

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, September 29, 2016.

Met at five minutes past eleven o'clock A.M. (Mr. Boncore in the Chair).(having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Boncore), members, guests and staff then recited the pledge of allegiance to the flag. Pledge of allegiance.

Distinguished Guests.

There being no objection, the Chair (Mr. Boncore) handed the gavel to Mr. Ross for the purpose of an introduction. Mr. Ross then introduced, in the rear of the Chamber, Yvonne and David McGregor from Perth, Scotland. Yvonne and David are retired Scotland Police Officers from the Tayside Division and are on vacation touring New England and Maritime Canada. The Senate welcomed them with applause and they withdrew from the Chamber. Yvonne and David McGregor.

Communications.

Communication from CliftonLarsonAllen LLP, on an audit of the Commonwealth of Massachusetts Senate with State of available resources and expenditures – statutory basis – and additional information for the Fiscal Year ending June 30, 2015 (received in the Office of the Clerk of the Senate at ten minutes past one o'clock P.M., on Thursday, September 29, 2016); Senate Audit for Fiscal Year 2015.

Under the provisions of Senate Rule 13C, the communication has been placed on file.

Communications from CliftonLarsonAllen LLP, on an audit of the Joint Accounts of the Massachusetts Legislature with State of available resources and expenditures – statutory basis – and additional information for the Fiscal Years ending June 30, 2014 and 2015 (received in the Office of the Clerk of the Senate at ten minutes past one o'clock P.M., on Thursday, September 29, 2016); Joint Accounts Audit for the Fiscal Years 2014 and 2015.

Under the provisions of Joint Rule 34, the communications have been placed on file.

Report.

Report of the Department of Unemployment Assistance (pursuant to Section 14F of Chapter 151A of the General Laws) submitting its September 2016 Unemployment Insurance Trust Fund Report (received September 28, 2016),-- **was placed on file.**

Reports of a Committee.

By Ms. Lovely, for the committee on State Administration and Regulatory Oversight, on the recommitted petition (accompanied by bill, Senate, No. 2169), an Order relative to authorizing the joint committee on State Administration and Regulatory Oversight to make an investigation and study of a certain current Senate document relative to the Massachusetts municipal lobbying policy (Senate, No. 2495);

Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Timilty, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Guerda Henry, an employee of the Department of Public Health (Senate, No. 2485); and

By the same Senator, for the same committee, on petition, a Bill establishing a sick leave bank for Karen Tavernier, an employee of the Department of Transportation (Senate, No. 2492);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 4646) of David F. DeCoste and Patrick M. OConnor (by vote of the town) relative to the recall of elected officials in the town of Norwell,-- **was referred, in concurrence, to the committee on Election Laws.**

A Resolve relative to preserving Polish heritage in the Pioneer Valley (House, No. 4562, amended,-- on House, No. 1051),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Notice was received from the Minority Leader of the House of Representatives announcing that he has appointed Representative Muratore of Plymouth to the special commission established (under Section 20 of Chapter 121 of the Acts of 2016) to examine the accessibility of information concerning the legislative process of the General Court and the expansion of the definition of public records.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-

Resolutions (filed by Ms. Chang-Diaz and Mr. Eldridge) “congratulating Roger Hatch on his retirement”; and

Resolutions (filed by Mr. Humason) “congratulating Bruce W. McMahon on his retirement”.

Reports of Committee.

By Ms. Spilka, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Timothy McCarthy, an employee of the Division of Capital Asset Management and Maintenance (printed in House, No. 4597),-- ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Ross, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Donna Paul, an employee of the Department of Corrections (Senate, No. 2484),-- ought to pass, with an amendment inserting after the word “Paul”, in line 4, the first time it appears, the following words:- “to care for her son”.

There being no objection, the rules were suspended, on motion of Mr. Ross, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Recess.

There being no objection, at ten minutes past eleven o’clock A.M., the Chair (Mr. Boncore) declared a recess subject to the call of the Chair; and, at five minutes past three o’clock P.M., the Senate reassembled, Mr. Boncore in the Chair.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Timothy McCarthy, an employee of the Division of Capital Asset Management and Maintenance (see House Bill, printed in House, No. 4597), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 4 to 0.

The bill was signed by the Acting President (Mr. Boncore) and sent to the House for enactment.

A Bill making appropriations for the fiscal year 2016 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4664,-- on House, No. 4517),-- was read.

