

SENATE No. 2103

Text of Senate amendment (Senator Flanagan) to the House Bill relative to substance use, treatment, education and prevention (House, No. 3947).

The Commonwealth of Massachusetts

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

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 116F the following section:-

3 Section 116G. The municipal police training committee may establish a course within the
4 recruit basic training curriculum for regional and municipal police training schools to train law
5 enforcement officers on the application of section 34A of chapter 94C and section 12FF of
6 chapter 112 and on responding to calls for assistance for drug-related overdoses.

7 The committee may periodically include within its in-service training curriculum a course
8 of instruction on the application of said section 34A of said chapter 94C and on responding to
9 calls for assistance for drug-related overdoses.

10 The executive office of public safety and security, in collaboration with the department of
11 public health, shall facilitate the collection and sharing of resources regarding the application of
12 said section 34A of said chapter 94C.

13 SECTION 2. Section 13 of chapter 17 of the General Laws, as appearing in the 2014
14 Official Edition, is hereby amended by adding the following subsection:-

15 (e) The commission shall also identify and publish a list of non-opioid drug products that
16 have been approved by the United States Food and Drug Administration that are effective pain
17 management alternatives and have a lesser potential for abuse than an opioid drug product
18 contained in schedules II and III of section 3 of chapter 94C.

19 The commission shall provide for distribution, including electronic distribution, of copies
20 of the list and revisions to the list among all prescribers and dispensers licensed to practice in the
21 commonwealth and to other appropriate individuals and shall supply a copy to any person on
22 request upon payment of the cost of printing.

23 The list shall be revised not less frequently than annually to include new pertinent
24 information on non-opioid drug products approved for inclusion or non-opioid drug products to
25 be deleted and to reflect current information as to the therapeutic efficacy of drugs and
26 pharmaceuticals.

27 SECTION 3. Section 14 of said chapter 17 is hereby repealed.

28 SECTION 4. Section 19 of said chapter 17, as appearing in the 2014 Official Edition, is
29 hereby amended by striking out, in lines 27 and 28, the words “and (6)” and inserting in place
30 thereof the following words:-

31 (6) provide information to the patient prior to discharge about the patient’s option to file a
32 voluntary non-opiate directive form under section 18B of chapter 94C; and

33 (7).

34 SECTION 5. Section 16 of chapter 38 of the General Laws, as so appearing, is hereby
35 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

36 (b) Acute hospitals, as defined in section 64 of chapter 118E, shall file a monthly report
37 with the commissioner of public health in a manner determined by the commissioner of public
38 health. This report shall include: (i) the number of infants born in the previous month identified
39 by the hospital as having been exposed to a schedule I or schedule II controlled substance under
40 chapter 94C or those controlled substances in schedule III under said chapter 94C that the drug
41 formulary commission established in section 13 of chapter 17 has determined have a heightened
42 level of public health risk due to the drugs' potential for abuse and misuse; and (ii) the number
43 and specific causes of hospitalizations caused by ingestion of a schedule I or schedule II
44 controlled substance under said chapter 94C or those controlled substances in schedule III under
45 said chapter 94C that the drug formulary commission has determined have a heightened level of
46 public health risk due to the drugs' potential for abuse and misuse.

47 SECTION 6. Section 13D of chapter 71 of the General Laws, as so appearing, is hereby
48 amended by adding the following paragraph:-

49 A driver education course shall include a module on the science related to addiction and
50 addictive substances approved by the Center for Adolescent Substance Abuse Research at
51 Boston Children's Hospital.

52 SECTION 7. Section 57 of said chapter 71, as so appearing, is hereby amended by
53 inserting after the word "results," in line 15, the following words:- to screen pupils for substance
54 use disorders, which may also include a screening for tobacco and nicotine use, through a verbal
55 screening with tools approved by the department of public health, subject to appropriation.

56 SECTION 8. The first paragraph of said section 57 of said chapter 71, as so appearing, is
57 hereby amended by adding the following sentence:- A child or the child's parent or guardian

58 may opt out of the verbal substance use disorder screening at any point prior to or during the
59 screening.

60 SECTION 9. Said section 57 of said chapter 71, as so appearing, is hereby further
61 amended by adding the following paragraph:-

62 Results of verbal substance use disorder screenings shall be reported to the department of
63 public health without identifying information not later than 30 days after completion of the
64 screening.

65 SECTION 10. Said chapter 71 is hereby further amended by inserting after section 57 the
66 following section:-

67 Section 57A. Any statement, response or disclosure provided by a pupil during a verbal
68 substance use disorder screening shall be considered confidential information and shall not be
69 disclosed by a person receiving the statement, response or disclosure to any other person without
70 the prior written consent of the pupil on a form to be approved by the department of public health
71 or in cases of immediate medical emergency and shall not be subject to discovery or subpoena in
72 any civil, criminal, legislative or administrative proceeding. No record of any such statement,
73 response or disclosure shall be made in any form, written, electronic or otherwise, which
74 includes information identifying the pupil.

75 SECTION 11. Section 8 of chapter 90 of the General Laws, as appearing in the 2014
76 Official Edition, is hereby amended by inserting after the word “course”, in line 50, the
77 following words:- , including a module on the science related to addiction and addictive
78 substances approved by the Center for Adolescent Substance Abuse Research at Boston
79 Children’s Hospital and.

80 SECTION 12. Said section 8 of said chapter 90, as so appearing, is hereby further
81 amended by inserting after the word “curriculum”, in line 71, the following words:- , including a
82 module on the science related to addiction and addictive substances approved by the Center for
83 Adolescent Substance Abuse Research at Boston Children’s Hospital.

84 SECTION 13. The nineteenth paragraph of section 32G of said chapter 90, as so
85 appearing, is hereby amended by inserting after the first sentence the following sentence:- The
86 curriculum shall include a module on the science related to addiction and addictive substances
87 approved by the Center for Adolescent Substance Abuse Research at Boston Children’s Hospital.

88 SECTION 14. Section 1 of chapter 94C of the General Laws, as so appearing, is hereby
89 amended by inserting after the definition of “drug paraphernalia” the following definition:-

90 “Extended-release long-acting opioid in a non-abuse deterrent form”, a drug that is: (i)
91 subject to the United States Food and Drug Administration’s Extended Release and Long-Acting
92 Opioid Analgesics Risk Evaluation and Mitigation Strategy; (ii) an opioid approved for medical
93 use but does not meet the requirements for listing as a drug with abuse-deterrent properties
94 pursuant to section 13 of chapter 17; and (iii) identified pursuant to said section 13 of said
95 chapter 17 as posing a heightened level of public health risk.

96 SECTION 15. Section 18 of said chapter 94C, as so appearing, is hereby amended by
97 striking out, in line 70, the words “A prescription” and inserting in place thereof the following
98 words:- Except as provided in section 18A, a prescription.

99 SECTION 16. Said section 18 of said chapter 94C, as so appearing, is hereby further
100 amended by inserting after subsection (d^{1/2}) the following subsection:-

101 (d^{3/4}) A registered pharmacist filling a prescription for an opioid substance in schedule II
102 of section 3 shall dispense the prescribed substance in any quantity requested by the patient, but
103 not to exceed the recommended full quantity indicated on the prescription provided that the
104 prescription complies with subsection (c) of section 22. The remaining quantity in excess of the
105 quantity requested by the patient shall be void. If the dispensed quantity is less than the
106 recommended full quantity, the pharmacist or a designee shall, within a reasonable time
107 following a reduction in quantity but not to exceed 7 days, notify the prescribing practitioner of
108 the quantity actually dispensed.

