SENATE DOCKET, NO. 676 FILED ON: 1/15/2019

SENATE . . . . . No. 546

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 improving lives by ensuring access to brain injury treatment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Harriette L. Chandler	*First Worcester*	
Kimberly N. Ferguson	*1st Worcester*	
Michael J. Barrett	*Third Middlesex*	*1/29/2019*
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*	*1/30/2019*
Hannah Kane	*11th Worcester*	*1/30/2019*
Michael O. Moore	*Second Worcester*	*1/31/2019*
Denise Provost	*27th Middlesex*	*2/1/2019*
Joan B. Lovely	*Second Essex*	*2/1/2019*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/4/2019*
Colleen M. Garry	*36th Middlesex*	*2/12/2019*
José F. Tosado	*9th Hampden*	*2/1/2019*
Dylan A. Fernandes	*Barnstable, Dukes and Nantucket*	*2/4/2019*
David M. Rogers	*24th Middlesex*	*2/15/2019*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/15/2019*
Christine P. Barber	*34th Middlesex*	*2/15/2019*
Dean A. Tran	*Worcester and Middlesex*	*2/19/2019*
Brendan P. Crighton	*Third Essex*	*2/21/2019*

David Biele	*4th Suffolk*	*3/14/2019*
Jason M. Lewis	*Fifth Middlesex*	*7/16/2019*
James B. Eldridge	*Middlesex and Worcester*	*7/16/2019*
Patrick M. O'Connor	*Plymouth and Norfolk*	*8/13/2019*
Jack Patrick Lewis	*7th Middlesex*	*8/23/2019*

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By Ms. Chandler, a petition (accompanied by bill, Senate, No. 546) of Harriette L. Chandler, Kimberly N. Ferguson, Michael J. Barrett, Anne M. Gobi and other members of the General Court for legislation relative to cognitive rehabilitation. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *502* OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act improving lives by ensuring access to brain injury treatment.

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

SECTION 1. Chapter 32A of the General Laws, as appearing in the 2016 Official edition, is hereby amended by inserting after section 17O the following section:-

Section 17P. (a) For purposes of this section, the following terms shall have the following meanings:-

"Acquired brain injury (ABI)" is any injury to the brain which occurs after birth and can be caused by infectious diseases, metabolic disorders, endocrine disorders or diminished oxygen, brain tumors, toxins, disease that affects the blood supply to the brain, stroke or a traumatic brain injury.

"Cognitive communication therapy" treats problems with communication which have an underlying cause in a cognitive deficit rather than a primary language or speech deficit.

"Cognitive rehabilitation therapy (CRT)" is a process of re-learning cognitive skills essential for daily living through the coordinated specialized, integrated therapeutic treatments which are provided in dynamic settings designed for efficient and effective re-learning following damage to brain cells or brain chemistry due to brain injury.

"Community reintegration services" provide incremental guided real-world therapeutic training to develop skills essential for an individual to participate in life: to re-enter employment; to go to school and engage in other productive activity; to safely live independently; and to participate in their community while avoiding re-hospitalization and long-term support needs.

"Functional rehabilitation therapy and remediation" is a structured approach to rehabilitation for brain disorders which emphasizes learning by doing, and focuses re-learning a specific task in a prescribed format, with maximum opportunity for repeated correct practice. Compensatory strategies are developed for those skills which are persistently impaired and individuals are trained on daily implementation. To ensure acquisition and use, focus is set on re-learning those skills essential for safe daily living in the environment in which they will be used: home and community settings.

"Medical necessity" or "medically necessary," health care services that are consistent with generally accepted principles of professional medical practice.

"Neurobehavioral therapy" is a set of medical and therapeutic assessment and treatments focused on behavioral impairments associated with brain disease or injury and the amelioration of these impairments through the development of pro-social behavior.

"Neurocognitive therapy" is treatment of disorders in which the primary clinical deficit is in cognitive function which has not been present since birth and is a decline from a previously attained level of function.

"Neurofeedback therapy" is a direct training of brain function to enhance self-regulatory capacity or an individual's ability to exert control over behavior, thoughts and feelings. It is a form of biofeedback whereby a patient can learn to control brain activity that is measured and recorded by an electroencephalogram.

"Neuropsychological testing" is a set of medical and therapeutic assessment and treatments focused on amelioration of cognitive, emotional, psychosocial and behavioral deficits caused by brain injury.

