

**SENATE . . . . . No. 340**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jennifer L. Flanagan*

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

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

An Act relative to the safe care of residents with active substance use disorder accessing skilled nursing facility care.

PETITION OF:

NAME:

*Jennifer L. Flanagan*

DISTRICT/ADDRESS:

*Worcester and Middlesex*

**SENATE . . . . . No. 340**

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By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 340) of Jennifer L. Flanagan for legislation relative to the safe care of residents with active substance use disorder accessing skilled nursing facility care. Elder Affairs.

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**The Commonwealth of Massachusetts**

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

An Act relative to the safe care of residents with active substance use disorder accessing skilled nursing facility care.

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

1 Chapter 111 of the Massachusetts General Laws as appearing in the 2014 official edition  
2 is hereby amended by inserting the following new sections after Section 71C:

3 “Section 71D: Minimum Safety and Quality of Service standards for Substance Use  
4 Disorder Units.

5 Section 1. Notwithstanding any general or special law to the contrary, the department, in  
6 consultation with the post-acute care substance use disorder council, shall establish criteria for  
7 special care units in long term care facilities for the purpose of meeting the care needs of patients  
8 with active substance use disorder requiring post-acute care in long term care facilities. Nothing  
9 in this legislation shall require a long term care facility to establish a substance use disorder  
10 special care unit in order to provide care to patients with active substance use disorder requiring

11 post-acute care or require long term care facilities to provide a substance abuse treatment  
12 program.

13 Section 2. In order to meet the care needs and safety of all patients residing in a long  
14 term care facility in establishing the criteria for special care units for substance use disorder, the  
15 department, in consultation with the council, shall establish and make recommendations that are  
16 evidenced-based in the following areas including, but not be limited to: counseling; assessment;  
17 visitation; room searches; medication maintenance therapy; staff training; and discharge  
18 planning. Provided further that the department, in consultation with the council, shall develop a  
19 resource guide for the purpose of assisting long term care facilities in accessing counseling  
20 services for patients and promoting a safe discharge of patients with active substance use  
21 disorder.

22 Section 3. All criteria or regulatory proposals in connection with the establishment of  
23 substance use disorder special care units shall take into consideration the fiscal impact on long  
24 term care facilities that will establish such a unit. Provided further that the department in  
25 coordination with the council shall issue a recommendation to MassHealth on funding a special  
26 medicaid nursing facility substance use disorder rate add-on.

27 Section 4. The department shall seek any waivers necessary to implement said  
28 regulations or criteria from the center for medicaid and medicare services to ensure the care and  
29 safety of patients in long term care facilities in the commonwealth.

30 Section 5. The department shall provide [quarterly/monthly] updates on the  
31 establishment of criteria for substance use disorder special care units for the purpose of meeting  
32 the care needs of patients with active substance use disorder to the house and senate committees

33 on ways and means, the joint committee on public health, the joint committee on elder affairs  
34 and the joint committee on mental health and substance abuse.

35 Section 6. The department shall promulgate the a resource guide for the purpose of  
36 assisting long term care facilities in accessing counseling services for patients and promoting a  
37 safe discharge of patients with active substance use disorder and its initial criteria to implement  
38 section 71D of chapter 111 of the General Laws not later than April 1, 2018.

39 “Section 71D½: Post-Acute Care Substance Use Disorder Council

40 Notwithstanding any general or special law to the contrary, there is hereby established  
41 within the department a post-acute care substance use disorder council for the purpose of making  
42 recommendations to the department on criteria for substance use disorder special care units in  
43 long term care facilities. The council shall be made up of at least sixteen members and shall be  
44 comprised of the following: (i) the commissioner of public health or a designee; (ii) the  
45 undersecretary of Masshealth or a designee; (iii) the state long-term care ombudsman or a  
46 designee; (iv) the executive director of the health policy commission or a designee; (v) a member  
47 of the public health council; (vi) a member appointed by the Massachusetts senior care  
48 association, (vii) a member appointed by the Leading Age; (viii) a member appointed by the  
49 association of behavior healthcare; (ix),a member appointed by Massachusetts hospital  
50 association ; (x) a Masshealth certified accountable care organization behavioral health  
51 community partner; (xi) an addiction medicine specialist appointed by the Massachusetts  
52 medical society; (xii) the medical director of a long term care facility; (xiii) a direct care worker  
53 of a long term care facility; (xiv) a long term care facility consumer; (xv) a provider from the  
54 addiction recovery community; and (xvi) a patient from the addiction recovery community.”