

**SENATE . . . . . No. 760****The Commonwealth of Massachusetts**

PRESENTED BY:

***John F. Keenan***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to behavioral health clinic rates.

PETITION OF:

| NAME:                           | DISTRICT/ADDRESS:                        |                   |
|---------------------------------|------------------------------------------|-------------------|
| <i>John F. Keenan</i>           | <i>Norfolk and Plymouth</i>              |                   |
| <i>Michael O. Moore</i>         | <i>Second Worcester</i>                  | <i>2/2/2023</i>   |
| <i>Edward J. Kennedy</i>        | <i>First Middlesex</i>                   | <i>3/28/2023</i>  |
| <i>Michael D. Brady</i>         | <i>Second Plymouth and Norfolk</i>       | <i>4/4/2023</i>   |
| <i>John J. Cronin</i>           | <i>Worcester and Middlesex</i>           | <i>4/12/2023</i>  |
| <i>Patrick M. O'Connor</i>      | <i>First Plymouth and Norfolk</i>        | <i>9/15/2023</i>  |
| <i>Joan B. Lovely</i>           | <i>Second Essex</i>                      | <i>10/3/2023</i>  |
| <i>Jack Patrick Lewis</i>       | <i>7th Middlesex</i>                     | <i>10/4/2023</i>  |
| <i>James J. O'Day</i>           | <i>14th Worcester</i>                    | <i>10/17/2023</i> |
| <i>Lydia Edwards</i>            | <i>Third Suffolk</i>                     | <i>10/17/2023</i> |
| <i>Adam J. Scanlon</i>          | <i>14th Bristol</i>                      | <i>10/17/2023</i> |
| <i>Joanne M. Comerford</i>      | <i>Hampshire, Franklin and Worcester</i> | <i>10/17/2023</i> |
| <i>Michelle M. DuBois</i>       | <i>10th Plymouth</i>                     | <i>10/17/2023</i> |
| <i>Nick Collins</i>             | <i>First Suffolk</i>                     | <i>10/18/2023</i> |
| <i>Jacob R. Oliveira</i>        | <i>Hampden, Hampshire and Worcester</i>  | <i>10/23/2023</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i>                    | <i>11/1/2023</i>  |
| <i>Sal N. DiDomenico</i>        | <i>Middlesex and Suffolk</i>             | <i>11/3/2023</i>  |
| <i>Patricia D. Jehlen</i>       | <i>Second Middlesex</i>                  | <i>11/3/2023</i>  |



# SENATE . . . . . No. 760

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By Mr. Keenan, a petition (accompanied by bill, Senate, No. 760) of John F. Keenan and Michael O. Moore for legislation relative to behavioral health clinic rates. Health Care Financing.

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## The Commonwealth of Massachusetts

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

An Act relative to behavioral health clinic rates.

*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 118E of the general laws, as appearing in the 2020 official edition,  
2 is hereby amended by inserting after 13D the following section:-

3           Section 13D ½.

4           (a) For the purposes of this section, the following words shall have the following  
5 meanings:

6           “Behavioral health clinic”, a clinic licensed by the department of public health pursuant  
7 to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the  
8 2020 official edition, and regulated pursuant to title 130 of the code of Massachusetts regulations  
9 429.000.

“Behavioral health services”, evaluation, diagnosis, treatment, care coordination, management, or peer support of patients with mental health, developmental or substance use disorder.

“Independent practitioner”, an individual who is licensed by the board to practice independent clinical social work and who meets the qualifications set forth in section 131 of chapter 112 of the general laws, as appearing in the 2020 official edition, for an independent clinical social worker and is regulated pursuant to title 130 of the code of Massachusetts regulations 462.000.

“Minimum payment rates”, rates of payment for services below which managed care entities may not enter into provider agreements.

(b) The division shall increase minimum payment rates for behavioral health services by 5% per procedure code for rates of payment effective as of January 1, 2023.

(c) Pursuant to sections 13C and 13D, and notwithstanding applicable state and federal laws, the division shall ensure that each rate of payment or component payment in a bundled rate for behavioral health services delivered in behavioral health clinics are no less than 20% above comparable behavioral health services delivered by independent practitioners.

(d) The division shall review behavioral health service rates biennially. This review shall include, but not be limited to the following: (i) adoption of an inflationary adjustment factor no less than the total Medicare Economic Index percentage for the past two calendar years; (ii) where possible, comparison of the wage estimate for each classification of staff position to the 75th percentile wage estate for that position as determined by the most current United States Bureau of Labor Statistics for the commonwealth; and (iii) consideration of the reasonable cost

to providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority.

SECTION 2. Said chapter 118E is hereby amended by inserting after section 13K the following new section:-

Section 13L.

(a) For the purposes of this section, the following words shall have the following meanings:

“Behavioral health clinic”, a clinic licensed by the department of public health pursuant to section 3 and sections 51 through 56 of chapter 111 of the general laws, as appearing in the 2020 official edition, and that is regulated pursuant to title 130 of the code of Massachusetts regulations 429.000.

“Behavioral health services”, evaluation, diagnosis, treatment, care coordination, management or peer support of patients with mental health, developmental or substance use disorder.

“Independent practitioner”, an individual who is licensed by the board to practice independent clinical social work and who meets the qualifications set forth in section 131 of chapter 112 of the general laws, as appearing in the 2020 official edition, and who is regulated pursuant to title 130 of the code of Massachusetts regulations 462.000.

“Managed care entity”, all 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, and accountable care organizations.

“Minimum payment rates”, rates of payment for services below which managed care entities may not enter into provider agreements.

(b) Notwithstanding applicable state and federal laws, the division shall direct its managed care entities to increase minimum payment rates for behavioral health services by 5% per procedure code for rates of payment effective as of January 1, 2023.

(c) The division shall direct managed care entities to ensure that each rate of payment or component payment in a bundled rate for behavioral health services delivered in behavioral health clinics is no less than 20% above comparable behavioral health services delivered by independent practitioners.

(d) The division shall review rates of payment by managed care entities for behavioral health services biennially. This review shall include, but not be limited to the following: (i) adoption of an inflationary adjustment factor no less than the total Medicare Economic Index percentage for the past two calendar years; (ii) where possible, comparison of the wage estimate for each classification of staff position to the 75th percentile wage estimate for that position as determined by the most current United States Bureau of Labor Statistics for the commonwealth; and (iii) consideration of the reasonable cost to providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority.