HOUSE DOCKET, NO. 3880 FILED ON: 2/19/2021

HOUSE . . . . . No. 2084

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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 to create a thriving public health response for adolescents.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Marjorie C. Decker	*25th Middlesex*	*2/19/2021*
Christina A. Minicucci	*14th Essex*	*2/26/2021*
Nika C. Elugardo	*15th Suffolk*	*2/26/2021*
Marcos A. Devers	*16th Essex*	*3/8/2021*
Lindsay N. Sabadosa	*1st Hampshire*	*3/9/2021*
Tram T. Nguyen	*18th Essex*	*3/10/2021*
Susannah M. Whipps	*2nd Franklin*	*3/15/2021*
Mathew J. Muratore	*1st Plymouth*	*3/15/2021*
Sean Garballey	*23rd Middlesex*	*3/30/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*3/31/2021*
Michelle M. DuBois	*10th Plymouth*	*4/1/2021*
Sal N. DiDomenico	*Middlesex and Suffolk*	*4/21/2021*
Michelle L. Ciccolo	*15th Middlesex*	*5/10/2021*
Natalie M. Higgins	*4th Worcester*	*9/3/2021*

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HOUSE . . . . . No. 2084

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 2084) of Marjorie C. Decker and others for legislation to establish an advisory council on school based behavioral health to advise on issues of behavioral health promotion, prevention, and intervention services in school districts. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to create a thriving public health response for adolescents.

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 6A of the General Laws is hereby amended by inserting after section 16BB the following 2 sections:-

Section 16 CC. (a) There shall be an advisory council on school based behavioral health. Hereinafter "council" within, but not subject to control of, the executive office of health and human services. The council shall advise the governor, the general court, the secretary of education and the secretary of health and human services on the implementation of a multi-tiered system of behavioral health promotion, prevention, and intervention services in each school district.

(b) The council shall be comprised of:

(i) the following 10 members, who shall serve ex officio: the commissioner of mental health who shall serve as co-chair, the commissioner of education who shall serve as co-chair,

the commissioner of children and families, the commissioner of youth services, the commissioner of developmental services, the commissioner of public health, the commissioner of elementary and secondary education, the commissioner of early education and care, the commissioner of insurance, the director of Medicaid, and the child advocate, or their designees;

(ii) additional persons appointed by the secretary of health and human services from the aforementioned agencies and from the executive office of health and human services; and

(iii) 1 person from each of the following organizations appointed by the secretary of health and human services from a list of nominees submitted by each organization:-

MA Association of School Superintendents- a superintendent

MA Association of School Committees- a school committee member

MA Secondary School Administrators Association-

MA Elementary School Principals Association

MA Federation of Teachers and MA Teachers Association – joint appointment?

MA Organization of Educational Collaboratives

MA School Counselor Association

MA School Nurse Organization

MA School Based Health Alliance

Massachusetts School Psychological Association, Inc;

The Massachusetts chapter of the American Academy of Pediatrics;

New England Council of Child and Adolescent Psychiatry, Inc.;

The Massachusetts chapter of the National Association of Social Workers;

The Children's Mental Health Campaign,

Children's League of Massachusetts, Inc

The Association for Behavioral Health,

Massachusetts Association for Mental Health, Inc.,

Blue Cross and Blue Shield of Massachusetts, Inc,

Massachusetts Association of Health Plans, Inc.

Parent/Professional Advocacy League, Inc;

Federation for Children with Special Needs

and (v) a representative of a Massachusetts recovery high school and 2 persons under the age of 22 who have received behavioral health services

The members of the council shall represent the culturally and linguistically diverse populations of children in the Commonwealth.

(c) The terms for nongovernmental members shall be 3 years. Upon the expiration of a term, a nongovernmental member shall serve until a successor has been appointed; provided, however, that if a vacancy exists prior to the expiration of a term, another nongovernmental member shall be appointed to complete the unexpired term.

(d) The Secretary of Health and Human Services may appoint other state agency staff or community members on a permanent or ad hoc basis as necessary to fulfill the purpose of the council.

(e) The council shall recommend a timeline for statewide implementation of a multi-tiered system of behavioral health supports for students and bi-annually develop a plan with benchmarks to guide and measure progress toward statewide implementation.

