

HOUSE No. 2181

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to substance use disorder diversion and treatment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/19/2017</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	
<i>Edward F. Copping</i>	<i>10th Suffolk</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	

<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	
<i>John J. Mahoney</i>	<i>13th Worcester</i>	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	
<i>Randy Hunt</i>	<i>5th Barnstable</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	
<i>Natalie Higgins</i>	<i>4th Worcester</i>	
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	
<i>Bud Williams</i>	<i>11th Hampden</i>	
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/1/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Michael S. Day</i>	<i>31st Middlesex</i>	
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	
<i>Juana B. Matias</i>	<i>16th Essex</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	

Paul W. Mark
Chris Walsh

2nd Berkshire
6th Middlesex

HOUSE No. 2181

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 2181) of Elizabeth A. Malia and others relative to substance use disorder diversion and treatment. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to substance use disorder diversion and treatment.

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

1 SECTION 1. Section 1 of chapter 111E of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by adding the following paragraphs:-

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

7 "Bureau", the bureau of substance abuse services within the department of public health.

8 "Second drug offense", an illegal act which stands pending for trial wherein the defendant
9 has been assigned to treatment under chapter 111E 1 time previously.

10 "Successful completion of treatment", when the administrator of the facility has
11 determined that the drug dependent person, as defined by this Act, has completed the
12 requirements set forth by the individual patient treatment plan to the best of his current ability.

13 SECTION 2. Said section 1 is hereby further amended by striking out the fourteenth
14 sentence and inserting in place thereof the following sentence:-

15 "Director", the director of the division of rehabilitation, his designee, the assistant
16 commissioner in charge of the bureau or his designee.

17 SECTION 3. Said section 1 is hereby further amended by striking out the nineteenth
18 sentence and inserting in place thereof the following sentence:-

19 "Drug dependent person", a person, regardless of age, who is unable to function
20 effectively and whose inability to do so causes, or results from, the use of a drug other than,
21 tobacco or lawful beverages containing caffeine, and other than from a medically prescribed drug
22 when such drug is medically indicated and the intake is proportioned to the medical need, or a
23 person who is at risk of becoming drug dependent, as defined herein.

24 SECTION 4. Section 5 of said chapter 111E is hereby amended by adding the following
25 paragraph:--

26 If the division is unable to comply with the provisions of this section, the bureau shall
27 prepare and publish annually a list of facilities operating in accordance with this chapter and
28 shall make such list available to all district and superior courts, interested attorneys and their
29 statewide organizations, the offices of the district attorneys for each county and their statewide
30 organizations, and probation departments and their statewide organizations within the
31 commonwealth on an annual basis and to members of the public upon request. Such list shall
32 include, but not be limited to, the following:

33 (a) eligibility of treatment;

- 34 (b) scope of treatment offered;
- 35 (c) applicable facility fees;
- 36 (d) last known patient capacity; and
- 37 (e) facilities available for emergency treatment.

38 SECTION 5. Section 8 of said chapter 111E is hereby amended by striking the second
39 paragraph and inserting in place thereof the following paragraph:-

40 Upon receipt by the director of an application for admission, the director shall designate
41 an addiction specialist to conduct an examination of the person to determine whether that person
42 is a drug dependent person who would benefit from treatment. The addiction specialist shall
43 report his findings in writing to the director after the completion of the examination, stating the
44 facts upon which the findings are based and the reasons therefore.

45 SECTION 6. Said section 8 is hereby further amended by striking the fourth paragraph.

46 SECTION 7. Section 10 of said chapter 111E is hereby amended by striking the first
47 paragraph and inserting in place thereof the following paragraph:-

48 Section 10. Any defendant who is charged with a first or second drug offense shall be
49 informed, upon being brought before the court on such charge, that he is entitled to request an
50 examination to determine whether or not he is a drug dependent person who would benefit from
51 treatment. A court may in its discretion request an examination of any person charged with a
52 drug offense to determine whether a defendant is drug dependent and would benefit from
53 treatment in accordance with this chapter.

54 SECTION 8. Said section 10 is hereby further amended by striking the third through
55 sixth paragraphs inclusive and inserting in place thereof the following paragraphs:-

56 Court proceedings shall be stayed from the time a request for examination is made under
57 this section and while that request is considered by the court. Upon such a request, the court shall
58 appoint an addiction specialist to conduct the examination at an appropriate location within 3
59 days of the granting of the request. In no event shall the request for such an examination or any
60 statement by the defendant during the course of the examination, or any finding by the addiction
61 specialist be admissible against the defendant in any court proceedings. The appointed addiction
62 specialist shall report his findings in writing to the court within 3 days after the completion of the
63 examination, stating the facts upon which the findings are based and the reasons therefore.

