

HOUSE No.

The Commonwealth of Massachusetts



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LIEUTENANT GOVERNOR

November 14, 2017

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Relative to Combatting Addiction, Accessing Treatment, Reducing Prescriptions, and Enhancing Prevention.”

This legislation continues our commitment to mitigate the impacts of the ongoing opioid addiction crisis in Massachusetts. One of the major first steps in this effort was the enactment of Chapter 52 of the Acts of 2016, an Act Relative to Substance Use, Treatment, Education and Prevention (the STEP Act), which created important new tools for expanding treatment for people who suffer from opioid addiction, reducing the overuse of prescription opioids in the Commonwealth, and improving education for young people, educators, and medical professionals on the risks of opioid misuse. Today, eighteen months later, we are seeing early signs of progress in fighting this terrible epidemic, and we know much more about what works in the fight. The legislation I am filing today builds upon the foundational work of the STEP Act and continues the Commonwealth’s comprehensive approach to addressing the problem of opioid addiction.

Improving Access to Treatment

The first priority of this legislation is to ensure that people who are suffering from opioid addiction receive the specialized treatment they need. The STEP Act introduced a requirement that medical staff in an emergency department conduct a substance abuse evaluation and provide information on addiction treatment for any patient treated for an opioid overdose. This bill aims

to improve the effectiveness of these consultations by expanding the range of medical professionals authorized to perform the evaluation and by requiring that the emergency department affirmatively connect the patient with the appropriate level of care.

The bill also permits medical professionals or police officers to authorize the transport of a patient to a substance use treatment facility for emergency assessment and treatment when the patient presents a risk of serious harm due to addiction and the patient will not agree to voluntary treatment. A treatment facility receiving a patient transported under this provision would then be required to attempt to engage the patient in voluntary treatment for a period of up to 72 hours. In cases where a patient poses an immediate risk of harm but remains unable to engage in voluntary treatment, medical professionals at the treatment facility would be required to petition a court to commit the patient for involuntary treatment under section 35 of chapter 123, the existing civil commitment statute. Other provisions in the bill call for the development of a set of consistent, state-wide standards for the medical evaluation of any person who is the subject of a section 35 petition and the inclusion of medical professionals other than physicians among the persons who are authorized to initiate a court petition for commitment under the statute.

In order to ensure that the right kind of treatment facilities will be available to serve every patient who needs treatment, the legislation enhances the oversight authority of the Department of Mental Health (DMH) and the Department of Public Health's Bureau of Substance Addiction Services (DPH/BSAS), the two agencies that license facilities that provide treatment for addiction and mental illness. Under the legislation, before licensing new treatment programs or approving the transfer of license for an existing program, DMH and DPH/BSAS will require that a facility demonstrate that it provides the range and quality of services necessary to meet the current critical treatment needs of the Commonwealth's patients. One important component of the evaluation will be a requirement that these facilities make treatment available to patients with public health insurance on the same basis as patients with private insurance.

The bill recognizes the important role that recovery coaches play in successful long-term addiction treatment by creating a commission to recommend standards for establishing a professional credential for recovery coaches as an important step toward formalizing the role of recovery coaches in the regimen of long-term addiction treatment.

Even now, years into the opioid crisis, there is still far too little high quality data guiding decision making about the most effective forms of treatment for addiction. To address this gap, the bill creates a commission to review evidence-based treatment approaches to substance use disorders and mental health conditions. The bill directs the commission to produce findings in 180 days to help insurers and patients to identify the most effective addiction and mental health treatments offered across the full range of licensed behavioral health clinician specialties so that each patient can find the specific treatment that best meets the patient's needs.

Finally, the bill increases access to naloxone—a front-line treatment for overdoses—by directing the Department of Public Health to issue a state-wide standing order that will authorize every pharmacy in the Commonwealth to dispense naloxone. The bill also encourages broader use of naloxone by guaranteeing that practitioners who prescribe and pharmacists who dispense naloxone in good faith will be protected from criminal or civil liability.

Preventing Opioid Misuse

The Commonwealth has seen a 29% decline in opioid prescriptions since the STEP Act introduced new tools to monitor and limit the use of opioid prescriptions. This legislation introduces a number of initiatives aimed at continuing this positive, downward trend.

In order to reduce fraud and drug diversion and improve tracking and data collection, the bill mandates that by 2020 all prescribers must convert to secure electronic prescriptions and cease the use of oral and paper prescriptions when prescribing regulated drugs.

The STEP Act introduced a 7-day limit on initial prescriptions for opioids and enforced accountability by requiring practitioners to use the Commonwealth's Prescription Monitoring Program (PMP) before issuing any prescription for opioids. The bill creates a commission to develop standards for the Department of Public Health to apply in referring prescribers to professional licensing organizations for potential disciplinary action when they do not check the PMP as required by law or violate the 7-day rule or other legal or professional standards limiting the prescribing of opioids. The bill also creates a commission that will develop recommendations on appropriate prescribing practices for the most common oral and advanced dental procedures including recommendations on approving the use of standardized, pre-packaged doses of commonly issued prescription drugs to reduce the likelihood of over-prescribing.

We know that, for too many people, an opioid prescription issued to treat a serious injury can put them at risk of developing an addiction. To address this danger, the bill authorizes the Department of Industrial Accidents, which administers the Commonwealth's workers compensation insurance program, to develop an approved drug formulary to regulate the use of opioids in treating workplace injuries. Following a change in Federal law, the bill also improves on the "partial fill" provision of the STEP Act so that patients will now be able to receive a portion of their full opioid prescription without invalidating the remainder of it. More patients may choose the "partial fill" option if they know they can go back to the same pharmacy within 30 days to fill the rest of the prescription if needed.