109 SECTION 17. Said section 18 of said chapter 94C, as so appearing, is hereby further
110 amended by striking out subsection (e) and inserting in place thereof the following subsection:-

111 (e) Practitioners who prescribe controlled substances, except veterinarians, shall be
112 required, as a prerequisite to obtaining or renewing their professional licenses, to complete
113 appropriate training relative to: (i) effective pain management; (ii) the risks of abuse and
114 addiction associated with opioid medication; (iii) identification of patients at risk for substance
115 use disorders; (iv) counseling patients about the side effects, addictive nature and proper storage
116 and disposal of prescription medications; (v) appropriate prescription quantities for prescription
117 medications that have an increased risk of abuse; and (vi) opioid antagonists, overdose
118 prevention treatments and instances in which a patient may be advised on both the use of and
119 ways to access opioid antagonists and overdose prevention treatments. The boards of registration
120 for each professional license that requires this training shall develop the standards for appropriate
121 training programs.

122 SECTION 18. Said chapter 94C is hereby further amended by inserting after section 18
123 the following 3 sections:-

124 Section 18A. Prior to issuing an extended-release long-acting opioid in a non-abuse
125 deterrent form for outpatient use for the first time, a practitioner registered under section 7 shall:
126 (i) evaluate the patient's current condition, risk factors, history of substance abuse, if any, and
127 current medications; (ii) provide a statement that the prescription, in the prescriber's medical
128 opinion, is an appropriate course of treatment based on the medical need of the patient; (iii)
129 utilize the prescription drug monitoring program established under section 24A prior to issuing
130 the prescription; and (iv) in the event of long term pain management, enter into a pain
131 management treatment agreement with the patient that appropriately addresses the risk factors
132 for abuse or misuse of the prescribed substance under guidelines published by the department
133 and document the statement and the agreement, if applicable, in the patient's medical file and
134 interoperable electronic health record.

135 Section 18B. (a) The secretary of health and human services shall establish a voluntary
136 non-opiate directive form that shall indicate to all prescribers, health care providers and facilities
137 that an individual shall not be administered or offered a prescription or medication order for an
138 opiate. A person may execute and file a voluntary non-opiate directive form with a practitioner
139 registered under section 7 or other authority authorized by the secretary to accept the voluntary
140 non-opiate directive form for filing. A voluntary non-opiate directive form may be revoked by
141 the participant for any reason.

142 (b) The secretary shall promulgate regulations for the implementation of the voluntary
143 non-opiate directive form which shall include, but need not be limited to:

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

147 (ii) a standard form for the recording and transmission of the voluntary non-opiate
148 directive form, which shall include verification by a practitioner registered under section 7 and
149 which shall comply with the written consent requirements of the Public Health Service Act, 42
150 U.S.C. § 290dd-2(b), and 42 CFR Part 2; provided, however, that the voluntary non-opiate
151 directive form shall also provide in plain language information on the process to revoke the
152 voluntary non-opiate directive form;

153 (iii) requirements for an individual to appoint a duly authorized guardian or health care
154 proxy to override a previously recorded voluntary non-opiate directive form and circumstances
155 under which a treating practitioner registered under said section 7 may override a previously
156 recorded voluntary non-opiate directive form based on documented medical judgment which
157 shall be recorded in the patient's interoperable electronic health record;

158 (iv) provisions for a board of professional licensure to limit, condition, suspend or revoke
159 the license of or to assess fines against a licensed health care professional who knowingly or
160 recklessly fails to comply with a patient's voluntary non-opiate directive form;

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

163 (vi) appropriate exemptions for emergency medical personnel.

164 (c) A written prescription that is presented at an outpatient pharmacy or a prescription
165 that is electronically transmitted to an outpatient pharmacy shall be presumed to be valid for the
166 purposes of this section and a pharmacist in an outpatient setting shall not be held in violation of
167 this section for dispensing a controlled substance in contradiction to a voluntary non-opiate
168 directive form, except upon evidence that the pharmacist acted knowingly against the voluntary
169 non-opiate directive form.

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

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

176 Section 18C. Prior to issuing a prescription for an opioid contained in schedule II of
177 section 3, a practitioner registered under section 7 shall: (i) consult with a the patient regarding
178 the quantity of the opioid and a patient's option to fill the prescription in a lesser quantity; and
179 (ii) inform the patient of the risks associated with the opioid prescribed.

180 SECTION 19. The second paragraph of section 21A of said chapter 94C, as appearing in
181 the 2014 Official Edition, is hereby amended by adding the following sentence:- A pharmacist or
182 a pharmacist's designee shall give notice to any person who presents for filling a prescription for
183 an opiate contained in schedule II of section 3 issued in compliance with subsection (d3/4) of
184 section 18 and subsection (c) of chapter 22 or an opioid contained schedule III of section 3 that

185 the person may choose to receive a quantity of the prescribed substance up to the quantity
186 indicated on the prescription.

187 SECTION 20. Section 22 of said chapter 94C, as so appearing, is hereby amended by
188 adding the following subsection:-

189 (c) Any prescription issued by a practitioner for an opioid substance contained in
190 Schedule II of section 3 shall be written by the practitioner “up to” a recommended full quantity.
191 The patient may fill the prescription in compliance with subsection (d 3/4) of section 18 in an
192 amount not to exceed the recommended full quantity indicated

193 SECTION 21. Subsection (e) of section 24A of said chapter 94C, as so appearing, is
194 hereby amended by adding the following 5 sentences:- A professional licensing agency in the
195 commonwealth that receives such a referral from the department shall provide to the department
196 an annual report of the outcome of its investigations. The licensing agency shall include, in
197 aggregate form, information on the number of cases that have not been completed within a year
198 of the date of the referral and the status of those referrals. The agency shall report, in aggregate
199 form, on the outcome or status of its investigations and shall not provide the names of the subject
200 of the investigation, complainant or patient, medical record information or any other identifying
201 information. These reports shall also be confidential and exempt from disclosure under clause
202 Twenty-sixth of section 7 of chapter 4 and chapter 66. The department shall report this
203 information only in aggregate form.

204 SECTION 22. Said chapter 94C is hereby further amended by inserting after section 24A
205 the following section:-

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

212 The department shall work in conjunction with the respective boards of licensure to
213 annually determine each practitioner's schedule II and schedule III opiate prescribing quantity
214 and volume and the practitioner's standing with regard to the mean and median quantity and
215 volume for the practitioner's category of specialty or practice type; provided, however, that the
216 practitioner's standing shall be expressed as a percentile ranking for the practitioner within the
217 practitioner's category. Each practitioner whose prescribing exceeds the mean or median within
218 the practitioner's category shall be sent notice of the practitioner's percentile ranking in a manner
219 determined by the department. The ranking determined for each practitioner shall be distributed
220 by the department or by the relevant board of licensure only to the practitioner to which the
221 information pertains and this information shall be confidential, not considered a public record as
222 defined in clause Twenty-sixth of section 7 of chapter 4, not subject to disclosure pursuant to
223 chapter 66, not admissible as evidence in a civil or criminal proceeding and shall not be the sole
224 basis for investigation by a licensure board.

225 The department shall also coordinate with the respective boards of licensure to make
226 resources available to prescribers regarding ways to change prescribing practices and incorporate
227 alternative pain management options into a prescriber's practice.