64 If the defendant requests assignment to treatment and the evaluation of the addiction
65 specialists deems the defendant would benefit from treatment the court must stay the court
66 proceedings and assign the defendant to a drug treatment facility.

67 SECTION 9. Said section 10 is hereby further amended by striking the eighth and ninth
68 paragraphs and inserting in place thereof the following paragraphs:-

69 In determining whether a defendant is eligible for assignment under this section, the court
70 shall consider the report of the addiction specialist, the defendant's criminal record , the
71 availability of adequate and appropriate treatment, the nature of the offense with which the
72 defendant is currently charged, including but not limited to whether the offense charged is that of
73 sale or sale to a minor, and any other evidence the court deems relevant, provided, however, that
74 where the offense charged is that of a sale or sale to a minor, no defendant may be assigned

75 under this section unless that defendant is determined to be currently drug dependent, not merely
76 at risk of becoming drug dependent.

77 If the defendant is determined to be a drug dependent person under sections 15 or 22 of
78 this Act, requests assignment to treatment, and if the defendant is charged with a first or second
79 drug offense not involving the sale or manufacture of dependency related drugs, or is assigned by
80 the court, and there are no continuances outstanding with respect to the defendant pursuant to
81 this section, the court shall order that the defendant be assigned to a drug treatment facility
82 without consideration of any other factors notwithstanding sections 15 and 22 of this Act.

83 SECTION 10. Said section 10 is hereby further amended by striking the eleventh
84 paragraph and inserting in place thereof the following paragraph:-

85 If the defendant requests assignment to treatment and is determined by an addictions
86 specialist to be a drug dependent person that would benefit from treatment, and the defendant is
87 charged with a first or second drug offense not involving the sale or manufacture of dependency
88 related drugs, or is assigned by the court, and there are no continuances outstanding with respect
89 to the defendant pursuant to this section, and adequate and appropriate treatment at a facility is
90 not available, the stay of court proceedings shall remain in effect until such time as adequate and
91 appropriate treatment is available.

92 SECTION 11. Said section 10 is hereby further amended by striking the first sentence of
93 the fifteenth paragraph and inserting in place thereof the following:-

94 If the addiction specialist reports that the defendant is not a drug dependent person who
95 would benefit from treatment, the defendant shall be entitled to request a hearing to determine
96 whether or not he is a drug dependent person who would benefit from treatment.

97 SECTION 12. Said section 10 is hereby further amended by striking the twenty sixth
98 sentence and inserting in place thereof the following sentence:-

99 Within 10 days of the receipt by the court of an application for discharge, the
100 administrator and an independent addictions specialist designated by the court to make an
101 examination of the defendant shall report to the court as to whether or not the patient would
102 benefit from further treatment at a facility.

103 SECTION 13. Said section 10 is hereby further amended by striking the twenty ninth
104 sentence and inserting in place thereof the following sentence:-

105 Within 10 days of the receipt of the court of an application of transfer, the administrator
106 and an independent addictions specialist shall report to the court as to whether the defendant is a
107 proper subject for the transfer for which he has made application.

108 SECTION 14. Said section 10 is hereby further amended by striking the forty third
109 sentence and inserting in place thereof the following sentence:-

110 The provisions of this section shall not apply to a person charged with violating sections
111 32 to 32G, inclusive, of chapter 94 C; provided, however, notwithstanding the provisions of this
112 section, section of said chapter 94C or any other law to the contrary, the provisions of this
113 section shall apply to a person charged with first or second offense of subsection (a) of section
114 32 of chapter 94C or a first offense of subsection (b) of said section 32, first or second offense of
115 subsection (a) of section 32A of chapter 94C or a first offense of subsection (b) of said section
116 32A, first or second offense of subsection (c) of section 32A of chapter 94C or a first offense of
117 subsection (d) of said section 32A, first or second offense of subsection (a) of section 32B of
118 chapter 94C or a first offense of subsection (b) of said section 32B, first or second offense of

119 subsection (a) of section 32C of chapter 94C or a first offense of subsection (b) of said a section
120 32C, and first or second offense of subsection (a) of section 32D of chapter 94C or a first offense
121 of subsection (b) of said section 32D.

