

# HOUSE . . . . . No. 3947

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House bill No. 3944, as changed by the committee on Bills in the Third Reading, and as amended and passed to be engrossed by the House. January 13, 2016.

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## The Commonwealth of Massachusetts

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

An Act relative to substance use, treatment, education and prevention.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to increase forthwith the availability of substance use treatment, education and prevention, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1           SECTION 1. Section 118 of said chapter 6, as appearing in the 2014 Official Edition, is  
2 hereby amended by adding the following subsection:-

3           The municipal police training committee may establish a course within the recruit basic  
4 training curriculum for regional and municipal police training schools to train law enforcement  
5 officers on the application of section 34A of chapter 94C and section 12FF of chapter 112 and  
6 the procedures for response to calls for assistance for drug-related overdoses. The committee  
7 may periodically include within its in-service training curriculum a course of instruction on the  
8 application of said section 34A of said chapter 94C and the procedures for response to calls for  
9 assistance for drug-related overdoses. Upon request, the department of public health shall

10 provide information or training assistance to the municipal police training committee regarding  
11 the application of said section 34A of said chapter 94C.

12 SECTION 1A Section 4 of chapter 17 of the General Laws, as appearing in the 2014  
13 Official Edition, is hereby amended by striking out, in line 11, the words “with the advice of the  
14 advisory council on alcoholism and”.

15 SECTION 1B. Said section 4 of said chapter 17 is hereby further amended by striking  
16 out, in lines 14 and 15, the words “with the advice of the drug rehabilitation advisory board and”.

17 SECTION 2. Section 14 of chapter 17 of the General Laws is hereby repealed.

18 SECTION 3. Section 19 of said chapter 17 of the General Laws, as appearing in the 2014  
19 Official Edition, is hereby amended by inserting after the word “treatment”, in line 16, the  
20 following words:- , including information on United States Food and Drug Administration  
21 approved medication assisted treatment and the availability of such treatments in each  
22 geographic region of the commonwealth.

23 SECTION 4. Said section 19 of said chapter 17 is hereby further amended by striking  
24 out, in lines 27 and 28, as so appearing, the words “and (6) provide regular monitoring of  
25 patients' behavior and addressing relapse risks” and inserting in place thereof the following  
26 words:- (6) provide regular monitoring of patients' behavior and addressing relapse risks; and

27 (7) provide information to the patient prior to discharge about the patient’s option to file a  
28 voluntary non-opiate directive form pursuant to section 18A of chapter 94C.

29 SECTION 5. Chapter 17 of the General Laws is hereby amended by adding the following  
30 section:-

31           Section 21. (a) There shall be a Massachusetts council on substance use disorder  
32 prevention and treatment. The council shall: (i) support the efforts of the department of public  
33 health and the department of mental health to supervise, coordinate and establish standards for  
34 the operation of substance use prevention and treatment services; (ii) oversee implementation of  
35 initiatives and programs that effectively direct the existing resources and minimize the impact of  
36 substance use and misuse; (iii) develop and recommend formal policies and procedures for the  
37 coordination and efficient utilization of programs and resources for the prevention and treatment  
38 of substance use and misuse across state agencies and secretariats; (iv) provide recommendations  
39 on methods and programs to increase the collection and safe disposal of federally scheduled  
40 prescription medications not limited to expanding the use of prescription medication drop box  
41 sites at locations other than police departments; and the utilization of out-of-state treatment beds;  
42 and (v) develop an annual report and submit said report to the governor, on or before November  
43 30 of each year, detailing all activities of the council and recommending further efforts and  
44 resource needs.

45           (b) The council shall consist of the following members or their designees: the  
46 secretary of health and human services, who shall serve as chair; the secretary of public safety  
47 and security; the secretary of education; the commissioner of public health; the commissioner of  
48 mental health; the secretary of elder affairs; the chief justice of the trial court; 2 members of the  
49 senate, 1 of whom shall be appointed by the minority leader of the senate, 2 members of the  
50 house of representatives, 1 of whom shall be a appointed by the minority leader of the house of  
51 representatives; 15 members appointed by the governor, 2 of whom shall be medical  
52 professionals specializing in the treatment of substance use disorders, 1 of whom shall be a  
53 medical professional with expertise in the assessment and management of neonatal abstinence

54 syndrome, 1 of whom shall be an individual recovering from a substance use disorder, 1 of  
55 whom shall be a family member of an individual with a substance use disorder, 1 of whom shall  
56 represent the interests of individuals with chronic pain, 1 of whom shall be a member of The  
57 Massachusetts Hospital Association, Inc., 1 of whom shall be a mayor or selectman in a city or  
58 town in the commonwealth, 1 of whom shall be a representative of the Massachusetts Sheriffs'  
59 Association, Inc., 1 of whom shall be a representative from the Massachusetts Chiefs of Police  
60 Association Incorporated, 1 of whom shall be a representative of the Massachusetts District  
61 Attorneys Association, 1 of whom shall be a representative of the committee for public counsel  
62 services, 1 of whom shall be a representative from SEIU Local 615 Staff Union Inc.; 1 of whom  
63 shall be a member of the Police Assisted Addiction Recovery Initiative, Inc., 1 of whom shall  
64 represent pharmacists, 1 of whom shall be a member from the Association of Behavioral  
65 Healthcare, 1 of whom shall be a representative from the Massachusetts Biotechnology Council;  
66 with respect only to clause (iv) of subsection (a), the President of the Massachusetts  
67 Biotechnology Council and other appropriate representatives as determined by the governor. All  
68 members shall serve without compensation in an advisory capacity.

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

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

75 SECTION 5A. Item 4000-0005 of section 2 of chapter 46 of the acts of 2015 is hereby  
76 amended by inserting after the word “programs” the second time it is used, the following words:-  
77 provided further, that any grant awarded may also be used to target youth and adult substance  
78 misuse.

79 SECTION 6. Section 17M of chapter 32A of the General Laws, as so appearing, is  
80 hereby amended by inserting after the word “treatment” in line 3, the following words:- ; a  
81 substance abuse evaluation, as defined in section 51½ of chapter 111.

