

SENATE No. 2609

The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court
(2017-2018)
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SENATE, July 17, 2018

The committee on Ways and Means, to whom was referred the House for prevention and access to appropriate care and treatment of addiction (House, No. 4742); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2609.

For the committee,
Karen E. Spilka

SENATE No. 2609

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

1 SECTION 1. Chapter 6A of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting after section 16Z the following section:-

3 Section 16AA. (a) Subject to appropriation, the executive office of health and human
4 services shall develop and implement a statewide program to provide persons over the age of 17
5 who are experiencing chronic pain access, not less than 5 days a week, to remote consultations
6 with primary care practices, nurse practitioners and other health care providers; provided, however,
7 that the remote consultations shall include, but not be limited to, support for screening, diagnosis,
8 pain management strategies, pharmacological and non-pharmacological treatments and referrals
9 for chronic pain.

10 (b) Expenditures on the program by the executive office of health and human services that
11 are related to services provided on behalf of commercially-insured clients shall be assessed by the
12 commissioner of medical assistance on surcharge payors, as defined in section 64 of chapter 118E.

13 SECTION 2. Section 15 of chapter 6D of the General Laws, as so appearing, is hereby
14 amended by inserting after the word “abuse”, in line 65, the following words:- ; pain management,
15 including non-opioid and non-pharmaceutical pain management.

16 SECTION 3. Said section 15 of said chapter 6D, as so appearing, is hereby further amended
17 by inserting after the word “illnesses”, in line 91, the following words:- , including chronic pain,.

18 SECTION 4. Chapter 10 of the General Laws is hereby amended by inserting after section
19 35EEE the following section:-

20 Section 35FFF. (a) There shall be established and set up on the books of the commonwealth
21 a Substance Use Prevention, Education and Screening Trust Fund for the purpose of supporting
22 school-based programs that (i) educate children and young persons on alcohol and substance
23 misuse and (ii) identify and support children and young persons at risk of alcohol or substance
24 misuse and related risky behaviors. The fund shall be administered by the secretary of education,
25 in consultation with the secretary of health and human services and the advisory commission
26 established under subsection (b). The fund shall be used to provide grants to: (i) public elementary,
27 middle and secondary, including vocational schools, schools and to public institutions of higher
28 education to support the expansion of educational and intervention programs meeting the purposes
29 of the fund; and (ii) the department of public health to support public schools in implementing
30 evidence-based alcohol and substance use prevention programs, early detection protocols and
31 policies, risk assessment tools or counseling in the school setting. Grants from the fund may be
32 made for the implementation of the safe and supportive schools framework specified in subsection
33 (f) of section 1P of chapter 69 or for the purposes specified in sections 96 or 97 of chapter 71. The
34 secretary may use the fund for necessary and reasonable administrative and personnel costs related
35 to administering the grants; provided, however that such expenditures shall not exceed, in any
36 fiscal year, 5 per cent of the total amount present in the fund during that fiscal year.

37 The fund shall consist of: (i) money appropriated or otherwise authorized by the general
38 court and specifically designated to be credited to the fund and (ii) money from private sources
39 including, but not limited to, grants, gifts and donations received by the commonwealth and
40 specifically designated to be credited to the fund. Amounts credited to the fund shall not be subject
41 to further appropriation and any money remaining in the fund at the end of a fiscal year shall not
42 revert to the General Fund and shall be available for expenditure in subsequent fiscal years.

43 (b) There shall be a Substance Use Prevention, Education, and Screening Trust Fund
44 Advisory Commission who shall be appointed by the secretary of education in consultation with
45 the secretary of health and human services. The advisory commission shall consist of experts in
46 children's behavioral health, adolescent substance use prevention and treatment, public health,
47 school nursing and education. The advisory commission shall develop a set of standards and
48 criteria for programs to meet in order to be eligible for funding under subsection (a); provided,
49 however, that the set of standards and criteria shall include documented evidence of effectiveness
50 as determined by the National Registry of Effective and Promising Practices. The advisory
51 commission shall identify and may recommend to the secretary of education funding for evidence-
52 informed practices and programs that identify and eliminate disparities related to substance use
53 disorders and its effects among different population groups, including youth of color and lesbian,
54 gay, bisexual, transgender, queer and questioning youth.

55 (c) Annually, not later than December 31, the secretary of education shall report to the
56 house and senate committees on ways and means and the joint committee on mental health,
57 substance use and recovery on: (i) the status of grants awarded under this section, including a list
58 and description of all practices and programs that received grant funds; (ii) the amount of awarded
59 grants; and (iii) a breakdown of the number of youth receiving services through each grant.

60 SECTION 5. Section 21A of chapter 12C of the General Laws, as appearing in the 2016
61 Official Edition, is hereby amended by inserting after the words “mental health”, in line 2, the
62 following words:- , chronic pain.

63 SECTION 6. Said section 21A of said chapter 12C, as so appearing, is hereby further
64 amended by adding the following sentence:- The program may include, but not be limited to,
65 assisting the division of insurance in its assessment of provider networks and utilization of services
66 for mental health, substance use disorder and pain management under the division’s network
67 adequacy review process established under section 2A of chapter 176O .

68 SECTION 7. Section 13 of chapter 13 of the General Laws, as so appearing, is hereby
69 amended by striking out, in line 6, the words “9 registered nurses; 4” and inserting in place thereof
70 the following words:- 11 registered nurses; 2.

71 SECTION 8. Subsection (c) of said section 13 of said chapter 13, as so appearing, is hereby
72 amended by striking out clause (1) and inserting in place thereof the following clause:-

73 (1) 3 representatives with expertise in nursing education whose graduates are eligible to
74 write nursing licensure examinations, including 1 representative from pre-licensure level, 1
75 representative from graduate level and 1 representative from post-graduate level; provided,
76 however, that none of these 3 representatives shall be from the same institution;

77 SECTION 9. Said subsection (c) of said section 13 of said chapter 13, as so appearing, is
78 hereby further amended by striking out clause (4) and inserting in place thereof the following 4
79 clauses:-

80 (4) 2 registered nurses not authorized in advanced nursing practice and who provide direct
81 patient care;

82 (5) 1 registered nurse currently providing direct care to patients with a substance use
83 disorder;

84 (6) 1 registered nurse currently providing direct care to patients in an outpatient,
85 community-based, behavioral health setting; and

86 (7) 1 registered nurse currently providing direct care to patients living with chronic pain.

87 SECTION 10. Said section 13 of said chapter 13, as so appearing, is hereby amended by
88 striking out subsection (d) and inserting in place thereof the following subsection:-

89 (d) Licensed practical nurse board members shall include representatives from at least 2 of
90 the following 3 settings: long-term care, acute care, and community health settings.

91 SECTION 11. Section 19 of chapter 19 of the General Laws, as appearing in the 2016
92 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
93 the following subsection:-

94 (a) The department shall issue for a term of 2 years, and may renew for like terms, a license,
95 subject to revocation by it for cause, to any private, county or municipal facility or department or
96 unit of any such facility that: (i) offers to the public inpatient psychiatric, residential or day care
97 services; (ii) is represented as providing treatment of persons with a mental illness; and (iii) meets
98 the department's applicable licensure standards and requirements; provided, however, that the
99 department may issue a license to those facilities, departments or units providing care but not
100 treatment of persons with a mental illness; and provided further, that licensing by the department

101 shall not be required if such residential or day care treatment is provided within an institution or
102 facility licensed by the department of public health pursuant to chapter 111, unless such services
103 are provided on an involuntary basis. The department shall regulate the operation of facilities,
104 departments or units that provide care but not treatment of persons with a mental illness and such
105 facilities and such facilities, departments or units shall be subject to such regulations as the
106 department shall promulgate whether they obtain a license or not. The department may issue a
107 provisional license to a facility, department or unit that has not previously operated, or is operating
108 but is temporarily unable to meet applicable standards and requirements. No original license shall
109 be issued to establish or maintain a facility, department or unit subject to licensure under this
110 section, unless there is determination by the department, in accordance with its regulations, that
111 there is need for such a facility, department or unit, as described in subsection (c). The department
112 may grant the type of license that it deems suitable for the facility, department or unit. The
113 department shall fix reasonable fees for licenses and renewal thereof. In order to be licensed by
114 the department under this section, a facility, department or unit shall provide services to
115 commonwealth residents with public health insurance on a non-discriminatory basis.

116 SECTION 12. Said section 19 of said chapter 19, as so appearing, is hereby further
117 amended by striking out, in line 20, the word “ward” and inserting in place thereof the following
118 word:- unit.

119 SECTION 13. Said section 19 of said chapter 19, as so appearing, is hereby further
120 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

121 (c) Each facility, department or unit licensed by the department shall be subject to
122 supervision, visitation and inspection by the department. The department shall inspect each

123 facility, department or unit prior to granting or renewing a license pursuant to this section. The
124 department shall establish regulations to administer licensing standards and to provide operational
125 standards for such facilities, departments or units, including, but not limited to, the standards or
126 criteria that an applicant shall meet to demonstrate the need for an original license. Such standards
127 or criteria shall be reviewed by the department every 2 years and shall consider: (i) the health needs
128 of persons who have a mental illness, including but not limited to persons with a co-occurring
129 substance use disorder and underserved populations, or both; and (ii) the demonstrated ability and
130 history of a prospective licensee to meet the needs of such persons.