122 SECTION 15. Section 11 of said chapter 111E is hereby amended by striking the first
123 paragraph and inserting in place thereof the following paragraph:-

124 Any person found guilty of a violation of law other than a drug offense, who prior to
125 disposition of the charge, states that he is a drug dependent person, and requests an examination,
126 shall be assessed by an addictions specialist to determine whether or not he is a drug dependent
127 person who would benefit from treatment. The court may use the determination that the
128 defendant is a drug dependent person to place him into treatment services under this chapter.

129 SECTION 16. Section 12 of said chapter 111E is hereby amended by inserting after the
130 fifth sentence the following sentence:--

131 A positive drug test alone shall not be considered a breach of the terms of probation. The
132 court shall not prohibit the use of medication-assisted treatment as a condition of probation.

133 SECTION 17. This act shall not apply to any convictions entered or sentences imposed
134 prior to the effective date of this act.

135 SECTION 18. Section 17N of chapter 32A of the General Laws, as appearing in the 2014
136 Official Edition, is hereby amended by inserting after the definition of “Clinical stabilization
137 services” the following definition:-

138 “Transitional support services”, short-term, residential support services, as defined by the
139 department of public health, usually following clinical stabilization services, that provide a safe

140 and structured environment to support adults or adolescents through the addiction recovery
141 process and the transition to outpatient or other step-down addiction recovery care.

142 SECTION 19. Said section 17N of said chapter 32A, as so appearing, is hereby further
143 amended by striking out the second paragraph and inserting in place thereof the following
144 paragraph:-

145 The commission shall provide for medically necessary acute treatment services,
146 medically necessary clinical stabilization services, and medically necessary transitional support
147 services to an active or retired employee of the commonwealth who is insured under the group
148 insurance commission coverage for up to 30 days and shall not require preauthorization prior to
149 obtaining such acute treatment services, clinical stabilization services, or transitional support
150 services. The facility providing such services shall provide the carrier with notification of
151 admission and the initial treatment plan within 48 hours of admission and within a reasonable
152 time thereafter shall provide the carrier with a projected discharge plan for the member. The
153 carrier's utilization review procedures may be initiated on day 14; provided however that a
154 carrier shall not make any utilization review decisions that impose any restriction or deny any
155 future medically necessary acute treatment, clinical stabilization, or transitional support services
156 unless a patient has received at least 30 consecutive days of said services; and provided further,
157 that the commission shall provide to any active or retired employee of the commonwealth who is
158 insured under the group insurance commission coverage for, without preauthorization, substance
159 abuse evaluations ordered pursuant to section 51½ of chapter 111. Upon receipt of notification
160 by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the
161 treating clinician and member to offer care management and support services.

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

164 SECTION 20. Said chapter 118E of the General Laws, as so appearing, is amended by
165 inserting after section 10J the following section:-

166 Section 10K. For the purposes of this section, the following words shall have the
167 following meanings unless the context clearly requires otherwise:

168 “Acute treatment services”, 24-hour medically supervised addiction treatment for adults
169 or adolescents provided in a medically managed or medically monitored inpatient facility, as
170 defined by the department of public health, that provides evaluation and withdrawal management
171 and which may include biopsychosocial assessment, individual and group counseling,
172 psychoeducational groups and discharge planning.

173 “Clinical stabilization services”, 24-hour clinically managed post detoxification treatment
174 for adults or adolescents, as defined by the department of public health, usually following acute
175 treatment services for substance abuse for individuals beginning to engage in recovery from
176 addiction, which may include intensive education and counseling regarding the nature of
177 addiction and its consequences, relapse prevention, outreach to families and significant others
178 and aftercare planning.

179 “Transitional support services”, short-term, residential support services, as defined by the
180 department of public health, usually following clinical stabilization services, that provide a safe
181 and structured environment to support adults or adolescents through the addiction recovery
182 process and the transition to outpatient or other step-down addiction recovery care.

