

SENATE No. 2546

Senate, February 13, 2020– Text of the Senate Bill addressing barriers to care for mental health
(being the text of Senate, No. 2519, printed as amended)

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act addressing barriers to care for mental health.

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. Subsection (a) of section 8 of chapter 6D of the General Laws, as appearing
2 in the 2018 Official Edition, is hereby amended by inserting after the word “system”, in line 9,
3 the following words:- , and trends in annual behavioral health expenditures.

4 SECTION 2. Said section 8 of said chapter 6D, as so appearing, is hereby further
5 amended by striking out, in line 94, the word “and” and inserting in place thereof the following
6 words:- , including behavioral health expenditures, and.

7 SECTION 3. The first paragraph of subsection (a) of section 16 of chapter 12C of the
8 General Laws, as so appearing, is hereby amended by adding the following sentence:- In addition
9 to overall health costs, the center shall report on the subcategory of annual behavioral health
10 expenditures, as defined in regulation, and provide a similar analysis of costs and cost trends
11 related to behavioral health services.

12 SECTION 4. Section 21A of said chapter 12C, as so appearing, is hereby amended by
13 adding the following 2 sentences:- The center shall promulgate regulations to establish an annual
14 baseline expenditure for behavioral health services. The regulations shall define criteria for
15 health care services to be categorized as behavioral health services, with subcategories to the
16 extent feasible, including, but not limited to: (i) mental health; (ii) substance use disorder; (iii)
17 outpatient; (iv) inpatient; (v) services for children; (vi) services for adults; and (vii) provider
18 type. The regulations shall establish guidelines for data collection related to behavioral health
19 services, outcomes measures and expenditures.

20 SECTION 5. Section 9 of chapter 13 of the General Laws, as so appearing, is hereby
21 amended by inserting after the word “workers”, in line 8, the

22 following words:- , the board of registration of social workers, the board of registration of
23 psychologists, the board of registration of allied mental health and human services professions.

24 SECTION 6. Section 79 of said chapter 13, as so appearing, is hereby amended by
25 striking out, in lines 17 and 18 and in line 27, the words “director of consumer affairs and
26 business regulations” and inserting in place thereof, in each instance, the following
27 words:- commissioner of public health.

28 SECTION 7. Said chapter 13 is hereby further amended by striking out
29 section 80, as so appearing, and inserting in place thereof the following section:-

30 Section 80. There shall be a board of registration of social workers that shall consist of:
31 the commissioner of children and families or a designee who is licensed as either a certified
32 social worker or an independent clinical social worker under sections 130 to 137, inclusive, of

33 chapter 112; the commissioner of mental health or a designee who is licensed as either a certified
34 social worker or an independent clinical social worker under said sections 130 to 137, inclusive,
35 of said chapter 112; and 7 members to be appointed by the governor, 1 of whom shall be a
36 representative of an accredited school of social work, 3 of whom shall be licensed as a certified
37 social worker or an independent clinical social worker under said sections 130 to 137, inclusive,
38 of said chapter 112, 1 of whom shall be licensed under said sections 130 to 137, inclusive, of
39 said chapter 112 and an active member of an organized labor organization representing social
40 workers and 2 of whom shall be members of the general public. At least 1 licensed social work
41 member and at least 1 member from the general public shall represent an underserved
42 population, as defined by the United States Department of Health and Human Services. Not more
43 than 6 members of the board shall belong to any 1 political party.

44 SECTION 8. Section 84 of said chapter 13, as so appearing, is hereby amended by
45 striking out, in lines 8 and 9, the words “division of professional licensure” and inserting
46 in place

47 thereof the following words:- department of public health.

48 SECTION 9. Said section 84 of said chapter 13, as so appearing, is hereby further
49 amended by striking out, in lines 44 and 45, inclusive, the words “Division of
50 Professional

51 Licensure Trust Fund established in section 35V” and inserting in place thereof the
52 following

53 words:- Quality in Health Professions Trust Fund established in section 35X.

54 SECTION 10. Section 88 of said chapter 13, as so appearing, is hereby amended by
55 striking out, in lines 1 and 2, the words “division of professional licensure” and inserting
56 in place

57 thereof the following words:- department of public health.

58 SECTION 11. The first paragraph of section 90 of said chapter 13, as so appearing, is
59 hereby amended by striking out the third sentence.

60 SECTION 12. Said section 90 of said chapter 13 is hereby further amended by striking
61 out the third paragraph, as so appearing, and inserting in place thereof the following paragraph:-
62 The commissioner of public health may review and approve the rules and regulations proposed
63 by the board.