131 The regulations promulgated by the department pursuant to this section shall provide that
132 no facility, department or unit shall discriminate against a individual, qualified within the scope of
133 the individual's license, when considering or acting on an application of a licensed independent
134 clinical social worker for staff membership or clinical privileges. The regulations shall further
135 provide that each application shall be considered solely on the basis of the applicant's education,
136 training, current competence and experience. Each facility, department or unit shall establish, in
137 consultation with the director of social work or, if none, a consulting licensed independent clinical
138 social worker, the specific standards, criteria and procedures to admit an applicant for staff
139 membership and clinical privileges. Such standards shall be available to the department upon
140 request.

141 SECTION 14. Said section 19 of said chapter 19, as so appearing, is hereby further
142 amended by striking out, in line 44, the word "ward" and inserting in place thereof the following
143 words:- unit; provided, however, that the department may deny or condition the issuance of an
144 original license if an application does not meet the department's standards or criteria for
145 demonstrating need, as described in subsection (c).

146 SECTION 15. Said section 19 of said chapter 19, as so appearing, is hereby further
147 amended by striking out subsections (e) to (g), inclusive, and inserting in place there of the
148 following 5 subsections:-

149 (e) The department may conduct surveys and investigations to enforce compliance with
150 this section and any rule or regulation promulgated under this section. The department may
151 examine the books and accounts of any facility, department or unit if it deems such examination
152 necessary for the purposes of this section. If upon inspection, or through information in its
153 possession, the department finds that a facility, department or unit licensed by the department is
154 not in compliance with a requirement established under this section, the department may order the
155 facility, department or unit to correct such deficiency by providing the facility, department or unit
156 a deficiency notice in writing of each deficiency. The notice shall specify a reasonable time, not
157 more than 60 days after receipt of the notice, by which time the facility, department or unit shall
158 remedy or correct each deficiency cited in the notice; provided, however, that in the case of any
159 deficiency which, in the opinion of the department, is not capable of correction within 60 days, the
160 department shall require that the facility, department or unit submit a written plan for correction
161 of the deficiency in a reasonable manner. The department may modify any written plan for
162 correction, upon notice in writing to the facility, department or unit. Not more than 7 days after
163 the receipt of notice of such a modification of a written plan for correction, the affected facility,
164 department or unit may file a written request with the department for administrative
165 reconsideration of the modified plan for correction or any portion thereof.

166 Nothing in this section shall be construed to prohibit the department from enforcing a rule,
167 regulation, deficiency notice or plan for correction, administratively or in court, without first
168 affording formal opportunity to make correction, or to seek administrative reconsideration under

169 this section, where, in the opinion of the department, the violation of such rule, regulation,
170 deficiency notice or plan for correction jeopardizes the health or safety of patients or the public or
171 seriously limits the capacity of a facility, department or unit to provide adequate care, or where the
172 violation of such rule, regulation, deficiency notice or plan for correction is the second or
173 subsequent such violation occurring during a period of 12 months.

174 If a facility, department or unit fails to remedy or correct a cited deficiency by the date
175 specified in the written deficiency notice or fails to remedy or correct a cited deficiency by the
176 date specified in a plan for correction, as accepted or modified by the department, the department
177 may: (i) suspend, limit, restrict or revoke the license of the facility, department or unit; (ii) impose
178 a civil fine upon the facility, department or unit; (iii) pursue any other sanction as the department
179 may impose administratively upon the facility, department or unit; or (iv) impose any combination
180 of the penalties set forth in clauses (i) to (iii), inclusive, of this paragraph. A civil fine imposed
181 pursuant to this subsection shall be not more than \$1,000 per deficiency for each day the deficiency
182 continues to exist beyond the date prescribed for correction.

183 (f) No facility, department or unit, for which a license is required under subsection (a),
184 shall provide inpatient psychiatric, residential or day care services for the treatment or care of
185 persons with a mental illness, unless it has obtained a license under this section. The superior court
186 sitting in equity shall have jurisdiction, upon petition of the department, to restrain any violation
187 of this section or to take such other action as equity and justice may require. Whoever violates this
188 section shall be punished for the first offense by a fine of not more than \$500 and for subsequent
189 offenses by a fine of not more than \$1,000 or by imprisonment for not more than 2 years, or both.

190 (g) No patient at a facility, department or unit subject to licensure under this section shall
191 be commercially exploited. No patient shall be photographed, interviewed or exposed to public
192 view without the express written consent of the patient or the patient's legal guardian.

193 (h) Notwithstanding subsections (a) to (g), inclusive, a child care center, family child care
194 home, family child care system, family foster care or group care facility, as defined in section 1A
195 of chapter 15D, shall not be subject to this section.

196 (i) As used in this section, "original license" shall mean a license, including a provisional
197 license, issued to a facility, department or unit not previously licensed, or a license issued to an
198 existing facility, department or unit in which there has been a change in ownership or location or
199 a change in class of license or specialized service as provided in regulations of the department.

200 SECTION 16. Section 17M of chapter 32A of the General Laws, as so appearing, is hereby
201 amended by striking out, in line 3, the word "abuse" and inserting in place thereof the following
202 words:- use disorder.

203 SECTION 17. Section 17N of said chapter 32A, as so appearing, is hereby amended by
204 striking out, in line 31, the word "abuse" and inserting in place thereof the following words:- use
205 disorder.

206 SECTION 18. Said chapter 32A is hereby amended by inserting after section 17O the
207 following 2 sections:-

208 Section 17P. (a) The commission shall develop a plan to provide active or retired
209 employees adequate coverage and access to a broad spectrum of pain management services,

210 including, but not limited to, those that serve as alternatives to opioid prescribing, in accordance
211 with guidelines developed by the division of insurance.

212 (b) The plan shall be subject to review by the division of insurance. In its review, the
213 division shall consider the adequacy of access to a broad spectrum of pain management services
214 and any carrier policies which may create unduly preferential coverage to prescribing opiates
215 without other pain management modalities.

216 (c) The commission shall distribute educational materials to providers within their
217 networks about the pain management access plan and make information about its plan publicly
218 available on its website.

219 Section 17Q. Any coverage offered by the commission to an active or retired employee of
220 the commonwealth insured under the group insurance commission shall provide, for any covered
221 drug that is a narcotic substance contained in schedule II of section 3 of chapter 94C and that is
222 subject to cost sharing, a schedule that allows for adjustments and reductions in the cost sharing if
223 a person requests a prescription filled in a lesser quantity pursuant to section 18 of said chapter
224 94C.

225 SECTION 19. Section 1 of chapter 94C of the General Laws, as appearing in the 2016
226 Official Edition, is hereby amended by inserting after the definition of "Drug paraphernalia" the
227 following definition:-

228 "Electronic prescription", a lawful order from a practitioner registered under section 7 for
229 a drug or device for a specific patient that is: (i) generated on an electronic prescribing system that
230 meets federal requirements for electronic prescriptions for controlled substances; (ii) received by
231 the pharmacy on an electronic system that meets federal requirements for electronic prescriptions

232 for controlled substances; and (iii) is transmitted electronically to a pharmacy designated by the
233 patient without alteration of the prescription information; provided, however, that a third-party
234 intermediary may act as a conduit to route the prescription from the practitioner to the pharmacist;
235 provided further, that “electronic prescription” shall not include: (i) an order for medication which
236 is dispensed for immediate administration to the ultimate user; or (ii) a prescription generated on
237 an electronic system that is printed out or transmitted via facsimile.

238 SECTION 20. Section 8 of said chapter 94C, as so appearing, is hereby amended by
239 inserting after the word “oral”, in line 60, the following word:- , electronic.

240 SECTION 21. Section 17 of said chapter 94C, as so appearing, is hereby amended by
241 striking out, in line 2, the words “the written prescription of” and inserting in place thereof the
242 following words:- an electronic prescription from.

243 SECTION 22. Said section 17 of said chapter 94C, as so appearing, is hereby further
244 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

248 SECTION 23. Said section 17 of said chapter 94C, as so appearing, is hereby further
249 amended by striking out, in line 11, the words “a written or oral prescription of” and inserting in
250 place thereof the following words:- an electronic prescription from.

251 SECTION 24. Section 18 of said chapter 94C, as so appearing, is hereby amended by
252 striking out subsection (d^{3/4}) and inserting in place thereof the following subsection:-

253 (d^{3/4}) A pharmacist filling a prescription for a schedule II substance shall, if requested by
254 the patient, dispense the prescribed substance in a lesser quantity than indicated on the prescription.
255 The remaining portion may be filled upon patient request in accordance with federal law; provided,
256 however, that only the same pharmacy that originally dispensed the lesser quantity shall dispense
257 the remaining portion. Upon an initial partial dispensing of a prescription or a subsequent
258 dispensing of a remaining portion, the pharmacist or the pharmacist's designee shall make a
259 notation in the patient's record maintained by the pharmacy, which shall be accessible to the
260 prescribing practitioner by request, indicating that the prescription was partially filled and the
261 quantity dispensed.