82 SECTION 7. Section 17N of said chapter 32A, as so appearing, is hereby amended by  
83 inserting after the words figure ‘7’, in line 28, the following words:- ; provided further, the  
84 commission shall provide to any active or retired employee of the commonwealth who is insured  
85 under the group insurance commission coverage for, without preauthorization, substance abuse  
86 evaluations ordered pursuant to section 51½ of chapter 111.

87 SECTION 8. Section 16 of chapter 38 of the General Laws, as so appearing, is hereby  
88 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

89 (b) Acute hospitals, as defined in section 64 of chapter 118E, shall file a monthly report  
90 regarding the exposure of children to controlled substances with the commissioner of public  
91 health in a manner determined by the commissioner of public health. The report shall include,  
92 but not be limited to: (i) the number of infants born in the previous month identified by the  
93 hospital as having been exposed to a schedule I, II or III controlled substance under chapter 94C;  
94 and (ii) the number and specific causes of hospitalizations of children under the age of 11 caused  
95 by ingestion of a schedule I, II or III controlled substance under said chapter 94C.

96 SECTION 8A. Section 1P of chapter 69 of the General Laws, as so appearing, is hereby  
97 amended by striking out, in line 97, the figure “18” and inserting in place thereof the figure “19”.

98 SECTION 8B. Said section 1P of said chapter 69, is hereby further amended by striking  
99 out, in line 127, the figure “3” and inserting in place thereof the figure “4”.

100 SECTION 8C. Said section 1P of said chapter 69 is hereby further amended by inserting  
101 after the word “schools” in line 136, the following words:- ; 1 of whom shall be a representative  
102 of Massachusetts Recovery High Schools with expertise in adolescent substance use disorders.

103 SECTION 9. Chapter 71 of the General Laws is hereby amended by striking out section  
104 96, as so appearing, and inserting in place thereof the following section:-

105 Section 96. Each public school shall have a policy regarding substance use prevention  
106 and the education of its students about the dangers of substance abuse. The school shall notify  
107 the parents or guardians of all students attending the school of the policy and shall post the  
108 policy on the school's website. The policy, and any standards and rules enforcing the policy,  
109 shall be prescribed by the school committee in conjunction with the superintendent or the board  
110 of trustees of a charter school.

111 The department of elementary and secondary education, in consultation with the  
112 department of public health, shall provide guidance and recommendations to assist schools with  
113 developing and implementing effective substance use prevention and abuse education policies  
114 and shall make such guidance and recommendations publicly available on the department’s  
115 website. Guidance and recommendations may include educating parents or guardians on  
116 recognizing warning signs of substance abuse and providing available resources. Guidance and

117 recommendations shall be reviewed and regularly updated to reflect applicable research and best  
118 practices.

119 Each school district and charter school shall file its substance use prevention and abuse  
120 education policies with the department of elementary and secondary education in a manner and  
121 form prescribed by the department.

122 SECTION 10. Section 1 of chapter 94C of the General Laws, as amended by section 80  
123 of chapter 46 of the acts of 2015, is hereby further amended by inserting after the definition of  
124 “drug paraphernalia” the following definition:-

125 “Extended-release long-acting opioid in a non-abuse deterrent form”, a drug that is: (i)  
126 subject to the United States Food and Drug Administration extended release and long-acting  
127 opioid analgesics risk evaluation and mitigation strategy; (ii) an opioid approved for medical use  
128 that does not meet the requirements for listing as a drug with abuse deterrent properties pursuant  
129 to section 13 of chapter 17; and (iii) identified by the drug formulary commission pursuant to  
130 said section 13 of said chapter 17 as posing a heightened level of public health risk.

131 SECTION 11. Section 18 of said chapter 94C, as appearing in the 2014 Official Edition,  
132 is hereby amended by striking out subsection (e) and inserting in place thereof the following 2  
133 subsections:-

134 (e) Practitioners who prescribe an extended-release long-acting opioid in a non-abuse  
135 deterrent form, or any immediate release opioid, shall note in the patient’s medical record the  
136 reasons for prescribing such an opioid over other forms of pain management.

137 (f) Practitioners who are authorized to prescribe controlled substances, except  
138 veterinarians, shall be required, as a prerequisite to obtaining or renewing their professional  
139 licenses, to complete appropriate training relative to: (i) effective pain management; (ii)  
140 identification of patients at risk for substance use disorders; (iii) counseling patients about the  
141 side effects, addictive nature and proper storage and disposal of prescription medications; and  
142 (iv) opioid antagonists, overdose prevention treatments and instances in which a patient may be  
143 advised on both the use of, and ways to access, opioid antagonists and overdose prevention  
144 treatments. The board of registration for each professional license for which training is required  
145 pursuant to this subsection shall develop the standards for appropriate training programs;  
146 provided, that each board shall, at a minimum, require 5 hours of training every 2 years in one or  
147 more of the aforementioned topic areas..

148 SECTION 12. The second paragraph of subsection (c) of section 24A of chapter 94C, as  
149 appearing in the 2014 Official Edition, is hereby amended by striking out the first sentence and  
150 inserting in place thereof the following sentence:- The department shall promulgate rules and  
151 regulations relative to the use of the prescription monitoring program by registered participants  
152 which shall include the requirement that prior to issuance, participants utilize the prescription  
153 monitoring program each time a prescription for a narcotic drug that is contained in schedule II  
154 or III is issued.

155 SECTION 13. Chapter 94C of the General Laws, is hereby amended by inserting after  
156 section 18 the following section:-

157 Section 18A. (a) The department shall establish a voluntary non-opiate directive form.  
158 The form shall indicate to all practitioners that an individual shall not be administered or offered



159 a prescription or medication order for an opiate. The form shall be posted on the department's  
160 searchable website. A patient may bring a copy of the voluntary non-opiate directive form to a  
161 practitioner registered under section 7 or other authority authorized by the department for  
162 signature. Before any such practitioner signs a voluntary non-opiate directive form they shall  
163 assess the patient's personal and family history of alcohol or drug abuse and evaluate the  
164 patient's risk for medication misuse or abuse. If a practitioner reasonably believes that a patient  
165 is at risk for substance abuse or a practitioner believes in the practitioner's expert medical  
166 opinion that for any other reason the non-opiate directive is appropriate, the practitioner may  
167 sign the form. The practitioner signing the non-opiate directive form shall note doing so in the  
168 patient's medical record. A patient may revoke the voluntary non-opiate directive form for any  
169 reason and may do so by written or oral means.