Expanding Educational Efforts

In the long run, our ability to meaningfully reduce the problem of opioid addiction will depend on better and wider education about the larger problem of substance misuse. The STEP Act introduced requirements that every school district in the Commonwealth develop effective

substance use prevention and misuse education programming and that schools adopt an individualized assessment tool to screen students for substance use disorders.

This legislation creates a trust fund to help finance the expansion of educational and intervention programs, to support the development of information systems that can help identify students at risk and track outcomes, and to support the implementation of new, school-based models for coordinated support of students in need. I intend to include a request for an appropriation of \$2 million in the fiscal year 2019 budget to provide a first year of funding to the trust.

I urge your prompt enactment of this legislation.

Sincerely

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

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

An Act relative to combatting addiction, accessing treatment, reducing prescriptions, and enhancing prevention.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to continue the Commonwealth’s efforts to mitigate of the effects of the ongoing opioid crisis in Massachusetts, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after
2 section 35DDD the following section:-

3 Section 35EEE. There shall be established and set up on the books of the commonwealth
4 a Safe and Supportive Schools Trust Fund for the purpose of supporting school-based programs
5 that educate children and young persons on addiction, substance misuse and other risky
6 behaviors, and that identify and support children and young persons at risk. The fund shall be
7 administered by the secretary of education, in consultation with the secretary of health and
8 human services, who shall use the fund to provide grants to public elementary, middle, and
9 secondary schools and to public colleges and universities to support the expansion of educational
10 and intervention programs meeting the purposes of the fund. The secretary may use the fund for
11 necessary and reasonable administrative and personnel costs related to administering the grants.

12 Such expenditures may not exceed, in one fiscal year, 5 per cent of the total amount deposited
13 into the fund during that fiscal year.

14 The fund shall consist of revenue from appropriations or other money authorized by the
15 general court and specifically designated to be credited to the fund, and revenue from private
16 sources including, but not limited to, grants, gifts and donations received by the commonwealth
17 that are specifically designated to be credited to the fund. Amounts credited to the fund shall not
18 be subject to further appropriation and any money remaining in the fund at the end of a fiscal
19 year shall not revert to the General Fund.

20 SECTION 2. Subsection (c) of section 13 of chapter 13 of the General Laws, as
21 appearing in the 2016 Official Edition, is hereby amended by striking out the first clause and
22 inserting in place thereof the following clause:-

23 (1) 3 representatives with expertise in nursing education, one from each of the three most
24 common levels of nursing education whose graduates are eligible to write nursing licensure
25 examinations;

26 SECTION 3. Said subsection (c) of said section 13 of said chapter 13, as so appearing, is
27 hereby further amended by adding following clause:-

28 (5) 1 registered nurse with expertise in substance use disorder.

29 SECTION 4. Section 19 of chapter 19 of the General Laws, as so appearing, is hereby
30 amended by striking out subsection (a) and inserting in place thereof the following subsection:-

31 (a) The department shall issue for a term of two years, and may renew for like terms, a
32 license, subject to revocation by it for cause, to any private, county or municipal facility or

33 department or unit of any such facility which offers to the public inpatient psychiatric, residential
34 or day care services and is represented as providing treatment of persons who are mentally ill and
35 which is deemed by it to be responsible and suitable to meet applicable licensure standards and
36 requirements, set forth in regulations of the department, except that: (1) the department may
37 license those facilities providing care but not treatment of persons who are mentally ill, and (2)
38 licensing by the department is not required where such residential or day care treatment is
39 provided within an institution or facility licensed by the department of public health under the
40 provisions of chapter one hundred and eleven unless such services are provided on an
41 involuntary basis. The department may issue a provisional license where a facility has not
42 previously operated, or is operating but is temporarily unable to meet applicable standards and
43 requirements. No original license, as defined in subsection (i), shall be issued to establish or
44 maintain an inpatient facility subject to licensure under this section, unless there is determination
45 by the department, in accordance with its regulations, that there is need for such a facility.
46 Whether or not a license is issued under clause (1), the department shall make regulations for the
47 operation of such facilities. The department may grant the type of license that it deems suitable
48 for the facility, department or unit. The department shall fix reasonable fees for licenses and
49 renewal thereof.

50 SECTION 5. Said section 19 of said chapter 19, as so appearing, is hereby further
51 amended by striking out, in line 20, the word "ward" and inserting in place thereof the following
52 word:- unit.

53 SECTION 6. Said section 19 of said chapter 19, as so appearing, is hereby further
54 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

55 (c) Each facility, department or unit licensed by the department shall be subject to the
56 supervision, visitation and inspection of the department. The department shall establish
57 regulations to administer licensing standards and to provide operational standards for such
58 facilities, departments or units, including, but not limited to, the standards or criteria an applicant
59 shall meet to demonstrate the need for an original license. In order to be licensed by the
60 department under this section, a facility shall provide services to commonwealth residents with
61 public health insurance on a non-discriminatory basis.

62 The regulations shall provide that no facility, department or unit shall discriminate
63 against an individual, qualified within the scope of the individual's license, when considering or
64 acting on an application of a licensed independent clinical social worker for staff membership or
65 clinical privileges. The regulations shall further provide that each application shall be considered
66 solely on the basis of the applicant's education, training, current competence and experience.
67 Each facility, department or unit shall establish, in consultation with the director of social work
68 or, if none, a consulting licensed independent clinical social worker, the specific standards,
69 criteria and procedures to admit an applicant for staff membership and clinical privileges. Such
70 standards shall be available to the department upon request.

71 SECTION 7. Said section 19 of said chapter 19, as so appearing, is hereby further
72 amended by striking out, in line 44, the word "ward" and inserting in place thereof the following
73 words:- unit; provided, however, that the department may deny or condition the issuance of an
74 original license if an application does not meet the department's standards or criteria for
75 demonstrating need.