228 SECTION 23. Subsection (b) of Class B of section 31 of said chapter 94C, as appearing
229 in the 2014 Official Edition, is hereby amended by striking out the first clause and inserting in
230 place thereof the following 2 clauses:-

231 (1) Acetyl fentanyl

232 (1½) Alphaprodine

233 SECTION 24. The General Laws are hereby amended by inserting after chapter 94F the
234 following chapter:-

235 CHAPTER 94G

236 DRUG STEWARDSHIP PROGRAM

237 Section 1. As used in this chapter, the following words shall have the following meanings
238 unless the context clearly requires otherwise:-

239 “Covered drug”, any brand name or generic opioid drug placed in schedule II or schedule
240 III of section 3 of chapter 94C; provided, however, that “covered drug” shall also include
241 benzodiazepines; provided further, that “covered drug” shall not include: (i) drugs intended for
242 use solely in veterinary care; (ii) substances that are regulated as cosmetic products under the
243 United States Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.; (iii) drugs that are
244 compounded under a specialty license pursuant to sections 39G to 39J, inclusive, of chapter 112;
245 (iv) hypodermic needles, lancets or other sharps products subject to collection and disposal
246 procedures established in section 27A of chapter 94C; or (v) drugs approved and used primarily
247 for medication-assisted substance use disorder treatment.

248 “Department”, the department of public health.

249 “Drug stewardship program”, a program financed by a pharmaceutical product
250 manufacturer or a group of manufacturers to collect, secure, transport and safely dispose of
251 unwanted drugs.

252 “Pharmaceutical product manufacturer” or “manufacturer”, an entity that manufactures a
253 controlled substance under a United States Food and Drug Administration manufacturer’s
254 license; provided, however, that “pharmaceutical product manufacturer” or “manufacturer” shall
255 not include an institutional pharmacy, as defined in section 39D of chapter 112.

256 “Prescription drug”, any drug product which, pursuant to chapter 94C, may be dispensed
257 under a written prescription by an authorized prescriber.

258 “Stewardship organization”, an organization designated by a manufacturer or a group of
259 manufacturers to act as an agent on behalf of the manufacturer or the group of manufacturers to
260 implement and operate a drug stewardship program.

261 “Unwanted drug”, a covered drug: (i) that is no longer wanted or intended to be
262 consumed or that is abandoned, discarded, expired or surrendered by the person to whom it was
263 prescribed; or (ii) voluntarily deposited at collection points co-located with a law enforcement
264 agency; provided, however, that “unwanted drug” shall not include: (A) waste or unused drug
265 products from a pharmacy, hospital or health clinic or other commercial sources that the
266 department may determine by regulation to be a nonresidential source; or (B) drug products
267 seized by law enforcement officers in the course of their law enforcement duties.

268 “Wholesaler”, an entity licensed pursuant to section 36B of chapter 112.

269 Section 2. (a) Any pharmaceutical product manufacturer selling or distributing a covered
270 drug to consumers in the commonwealth, whether directly or through a wholesaler, retailer or
271 other agent, shall: (i) operate a drug stewardship plan approved by the department individually or
272 jointly with other manufacturers; or (ii) enter into an agreement with a stewardship organization
273 that shall operate a drug stewardship plan approved by the department.

274 (b) The department shall establish a process to review applications for approval and
275 renewal of a manufacturer's drug stewardship plan and shall ensure that the scope and extent of
276 each approved stewardship program is reasonably related to the manufacturer's total sales of
277 covered drugs in the commonwealth.

278 (c) Each operator of a drug stewardship program shall file an annual written report to the
279 department describing the program's activities for the prior year and the volume and type of
280 unwanted drugs collected not later than March 1.

281 (d) The department shall review for renewal each drug stewardship program at least once
282 every 3 years.

283 (e) The department shall publish and make publicly available a list and description of
284 each approved drug stewardship program and shall update this list at least every 2 months.

285 (f) The department shall promulgate regulations to implement this chapter.

286 Section 3. A manufacturer or stewardship organization seeking approval for a drug
287 stewardship program shall submit, in a manner and form determined by the department, a plan
288 that meets, but is not limited to, the following requirements:

289 (i) a collection system to provide convenient, ongoing collection services to all persons
290 seeking to dispose of unwanted drugs; provided, however, that the collection system may accept
291 any covered drug and any other prescription drug in a pill formulation regardless of its schedule,
292 brand or source of manufacture; provided further, that the system shall offer reasonable access to
293 persons across all geographic regions; provided further, that the collection system shall include at
294 least 2 or more of the following: (A) a mail-back program that provides prepaid and
295 preaddressed packaging for a pharmacy to distribute when filling a prescription for a covered
296 drug or upon request by a consumer; (B) collection kiosks; (C) drop-off day events at regional
297 locations; (D) in-home disposal methods that render a product safe from misuse and that comply
298 with applicable controlled substance regulations and environmental safety regulations; or (E) any
299 other method recommended by the department or pursuant to United States Drug Enforcement
300 Administration guidelines;

301 (ii) adequate provisions for the security of unwanted drugs throughout the collection
302 process and the safety of any person involved in monitoring, staffing or servicing the
303 stewardship program;

304 (iii) a plan for public outreach and education about the drug stewardship program, which
305 shall include, but not be limited to, a plan for communicating information about the drug
306 products that may be disposed of through the program, a listing of all available collection
307 methods, participating collectors and locations, dates and hours of operation for all collection or
308 drop-off locations, educational information on the environmental, health and addiction risks
309 posed by unused or improperly disposed prescription drug products and a means of
310 communication to receive public comments and questions about the program;

311 (iv) a plan for the manufacturer or stewardship organization that provides the operational
312 and administrative costs associated with the program; provided, however, that no point-of-sale,
313 point-of-collection, processing fees or other drug cost increases may be charged to individual
314 consumers to recoup program costs;

315 (v) incentives provided by the manufacturer, group of manufacturers or stewardship
316 organization to consumers to return unwanted drugs;

317 (vi) an attestation that the program shall comply with all applicable state and federal
318 requirements for the collection, security, transport and disposal of drug products, including any
319 requirements established by rule or regulation of either the United States Drug Enforcement
320 Administration or the United States Environmental Protection Agency; and

321 (vii) any other requirements established by the department for the safe and effective
322 administration of a drug stewardship program.

323 Section 4. (a) The department shall send a notice to a pharmaceutical product
324 manufacturer that sells or distributes a covered drug in the commonwealth that has not submitted
325 an application for approval under section 2 informing the manufacturer of the requirements to
326 comply with this chapter. Any manufacturer in receipt of a notice shall submit an application for
327 approval under said section 2 within 180 calendar days of receipt of the initial notice.

328 (b) Upon becoming aware that a pharmaceutical product manufacturer has discontinued
329 its drug stewardship program or has altered the program such that the program no longer fulfills
330 the requirements of this chapter, the department shall send a notice of noncompliance to the
331 manufacturer. A manufacturer in receipt of a notice of noncompliance shall take all required
332 corrective steps to reestablish compliance with this chapter or submit a written appeal of the

333 notice of noncompliance to the department within 30 days of receipt of the notice of
334 noncompliance.

335 (c) If, after consideration of an appeal or if the manufacturer does not appeal within 30
336 days of receipt of the notice of noncompliance, the department determines that the manufacturer
337 has continued to violate this chapter, the department shall assess the manufacturer an initial
338 penalty of not more than \$150,000 and a further penalty of not more than \$10,000 for each
339 subsequent day that the manufacturer continues to violate this chapter.

340 (d) Assessments collected pursuant to this section shall be deposited in the Substance
341 Abuse Services Fund established in section 2I of chapter 111; provided, however, that not more
342 than 3 per cent of assessments collected pursuant to this section shall be expended to support the
343 administration of the drug stewardship program.

344 (e) The department shall report any persistent violations of this chapter to the attorney
345 general who may enforce this chapter.

346 Section 5. (a) The requirements established by the department pursuant to this chapter
347 may exceed, but shall not conflict with, any obligations imposed on a manufacturer by a Risk
348 Evaluation and Mitigation Strategy approved by the United States Food and Drug
349 Administration.

350 (b) Nothing in this chapter shall require a retail pharmacy or a pharmacist practicing in a
351 retail setting to participate in the collection, securing, transport or disposal of unwanted drugs.

