

**HOUSE . . . . . No. 2122**

**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>2/10/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/10/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/26/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>3/5/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/5/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/8/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/15/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/15/2021</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>3/18/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>4/6/2021</i>

**HOUSE . . . . . No. 2122**

By Messrs. O'Day of West Boylston and Garballey of Arlington, a petition (accompanied by bill, House, No. 2122) of James J. O'Day, Sean Garballey and others 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-Second General Court  
(2021-2022)**

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 2018 Official Edition, is hereby  
2 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 (a). 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 (b). In order to meet the care needs and safety of all patients residing in a long term care  
14 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 (c). All criteria or regulatory proposals in connection with the establishment of substance  
23 use disorder special care units shall take into consideration the fiscal impact on long term care  
24 facilities that will establish such a unit. Provided further that the department in coordination with  
25 the council shall issue a recommendation to MassHealth on funding a special Medicaid nursing  
26 facility substance use disorder rate add-on.

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

30 (e) The Department shall provide quarterly updates on the establishment of criteria for  
31 substance use disorder special care units for the purpose of meeting the care needs of patients  
32 with active substance use disorder to the house and senate committees on ways and means, the

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

35 (f) The Department shall promulgate a resource guide for the purpose of assisting long  
36 term care facilities in accessing counseling services for patients and promoting a safe discharge  
37 of patients with active substance use disorder and its initial criteria to implement section 71D of  
38 chapter 111 of the General Laws not later than April 2022.

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 Health and  
50 Hospital 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.