262 SECTION 25. Section 18B of said chapter 94C, as so appearing, is hereby amended by
263 striking out, in lines 15 and 16, the words "and in the prescription drug monitoring program
264 established in section 24A".

265 SECTION 26. Said chapter 94C is hereby further amended by striking out section 19B and
266 inserting in place thereof the following section:-

267 Section 19B. (a) As used in this section and unless the context clearly requires otherwise,
268 "opioid antagonist" shall mean naloxone or any other drug approved by the federal Food and Drug
269 Administration as a competitive narcotic antagonist used in the reversal of overdoses caused by
270 opioids.

271 (b) The department shall ensure that a statewide standing order is issued to authorize the
272 dispensing of an opioid antagonist in the commonwealth by any licensed pharmacist. The
273 statewide standing order shall include, but shall not be limited to, written, standardized procedures
274 or protocols for the dispensing of an opioid antagonist by a licensed pharmacist. Notwithstanding

275 any general or special law to the contrary, the commissioner, or a physician who is designated by
276 the commissioner and is registered under section 7, may issue a statewide standing order that may
277 be used for a licensed pharmacist to dispense an opioid antagonist under this section.

278 (c) Notwithstanding any general or special law to the contrary, a licensed pharmacist may
279 dispense an opioid antagonist in accordance with the statewide standing order issued under
280 subsection (b). Except for an act of gross negligence or willful misconduct, a pharmacist who,
281 acting in good faith, dispenses an opioid antagonist shall not be subject to any criminal or civil
282 liability or any professional disciplinary action by the board of registration in pharmacy related to
283 the use or administration of an opioid antagonist.

284 (d) A pharmacist who dispenses an opioid antagonist shall annually report to the
285 department the number of times the pharmacist dispensed an opioid antagonist. Reports shall not
286 identify an individual patient, shall be confidential and shall not constitute a public record as
287 defined in clause twenty-sixth of section 7 of chapter 4. The department shall publish an annual
288 report that includes aggregate information about the dispensing of opioid antagonists in the
289 commonwealth.

290 (e) A pharmacist or designee who dispenses an opioid antagonist pursuant to this section
291 shall, for the purposes of health insurance billing and cost-sharing, treat the transaction as the
292 dispensing of a prescription to the person purchasing the opioid antagonist regardless of the
293 ultimate user of the opioid antagonist. Prior to dispensing the opioid antagonist, the pharmacist or
294 designee shall make a reasonable effort to identify the purchaser's insurance coverage and to
295 submit a claim for the opioid antagonist to the insurance carrier at the time of purchase.

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

301 (g) A person acting in good faith may receive a prescription for an opioid antagonist,
302 possess an opioid antagonist and administer an opioid antagonist to an individual appearing to
303 experience an opioid-related overdose. A person who, acting in good faith, administers an opioid
304 antagonist to an individual appearing to experience an opioid-related overdose shall not, as a result
305 of the person's acts or omissions, be subject to any criminal or civil liability or any professional
306 disciplinary action. The immunity established under section 34A shall also apply to a person
307 administering an opioid antagonist pursuant to this section.

308 (h) The department, the board of registration in medicine and the board of registration in
309 pharmacy shall adopt regulations to implement this section.

310 SECTION 27. Subsection (c) of section 20 of said chapter 94C, as appearing in the 2016
311 Official Edition, is hereby amended by striking out the first and second sentences and inserting in
312 place thereof the following 2 sentences:-

313 Whenever a practitioner registered under section 7 prescribes a controlled substance by
314 oral prescription, such individual shall, within a period of not more than 7 days or such shorter
315 period if required by federal law, cause an electronic or written prescription for the prescribed
316 controlled substance to be delivered to the dispensing pharmacy; provided, however, that the
317 written prescription may be delivered to the pharmacy in person or by mail, but shall be

318 postmarked within a period of not more than 7 days or such shorter period if required by federal
319 law.

320 SECTION 28. Section 22 of said chapter 94C, as so appearing, is hereby amended by
321 inserting after the word “written”, in line 2, the following words:- or electronic.

322 SECTION 29. Said section 22 of said chapter 94C, as so appearing, is hereby further amended by
323 striking out, in line 21, the words “recommended full quantity indicated” and inserting in place
324 thereof the following words:- full prescribed quantity.

325 SECTION 30. Section 23 of said chapter 94C, as so appearing, is hereby amended by
326 inserting after the word “written”, in lines 1 and 6, in each instance, the following words:- or
327 electronic.

328 SECTION 31. Said section 23 of said chapter 94C, as so appearing, is hereby further
329 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

333 SECTION 32. Said section 23 of said chapter 94C, as so appearing, is hereby further
334 amended by striking out subsections (g) and (h) and inserting in place thereof the following 3
335 subsections:-

336 (g) Prescribers shall issue an electronic prescription for all controlled substances and
337 medical devices. The department shall promulgate regulations setting forth standards for electronic
338 prescriptions.

339 (h) The commissioner, through regulation, shall establish exceptions to section 17 and
340 subsection (g) authorizing the limited use of a written and oral prescription where appropriate.
341 Said exceptions shall include, but shall not be limited to: (i) prescriptions issued by
342 veterinarians; (ii) prescriptions issued or dispensed in circumstances where electronic prescribing
343 is not available due to temporary technological or electrical failure; (iii) a time-limited waiver
344 process for practitioners who demonstrate economic hardship, technological limitations that are
345 not reasonably within the control of the practitioner, or other exceptional circumstance; and (iv)
346 instances where it would be impractical for the patient to obtain controlled substances prescribed
347 by electronic prescription in a timely manner, and such delay would adversely impact the patient's
348 medical condition.

349 (i) All written prescriptions shall be written in ink, indelible pencil or by other means on a
350 tamper resistant form consistent with federal requirements for Medicaid and signed by the
351 prescribing practitioner.

352 SECTION 33. Section 24A of said chapter 94C, as so appearing, is hereby amended by
353 striking out clause (4) of subsection (f) and inserting in place thereof the following clause:-

354 (4) local, state and federal law enforcement or prosecutorial officials working with the
355 executive office of public safety engaged in the administration, investigation or enforcement of
356 the laws governing prescription drugs; provided, however, that the data request is in connection
357 with a bona fide specific controlled substance or additional drug-related investigation and
358 accompanied by a probable cause warrant issued pursuant to chapter 276;

359 SECTION 34. Said section 24A of said chapter 94C, as so appearing, is hereby further
360 amended by striking out clause (6) of subsection (f) and inserting in place thereof the following
361 clause:

362 (6) personnel of the United States attorney, office of the attorney general or a district
363 attorney; provided, however, that the data request is in connection with a bona fide specific
364 controlled substance or additional drug related investigation and accompanied by a probable cause
365 warrant issued pursuant to chapter 276.

366 SECTION 35. Said section 24A of said chapter 94C, as so appearing, is hereby amended
367 by striking out subsection (g) and inserting in place thereof the following subsection:-

368 (g) The department may provide data from the prescription monitoring program to
369 practitioners in accordance with this section; provided, however, that practitioners shall be able to
370 access the data directly through a secure electronic medical record or other similar secure software
371 or information system that enables automated query and retrieval of prescription monitoring
372 program data to a practitioner. This data may be used only for the purpose of diagnosis, treatment
373 and coordinating care of the practitioners' patients, unless otherwise permitted by this section. Any
374 such secure software or information system shall identify the registered participant on whose
375 behalf the prescription monitoring program was accessed. The department may enter into data use
376 agreements to allow summary prescription monitoring program data to be securely retained in the
377 patient's medical record as a clinical note associated with a clinical encounter; provided, however,
378 that prescription monitoring program data shall not be retained separately from said clinical note;
379 and provided further, that no such agreement shall allow for prescription monitoring program data
380 to be used for purposes inconsistent with this section.

381 SECTION 36. Said section 24A of said chapter 94C, as so appearing, is hereby further
382 amended by adding the following subsection:-

383 (m) The department may enter into agreements to permit health care facilities to integrate
384 secure software or information systems into their electronic medical records for the purpose of
385 using prescription monitoring program data to perform data analysis, compilation or visualization,
386 for purposes of diagnosis, treatment and coordinating care of the practitioner's patient. Any such
387 secure software or information system shall be bound to comply with requirements established by
388 the department to ensure the security and confidentiality of any data transferred.

389 SECTION 37. Section 3 of chapter 94H of the General Laws, as so appearing, is hereby
390 amended by striking out, in lines 15 to 18, inclusive, the words "(D) in-home disposal methods
391 that render a product safe from misuse and that comply with applicable controlled substance
392 regulations and environmental safety regulations; or (E)" and inserting in place thereof the
393 following words:- or (D).