352 (c) No stewardship program shall require an outpatient pharmacy in the commonwealth
353 to participate in the collection, securing, transport or disposal of unwanted drugs or to provide a

354 space for or to maintain a collection kiosk within an outpatient pharmacy unless the pharmacy
355 certifies, in writing, that this participation is voluntary.

356 Section 6. There shall be a prescription drug awareness program administered by the
357 department. The program shall be open to all manufacturers of covered drugs. A manufacturer
358 who opts into the program shall be exempt from sections 2 to 5, inclusive.

359 Each participating manufacturer shall pay an assessment which shall be collected by the
360 department and deposited into the Prescription Drug Awareness Trust Fund established in
361 section 2J of chapter 111.

362 A participating manufacturer's assessment shall be paid over 3 calendar years according
363 to a payment schedule established by the department and shall be based on a sliding scale not
364 less than \$10,000 per year but not to exceed \$100,000 per year. The assessment shall be based on
365 the ratio of the average volume of covered drugs sold by the manufacturer over the previous 3
366 calendar years to the total volume of covered drugs sold in the commonwealth for the same 3
367 calendar year period. For the purposes of this section, "volume" shall mean the number of pills,
368 capsules or other unit of a covered drug prescribed and entered into the prescription drug
369 monitoring program established under section 24A of chapter 94C. Any funds unexpended from
370 an assessment at the end of the 3-year assessment period shall be applied as a credit to a
371 manufacturer's assessment for the subsequent 3-year period. This assessment shall not be passed
372 on to the consumer or a health insurance carrier.

373 Not more than 9 months prior to the date of the first assessment payment, the department
374 shall provide each manufacturer with a projected assessment amount and a projected schedule of
375 assessment payments. The manufacturer shall have 90 days from the receipt of the projected

376 assessment to notify the department of its acceptance of the assessment and that it is opting into
377 the program. Upon receiving notice of acceptance, the department shall enter the manufacturer
378 into the program and provide an assessment schedule to the manufacturer.

379 SECTION 25. Chapter 111 of the General Laws is hereby amended by inserting after
380 section 2I the following section:-

381 Section 2J. (a) There shall be established and set upon the books of the commonwealth a
382 Prescription Drug Awareness Trust Fund to be expended, without further appropriation, by the
383 department. The commissioner shall, as trustee, administer the fund. The fund shall consist of
384 revenues collected by the commonwealth, including: (i) assessments collected by the department
385 as part of the prescription drug awareness program established in section 6 of chapter 94G; (ii)
386 any revenue from appropriations or other monies authorized by the general court and specifically
387 designated to be credited to the fund; (iii) any funds from public and private sources, including
388 gifts, grants and donations to provide awareness and education about prescription drug use; (iv)
389 any interest earned on these revenues; and (v) any funds provided from other sources. Money
390 remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

391 Notwithstanding mandatory deductions for indirect costs, not more than 1 per cent of any
392 assessment shall be used to support the administration costs of the program, including fringe
393 benefits.

394 (b) All expenditures from the fund shall support initiatives to encourage public and
395 professional awareness of the potential for the abuse of prescription drugs and to reduce the
396 number of unwanted drugs in the commonwealth including, but not limited to: (i) evidence-based
397 outreach and education programs designed to provide information on the therapeutic and cost

398 effective utilization of prescription drugs for physicians, pharmacists and other health care
399 professionals authorized to prescribe and dispense prescription drugs; (ii) public education and
400 outreach on the dangers of prescription drug addiction; (iii) providing grants to law enforcement
401 agencies interested in providing controlled substance collection boxes or drug take back days;
402 (iv) school programs; (v) safe prescription drug disposal education; and (vi) providing grants to
403 cities and towns in the commonwealth to engage in activities that support the purposes of the
404 fund.

405 (c) Not later than March 1 of each year, the commissioner shall report to the executive
406 office for administration and finance, the joint committee on mental health and substance abuse
407 and the house and senate committees on ways and means including, but not limited to: (i) an
408 itemized accounting of the way funds were spent in the previous calendar year; (ii) descriptions
409 of the programs and activities supported by the fund; (iii) the amount of assessments deposited
410 into the fund by each participant; and (iv) goals for the fund over the 3 calendar year assessment
411 period.

412 SECTION 26. Said chapter 111 is hereby further amended by adding the following
413 section:-

414 Section 236. Before a practitioner prescribes a controlled substance that contains an
415 opioid to a minor, the prescriber shall have received informed consent from the parent or
416 guardian of the minor, except in the case of a medical emergency. The practitioner shall
417 consider the minor's health and risk of the minor developing a substance use disorder before
418 prescribing a controlled substance that contains an opioid to the minor. The minor's parent or
419 guardian shall be notified of the risks and dangers of addiction and overdose associated with

420 controlled substances containing an opioid before signing a consent form, which shall be in a
421 form approved by the department. The written consent form shall be maintained in the minor's
422 medical record. Failure to obtain informed consent from the parent or guardian of the minor
423 before prescribing a controlled substance that contains an opioid shall result in suspension of the
424 license of the prescribing practitioner for not less than 6 months.

425 SECTION 27. Section 3 of chapter 111E of the General Laws is hereby repealed.

426 SECTION 28. Chapter 112 of the General Laws is hereby amended by inserting after
427 section 12EE the following section:-

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

433 SECTION 29. Said chapter 112 is hereby further amended by inserting after section 24G
434 the following section:-

435 Section 24H. (a) The board of registration in pharmacy shall establish a rehabilitation
436 program for registered pharmacists, pharmacy interns and pharmacy technicians who have a
437 substance use issue.

438 (b) The rehabilitation program shall: (i) serve as a voluntary alternative to traditional
439 disciplinary actions; (ii) establish criteria for the acceptance, denial or termination of registered
440 pharmacists, pharmacy interns and pharmacy technicians in the program; and (iii) establish an

441 outreach program to identify registered pharmacists, pharmacy interns and pharmacy technicians
442 who may have a substance use disorder and to provide education about the rehabilitation
443 program.

444 Only a registered pharmacist, pharmacy intern or pharmacy technician who has requested
445 rehabilitation and supervision shall be eligible to participate in the program.

446 (c) The board shall appoint a rehabilitation evaluation committee consisting of 7
447 members, 2 of whom shall be registered pharmacists with demonstrated experience in the field of
448 substance use disorders, 1 of whom shall be a medical doctor with experience in the treatment of
449 substance use disorders, 1 of whom shall be a pharmacy technician with demonstrated
450 experience in the field of substance use disorders, 1 of whom shall be a registered pharmacist
451 who has recovered from drug or alcohol addiction and has been drug and alcohol free for a
452 minimum of 5 years and 2 of whom shall be representatives of the public who are knowledgeable
453 about substance use disorders or mental health. Three members of the committee shall constitute
454 a quorum. The committee shall elect a chairperson and a vice chairperson. Members of the
455 committee shall serve for terms of 4 years. At the time of appointment or reappointment to the
456 committee, no member of the committee who is licensed to practice by the department of public
457 health, division of professional licensure or by the board of registration in medicine shall have
458 had any type of disciplinary or enforcement action taken against them by their respective
459 licensing board, the United States Food and Drug Administration or the United States Drug
460 Enforcement Administration during the 5 years preceding their appointment to the committee.
461 No member of the board shall serve on the committee. Meetings of the committee shall not be
462 subject to sections 18 to 25, inclusive, of chapter 30A.