64 SECTION 13. Section 18 of chapter 15A of the General Laws, as so appearing, is hereby
65 amended by adding the following paragraph:-

66 Any qualifying student health insurance plan authorized under this chapter shall comply
67 with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity
68 Act of 2008, as amended, and any federal guidance or regulations relevant to the act, including
69 45 CFR Part 146.136, 45 CFR Part 147.136, 45 CFR Part 147.160 and 45 CFR Part
70 156.115(a)(3), and the benefit mandates and other obligations under section 47B of chapter 175,
71 section 8A of chapter 176A, section 4A of chapter 176B and sections 4, 4B and 4M of chapter
72 176G, as if the student health insurance plan was issued by such carriers licensed under chapters
73 175, 176A, 176B and 176G, without regard to any limitation under section 1 of chapter 176J.

74 SECTION 14. Chapter 26 of the General Laws is hereby amended by striking out section
75 8K, as so appearing, and inserting in place thereof the following section:-

76 Section 8K. (a) The commissioner of insurance shall implement and enforce applicable
77 provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction
78 Equity Act of 2008, as amended, and any federal guidance or regulations relevant to the act,
79 including 45 CFR Part 146.136, 45 CFR Part 147.136, 45 CFR Part 147.160 and 45 CFR Part
80 156.115(a)(3), and applicable state mental health parity laws, including, but not limited to,
81 section 22 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A
82 of chapter 176B and sections 4, 4B and 4M of chapter 176G, in regard to any carrier licensed
83 under chapters 175, 176A, 176B and 176G, any carrier offering a student health plan issued
84 under section 18 of chapter 15A or the group insurance commission, by:

85 (i) evaluating all consumer or provider complaints regarding mental health and substance
86 use disorder coverage for possible parity violations within 3 months of receipt;

87 (ii) performing behavioral health parity compliance market conduct examinations of each
88 carrier at least once every 36 months, or more frequently if noncompliance is suspected, with a
89 focus on: (A) non-quantitative treatment limitations under the federal Paul Wellstone and Pete
90 Domenici Mental Health Parity and Addiction Equity Act of 2008 and applicable state mental
91 health and substance use disorder parity laws, including, but not limited to, prior authorization,
92 concurrent review, retrospective review, step-therapy, network admission standards,
93 reimbursement rates, network adequacy and geographic restrictions; (B) denials of authorization,
94 payment and coverage; and (C) any other criteria determined by the division, including factors
95 identified through consumer or provider complaints; provided, however, that: (1) a market

96 conduct examination of a carrier subject to chapters 175, 176A, 176B or 176G and any plans
97 authorized or regulated under chapter 32A shall follow the procedural requirements in
98 subsections 10, 11 and 15 of section 4 of said chapter 175 regarding notice and rebuttal of
99 examination findings, subsequent hearings and conflicts of interest; (2) the commissioner shall
100 publicize the fees for a market conduct examination under section 3B of chapter 7 and said
101 subsection 11 of said section 4 of said chapter 175; and (3) nothing contained in clause (ii) or in
102 said section 4 of said chapter 175, section 7 of said chapter 176A, section 9 of said chapter 176B
103 and section 10 of said chapter 176G shall limit the commissioner's authority to use, and if
104 appropriate, to make public any final or preliminary examination report, any examiner or
105 company work papers or other documents or any other information discovered or developed
106 during the course of any examination in the furtherance of any legal or regulatory action which
107 the commissioner may, in their sole discretion, deem appropriate;

108 (iii) requiring that carriers that provide mental health or substance use disorder benefits
109 directly or through a behavioral health manager as defined in section 1 of chapter 176O or any
110 other entity that manages or administers such benefits for the carrier comply with the annual
111 reporting requirements under section 8M;

112 (iv) updating applicable regulations as necessary to effectuate any provisions of the
113 federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of
114 2008 that relate to insurance; and

115 (v) assessing a fee upon any carrier for the costs and expenses incurred in any market
116 conduct examination authorized by law, consistent with the costs associated with the use of
117 division personnel and examiners, the costs of retaining qualified contract examiners necessary

118 to perform an examination, electronic data processing costs, supervision and preparation of an
119 examination report and lodging and travel expenses; provided, however, that the commissioner
120 shall maintain active management and oversight of examination costs and fees to ensure that the
121 examination costs and fees comply with the National Association of Insurance Commissioners
122 market conduct examiners handbook, unless the commissioner demonstrates that the fees
123 prescribed in the handbook are inadequate under the circumstances of the examination; and
124 provided further, that the commissioner or the commissioner's examiners shall not receive or
125 accept any additional emolument on account of any examination.