394 SECTION 38. Section 4 of said chapter 94H, as so appearing, is hereby amended by
395 striking out, in line 20, the word "may" and inserting in place thereof the following word:- shall.

396 SECTION 39. Said chapter 94H is hereby amended by adding the following section:-

397 Section 7. Annually, not later than April 1, the department shall file a report with the clerks
398 of the senate and the house of representatives and the chairs of the joint committee on mental
399 health, substance use and recovery regarding the status of the drug stewardship program, including,
400 but not limited to information regarding: (i) the regulations established under chapter 94H; (ii) any
401 new applications for drug stewardship programs; (iii) the status of existing drug stewardship
402 programs operating in the commonwealth; and (iv) a list of noncompliance notices issued pursuant

403 to section 4, including the reason for the noncompliance notice, the recipient of the noncompliance
404 notice and any subsequent department action taken to address noncompliance.

405 SECTION 40. Chapter 111 of the General Laws is hereby amended by inserting after
406 section 25J the following section:-

407 Section 25J¹/₂. An acute care hospital, as defined in section 25B, that provides emergency
408 services in an emergency department and every satellite emergency facility, as defined in section
409 51¹/₂, shall maintain, as part of its emergency services, protocols and capacity to provide
410 appropriate, evidence-based interventions prior to discharge that reduce the risk of subsequent
411 harm and fatality following an opioid-related overdose including, not be limited to, protocols and
412 capacity to possess, dispense, administer and prescribe opioid agonist treatment and offer such
413 treatment to patients who present in an acute care hospital emergency department or a satellite
414 emergency facility for care and treatment of an opioid-related overdose; provided, however, that
415 such treatment shall occur when it is recommended by the treating healthcare provider and is
416 voluntarily agreed to by the patient. An acute care hospital that provides emergency services in an
417 emergency department, and every satellite emergency facility, shall demonstrate compliance with
418 applicable training and waiver requirements established by the federal drug enforcement agency
419 and the substance abuse and mental health services administration relative to prescribing opioid
420 agonist treatment. Prior to discharge, any patient who is administered or prescribed an opioid
421 agonist treatment in an acute care hospital emergency department or satellite emergency facility
422 shall be directly connected to an appropriate provider or treatment site to voluntarily continue said
423 treatment.

424 SECTION 41. Said chapter 111, as so appearing, is hereby further amended by inserting
425 after section 25N³/₄ the following section:-

426 Section 25N⁷/₈. (a) As used in this section, the following terms shall, unless the context
427 clearly requires otherwise, have the following meanings:-

428 “Human services worker”, an individual who provides services that support an individual’s
429 and family’s efforts to function in daily living situations, including such settings including but not
430 limited to group homes; institutional or residential settings; correctional facilities; community
431 health centers; family, child and youth service agencies; and programs that help individuals
432 affected by alcohol or substance use disorder, family violence or aging.

433 “Qualified education loan indebtedness”, any indebtedness, including interest on such
434 indebtedness, incurred to pay tuition or other direct expenses incurred in connection with the
435 pursuit of a certificate, undergraduate or graduate degree at an institution of higher education as
436 accepted by the department related to the work of a human services worker by an applicant;
437 provided, however, that “qualified education loan indebtedness” shall not include a loan made by
438 an individual related to the applicant.

439 (b) Subject to appropriation, there shall be a student loan repayment program for human
440 services workers for the purpose of encouraging individuals to enter into and continue in such
441 professional positions. The department shall administer the program in consultation with the
442 department of higher education.

443 (c) To be eligible for an award under this program, an applicant shall: (i) be employed as a
444 human services worker at a minimum of 35 hours per week; (ii) have an individual income of no
445 more than \$45,000 per year; (iii) have been employed for 12 consecutive months as a human

446 services worker at a minimum of 35 hours per week prior to making their application; and (iv) has
447 qualified education loan indebtedness.

448 (d) Subject to appropriation, the department shall partially reimburse eligible individuals
449 for payments made by the individual toward their qualified education loan indebtedness. The
450 amount of reimbursement made by the department under the program shall be based on the total
451 amount of qualified education loan indebtedness held by the individual. Reimbursement shall not
452 exceed \$1,800 per individual per year. Reimbursement shall be paid monthly by the department at
453 a rate not to exceed \$150 per month. The individual shall no longer be eligible for reimbursement
454 after 4 years from the date the individual receives his or her first reimbursement payment. An
455 individual shall only be eligible for reimbursement payments by the department for months in
456 which the individual acts as a human services worker in the commonwealth.

457 SECTION 42. Subsection (a) of section 51½ of said chapter 111, as appearing in the 2016
458 Official Edition, is hereby amended by striking out the definition of “Licensed mental health
459 professional” and inserting in place thereof the following definition:-

460 “Licensed mental health professional”, (i) a licensed physician who specializes in the
461 practice of psychiatry or addiction medicine; (ii) a licensed psychologist; (iii) a licensed
462 independent clinical social worker; (iv) a licensed certified social worker; (v) a licensed mental
463 health counselor; (vi) a licensed psychiatric clinical nurse specialist; (vii) a certified addictions
464 registered nurse; (viii) a licensed alcohol and drug counselor I as defined in section 1 of chapter
465 111J; (ix) a healthcare provider defined in section 1 of chapter 111 whose scope of practice allows
466 such evaluations pursuant to medical staff policies and practice; or (x) another professional
467 authorized by the department through regulation.

468 SECTION 43. Section 51½ of chapter 111, as so appearing, is hereby amended by striking
469 out, in lines 18, 35, 36, 50, 56, 73, 78 and 94 the word “abuse” and inserting in place thereof, in
470 each instance, the following words:- use disorder.

471 SECTION 44. Said section 51½ of said chapter 111, as so appearing, is hereby further
472 amended by inserting after the word “program”, in line 20, the following words:- by a staff member
473 who is a licensed mental health professional.

474 SECTION 45. Said section 51½ of said chapter 111, as so appearing, is hereby further
475 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

476 (c) During or after a substance use disorder evaluation conducted pursuant to subsection
477 (b), treatment may occur within the acute care hospital or satellite emergency facility, if available,
478 that may include induction to medication assisted treatment. Notwithstanding the requirements in
479 section 25J½, if the acute care hospital or satellite emergency facility is unable to provide such
480 services, the acute care hospital or satellite emergency facility shall refer the patient to an
481 appropriate and available hospital or treatment provider. Medical necessity for further treatment
482 shall be determined by the treating clinician and noted in the patient’s medical record.

483 If a patient refuses further treatment after the evaluation is complete, and is otherwise
484 medically stable, the acute care hospital or satellite emergency facility may initiate discharge
485 proceedings; provided, however, that if the patient is in need of and agrees to further treatment
486 following discharge pursuant to the substance use disorder evaluation, then the acute care hospital
487 or satellite emergency facility shall directly connect the patient with a community based program
488 prior to discharge or within a reasonable time following discharge when the community based
489 program is available.

490 SECTION 46. Said section 51½ of said chapter 111, as so appearing, is hereby amended
491 by striking out subsection (g) and inserting in place thereof the following subsection:-

492 (g) Upon discharge of a patient who experienced an opiate-related overdose, the acute-care
493 hospital, satellite emergency facility or emergency service program shall record the opiate-related
494 overdose and substance use disorder evaluation in the patient’s electronic medical record and shall
495 make the evaluation directly accessible by other healthcare providers and facilities consistent with
496 federal and state privacy requirements through a secure electronic medical record, health
497 information exchange or other similar software or information system for the purposes of: (i)
498 improving the ease of access and utilization of such data for treatment or diagnosis; (ii) supporting
499 the integration of such data within the electronic health records of a healthcare provider for
500 purposes of treatment or diagnosis; or (iii) allowing healthcare providers and their vendors to
501 maintain such data for the purposes of compiling and visualizing such data within the electronic
502 health records of a healthcare provider in a manner that supports treatment or diagnosis.

503 SECTION 47. Subsection (i) of section 51½ of said chapter 111, as so appearing, is hereby
504 repealed.

505 SECTION 48. Section 1 of chapter 111E of the General Laws is hereby amended by
506 inserting after the definition of “Independent addiction specialist”, inserted by section 63 of
507 chapter 69 of the acts of 2018, the following definition:-

508 “Original license”, a license, including a provisional license, issued to a facility not
509 previously licensed, or a license issued to an existing facility, in which there has been a change in
510 ownership or location.

511 SECTION 49. Section 7 of said chapter 111E, as appearing in the 2016 Official Edition, is
512 hereby amended by striking out, in lines 1, 10, 13, 26, 27, 33, 39, 44, 50, 75, 77 and 80, the word
513 “division” and inserting in place thereof, in each instance, the following word:- department.

514 SECTION 50. Said section 7 of said chapter 111E, as so appearing, is hereby further
515 amended by inserting after the word “requirements”, in line 8, the following words:- set forth in
516 regulations of the department.

