

SENATE No. 1479

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 ensure the wellbeing of health care professionals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/8/2021</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>3/16/2021</i>

SENATE No. 1479

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1479) of Mark C. Montigny, Julian Cyr, Michael O. Moore and Eric P. Lesser for legislation to ensure the wellbeing of health care professionals. Public Health.

The Commonwealth of Massachusetts

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

An Act to ensure the wellbeing of health care professionals.

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

1 SECTION 1. Chapter 112 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by inserting after section 65F the following section:-

3 Section 65G. (a) As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 “Applicant”, a licensed health care professional who acknowledges that they have a
6 mental health or substance use disorder that impacts their ability to safely practice their
7 profession and submits to the program a completed and signed application form provided by the
8 program for that purpose.

9 “Board of Registration”, a board of registration serving in the department of public health
10 pursuant to section 9 of chapter 13 or under the supervision of the commissioner of public health
11 pursuant to section 1.

12 “Commissioner”, the commissioner of public health.

13 “Department”, the department of public health.

14 “License”, a license, registration, authorization or certificate issued by a board of
15 registration.

16 “Licensed health care professional”, any individual who holds a license, registration,
17 authorization or certificate issued by a board of registration.

18 “Licensing board”, a board of registration that has issued a license, registration,
19 authorization or certificate to a participant.

20 “Participant”, a licensed health care professional that has been admitted into the
21 rehabilitation monitoring program under this section.

22 “Record of participation”, the materials received and reviewed by the program director,
23 rehabilitation evaluation committee or a licensing board in connection with the application of a
24 licensed health care professional for admission into the program and in connection with the
25 progress of a participant during the program and compliance with an individualized rehabilitation
26 program.

27 (b) The department shall establish, within the bureau of health professions licensure, a
28 voluntary program for monitoring the rehabilitation of licensed health care professionals who
29 have a mental health or substance use disorder. A board of registration that is required to
30 establish a similar rehabilitation program by another law in this chapter may opt to fulfill that
31 requirement by formally adopting the bureau’s program in lieu of establishing its own.

(c) The commissioner shall appoint a rehabilitation evaluation committee consisting of: 1 member who shall be a medical doctor or advanced practice registered nurse with experience in the treatment of mental health or substance use disorders; 3 members who shall be licensed health care professionals with demonstrated experience in the field of mental health or substance use disorders; 1 member who shall be a licensed health care professional who has recovered from substance use disorder and has been in sustained recovery for not less than 5 years; and 2 members who shall be representatives of the public knowledgeable about substance use disorders or mental health. Three members of the committee shall constitute a quorum. The committee shall elect a chair and a vicechair. Members of the committee shall serve for terms of 4 years. No member shall be appointed or reappointed to the committee who is licensed to practice by a board of registration and has had any disciplinary or enforcement action taken against them by their respective licensing board during the 5 years preceding their appointment or reappointment to the committee. No current member of any board of registration shall serve on the committee. Meetings of the committee shall not be subject to sections 18 to 25, inclusive, of chapter 30A. The rehabilitation evaluation committee shall:

(i) receive and review information concerning participants in the program;

(ii) evaluate licensed health care professionals who request to participate in the program and provide recommendations regarding the admission of such licensed health care professionals;

(iii) review and designate treatment facilities and services to which participants may be referred;

(iv) make recommendations for each participant as to whether the participant may continue or resume professional practice within the full scope of the participant's license; and

(v) make recommendations for an individualized rehabilitation plan with requirements for supervision and surveillance for each participant.

(d) The department shall employ a program director with demonstrated professional expertise in the field of mental health or substance use disorders to oversee participants in the rehabilitation program. The director shall:

(i) admit eligible licensed health care professionals who request to participate in the program;

(ii) receive and review information concerning participants in the program;

(iii) provide each participant with an individualized rehabilitation plan with requirements for supervision and surveillance and update such plan taking into account the participant's compliance with the program and recommendations of the rehabilitation evaluation committee; provided, however, that restrictions or conditions relating to the participant's professional practice shall be approved by the licensing board;

(iv) call meetings of the rehabilitation evaluation committee as necessary to review the request of licensed health care professionals to participate in the program and review reports regarding participants;

(v) serve as a liaison among the participant, the participant's licensing board, the rehabilitation evaluation committee, approved treatment programs and providers;

(vi) terminate a participant from the program based on the participant's non-compliance with the participant's individualized rehabilitation program or material misrepresentations by the participant concerning the participant's participation in the program or professional practice;

(vii) provide information to licensed health care professionals who request to participate in the program; and

(viii) report to the licensing board of an applicant or participant: (A) an applicant's failure to complete the program's admission process; (B) a participant's admission into the program; (C): a participant's termination from the program; (D) a participant's withdrawal from the program before completion; and (E) the initial restrictions or conditions relating to the participant's professional practice incorporated into the participant's individualized rehabilitation plan and any changes or removal of such restrictions or conditions during the course of the participant's participation, as well as the basis for such restrictions or conditions.

(e) A licensed health care professional who applies to participate in the program shall acknowledge that they have a mental health or substance use disorder that impacts their ability to safely practice their profession and shall agree to comply with an individualized rehabilitation plan to be admitted into the program.

(f) Upon admission of a licensed health care professional into the program, the licensing board may dismiss any pending investigation or complaint against the participant that arises from or relates to the participant's mental health or substance use disorder. The licensing board may change the participant's publicly available license status to reflect the existence of non-disciplinary restrictions or conditions. The licensing board may immediately suspend the participant's license as may be necessary to protect the public health, safety and welfare upon

95 receipt of notice from the director that the participant has withdrawn from the program before
96 completion or that the director has terminated the participant from the program.

97 (g) The record of participation shall not be a public record and shall be exempt from
98 disclosure pursuant to clause Twenty-sixth of section 7 of chapter 4 and chapter 66. In the case
99 of an applicant who fails to complete the application process, a licensing board may use
100 information and documents in the record of participation as evidence in a disciplinary proceeding
101 as may be necessary to protect public health, safety and welfare. In all other instances, the record
102 of participation shall not be subject to subpoena or discovery in any civil, criminal, legislative or
103 administrative proceeding without the prior written consent of the participant. In the case of
104 participants who successfully complete the program, the record of participation shall be
105 destroyed 3 years following the date of successful completion.