170 (b) The department shall promulgate rules and regulations for the implementation of the  
171 voluntary non-opiate directive form which shall include, but shall not be limited to:

172 (i) procedures to record the voluntary non-opiate directive form in the patient's  
173 interoperable electronic health record and in the prescription drug monitoring program  
174 established in section 24A;

175 (ii) a standard template for the recording and transmission of the voluntary non-opiate  
176 directive, which shall include: (A) verification by a practitioner registered under section 7; and  
177 (B) information, in plain language, on the process to revoke the voluntary non-opiate directive;  
178 and which shall comply with the written consent requirements of the Public Health Service Act,  
179 42 U.S.C. section 290dd-2(b), and 42 CFR Part 2;

180 (iii) requirements for an individual to appoint a duly authorized guardian or health care  
181 proxy to override a previously recorded voluntary non-opiate directive form;

182 (iv) procedures to ensure that any recording, sharing or distribution of data relative to the  
183 voluntary non-opiate directive form complies with all state and federal confidentiality laws; and

184 (v) appropriate exemptions for practitioners to prescribe an opiate medication when, in  
185 their professional medical judgement, such medication is necessary.

186 (c) A written prescription that is presented at a pharmacy or a prescription that is  
187 electronically transmitted to a pharmacy shall be presumed to be valid for the purposes of this  
188 section. A pharmacist in an outpatient setting shall not be held in violation of this section for  
189 dispensing a controlled substance in contradiction of a voluntary non-opiate directive form.

190 (d) No practitioner or employee of a practitioner acting in good faith shall be subject to  
191 criminal or civil liability or be considered to have engaged in unprofessional conduct for failing  
192 to offer or administer a prescription or medication order for an opiate under the voluntary non-  
193 opiate directive form.

194 (e) No person acting as an agent pursuant to a health care proxy shall be subject to  
195 criminal or civil liability for making a decision under clause (iii) of subsection (b) in good faith.

196 SECTION 14. Said chapter 94C is hereby amended by inserting after section 19C, as  
197 appearing in section 88 of chapter 46 of the acts of 2015, the following section:-

198 Section 19D. (a) When issuing a prescription for an opiate to an adult patient for  
199 outpatient use for the first time, a practitioner shall not issue a prescription for more than a 7-day  
200 supply. A practitioner shall not issue an opiate prescription to a minor for more than a 7-day

201 supply at any time and shall discuss with the parent or guardian of the minor the risks associated  
202 with opiate use and the reasons why the prescription is necessary.

203 (b) Notwithstanding subsection (a), if, in the professional medical judgment of a  
204 practitioner, more than a 7-day supply of an opiate is required to treat the adult or minor patient's  
205 acute medical condition, or is necessary for the treatment of chronic pain management, pain  
206 associated with a cancer diagnoses or for palliative care, then the practitioner may issue a  
207 prescription for the quantity needed to treat said acute medical condition, chronic pain, pain  
208 associated with a cancer diagnosis or pain experienced while the patient is in palliative care. The  
209 condition triggering the prescription of an opiate for more than a 7-day supply shall be  
210 documented in the patient's medical record and the practitioner shall indicate that a non-opiate  
211 alternative was not appropriate to address the medical condition.

212 (c) Notwithstanding the provisions of subsection (a) and subsection (b) this section shall  
213 not apply to medications designed for the treatment of substance abuse or opioid dependence.

214 SECTION 15. Said chapter 94C, as appearing in the 2014 Official Edition, is hereby  
215 further amended by inserting after section 24A the following section:-

216 Section 24B. The department shall annually determine, through the prescription drug  
217 monitoring system established under section 24A, the mean and median quantity and volume of  
218 prescriptions for opiates contained in schedule II and schedule III as described in section 3  
219 issued by practitioners registered under section 7; provided, however, that mean and median  
220 prescription quantities and volumes shall be determined within categories of practitioners of a  
221 similar specialty or practice area as determined by the department.

222           The department shall work in conjunction with the respective boards of licensure to  
223 annually determine each practitioner's schedule II and schedule III opiate prescribing quantity  
224 and volume and the practitioner's standing with regard to the mean and median quantity and  
225 volume for the practitioner's category of specialty or practice type. A practitioner may request  
226 the practitioner's own percentile ranking within the practitioner's own category of practice; such  
227 information shall be confidential, shall not constitute a public record as defined in clause twenty-  
228 sixth of section 7 of chapter 4, shall not be admissible as evidence in a civil or criminal  
229 proceeding, and shall not be the sole basis for investigation by a licensure board. The  
230 department shall also coordinate with the respective boards of licensure to make resources  
231 available to prescribers regarding ways to change prescribing practices and incorporate  
232 alternative pain management options into a prescriber's practice.

233           SECTION 16. Chapter 111 of the General Laws is hereby amended by inserting after  
234 section 51 the following section:-

235           Section 51½. (a) For the purposes of this section, the following words shall have the  
236 following meanings:-

237           “Acute-care hospital”, any hospital licensed under section 51 that contains a majority of  
238 medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department, and the  
239 teaching hospital of the University of Massachusetts Medical School.

240           “Licensed mental health professional”, a licensed physician who specializes in the  
241 practice of psychiatry or addiction medicine, a licensed psychologist, a licensed independent  
242 social worker, a licensed mental health counselor, a licensed psychiatric clinical nurse specialist  
243 or a licensed alcohol and drug counselor I as defined in section 1 of chapter 111J.

244 “Satellite emergency facility”, a health care facility that operates on a 7-day per week,  
245 24-hour per day basis that is located off the premises of a hospital, but is listed on the license of a  
246 hospital, and is authorized to accept patients transported to the facility by ambulance.