76 SECTION 8. Said section 19 of said chapter 19, as so appearing, is hereby further
77 amended by striking out subsections (e) through (g), inclusive, and inserting in place there of the
78 following 5 subsections:-

79 (e) The department may conduct surveys and investigations to enforce compliance with
80 this section and any rule or regulation promulgated under this section. The department may
81 examine the books and accounts of any facility if it deems such examination necessary for the
82 purposes of this section. If the department finds upon inspection, or through information in its
83 possession, that a facility, department or unit licensed by the department is not in compliance
84 with a requirement established under this section, the department may order the facility,
85 department or unit to correct such deficiency by providing the facility notice in writing of each
86 deficiency. The notice shall specify a reasonable time, not to exceed 60 days after receipt thereof,
87 by which time the facility, department or unit shall remedy or correct each deficiency cited
88 therein; provided, that, in the case of any deficiency which, in the opinion of the department, is
89 not capable of correction within 60 days, the department shall require only that the facility,
90 department or unit submit a written plan for correction for the deficiency in a reasonable manner.
91 The department may modify any nonconforming plan, upon notice in writing to the facility.
92 Within 7 days of receipt, the affected facility, department or unit may file a written request with
93 the department for administrative reconsideration of the order or any portion thereof.

94 Nothing in this section shall be construed to prohibit the department from enforcing a
95 rule, regulation, or corrective action order, administratively or in court, without first affording
96 formal opportunity to make correction, or to seek administrative reconsideration under this
97 section, where, in the opinion of the department, the violation of such rule or regulation
98 jeopardizes the health or safety of patients or the public or seriously limits the capacity of facility

99 to provide adequate care, or where the violation of such rule or regulation is the second or
100 subsequent such violation occurring during a period of twelve full months.

101 Failure to remedy or correct a cited deficiency by the date specified in the written notice
102 or failure to remedy or correct a cited deficiency by the date specified in a plan for correction, as
103 accepted or modified by the department, shall be cause for license revocation or a civil fine
104 imposed upon the facility. The civil fine shall not exceed \$1,000 per deficiency for each day the
105 deficiency continues to exist beyond the date prescribed for correction. The department may
106 pursue either remedy or both or such other sanction as the department may impose
107 administratively upon the facility, department or unit.

108 (f) No facility, department or unit, for which a license is required under paragraph (a),
109 shall provide inpatient, residential or day care services for the treatment or care of persons who
110 are mentally ill, unless it has obtained a license under this section. The superior court sitting in
111 equity shall have jurisdiction, upon petition of the department, to restrain any violation of the
112 provisions of this section or to take such other action as equity and justice may require. Whoever
113 violates this section shall be punished for the first offense by a fine of not more than \$500 and
114 for subsequent offenses by a fine of not more than \$1,000 or by imprisonment for not more than
115 2 years.

116 (g) No patient shall be commercially exploited. No patient shall be photographed,
117 interviewed or exposed to public view without the express written consent of the patient or of the
118 patient's legal guardian.

119 (h) Notwithstanding paragraphs (a) to (g), inclusive, any child care center, family child
120 care home, family child care system, family foster care or group care facility as defined in
121 section 1A of chapter 15D, shall not be subject to this section.

122 (i) As used in this section, “original license” shall mean a license, including a provisional
123 license, issued to an inpatient facility not previously licensed; or a license issued to an existing
124 inpatient facility, in which there has been a change in ownership or location or a change in class
125 of license or specialize service as provided in regulations of the department.”

126 SECTION 9. Section 1 of chapter 94C of the General Laws, as so appearing, is hereby
127 amended by inserting after the definition of "Drug paraphernalia" the following definition:-

128 “Electronic prescription”, a lawful order from a prescriber for a drug or device for a
129 specific patient that is generated on an electronic prescribing system that meets federal
130 requirements for electronic prescriptions for controlled substances, and is transmitted
131 electronically to a pharmacy designated by the patient without alteration of the prescription
132 information, except that third-party intermediaries may act as conduits to route the prescription
133 from the prescriber to the pharmacist; provided, however, that “electronic prescription” shall not
134 include an order for medication which is dispensed for immediate administration to the ultimate
135 user. The electronic prescription must be received by the pharmacy on an electronic system that
136 meets federal requirements for electronic prescriptions. A prescription generated on an electronic
137 system that is printed out or transmitted via facsimile is not considered an electronic prescription.

138 SECTION 10. Section 8 of said chapter 94C, as so appearing, is hereby amended by
139 inserting after the word “oral”, in line 60, the following words:- “, electronic”.

140 SECTION 11. Section 17 of said chapter 94C, as so appearing, is hereby amended by
141 striking out, in line 2, the words “the written prescription of” and inserting in place thereof the
142 following words:- “an electronic prescription from”.

143 SECTION 12. Said section 17 of said chapter 94C, as so appearing, is hereby further
144 amended, by striking out subsection (b) and inserting in place thereof the following subsection:-

145 (b) In emergency situations, as defined by the commissioner, a schedule II substance may
146 be dispensed upon written prescription or oral prescription in accordance with section 20 and
147 department regulations.

148 SECTION 13. Said section 17 of said chapter 94C, as so appearing, is hereby further
149 amended, by striking out, in line 11, the words “a written or oral prescription of” and inserting in
150 place thereof the following word:- “an electronic prescription from”.

151 SECTION 14. Section 18 of said chapter 94C is hereby amended by striking out
152 subsection (d^{3/4}), as inserted by section 21 of chapter 52 of the acts of 2016, and inserting in
153 place thereof the following subsection:-

154 (d^{3/4}) A pharmacist filling a prescription for a schedule II substance shall, if requested by
155 the patient, dispense the prescribed substance in a lesser quantity than indicated on the
156 prescription. The remaining portion may be filled upon patient request in accordance with federal
157 law; provided, however, that only the same pharmacy that originally dispensed the lesser
158 quantity may dispense the remaining portion. Upon an initial partial dispensing of a prescription
159 or a subsequent dispensing of a remaining portion, the pharmacist or the pharmacist’s designee
160 shall make a notation in the patient's record maintained by the pharmacy, which shall be

161 accessible to the prescribing practitioner by request, indicating that the prescription was partially
162 filled and the quantity dispensed.