The biannual plan shall at minimum address the following;

- eliminating systemic inequities & disparities in access to school-based behavioral health;
- school behavioral health staffing targets across disciplines,
- capacity building support including professional development and technical assistance for delivery of culturally relevant models of behavioral health promotion, prevention and intervention services and supports,
- engagement and support of caregivers
- formal collaboration and partnerships between schools and community based organizations and state agencies
- ongoing data collection and assessment
- state financing of school based behavioral health
- universal and targeted behavioral health screening

(f) The council shall develop guidance documents to assist schools in conceptualizing and operationalizing behavioral promotion, prevention and intervention services and supports. The task force shall issue guidance for implementing universal and targeted behavioral health screening models in schools not later than July 31, 2021.

(g) The council shall establish a permanent data subcommittee. The data subcommittee shall be chaired by the Child Advocate or her designee and include representatives of each state agency appointed to the Task Force, other members of the council may serve on the data subcommittee as they are able. The data subcommittee shall compile a cross agency data set for the purpose of enabling the council to make data driven decisions about council priorities and recommendations including recommended resource allocations. Said data set will focus on the scope and nature of the behavioral health needs of students, the outcomes of behavioral health promotion, prevention and intervention services and supports, gaps and disparities in access to services and emerging patterns and trends in student behavioral health. The subcommittee shall establish a format and schedule for regularly reporting said data to the Administration, Legislature and the Advisory Committee provided that at minimum reporting shall occur annually.

(h) The council may establish additional subcommittees and invite participation in subcommittees by individuals and organizations who are not council members as needed to accomplish the goals of the council.

(i) The council shall make legislative and regulatory recommendations related to statewide implementation of a multi-tiered system of behavioral health promotion prevention and intervention services in each school district.

(j) The council shall submit an annual report, with legislative and regulatory recommendations, annually on October 1st to the governor, the secretary of health and human services, the commissioner of early education and care, the commissioner of elementary and secondary education, the child advocate and the general court, by filing them with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse and recovery, the joint committee on education and the senate and the house committees on ways and means.

(k) The meetings of the council shall comply with chapter 30A, except that the council, through its by-laws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session. (g) The members of the council shall not receive a salary or per diem allowance for serving as members of the council.

Section 16 DD (a) Subject to appropriation, the executive office of health and human services in consultation with the executive office of education shall develop and implement a statewide, regionalized program of consultation, coaching, and technical assistance targeted to assisting in implementing a multi-tiered system of behavioral health support in each school district.

(b) The program shall have a central base of operations with regional offices. The program will provide web based, in person and remote supports to administrators, teachers and school behavioral health staff on a full range of issues related to planning, administering and managing behavioral health promotion, prevention and intervention services and supports including engagement of families with a focus on ensuring equitable, culturally relevant and developmentally appropriate responses, including access to service.

SECTION 2. Chapter 69 of the General Laws is hereby amended by striking Section 8A and inserting in place thereof the following new Section 8A. (a) Each school committee and commonwealth charter school board of trustees shall ensure that every school under its jurisdiction has a written medical and behavioral health emergency response plan to reduce the incidence of life-threatening emergencies and behavioral health crises to promote efficient and appropriate responses to such emergencies. The plan shall be in addition to the multi-hazard evacuation plan required under section 363 of chapter 159 of the acts of 2000.

Each plan shall include:

(1) a method for establishing a rapid communication system linking all parts of the school campus, including outdoor facilities and practice fields, to the emergency medical and behavioral health mobile crisis services systems and protocols to clarify when the emergency medical services and behavioral health mobile crisis system and other emergency contact people shall be called;

(2) a determination of emergency medical service and behavioral health mobile crisis response time to any location on campus;

(3) a list of relevant contacts and telephone numbers with a protocol indicating when each person shall be called, including names of professionals to help with post-emergency support;

(4) a method to efficiently direct emergency medical services and behavioral health mobile crisis personnel to any location on campus, including to the location of available rescue equipment;

(4a) protocols for informing parents and reporting to the Department of Elementary and Secondary Education when police or emergency medical technicians or other non behavioral health personnel are contacted to respond to a behavioral health crisis.

(5) safety precautions to prevent injuries in classrooms and on the facilities;

(6) a method of providing access to training in cardiopulmonary resuscitation and first aid for teachers, athletic coaches, trainers and other school staff, which may include training high school students in cardiopulmonary resuscitation; and

(7) in the event the school possesses an automated external defibrillator, the location of the device, whether or not its location is either fixed or portable and those personnel who are trained in its use.