183 The division and its contracted health insurers, health plans, health maintenance
184 organizations, behavioral health management firms and third-party administrators under contract
185 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
186 medically necessary acute treatment services and shall not require a preauthorization prior to
187 obtaining treatment. The division and its contracted health insurers, health plans, health
188 maintenance organizations, behavioral health management firms and third-party administrators
189 under contract to a Medicaid managed care organization or primary care clinician plan shall
190 cover the cost of medically necessary clinical stabilization services, and medically necessary
191 transitional support services for up to 30 days and shall not require preauthorization prior to
192 obtaining acute treatment services, clinical stabilization services, or transitional support services.
193 The facility providing such services shall provide the carrier notification of admission and the
194 initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall
195 provide the carrier with a projected discharge plan for the member. The carrier's utilization
196 review procedures may be initiated on day 14; provided, however, that a carrier shall not make
197 any utilization review decisions that impose any restriction or deny any future medically
198 necessary acute treatment, clinical stabilization, or transitional support services unless a patient
199 has received at least 30 consecutive days of said services; and provided further, that the division
200 and its contracted health insurers, health plans, health maintenance organizations, behavioral
201 health management firms and third party administrators under contract to a Medicaid managed
202 care organization or primary care clinician plan shall cover, without preauthorization, substance
203 abuse evaluations ordered pursuant to section 51½ of chapter 111. Upon receipt of notification
204 by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the
205 treating clinician and member to offer care management and support services.

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

208 SECTION 21. Section 47GG of chapter 175 of the General Laws, as appearing in the
209 2014 Official Edition, is hereby amended by inserting after the definition of "Clinical
210 stabilization services" the following definition:-

211 "Transitional support services", short-term, residential support services, as defined by
212 the department of public health, usually following clinical stabilization services, that provide a
213 safe and structured environment to support adults or adolescents through the addiction recovery
214 process and the transition to outpatient or other step-down addiction recovery care.

215 SECTION 22. Said section 47GG of said chapter 175, as so appearing, is hereby further
216 amended by striking out the second paragraph and inserting in place thereof the following
217 paragraph:-

218 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
219 renewed within the commonwealth, which is considered creditable coverage under section 1
220 chapter 111M, shall provide coverage for medically necessary acute treatment services,
221 medically necessary clinical stabilization services, and medically necessary transitional support
222 services for up to 30 days and shall not require preauthorization prior to obtaining acute
223 treatment services, clinical stabilization services, or transitional support services. The facility
224 providing such services shall provide the carrier notification of admission and the initial
225 treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide
226 the carrier with a projected discharge plan for the member. The carrier's utilization review
227 procedures may be initiated on day 14; provided however that a carrier shall not make any

228 utilization review decisions that impose any restriction or deny any future medically necessary
229 acute treatment, clinical stabilization, or transitional support services unless a patient has
230 received at least 30 consecutive days of said services; provided further, any policy, contract,
231 agreement, plan or certificate of insurance issued, delivered or renewed within the
232 commonwealth, which is considered creditable coverage pursuant to section 1 of chapter 111M,
233 shall cover, without preauthorization, a substance abuse evaluation ordered pursuant to section
234 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the
235 discharge plan, the carrier may provide outreach to the treating clinician and member to offer
236 care management and support services.

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

239 SECTION 23. Section 8II of chapter 176A, of the General Laws, as appearing in the
240 2014 Official Edition, is hereby amended by inserting after the definition of "Clinical
241 stabilization services" the following definition:-

242 "Transitional support services", short-term, residential support services, as defined by the
243 department of public health, usually following clinical stabilization services, that provide
244 a safe and structured environment to support adults or adolescents through the addiction recovery
245 process and the transition to outpatient or other step-down addiction recovery care.

246 SECTION 24. Said section 8II of said chapter 176A, as so appearing, is hereby further
247 amended by striking out the second paragraph and inserting in place thereof the following
248 paragraph:-

249 Any contract between a subscriber and the corporation under an individual or group
250 hospital service plan which is delivered, issued or renewed within the commonwealth shall
251 provide coverage for medically necessary acute treatment services, medically necessary clinical
252 stabilization services, and medically necessary transitional support services for up to 30 days and
253 shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization
254 services, or transitional support services. The facility providing such services shall provide the
255 carrier notification of admission and the initial treatment plan within 48 hours of admission and
256 within a reasonable time thereafter shall provide the carrier with a projected discharge plan for
257 the member. The carrier's utilization review procedures may be initiated on day 14; provided
258 however that a carrier shall not make any utilization review decisions that impose any restriction
259 or deny any future medically necessary acute treatment, clinical stabilization, or transitional
260 support services unless a patient has received at least 30 consecutive days of said services;
261 provided further, any contract between a subscriber and the corporation under an individual or
262 group hospital service plan which is delivered, issued or renewed within the commonwealth,
263 shall cover, without preauthorization, a substance abuse evaluation ordered pursuant to section
264 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the
265 discharge plan, the carrier may provide outreach to the treating clinician and member to offer
266 care management and support services.