There being no objection, the rules were suspended, on motion of Ms. Spilka, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Keenan moved to amend the bill by inserting the following new sections:-

“SECTION XX. Section 17N of chapter 32A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the definition of ‘Clinical stabilization services’ the following definition:-

‘Transitional support services’, short-term, residential support services, as defined by the department of public health, usually

following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

SECTION XX. Said section 17N of said chapter 32A, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The commission shall provide for medically necessary acute treatment services, medically necessary clinical stabilization services and medically necessary transitional support services to an active or retired employee of the commonwealth who is insured under the group insurance commission coverage for up to 30 days and shall not require preauthorization prior to obtaining such acute treatment services, clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier with notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided however that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; and provided further, that the commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for, without preauthorization, substance abuse evaluations ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services.

Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION XX. Section 10H of chapter 118E of the General Laws, inserted by section 19 of chapter 258 of the acts of 2014, is hereby repealed.

SECTION XX. Said chapter 118E is hereby further amended by inserting after section 10I the following section:-

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

'Acute treatment services', 24-hour medically supervised addiction treatment for adults or adolescents provided in a medically managed or medically monitored inpatient facility, as defined by the department of public health, that provides evaluation and withdrawal management and which may include biopsychosocial assessment, individual and group counseling, psychoeducational groups and discharge planning.

'Clinical stabilization services', 24-hour clinically managed post detoxification treatment for adults or adolescents, as defined by the department of public health, usually following acute treatment services for substance abuse for individuals beginning to engage in recovery from addiction, which may include intensive education and counseling regarding the nature of addiction and its consequences, relapse prevention, outreach to families and significant others and aftercare planning.

'Transitional support services', short-term, residential support services, as defined by the department of public health, usually following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

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 acute treatment services and shall not require a preauthorization prior to obtaining treatment.

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 clinical stabilization services and medically necessary transitional support services for up to 30 days and shall not require preauthorization prior to obtaining clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided, however, that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; and provided further, that 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, without preauthorization, substance abuse evaluations ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services.

Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION XX. Section 47GG of chapter 175 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the definition of 'Clinical stabilization services' the following definition:-

'Transitional support services', short-term, residential support services, as defined by the department of public health, usually following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

SECTION XX. Said section 47GG of said chapter 175, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

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 acute treatment services, medically necessary clinical stabilization services and medically necessary transitional support services for up to 30 days and shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided however that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; provided further, any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage pursuant to section 1 of chapter 111M, shall cover, without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services.

Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION XX. Section 8II of chapter 176A of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Clinical stabilization services" the following definition:-

"Transitional support services", short-term, residential support services, as defined by the department of public health, usually following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

SECTION XX. Said section 8II of said chapter 176A, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary acute treatment services, medically necessary clinical stabilization services and medically necessary transitional support services for up to 30 days and shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided however that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; provided further, any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth, shall cover, without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION XX. Section 4II of chapter 176B of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Clinical stabilization services' the following definition:-

'Transitional support services', short-term, residential support services, as defined by the department of public health, usually following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

SECTION XX. Said section 4II of said chapter 176B, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary acute treatment services, medically necessary clinical stabilization services and medically necessary transitional support services for up to 30 days and shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided however that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; provided further, any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for, without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services.

Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION XX. Section 4AA of chapter 176G of the General Laws, as so appearing, is hereby amended by inserting after the definition of 'Clinical stabilization services' the following definition:-

'Transitional support services', short-term, residential support services, as defined by the department of public health, usually following clinical stabilization services, that provide a safe and structured environment to support adults or adolescents through the addiction recovery process and the transition to outpatient or other step-down addiction recovery care.

SECTION XX. Said section 4AA of said chapter 176G, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

An individual or group health maintenance contract that is issued or renewed shall provide coverage for medically necessary acute treatment services, medically necessary clinical stabilization services and medically necessary transitional support services for up to 30 days and shall not require preauthorization prior to obtaining acute treatment services, clinical stabilization services or transitional support services. The facility providing such services shall provide the carrier notification of admission and the initial treatment plan within 48 hours of admission and within a reasonable time thereafter shall provide the carrier with a projected discharge plan for the member. The carrier's utilization review procedures may be initiated on day 14; provided however that a carrier shall not make any utilization review decisions that impose any restriction or deny any future medically necessary acute treatment, clinical stabilization, or transitional support services unless a patient has received at least 30 consecutive days of said services; provided further, an individual or group health maintenance contract that is issued or renewed shall provide coverage for, without preauthorization, a substance abuse evaluation ordered pursuant to section 51½ of chapter 111. Upon receipt of notification by the admitting facility and receipt of the discharge plan, the carrier may provide outreach to the treating clinician and member to offer care management and support services. Medical necessity shall be determined by the treating clinician in consultation with the patient and noted in the patient's medical record.