Plans shall be developed in consultation with the school principal, school nurse, school behavioral health counselor or social worker, school athletic director, team physicians, coaches, trainers and local police, fire, mobile crisis team, and emergency personnel, as appropriate. Schools shall practice the response sequence at the beginning of each school year and periodically throughout the year and evaluate and modify the plan as necessary. School officials shall review the response sequence with local fire and police officials at least 1 time each year and shall conduct periodic walk-throughs of school campuses. Plans shall be submitted once every 3 years to the department of elementary and secondary education, the local police department and the local fire department on or before September 1. Plans shall be updated in the event of new construction or physical changes to the school campus as determined by the local police department.

Included in each initial and subsequent filing of a medical emergency response plan, each school district shall report on the availability of automated external defibrillators in each school within the district, including, the total amount available in each school, the location of each within the school, whether or not the device is in a fixed location or is portable, those personnel or volunteers who are trained in its use, those personnel with access to the device during regular school hours and after and the total estimated amount of automated external defibrillators necessary to ensure campus-wide access during school hours, after-school activities and public events.

(b) The department of elementary and secondary education, in consultation with the department of public health, shall develop a cost-neutral model medical emergency and behavioral health crisis response plan in order to promote best practices. Said model plan shall be made available to school committees and commonwealth charter school boards. In developing the model plan, the department shall refer to research prepared by the American Heart Association, the American Academy of Pediatrics, MassHealth and other relevant organizations that identify the essential components of a medical and behavioral health emergency response plan. The department shall biennially update the model plan and post the plan on its website.

SECTION 3. Chapter 15D of the General Laws is hereby amended by inserting, after section 12, the following section: Section 12A. Pursuant to clause (t) of section 2, the department shall develop performance standards for prohibiting or significantly limiting the use of suspension and expulsion in all licensed early education and care programs. The standards shall ensure that expulsion or suspension is only used in extraordinary circumstances where there is a documented assessment that the child’s behavior poses a serious ongoing threat to the safety of

others that cannot be reduced or eliminated by the provision of reasonable program modifications.

The standards shall include, but not be limited to:

(1) benchmarks and goals for supporting children's social, emotional and behavioral development to include reducing the use of exclusion as a disciplinary tool and for eliminating disparities in the use of suspension and expulsion, and facilitating referrals for children with intensive needs; (2) engagement steps to be taken with the child and parent or guardian prior to suspension or expulsion;(3) requirements for communicating disciplinary policies, including suspension and expulsion policies, to staff, families and community partners; (4) pathways for programs to access technical assistance to support ongoing development of staff and teacher skills for supporting children's social, emotional and behavioral development, reducing disparities and limiting the use of suspension and expulsion; and (5) requirements for assessing and documenting a serious ongoing threat to the safety of others (6) infant and toddler program reporting requirements.

SECTION 4. Chapter 111 of the General Laws is hereby amended by inserting after section 51½ the following section:-

Section 51¾. The department, in consultation with the department of mental health, shall promulgate regulations requiring all acute-care hospitals licensed under section 51G to provide or arrange for qualified behavioral health clinicians, during all operating hours of an emergency department or a satellite emergency facility as defined in section 51½, to evaluate and stabilize a person admitted with a behavioral health presentation to the department, or to a facility and to refer such person for appropriate treatment or inpatient admission.

The regulations shall permit evaluation via telemedicine, electronic or telephonic consultation, as deemed appropriate by the department.

The regulations shall be promulgated after consultation with the department of mental health and the division of medical assistance and shall include, but not be limited to, requirements that individuals under the age of 22 receive an expedited evaluation and stabilization process.

SECTION 5. Notwithstanding any general or special law to the contrary, the so called expedited psychiatric inpatient admissions protocol, developed by the executive office of health and human services, department of mental health, department of public health, division of medical assistance and division of insurance, shall: (i) require, for patients under the age of 22, notification to the department of mental health to expedite placement in or admission to an appropriate treatment program or facility within 48 hours of boarding or within 48 hours of being assessed to need acute psychiatric treatment and having been determined by a licensed health care provider to be medically stable without needing urgent medical assessment or hospitalization for a physical health condition; (ii) include, within the escalation protocol, patients who initially had a primary medical diagnosis or primary presenting problem requiring treatment on a medical-surgical floor, who have been subsequently medically cleared and are boarding on a medical-surgical floor for an inpatient psychiatric placement; and (iii) include, for patients under the age of 22, notification upon discharge from the emergency department, satellite emergency facility or medical-surgical floor to the patient's primary care physician, if known.