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

269 SECTION 25. Section 4II of chapter 176B, of the General Laws, as appearing in the 2014
270 Official Edition, is hereby amended by inserting after the definition of "Clinical stabilization
271 services" the following definition:-

272 “Transitional support services”, short-term, residential support services, as defined by the
273 department of public health, usually following clinical stabilization services, that provide a safe
274 and structured environment to support adults or adolescents through the addiction recovery
275 process and the transition to outpatient or other step-down addiction recovery care.

276 SECTION 26. Said section 4II of said chapter 176B, as so appearing, is hereby further
277 amended by striking out the second paragraph and inserting in place thereof the following
278 paragraph:-

279 Any subscription certificate under an individual or group medical service agreement
280 delivered, issued or renewed within the commonwealth shall provide coverage for medically
281 necessary acute treatment services, medically necessary clinical stabilization services, and
282 medically necessary transitional support services for up to 30 days and shall not require
283 preauthorization prior to obtaining acute treatment services, clinical stabilization services, or
284 transitional support services. The facility providing such services shall provide the carrier
285 notification of admission and the initial treatment plan within 48 hours of admission and within a
286 reasonable time thereafter shall provide the carrier with a projected discharge plan for the
287 member. The carrier’s utilization review procedures may be initiated on day 14; provided
288 however that a carrier shall not make any utilization review decisions that impose any restriction
289 or deny any future medically necessary acute treatment, clinical stabilization, or transitional
290 support services unless a patient has received at least 30 consecutive days of said services;
291 provided further, any subscription certificate under an individual or group medical service
292 agreement delivered, issued or renewed within the commonwealth shall provide coverage for,
293 without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of
294 chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge

295 plan, the carrier may provide outreach to the treating clinician and member to offer care
296 management and support services.

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

299 SECTION 27. Section 4AA of chapter 176G of the General Laws, as appearing in the
300 2014 Official Edition,, is hereby amended by inserting after the definition of "Clinical
301 stabilization services" the following definition:-

302 "Transitional support services", short-term, residential support services, as defined by the
303 department of public health, usually following clinical stabilization services, that provide a safe
304 and structured environment to support adults or adolescents through the addiction recovery
305 process and the transition to outpatient or other step-down addiction recovery care.

306 SECTION 28. Said section 4AA of said chapter 176G, as so appearing, is hereby further
307 amended by striking out the second paragraph and inserting in place thereof the following
308 paragraph:-

309 An individual or group health maintenance contract that is issued or renewed shall
310 provide coverage for medically necessary acute treatment services, medically necessary clinical
311 stabilization services, and medically necessary transitional support services for up to 30 days and
312 shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization
313 services, or transitional support services. The facility providing such services shall provide the
314 carrier notification of admission and the initial treatment plan within 48 hours of admission and
315 within a reasonable time thereafter shall provide the carrier with a projected discharge plan for
316 the member. The carrier's utilization review procedures may be initiated on day 14; provided

317 however that a carrier shall not make any utilization review decisions that impose any restriction
318 or deny any future medically necessary acute treatment, clinical stabilization, or transitional
319 support services unless a patient has received at least 30 consecutive days of said services;
320 provided further, an individual or group health maintenance contract that is issued or renewed
321 shall provide coverage for, without preauthorization, a substance abuse evaluation ordered
322 pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and
323 receipt of the discharge plan, the carrier may provide outreach to the treating clinician and
324 member to offer care management and support services.

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

327 SECTION 29. The center for health information and analysis, in consultation with the
328 division of insurance, the department of public health, the office of Medicaid and the health
329 policy commission, shall conduct reviews on the 14 day mandated coverage of acute treatment
330 services, clinical stabilization services and the long-term effects of the increase in covered days
331 from 14 days to 30 days related to the mandated benefits for acute treatment services, clinical
332 stabilization services, and transitional support services on the following areas: (i) the continuum
333 of care for substance use disorder treatment; (ii) access to the continuum of care for patients
334 eligible for MassHealth and department of public health programs; (iii) access to the continuum
335 of care for commercially insured patients; and (iv) any changes in costs to MassHealth, the
336 department of public health and health insurance carriers.