517 SECTION 51. Said section 7 of said chapter 111E, as so appearing, is hereby further
518 amended by striking out the fourth and fifth sentences and inserting in place thereof the following
519 2 sentences:- The commissioner shall promulgate rules and regulations establishing licensure and
520 approval standards and requirements which shall include, but not be limited to: (i) the health
521 standards to be met by a facility; (ii) misrepresentations regarding the treatment that would be
522 provided to patients at a facility; (iii) licensing fees; (iv) procedures for making and approving
523 license applications; (v) services and treatment provided by programs at a facility; (vi) certification
524 of capability of self-preservation; (vii) a requirement that the facility provide services to
525 commonwealth residents with public health insurance on a non-discriminatory basis; and (viii) the
526 standards or criteria that a facility shall meet to demonstrate the need for an original license;
527 provided, however, that such standards or criteria shall be reviewed by the department every 2
528 years and shall consider the health needs of persons who have a substance use disorder with a co-
529 occurring mental illness, including underserved populations, and the demonstrated ability and
530 history of a prospective licensee to meet the needs of such persons. Each facility shall file with the
531 division such data, statistics, schedules or information as the division may require.

532 SECTION 52. Said section 7 of said chapter 111E, as so appearing, is hereby further
533 amended by inserting after the number “10”, in line 43, the following words:- ; provided, however,
534 that the department may, in its discretion, deny or condition the issuance of an original license if
535 an application does not meet the department’s standards or criteria for demonstrating the need for
536 an original license.

537 SECTION 53. Said section 7 of said chapter 111E, as so appearing, is hereby further
538 amended by striking out, in line 49, the word “director” and inserting in place thereof the following
539 word:- commissioner

540 SECTION 54. Said section 7 of said chapter 111E, as so appearing, is hereby further
541 amended by striking out the fifth through seventh paragraphs, inclusive, and inserting in place
542 thereof the following 7 paragraphs:-

543 No person, partnership, corporation, society, association or other agency or entity of any
544 kind, other than a licensed general hospital, a department, agency or institution of the federal
545 government, the commonwealth or any political subdivision thereof, shall operate a facility
546 without a license and no department, agency or institution of the commonwealth or any political
547 subdivision thereof shall operate a facility without approval from the department pursuant to this
548 section.

549 The department may conduct surveys and investigations to enforce compliance with this
550 section and any rule or regulation promulgated pursuant to this chapter. If the department finds
551 upon inspection, or through information in its possession, that a facility is not in compliance with
552 a requirement established under this chapter, the department may order the facility to correct such
553 deficiency by providing the facility written notice of each deficiency. The notice shall specify a

554 reasonable time, but not more than 60 days after receipt of the notice, by which time the facility
555 shall remedy or correct each deficiency cited in the notice; provided, however, that in the case of
556 any violation which, in the opinion of the department, is not capable of correction within 60 days,
557 the department shall require that the facility submit a written plan for correction of the deficiency
558 in a reasonable manner. The department may modify a written plan for correction upon written
559 notice to the facility. Within 7 days of receipt of such notice of modification of a written plan for
560 correction, the affected facility may file a written request with the department for administrative
561 reconsideration of the modified plan for correction or any portion thereof.

562 Nothing in this section shall be construed to prohibit the department from enforcing a rule,
563 regulation, deficiency notice or plan for correction, administratively or in court, without first
564 affording formal opportunity to make correction, or to seek administrative reconsideration under
565 this section, where, in the opinion of the department, the violation of such rule, regulation,
566 deficiency notice or plan for correction jeopardizes the health or safety of patients or the public or
567 seriously limits the capacity of a facility to provide adequate care, or where the violation of such
568 rule, regulation, deficiency notice or plan for correction is the second or subsequent such violation
569 occurring during a period of 12 months.

570 Upon a failure to remedy or correct a cited deficiency by the date specified in the written
571 deficiency notice or failure to remedy or correct a cited deficiency by the date specified in a plan
572 for correction as accepted or modified by the department, the department may: (i) suspend, limit,
573 restrict or revoke the facility's license; (ii) impose a civil fine upon the facility; (iii) pursue any
574 other sanction as the department may impose administratively upon the facility; or (iv) impose any
575 combination of the penalties set forth in clauses (i) to (iii), inclusive, of this paragraph. A civil fine

576 imposed pursuant to this section shall not exceed \$1,000 per deficiency for each day the deficiency
577 continues to exist beyond the date prescribed for correction.

578 Upon petition of the department, the superior court shall have jurisdiction in equity to
579 restrain any violation of this section and to take such other action as equity and justice may require
580 to enforce the department's provisions. Whoever knowingly establishes or maintains a private
581 facility other than a licensed general hospital without a license granted pursuant to this section
582 shall, for a first offense, be punished by a fine of not more than \$500 and for each subsequent
583 offense by a fine of not more than \$1,000 or imprisonment for not more than 2 years, or both.

584 A facility shall be subject to visitation and inspection by the department to enforce
585 compliance with this chapter and any rule or regulation issued thereunder. The department shall
586 inspect each facility prior to granting or renewing a license or approval. The department may
587 examine the books and accounts of any facility if it deems such examination necessary for the
588 purposes of this section.

589 No patient at a facility subject to licensure under this section shall be commercially
590 exploited. No patient shall be photographed, interviewed or exposed to public view without the
591 express written consent of the patient or the patient's legal guardian.

592 SECTION 55. Section 10H of chapter 118E of the General Laws, as inserted by section 19
593 of chapter 258 of the acts of 2014, is hereby amended by striking out, in line 55, the word "abuse"
594 and inserting in place thereof the following words:- use disorder.

595 SECTION 56. Section 35 of chapter 123 of the General Laws is hereby amended by
596 inserting after the word "guardian", in line 18, as appearing in the 2016 Official Edition, the
597 following words:- , medical professional as defined by the department in regulation.

598 SECTION 57. Said section 35 of said chapter 123 is hereby further amended by inserting
599 after the seventh paragraph, as so appearing, the following paragraph:-

600 A facility used for commitment under this section for a person found to be a person with a
601 substance use disorder shall maintain or provide for the capacity to possess, dispense and
602 administer all drugs approved by the federal Food and Drug Administration for use in opioid
603 agonist treatment and opioid antagonist treatment for addiction and shall make such treatment
604 available to any person for whom such treatment is medically appropriate.

605 SECTION 58. Section 1 of chapter 127 of the General Laws, as so appearing, is hereby
606 amended by striking out the definition of “Commissioner” and inserting in place thereof the
607 following 2 definitions:-

608 “Behavioral health counseling”, a non-pharmacological intervention carried out by a
609 qualified behavioral health professional in a therapeutic context at an individual, family or group
610 level; provided, however, that such an intervention may include a structured, professionally
611 administered intervention delivered in person or an intervention delivered remotely via
612 telemedicine.

613 “Commissioner”, the commissioner of correction.

614 SECTION 59. Said section 1 of said chapter 127 is hereby further amended by inserting
615 after the definition of “Placement review”, inserted by section 86 of chapter 69 of the acts of 2018,
616 the following definition:-

617 “Qualified addiction specialist”, a treatment provider who is: (i) a physician licensed by
618 the board of registration of medicine, a licensed advanced practice registered nurse or a licensed

619 physician assistant; and (ii) a licensed DATA-waiver practitioner under the federal Comprehensive
620 Addiction and Recovery Act of 2016, Public Law 114-198.

621 SECTION 60. Section 16 of said chapter 127 is hereby amended by inserting after the word
622 “more”, in line 6, as appearing in the 2016 Official Edition, the following words:- ; provided,
623 however, that if an inmate is diagnosed with substance use disorder, the report of such examination
624 shall include a determination of whether or not opioid agonist treatment for opioid use disorder is
625 appropriate for the inmate; provided further, that this requirement may be satisfied by relying on
626 the report of an examination made pursuant to section 10 of chapter 111E if the report includes a
627 determination of whether or not opioid agonist treatment for opioid use disorder is appropriate for
628 the inmate.

629 SECTION 61. Said chapter 127 is hereby further amended by inserting after section 17A
630 the following section:-

631 Section 17B. Each state and county correctional facility shall maintain or provide for the
632 capacity to possess, dispense and administer all drugs approved by the federal Food and Drug
633 Administration for use in opioid agonist treatment and opioid antagonist treatment for addiction;
634 provided, however that a facility shall not be required to maintain or provide an opioid agonist
635 treatment or opioid antagonist treatment that is included as a MassHealth covered benefit.

636 If a person in the custody of a state or county correctional facility, in any status, was
637 receiving opioid agonist treatment or opioid antagonist treatment for opioid addiction through any
638 legally authorized medical program or by a valid prescription immediately preceding
639 incarceration, the treatment shall not be involuntarily changed or discontinued except upon a
640 determination by a qualified addiction specialist that the treatment is no longer appropriate. The

641 qualified addiction specialist who makes a determination to change or discontinue treatment shall
642 provide the reason for the change or discontinuance in the person's medical record. The person
643 shall be provided, both orally and in writing, with a specific explanation of the decision to change
644 or discontinue the treatment and with notice of the right to have the person's community-based
645 prescriber notified of the decision. If the person provides signed authorization, the department of
646 correction shall notify the community-based prescriber in writing of the decision to change or
647 discontinue the treatment.