SECTION 6. Notwithstanding any general or special law, rule or regulation to the contrary, the Office of Medicaid shall develop a streamlined process to enhance the current community-based behavioral health screening process and direct Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or the Medicaid primary care clinician plans to allow admission to inpatient behavioral health services from a community-based setting where a patient under the age of 18 is presenting with a behavioral health condition that requires such admission but does not require a medical screening examination in an emergency department. Said process shall be developed after consultation with a working group that includes representatives from the Association for Behavioral Healthcare, Massachusetts College of Emergency Physicians, Massachusetts League of Community Health Centers, Massachusetts Psychiatric Society, Massachusetts Health and Hospital Association, National Alliance on Mental Illness, the Massachusetts Association of Behavioral Health Systems, and all applicable carriers that cover such services. The Office of Medicaid shall file a report on the status of the working group, progress of the streamlined process, and, if necessary, legislative recommendations with the clerks of the senate and house of representatives, the house and senate chairs of the joint committee on mental health, substance use and recovery, the joint committee on public health, the joint committee on health care financing and the house and senate committees on ways and means no later than six months after the first meeting of the working group. A report of the final implemented streamlined process shall be filed with said committees no later than July 31, 2021.

SECTION 7. Chapter 15D of the General Laws is hereby amended in Section 4A subsection (c) by inserting the following:

On or before January 1, 2022 the Department shall develop performance specification standards for prohibiting or severely limiting the use of suspension and expulsion for use only as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be reduced or eliminated by the provision of reasonable program modifications. The standards shall at minimum include: 1) benchmarks and goals for supporting children's social emotional and behavioral development to include reducing the use of exclusion as a disciplinary tool and for eliminating disparities in the use of suspension and expulsion; 2) engagement steps to be taken with the child and parent or guardian prior to suspension or expulsion; 3) requirements for communicating discipline policies including suspension and expulsion policies to staff, families and community partners; 4) specifications for achieving performance standards which, reward and incentivize programs to access technical assistance to support ongoing development of staff and teacher skills for supporting children's social emotional and behavioral development, reducing disparities and limiting the use of suspension and expulsion.

SECTION 8. Section 32 of M.G.L. c.119 is hereby amended by inserting after the words "Social Security Act" the following: "and assessed for behavioral health symptoms and sequelae, including those related to the precipitating factors of their entry into care."

SECTION 9. Section 3 of Chapter 71 is hereby amended by striking the first sentence and 2 inserting in place the following:-

"Physical and mental health education shall be taught as required subjects in all grades for all students in the public schools for the purpose of promoting the physical and mental well-being of such students. Mental health education programs shall recognize multiple dimensions of health by including mental health, and the relationship of physical health and mental health, so as

to enhance student understanding, attitudes and behaviors that promote health, well-being and human dignity."

Section 1 of Chapter 76 is hereby amended by striking the last sentence and inserting in place the following:-

"For the purposes of this section, school committees shall approve a private school when satisfied that the instruction in all the studies required by law equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town, in addition to the incorporation of a mental health education program into the curriculum in accordance with the provisions in section three of chapter seventy-one; but shall not withhold such approval on account of religious teaching, and, in order to protect children from the hazards of traffic and promote their safety, cities and towns may appropriate money for conveying pupils to and from any schools approved under this section."

SECTION 10. Chapter 118E of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting after section 10H the following new section:-

Section 10H1/2. For children under the age of 18, the division shall cover treatment, diagnostic evaluations, assessment, testing and supervisory services provided by licensed psychologists.

SECTION 11. Section 16 of chapter 6A, as appearing in the 2018 Official edition of the General Laws, is hereby amended by adding, at the end thereof, the following paragraph:-

The secretary of the executive office of health and human services shall ensure that network hospitals are compensated at their full negotiated rate for behavioral health services

provided to MassHealth patients under the age of 18 who are also clients of agencies within the executive office of health and human services and for whom no appropriate alternative placement is available, provided however, that such compensation shall only be provided if the hospital can document that it has engaged in good faith efforts to place said clients in an appropriate alternative setting.