247 “Substance abuse evaluation”, an evaluation ordered pursuant to subsection (b) that is  
248 conducted by a licensed mental health professional or through an emergency services program,  
249 which shall include, but not be limited to, collecting the following information: history of the  
250 patient’s use of alcohol, tobacco and other drugs, including age of onset, duration, patterns and  
251 consequences of use; the use of alcohol, tobacco and other drugs by family members; types of  
252 and responses to previous treatment for substance use disorders or other psychological disorders;  
253 an assessment of the patient’s psychological status including co-occurring disorders, trauma  
254 history and history of compulsive behaviors; and an assessment of the patient’s human  
255 immunodeficiency virus, hepatitis C, and tuberculosis risk status.

256 (b) Each person presenting in an acute-care hospital or a satellite emergency facility  
257 who is reasonably believed by the attending physician to be experiencing an opiate-related  
258 overdose, or who has been administered naloxone prior to arriving at the hospital or facility,  
259 shall receive a substance abuse evaluation within 24 hours of receiving emergency room  
260 services. A substance abuse evaluation shall conclude with a diagnosis of the status and nature of  
261 the patient’s substance use disorder, using standardized definitions as set forth in the Diagnostic  
262 and Statistical Manual of Mental Disorders as published by the American Psychiatric  
263 Association, or a mental or behavioral disorder due to the use of psychoactive substances, as  
264 defined and coded by the World Health Organization. Each patient shall be presented with the  
265 findings of the evaluation in person and in writing, and the findings shall include  
266 recommendations for further treatment, if necessary, with an assessment of the appropriate level

267 of care needed. Findings from the evaluation shall be entered into the patient's medical record.  
268 No acute-care hospital or satellite emergency facility shall permit early discharge, defined as less  
269 than 24 hours after presentation or before the conclusion of a substance abuse evaluation,  
270 whichever comes sooner. If a patient does not receive an evaluation within 24 hours, the  
271 attending physician shall note in the medical record the reason the evaluation did not take place  
272 and authorize the discharge of the patient. No physician shall be held liable in a civil suit for  
273 releasing a patient who does not wish to remain in the emergency department after stabilization,  
274 but before a substance abuse evaluation has taken place.

275 (c) After a substance abuse evaluation has been completed pursuant to subsection (b)  
276 a patient may consent to further treatment. Treatment may occur within the acute-care hospital or  
277 satellite emergency facility, if appropriate services are available; provided, however, that if the  
278 hospital or satellite emergency facility is unable to provide such services, the hospital or satellite  
279 emergency facility shall refer the patient to treatment center outside of the hospital or satellite  
280 emergency facility. Medical necessity for further treatment shall be determined by the treating  
281 clinician in consultation with the patient and noted in the medical record. If a patient refuses  
282 further treatment after the evaluation is complete, and is otherwise medically stable, the hospital  
283 or satellite emergency facility may initiate discharge proceedings. All patients receiving an  
284 evaluation under subsection (b) shall receive, upon discharge, information on local and statewide  
285 treatment options, providers and other relevant information as deemed appropriate by the  
286 attending physician.

287 (d) If a person has received a substance abuse evaluation within the past 3 months,  
288 further treatment and the need for a further evaluation shall be determined by the attending  
289 physician according to best practices and procedures.

290 (e) If a person under 18 years of age is ordered to undergo a substance abuse  
291 evaluation, the parent or guardian shall be notified that the minor has suffered from an opiate-  
292 related overdose and that an evaluation has been ordered. The parent or guardian may be present  
293 when the findings of the evaluation are presented to the minor.

294 (f) Upon discharge of a patient who experienced an opiate-related overdose, the acute-  
295 care hospital shall notify the patient's primary care physician, if known, of the opiate-related  
296 overdose and any recommended further treatment.

297 (g) Upon discharge of a patient who experienced an opiate-related overdose, the acute-  
298 care hospital shall record the opiate-related overdose on the patient's electronic medical record.

299 SECTION 17. Subsection (a) of section 222 of chapter 111 of General Laws, as  
300 appearing in 2014 Official Edition, is hereby amended by adding the following paragraph:-

301 The bureau of substance abuse services shall provide educational materials on the  
302 dangers of opiate use and misuse to those persons participating in the annual head injury safety  
303 program required by this section. The educational materials shall be distributed in written form  
304 to all students participating in an extracurricular athletic activity prior to the commencement of  
305 their athletic seasons.

306 SECTION 17A. Section 3 of chapter 111B of the general laws, as appearing in the 2014  
307 Official Edition, is hereby amended by inserting the following words after the words "or  
308 alcoholics", in line 17:- , or any acute-care hospital or satellite emergency facility, as defined in  
309 section 511/2 of chapter 111.

310 SECTION 17B. Said section 3 of said chapter 111B, as so appearing, is hereby further  
311 amended by striking out, in lines 24 and 25, the words “the condition of an intoxicated person  
312 who, by reason of the consumption of intoxicating liquor is” and inserting in place thereof the  
313 following words:- the condition of a person who, by reason of the consumption of an intoxicating  
314 liquor, controlled substance, toxic vapor or other substance that causes the individual to become.

315 SECTION 17C. Said section 3 of said chapter 111B, as so appearing, is hereby further  
316 amended by striking out, in lines 35 and 36, the words “intoxicated persons and alcoholics” and  
317 inserting in place thereof the following words:- individuals with an alcohol use disorder or  
318 substance use disorder, or any acute-care hospital or satellite emergency facility, as defined in  
319 section 511/2 of chapter 111.

320 SECTION 17D. Said section 3 of said chapter 111B, as so appearing, is hereby further  
321 amended by inserting the following after the words “of alcoholics”, in line 40:- , or any acute-  
322 care hospital or satellite emergency facility, as defined in section 511/2 of chapter 111.

323 SECTION 17E. Section 8 of said chapter 111B, as so appearing, is hereby amended by  
324 striking out, in lines 13 through 23, the words “Any person who is administered a breathalyzer  
325 test, under this section, shall be presumed not to be intoxicated if evidence from said test  
326 indicated that the percentage of alcohol in his blood is five one hundredths or less and shall be  
327 released from custody forthwith. If any person who is administered a breathalyzer test, under this  
328 section, and evidence from said test indicates that the percentage of alcohol in his blood is more  
329 than five one hundredths and is less than ten one hundredths there shall be no presumption made  
330 based solely on the breathalyzer test. In such instance a reasonable test of coordination or speech  
331 coherency must be administered to determine if said person is intoxicated” and inserting in place



332 thereof the following words:- If evidence from said breathalyzer test indicates that the percentage  
333 of alcohol in the person’s blood is less than ten one hundredths, a reasonable test of coordination  
334 or speech coherency must be administered to determine if said person is incapacitated.