648 Treatment established under this section shall be subject to section 7 of chapter 111E and
649 facilities shall report not less than biannually to the commissioner of public health in a manner to
650 be determined by the commissioner of public health for the evaluation of such treatment.

651 SECTION 62. The first paragraph of section 17B of said chapter 127, inserted by section
652 57, is hereby amended by adding the following paragraph:-

653 A state and county correctional facility shall make treatment under this section available
654 not less than 30 days prior to release to any person in the custody of a state or county correctional
655 facility for whom such treatment is determined to be medically appropriate by a qualified addiction
656 specialist. Treatment established under this section shall include behavioral health counseling for
657 individuals diagnosed with substance use disorder and such counseling services shall be consistent
658 with current therapeutic standards for these therapies in a community setting.

659 SECTION 63. Section 17B of said chapter 127 is hereby further amended by striking out
660 the words "not less than 30 days prior to release", as inserted by section 62.

661 SECTION 64. Said chapter 127 is hereby further amended by inserting after section 17B
662 the following section:-

663 Section 17C. Not later than February 1, each state and county correctional facility shall
664 report to the commissioner the following information for the prior calendar year: (i) the cost to the
665 facility of providing opioid agonist treatment and opioid antagonist treatment for addiction; (ii)
666 the type and prevalence of opioid agonist treatment and opioid antagonist treatment for addiction
667 provided; (iii) the number of persons in the custody of the facility, in any status, who continued to
668 receive the same opioid agonist treatment or opioid antagonist treatment for addiction as they
669 received prior to incarceration; (iv) the number of persons in the custody of the facility, in any
670 status, who voluntarily changed or discontinued the opioid agonist treatment or opioid antagonist
671 treatment for addiction that they received prior to incarceration; (v) the number of persons in the
672 custody of the facility, in any status, who changed or discontinued opioid agonist treatment and
673 opioid antagonist treatment for addiction that they received prior to incarceration due to a
674 determination by a physician or addiction specialist; (vi) the number of persons in the custody of
675 the facility, in any status, who received opioid agonist treatment or opioid antagonist treatment for
676 addiction not less than 30 days prior to release; (vii) the number of persons in the custody of the
677 facility, in any status, who received opioid agonist treatment or opioid antagonist treatment for
678 addiction who did not receive such treatment prior to incarceration; and (viii) any other
679 information requested by the commissioner related to the provision of opioid agonist treatment
680 and opioid antagonist treatment for addiction.

681 Annually, not later than March 1, the department of correction, in consultation with the
682 department of public health, shall submit a report on the findings collected from facilities under
683 this section to the joint committee on mental health, substance use and recovery and the house and
684 senate committees on ways and means.

685 The report shall include, but not be limited to: (a) the cost of providing opioid agonist
686 treatment and opioid antagonist treatment for addiction for all persons in the custody of state and
687 correctional facilities, regardless of status; (b) the type and prevalence of opioid agonist treatment
688 and opioid antagonist treatment for addiction provided at state and correctional facilities in the
689 commonwealth; (c) a summary of facility practices and any changes to those practices related to
690 opioid agonist treatment or opioid antagonist treatment for addiction; and (d) the aggregated results
691 of the information collected pursuant to clauses (iii) to (vii), inclusive, of the first paragraph.

692 SECTION 65. Section 47FF of chapter 175 of the General Laws, as appearing in the 2016
693 Official Edition, is hereby amended by striking out, in line 3, the word “abuse” and inserting in
694 place thereof the following words:- use disorder.

695 SECTION 66. Section 47GG of said chapter 175, as so appearing, is hereby amended by
696 striking out, in line 33, the word “abuse” and inserting in place thereof the following words:- use
697 disorder.

698 SECTION 67. Said chapter 175 is hereby further amended by inserting after section 47II
699 the following 2 sections:-

700 Section 47JJ. Any policy, contract, agreement, plan or certificate of insurance issued,
701 delivered or renewed within the commonwealth, which is considered creditable coverage under
702 section 1 of chapter 111M, shall provide, for any covered drug that is a narcotic substance
703 contained in schedule II of section 3 of chapter 94C and that is subject to cost sharing, a schedule
704 that allows for adjustments and reductions in the cost sharing if a person requests a prescription
705 filled in a lesser quantity pursuant to section 18 of said chapter 94C.

706 Section 47KK. (a) Any policy, contract, agreement, plan or certificate of insurance issued,
707 delivered or renewed within the commonwealth, which is considered creditable coverage under
708 section 1 of chapter 111M, shall develop a plan to provide adequate coverage and access to a broad
709 spectrum of pain management services, including, but not limited to, those that serve as
710 alternatives to opioid prescribing, in accordance with guidelines developed by the division of
711 insurance.

712 (b) The plan shall be subject to approval and shall be a component of carrier accreditation
713 by the division of insurance pursuant to section 2 of chapter 176O. In its review, the division shall
714 consider the adequacy of access to a broad spectrum of pain management services and any carrier
715 policies that may create unduly preferential coverage to prescribing opiates, as defined in section
716 1 of chapter 94C, without other pain management modalities.

717 (c) Carriers shall distribute educational materials to providers within their networks about
718 the pain management access plan and make information about its plan publicly available on its
719 website.

720 SECTION 68. Section 3 of chapter 175H of the General Laws, as appearing in the 2016
721 Official Edition, is hereby amended by inserting after the word "Administration", in line 38, the
722 following words:- or for any prescription drug that is an opiate, as defined in section 1 of chapter
723 94C, placed by the commissioner of public health on schedule II pursuant to subsection (a) of
724 section 2 of said chapter 94C.

725 SECTION 69. Section 8HH of chapter 176A of the General Laws, as appearing in the 2016
726 Official Edition, is hereby amended by striking out, in line 3, the word "abuse" and inserting in
727 place thereof the following words:- use disorder.

728 SECTION 70. Section 8II of said chapter 176A, as so appearing, is hereby amended by
729 striking out, in line 32, the word “abuse” and inserting in place thereof the following words:- use
730 disorder.

731 SECTION 71. Said chapter 176A is hereby further amended by inserting after section 8KK
732 the following 2 sections:-

733 Section 8LL. Any contract between a subscriber and the corporation under an individual
734 or group hospital service plan that is delivered, issued or renewed within the commonwealth shall
735 provide, for any covered drug that is a narcotic substance contained in schedule II of section 3 of
736 chapter 94C and that is subject to cost sharing, a schedule that allows for adjustments and
737 reductions in the cost sharing if a person requests a prescription filled in a lesser quantity pursuant
738 to section 18 of said chapter 94C.

739 Section 8MM. (a) Any contract between a subscriber and the corporation under an
740 individual or group hospital service plan that is delivered, issued or renewed within the
741 commonwealth shall develop a plan to provide adequate coverage and access to a broad spectrum
742 of pain management services, including, but not limited to, those that serve as alternatives to opioid
743 prescribing, in accordance with guidelines developed by the division of insurance.

744 (b) The plan shall be subject to approval and shall be a component of carrier accreditation
745 by the division of insurance pursuant to section 2 of chapter 176O. In its review, the division shall
746 consider the adequacy of access to a broad spectrum of pain management services and any carrier
747 policies that may create unduly preferential coverage to prescribing opiates, as defined in section
748 1 of chapter 94C, without other pain management modalities.

749 (c) Carriers shall distribute educational materials to providers within their networks about
750 the pain management access plan and make information about its plan publicly available on its
751 website.

752 SECTION 72. Section 4HH of chapter 176B of the General Laws, as appearing in the 2016
753 Official Edition, is hereby amended by striking out, in line 3, the word “abuse” and inserting in
754 place thereof the following words:- use disorder.

755 SECTION 73. Section 4II of said chapter 176B, as so appearing, is hereby amended by
756 striking out, in line 31, the word “abuse” and inserting in place thereof the following words:- use
757 disorder.

758 SECTION 74. Said chapter 176B is hereby further amended by inserting after section 4KK
759 the following 2 sections:-

760 Section 4LL. Any subscription certificate under an individual or group medical service
761 agreement that is delivered, issued or renewed within the commonwealth shall provide, for any
762 covered drug that is a narcotic substance contained in schedule II of section 3 of chapter 94C and
763 that is subject to cost sharing, a schedule that allows for adjustments and reductions in the cost
764 sharing if a person requests a prescription filled in a lesser quantity pursuant to section 18 of said
765 chapter 94C.

766 Section 4MM. (a) Any subscription certificate under an individual or group medical service
767 agreement delivered, issued or renewed within the commonwealth shall develop a plan to provide
768 adequate coverage and access to a broad spectrum of pain management services, including, but
769 not limited to, those that serve as alternatives to opioid prescribing, in accordance with guidelines
770 developed by the division of insurance.

771 (b) The plan shall be subject to approval and shall be a component of carrier accreditation
772 by the division of insurance pursuant to section 2 of chapter 176O. In its review, the division shall
773 consider the adequacy of access to a broad spectrum of pain management services and any carrier
774 policies that may create unduly preferential coverage to prescribing opiates, as defined in section
775 1 of chapter 94C, without other pain management modalities.