463 (d) The board shall employ a pharmacist supervisor with demonstrated professional
464 expertise in the field of substance use disorders to oversee participants in the rehabilitation
465 program. The supervisor shall serve as a liaison among the board, the committee, approved
466 treatment programs and providers and participants. Following consultation with members of the
467 committee, the supervisor may authorize and implement changes to a participant's individualized
468 rehabilitation program based on information that the supervisor may receive concerning a
469 participant's failure to comply with the participant's individualized rehabilitation program as
470 necessary to protect public health, safety and welfare; provided, however, that the changes shall
471 remain in effect until review by the board takes place. Any information obtained by a supervisor
472 pursuant to this section shall be exempt from disclosure and shall be confidential, subject to
473 subsections (f) and (g).

474 (e) All rehabilitation evaluation committee findings shall be submitted to the board as
475 recommendations and shall be subject to final approval of the board. The committee shall have
476 the following duties and responsibilities:

477 (i) to evaluate, according to guidelines established by the board, registered pharmacists,
478 pharmacy interns or pharmacy technicians who request to participate in the program and
479 consider the recommendations of the pharmacist supervisor regarding the admission of a
480 registered pharmacist, pharmacy intern or pharmacy technician into the program;

481 (ii) to review and designate treatment facilities and services to which participants may be
482 referred;

483 (iii) to receive and review information concerning a participant in the program;

484 (iv) to consider, for each participant, whether the participant may continue or may resume
485 practice within the full scope of the participant's the license;

486 (v) to call meetings as necessary to review the request of a registered pharmacist,
487 pharmacy intern or pharmacy technician to participate in the program and review reports
488 regarding participants;

489 (vi) to prepare reports to be submitted to the board;

490 (vii) to provide each participant with an individualized rehabilitation plan with
491 requirements for supervision and surveillance; and

492 (viii) to provide information to pharmacists, pharmacy interns or pharmacy technicians
493 who request to participate in the program.

494 (f) A registered pharmacist, pharmacy intern or pharmacy technician who requests to
495 participate in the program shall agree to cooperate with the individualized rehabilitation plan
496 recommended by the rehabilitation evaluation committee and approved by the board. Any failure
497 to comply with the rehabilitation program may result in termination of the participant from the
498 rehabilitation program. The committee shall report to the board the name and license number of a
499 registered pharmacist, pharmacy intern or pharmacy technician terminated from the program for
500 failure to comply with the provisions of an individualized rehabilitation plan.

501 (g) After the committee, in its discretion, has determined that a registered pharmacist,
502 pharmacy intern or pharmacy technician has successfully completed an individualized
503 rehabilitation plan through the program, the board shall seal all records pertaining to the
504 participation of the registered pharmacist, pharmacy intern or pharmacy technician in the

505 program. No record shall be sealed sooner than 5 years from the participant’s date of entry into
506 the program. All board and committee records and records of a participant’s involvement in the
507 program shall be kept confidential and shall not be subject to discovery or subpoena in any civil,
508 criminal, legislative or administrative proceeding without the prior written consent of the
509 participant.

510 SECTION 30. Section 1 of chapter 138 of the General Laws, as appearing in the 2014
511 Official Edition, is hereby amended by inserting after the definition of “malt beverages”, the
512 following definition:-

513 “Powdered alcohol”, a nonmedicinal product in powdered or crystalline form that
514 contains alcohol and is intended for consumption by direct use or when mixed with water or
515 another substance.

516 SECTION 31. Said chapter 138 is hereby further amended by inserting after section 2 the
517 following section:-

518 Section 2A. No person shall sell, offer for sale, manufacture or possess powdered
519 alcohol. Whoever violates this section shall be punished by a fine of not less than \$100 nor more
520 than \$1,000.

521 SECTION 32. Chapter 175 of the General Laws is hereby amended by inserting after
522 section 47GG the following section:-

523 Section 47HH. (a) Any policy, contract, agreement, plan or certificate of insurance
524 issued, delivered or renewed within the commonwealth, which is considered creditable coverage
525 under section 1 of chapter 111M, shall provide for:

526 (i) a plan for the minimum coverage and adequate access to pain management services
527 that provide alternatives to narcotic substance prescribing as established pursuant to section 2 of
528 chapter 176O; and

529 (ii) a plan developed based on clinical evidence and in consultation with health care
530 practitioners for reasonable controls and safeguards on potentially addictive opiate prescription
531 drugs which may include, but need not be limited to: (A) restricting individual beneficiaries,
532 based on excessive prescribed quantities or other signs of risk, to obtaining prescriptions only
533 from a limited number of providers and pharmacies provided that beneficiaries restricted under
534 these programs shall be appropriately notified and have rights to appeal; (B) establishing
535 administrative safeguards on the prescribing of drugs identified pursuant to section 13 of chapter
536 17 as posing a heightened risk to the public health; (C) requirements that beneficiaries provide
537 informed consent prior to receiving opiate prescriptions based on clinically accurate information
538 about the risks and benefits of opiate drugs; or (D) volume thresholds for new prescriptions
539 above which the carrier may require treatment agreements, pain management consultations or
540 other authorization requirements.

541 (b) The plans described in clauses (i) and (ii) of subsection (a) shall be subject to
542 approval and shall be a component of carrier accreditation by the division of insurance pursuant
543 to section 2 of chapter 176O. In its review, the division shall consider the adequacy of access to
544 pain management services and any carrier policies which may create unduly preferential
545 coverage to prescribing opiates over other pain management modalities.

546 (c) Each carrier shall distribute educational materials to providers within their networks
547 about the plans described in clauses (i) and (ii) of subsection (a) and shall post information about
548 the plans on its public website.

549 SECTION 33. Chapter 176A of the General Laws is hereby amended by inserting after
550 section 8II the following section:-

551 Section 8JJ. (a) Any contract between a subscriber and the corporation under an
552 individual or group hospital service plan which is delivered, issued or renewed within the
553 commonwealth shall provide for:

554 (i) a plan for the minimum coverage and adequate access to pain management services
555 that provide alternatives to narcotic substance prescribing as established pursuant to section 2 of
556 chapter 176O; and

557 (ii) a plan developed based on clinical evidence and in consultation with health care
558 practitioners for reasonable controls and safeguards on potentially addictive opiate prescription
559 drugs which may include, but need not be limited to: (A) restricting individual beneficiaries,
560 based on excessive prescribed quantities or other signs of risk, to obtaining prescriptions only
561 from a limited number of providers and pharmacies provided that beneficiaries restricted under
562 these programs shall be appropriately notified and have rights to appeal; (B) establishing
563 administrative safeguards on the prescribing of drugs identified pursuant to section 13 of chapter
564 17 as posing a heightened risk to the public health; (C) requirements that beneficiaries provide
565 informed consent prior to receiving an opiate prescription based on clinically accurate
566 information about the risks and benefits of opiate drugs; or (D) volume thresholds for new

567 prescriptions above which the carrier may require treatment agreements, pain management
568 consultations or other authorization requirements.

569 (b) The plans described in clauses (i) and (ii) of subsection (a) shall be subject to
570 approval and shall be a component of carrier accreditation by the division of insurance pursuant
571 to section 2 of chapter 176O. In its review, the division shall consider the adequacy of access to
572 pain management services and any carrier policies which may create unduly preferential
573 coverage to prescribing opiates over other pain management modalities.

574 (c) Each carrier shall distribute educational materials to providers within their networks
575 about the plans described in clauses (i) and (ii) of subsection (a) and shall post information about
576 the plans on its public website.