"Psychophysiological testing and treatment" is a set of medical and therapeutic assessment and treatments focused on psychophysiological disorders or physical disorders with psychological overlay.

"Post-acute residential treatment" includes integrated medical and therapeutic services, treatment, education, and skills training within a 24/7 real-world environment of care- a home and community setting. Maximum opportunity to for correct practice of skill in the context of use develops new neural pathways which ensure ongoing skill use and avoidance of re-hospitalization and long term care.

(b) Any coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for medically necessary treatment related to or as a result of an acquired brain injury. Medically necessary treatment shall include, but is not limited to, cognitive rehabilitation therapy; cognitive

communication therapy; neurocognitive therapy and rehabilitation; neurobehavioral, neurophysiological, neuropsychological and psychophysiological testing and treatment; neurofeedback therapy; functional rehabilitation therapy and remediation; community reintegration services; post-acute residential treatment services; inpatient services; outpatient and day treatment services; home and community based treatment. The benefits in this section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services. Any limitations shall be separately stated by the commission. The benefits in this section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other benefit provided by the commission.

(c) The commissioner of insurance shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review for services under this section, in consultation with the Brain Injury Association of Massachusetts.

(d) Individual practitioners and treatment facilities shall be qualified to provide acute care and post-acute care rehabilitation services through possession of the appropriate licenses, accreditation, training and experience deemed customary and routine in the trade practice.

SECTION 2. Chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after section 47II, the following section:-

Section 47JJ. (a) For purposes of this section, the following terms shall have the following meanings:-

“Acquired brain injury (ABI)” is any injury to the brain which occurs after birth and can be caused by infectious diseases, metabolic disorders, endocrine disorders or diminished oxygen,

brain tumors, toxins, disease that affects the blood supply to the brain, stroke or a traumatic brain injury.

"Cognitive communication therapy" treats problems with communication which have an underlying cause in a cognitive deficit rather than a primary language or speech deficit.

"Cognitive rehabilitation therapy (CRT)" is a process of relearning cognitive skills essential for daily living through the coordinated specialized, integrated therapeutic treatments which are provided in dynamic settings designed for efficient and effective re-learning following damage to brain cells or brain chemistry due to brain injury.

"Community reintegration services" provide incremental guided real-world therapeutic training to develop skills essential for an individual to participate in life: to re-enter employment; to go to school and engage in other productive activity; to safely live independently; and to participate in their community while avoiding re-hospitalization and long-term support needs.

"Functional rehabilitation therapy and remediation" is a structured approach to rehabilitation for brain disorders which emphasizes learning by doing, and focuses relearning a specific task in a prescribed format, with maximum opportunity for repeated correct practice. Compensatory strategies are developed for those skills which are persistently impaired and individuals are trained on daily implementation. To ensure acquisition and use, focus is set on re-learning those skills essential for safe daily living in the environment in which they will be used: home and community settings.

"Medical necessity" or "medically necessary," health care services that are consistent with generally accepted principles of professional medical practice.

"Neurobehavioral therapy" is a set of medical and therapeutic assessment and treatments focused on behavioral impairments associated with brain disease or injury and the amelioration of these impairments through the development of pro-social behavior.

"Neurocognitive therapy" is treatment of disorders in which the primary clinical deficit is in cognitive function which has not been present since birth and is a decline from a previously attained level of function.

"Neurofeedback therapy" is a direct training of brain function to enhance self-regulatory capacity or an individual's ability to exert control over behavior, thoughts and feelings. It is a form of biofeedback whereby a patient can learn to control brain activity that is measured and recorded by an electroencephalogram.

"Neuropsychological testing" is a set of medical and therapeutic assessment and treatments focused on amelioration of cognitive, emotional, psychosocial and behavioral deficits caused by brain injury.

"Psychophysiological testing and treatment" is a set of medical and therapeutic assessment and treatments focused on psychophysiological disorders or physical disorders with psychological overlay.

"Post-acute residential treatment" includes integrated medical and therapeutic services, treatment, education, and skills training within a 24/7 real-world environment of care - a home and community setting. Maximum opportunity for correct practice of skill in the context of use develops new neural pathways which ensure ongoing skill use and avoidance of re-hospitalization and long term care.