126 (b) The division of insurance may impose a penalty against a carrier that provides mental
127 health or substance use disorder benefits, directly or through a behavioral health manager as
128 defined in section 1 of chapter 176O or any other entity that manages or administers such
129 benefits for the carrier, for any violation by the carrier or the entity that manages or administers
130 mental health and substance use disorder benefits for the carrier of state laws related to mental
131 health and substance use disorder parity or provisions of the federal Paul Wellstone and Pete
132 Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as
133 amended, and federal guidance or regulations issued under the act.

134 The amount of any penalty imposed shall be \$100 for each day in the noncompliance
135 period per product line with respect to each participant or beneficiary to whom such failure
136 relates; provided, however, that the maximum annual penalty under this subsection shall be
137 \$500,000. For purposes of this subsection, the term "noncompliance period" shall mean the
138 period beginning on the date a failure first occurs and ending on the date such failure is
139 corrected.

140 No penalty shall be imposed on any failure if the division of insurance determines that
141 such failure was due to reasonable cause and not to willful neglect or if such failure is corrected
142 within 30 days of the start of the noncompliance period.

143 (c) The division of insurance may require carriers to provide remedies for any failure to
144 meet the requirements of state laws related to mental health and substance use disorder parity or
145 provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction
146 Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued
147 under the act, including, but not limited to:

148 (i) requiring the carrier to change the benefit standard or practice, including updating plan
149 language, with notice to plan members;

150 (ii) providing training to staff on any changes to benefits and practices;

151 (iii) informing plan members of changes;

152 (iv) requiring the carrier to reprocess and pay all inappropriately denied claims to
153 affected plan members, notify members of their right to file claims for services previously denied
154 and for which members paid out-of-pocket and reimburse for services eligible for coverage
155 under corrected standards; and

156 (v) requiring the carrier to submit to ongoing monitoring to verify compliance.

157 (d) Any proprietary information submitted to the commissioner by a carrier as a result of
158 the requirements of this section shall not be public records under clause Twenty-sixth of section
159 7 of chapter 4 or chapter 66; provided, however, that the commissioner may produce reports
160 summarizing any findings.

161 (e) Nothing in this section shall limit the authority of the commonwealth, through the
162 attorney general, to enforce any state or federal law, regulation or guidance described in this
163 section.

164 SECTION 15. Said chapter 26 is hereby further amended by inserting after Section 8L
165 the following section:-

166 Section 8M. (a) All carriers licensed under chapters 175, 176A, 176B and 176G that
167 provide mental health or substance use disorder benefits, directly or through a behavioral health
168 manager, as defined in section 1 of chapter 176O or any other entity that manages or administers
169 such benefits for the carrier, and the group insurance commission under chapter 32A, or the
170 carriers the group insurance commission contracts with for the administration of any self-insured
171 plans that provide mental health or substance use disorder benefits, directly or through a
172 behavioral health manager, as defined in section 1 of chapter 176O or any other entity that
173 manages or administers such benefits for the carrier, shall submit an annual report not later than
174 July 1 to the commissioner of insurance that contains:

175 (i) a description of the process used to develop or select the medical necessity criteria for
176 mental health and substance use disorder benefits and the process used to develop or select the
177 medical necessity criteria for medical and surgical benefits;

178 (ii) identification of all non-quantitative treatment limitations that are applied to mental
179 health and substance use disorder benefits and medical and surgical benefits within each
180 classification of benefits, as defined in 45 CFR Part 146.136(c)(4)(i); provided, however, that
181 there shall not be separate non-quantitative treatment limitations that apply to mental health and
182 substance use disorder benefits but do not apply to medical and surgical benefits within any

183 classification of benefits; provided further, that the non-quantitative treatment limitations shall
184 include the processes, strategies or methodologies for developing and applying the carrier's
185 reimbursement rates for mental health and substance use disorder benefits and medical and
186 surgical benefits within each classification of benefits; and

187 (iii) the results of an analysis that demonstrates that for the medical necessity criteria
188 described in clause (i) and for each non-quantitative treatment limitation identified in clause (ii),
189 as written and in operation, the processes, strategies, evidentiary standards or other factors used
190 in applying the medical necessity criteria and each non-quantitative treatment limitation to
191 mental health and substance use disorder benefits within each classification of benefits are
192 comparable to, and are not applied more stringently than, the processes, strategies, evidentiary
193 standards or other factors used in applying the medical necessity criteria and each non-
194 quantitative treatment limitation to medical and surgical benefits within the corresponding
195 classification of benefits; provided, however, that, at a minimum, the results of the analysis shall:

196 (A) identify the factors used to determine that a non-quantitative treatment limitation
197 will apply to a benefit;

198 (B) identify any processes, strategies or evidentiary standards used to define the factors
199 identified in subclause (A);

200 (C) provide the comparative analyses, including the results of the analyses, performed to
201 determine that the processes and strategies used to design each non-quantitative treatment
202 limitation, as written, and the as-written processes and strategies used to apply the non-
203 quantitative treatment limitation to mental health and substance use disorder benefits are
204 comparable to, and are not applied more stringently than, the processes and strategies used to

205 design each non-quantitative treatment limitation, as written, and the as-written processes and
206 strategies used to apply the non-quantitative treatment limitation to medical and surgical
207 benefits;

208 (D) provide the comparative analyses, including the results of the analyses, performed to
209 determine that the processes and strategies used to apply each non-quantitative treatment
210 limitation, in operation, for mental health and substance use disorder benefits and provider
211 reimbursement rates are comparable to, and are not applied more stringently than, the processes
212 or strategies used to apply each non-quantitative treatment limitation, in operation, for medical
213 and surgical benefits and provider reimbursement rates;

214 (E) disclose the specific findings and conclusions reached by the carrier or the group
215 insurance commission that the results of the analyses in this clause indicate that the carrier or
216 group insurance commission is in compliance with this section and the federal Paul Wellstone
217 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and any
218 federal guidance or regulations relevant to the act, including, but not limited to, 45 CFR Part
219 146.136, 45 CFR Part 147.160 and 45 CFR Part 156.115(a)(3); and

220 (F) disclose the number of requests for parity documents received under 29 CFR
221 2590.712(d)(3) or 45 CFR 146.136(d)(3) and the number of any such requests for which the plan
222 refused, declined or was unable to provide documents.

223 (b) In completing the analyses required under subsection (a), carriers shall perform the
224 analyses broadly across each classification of benefits and shall not be required to examine each
225 medical and surgical benefit subject to an non-quantitative treatment limitation that also applies
226 to mental health and substance use disorder benefits in the classification of benefits. Carriers

227 may use any reasonable method to determine how the carrier selects medical and surgical
228 benefits subject to an non-quantitative treatment limitation in the classification of benefits for the
229 purpose of performing the comparative analyses; provided, however, that carriers shall select all
230 medical and surgical benefits sharing the same characteristics as the mental health and substance
231 use disorder benefits subject to the non-quantitative treatment limitation in a classification of
232 benefits for the purposes of performing the analyses.

233 (c) If federal guidance, including, but not limited to, the Self-Compliance Tool for the
234 federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of
235 2008, as amended, is released that indicates an non-quantitative treatment limitation analysis and
236 reporting process that is significantly different from, contrary to or more efficient than the non-
237 quantitative treatment limitation analysis and reporting requirements described in subsection (a),
238 the commissioner may promulgate regulations that delineate an non-quantitative treatment
239 limitation analysis and reporting format that may be used in lieu of the non-quantitative
240 treatment limitation analysis and reporting requirements described in said subsection (a).

241 (d) Any proprietary portions of information submitted to the commissioner by a carrier as
242 a result of the requirements of this section shall not be public records under clause Twenty-sixth
243 of section 7 of chapter 4 or chapter 66; provided, however, that the commissioner may produce
244 reports summarizing any findings.

245 (e) Annually, not later than December 1, the commissioner shall submit a summary of the
246 reports that the commissioner receives from all carriers under subsection (a) to the clerks of the
247 senate and house of representatives, the joint committee on mental health, substance use and

248 recovery and the joint committee on health care financing. The summary report shall include, but
249 not be limited to:

250 (i) the methodology the commissioner is using to check for compliance with the federal
251 Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as
252 amended, and any federal guidance or regulations relevant to the act;

253 (ii) the methodology the commissioner is using to check for compliance with section 22
254 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter
255 176B and section 4M of chapter 176G;

256 (iii) the report of each market conduct examination conducted or completed during the
257 immediately preceding calendar year regarding access to behavioral health services or
258 compliance with parity in mental health and substance use disorder benefits under state and
259 federal laws and any actions taken as a result of such market conduct examinations;