SECTION 12. Chapter 118E of the General Laws, as so appearing, is hereby amended by adding after Section 16D the following section:-

Section 16E. (1) Notwithstanding any other law, there is hereby established a program of comprehensive health coverage for children and young adults under the age of 21 who are residents of the Commonwealth, as defined under section 8 of this chapter, who are not otherwise eligible for comprehensive benefits under Title XIX or XXI of the Social Security Act or under the demonstration pursuant to Section 9A of this chapter solely due to their immigration status. Children and young adults shall be eligible to receive comprehensive MassHealth benefits equivalent to the benefits available to individuals of like age and income under categorical and financial eligibility requirements established by the Executive Office pursuant to said Title XIX and Title XXI.

(2) The Executive Office shall maximize federal financial participation for the benefits provided under this section, however benefits under this section shall not be conditioned on the availability of federal financial participation.

SECTION 13. There shall be, subject to appropriation, a pilot program administered by the department of higher education, in consultation with the department of mental health, to encourage a culturally, ethnically and linguistically diverse behavioral health workforce. The

program shall be a partnership between colleges and behavioral health providers in the community and may be funded through the behavioral health outreach, access and support trust fund established under section 2GGGGG of chapter 29 of the General Laws.

Participants shall attend graduate-level classes to receive academic credits toward a master's degree in the field of behavioral health and receive a clinical placement by the college providing the graduate-level classes. The college shall prioritize placements with community providers serving high-need populations, including children, veterans, clients of the department of children and families, incarcerated or formerly incarcerated individuals, including justice-involved youth and emerging adults, individuals with post-traumatic stress disorder, aging adults, school-aged youth and individuals with a co-morbidity. Not more than 12 months after the completion of the pilot , the department of higher education shall file a report with the clerks of the senate and house of representatives, the joint committee on higher education and the joint committee on mental health, substance use and recovery that provides: (i) a description of the community partners participating in the pilot; (ii) a summary of post-program employment or continuing education plans of participating students; and (iii) any recommendations on ways to further encourage a culturally, ethnically and linguistically diverse behavioral health workforce. The report shall be written in non-technical, readily understandable language and shall be made available to the public by posting the report on the department of higher education's website.

SECTION 14. Chapter 118E of the general laws is amended by adding at the end thereof, the following new section: Section 79. MassHealth shall make Graduate Medical Education payments for primary care, behavioral health, and other physician shortage professions residency training. Eligible recipients shall include community health centers and hospitals licensed in the Commonwealth.

SECTION 15. Chapter 111 of the General Laws is hereby amended by inserting after section

237 the following section:-

Section 238. (a) For the purposes of this section, the following words shall have the following meanings unless the context or subject matter clearly requires otherwise:-

“Integrated Care”, full collaboration in merged or transformed practices offering behavioral and physical health services within the same shared practice space in the same facility, where the entity-

(a) Provides services in a shared spare that ensures services will be available and accessible promptly and in a manner which preserves human dignity and assures continuity of care;

(b) Ensures communication among the integrated care team that is consistent and team-based;

(c) Ensures shared decision making between behavioral health providers, primary care providers and other service providers involved in promoting the health and wellbeing of the client

(d) Provides evidence-based services in a mode of service delivery appropriate for the target population;

(e) Employs staff who are multidisciplinary and culturally and linguistically competent;

(f) Provides integrated services related to screening, diagnosis, and treatment of mental illness and substance use disorder and co-occurring primary care conditions and chronic diseases; and

(g) Provides targeted case management including services to assist individuals gaining access to needed medical, social, educational and other services and applying for income security, housing, employment and other benefits to which they may be entitled

"Integrated Care Team", a team that includes, but is not limited to:

(a) Allopathic or osteopathic medical doctors, such as a primary care physician and a psychiatrist

(b) Licensed clinical behavioral health professionals, such as psychologists or social workers;

(c) A case manager; and

(d) Other members such as psychiatric advanced practice nurses, physician assistants, peer-support specialists, recovery coaches or other allied health professionals, such as licensed mental health counselors.

"Eligible Entities", any acute care hospital licensed under section 51G, community health center, or other relevant institution who has the capacity to deliver the required services and is licensed by the Department.