163 SECTION 15. Section 18B of said chapter 94C, as inserted by section 23 of chapter 52 of
164 the acts of 2016, is hereby amended by striking out the words “and in the prescription drug
165 monitoring program established in section 24A”.

166 SECTION 16. Said Chapter 94C, as so appearing, is hereby amended by striking out
167 section 19B and inserting in place thereof the following section:-

168 Section 19B. As used in this section and unless the context clearly requires otherwise,
169 "opioid antagonist" shall mean naloxone or any other drug approved by the United States Food
170 and Drug Administration as a competitive narcotic antagonist used in the reversal of overdoses
171 caused by opioids.

172 (a) The department shall ensure that a statewide standing order is issued to authorize the
173 dispensing of an opioid antagonist in the commonwealth by any licensed pharmacist. The
174 statewide standing order shall include, but shall not be limited to, written, standardized
175 procedures or protocols for the dispensing of an opioid antagonist by a licensed pharmacist.
176 Notwithstanding any general or special law to the contrary, the commissioner, or a physician
177 designated by the commissioner who is registered to distribute or dispense a controlled substance
178 in the course of professional practice pursuant to section 7, may issue a statewide standing order
179 that may be used for a licensed pharmacist to dispense an opioid antagonist under this section.

180 (b) Notwithstanding any general or special law to the contrary, a licensed pharmacist may
181 dispense an opioid antagonist in accordance with the statewide standing order issued under
182 subsection (a). A pharmacist dispensing an opioid antagonist shall annually report to the

183 department the number of times the pharmacist dispenses an opioid antagonist. Reports shall not
184 identify an individual patient, shall be confidential and shall not constitute a public record as
185 defined in clause Twenty-sixth of section 7 of chapter 4. Except for an act of gross negligence or
186 willful misconduct, a pharmacist who, acting in good faith, dispenses an opioid antagonist shall
187 not be subject to any criminal or civil liability or any professional disciplinary action by the
188 board of registration in pharmacy related to the use or administration of an opioid antagonist.

189 (c) Except for an act of gross negligence or willful misconduct, the commissioner or
190 physician who issues the statewide standing order under subsection (a) and any practitioner who,
191 acting in good faith, directly or through the standing order, prescribes or dispenses an opioid
192 antagonist shall not be subject to any criminal or civil liability or any professional disciplinary
193 action.

194 (d) A person acting in good faith may receive a prescription for an opioid antagonist,
195 possess an opioid antagonist and administer an opioid antagonist to an individual appearing to
196 experience an opioid-related overdose. A person who, acting in good faith, administers an opioid
197 antagonist to an individual appearing to experience an opioid-related overdose shall not, as a
198 result of the person's acts or omissions, be subject to any criminal or civil liability or any
199 professional disciplinary action. The immunity in section 34A of this chapter also shall apply to a
200 person administering an opioid antagonist pursuant to this section.

201 (e) The department, the board of registration in medicine and the board of registration in
202 pharmacy shall adopt regulations to implement this section.

203 SECTION 17. Subsection (c) of section 20 of said chapter 94C, as so appearing, is hereby
204 amended by striking out the first and second sentences and inserting in place thereof the
205 following 2 sentences:-

206 Whenever a practitioner, certified nurse practitioner, certified registered nurse anesthetist,
207 nurse midwife, psychiatric clinical nurse specialist, or physician assistant dispenses a controlled
208 substance by oral prescription, such individual shall, within a period of not more than 7 days or
209 such shorter period that is required by federal law cause an electronic or written prescription for
210 the prescribed controlled substance to be delivered to the dispensing pharmacy. The written
211 prescription may be delivered to the pharmacy in person or by mail, but shall be postmarked
212 within 7 days or such shorter period that is required by federal law.

213 SECTION 18. Section 22 of said chapter 94C, as so appearing, is hereby amended by
214 inserting after the word “written”, in line 2, the following words:- or electronic.

215 SECTION 19. Section 23 of said chapter 94C, as so appearing, is hereby amended by
216 inserting after the word “written”, in lines 1 and 6, in each instance, the following words:- or
217 electronic.

218 SECTION 20. Said section 23 of said chapter 94C, as so appearing, is hereby further
219 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

220 (b) A written or electronic prescription for a controlled substance in schedule II shall not
221 be refilled. Written prescriptions for a controlled substance in schedule II shall be kept in a
222 separate file.

223 SECTION 21. Said section 23 of said chapter 94C, as so appearing, is hereby further
224 amended by striking out subsections (g) and (h) and inserting in place thereof the following 3
225 subsections:-

226 (g) Prescribers shall issue an electronic prescription for all controlled substances and
227 medical devices. The department of public health shall promulgate regulations setting forth
228 standards for electronic prescriptions.

229 (h) The commissioner, through regulation, shall establish exceptions to section 17 and
230 subsection (g) authorizing the limited use of a written and oral prescription where appropriate.
231 Said exceptions shall include, but shall not be limited to:

232 (1) prescriptions that are issued by veterinarians;

233 (2) prescriptions that are issued or dispensed in circumstances where electronic
234 prescribing is not available due to temporary technological or electrical failure;

235 (3) a time limited waiver process for practitioners who demonstrate economic hardship,
236 technological limitations that are not reasonably within the control of the practitioner, or other
237 exceptional circumstance;

238 (4) instances where it would be impractical for the patient to obtain substances prescribed
239 by electronic prescription in a timely manner, and such delay would adversely impact the
240 patient's medical condition;

241 (i) All written prescriptions shall be written in ink, indelible pencil or by other means on
242 a tamper resistant form consistent with federal requirements for Medicaid and signed by the
243 prescriber.