776 (c) Carriers shall distribute educational materials to providers within their networks about
777 the pain management access plan and make information about its plan publicly available on its
778 website.

779 SECTION 75. Section 4Z of chapter 176G of the General Laws, as appearing in the 2016
780 Official Edition, is hereby amended by striking out, in line 3, the word “abuse” and inserting in
781 place thereof the following words:- use disorder.

782 SECTION 76. Section 4AA of said chapter 176G, as so appearing, is hereby amended by
783 striking out, in line 30, the word “abuse” and inserting in place thereof the following words:- use
784 disorder.

785 SECTION 77. Said chapter 176G is hereby further amended by inserting after section 4CC
786 the following 2 sections:-

787 Section 4DD. Any individual or group health maintenance contract that is issued or
788 renewed shall provide, for any covered drug that is a narcotic substance contained in schedule II
789 of section 3 of chapter 94C and that is subject to cost sharing, a schedule that allows for
790 adjustments and reductions in the cost sharing if a person requests a prescription filled in a lesser
791 quantity pursuant to section 18 of said chapter 94C.

792 Section 4EE. (a) Any individual or group health maintenance contract that is issued or
793 renewed shall develop a plan to provide adequate coverage and access to a broad spectrum of pain
794 management services, including, but not limited to, those that serve as alternatives to opioid
795 prescribing, in accordance with guidelines developed by the division of insurance.

796 (b) The plan shall be subject to approval and shall be a component of carrier accreditation
797 by the division of insurance pursuant to section 2 of chapter 176O. In its review, the division shall
798 consider the adequacy of access to a broad spectrum of pain management services and any carrier
799 policies that may create unduly preferential coverage to prescribing opiates, as defined in section
800 1 of chapter 94C, without other pain management modalities.

801 (c) Carriers shall distribute educational materials to providers within their networks about
802 the pain management access plan and make information about its plan publicly available on its
803 website.

804 SECTION 78. Subsection (a) of section 2 of chapter 176O of the General Laws, as
805 appearing in the 2016 Official Edition, is hereby amended by striking out clauses (4) and (5) and
806 inserting in place thereof the following 3 clauses:-

807 (4) preventive health services;

808 (5) access to pain management services, including non-opioid and non-pharmaceutical
809 service options; and

810 (6) compliance with sections 2 to 12, inclusive.

811 SECTION 79. Said section 2 of said chapter 176O, as so appearing, is hereby further
812 amended by striking out, in line 24, the words “of health care finance and policy” and inserting in
813 place thereof the following words:- for health information and analysis.

814 SECTION 80. Subsection (b) of said section 2 of said chapter 176O, as so appearing, is
815 hereby amended by adding the following paragraph:-

816 For the purposes of accreditation review in the area of pain management, the division shall
817 consult with the health policy commission, established under chapter 6D, for assistance in
818 determining appropriate standards for evidence-based pain management, including non-opioid
819 pain management products and services, and shall publish guidelines to assist and evaluate
820 carriers’ development and submission of pain management access plans as required under clause
821 (5) of subsection (a).

822 SECTION 81. Said chapter 176O is hereby amended by inserting after section 2 the
823 following section:-

824 Section 2A. The division may require the submission of plan provider network documents
825 by carriers to assess network adequacy of provider networks and utilization of services for mental
826 health, substance use disorder and pain management based on standards and procedures
827 established by the division and may be in consultation with the center for health information and
828 analysis. The division may share documents received under this section pursuant to an interagency
829 agreement with the center. The center may compare the documents to actual claims paid by the
830 carrier to assist the division in determining whether a carrier’s provider network documents
831 accurately reflect actual service access and utilization by the carrier’s covered members.

832 SECTION 82. Section 55 of chapter 52 of the acts of 2016 is hereby repealed.

833 SECTION 83. Section 77 of said chapter 52 is hereby repealed.

834 SECTION 84. Notwithstanding any general or special law to the contrary, the secretary of
835 health and human services shall convene an advisory board to advise the secretary on the
836 implementation of the program established in section 16AA of chapter 6A of the General Laws.
837 The advisory board shall consist of: the secretary of health and human services or a designee, who
838 shall serve as chair; and 10 persons who shall be appointed by the secretary, 1 of whom shall have
839 substantial knowledge of or experience with the Massachusetts Child Psychiatry Access Program,
840 established in section 16A of chapter 19 of the General Laws, 2 of whom shall be representatives
841 from the Massachusetts Pain Initiative, 1 of whom shall be a representative from the Massachusetts
842 Medical Society, 1 of whom shall be a representative of the Massachusetts Associations of Health
843 Plans, Inc., 1 of whom shall be a representative of Blue Cross Blue Shield of Massachusetts, Inc.,
844 1 of whom shall be a patient living with chronic pain, 1 of whom shall be a pain management
845 doctor specializing in the care of people living with chronic pain, 1 of whom shall be a primary
846 care physician with experience treating patients with chronic pain and 1 of whom shall be an
847 integrative care physician with expertise in treating patients with chronic pain with a combination
848 of traditional and complementary therapies.

849 The advisory board shall study and make recommendations on: (i) how to most effectively
850 adapt the Massachusetts Child Psychiatry Access Program model for chronic pain remote
851 consultation services; (ii) program design and structure, including whether to use regionally based
852 teams; (iii) whether to conduct a needs assessment of key stakeholders; (iv) outreach methods to
853 educate and engage providers, chronic pain patients and health insurance carriers; (v) program
854 metrics to gauge program usage and efficacy in expanding access to appropriate pain management;
855 and (vi) estimated program costs. The advisory board shall submit its recommendations to the

856 clerks of the house of representatives and senate, the joint committee on mental health substance
857 use and recovery and the senate and house committees on ways and means not later than 6 months
858 after the effective date of this act.

859 SECTION 85. Notwithstanding any general or special law to the contrary, not later than
860 January 1, 2019, and annually thereafter for the next 5 years, the center for health information and
861 analysis shall submit to the department of public health, the joint committee on mental health,
862 substance use and recovery, the joint committee on public health, the joint committee on health
863 care financing and the house and senate committees on ways and means a report regarding the
864 frequency and location of substance use disorder evaluations ordered pursuant to section 51½ of
865 chapter 111 of the General Laws utilizing the center for health information and analysis' merged
866 case-mix discharge database.

867 SECTION 86. Notwithstanding any general or special law to the contrary, the department
868 of public health shall promulgate regulations to authorize a pilot program for harm reduction sites,
869 in which a person with a substance use disorder may consume pre-obtained controlled substances
870 and medical assistance by health care professionals is made immediately available to such a person
871 as necessary to prevent fatal overdose. Harm reduction sites shall make counseling, referrals to
872 treatment and other appropriate services available for persons utilizing such sites to access on a
873 voluntary basis. The department shall require that any site authorized under this pilot program first
874 obtain approval from the board of health in the city or town in which the pilot site is located.

875 The department shall convene an advisory committee and the commissioner shall consult
876 with the advisory committee prior to implementing the pilot program. The advisory committee
877 shall consist of: the commissioner of public health or a designee, who shall serve as chair; a

878 representative from the Massachusetts Medical Society; a representative from the Massachusetts
879 Health and Hospital Association, Inc.; a representative from the American Society of Addiction
880 Medicine; and 5 members appointed by the commissioner, 1 of whom shall be a person with
881 substance use disorder, 1 of whom shall be a person working in an established harm reduction
882 program providing direct support to persons with substance use disorders, 1 of whom shall be a
883 current or former law enforcement professional, 1 of whom shall have expertise in relevant state
884 and federal law and regulation and 1 of whom shall be a representative of local municipal boards
885 of health.

886 The advisory committee shall make recommendations to the commissioner regarding: (i)
887 ways to maximize the potential public health and safety benefits of pilot harm reduction sites,
888 including efforts to educate participants of the risks of contracting HIV and viral hepatitis and
889 proper disposal of hypodermic needles and syringes; (ii) the potential federal, state and local legal
890 issues involved with establishing harm reduction sites; (iii) appropriate guidance for professional
891 licensure boards and any necessary changes to the regulations of such boards; (iv) existing harm
892 reduction efforts in the state and potential collaboration with existing public health harm reduction
893 organizations; (v) considerations or factors beneficial to promoting health and safety in the city or
894 town where a pilot site is located; (vi) ways to support persons utilizing harm reduction sites who
895 express an interest in seeking substance use disorder treatment, including providing information
896 on evidence-based treatment options and direct referral to treatment providers; and (vii) any other
897 matters deemed appropriate by the commissioner. In developing its recommendations, the advisory
898 committee shall review the experiences and results of other states and countries that have
899 established supervised drug consumption sites. The advisory committee shall submit its findings

900 and recommendations to the commissioner not later than 6 months after the effective date of this
901 act.