260 (iv) a breakdown of treatment authorization data for each carrier for mental health
261 treatment services, substance use disorder treatment services and medical and surgical treatment
262 services for the immediately preceding calendar year indicating for each treatment service: (A)
263 the number of inpatient days, outpatient services and total services requested; (B) the number
264 and per cent of inpatient day requests authorized, inpatient day requests modified, inpatient day
265 requests modified resulting in a lesser amount of inpatient days authorized than requested and the
266 reason for the modification, inpatient day requests denied and the reason for the denial, inpatient
267 day requests where an internal appeal was filed and approved, inpatient day requests where an
268 internal appeal was filed and denied, inpatient day requests where an external appeal was filed
269 and upheld and inpatient day requests where an external appeal was filed and overturned; and

270 (C) the number and per cent of outpatient service requests authorized, outpatient service requests
271 modified, outpatient service requests modified resulting in a lower amount of outpatient service
272 authorized than requested and the reason for the modification, outpatient service requests denied
273 and the reason for the denial, outpatient service requests where an internal appeal was filed and
274 approved, outpatient service requests where an internal appeal was filed and denied, outpatient
275 service requests where an external appeal was filed and upheld and outpatient service requests
276 where an external appeal was filed and overturned;

277 (v) the number of complaints the division has received in the immediately preceding
278 calendar year regarding access to behavioral health services or compliance with parity in mental
279 health and substance use disorder benefits under state and federal laws and a summary of all
280 complaints resolved by the division during that time period; and

281 (vi) information about any educational or corrective actions the commissioner has taken
282 to ensure carrier compliance with the federal Paul Wellstone and Pete Domenici Mental Health
283 Parity and Addiction Equity Act of 2008, as amended, and said section 22 of said chapter 32A,
284 said section 47B of said chapter 175, said section 8A of said chapter 176A, said section 4A of
285 said chapter 176B and said section 4M of said chapter 176G.

286 The summary report shall be written in non-technical, readily understandable language
287 and shall be made available to the public by posting the report on the division's website.

288 SECTION 16. Chapter 32A of the General Laws is hereby amended by inserting after
289 section 17Q the following section:-

290 Section 17R. For the purposes of this section, the following terms shall have the
291 following meanings unless the context clearly requires otherwise:

292 “Community-based acute treatment”, 24-hour clinically managed mental health
293 diversionary or step-down services for children and adolescents that is usually provided as an
294 alternative to mental health acute treatment.

295 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
296 mental health diversionary or step-down services for children and adolescents that is usually
297 provided as an alternative to mental health acute treatment.

298 “Mental health acute treatment”, 24-hour medically supervised mental health services
299 provided in an inpatient facility, licensed by the department of mental health, that provides
300 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
301 milieu.

302 The commission shall provide to any active or retired employee of the commonwealth
303 who is insured under the group insurance commission coverage for medically necessary mental
304 health acute treatment, community-based acute treatment and intensive community-based acute
305 treatment and shall not require a preauthorization before obtaining treatment; provided, however,
306 that the facility shall notify the carrier of the admission and the initial treatment plan within 72
307 hours of admission.

308 Benefits for an employee under this section shall be the same for the employee’s covered
309 spouse and covered dependents.

310 SECTION 17. Said chapter 32A is hereby further amended by adding the following
311 section:-

312 Section 30. The commission shall provide to any active or retired employee of the
313 commonwealth who is insured under the group insurance commission benefits on a
314 nondiscriminatory basis for medically necessary emergency services programs, as defined in
315 section 1 of chapter 175.

316 SECTION 18. Chapter 111 of the General Laws is hereby amended by inserting after
317 section 51½ the following section:-

318 Section 51¾. The department, in consultation with the department of mental health, shall
319 promulgate regulations requiring all acute-care hospitals licensed under section 51G to provide
320 or arrange for qualified behavioral health clinicians, during all operating hours of an emergency
321 department or a satellite emergency facility as defined in section 51½, to evaluate and stabilize a
322 person admitted with a behavioral health presentation to the department, or to a facility and to
323 refer such person for appropriate treatment or inpatient admission.

324 The regulations shall permit evaluation via telemedicine, electronic or telephonic
325 consultation, as deemed appropriate by the department.

326 The regulations shall be promulgated after consultation with the department of mental
327 health and the division of medical assistance and shall include, but not be limited to,
328 requirements that individuals under the age of 22 receive an expedited evaluation and
329 stabilization process.