244 SECTION 22. Section 24A of said chapter 94C, as so appearing, is hereby amended by
245 striking out subsection (g) and inserting in place thereof the following subsection:- (g) The
246 department may provide data from the prescription monitoring program to practitioners in
247 accordance with this section; provided, however, that practitioners shall be able to access the
248 data directly through a secure electronic medical record or other similar secure software or
249 information systems. This data may be used for the purpose of providing medical or
250 pharmaceutical care to the practitioners' patients only, unless otherwise permitted by this section.
251 Any such secure software or information system must identify the registered participant on
252 whose behalf the prescription monitoring program was accessed.

253 SECTION 23. Said section 24A of said chapter 94C, as so appearing, is hereby further
254 amended by adding the following subsection:-

255 (m) The department may enter into agreements to permit health care facilities to integrate
256 secure software or information systems into their electronic medical records for the purpose of
257 using prescription monitoring program data to perform data analysis, compilation, or
258 visualization, in order to provide medical or pharmaceutical care to individual patients. Any such
259 secure software or information system shall be bound to comply with requirements established
260 by the department to ensure the security and confidentiality of any data transferred.

261 SECTION 24: Subsection (a) of section 51½ of chapter 111, inserted by section 32 of
262 chapter 52 of the acts of 2016, is hereby amended by striking out the definition of "Licensed
263 mental health professional" and inserting in place thereof the following definition:-

264 "Licensed mental health professional", a licensed physician who specializes in the
265 practice of psychiatry or addiction medicine, a licensed psychologist, a licensed social worker, a

266 licensed mental health counselor, a licensed psychiatric clinical nurse specialist, a licensed
267 alcohol and drug counselor I as defined in section 1 of chapter 111J, a healthcare provider
268 defined in section 1 of chapter 111 whose scope of practice allows such evaluations pursuant to
269 medical staff policies and practice or other professional authorized by the department through
270 regulation.

271 SECTION 25: Said section 51½ of said chapter 111, as so appearing, is hereby further
272 amended by inserting after the word “program”, in line 20, the following words:- whose staff
273 meet the criteria of a licensed mental health professional.

274 SECTION 26: Subsection (c) of said section 51½ of said chapter 111, as so appearing, is
275 hereby amended by striking out subsection (c) and inserting in place thereof the following
276 subsection:-

277 (c) After a substance abuse evaluation has been completed pursuant to subsection (b)
278 treatment may occur within the acute-care hospital or satellite emergency facility, if appropriate
279 services are available, which may include induction to medication assisted treatment. If the
280 hospital or satellite emergency facility is unable to provide such services, the hospital or satellite
281 emergency facility shall refer the patient to an appropriate and available hospital or treatment
282 provider. Medical necessity for further treatment shall be determined by the treating clinician and
283 noted in the patient’s medical record.

284 If a patient refuses further treatment after the evaluation is complete, and is otherwise
285 medically stable, the hospital or satellite emergency facility may initiate discharge proceedings;
286 provided, however, if the patient is in need of and agrees to further treatment following discharge
287 pursuant to the substance abuse evaluation, then the hospital shall directly connect the patient

288 with a community based program prior to discharge or within a reasonable time following
289 discharge when the community based program is available.

290 SECTION 27: Subsection (g) of said section 51½ of said chapter 111, as so appearing, is
291 hereby amended by striking out subsection (g) and inserting in place thereof the following
292 subsection:-

293 (g) Upon discharge of a patient who experienced an opiate-related overdose, the acute-
294 care hospital, satellite emergency facility, or emergency service program shall record the opiate-
295 related overdose and substance abuse evaluation in the patient’s electronic medical record which
296 shall be directly accessible by other healthcare providers and facilities consistent with federal
297 and state privacy requirements through a secure electronic medical record, health information
298 exchange, or other similar software or information systems for the purposes of (i) improving ease
299 of access and utilization of such data for treatment or diagnosis; (ii) supporting integration of
300 such data within the electronic health records of a healthcare provider for purposes of treatment
301 or diagnosis; or, (iii) allowing healthcare providers and their vendors to maintain such data for
302 the purposes of compiling and visualizing such data within the electronic health records of a
303 healthcare provider that supports treatment or diagnosis.

304 SECTION 28. Section 1 of chapter 111E of the General Laws, as so appearing, is hereby
305 amended by inserting after the definition of “Independent physician” the following definition:-

306 “Original license”, a license, including a provisional license, issued to a facility not
307 previously licensed; or a license issued to an existing facility, in which there has been a change
308 in ownership or location.

309 SECTION 29. Section 7 of said chapter 111E, as so appearing, is hereby amended by
310 striking out, in lines 1, 10, 13, 26, 27, 33, 39, 44, 50, 75, 77, and 80, the word “division” and
311 inserting in place thereof, in each instance, the following word:- department.

312 SECTION 30. Said section 7 of said chapter 111E, as so appearing, is hereby further
313 amended by inserting after the word “requirements”, in line 8, the following words:- , set forth in
314 regulations of the department.

315 SECTION 31. Said section 7 of said chapter 111E, as so appearing, is hereby further
316 amended by striking out, in lines 17 and 18, the words “but such standards and requirements
317 shall concern only” and inserting in place thereof the following words:- which shall include, but
318 shall not be limited to.

319 SECTION 32. The first paragraph of said section 7 of said chapter 111E, as so appearing,
320 is hereby further amended by adding the following 2 clauses:-

321 (7) a requirement that the facility provide services to commonwealth residents with
322 public health insurance on a non-discriminatory basis, and

323 (8) the standards or criteria a facility shall meet to demonstrate the need for an original
324 license.