902 The commissioner may promulgate regulations pursuant to this section and shall transmit
903 copies of the regulations, accompanied by the findings and recommendations submitted by the
904 advisory committee, to the joint committee on mental health, substance use and recovery, the joint
905 committee on public health, the joint committee on the judiciary and the senate and house
906 committees on ways and means not later than 30 days after the promulgation of the regulations.

907 SECTION 87. There shall be a commission to review and make recommendations
908 regarding the standards for credentialing a recovery coach, including whether recovery coaches
909 should be subject to a board of registration through the department of public health.

910 The commission shall consist of: the secretary of health and human services or a designee,
911 who shall serve as chair; the commissioner of public health or a designee; the director of Medicaid
912 or a designee; and 8 persons who shall be appointed by the secretary of health and human services,
913 1 of whom shall have expertise in training recovery coaches, 1 of whom shall be a community
914 provider who employs recovery coaches, 1 of whom shall represent a hospital who employs
915 recovery coaches, 1 of whom shall be a family member to an individual with a substance use
916 disorder, 1 of whom shall have lived experience with addiction, 1 of whom shall represent payers,
917 1 of whom shall currently be employed as a recovery coach and 1 of whom shall be a psychiatrist
918 specializing in addiction.

919 The commission shall submit its findings and recommendations, together with drafts of
920 legislation, in any, necessary to carry those recommendations into effect, with the clerks of the

921 senate and the house of representatives and the joint committee on mental health, substance use
922 and recovery not later than 1 year from the effective date of this act.

923 SECTION 88. There shall be a commission to review and make recommendations
924 regarding the standards that should apply when credentialing a peer specialist or peer specialist
925 program, including whether peer specialists should be required to register with a board.

926 The commission shall consist of: the secretary of health and human services or a designee,
927 who shall serve as chair; the commissioner of mental health or a designee; the director of Medicaid
928 or a designee; a representative from the Association for Behavioral Healthcare, Inc.; and 5 persons
929 who shall be appointed by the secretary, 1 of whom shall have expertise in training peer specialists,
930 1 of whom shall be a family member to an individual with a mental illness, 1 of whom shall have
931 lived experience with a mental illness, 1 of whom shall represent payers and 1 of whom shall
932 currently be employed as a peer specialist.

933 The commission shall submit its findings and recommendations, together with drafts of
934 legislation necessary to carry those recommendations into effect, to the clerks of the senate and
935 the house of representatives and the joint committee on mental health, substance use and recovery
936 not later than 1 year after the effective date of this act.

937 SECTION 89. There shall be a commission to review evidence based treatment for
938 individuals with a substance use disorder, mental illness or co-occurring substance use disorder
939 and mental illness. The commission shall recommend a taxonomy of licensed behavioral health
940 clinician specialties. Notwithstanding any general or special law to the contrary, the taxonomy of
941 licensed behavioral health clinician specialties may be used by insurance carriers to develop a

942 provider network. The commission shall recommend a process that may be used by carriers to
943 validate a licensed behavioral health clinician's specialty.

944 The commission shall be comprised of: the secretary of health and human services or a
945 designee, who shall serve as chair; the commissioner of insurance or a designee; the executive
946 director of the group insurance commission or a designee; and 8 persons who shall be appointed
947 by the secretary of health and human services, 1 of whom shall have expertise in the treatment of
948 individuals with a substance use disorder, 1 of whom shall have expertise in the treatment of adults
949 with a mental illness, 1 of whom shall have expertise in children's behavioral health, 1 of whom
950 shall be an emergency medicine expert with expertise in the treatment of addiction, 1 of whom
951 shall be a hospital medicine expert with expertise in the treatment of addiction, 1 of whom shall
952 represent payers, 1 of whom shall be a licensed behavioral health clinician and 1 of whom shall be
953 a family member to an individual with a substance use disorder or mental illness. The secretary
954 may appoint additional members who have expertise that will aid the commission in producing its
955 recommendations.

956 The commission shall file a report of its findings and recommendations, together with
957 drafts of legislation necessary to carry those recommendations into effect, with the clerks of the
958 senate and the house of representatives 180 days after the effective date of this act.

959 SECTION 90. The executive office of health and human services, in coordination with the
960 trial court of the commonwealth, shall convene an advisory committee of healthcare providers and
961 provider associations that shall evaluate and develop a consistent statewide standard for the
962 medical review of individuals who are involuntarily committed due to an alcohol or substance use
963 disorder pursuant to section 35 of chapter 123 of the General Laws, including, but not limited to,

964 developing: (i) a standardized form and criteria for releasing medical information for use in a
965 commitment hearing under said section 35 of said chapter 123 that is in compliance with federal
966 and state privacy requirements; and (ii) criteria and guidance to medical staff about filing a petition
967 under said section 35 of said chapter 123.

968 SECTION 91. For the purposes of this section, the following terms shall have the following
969 meanings unless the context clearly requires otherwise:

970 “Mental health acute treatment”, 24-hour medically supervised mental health services
971 provided in an inpatient facility, licensed by the department of mental health, that provides
972 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
973 milieu.

974 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
975 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
976 provided as an alternative to mental health acute treatment or following mental health acute
977 treatment, which may include intensive crisis stabilization counseling, outreach to families and
978 significant others and aftercare planning.

979 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
980 diversionary or step-down services for children and adolescents, as defined by the department of
981 early education and care, usually provided as an alternative to mental health acute treatment.

982 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
983 managed mental health diversionary or step-down services for children and adolescents, as defined
984 by the department of early education and care, usually provided as an alternative to mental health
985 acute treatment.

986 Notwithstanding any general or special law to the contrary, the center for health information and
987 analysis shall conduct a review of a mandated health benefit proposal to require coverage for: (i)
988 medically necessary mental health acute treatment that does not require preauthorization prior to
989 obtaining treatment and medical necessity shall be determined by the treating clinician in
990 consultation with the patient and noted in the patient's medical record; (ii) medically necessary
991 mental health crisis stabilization services for not more than 14 days that does not require
992 preauthorization prior to obtaining such services; provided, however, that a facility shall provide
993 the carrier both notification of admission and the initial treatment plan within 48 hours of
994 admission, utilization review procedures may be initiated on day 7 and medical necessity shall be
995 determined by the treating clinician in consultation with the patient and noted in the patient's
996 medical record; and (iii) medically necessary intensive community based acute treatment services
997 for not more than 14 days; provided, however, that a facility shall provide the carrier both
998 notification of admission and the initial treatment plan within 48 hours of admission, utilization
999 review procedures may be initiated on day 7 and medical necessity shall be determined by the
1000 treating clinician in consultation with the patient and noted in the patient's medical record.

1001 The review shall be performed by the center consistent with section 38C of chapter 3 of
1002 the General Laws. The center shall evaluate the impact of such a mandate as a requirement for all
1003 of the health plans and policies under subsection (a) of said section 38C of said chapter 3. The
1004 center shall file its review with the clerks of the senate and house of representatives, the joint
1005 committee on mental health, substance use and recovery, the joint committee on health care
1006 financing and the senate and house committees on ways and means not later July 1, 2019.

1007 SECTION 92. There shall be a special commission to review the prevalence and barriers
1008 to the provision of medication assisted treatment for substance use disorders by primary care

1009 providers. The commission shall review current practices, identify barriers to accessing medication
1010 assisted treatment through primary care, including whether certain primary care settings are more
1011 difficult than others, and recommend ways to increase access to medication assisted treatment
1012 through primary care providers and other related wrap around services.

1013 The commission shall consist of the following members or a designee: the secretary of
1014 health and human services, who shall serve as chair; the director of the bureau of substance
1015 addiction services; and 11 members appointed by the governor, 1 of whom shall be a representative
1016 of the Massachusetts Medical Society, 1 of whom shall be a representative of the Massachusetts
1017 chapter of the National Alliance on Mental Illness, 1 of whom shall be a representative of the
1018 Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a representative of the
1019 Association for Behavioral Healthcare, Inc., 1 of whom shall be a representative of the
1020 Massachusetts Association of Behavioral Health Systems, Inc., 1 of whom shall be a representative
1021 of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue
1022 Cross Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts
1023 Organization for Addiction Recovery, Inc., 1 of whom shall be a representative of community
1024 health centers, 1 of whom shall be a primary care provider with experience providing medication
1025 assisted treatment and 1 of whom shall be an expert in substance use disorder treatment.

1026 The commission shall file its report with the clerks of the senate and house of
1027 representatives, the joint committee on mental health, substance use and recovery and the house
1028 and senate committees on ways and means not later than July 1, 2019.

1029 SECTION 93. Regulations and guidelines required by section 25J½ of chapter 111 of the
1030 General Laws shall be promulgated not later than January 1, 2019.

1031 SECTION 94. Sections 19 to 23, inclusive, 27, 28, and 30 to 32, inclusive, shall take effect
1032 on January 1, 2020.

1033 SECTION 95. Section 61 shall take effect on January 1, 2019.

1034 SECTION 96. Section 62 shall take effect on January 1, 2020.

1035 SECTION 97. Sections 63 and 64 shall take effect on January 1, 2021.