(b) The department, in consultation with the department of mental health and the office of health equity, shall establish a primary and behavioral health care integration grant program. The commissioner may award grants and cooperative agreements to eligible entities to expend funds

for improvements in integrated settings with integrated practices. The grant program shall be designed to lead to full collaboration between primary and behavioral health in an integrated care model that ensures that:

1. A multidisciplinary group of healthcare delivery professionals provide care in a coordinated fashion and are empowered to work at the top of their professional training

2. The Collaborative Care team is responsible for the provision of care and health outcomes of a defined population of patients

3. The team uses systematic, disease-specific, patient-reported outcome measures to drive clinical decision-making

4. The team adapts scientifically proven treatments within an individual clinical context to achieve improved health outcomes

(c) The department shall establish requirements for eligible entities and may establish other reasonable classifications for grantees as it finds necessary and appropriate, taking into consideration the needs of children in the Commonwealth, the most applicable evidence-based research and other factors related to the Commonwealth's behavioral health care delivery system. The department shall promulgate such rules and regulations as it deems necessary to implement the provisions of this section including rules and regulations establishing the licensure and professional requirements for certifying integrated care teams and their associated entities, establishing fees for certifying and governing the practice and employment of integrated care teams to promote the public health, safety and welfare.

(d) Subject to appropriation the maximum annual grant amount under this section shall be $100,000, provided further that not more than 10 percent may be allocated to administrative functions, and the remaining amounts shall be allocated to the health facilities to improve their ability to deliver integrated care. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in subsequent fiscal years.

(e) A grant under this section shall be for a period of 3 years.

(f) Any entity receiving a grant under this section shall submit an annual report to the department that includes:

1. Summary of the following implementation outcomes:-

a. Individual patient experience with integrated behavioral health care

b. Aggregate patient experience for the panel of patients who receive health care.

c. Aggregate patient experience (for a particular population denominator(s) defined by the practice).

d. Provider experience with integrated behavioral health care

2. The progress in reducing barriers to integrated care, including regulatory and billing barriers

3. A description of functional outcomes of patients, including, but not limited to: –

a. Individuals participating in supportive housing or independent living programs

b. School performance and reduced school absences

c. Attendance at scheduled medical and mental health appointments

d. Compliance with treatment plans

e. Participation in learning opportunities at school and extracurricular activities

SECTION 16. Subsection (i) of said section 47B of said chapter 175 is hereby amended by inserting after the second paragraph, as so appearing, the following paragraph:-

An insurer shall not deny coverage for any behavioral health service or any primary care office visit solely because the services were delivered on the same day and in the same practice or facility.

SECTION 17. Subsection (i) of said section 8A of said chapter 176A is hereby amended by inserting after the second paragraph, as so appearing, the following paragraph:-

A non-profit hospital service corporation shall not deny coverage for any behavioral health service or any primary care office visit solely because the services were delivered on the same day in the same practice or facility.

SECTION 18. Subsection (i) of said section 4M of said chapter 176G is hereby amended by inserting after the second paragraph, as so appearing, the following paragraph:-

A health maintenance organization shall not deny coverage for any behavioral health service or any primary care office visit solely because the services were delivered on the same day in the same practice or facility.

SECTION 19. Chapter 18C of the General Laws, as appearing, is hereby amended in section 1 by inserting following new definition:-

“Mental health disorder”, any mental, behavioral or emotional disorder described in the most recent edition of the Diagnostic and Statistical Manual or DSM, which substantially interferes with or substantially limits the functioning and social interactions of a child or adolescent.

SECTION 20. Chapter 18C of the General Laws, as so appearing, is hereby further amended in section 2 by striking out, in line 14, the word “and”.

SECTION 21. Chapter 18C of the General Laws, as so appearing, is hereby further amended in section 2 by striking out subsection (d) and inserting in place thereof the following subsections:-

(d) advise the public and those at the highest levels of state government about how the commonwealth may improve its services to and for children and their families; and

(e) oversee the children’s mental health ombuds program, as described in sections 14, 15 and 16 of said chapter 18C.

SECTION 22. Chapter 18C of the General Laws, as so appearing, is hereby further amended by inserting after section 14 the following sections:-

Section 15. (a) The child advocate, subject to appropriation or the receipt of federal funds, shall establish a statewide children’s mental health ombuds program for the purpose of advocating on behalf of children with mental health disorders, identifying barriers to effective mental health treatment and proposed solutions; monitoring and ensuring compliance with

relevant statutes, regulations, rules and policies pertaining to children's behavioral health services; and of receiving, investigating, resolving through administrative action, as described in subsection (c), complaints filed by a child or by individuals legally authorized to act on behalf of a child or children or by any individual, organization or government agency that has reason to believe that any entity regulated by the commonwealth or government agency has engaged in activities, practices or omissions that constitute violations of applicable court orders, statutes or regulations or that may have an adverse effect upon the health, safety, welfare or rights of children.