325 SECTION 33. Said section 7 of said chapter 111E, as so appearing, is hereby further
326 amended by striking out, in lines 26 and 27, the words “from time to time, on request,”.

327 SECTION 34. Said section 7 of said chapter 111E, as so appearing, is hereby further
328 amended by striking out, in lines 28 to 32, inclusive, the words “reasonably require for the
329 purposes of this section, and any licensee or other person operating a private facility who fails to

330 furnish any such data, statistics, schedules or information as requested, or who files fraudulent
331 returns thereof, shall be punished by a fine of not more than five hundred dollars” and inserting
332 in place thereof the following words:- require.

333 SECTION 35. Said section 7 of said chapter 111E, as so appearing, is hereby further
334 amended by inserting after the number “10”, in line 43, the following words:- ; provided
335 however, that the department may, in its discretion, deny or condition the issuance of an original
336 license if an application does not meet the department’s standards or criteria for demonstrating
337 need.

338 SECTION 36. Said section 7 of said chapter 111E, as so appearing, is hereby further
339 amended by striking out paragraph 5 to 7, inclusive, and inserting in place thereof the following
340 4 paragraphs:-

341 No person, partnership, corporation, society, association, or other agency, or entity of any
342 kind, other than a licensed general hospital, a department, agency or institution of the federal
343 government, the commonwealth or any political subdivision thereof, shall operate a facility
344 without a license and no department, agency or institution of the commonwealth or any political
345 subdivision thereof shall operate a facility without approval from the department pursuant to this
346 section.

347 The department may conduct surveys and investigations to enforce compliance with this
348 section and any rule or regulation. Whenever the department finds upon inspection, or through
349 information in its possession, that a facility is not in compliance with a requirement established
350 under this chapter, the department may order the facility to correct such deficiency by providing
351 the facility notice in writing of each violation. In such notice, the department shall specify a

352 reasonable time, not to exceed 60 days after receipt thereof, by which time the facility shall
353 remedy or correct each violation cited therein; provided, that, in the case of any violation which,
354 in the opinion of the department, is not capable of correction within 60 days, the department shall
355 require only that the facility submit a written plan for correction of the violation in a reasonable
356 manner. The department may modify any nonconforming plan upon notice in writing to the
357 facility. Within 7 days of receipt, the affected facility may file a written request with the
358 department for administrative reconsideration of the order or any portion thereof

359 Failure to remedy or correct a cited violation by the date specified in a written notice, or
360 failure to remedy or correct a cited violation by the date specified in a plan for correction as
361 accepted or modified by the department, shall be cause for license revocation or a civil fine
362 imposed upon the facility by the department. Such civil fine shall not exceed \$1,000 per
363 deficiency for each day the deficiency continues to exist beyond the date prescribed for
364 correction. The department may pursue either remedy or both or such other sanction as the
365 department may impose administratively upon the facility.

366 Upon petition of the department, the superior court shall have jurisdiction in equity to
367 restrain any violation of this section and to take such other action as equity and justice may
368 require to enforce its provisions.

369 Each facility shall be subject to visitation and inspection by the department to enforce
370 compliance with this chapter and any rule or regulation issued thereunder. The department shall
371 inspect each facility prior to granting or renewing a license or approval. The department may
372 examine the books and accounts of any facility if it deems such examination necessary for the
373 purposes of this section.

374 SECTION 37. Section 35 of chapter 123 of the General Laws, as so appearing, is hereby
375 amended by inserting after the word guardian, in line 18, the following words:- , medical
376 professional, as defined by the department in regulation.

377 SECTION 38. Chapter 123 of the General Laws is hereby amended by inserting after
378 section 35 the following 2 sections:-

379 Section 35A. (a) A clinical professional, who, after examining a person, has reason to
380 believe that failure to commit such person for treatment would create a likelihood of serious
381 harm by reason of an alcohol or substance use disorder may restrain or authorize the restraint of
382 such person for transportation to an appropriate treatment facility authorized for such purposes
383 by the department of public health or the department of mental health. For the purposes of this
384 section, the term “clinical professional” shall include a physician who is licensed pursuant to
385 section 2 of chapter 112 or qualified psychiatric nurse mental health clinical specialist authorized
386 to practice as such under regulations promulgated pursuant to section 80B of said chapter 112 or
387 a qualified psychologist licensed pursuant to sections 118 to 129, inclusive, of said chapter 112,
388 or a licensed independent clinical social worker licensed pursuant to sections 130 to 137,
389 inclusive, of chapter 112; provided, however, that the department may through regulation
390 identify other persons who because of training and credentials shall be included within the
391 definition of “clinical professional.”

392 If an examination is not possible because of the emergency nature of the case or because
393 of the refusal of the person to consent to such examination, the clinical professional on the basis
394 of the facts and circumstances may determine that treatment is necessary and may restrain or
395 authorize the restraint of such person for transportation to an appropriate treatment facility

396 authorized for such purposes by the department of public health or the department of mental
397 health through regulation.

398 If a clinical professional is not available, a police officer who believes that failure to treat
399 a person would create a likelihood of serious harm by reason of an alcohol or substance use
400 disorder may restrain or authorize the restraint of such person for transportation to an appropriate
401 treatment facility authorized for such purposes by the department of public health or the
402 department of mental health through regulation.

403 The clinical professional or police officer shall communicate to the facility receiving a
404 person transported under this section the reasons for the restraint of such person and any other
405 relevant information which may assist the admitting clinician. Whenever practicable, prior to
406 transporting such person, the clinical professional or police officer shall telephone or otherwise
407 communicate with a facility to describe the circumstances and known clinical history and to
408 determine whether the facility is the proper facility to receive such person and also to give notice
409 of any restraint to be used and to determine whether such restraint is necessary.

