

HOUSE No. 1967

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balser

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 regarding consistent care for addiction rooted in evidence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>1/20/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>1/20/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/10/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/17/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/22/2023</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>5/16/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>7/19/2023</i>

HOUSE No. 1967

By Representative Balser of Newton, a petition (accompanied by bill, House, No. 1967) of Ruth B. Balser and others for legislation to provide medication for addiction treatment to certain incarcerated persons. Mental Health, Substance Use and Recovery.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act regarding consistent care for addiction rooted in evidence.

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. Section 1 of chapter 127 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out the definition of “Medication-assisted
3 treatment” and replacing it with the following definition:-

4 “Medication for addiction treatment”, treatment for a substance use disorder or alcohol
5 use disorder that: (i) is determined to be clinically indicated by a qualified addiction specialist;
6 (ii) involves the use of medication that is approved by the federal Food and Drug Administration
7 for treatment of a substance use disorder; and (iii) is offered in accordance with a treatment plan
8 that is reviewed by a qualified addiction specialist at a frequency consistent with appropriate
9 clinical standards. “Medication for addiction treatment” is sometimes referred to as “medication-
10 assisted treatment”, or “MAT”.

SECTION 2. Section 16 of said chapter 127, as so appearing, is hereby amended by striking out in the second paragraph the words “who is committed for a term of 30 days’ imprisonment or more.” and inserting in place thereof the following:-

within 24 hours of admission to the facility. Regardless of whether the individual was receiving medication for addiction treatment immediately prior to admission to the facility, the examination shall include an assessment for treatment with medication for addiction treatment.

SECTION 3. Said chapter 127, as so appearing, is hereby further amended by striking out section 17B and replacing it with the following:-

Section 17B. Medication-assisted treatment for substance use conditions for state detainees or prisoners at correctional facilities.

(a) All correctional facilities, jails and houses of correction, in consultation with the commissioner of public health, shall offer all medications for addiction treatment to a detained, committed or incarcerated person, upon the recommendation of a qualified addiction specialist. All correctional facilities, jails and houses of correction shall maintain or provide for the capacity to possess, dispense and administer all medications for addiction treatment; provided however, that such facilities shall not be required to maintain or provide a medication for addiction treatment that is not also a MassHealth covered benefit.

(b) No detained, committed or incarcerated person shall be denied medication for addiction treatment on the basis of a positive drug screening upon entering custody or at any time during the incarceration, detention or commitment of the person; nor shall any detained, committed or incarcerated person receive a disciplinary infraction for a positive drug screening. The medication for addiction treatment of a detained, committed or incarcerated person shall not

33 be discontinued due to any disciplinary infraction. A detained, committed or incarcerated person
34 may request medication for addiction treatment at any time during the incarceration, detention or
35 commitment of such detained, committed or incarcerated person.

36 (c) The commissioner and county sheriffs shall ensure that each detained, committed or
37 incarcerated person who was receiving medication for addiction treatment immediately
38 preceding incarceration, detention or commitment continues to have such treatment available as
39 soon as practicable, and in any event within 24 hours of admission to the facility, unless such
40 person voluntarily discontinues the treatment or unless a qualified addiction specialist
41 determines, based on individual medical need, that maintaining the same treatment is no longer
42 clinically indicated. Each detained, committed or incarcerated person shall receive the same dose
43 of the same medication that the person was receiving before incarceration, commitment or
44 detention, unless a qualified addiction specialist determines, based on individual medical need
45 and in consultation with the person, that a change in dose or medication is clinically indicated.

46 (d) The commissioner and county sheriffs shall ensure that each detained, committed or
47 incarcerated person who was not receiving medication for addiction treatment immediately
48 preceding incarceration, detention or commitment, and for whom medication for addiction
49 treatment is clinically indicated, shall be offered such medication within 24 hours of the
50 assessment required by section 16. The determinations of which medication to prescribe and the
51 dosage shall be made based on individual medical need in consultation with the patient.
52 Detained, committed or incarcerated persons shall be authorized to receive the medication for as
53 long as clinically indicated.

(e) All state and county correctional facilities shall ensure consistent and ongoing access to a qualified addiction specialist by a detained, committed or incarcerated person.

(f) Treatment established under this section shall include behavioral health counseling for individuals diagnosed with substance use disorder or substance use-related needs; provided, however, that counseling services shall be consistent with current therapeutic standards for these therapies in a community setting and shall not be a substitute for medication for addiction treatment. The commissioner and county sheriffs may make such treatment available by directly engaging qualified providers of substance use services, through collaboration with other agencies, and by utilizing volunteers from community recovery programs.

(g) No incentives, rewards or punishments shall be used to encourage or discourage a detained, committed or incarcerated person's decision to receive or decline medication for addiction treatment, or any particular such medication.

(h) The commissioner of public health may promulgate regulations and guidelines necessary to implement the treatment program under this section.