330 SECTION 19. Section 61 of chapter 112 of the General Laws, as appearing in the 2018
331 Official Edition, is hereby amended by striking out, in line 18, the words “A board of
332 registration” and inserting in place thereof the following words:- Each board of registration

333 under the supervision of the department of public health may discipline a holder of a license,
334 certificate, registration or authority issued pursuant to this chapter and each board of registration.

335 SECTION 20. Said section 61 of said chapter 112, as so appearing, is hereby further
336 amended by striking out, in lines 49 and 50, the words “a board of registration” and
337 inserting in place thereof the following words:- each board of registration under the supervision
338 of the
339 department of public health and each board of registration.

340 SECTION 21. Section 65B of said chapter 112, as so appearing, is hereby amended by
341 striking out, in line 1, the words “A board of registration” and inserting in place thereof
342 the following words:- Each board of registration under the supervision of the department of
343 public health and each board of registration.

344 SECTION 22. Section 65F of said chapter 112, as so appearing, is hereby amended by
345 inserting after the word “licensure”, in line 4, the following words:- or a board of
346 registration
347 under the supervision of the department of public health.

348 SECTION 23. Said chapter 112 is hereby further amended by inserting after section 65F
349 the following section:-

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

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

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

358 “Commissioner”, the commissioner of public health.

359 “Department”, the department of public health.

360 “License”, a license, registration, authorization or certificate issued by a board of
361 registration.

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

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

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

368 “Record of participation”, the materials received and reviewed by the program director,
369 rehabilitation evaluation committee or a licensing board in connection with the application of a
370 licensed health care professional for admission into the program and in connection with the
371 progress of a participant during the program and compliance with an individualized rehabilitation
372 program.

373 (b) The department shall establish, within the bureau of health professions licensure, a
374 voluntary program for monitoring the rehabilitation of licensed health care professionals who
375 have a substance use disorder. A board of registration that is required to establish a similar
376 rehabilitation program by another law in this chapter may opt to fulfill that requirement by
377 formally adopting the bureau's program in lieu of establishing its own.

378 (c) The commissioner shall appoint a rehabilitation evaluation committee consisting of: 1
379 member who shall be a medical doctor or advanced practice registered nurse with experience in
380 the treatment of substance use disorders; 3 members who shall be licensed health care
381 professionals with demonstrated experience in the field of substance use disorders; 1 member
382 who shall be a licensed health care professional who has recovered from substance use disorder
383 and has been in sustained recovery for not less than 5 years; and 2 members who shall be
384 representatives of the public knowledgeable about substance use disorders or mental health.
385 Three members of the committee shall constitute a quorum. The committee shall elect a chair
386 and a vice chair. Members of the committee shall serve for terms of 4 years. No member shall be
387 appointed or reappointed to the committee who is licensed to practice by a board of registration
388 and has had any disciplinary or enforcement action taken against them by their respective
389 licensing board during the 5 years preceding their appointment or reappointment to the
390 committee. No current member of any board of registration shall serve on the committee.
391 Meetings of the committee shall not be subject to sections 18 to 25, inclusive, of chapter 30A.
392 The rehabilitation evaluation committee shall: (i) receive and review information concerning
393 participants in the program; (ii) evaluate licensed health care professionals who request to
394 participate in the program and provide recommendations regarding the admission of such
395 licensed health care professionals; (iii) review and designate treatment facilities and services to

396 which participants may be referred; (iv) make recommendations for each participant as to
397 whether the participant may continue or resume professional practice within the full scope of the
398 participant's license; and (v) make recommendations for an individualized rehabilitation plan
399 with requirements for supervision and surveillance for each participant.

400 (d) The department shall employ a program director with demonstrated professional
401 expertise in the field of substance use disorders to oversee participants in the rehabilitation
402 program. The director shall: (i) admit eligible licensed health care professionals who request to
403 participate in the program; (ii) receive and review information concerning participants in the
404 program; (iii) provide each participant with an individualized rehabilitation plan with
405 requirements for supervision and surveillance and update such plan taking into account the
406 participant's compliance with the program and recommendations of the rehabilitation evaluation
407 committee; provided, however, that restrictions or conditions relating to the participant's
408 professional practice shall be approved by the licensing board; (iv) call meetings of the
409 rehabilitation evaluation committee as necessary to review the request of licensed health care
410 professionals to participate in the program and review reports regarding participants; (v) serve as
411 a liaison among the participant, the participant's licensing board, the rehabilitation evaluation
412 committee, approved treatment programs and providers; (vi) terminate a participant from the
413 program based on the participant's non-compliance with the participant's individualized
414 rehabilitation program or material misrepresentations by the participant concerning the
415 participant's participation in the program or professional practice; (vii) provide information to
416 licensed health care professionals who request to participate in the program; and (viii) report to
417 the licensing board of an applicant or participant: (A) an applicant's failure to complete the
418 program's admission process; (B) a participant's admission into the program; (C): a participant's

419 termination from the program; (D) a participant's withdrawal from the program before
420 completion; and (E) the initial restrictions or conditions relating to the participant's professional
421 practice incorporated into the participant's individualized rehabilitation plan and any changes or
422 removal of such restrictions or conditions during the course of the participant's participation, as
423 well as the basis for such restrictions or conditions.

