

HOUSE No. 1745

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day and Sean Garballey

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: | DISTRICT/ADDRESS: | DATE ADDED: |
|-----------------------|-----------------------|------------------|
| <i>James J. O'Day</i> | <i>14th Worcester</i> | <i>1/16/2019</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/17/2019</i> |

HOUSE No. 1745

By Messrs. O'Day of West Boylston and Garballey of Arlington, a petition (accompanied by bill, House, No. 1745) of James J. O'Day and Sean Garballey relative to the safe care of residents with active substance use disorder accessing skilled nursing facility care. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 General Laws, as appearing in the 2016 Official Edition, is hereby
2 amended by inserting the following new sections after Section 71C:

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

6

7 (a). Notwithstanding any general or special law to the contrary, the department, in
8 consultation with the post-acute care substance use disorder council, shall establish criteria for
9 special care units in long term care facilities for the purpose of meeting the care needs of patients
10 with active substance use disorder requiring post-acute care in long term care facilities. Nothing

11 in this legislation shall require a long term care facility to establish a substance use disorder
12 special care unit in order to provide care to patients with active substance use disorder requiring
13 post-acute care or require long term care facilities to provide a substance abuse treatment
14 program.

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

24

25 (c). All criteria or regulatory proposals in connection with the establishment of substance
26 use disorder special care units shall take into consideration the fiscal impact on long term care
27 facilities that will establish such a unit. Provided further that the department in coordination with
28 the council shall issue a recommendation to MassHealth on funding a special Medicaid nursing
29 facility substance use disorder rate add-on.

30

31 (d) The Department shall seek any waivers necessary to implement said regulations or
32 criteria from the Centers for Medicaid and Medicare Services to ensure the care and safety of
33 patients in long term care facilities in the Commonwealth.

34

35 (e) The Department shall provide quarterly updates on the establishment of criteria for
36 substance use disorder special care units for the purpose of meeting the care needs of patients
37 with active substance use disorder to the house and senate committees on ways and means, the
38 joint committee on public health, the joint committee on elder affairs and the joint committee on
39 mental health and substance abuse.

40

41 (f) The Department shall promulgate the a resource guide for the purpose of assisting
42 long term care facilities in accessing counseling services for patients and promoting a safe
43 discharge of patients with active substance use disorder and its initial criteria to implement
44 section 71D of chapter 111 of the General Laws not later than April 1, 2020.

45

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

47

48 Notwithstanding any general or special law to the contrary, there is hereby established
49 within the department a post-acute care substance use disorder council for the purpose of making
50 recommendations to the department on criteria for substance use disorder special care units in
51 long term care facilities. The council shall be made up of at least sixteen members and shall be

52 comprised of the following: (i) the commissioner of public health or a designee; (ii) the
53 undersecretary of Masshealth or a designee; (iii) the state long-term care ombudsman or a
54 designee; (iv) the executive director of the health policy commission or a designee; (v) a member
55 of the public health council; (vi) a member appointed by the Massachusetts Senior Care
56 Association, (vii) a member appointed by the Leading Age; (viii) a member appointed by the
57 Association of Behavior Healthcare; (ix),a member appointed by Massachusetts Health and
58 Hospital Association; (x) a Masshealth certified accountable care organization behavioral health
59 community partner; (xi) an addiction medicine specialist appointed by the Massachusetts
60 Medical Society; (xii) the medical director of a long term care facility; (xiii) a direct care worker
61 of a long term care facility; (xiv) a long term care facility consumer; (xv) a provider from the
62 addiction recovery community; and (xvi) a patient from the addiction recovery community.