

SENATE No. 629

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:	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/24/2021</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>3/3/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/3/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/5/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/10/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/17/2021</i>

SENATE No. 629

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 629) of Harriette L. Chandler, Michael J. Barrett, Susan Williams Gifford, Patrick M. O'Connor and other members of the General Court for legislation relative to cognitive rehabilitation. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 546 OF 2019-2020.]

The Commonwealth of Massachusetts

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

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:

1 SECTION 1. Chapter 32A of the General Laws, as appearing in the 2018 Official edition,
2 is hereby amended by inserting after section 17Q the following section:-

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

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

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

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

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

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

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

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

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

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

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

41 “Psychophysiological testing and treatment” is a set of medical and therapeutic
42 assessment and treatments focused on psychophysiological disorders or physical disorders with
43 psychological overlay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109 “Psychophysiological testing and treatment” is a set of medical and therapeutic
110 assessment and treatments focused on psychophysiological disorders or physical disorders with
111 psychological overlay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

184 “Psychophysiological testing and treatment” is a set of medical and therapeutic
185 assessment and treatments focused on psychophysiological disorders or physical disorders with
186 psychological overlay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

252 “Psychophysiological testing and treatment” is a set of medical and therapeutic
253 assessment and treatments focused on psychophysiological disorders or physical disorders with
254 psychological overlay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

320 “Psychophysiological testing and treatment” is a set of medical and therapeutic
321 assessment and treatments focused on psychophysiological disorders or physical disorders with
322 psychological overlay.

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

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

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

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

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