577 SECTION 34. Chapter 176B of the General Laws is hereby amended by inserting after
578 section 4II the following section:-

579 Section 4JJ. (a) Any subscription certificate under an individual or group medical service
580 agreement delivered, issued or renewed within the commonwealth shall provide for:

581 (i) a plan for the minimum coverage and adequate access to pain management services
582 that provide alternatives to narcotic substance prescribing as established pursuant to section 2 of
583 chapter 176O; and

584 (ii) a plan developed based on clinical evidence and in consultation with health care
585 practitioners for reasonable controls and safeguards on potentially addictive opiate prescription
586 drugs which may include, but need not be limited to: (A) restricting individual beneficiaries,
587 based on excessive prescribed quantities or other signs of risk, to obtaining prescriptions only

588 from a limited number of providers and pharmacies provided that beneficiaries restricted under
589 such programs shall be appropriately notified and have rights to appeal; (B) establishing
590 administrative safeguards on the prescribing of drugs identified pursuant to section 13 of chapter
591 17 as posing a heightened risk to the public health; (C) requirements that beneficiaries provide
592 informed consent prior to receiving an opiate prescription based on clinically accurate
593 information about the risks and benefits of opiate drugs; or (D) volume thresholds for new
594 prescriptions above which the carrier may require treatment agreements, pain management
595 consultations or other authorization requirements.

596 (b) The plans described in clauses (i) and (ii) of subsection (a) shall be subject to
597 approval and shall be a component of carrier accreditation by the division of insurance pursuant
598 to section 2 of chapter 176O. In its review, the division shall consider the adequacy of access to
599 pain management services and any carrier policies which may create unduly preferential
600 coverage to prescribing opiates over other pain management modalities.

601 (c) Each carrier shall distribute educational materials to providers within their networks
602 about the plans described in clauses (i) and (ii) of subsection (a) and shall post information about
603 the plans on its public website.

604 SECTION 35. Chapter 176G of the General Laws is hereby amended by inserting after
605 section 4AA the following section:-

606 Section 4BB. (a) Any individual or group health maintenance contract that is issued or
607 renewed shall provide for:

608 (i) a plan for the minimum coverage and adequate access to pain management services
609 that provide alternatives to narcotic substance prescribing as established pursuant to section 2 of
610 chapter 176O; and

611 (ii) a plan developed based on clinical evidence and in consultation with health care
612 practitioners for reasonable controls and safeguards on potentially addictive opiate prescription
613 drugs which may include, but need not be limited to: (A) restricting individual beneficiaries,
614 based on excessive prescribed quantities or other signs of risk, to obtaining prescriptions only
615 from a limited number of providers and pharmacies provided that beneficiaries restricted under
616 such programs shall be appropriately notified and have rights to appeal; (B) establishing other
617 administrative safeguards on the prescribing of drugs identified pursuant to section 13 of chapter
618 17 as posing a heightened risk to the public health; (C) requirements that beneficiaries provide
619 informed consent prior to receiving an opiate prescription based on clinically accurate
620 information about the risks and benefits of opiate drugs; or (D) volume thresholds for new
621 prescriptions above which the carrier may require treatment agreements, pain management
622 consultations or other authorization requirements.

623 (b) The plans described in clauses (i) and (ii) of subsection (a) shall be subject to
624 approval and shall be a component of carrier accreditation by the division of insurance pursuant
625 to section 2 of chapter 176O. In its review, the division shall consider the adequacy of access to
626 pain management services and any carrier policies which may create unduly preferential
627 coverage to prescribing opiates over other pain management modalities.

628 (c) Each carrier shall distribute educational materials to providers within their networks
629 about the plans described in clauses (i) and (ii) of subsection (a) and shall post information about
630 said plans on its public website.

631 SECTION 36. Section 2 of chapter 176O of the General Laws, as appearing in the 2014
632 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words “and (5)” and
633 inserting in place thereof the following words:- (5) prescription drug safety and access to pain
634 management; and

635 (6).

636 SECTION 37. Said chapter 176O is hereby further amended by inserting after section 6
637 the following section:-

638 Section 6A. (a) Each carrier shall provide for:

639 (i) a plan for the minimum coverage and adequate access to pain management services
640 that provide alternatives to narcotic substance prescribing as established pursuant to section 2;
641 and

642 (ii) a plan developed based on clinical evidence and in consultation with health care
643 practitioners for reasonable controls and safeguards on potentially addictive opiate prescription
644 drugs which may include, but need not be limited to: (A) restricting individual beneficiaries,
645 based on excessive prescribed quantities or other signs of risk, to obtaining prescriptions only
646 from a limited number of providers and pharmacies provided that beneficiaries restricted under
647 such programs shall be appropriately notified and have rights to appeal; (B) establishing
648 administrative safeguards on the prescribing of drugs identified pursuant to section 13 of chapter

649 17 as posing a heightened risk to the public health; (C) requirements that beneficiaries provide
650 informed consent prior to receiving an opiate prescription based on clinically accurate
651 information about the risks and benefits of opiate drugs; or (D) volume thresholds for new
652 prescriptions above which the carrier may require treatment agreements, pain management
653 consultations or other authorization requirements.

654 (b) The plans described in clauses (i) and (ii) of subsection (a) shall be subject to
655 approval and shall be a component of carrier accreditation by the division pursuant to section 2.
656 In its review, the division shall consider the adequacy of access to pain management services and
657 any carrier policies which may create unduly preferential coverage to prescribing opiates over
658 other pain management modalities.

659 (c) Each carrier shall distribute educational materials to providers within their networks
660 about the plans described in clauses (i) and (ii) of subsection (a) and shall post information about
661 the plans on its public website.

662 SECTION 38. Section 7 of said chapter 176O, as appearing in the 2014 Official Edition,
663 is hereby amended by striking out, in line 59, the word “and”.

664 SECTION 39. Said section 7 of said chapter 176O, as so appearing, is hereby further
665 amended by inserting after the word “age”, in line 68, the following words:- ; and.

666 (5) a report detailing for the previous calendar year the total number of: (i) medical or
667 surgical claims submitted to the carrier; (ii) medical or surgical claims denied by the carrier; (iii)
668 mental health or substance use disorder claims submitted to the carrier; (iv) mental health or
669 substance use disorder claims denied by the carrier; and (v) medical or surgical claims and
670 mental health or substance use disorder claims denied by the carrier because: (A) the insured

671 failed to obtain pre-treatment authorization or referral for services; (B) the service was not
672 medically necessary; (C) the service was experimental or investigational; (D) the insured was not
673 covered or eligible for benefits at the time services occurred; (E) the carrier does not cover the
674 service or the provider under the insured’s plan; (F) duplicate claims had been submitted; (G)
675 incomplete claims had been submitted; (H) coding errors had occurred; or (I) of any other
676 specified reason.

677 SECTION 40. Section 13 of said chapter 176O, as so appearing, is hereby amended by
678 adding the following subsection:-

679 (e) For any grievance involving a denial of coverage or a denial of preauthorization for
680 mental health services, including behavioral health and substance use disorder services, the
681 carrier shall provide to the insured and the insured’s authorized representative, if any, in addition
682 to all other notices required under this chapter, a statement certifying and specifically describing:

683 (i) that the denial of coverage by the carrier, the carrier’s utilization review organization
684 or other subcontracted entity complies with applicable state parity requirements for providing
685 coverage on a nondiscriminatory basis under chapter 80 of the acts of 2000; and

686 (ii) the quantitative and non-quantitative treatment limitations applied during review,
687 including both the initial review of the claim and the review of the internal grievance, and how
688 these treatment limitations comply with state and federal parity regulations, including those
689 codified at 42 U.S.C. § 300gg–26 and regulations implemented pursuant to section 8K of chapter
690 26.

691 SECTION 41. Section 17 of said chapter 176O, as so appearing, is hereby amended by
692 inserting after the word “inclusive”, in line 2, the following words:- , and 24A.

693 SECTION 42. Subsection (b) of section 24 of said chapter 176O, as so appearing, is
694 hereby amended by adding the following sentence:- The decision on the appeal shall prominently
695 provide information on the patient's right to appeal the decision to the office of patient protection
696 including, but not limited to: (i) contact information for the office of patient protection,; (ii) a
697 notice of a patient's right to file a grievance with the office of patient protection; and (iii)
698 information on how to file a grievance with the office of patient protection.

699 SECTION 43. Said chapter 176O is hereby further amended by inserting after section 24
700 the following section:-

701 Section 24A. The office of patient protection shall report overturned or partially
702 overturned behavioral health care denials to the division of insurance; provided, however, that
703 the office of patient protection shall only share patient information received by the office of
704 patient protection under the external review process established in subsection (d) of section 24 if
705 the patient or the patient's guardian has consented to sharing patient information with the
706 division. The division shall review each reported denial to determine whether the denial
707 constitutes a violation of the federal Mental Health Parity and Addiction Equity Act of 2008, §
708 511 of Public Law 110-343, and applicable state mental health parity laws including, but not
709 limited to, section 22 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A,
710 section 4A of chapter 176B and sections 4, 4B and 4M of chapter 176G.

711 If the division finds evidence that a violation has occurred including, but not limited to, a
712 determination by the office of patient protection to overturn a health care denial in full or in part,
713 the division shall investigate pursuant to its powers under section 8K of chapter 26.

714 If the division finds that a violation of the mental health and substance abuse parity laws
715 has occurred, the division shall levy a fine of not less than \$25,000 per violation; provided,
716 however, that the division shall levy an additional fine of not less than \$100,000 per occurrence
717 if an insurer demonstrates a clear pattern or practice of violating the mental health and substance
718 abuse parity laws.

719 The division shall promulgate regulations to ensure the protection of patient information
720 in its custody that shall comply with 42 U.S.C. § 290dd-2, 42 C.F.R. Part 2 and 45 C.F.R. §
721 164.512.

722 If the division finds a violation of mental health parity laws, the division shall post a
723 public notice on its public website.

724 (f) The office of patient protection shall post statistics regarding behavioral health
725 reviews organized by insurer and plan type on its public website.

726 SECTION 44. Within 180 days after the effective date of this act, the commissioner of
727 public health shall provide a report on the feasibility of the creation of programs similar to the
728 program established in section 29 for other health professional boards of registration. The
729 commissioner shall file the report, along with any recommendations to effectuate the findings,
730 with the chairs of the joint committee on public health, the chairs of the joint committee on
731 health care financing, the chairs of the house and senate committees on ways and means and the
732 chairs of the house and senate committees on rules.

733 SECTION 45. The department of public health shall promulgate regulations to classify
734 gabapentin and its chemical equivalents as “additional drugs” for the purposes of section 24A of
735 chapter 94C of the General Laws.

736 SECTION 46. The first distribution to individual practitioners of the prescribing trends
737 and profiles set forth in section 22 shall occur not later than March 1, 2017. The department of
738 public health shall establish educational resources on prescribing practices and alternative pain
739 management options not later than March 1, 2017.

740 SECTION 47. (a) There shall be a special commission to examine the feasibility of
741 establishing a pain management access program, with the goal of increasing access to pain
742 management for patients in need of comprehensive pain management resources.

743 (b) The commission shall review: (i) the development of a referral process to make pain
744 management specialists accessible to primary care providers, including a process similar to the
745 Massachusetts child psychiatry access project; (ii) the establishment of a pain management
746 specialty certification through the board of registration in medicine to refer a primary care
747 provider through the referral system described in clause (i); (iii) ways to incorporate a full
748 spectrum of pain management methods into provider care practices including, but not limited to,
749 acupuncture, exercise and other non-pharmaceutical interventions; (iv) the current coverage of
750 pain management through commercial and public insurers; and (v) ways to ensure a full
751 spectrum of pain management interventions are covered through commercial and public
752 insurance health plans.

753 (c) The special commission shall consist of the following members or their designees: the
754 secretary of health and human services, who shall serve as co-chair; the chancellor of the
755 University of Massachusetts medical school, who shall serve as co-chair; the assistant director of
756 Medicaid; the commissioner of the group insurance commission; the commissioner of insurance;
757 the executive director of the health policy commission; the executive director of the center for

758 health information and analysis; the commissioner of public health; the chair of the board of
759 registration in medicine; the chair of the board of registration in nursing; 1 representative of the
760 Massachusetts Association of Health Plans, Inc.; 1 representative of the Massachusetts Medical
761 Society; 1 representative of the Massachusetts Hospital Association, Inc.; 1 representative of the
762 Massachusetts Pain Initiative; a representative of the Massachusetts Chiropractic Society, Inc.;
763 and 6 members who shall be appointed by the governor, 1 of whom shall be an oncologist, 1 of
764 whom shall be a physician, 1 of whom shall be an advanced practice nurse, 1 of whom shall be a
765 health economist, 1 of whom shall be a physician specializing in pain management and 1 of
766 whom shall be a professor of medicine.

767 (d) The special commission shall file an initial report of its recommendations and drafts
768 of proposed legislation or regulations, if any, on clauses (i) and (ii) of subsection (b) with the
769 clerks of the house of representatives and the senate, the chairs of the joint committee on health
770 care financing, the chairs of the joint committee on mental health and substance abuse, the chairs
771 of the joint committee on public health and the chairs of the house and senate committees on
772 ways and means not later than November 1, 2016. The special commission shall file a final
773 report providing a full report regarding said subsection (b) not later than November 1, 2017.

774 SECTION 48. (a) There shall be a special commission to study the incorporation of safe
775 and effective pain treatment and prescribing practices into the professional training of students,
776 except veterinarian students, that may prescribe controlled substances.

777 (b) The special commission shall consist of the following members or their designees: the
778 chancellor of the University of Massachusetts medical school; the dean of Harvard Medical
779 School; the dean of Boston University School of Medicine; the dean of Tufts University School

780 of Medicine; a representative of the Massachusetts Association of Physician Assistants, Inc.; a
781 representative of the Massachusetts Nurses Association; a representative of the Massachusetts
782 Medical Society; a representative of the Massachusetts Hospital Association, Inc.; a
783 representative of the Massachusetts Pain Initiative; and 6 members to be appointed by the
784 governor, 2 of whom shall be representatives of the pharmacy industry, 1 of whom shall be a
785 representative of a nursing school and 1 of whom shall be a representative of a physician
786 assistant training program. The governor shall appoint a chair of the committee; provided,
787 however, that the first meeting of the commission shall take place not later than March 1, 2016.

788 (c) The special commission shall develop recommendations to ensure future prescribers
789 have an understanding of: (i) pain treatment; (ii) the development of a pain management
790 treatment plan and safe prescribing practices of controlled substances; (iii) the effective use of
791 the prescription monitoring program; (iv) substance use disorder symptoms and treatment
792 options; (v) alternative pain management options; and (vi) state and federal laws and regulations
793 related to controlled substances.

794 (d) The special commission shall submit its recommendations, together with drafts of any
795 legislation, to the clerks of the house of representative and the senate, the chairs of the joint
796 committee on higher education and the chairs of the joint committee on mental health and
797 substance abuse not later than October 1, 2016.

798 SECTION 49. The division of insurance, in consultation with the department of mental
799 health, the department of public health and the bureau of substance abuse services, shall
800 recommend a universal intake form to streamline the administrative process for intake of a
801 behavioral health or substance use disorder patient. The form shall: (i) ensure adequate

802 recordkeeping; (ii) lessen the current documentation burden for providers of behavioral health or
803 substance use disorder services; and (iii) be available in electronic form. The form may be
804 incorporated by all payers of behavioral health and substance use disorder services. The
805 department shall hold not fewer than 4 public hearings on the development of the universal
806 intake form. The division shall post the universal intake form on its website not later than March
807 1, 2016.

