HOUSE . . . . . No. 3947

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.

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:

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

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

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

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

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

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 Section 14 of chapter 17 of the General Laws is hereby repealed.

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

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

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

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

Section 21. (a) There shall be a Massachusetts council on substance use disorder prevention and treatment. The council shall: (i) support the efforts of the department of public health and the department of mental 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 use and misuse; (iii) develop and recommend formal policies and procedures for the coordination and efficient utilization of programs and resources for the prevention and treatment of substance use and misuse across state agencies and secretariats; (iv) provide recommendations on methods and programs to increase the collection and safe disposal of federally scheduled prescription medications not limited to expanding the use of prescription medication drop box sites at locations other than police departments; and the utilization of out-of-state treatment beds; and (v) 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 recommending further efforts and resource needs.

(b) The 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 and security; the secretary of education; the commissioner of public health; the commissioner of mental health; the secretary of elder affairs; the chief justice of the trial court; 2 members of the senate, 1 of whom shall be appointed by the minority leader of the senate, 2 members of the house of representatives, 1 of whom shall be a appointed by the minority leader of the house of representatives; 15 members appointed by the governor, 2 of whom shall be medical professionals specializing in the treatment of substance use disorders, 1 of whom shall be a medical professional with expertise in the assessment and management of neonatal abstinence

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

(c) The 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) All affected agencies, departments and boards of the commonwealth shall fully cooperate with the 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 5A. Item 4000-0005 of section 2 of chapter 46 of the acts of 2015 is hereby amended by inserting after the word “programs” the second time it is used, the following words:- provided further, that any grant awarded may also be used to target youth and adult substance misuse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 20. Section 10H of chapter 118E of the General Laws, as added by section 19 of chapter 258 of the acts of 2014, is hereby amended by inserting after the figure "7", in line 45, the following words:- ; and provided further, that 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, without preauthorization, substance abuse evaluations ordered pursuant to section 51½ of chapter 111.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 28. Section 8II of said chapter 176A, as so appearing, is hereby amended by inserting after the figure ‘7’, in line 28, the following words:- ; provided further, 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 cover, without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111.

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

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

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

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

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

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

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

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

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

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

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

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

NO SECTION 38.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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