335 SECTION 17F. Section 8 of said chapter 111B, as so appearing, is hereby amended by  
336 striking out, in all instances, the word “intoxicated” and inserting in place thereof the following  
337 word:- incapacitated.

338 SECTION 17G. Section 1 of chapter 111E of the General Laws, as appearing in the 2014  
339 Official Edition, is hereby amended by striking out the definition of ‘advisory board’.

340 SECTION 18. Section 3 of chapter 111E of the General Laws is hereby repealed.

341 SECTION 18A. Section 4 of said chapter 111E is hereby amended by striking out, in  
342 lines 6 and 7, the words “the advisory board,”.

343 SECTION 19. Chapter 112 of the General Laws is hereby amended by inserting after  
344 section 12EE the following section:-

345 Section 12FF. Any person who, in good faith, attempts to render emergency care by  
346 administering naloxone or any other opioid antagonist, as defined in section 19B of chapter 94C,  
347 to a person reasonably believed to be experiencing an opiate-related overdose, shall not be liable  
348 for acts or omissions, other than gross negligence or willful or wanton misconduct, resulting  
349 from the attempt to render this emergency care.

350 SECTION 20. Section 10H of chapter 118E of the General Laws, as added by section 19  
351 of chapter 258 of the acts of 2014, is hereby amended by inserting after the figure “7”, in line 45,  
352 the following words:- ; and provided further, that the division and its contracted health insurers,

353 health plans, health maintenance organizations, behavioral health management firms and third  
354 party administrators under contract to a Medicaid managed care organization or primary care  
355 clinician plan shall cover, without preauthorization, substance abuse evaluations ordered  
356 pursuant to section 51½ of chapter 111.

357 SECTION 21. Section 35 of chapter 123 of the General Laws, as appearing in the 2014  
358 Official Edition, is hereby amended by striking out the first 2 paragraphs and inserting in place  
359 thereof the following paragraph:-

360 For the purposes of this section the following terms shall, unless the context clearly  
361 requires otherwise, have the following meanings:

362 “Alcohol use disorder”, the chronic or habitual consumption of alcoholic beverages by a  
363 person to the extent that (1) such use substantially injures the person’s health or substantially  
364 interferes with the person’s social or economic functioning, or (2) the person has lost the power  
365 of self-control over the use of such beverages.

366 “Facility”, a public or private facility that provides care and treatment for a person with  
367 an alcohol or substance use disorder.

368 “Substance use disorder”, the chronic or habitual consumption or ingestion of controlled  
369 substances or intentional inhalation of toxic vapors by a person to the extent that: (i) such use  
370 substantially injures the person’s health or substantially interferes with the person’s social or  
371 economic functioning; or (ii) the person has lost the power of self-control over the use of such  
372 controlled substances or toxic vapors.

373 SECTION 22. Said section 35 of said chapter 123, as so appearing, is hereby further  
374 amended by striking out the words “is an alcoholic or substance abuser”, in lines 17 and 18, and  
375 inserting in place thereof the following words:- has an alcohol or substance use disorder.

376 SECTION 23. Said section 35 of said chapter 123, as so appearing, is hereby further  
377 amended by inserting after the word “a”, in line 36, the third time it appears, the following  
378 word:- qualified.

379 SECTION 24. Said section 35 of said chapter 123, as so appearing, is hereby further  
380 amended by striking out the fourth and fifth paragraphs and inserting in place thereof the  
381 following 3 paragraphs:-

382 If, after a hearing which shall include expert testimony and may include other evidence,  
383 the court finds that such person is an individual with an alcohol or substance use disorder and  
384 there is a likelihood of serious harm as a result of the person’s alcohol or substance use disorder,  
385 the court may order such person to be committed for a period not to exceed 90 days to a facility  
386 designated by the department of public health, followed by the availability of case management  
387 services provided by the department of public health for up to 1 year; provided, that a review of  
388 the necessity of the commitment shall take place by the superintendent on days 30, 45, 60 and 75  
389 as long as the commitment continues. A person so committed may be released prior to the  
390 expiration of the period of commitment upon written determination by the superintendent of the  
391 facility that release of that person will not result in a likelihood of serious harm. Such  
392 commitment shall be for the purpose of inpatient care for the treatment of an alcohol or  
393 substance use disorder in a facility licensed or approved by the department of public health or the  
394 department of mental health. Subsequent to the issuance of a commitment order, the

395 superintendent of a facility may authorize the transfer of a patient to a different facility for  
396 continuing treatment; provided, that the superintendent shall provide notification of the transfer  
397 to the committing court.

398         If the department of public health informs the court that there are no suitable facilities  
399 available for treatment licensed or approved by the department of public health or the department  
400 of mental health, or if the court makes a specific finding that the only appropriate setting for  
401 treatment for the person is a secure facility, then the person may be committed to: (i) a secure  
402 facility for women approved by the department of public health or the department of mental  
403 health, if a female; or (ii) the Massachusetts correctional institution at Bridgewater, if a male;  
404 provided, however, that any person so committed shall be housed and treated separately from  
405 persons currently serving a criminal sentence. The person shall, upon release, be encouraged to  
406 consent to further treatment and shall be allowed voluntarily to remain in the facility for such  
407 purpose. The department of public health shall maintain a roster of public and private facilities  
408 available, together with the number of beds currently available and the level of security at each  
409 facility, for the care and treatment of alcohol use disorder and substance use disorder and shall  
410 make the roster available to the trial court.

411         Nothing in this section shall preclude a facility, including the Massachusetts correctional  
412 institution at Bridgewater, from treating persons on a voluntary basis.

413         SECTION 25. Section 47FF of chapter 175 of the General Laws, as so appearing, is  
414 hereby amended by inserting after the word “treatment”, in line 3, the following words:- ; a  
415 substance abuse evaluation, as defined in section 51½ of chapter 111.

416 SECTION 25A. Section 47GG of said chapter 175, as so appearing, is hereby amended  
417 by striking out, in line 21, the word ‘118M’ and inserting in place thereof the following word:-  
418 111M.