808 SECTION 50. (a) There shall be a special commission to study the impact of operating a
809 motor vehicle under the influence of drugs on the criminal justice system. The commission shall
810 consist of the following members or their designees: the secretary of public safety and security,
811 who shall serve as chair; the attorney general; the chief justice of the supreme judicial court; the
812 president of the Massachusetts District Attorneys Association; the colonel of state police; the
813 chief counsel of the committee for public counsel services; a representative from the
814 Massachusetts Bar Association; a representative from the Boston Bar Association; a
815 representative from the Massachusetts Association of Criminal Defense Lawyers, Inc.; a
816 representative of the Massachusetts Chiefs of Police Association Incorporated; 2 members of the
817 house of representatives, 1 of whom shall be appointed by the minority leader; 2 members of the
818 senate, 1 of whom shall be appointed by the minority leader; and 2 persons to be appointed by
819 the governor, 1 of whom shall have experience in substance abuse and addiction treatment and 1
820 of whom shall have experience in providing services or supervision for offenders convicted of
821 operating under the influence.

822 (b) The commission shall investigate and study: (i) the feasibility of developing an
823 established impairment level for tetrahydrocannabinol; (ii) the establishment and
824 implementation of drug evaluation and classification programs and the training of drug

825 recognition experts; (iii) the effectiveness of implementation of impairment levels and programs
826 in other states; (iv) the effectiveness of the implied consent law as it relates to operating a motor
827 vehicle while under the influence of drugs; and (v) other matters related to operating a motor
828 vehicle under the influence.

829 (c) The commission shall file a report of its findings and recommendations, together with
830 drafts of legislation necessary to carry those recommendations into effect, with the clerks of the
831 senate and house of representatives, the chairs of the senate and house committees on ways and
832 means, the senate and house chairs of the joint committee on the judiciary and the senate and
833 house chairs of the joint committee on mental health and substance abuse not later than October
834 1, 2016.

835 SECTION 51. The center for health information and analysis, acting in collaboration
836 with the health policy commission, the department of mental health and the department of public
837 health, shall not later than 6 months after the effective date of this act and each year by
838 December 31 thereafter, conduct an assessment of the capacity for inpatient treatment for
839 substance abuse and behavioral health available to service residents of the commonwealth. The
840 assessment shall include, but not be limited to: (i) the total number of beds in place, expressed as
841 both an absolute number and in relative terms per capita; (ii) the geographical distribution of
842 treatment beds; (iii) the average waiting time for a treatment placement, measured as a state-wide
843 figure and by regions of the commonwealth; (iv) any and all relevant obstacles to obtaining
844 placement in inpatient treatment, including availability of beds, health insurance coverage,
845 geography and transportation; (v) the ability of payors and providers to meet the inpatient
846 treatment requirements of chapter 258 of the acts of 2014, progress made since the passage of
847 said chapter 258 of the acts of 2014 and remaining problems or obstacles regarding compliance.

848 The results of the assessment, together with recommended strategies and legislation to
849 improve inpatient substance abuse treatment and access to such treatment, shall be filed with the
850 clerks of the house of representatives and the senate, the house and senate committees on ways
851 and means and the joint committee on mental health and substance abuse.

852 SECTION 52. Pharmaceutical product manufacturers and stewardship organizations, as
853 defined in section 1 of chapter 94G of the General Laws, shall, in consultation with the
854 department of public health, identify technology to quantify, sort and catalogue covered drugs, as
855 defined in said chapter 94G. The department shall file with the clerks of the senate and house of
856 representatives, not later than January 1, 2018, a report detailing a program that: (i) develops a
857 reasonable price per pill for each covered drug, as defined in said chapter 94G; (ii) assesses
858 upon each pharmaceutical product manufacturer, as defined in said chapter 94G, a fee equal to
859 the price per pill multiplied by the number of pills collected; and (iii) deposits fees collected
860 from the program into the Prescription Drug Awareness Trust Fund established in section 2J of
861 chapter 111 of the General Laws. The clerks shall forward the report detailing the program to the
862 joint committee on public health and the house and senate committees on ways and means on or
863 before January 30, 2018. The report shall be made available to the public on the general court's
864 website.

865 SECTION 53. The department of public health shall promulgate rules and regulations to
866 implement sections 7 to 10, inclusive, to ensure the verbal substance use disorder screening
867 occurs annually and to ensure the screening of students in 2 grades.

868 SECTION 54. Notwithstanding any general or special law to the contrary, each school
869 district shall implement the verbal substance use disorder screening not later than the 2016-2017
870 school year.

871 SECTION 55. Notwithstanding any general or special law to the contrary, the
872 department of public health shall consult with the secretary of public safety, the superintendent
873 of the department of state police, the Massachusetts Chiefs of Police Association Incorporated
874 and others as necessary to develop an education and training program on the statewide
875 centralized substance abuse service referral and education system. The education and training
876 program shall enable municipal police officers to obtain information by phone or online
877 regarding referral to treatment for individuals seeking treatment at local police departments. The
878 department of public health shall ensure that the program provides daily updates and that the
879 program is fully implemented under the second and third sentences of subsection (b) and section
880 (c) of section 18 of chapter 17 of the General Laws.

881 SECTION 56. There shall be a special commission to investigate and study state licensed
882 addiction treatment centers.

883 The commission shall consist of: the secretary of health and human services or a
884 designee, who shall serve as chair; the commissioner of mental health or a designee; the
885 commissioner of public health or a designee; the director of medicaid or a designee; the inspector
886 general or a designee; and 6 members who shall be appointed by the secretary of health and
887 human services, 3 of whom shall be advocates from the addiction treatment community and 3 of
888 whom shall be a family members of individuals who have been treated at a state licensed
889 addition treatment center.

890 The commission shall: (i) solicit information and input from addiction treatment service
891 providers, consumers, families and any other parties or entities the commission considers
892 appropriate; (ii) examine the effectiveness of addiction treatment services in promoting
893 successful outcomes of recovery and wellness, (iii) examine ways to encourage engagement
894 from individuals in recovery from substance use disorders in policy development related to
895 service delivery and the training and evaluation of services, (iv) consider best practice models of
896 delivery and the provision of recovery oriented services in other states; (v) examine mental
897 health considerations when an individual enters an addiction treatment center including, but not
898 limited to, patient access to mental health services and (vi) recommend legislation to improve
899 services for people in a state licensed addiction treatment center.

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

905 SECTION 57. Not more than 180 days after the effective date of this act, the board of
906 registration in medicine and the respective boards of licensure for prescribers registered under
907 section 7 of chapter 94C of the General Laws shall promulgate regulations that require a
908 prescriber, prior to issuing a prescription for an opioid in schedule II of section 3 of said chapter
909 94C, to: (i) consult with a patient and determine the lowest quantity of the opioid that can safely
910 and effectively meet the needs presented by the patient in the prescriber's medical judgment; (ii)
911 discuss a full spectrum of strategies to manage pain; and (iii) explain, in lay terms, the rationale

912 for the recommended prescription quantity and dosage. The regulations shall also include
913 appropriate licensing consequences for failure to adhere to the regulation.

914 SECTION 58. Not later than 180 days after the effective date of this act, the division of
915 insurance shall develop and implement regulations providing that there shall be no financial
916 penalty for a patient's choice to receive a lesser quantity of an opioid contained in schedule II or
917 III of section 3 of chapter 94C of the General Laws.

918 SECTION 59. Section 2 shall take effect March 1, 2016.

919 SECTION 60. Sections 4, 22, 45 and proposed section 18B of chapter 94C of the General
920 Laws shall take effect December 1, 2016.

921 SECTION 61. Sections 24, 25, 32 to 35, inclusive, and 37 shall take effect January 1,
922 2017.

923 SECTION 62. Section 51 shall not expire unless otherwise extended, modified or
924 terminated 5 years after the effective date of this act.