical stabilization services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 24. 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 25. 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 pursuant to 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 or licensed by the department of public health.

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

"Acute treatment services", 24-hour medically supervised addiction treatment for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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 14 days and shall not require preauthorization prior to obtaining acute treatment services or clinical stabilization services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 26. 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 27. 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 pursuant to 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.

Any 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 or licensed by the department of public health.

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 for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, 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 clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, 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 14 days and shall not require preauthorization prior to obtaining acute treatment services or clinical stabilization services; provided that the facility shall provide the carrier both notification of admission and the initial treatment plan within 48 hours of admission; provided further, that utilization review procedures may be initiated on day 7.

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

SECTION 28. 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 of Massachusetts, Inc. 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 29. The department of public health shall compile a list of prescription drug drop boxes and other safe locations at which 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 communities within the commonwealth that do not have a prescription drug drop box or other safe location at which to dispose of prescription drugs. The department shall file the list with the clerks of the house of representatives and the senate, who shall forward the list to the house and senate committees on ways and means and the joint committee on mental health and substance abuse, not later than January 2, 2015.

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

such treatment 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 clerks of the house of representatives and the senate, 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 31. 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, issued pursuant to section 30, 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 its report, and shall provide at least one hearing in each county of the commonwealth prior to the issuance of a final report. The report shall include but not be limited to: (i) specific recommendations for legislation or regulatory changes, including appropriate coverage mandates; (ii) an evaluation of the availability of medication-assisted opioid therapy such as methadone, buprenorphine and extended-release naltrexone in critical stabilization services, including insurance coverage, regulatory or licensure barriers to accessing such medications prior to discharge and recommendations for changes to ensure patient access; and (iii) recommendations for the continuing study of substance use disorder by the center for health information and analysis, pursuant to section 21A of chapter 12C of the General Laws, including appropriate data collection and sharing activities.

SECTION 32. 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 33. The center for health information and analysis shall conduct a review and evaluation of the mandated insurance benefits in sections 9, 10 and 20 to 27, 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 34. The division of medical assistance shall conduct a review and evaluation of the mandated benefit in section 19 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 19 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 35. 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 36. 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, however, that such data shall not be considered 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 37. 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 38. Notwithstanding any general or special law to the contrary, the governor shall appoint the 4 new members to the drug formulary commission, established pursuant to 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 pursuant to 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 member's successor shall be appointed to serve for a term of 3 years.

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

SECTION 40. 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 a chemically equivalent 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 41. 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 42. There is hereby established a special commission for the purposes of investigating and studying the development of criteria for mandated treatment or monitoring of nonviolent offenders with substance addictions and to expand effective, evidence based addiction treatment programs for nonviolent substance addicted offenders. The commission shall consist of the court administrator or a designee and the director of the bureau of substance abuse services or a designee, who shall serve as co-chairs; the chief justice of the trial court or a designee; the attorney general or a designee; the secretary of public safety 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; the chief counsel of the committee for public counsel services or a designee; the commissioner of mental health or a designee; the secretary of the veterans' services or a designee; 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; the president of the Massachusetts District Attorneys Association or a designee; the president of the Massachusetts Bar Association or a designee; and 2 members appointed by the governor, 1 of whom shall be a substance addiction treatment expert and 1 of whom shall be a mental health treatment expert. Such investigation and study shall include, but not be limited to: (a) an evaluation of the application and effectiveness of Standards on Substance Abuse, approved by the justices of the supreme judicial court on April 28, 1998, and recommendations to improve and ensure the consistent application of the standards in the courts; (b) an evaluation and recommendations for improvement of specialty courts that address substance addictions, including current eligibility requirements or practices, availability of such courts and use of best practices in establishing quality of services; (c) the optimum number and estimated expansion costs associated with the drug courts necessary to meet the needs of the total annual number of nonviolent substance addicted offenders; (d) an evaluation of the number and type of nonviolent offenses committed by substance addicted defendants adjudicated in the commonwealth; (e) the development of a definition of nonviolent substance addicted offender;

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

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

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

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

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

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

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

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

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

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

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