(b) The child advocate shall designate a staff person to act as the director of the ombuds program who shall be a person qualified by training and experience to perform the duties of the office. The ombuds shall not be subject to the provisions of sections 8 or 9 of chapter 30. The child advocate, in consultation with the secretary of executive office of health and human services, director of the office of medicaid, commissioner of mental health and secretary of the department of education, shall establish policies and procedures as needed to facilitate compliance with the provisions of the ombuds program. These policies and procedures shall include procedures for filing complaints, investigating complaints, and taking action to implement resolutions to these complaints, including the use of state agency enforcement authority to resolve complaints as recommended by the ombuds.

(c) Investigations conducted by the ombuds shall be subject to sections 7, 8 and 12 of this chapter.

Section 16. To ensure the goals of the ombuds program as described in section 14 are met:

(a) the ombuds shall monitor the development and implementation of federal, state and local statutes, regulations and policies regarding services and supports for children with mental health disorders, including the education of these children;

(b) the ombuds shall maintain complete records of complaints received, the actions taken, findings, outcomes, and recommendations in response to such complaints and other actions, including those taken by the government and private agency responses to serious complaints;

(c) each quarter, the ombuds shall send a report to each government agency about which a complaint or complaints were received by the ombuds during the relevant period, listing the complaints involving that agency which were received during the past quarter, and shall meet regularly with the child advocate, the secretary of executive office of health and human services, director of the office of medicaid, the commissioner of mental health and the secretary of the department of education, and shall report on any system-wide problems that the ombuds has identified, and potential solutions; and

(d) the child advocate shall report annually, within 120 days of the end of the fiscal year, to the governor, the speaker of the house, the senate president, the joint committee on mental health, substance use and recovery, the joint committee on children, families and persons with disabilities, the joint committee on education, and the house and senate clerks on the activities of the children's mental health ombuds program, including complaints that are relevant to the ombuds, an analysis of patterns in complaints made through the ombuds, and requests for assistance made through the office of patient protection, the department of children and families ombuds and the department of mental health investigations department, and shall make recommendations for legislation, policy or programmatic changes related to the protection of the

rights of children with mental health disorders. These reports shall be publicly available and published on the office of the child advocate website.

Section 17. The child advocate shall promulgate regulations and establish policies and procedures as necessary for performing the required activities of the children's mental health ombuds program.

SECTION 23. Chapter 118E of the General Laws, as appearing, is hereby amended by inserting after section 10L the following new section:-

Section 10M. The division shall cover treatment, diagnostic evaluations, assessment, testing and supervisory services provided by licensed psychologists who provide services to children and adolescents.

SECTION 24. Section 16 of chapter 6A, as appearing, is amended by adding, at the end thereof, the following new paragraph:

"And provided further that the secretary of the executive office of health and human services shall ensure that network hospitals are compensated at their full negotiated rate for behavioral health services provided to MassHealth patients who are the age of eighteen or under and who are also clients of agencies within the executive office of health and human services and for whom no appropriate alternative placement is available. Provided however, such compensation shall only be provided if the hospital can document that it has engaged in good faith efforts to place said clients in any appropriate alternative setting."

SECTION 25. Section 47 of Chapter 118E is hereby amended by designating the current section as subsection (a) by inserting "(a)" at the beginning of the current section, and then by inserting the following subsections:-

(b) Right to independent medical review. Any recipient of medical assistance denied authorization or approval for a covered service by division, its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan, on the basis of medical necessity shall have the right to pursue an independent medical external review through the office of patient protection, as described in Section 14 of Chapter 176O of the General Laws. Such review shall be available to the recipient of medical assistance upon the completion of any internal review and shall not interfere with the recipient's right to a fair hearing. The cost of such review shall be borne by the health plan or the division. Upon completion of the independent medical review through the office of patient protection, the recipient of medical assistance shall have 30 days to submit a request for a fair hearing. Notwithstanding any general or special law to the contrary, the office of Medicaid and the office of patient protection shall promulgate regulations to effectuate this section.