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

428 (f) Upon admission of a licensed health care professional into the program, the licensing
429 board may dismiss any pending investigation or complaint against the participant that arises from
430 or relates to the participant's substance use disorder. The licensing board may change the
431 participant's publicly available license status to reflect the existence of non-disciplinary
432 restrictions or conditions. The licensing board may immediately suspend the participant's license
433 as may be necessary to protect the public health, safety and welfare upon receipt of notice from
434 the director that the participant has withdrawn from the program before completion or that the
435 director has terminated the participant from the program.

436 (g) The record of participation shall not be a public record and shall be exempt from
437 disclosure pursuant to clause Twenty-sixth of section 7 of chapter 4 and chapter 66. If an
438 applicant fails to complete the application process, a licensing board may use information and
439 documents in the record of participation as evidence in a disciplinary proceeding as may be
440 necessary to protect public health, safety and welfare. In all other instances, the record of

441 participation shall not be subject to subpoena or discovery in any civil, criminal, legislative or
442 administrative proceeding without the prior written consent of the participant. In the case of
443 participants who successfully complete the program, the record of participation shall be
444 destroyed 3 years following the date of successful completion.

445 SECTION 24. Section 126 of said chapter 112, as appearing in the 2018 Official Edition,
446 is hereby amended by adding the following paragraph:-

447 All application fees and civil administrative penalties and fines collected by the board
448 under sections 61 and 118 to 129B, inclusive, shall be deposited into the Quality in Health
449 Professions Trust Fund established in section 35X of chapter 10.

450 SECTION 25. Section 136 of said chapter 112, as so appearing, is hereby amended by
451 adding the following paragraph:-

452 All application fees and civil administrative penalties and fines collected by the board
453 under sections 61 and 130 to 137, inclusive, shall be deposited into the Quality in Health
454 Professions Trust Fund established in section 35X of chapter 10.

455 SECTION 26. Section 163 of said chapter 112, as so appearing, is hereby amended by
456 inserting after the definition of “Licensed mental health counselor,” the following definition:-

457 “Licensed supervised mental health counselor”, a person licensed or eligible for license
458 under section 165.

459 SECTION 27. Section 164 of said chapter 112, as so appearing, is hereby amended by
460 inserting after the word “consultant”, in line 7, the following words:- or licensed supervised
461 mental health counselor, advisor or consultant.

462 SECTION 28. Section 165 of said chapter 112, as so appearing, is hereby amended by
463 inserting after the word “health”, in line 16, the following words:- or the department of public
464 health.

465 SECTION 29. Said section 165 of said chapter 112, as so appearing, is hereby further
466 amended by adding the following 3 paragraphs:-

467 The board may issue a license to an applicant as a supervised mental health counselor;
468 provided, however, that each applicant, in addition to complying with clauses (1) and (2) of the
469 first paragraph, shall provide satisfactory evidence to the board that the applicant: (i)
470 demonstrates to the board the successful completion of a master’s degree in a relevant field from
471 an educational institution licensed by the state in which it is located and meets national standards
472 for granting of a master’s degree with a subspecialization in counseling, or a relevant
473 subspecialization approved by the board; and (ii) has successfully passed a board-approved
474 examination.

475 A supervised mental health counselor shall practice under supervision of a clinician in a
476 clinic or hospital licensed by the department of mental health or the department of public health
477 or accredited by the Joint Commission on Accreditation of Hospitals or in an equivalent center or
478 institute or under the direction of a supervisor approved by the board.

479 The board shall promulgate rules and regulations specifying the required qualifications of
480 the supervising clinician.

481 SECTION 30. Section 168 of said chapter 112, as so appearing, is hereby amended by
482 adding the following paragraph:-

483 All application fees and civil administrative penalties and fines collected by the board
484 under sections 61 and 163 to 172, inclusive, shall be deposited into the Quality in Health
485 Professions Trust Fund established in section 35X of chapter 10.