419 SECTION 26. Section 47GG of said chapter 175, as so appearing, is hereby amended by  
420 inserting after the figure “7”, in line 29, the following words:- ; provided further, any policy,  
421 contract, agreement, plan or certificate of insurance issued, delivered or renewed within the  
422 commonwealth, which is considered creditable coverage pursuant to section 1 of chapter 111M,  
423 shall cover, without preauthorization, a substance abuse evaluation ordered pursuant to section  
424 51½ of chapter 111.

425 SECTION 27. Section 8HH of chapter 176A of the General Laws, as so appearing, is  
426 hereby amended by inserting after the word “treatment”, in line 3, the following words:- ; a  
427 substance abuse evaluation, as defined in section 51½ of chapter 111.

428 SECTION 28. Section 8II of said chapter 176A, as so appearing, is hereby amended by  
429 inserting after the figure ‘7’, in line 28, the following words:- ; provided further, any contract  
430 between a subscriber and the corporation under an individual or group hospital service plan  
431 which is delivered, issued or renewed within the commonwealth, shall cover, without  
432 preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111.

433 SECTION 29. Section 4HH of chapter 176B of the General Laws, as so appearing, is  
434 hereby amended by inserting after the word “treatment”, in line 3, the following words:- ; a  
435 substance abuse evaluation, as defined in section 51½ of chapter 111.

436 SECTION 30. Section 4II of said chapter 176B, as so appearing, is hereby amended by  
437 inserting after the words figure ‘7’, in line 28, the following words:- ; provided further, any

438 subscription certificate under an individual or group medical service agreement delivered, issued  
439 or renewed within the commonwealth shall provide coverage for, without preauthorization, a  
440 substance abuse evaluation ordered pursuant to section 51½ of chapter 111.

441 SECTION 31. Section 4Z of chapter 176G of the General Laws, as so appearing, is  
442 hereby amended by inserting after the word “treatment”, in line 3, the following words:- ; a  
443 substance abuse evaluation, as defined in section 51½ of chapter 111.

444 SECTION 32. Section 4AA of said chapter 176G, as so appearing, is hereby amended by  
445 inserting after the figure ‘7’, in line 27, the following words:- ; provided further, an individual or  
446 group health maintenance contract that is issued or renewed shall provide coverage for, without  
447 preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111.

448 SECTION 33. Section 7 of chapter 176O of the General Laws, as so appearing, is hereby  
449 amended by striking out, in line 59, the word “and”.

450 SECTION 34. Said section 7 of said chapter 176O, as so appearing, is hereby further  
451 amended by inserting after the word “age”, in line 68, the following words:- ; and

452 (5) a report detailing for the previous calendar year the total number of: (i) medical or  
453 surgical claims submitted to the carrier; (ii) medical or surgical claims denied by the carrier; (iii)  
454 mental health or substance use disorder claims submitted to the carrier; (iv) mental health or  
455 substance use disorder claims denied by the carrier; and (v) medical or surgical claims and  
456 mental health or substance use disorder claims denied by the carrier because: (a) the insured  
457 failed to obtain pre-treatment authorization or referral for services; (b) the service was not  
458 medically necessary; (c) the service was experimental or investigational; (d) the insured was not  
459 covered or eligible for benefits at the time services occurred; (e) the carrier does not cover the

460 service or the provider under the insured's plan; (f) duplicate claims had been submitted; g)  
461 incomplete claims had been submitted; (h) coding errors had occurred; or (i) of any other  
462 specified reason.

463 SECTION 35. Section 43 of chapter 258 of the acts of 2014 is hereby repealed.

464 SECTION 36. Not later than July 1, 2016, the Massachusetts Association of School  
465 Committees, Inc., the Massachusetts Association of School Superintendents, Inc. and the  
466 Massachusetts Charter Public School Association, Inc. shall each provide an update to the  
467 department of elementary and secondary education, the joint committee on education, and the  
468 joint committee on mental health and substance abuse on their ongoing efforts to ensure  
469 compliance with the requirements set forth in section 96 of chapter 71 of the General Laws.

470 SECTION 37. The department of public health and the department of elementary and  
471 secondary education shall develop a transportation plan for recovery high schools. The plan shall  
472 ensure that each student attending a recovery high school, as defined in section 91 of chapter 71,  
473 has access to transportation between home and school.

474 NO SECTION 38.

475 SECTION 39. The health policy commission, in consultation with the department of  
476 public health and the department of mental health, shall conduct a study on the availability of  
477 health care providers that serve patients with dual diagnoses of substance use disorder and  
478 mental illness, in inpatient and outpatient settings. This study shall include: (i) an inventory of  
479 health care providers with the capability of caring for patients with dual diagnoses, including the  
480 location and nature of services offered at each such provider; (ii) an inventory of health care  
481 providers specializing in caring for child and adolescent patients with dual diagnoses, including

482 the location and nature of services offered at each such provider; and (iii) an assessment of the  
483 sufficiency of dual diagnosis resources in the commonwealth considering multiple factors,  
484 including but not limited to population density, geographic barriers to access, insurance coverage  
485 and network design, incidence of mental illness and substance use disorders and the needs of  
486 individuals with dual diagnoses. The study shall also consider barriers to access to  
487 comprehensive mental health and substance use disorder treatment for adults, seniors, children  
488 and adolescents and shall include recommendations to reduce barriers to treatment for patients  
489 with dual diagnoses, including the appropriate supply and distribution of health care providers  
490 with such capability. The commission shall report to the joint committee on mental health and  
491 substance abuse and the house and senate committees on ways and means no later than 12  
492 months following the completion of the study.

493 SECTION 40. Notwithstanding any general or special law to the contrary, the  
494 Massachusetts behavioral health access (MABHA) website, operated by the office of medicaid's  
495 behavioral health vendor, shall post contact information for all insurance payers, including a  
496 phone number which is accessible 24 hours per day, for the purpose of enhancing  
497 communication between payers and providers.

498 SECTION 40A. There shall be a special commission to investigate and study state  
499 licensed addiction treatment centers.