SECTION 4. Section 17C of said chapter 127, as so appearing, is hereby amended by striking out the first paragraph and replacing it with the following:-

Not later than 120 days prior to the expected discharge date of a person detained, committed or incarcerated in a state prison or county facility, or within a reasonable timeframe if the length of incarceration, detention or commitment is less than 120 days, but in any event no less than 30 days prior to such expected discharge date, a qualified addiction specialist shall establish a medically appropriate re-entry treatment plan for the person. A re-entry treatment plan may include any treatment upon discharge that the qualified addiction specialist shall

76 recommend and deem appropriate, which may include, but shall not be limited to, any
77 medication for addiction treatment. A re-entry treatment plan shall ensure that a detained,
78 committed or incarcerated person is directly connected to an appropriate provider or treatment
79 site in the geographic region to which the person shall reside upon release. The detained,
80 committed or incarcerated person shall receive information on available treatment facilities in
81 their area, information on available housing and employment resources and any other
82 information that will assist the individual in continued recovery once released. The
83 commissioner and county sheriffs shall further ensure that, for a person with a re-entry treatment
84 plan under this section, the facility shall request reinstatement or apply for MassHealth benefits
85 for the person at least 30 days prior to release or shall use best efforts to request such
86 reinstatement of or apply for MassHealth benefits or other public assistance for the person within
87 a reasonable timeframe if the person's sentence, detention or commitment is less than 30 days.
88 Notwithstanding the foregoing, nothing in this section shall authorize a state prison or county
89 facility to extend a person's sentence, detention or commitment to comply with this section. In
90 the event the expected discharge date of a detained, committed or incarcerated person serving a
91 sentence to a state prison or county facility is less than 30 days following the start date of said
92 detained, committed or incarcerated person's sentence, detention or commitment, a qualified
93 addiction specialist shall use best efforts to establish a medically appropriate treatment plan for
94 the person prior to the expected discharge date.

95 SECTION 5. Said chapter 127, as so appearing, is hereby amended by striking out
96 section 17D and replacing it with the following:-

97 (a) Every six months, on a schedule to be established by the department of public health,
98 the commissioner and the administrator of each county correctional facility shall report, in a

99 format determined by the commissioner of public health, to the commissioner of public health,
100 the house and senate committees on ways and means, the joint committee on mental health,
101 substance use and recovery, the joint committee on public safety and homeland security and the
102 joint committee on the judiciary the following information for the prior six months: (i) at the
103 time of the report, the number of persons in the custody of the facility receiving each medication
104 for addiction treatment, in total and disaggregated by dosage; (ii) the number of persons in the
105 custody of the facility, in any status, who continued to receive the same medication for addiction
106 treatment as they received prior to incarceration, detention or commitment, by medication type;
107 (iii) the number of persons in the custody of the facility, in any status, who discontinued
108 medication for addiction treatment that they received prior to incarceration, detention or
109 commitment by medication type; (iv) the number of persons in the custody of the facility, in any
110 status, who received a different medication for addiction treatment than they received prior to
111 incarceration, detention or commitment, by medication type; (v) the number of persons in the
112 custody of the facility, in any status, who received medication for addiction treatment who did
113 not receive such treatment prior to incarceration, detention or commitment, by medication type;
114 (vi) a summary of facility practices and any changes to those practices related to medication for
115 addiction treatment; (vii) the number of persons who were connected to treatment after release;
116 (viii) the number of nonfatal and fatal overdoses in the facility; (ix) the number of nonfatal and
117 fatal overdoses within 1 year of release from the department of correction and each county
118 facility, provided, however, that the commissioner, the sheriffs, and the commissioner of public
119 health shall coordinate to provide such information; (x) the number of persons who received a re-
120 entry treatment plan under section 17C and were subsequently enrolled in MassHealth upon
121 discharge; provided, however, that the commissioner, the sheriffs, the commissioner of medical

122 assistance and the commissioner of public health shall coordinate to provide such information;
123 and (xi) any other information requested by the commissioner of public health related to the
124 provision of medication for addiction treatment.

125 (b) Every 2 years, not later than April 30, the commissioner of public health shall prepare
126 a report, pursuant to section 237 of chapter 111, regarding outcomes for the treatment programs
127 established under sections 17B and 17C to the house and senate committees on ways and means,
128 the joint committee on mental health, substance use and recovery, the joint committee on public
129 safety and homeland security and the joint committee on the judiciary. The department of
130 correction and county correctional facilities shall provide, upon request from the commissioner
131 of public health, information necessary to prepare the report. The report shall, to the extent
132 possible, provide a comparison between the detained, committed and incarcerated persons who
133 did not receive medication for addiction treatment and those who did, reported separately for
134 each medication type, in order to determine the impact of the treatment programs on the
135 following: (i) treatment retention after release; (ii) substance use after release; (iii) rates of
136 recidivism; (iv) rates of nonfatal and fatal overdose; and (v) other outcome measures identified
137 by the commissioner of public health.

138 SECTION 6. As soon as practicable, and in any event within 30 days of passage of this
139 legislation, all state and county correctional facilities shall assess for treatment with medication
140 for addiction treatment all detained, committed or incarcerated persons in their respective
141 institutions who have substance use-related needs but who are not currently receiving
142 medication for addiction treatment. Detained, committed or incarcerated persons for whom such
143 medication is clinically indicated shall be offered such medication within 24 hours of such

144 assessment, and such medication shall be prescribed and provided in a manner consistent with
145 the provisions of section 17B of chapter 127.

146 SECTION 7. Section 98 of chapter 208 of the acts of 2018 is hereby repealed.

147