410 (b) Only if the transportation for treatment under this section is authorized by a physician
411 specifically designated to have the authority to admit to a facility in accordance with the
412 regulations of the department of mental health or department of public health shall the person be
413 admitted to the facility immediately after the person's reception. If the application is made by
414 someone other than a designated physician, the person shall be given an examination by a
415 physician within a reasonable amount of time after the person's reception at such facility. If the
416 physician determines that failure to treat the person would create a likelihood of serious harm by
417 reason of an alcohol or substance use disorder the physician may admit the person to the facility

418 for care and treatment for up to 72 hours, during which time, staff of the substance use treatment
419 facility shall attempt to engage the individual in voluntary treatment.

420 Upon admission of a person under this subsection, the facility shall inform the person
421 that, upon the person's request, the facility will notify the committee for public counsel services
422 of the name and location of the person admitted. The committee for public counsel services shall
423 forthwith appoint an attorney who shall meet with the person. If the appointed attorney
424 determines that the person voluntarily and knowingly waives the right to be represented or is
425 presently represented or will be represented by another attorney, the appointed attorney shall so
426 notify the committee for public counsel services, which shall withdraw the appointment.

427 Any person admitted under this subsection who has reason to believe that such admission
428 is the result of an abuse or misuse of this subsection, may request, or request through counsel an
429 emergency hearing in the juvenile court or district court in whose jurisdiction the facility is
430 located, and unless a delay is requested by the person or through counsel, the juvenile court or
431 district court shall hold such hearing on the day the request is filed with the court or not later
432 than the next business day. The superintendent of the facility, if he or she seeks to retain the
433 person for treatment, shall at the time of the hearing file a petition for commitment under section
434 35.

435 (c) No person shall be admitted to a facility under this section unless the person, or if the
436 person is a minor, the person's parent or guardian, is first given an opportunity to apply for
437 voluntary admission under section 35B.

438 (d) A person shall be discharged at the end of the 72-hour period unless the person has
439 consented to treatment under section 35B. If the superintendent determines that the failure to

440 provide continued treatment to the person would create a likelihood of serious harm by reason of
441 an alcohol or substance use disorder, the superintendent shall file a petition under section 35
442 prior to discharge.

443 (e) Except for an act of gross negligence or willful misconduct, a police officer or a
444 clinical professional who, acting in good faith does not transport or authorize the transport of an
445 individual to receive treatment under subsection (a) shall not be subject to any criminal or civil
446 liability for failure to transport an individual under this section.

447 (f) The department, in coordination with the department of public health, shall
448 promulgate regulations to implement this section and section 35B.

449 Section 35B. (a) Pursuant to regulations on admission procedures, the superintendent of a
450 facility may receive and treat on a voluntary basis any person who has been transported under
451 subsection (a) of section 35A; provided, that the person is in need of care and treatment for an
452 alcohol or substance use disorder; and provided further, that the admitting facility is suitable for
453 such care and treatment and approved or licensed by the department of public health or the
454 department of mental health. An application for voluntary treatment may be made by a person
455 who has attained the age of 16 or by a parent or guardian of a person under the age of 18 years.
456 Prior to accepting an application for a voluntary admission, the superintendent shall afford the
457 person making the application the opportunity for consultation with an attorney, or with a person
458 who is working under the supervision of an attorney, concerning the legal effect of a voluntary
459 admission. The superintendent may discharge any person admitted under this subsection at any
460 time the superintendent deems the discharge in the best interest of the person; provided,

461 however, that if a parent made the application for admission, 14 days' notice shall be given to the
462 parent prior to discharge.

463 (b) A person admitted to a facility under subsection (a) shall be free to leave such facility
464 at any time, and any parent who requested the admission of such person may withdraw such
465 person at any time, upon giving written notice to the superintendent; provided, however, that the
466 superintendent may restrict the right to leave or withdraw to normal working hours and
467 weekdays and, in the superintendent's discretion, may require the person or the person's parent
468 to give 3 days' written notice of his or her intention to leave or withdraw. If a person or the
469 person's parent provides a notice of intention to leave or withdraw, the superintendent may
470 require an examination of the person to determine the person's clinical progress, the person's
471 suitability for discharge and to investigate other aspects of the person's case including the
472 person's legal competency and family, home or community situation. If the superintendent
473 determines that the failure to provide continued treatment would create a likelihood of serious
474 harm by reason of an alcohol or substance use disorder the superintendent shall file a petition
475 under section 35.

476 Before accepting an application for voluntary admission where the superintendent may
477 require 3 days written notice of intention to leave or withdraw, the admitting or treating
478 physician shall assess the person's capacity to understand that: (i) the person is agreeing to stay
479 or remain at the facility; (ii) the person is agreeing to accept treatment; (iii) the person may be
480 required to provide the facility with 3 days written advance notice of the person's intention to
481 leave the facility; and (iv) the facility may petition a court for an extended commitment under
482 section 35. If the physician determines that the person lacks the capacity to understand these

483 facts and consequences, the application for voluntary admission shall not be accepted except
484 where a parent or guardian who has applied for voluntary admission on behalf of a minor.

485 SECTION 39. Chapter 152 of the General Laws is hereby amended by inserting after
486 section 13 the following section:-

487 Section 13 ½. The department shall establish a formulary of clinically appropriate
488 medications, including opioids and related medications, and shall promulgate regulations for the
489 administration of this formulary. In establishing the formulary the department shall consult with
490 the health care services board and the drug formulary commission established in section 13 of
491 chapter 17 of the General Laws. The formulary shall be based on well-documented, evidence-
492 based methodology, and the department shall include as part of the formulary a complete list of
493 medications that are approved for payment under this chapter, and any specific payment,
494 prescribing, or dispensing controls associated with drugs on the list. The department shall review
495 and update, if necessary, the formulary at least once every 2 years.