SECTION YY. The center for health information and analysis, in consultation with the division of insurance, the department of public health, the office of Medicaid and the health policy commission, shall conduct reviews on the 14 day mandated coverage of acute treatment services, clinical stabilization services and the long-term effects of the increase in covered days from 14 days to 30 days related to the mandated benefits for acute treatment services, clinical stabilization services and transitional support services on the following areas: (i) the continuum of care for substance use disorder treatment; (ii) access to the continuum of care for patients eligible for MassHealth and department of public health programs; (iii) access to the continuum of care for commercially insured patients; and (iv) any changes in costs to MassHealth, the department of public health and health insurance carriers. The center shall provide an initial report not later than October 1, 2017 on the effects of the 14 day mandated coverage of acute treatment services and clinical stabilization services to the areas listed above and a final report not later than October 1, 2019 on the effects of the 30 day mandated coverage of acute treatment services, clinical stabilization services and transitional support services to the areas listed above.

The initial report and final report shall be posted on the center's website and shall be filed with the clerks of the house of representatives and senate, the house and senate chairs of the committee on financial services, the house and senate chairs of the committee on health care financing, the house and senate chairs of the committee on public health, and the house and senate committees on ways and means not later than October 1, 2017 and October 1, 2019, respectively.

SECTION ZZ. Sections XX through XX, inclusive, shall take effect October 1, 2017."

After remarks, the amendment was *rejected*.

Ms. Spilka moved to amend the bill by striking out sections 7, 8 and 43; and

by inserting after section 21 the following section:-

"SECTION 21A. Item 8315-1020 of said section 2 of said chapter 46 is hereby amended by striking out the figure "'10,778,878' and inserting in place thereof, in each instance, the following figure:- \$11,274,245."

The amendment was **adopted**.

The bill (House, No. 4664) was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act making appropriations for fiscal year 2016 to provide for supplementing certain existing appropriations and for certain other activities and projects".

Sent to the House for concurrence in the amendment.

Emergency Preamble Adopted.

An engrossed Bill making appropriations for fiscal year 2016 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4664, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.

The bill was signed by the Acting President (Mr. Boncore) and sent to the House for enactment.

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

PAPERS FROM THE HOUSE.

Engrossed Bills.

The following engrossed bills (the first three of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Boncore) and laid before the Governor for his approbation, to wit:

Establishing the Hampden County Commission on the Status of Women and Girls (see Senate, No. 1080);
Regulating notaries public to protect consumers and the validity and effectiveness of recorded instruments (see Senate, No. 2064, amended);
Creating a department of municipal finance in the town of Carver under the direction of a finance director (see Senate, No. 2460);
Authorizing the town of Foxborough to grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 4238, amended); and
Establishing a sick leave bank for Timothy McCarthy, an employee of the Division of Capital Asset Management and Maintenance (see House Bill, printed in House, No. 4597).

An engrossed Bill making appropriations for fiscal year 2016 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4664, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Mr. Boncore).

Adjourn In Memory of Walter Henry Cook

The Senator from Essex, Ms. Lovely, moved that when the Senate adjourns today it do so in memory of Walter Henry Cook.

Walter Henry Cook was a man of great character, who was a character. To know him is to never forget him. He was one-of-kind and the essence of a Renaissance man.

Walter was a well-known realtor at Coldwell Banker who loved his work because he truly appreciated old houses, his clients, and his fellow realtors. Before his long career in real estate, he was an insurance agent and an antiques dealer.

Walter loved his many loyal friends. He also loved the city of Salem, although in his later years, his thoughts turned increasingly to his Foxborough roots, to misty mornings with his father at the harness racing track that later became part of Gillette Stadium, and to golden summers with his mother at Hideaway Village overlooking Buttermilk Bay on Cape Cod.

A lover of jazz and opera, he always knew where to find both in Boston and New York. He was proud of his degree in English from Suffolk University, and his years of living on Beacon Hill, as well as his time spent in the Army, mostly in Germany, where he acquired his taste for bratwurst and his fluency in conversational German, both of which he enjoyed all his life.

His humor and his wit were matched by his loving and loyal heart. He was the best friend and true love of his wife, Ann. He treasured his family, most especially his son Jay, his grandchildren Sean of Salem, Kaitlin, Mici, and Mike of Tucson, Arizona, and Max of Latvia, his stepson Michael Fisher, his godchild Danielle Desjardins, and his daughter-in-law Laima.

He kept close in heart his many in-laws, the Cady family, and the many Fisher relations near and far who welcomed him into the family on his marriage to Ann.

He was predeceased by his first wife, Joyce Cady Cook, with whom he shared a long and successful marriage, and his parents, Earl and Ruth 'Beenie' Cook.

Accordingly, as a mark of respect in memory of Walter Henry Cook, at twenty-four minutes before five o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.