(c) Notwithstanding any general or special law to the contrary, the office of Medicaid shall promulgate regulations that require the division, its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan, to maintain documentation of all requests for benefits or services, whether the request is submitted by or on behalf of the intended recipient of those benefits or services. Any request that is not fulfilled in full shall be considered a denial, and must result in the prompt written

notification to the recipient through electronic means if possible. For urgent requests for behavioral health services, such decisions and notifications must be provided within 4 hours of the request for the service. Such notification must include a description of the requested service, the response by the entity, and the recipient's due process and appeal rights. All such entities shall accept requests for authorized representatives or for appeals by electronic means.

SECTION 26. Chapter 176O, is hereby amended by striking out section 19 and inserting in place thereof the following section:-

Section 19. Display of information on enrollment cards of carrier

(a) A carrier shall state on its enrollment cards prominently on the front of its enrollment cards the following:

(1) The name of the carrier and the name of the specific plan the member is enrolled in.

(2) A toll-free telephone number for the member services department of the carrier.

(3) The business name and telephone number of any third party that administers behavioral health benefits or prescription drug benefits.

(4) The amount of any copayment under the plan for preventive care visits, office visits and emergency department visits.

(5) The amount of any deductible under the plan.

(6) Any information that identifies the insured's plan by individual or group number.

(7) The statement "This health plan is fully-insured, subject to all the laws of the Commonwealth of Massachusetts"

(8) Any other information required by commissioner of insurance.

SECTION 27. Section thirteen of Chapter 176O is hereby amended as follows:

By striking the following language in subsection (a):

"(5) a procedure to accept grievances by telephone, in person, by mail, or by electronic means"

and adding the following language in place thereof

"(5) a procedure to accept grievances by telephone, in person, by mail, and by electronic means";

By striking the following language in subsection (a):

"(4) a written acknowledgement of the receipt of a grievance within 15 days and a written resolution of each grievance within 30 days from receipt thereof;"

and adding the following language in place thereof

"(4) a written acknowledgement of the receipt of a grievance within 15 days and a written resolution of each grievance sent to the insured by certified or registered mail, or other express carrier with proof of delivery, within 30 days from receipt thereof;"

and by adding the following at the end of subsection (a):

"(6) Carriers shall accept requests for the appointment of an authorized representative, or medical release forms by electronic means.

(7) Such electronic means shall include a designated email address, or an online consumer portal accessible by a plan member or their family member or authorized representative that can provide the individual's membership id number."and by adding the following to the end subsection (c):

"The Office of Patient Protection shall decide a grievance in favor of the insured unless the carrier can provide substantial evidence, such as proof of delivery, that the carrier complied with the time limits required under this section."

By striking the following language in the last paragraph of section (b):

"If the expedited review process affirms the denial of coverage or treatment to an insured with a terminal illness, the carrier shall provide the insured, within five business days of the decision (1) a statement setting forth the specific medical and scientific reasons for denying coverage or treatment; (2) a description of alternative treatment, services or supplies covered or provided by the carrier, if any; and (3) said procedure shall allow the insured to request a conference."

And adding the following in place thereof:

"If the expedited review process affirms the denial of coverage or treatment, the carrier shall provide the insured, as soon as possible, including by any electronic means consented to by the insured, (1) a statement setting forth the specific medical and scientific reasons for denying coverage or treatment; (2) a description of alternative treatment, services or supplies covered or provided by the carrier, if any; (3) a description of the insured's rights to any further appeal, and (4) said procedure shall allow the insured to request a conference."

SECTION 28. Chapter 32A of the General Laws is hereby amended by inserting after section 17Q the following section:-

Section 17R. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for medically necessary community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

SECTION 29. Chapter 118E of the General Laws is hereby amended by inserting after section 10L the following section:-

Section 10M. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:-

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

SECTION 30. Chapter 175 of the General Laws is hereby amended by inserting after section 47KK the following section:-

Section 47LL. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

SECTION 31. Chapter 176A of the General Laws is hereby amended by inserting after section 8MM the following section:-

Section 8NN. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

Any contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

SECTION 32. Chapter 176B of the General Laws is hereby amended by inserting after section 4MM the following section:-

Section 4NN. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary community-based acute treatment, intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

SECTION 33. Chapter 176G of the General Laws is hereby amended by inserting after section 4EE the following section:-

Section 4FF. For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Community-based acute treatment", 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

"Intensive community-based acute treatment", intensive 24-hour clinically managed mental health diversionary or step-down services for children and adolescents that is usually provided as an alternative to mental health acute treatment.

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

Any individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before obtaining treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.