496 SECTION 40. There shall be a commission to review and make recommendations
497 regarding the standards that should apply when credentialing a recovery coach, including,
498 whether recovery coaches should be required to register with a board.

499 The commission shall be comprised of: the secretary of health and human services or a
500 designee, who shall serve as chair; the commissioner of public health or a designee; and 7
501 persons who shall be appointed by the secretary of health and human services, 1 of whom shall
502 have expertise in training recovery coaches, 1 of whom shall be a community provider who
503 employs recovery coaches; 1 of whom shall represent a hospital who employs recovery coaches;
504 1 of whom shall be a family member to an individual with a substance use disorder; 1 of whom

505 shall have lived experience with addiction; 1 of whom shall represent payers; and 1 of whom
506 shall currently be employed as a recovery coach.

507 The commission shall file its recommendations, if any, together with any
508 recommendations for legislation, with the clerks of the senate and the house of representatives 1
509 year from the effective date of this act.

510 SECTION 41. There shall be a commission to review and make recommendations
511 regarding the appropriate standards and criteria that shall be used by the department of public
512 health to refer prescribers, who are suspected of violating the 7-day opioid prescribing limit,
513 under section 19D of chapter 94C of the General Laws, overprescribing opioids to patients and
514 failing to check the prescription monitoring program in accordance with section 24A of said
515 chapter 94C, to their respective board of registration for disciplinary action. The commission
516 shall identify appropriate exceptions to the referral process. The commission shall also make
517 recommendations about appropriate dosing standards for opioid prescriptions, which may
518 include recommendations on appropriate morphine equivalent dosages. Said dosing standards
519 shall be made available to the public.

520 The commission shall be comprised of: the commissioner of public health or a designee,
521 who shall serve as chair and 10 persons who shall be appointed by the secretary of health and
522 human services, 1 of whom shall represent the board of registration in medicine, 1 of whom shall
523 represent the board of registration in dentistry, 1 of whom shall represent the board of
524 registration in nursing, 1 of whom shall represent the board of registration of physician
525 assistants, 1 of whom shall have expertise in pain management; 1 of whom shall have expertise

526 in the treatment of addictions, and 4 of whom shall have expertise in prescribing opioids in
527 accordance with best practices.

528 The commission shall file its recommendations together with any recommendations for
529 legislation, with the clerks of the senate and the house of representatives within 180 days of the
530 effective date of this act.

531 Upon completion of the report, the department of public health shall issue guidance to
532 prescribers about how it will implement the recommendations of the commission and shall begin
533 making referrals for discipline within 6 months of issuing said guidance.

534 SECTION 42. There shall be a commission to review and make recommendations about
535 appropriate prescribing practices related to the most common oral and maxillofacial surgical
536 procedures, which shall include the removal of wisdom teeth. The commission shall engage with
537 drug manufacturers to create a pre-packaged product such as a blister pack or z-pack to be used
538 in connection with common oral and maxillofacial surgical procedures that will provide patients
539 with an appropriate, standard post-procedure dosage and quantity of commonly prescribed drugs.

540 The commission shall be comprised of: the commissioner of public health or a designee,
541 who shall serve as chair, a representative from the Massachusetts Dental Society, and 5 persons
542 who shall be appointed by the governor, 1 of whom shall be an oral surgeon, 1 of whom shall be
543 a nurse with expertise in maxillofacial surgical procedures, 1 of whom shall represent a dental
544 school, 2 of whom shall have expertise in pain management.

545 The commission shall file its recommendations, including any recommendations for
546 legislation, with the clerks of the senate and the house of representatives 18 months from the
547 effective date of this act.

548 SECTION 43. There shall be a commission to review evidence based treatment for
549 individuals with a substance use disorder, mental illness or co-occurring substance use disorder
550 and mental illness. The commission shall create a taxonomy of licensed behavioral health
551 clinician specialties, which may be used by insurance carriers to develop a provider network. The
552 commission shall recommend a process that may be used by carriers to validate a licensed
553 behavioral health clinician's specialty.

554 The commission shall be comprised of: the secretary of health and human services or a
555 designee, who shall serve as chair; the commissioner of insurance or a designee; the executive
556 director of the group insurance commission or a designee; and 7 persons who shall be appointed
557 by the secretary of health and human services: 1 of whom shall have expertise in the treatment of
558 individuals with a substance use disorder; 1 of whom shall have expertise in the treatment of
559 individuals with a mental illness; 2 of whom shall represent payers; 1 of whom shall be a
560 licensed behavioral health clinician; and 2 of whom shall be a family member to an individual
561 with a substance use disorder or mental illness. The secretary may appoint additional members
562 who have expertise that will aid the commission in producing its recommendations.

563 The commission shall file a report of its findings and recommendations together with any
564 proposed legislation with the clerks of the senate and the house of representatives 180 days from
565 the effective date of this act.

566 SECTION 44: The Executive Office of Health and Human Services, in coordination with
567 the Trial Court, shall convene an advisory committee of healthcare providers and provider
568 associations, which shall evaluate and develop a consistent statewide standard for the medical
569 review of individuals who are involuntarily committed due to an alcohol or substance use

570 disorder pursuant to section 35 of chapter 123 of the general laws, including but not limited to
571 developing: (1) a standardized form and criteria for releasing medical information, which can be
572 used in a commitment hearing under section 35 of chapter 123 of the general laws, that is in
573 compliance with federal and state privacy requirements; and (2) criteria and guidance to medical
574 staff about filing a petition under section 35 of chapter 123 of the general laws.

575 SECTION 45. Sections 9 through 13, inclusive, 17 through 21, inclusive, and 38 shall
576 take effect on January 1, 2020.

577 SECTION 46. Sections 40 to 44, inclusive, are hereby repealed.

578 SECTION 47. Section 46 shall take effect on January 1, 2021.