500 The commission shall consist of: the secretary of health and human services or a  
501 designee, who shall serve as chair; the commissioner of mental health or a designee; the  
502 commissioner of public health or a designee; the director of medicaid or a designee; the inspector  
503 general or a designee; and 6 members who shall be appointed by the secretary of health and



504 human services: 3 of whom shall be advocates from the addiction treatment community and 3 of  
505 whom shall be a family members of individuals who have been treated at a state licensed  
506 addiction treatment center.

507         The commission shall: (1) solicit information and input from addiction treatment service  
508 providers, consumers, families and any other parties or entities the commission considers  
509 appropriate; (2) examine the effectiveness of addiction treatment services in promoting  
510 successful outcomes of recovery and wellness, (3) examine ways to encourage engagement from  
511 individuals in recovery from substance use disorders in policy development related to service  
512 delivery and the training and evaluation of services, (4) consider best practice models of delivery  
513 and the provision of recovery oriented services in other states; (6) examine mental health  
514 considerations when an individual enters an addiction treatment center, including, but not limited  
515 to, patient access to mental health services and (7) recommend legislation to improve services for  
516 people in a state licensed addiction treatment center.

517         The commission shall submit a report to the general court of the results of its  
518 investigation and its recommendations, if any, together with any drafts of proposed legislation,  
519 with the clerks of the senate and the house of representatives, the chairs of the joint committee  
520 on mental health and substance abuse, and the chairs of the senate and house committees on  
521 ways and means not later than January 1, 2017.

522         SECTION 40B. Section 12 shall take effect October 15, 2016.

523         SECTION 41. Sections 5 to 7, inclusive, 13, 16, 20, and 25 to 32, inclusive, shall take  
524 effect on July 1, 2016.

525 SECTION 42. Notwithstanding any general or special law to the contrary, the department  
526 of public health, in consultation with the executive office of public safety and security and  
527 representatives from acute and community hospitals, shall investigate and report on: (i) the  
528 current capacity of health care facilities in the Commonwealth, including hospital emergency  
529 departments, to screen patients for non-medical use of fentanyl, and the extent to which  
530 laboratory tests commonly used in these settings are able to identify misuse of fentanyl when it is  
531 not used in concert with other substances; (ii) the current capacity of medical examiners in the  
532 Commonwealth to identify and report on the number of overdose deaths associated primarily or  
533 solely with fentanyl abuse; and, (iii) the feasibility and costs associated with implementing or  
534 expanding the capacity of medical facilities and medical examiners to test for abuse of fentanyl,  
535 whether or not it is used in concert with other drugs.

536 The department shall report to the general court the results of its study and its  
537 recommendations, if any, together with drafts of legislation necessary to carry out its  
538 recommendations by filing the same with the clerks of the senate and house of representatives,  
539 the joint committee on mental health and substance abuse and the senate and house committees  
540 on ways and means not later than December 31, 2016.

541 SECTION 43. The department of public health shall promulgate rules and regulations  
542 relative to practitioners, as defined in section 1 of chapter 94C of the General Laws, advertising  
543 opiates, benzodiazepines, and narcotics on their premises by posting or distributing written  
544 material .

545 For the purposes of this section, the following terms shall have the following meanings:  
546 narcotic shall mean “narcotic” as defined in section 1 of chapter 94C; opiate shall mean “opiate”

547 as defined in section 1 of chapter 94C; and benzodiazepine shall mean any substance or drug  
548 which contains a benzene ring fused to a 7 member diazepine ring, results in the depression of  
549 the central nervous system and is primarily intended to treat insomnia and anxiety, including  
550 alprazolam, clonazepam, diazepam, lorazepam, and temazepam.

551 SECTION 44. The department of public health and the bureau of substance abuse  
552 services shall recommend each municipality designate at least one prescription drug drop box  
553 and other safe locations at which to dispose of prescription drugs. Locations may include but are  
554 not limited to: police stations, pharmacies, local health departments and areas approved by the  
555 local authority.

556 SECTION 45. Notwithstanding any special or general law there shall be a special  
557 commission to study the alternatives and develop recommendations to broaden the availability of  
558 naloxone without prescription, including but not limited to recommendations on the standing  
559 order process, the collaborative practice agreement process, and/or legislative recommendations.

560 The special commission shall consist of: the secretary of health and human services or  
561 their designee, who shall serve as chair; the commissioner of the division of insurance or their  
562 designee; three members to be appointed by the governor, which shall include: one person who is  
563 a prescribing physician, one person who is a stakeholder within a retail pharmacy company, and  
564 one member of the general citizenry impacted by the opiate epidemic; two members of the house  
565 of representatives, one of whom to be appointed by the minority leader; two members of the  
566 senate, one of whom to be appointed by the minority leader; the director of the board of  
567 pharmacy or their designee; the director of the bureau of substance abuse services or their

568 designee; provided, however, that the first meeting of the commission shall take place not later  
569 than March 1, 2016.

570 The special commission shall submit its recommendations, together with drafts of any  
571 legislation, to the clerks of the house of representatives and the senate, the chairs of the joint  
572 committee on mental health and substance abuse not later than July 1, 2016.

573 SECTION 46. Section 24A Chapter 94C of the General Laws is hereby amended in  
574 subsection (c) by striking the language “, to a patient for the first time,”.

575 SECTION 47. The department of public health shall investigate and study the occurrence  
576 of opiate prescribing to patients who have experienced nonfatal opiate overdoses. The study  
577 shall include, but not be limited to: (i) an analysis of the number of patients who have been  
578 administered a schedule II controlled substance utilized in order to prevent an opiate-related  
579 adverse event and subsequently prescribed an opiate medication; (ii) an examination of the  
580 feasibility of including a schedule II controlled substance utilized in order to prevent an opiate-  
581 related adverse event and any other opiate antagonist medications in the prescription monitoring  
582 database established under section 24A of chapter 94C; (iii) an examination of strategies to  
583 enhance awareness of and access to substance use disorder treatment and services for persons  
584 that have experienced an overdose, including the disclosure of a directory of available treatment  
585 options by emergency medical service professionals upon the administration of a schedule II  
586 controlled substance utilized in order to prevent an opiate-related adverse event. The department  
587 shall file a report on its finding and recommendations with the clerks of the house of  
588 representatives and the senate, the chairs of the joint committee on mental health and substance  
589 abuse, the chairs of the joint committee on public health, the chairs of the joint committee on

590 health care financing, and the chairs of the house and senate committee on ways and means, not  
591 later than October 1, 2016. Within 180 days of the completion of said study, the department of  
592 public health shall take all operational steps necessary to ensure all professionals licensed to  
593 prescribe or dispense controlled substances, schedule II to V, inclusive, and certain additional  
594 drugs pursuant to Chapter 94C, shall maintain the ability to document a nonfatal opiate-related  
595 adverse event within the prescription monitoring program. Implementation of said provision by  
596 the department shall take into account all applicable state and federal patient privacy laws.