(b) The following shall provide coverage for medically necessary treatment related to or as a result of an acquired brain injury: (ii)any policy of accident and sickness insurance, as described in section 108, which provides hospital expense and surgical expense insurance and which is delivered, issued or subsequently renewed by agreement between the insurer and policyholder in the commonwealth; (ii) any blanket or general policy of insurance described in subdivision (A), (C) or (D) of section 110 which provides hospital expense and surgical expense insurance and which is delivered, issued or subsequently renewed by agreement between the insurer and the policyholder in or outside of the commonwealth; or (iii) any employees' health and welfare fund which provides hospital expense and surgical expense benefits and which is delivered, issued or renewed to any person or group of persons in the commonwealth. Medically necessary treatment shall include, but is not limited to, cognitive rehabilitation therapy; cognitive communication therapy; neurocognitive therapy and rehabilitation; neurobehavioral, neurophysiological, neuropsychological and psychophysiological testing and treatment; neurofeedback therapy; functional rehabilitation therapy and remediation; community reintegration services; post-acute residential treatment services; inpatient services; outpatient and day treatment services; home and community based treatment. The benefits in this section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services. Any limitations shall be separately stated by the insurer. The benefits in this section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other benefit provided by the insurer.

(c) The commissioner of insurance shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review

for services under this section, in consultation with the Brain Injury Association of Massachusetts.

(d) Individual practitioners and treatment facilities shall be qualified to provide acute care and post-acute care rehabilitation services through possession of the appropriate licenses, accreditation, training and experience deemed customary and routine in the trade practice.

SECTION 3. Chapter 176A of the General Law, as so appearing, is hereby amended by inserting after section 8KK the following section:-

Section 8LL. (a) For purposes of this section, the following terms shall have the following meanings:-

"Acquired brain injury (ABI)" is any injury to the brain which occurs after birth and can be caused by infectious diseases, metabolic disorders, endocrine disorders or diminished oxygen, brain tumors, toxins, disease that affects the blood supply to the brain, stroke or a traumatic brain injury.

"Cognitive communication therapy" treats problems with communication which have an underlying cause in a cognitive deficit rather than a primary language or speech deficit.

"Cognitive rehabilitation therapy (CRT)" is a process of re-learning cognitive skills essential for daily living through the coordinated specialized, integrated therapeutic treatments which are provided in dynamic settings designed for efficient and effective re-learning following damage to brain cells or brain chemistry due to brain injury.

"Community reintegration services" provide incremental guided real-world therapeutic training to develop skills essential for an individual to participate in life: to re-enter employment;

to go to school and engage in other productive activity; to safely live independently; and to participate in their community while avoiding re-hospitalization and long term support needs.

"Functional rehabilitation therapy and remediation" is a structured approach to rehabilitation for brain disorders which emphasizes learning by doing, and focuses re-learning a specific task in a prescribed format with maximum opportunity for repeated correct practice. Compensatory strategies are developed for those skills which are persistently impaired and individuals are trained on daily implementation. To ensure acquisition and use, focus is set on re-learning those skills essential for safe daily living in the environment in which they will be used: home and community settings.

"Medical necessity" or "medically necessary," health care services that are consistent with generally accepted principles of professional medical practice.

"Neurobehavioral therapy" is a set of medical and therapeutic assessment and treatments focused on behavioral impairments associated with brain disease or injury and the amelioration of these impairments through the development of pro-social behavior.

"Neurocognitive therapy" is treatment of disorders in which the primary clinical deficit is in cognitive function which has not been present since birth and is a decline from a previously attained level of function.

"Neurofeedback therapy" is a direct training of brain function to enhance self-regulatory capacity or an individual's ability to exert control over behavior, thoughts and feelings. It is a form of biofeedback whereby a patient can learn to control brain activity that is measured and recorded by an electroencephalogram.

"Neuropsychological testing" is a set of medical and therapeutic assessment and treatments focused on amelioration of cognitive, emotional, psychosocial and behavioral deficits caused by brain injury.

"Psychophysiological testing and treatment" is a set of medical and therapeutic assessment and treatments focused on psychophysiological disorders or physical disorders with psychological overlay.

"Post-acute residential treatment" includes integrated medical and therapeutic services, treatment, education, and skills training within a 24/7 real-world environment of care- a home and community setting. Maximum opportunity for correct practice of skill in the context of use develops new neural pathways which ensure ongoing skill use and avoidance of re-hospitalization and long term care.