337 The center shall provide an initial report not later than October 1, 2018 on the effects of
338 the 14 day mandated coverage of acute treatment services and clinical stabilization services to

339 the areas listed above and a final report not later than October 1, 2019 on the effects of the 30
340 day mandated coverage of acute treatment services, clinical stabilization services, and
341 transitional support services to the areas listed above. The initial report and final report shall be
342 posted on the center's website and shall be filed with the clerks of the house of representatives
343 and senate, the house and senate chairs of the committee on financial services, the house and
344 senate chairs of the committee on health care financing, the house and senate chairs of the
345 committee on public health, and the house and senate committees on ways and means not later
346 than October 1, 2018 and October 1, 2019, respectively.

347 SECTION 30. Sections 18 through 30, inclusive, shall take effect October 1, 2018.

348 SECTION 31. Section 34A of chapter 94C of the General Laws, as appearing in the
349 2014 Official Edition, is hereby amended by striking subsections (a) and (b) and inserting in
350 place there of the following subsections: --

351 Section 34A. (a) A person who, in good faith, seeks or is engaged in providing medical
352 assistance including substance abuse treatment, shelter, or social services for someone
353 experiencing a drug-related overdose or at risk of experiencing an overdose due to active drug
354 use shall not be charged or prosecuted for possession of a controlled substance under sections 34
355 or 35, nor be subject to the execution of a warrant for arrest for any non-violent drug offense, if
356 the evidence for the charge of possession of a controlled substance or the presence of the
357 individual subject to the arrest warrant was gained as a result of the seeking of medical assistance
358 including substance abuse treatment, shelter, or social services.

359 (b) A person who experiences a drug-related overdose or is at risk of experiencing an
360 overdose due to active drug use and is in need of medical assistance including substance abuse

361 treatment, shelter, or social services and, in good faith, seeks such medical assistance, or is the
362 subject of such a good faith request for medical assistance, shall not be charged or prosecuted for
363 possession of a controlled substance under said sections 34 or 35, nor be subject to the execution
364 of a warrant for arrest for any non-violent drug offense, if the evidence for the charge of
365 possession of a controlled substance was gained as a result of the overdose and the need for
366 medical assistance.

367 SECTION 32: Section 3 of chapter 94G, as so appearing, is hereby amended by striking
368 subsection (i) and inserting in place thereof the following:-

369 (i)a collection system to provide convenient, ongoing collection services to all persons
370 seeking to dispose of unwanted drugs; provided, however, that the collection system may accept
371 any covered drug and any other prescription drug in a pill formulation regardless of its schedule,
372 brand or source of manufacture; provided further, that the collection system shall include
373 collection kiosks in every chain pharmacy location, and must include at least one of the
374 following: (A) a mail-back program that provides prepaid and preaddressed packaging for a
375 pharmacy to distribute when filling a prescription for a covered drug or upon request by a
376 consumer; (B) drop-off day events at regional locations; (C) in-home disposal methods that
377 render a product safe from misuse and that comply with applicable controlled substance
378 regulations and environmental safety regulations; or (D) any other method recommended
379 pursuant to United States Drug Enforcement Administration guidelines;

380 SECTION 33: Section 5 of chapter 94G, as so appearing, is hereby amended by striking
381 subsections (b) and (c) and inserting in place thereof the following:-

382 (b) The department shall establish convenience of access standards to evaluate the drug
383 stewardship program. Said standards shall include, but not be limited to, a requirement that
384 manufacturers and stewardship organizations provide, collectively through their proposed
385 stewardship programs, for a collection kiosk at every chain pharmacy location in the
386 commonwealth, where “chain pharmacy” shall mean a retail drug organization that operates 10
387 or more retail drug stores within the commonwealth.

388 (c) Nothing in this chapter shall require an independent community pharmacy to
389 participate in the collection, securing, transport or disposal of unwanted drugs, where
390 “independent community pharmacy” shall mean a retail drug organization that operates 9 or
391 fewer registered retail drugstores in the commonwealth and employs not more than 20 full-time
392 pharmacists.

393 (d) No stewardship program shall require an independent community pharmacy to
394 participate in the collection, securing, transport or disposal of unwanted drugs or to provide a
395 space for or to maintain a collection kiosk within an independent community pharmacy, unless
396 the pharmacy certifies, in writing, that this participation is voluntary.

397 SECTION 34: Sections 32 and 33 shall take effect on October 1, 2019.