597 SECTION 48. Section 35 of chapter 123 of the General Laws, as appearing in the 2014  
598 Official Edition, is hereby amended by striking out the fifth sentence in the third paragraph and  
599 inserting in place thereof the following sentence:- If such person is not immediately presented  
600 before a judge of the district court, the warrant shall continue day after day for up to 5  
601 consecutive days, excluding Saturdays, Sundays and legal holidays, or until such time the person  
602 is presented to the court, whichever is sooner; provided, however that an arrest on such warrant  
603 shall not be made unless the person may be presented immediately before a judge of the district  
604 court.

605 SECTION 49. The department of public health shall create a central navigation model,  
606 utilizing real-time information on treatment bed and services availability across the system,  
607 available as a consumer-facing dashboard available to the public to efficiently refer consumers to  
608 appropriate care settings, and improve access to and understanding of the substance abuse  
609 treatment system, including, but not limited to, treatment provider directories, facility operator,  
610 service settings, client characteristics, insurance requirements and information for consumers to  
611 petition any district or juvenile court for an order of commitment for an individual believed to be  
612 a person with an alcohol or substance use disorder under section 35 of chapter 123 of the General

613 Laws. The department shall be allowed to amend contracts as needed to ensure access to real-  
614 time treatment bed and services availability.

615 SECTION 50. Notwithstanding any general or special law to the contrary, there shall be a  
616 special commission, known as the Partial Fill Prescribing Method Advisory Commission, to  
617 investigate the feasibility of implementing a partial fill method of prescribing narcotics to  
618 patients which would enable patients to fill a prescription in increments, depending on their  
619 needs, and to exempt patients from paying any additional copayments to fill the remainder of  
620 their prescription. The intent of this legislation is to limit the amount of narcotics dispensed and,  
621 consequently, the amount of excess narcotics left over in households, thus reducing the amount  
622 of prescription drug abuse by those who have access to this excess medication.

623 The commission shall consist of the secretary of the executive office of Health and  
624 Human Services, or his designee; the commissioner of the Department of Public Health, or his  
625 designee; the president of the Massachusetts Association of Health Plans, or his designee; 1  
626 representative of a health consumer organization appointed by the attorney general; Director of  
627 Medicaid or his designee; Director of the Board of Registration in Medicine, or his designee;  
628 Director of the Board of Registration in Dentistry, or his designee; Director of the Board of  
629 Registration in Pharmacy, or his designee; 1 member of the senate to be appointed by the senate  
630 president, 1 member of the senate to be appointed by the senate minority leader; 1 member of the  
631 house of representatives to be appointed by the speaker of the house; 1 member of the house of  
632 representatives appointed by the house minority leader.

633 The scope of the commission shall include, but not be limited to, studying (i) the  
634 feasibility of creating and administering this new process for writing and filling prescriptions and

635 how this method of prescribing medication would be implemented for all types of narcotics,  
636 dosages and diagnoses, (ii) the feasibility of integrating this method of filling prescriptions into  
637 the processing of pharmacy claims by public and private health insurance entities, (iii) the ability  
638 of this method to effectively reduce the amount of excess prescription narcotics available to be  
639 abused by those who do not have a prescription and have no medical need to take said  
640 medication.

641 The commission shall submit its findings, along with any draft of legislation, to the joint  
642 committee on public health, the joint committee on health care financing, the joint committee of  
643 mental health and substance abuse and the clerks of the house of representatives and the senate  
644 on or before June 1, 2016.

645 SECTION 51. Chapter 94C, Section 24A is hereby amended by striking (h) and inserting  
646 in place thereof the following: (h) The department may provide de-identified information to a  
647 public or private entity for statistical research or educational purposes.

648 SECTION 52. Notwithstanding any rule, regulation, special or general law to the  
649 contrary, the Department of Public Health shall issue, not later than July 1, 2016  
650 recommendations to encourage the co-prescription of naloxone to patients at risk who are taking  
651 opioid analgesics.

652 SECTION 53. The second paragraph of section 21 of chapter 94C, as appearing in the  
653 2014 Official Edition, is hereby amended, in line 24, inserting after the figure "17" the  
654 following:-

655 In addition to the previously listed, the department shall also include information on the  
656 risk of the addictive properties as well as the use and misuse of opiates.

657 SECTION 54. Chapter 15A of the General Laws is hereby amended by adding the  
658 following section:-

659 Section 45. The board of higher education shall ensure that each public institution of  
660 higher education has a policy regarding substance use prevention and the education of its  
661 students about the dangers of substance abuse. Student orientation shall include the topics of:  
662 misuse of drugs in combination with alcohol and possible drug interactions; misuse of opioids,  
663 other prescription drugs and street drugs. Each public institution of higher education shall  
664 provide for training of designated employees in recognizing signs of substance abuse and  
665 appropriate actions to take.

666 The board of higher education, in consultation with the department of public health, shall  
667 provide guidance and recommendations in order to assist schools with developing and  
668 implementing effective substance use prevention and abuse education policies and shall make  
669 such guidance and recommendations publicly available on the board's website. Guidance and  
670 recommendations shall be reviewed and regularly updated to reflect applicable research and best  
671 practices.

672 The board of higher education shall provide to each public institution of higher education  
673 a standardized, annual and anonymous survey of students to measure the scope and trends in  
674 alcohol and substance abuse. Such survey shall be conducted by each such public institution in  
675 the commonwealth and shall include methods of misuse of consumption of alcohol and  
676 substance abuse by injection, inhalation and ingestion. The results of the survey shall be  
677 publicly available on the board's website.