(b) Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary treatment related to or as a result of an acquired brain injury. Medically necessary treatment shall include, but is not limited to, cognitive rehabilitation therapy; cognitive communication therapy; neurocognitive therapy and rehabilitation; neurobehavioral, neurophysiological, neuropsychological and psychophysiological testing and treatment; neurofeedback therapy; functional rehabilitation therapy and remediation; community reintegration services; post-acute residential treatment services; inpatient services; outpatient and day treatment services; home and community based treatment. The benefits in this section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services. Any limitations shall be separately stated by the insurer. The

benefits in this section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other benefit provided by the insurer.

(c) The commissioner of insurance shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review for services under this section, in consultation with the Brain Injury Association of Massachusetts.

(d) Individual practitioners and treatment facilities shall be qualified to provide acute care and post-acute care rehabilitation services through possession of the appropriate licenses, accreditation, training and experience deemed customary and routine in the trade practice.

SECTION 4. Chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after section 4KK the following section:-

Section 4LL. (a) For purposes of this section, the following terms shall have the following meanings:-

“Acquired brain injury (ABI)” is any injury to the brain which occurs after birth and can be caused by infectious diseases, metabolic disorders, endocrine disorders or diminished oxygen, brain tumors, toxins, disease that affects the blood supply to the brain, stroke or a traumatic brain injury.

“Cognitive communication therapy” treats problems with communication which have an underlying cause in a cognitive deficit rather than a primary language or speech deficit.

“Cognitive rehabilitation therapy (CRT)” is a process of relearning cognitive skills essential for daily living through the coordinated specialized, integrated therapeutic treatments

which are provided in dynamic settings designed for efficient and effective re-learning following damage to brain cells or brain chemistry due to brain injury.

"Community reintegration services" provide incremental guided real-world therapeutic training to develop skills essential for an individual to participate in life: to re-enter employment; to go to school and engage in other productive activity; to safely live independently; and to participate in their community while avoiding re-hospitalization and long term support needs.

"Functional rehabilitation therapy and remediation" is a structured approach to rehabilitation for brain disorders which emphasizes learning by doing, and focuses re-learning a specific task in a prescribed format, with maximum opportunity for repeated correct practice. Compensatory strategies are developed for those skills which are persistently impaired and individuals are trained on daily implementation. To ensure acquisition and use, focus is set on re-learning those skills essential for safe on daily living in the environment in which they will be used: home and community settings.

"Medical necessity" or "medically necessary," health care services that are consistent with generally accepted principles of professional medical practice.

"Neurobehavioral therapy" is a set of medical and therapeutic assessment and treatments focused on behavioral impairments associated with brain disease or injury and the amelioration of these impairments through the development of pro-social behavior.

"Neurocognitive therapy" is treatment of disorders in which the primary clinical deficit is in cognitive function which has not been present since birth and is a decline from a previously attained level of function.

"Neurofeedback therapy" is a direct training of brain function to enhance self-regulatory capacity or an individual's ability to exert control over behavior, thoughts and feelings. It is a form of biofeedback whereby a patient can learn to control brain activity that is measured and recorded by an electroencephalogram.

"Neuropsychological testing" is a set of medical and therapeutic assessment and treatments focused on amelioration of cognitive, emotional, psychosocial and behavioral deficits caused by brain injury;

"Psychophysiological testing and treatment" is a set of medical and therapeutic assessment and treatments focused on psychophysiological disorders or physical disorders with psychological overlay.

"Post-acute residential treatment" includes integrated medical and therapeutic services, treatment, education, and skills training within a 24/7 real-world environment of care, – a home and community setting. Maximum opportunity for correct practice of skill in the context of use develops new neural pathways which ensure ongoing skill use and avoidance of re-hospitalization and long term care.

(b) Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary treatment related to or as a result of an acquired brain injury. Medically necessary treatment shall include, but is not limited to, cognitive rehabilitation therapy; cognitive communication therapy; neurocognitive therapy and rehabilitation; neurobehavioral, neurophysiological, neuropsychological and psychophysiological testing and treatment; neurofeedback therapy; functional rehabilitation therapy and remediation; community

reintegration services; post-acute residential treatment services; inpatient services; outpatient and day treatment services; home and community based treatment. The benefits in this section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services. Any limitations shall be separately stated by the insurer. The benefits in this section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other benefit provided by the insurer.

(c) The commissioner of insurance shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review for services under this section, in consultation with the Brain Injury Association of Massachusetts.

(d) Individual practitioners and treatment facilities shall be qualified to provide acute care and post-acute care rehabilitation services through possession of the appropriate licenses, accreditation, training and experience deemed customary and routine in the trade practice.

SECTION 5. Chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after section 4CC the following section:-

Section 4DD. (a) For purposes of this section, the following terms shall have the following meanings:-

“Acquired brain injury (ABI)” is any injury to the brain which occurs after birth and can be caused by infectious diseases, metabolic disorders, endocrine disorders or diminished oxygen, brain tumors, toxins, disease that affects the blood supply to the brain, stroke or a traumatic brain injury.

"Cognitive communication therapy" treats problems with communication which have an underlying cause in a cognitive deficit rather than a primary language or speech deficit.

"Cognitive rehabilitation therapy (CRT)" is a process of relearning cognitive skills essential for daily living through the coordinated specialized, integrated therapeutic treatments which are provided in dynamic settings designed for efficient and effective re-learning following damage to brain cells or brain chemistry due to brain injury.

"Community reintegration services" provide incremental guided real-world therapeutic training to develop skills essential for an individual to participate in life: to re-enter employment; to go to school or engage in other productive activity; to safely live independently; and to participate in their community while avoiding re-hospitalization and long term support needs.

"Functional rehabilitation therapy and remediation" is a structured approach to rehabilitation for brain disorders which emphasizes learning by doing, and focuses re-learning a specific task in a prescribed format, with maximum opportunity for repeated correct practice. Compensatory strategies are developed for those skills which are persistently impaired and individuals are trained on daily implementation. To ensure acquisition and use, focus is set on re-learning those skills essential for safe daily living in the environment in which they will be used: home and community settings.

"Medical necessity" or "medically necessary," health care services that are consistent with generally accepted principles of professional medical practice.

"Neurobehavioral therapy" is a set of medical and therapeutic assessment and treatments focused on behavioral impairments associated with brain disease or injury and the amelioration of these impairments through the development of pro-social behavior.

"Neurocognitive therapy" is treatment of disorders in which the primary clinical deficit is in cognitive function which has not been present since birth and is a decline from a previously attained level of function.

"Neurofeedback therapy" is a direct training of brain function to enhance self-regulatory capacity or an individual's ability to exert control over behavior, thoughts and feelings. It is a form of biofeedback whereby a patient can learn to control brain activity that is measured and recorded by an electroencephalogram.

"Neuropsychological testing" is a set of medical and therapeutic assessment and treatments focused on amelioration of cognitive, emotional, psychosocial and behavioral deficits caused by brain injury.

"Psychophysiological testing and treatment" is a set of medical and therapeutic assessment and treatments focused on psychophysiological disorders or physical disorders with psychological overlay.

"Post-acute residential treatment" includes integrated medical and therapeutic services, treatment, education, and skills training within a 24/7 real-world environment of care– a home and community setting. Maximum opportunity for correct practice of skill in the context of use develops new neural pathways which ensure ongoing skill use and avoidance of re-hospitalization and long term care.

(b) Any individual or group health maintenance contract shall provide coverage for medically necessary treatment related to or as a result of an acquired brain injury. Medically necessary treatment shall include, but is not limited to, cognitive rehabilitation therapy; cognitive communication therapy; neurocognitive therapy and rehabilitation; neurobehavioral,

neurophysiological, neuropsychological and psychophysiological testing and treatment; neurofeedback therapy; functional rehabilitation therapy and remediation; community reintegration services; post-acute residential treatment services; inpatient services; outpatient and day treatment services; home and community based treatment. The benefits in this section shall not include any lifetime limitation or unreasonable annual limitation of the number of days or sessions of treatment services. Any limitations shall be separately stated by the insurer. The benefits in this section shall not be subject to any greater deductible, coinsurance, copayments, or out-of-pocket limits than any other benefit provided by the insurer.

(c) The commissioner of insurance shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review for services under this section, in consultation with the Brain Injury Association of Massachusetts.

(d) Individual practitioners and treatment facilities shall be qualified to provide acute care and post-acute care rehabilitation services through possession of the appropriate licenses, accreditation, training and experience deemed customary and routine in the trade practice.