486 SECTION 31. Chapter 118E of the General Laws is hereby amended by inserting after
487 section 10M the following section:-

488 Section 10N. For the purposes of this section, the following terms shall have the
489 following meanings unless the context clearly requires otherwise:-

490 “Community-based acute treatment”, 24-hour clinically managed mental health
491 diversionary or step-down services for children and adolescents that is usually provided as an
492 alternative to mental health acute treatment.

493 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
494 mental health diversionary or step-down services for children and adolescents that is usually
495 provided as an alternative to mental health acute treatment.

496 “Mental health acute treatment”, 24-hour medically supervised mental health services
497 provided in an inpatient facility, licensed by the department of mental health, that provides
498 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
499 milieu.

500 The division and its contracted health insurers, health plans, health maintenance
501 organizations, behavioral health management firms and third-party administrators under contract
502 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
503 medically necessary mental health acute treatment, community-based acute treatment and

504 intensive community-based acute treatment and shall not require a preauthorization before
505 obtaining treatment; provided, however, that the facility shall notify the carrier of the admission
506 and the initial treatment plan within 72 hours of admission.

507 SECTION 32. Section 12 of said chapter 118E, as appearing in the 2018 Official Edition,
508 is hereby amended by adding the following paragraph:-

509 The division shall develop and implement a standard credentialing form for use by health
510 care providers applying to participate in MassHealth. The division, all contracted entities, health
511 maintenance organizations established under this section and any subcontracted entities shall
512 accept the standard credentialing form as sufficient information necessary to conduct its
513 credentialing process.

514 SECTION 33. Said chapter 118E is hereby further amended by adding the following 4
515 sections:-

516 Section 79. (a) The division, its managed care organizations, accountable care
517 organizations or other entity contracting with the division to manage or administer mental health
518 and substance use disorder benefits shall ensure that there are no separate non-quantitative
519 treatment limitations that apply to mental health and substance use disorder benefits but do not
520 apply to medical and surgical benefits within any classification of benefits as defined under the
521 federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of
522 2008 and applicable state mental health parity laws, including, but not limited to, section 80;
523 provided, however, that the non-quantitative treatment limitations shall include the processes,
524 strategies or methodologies for developing and applying the division's reimbursement rates for

525 mental health and substance use disorder benefits and medical and surgical benefits within each
526 classification of benefits.

527 (b) The division shall perform a behavioral health parity compliance examination of each
528 Medicaid managed care organization, accountable care organization or other entity contracted
529 with the agency that manages or administers mental health and substance use disorder benefits
530 for the division at least once every 24 months. The examination shall include examination of
531 entities that manage medical and surgical benefits, as necessary. The examination shall only
532 apply where the division is the primary payer. The examination shall include but not be limited
533 to:

534 (i) a description of the process used to develop or select the medical necessity criteria for
535 mental health and substance use disorder benefits and the process used to develop or select the
536 medical necessity criteria for medical and surgical benefits;

537 (ii) identification of all non-quantitative treatment limitations that are applied to mental
538 health and substance use disorder benefits and medical and surgical benefits, including, but not
539 limited to, prior authorization, concurrent review, retrospective review, step-therapy, network
540 admission standards, reimbursement rates, network adequacy and geographic restrictions, within
541 each classification of benefits, as defined in 42 CFR Part 457.496(d)(2)(ii); and

542 (iii) the results of an analysis that demonstrates that for the medical necessity criteria
543 described in clause (i) and for each non-quantitative treatment limitation identified in clause (ii),
544 as written and in operation, the processes, strategies, evidentiary standards or other factors used
545 in applying the medical necessity criteria and each non-quantitative treatment limitation to
546 mental health and substance use disorder benefits within each classification of benefits are

547 comparable to, and are not applied more stringently than, the processes, strategies, evidentiary
548 standards or other factors used in applying the medical necessity criteria and each non-
549 quantitative treatment limitation to medical and surgical benefits within the corresponding
550 classification of benefits; provided, however, that, at a minimum, the results of the analysis shall:

551 (A) identify the factors used to determine that a non-quantitative treatment limitation will
552 apply to a benefit;

553 (B) identify any processes, strategies or evidentiary standards used to define the factors
554 identified in subclause (A);

555 (C) provide the comparative analyses, including the results of the analyses, performed to
556 determine that the processes and strategies used to design each non-quantitative treatment
557 limitation, as written, and the as-written processes and strategies used to apply the non-
558 quantitative treatment limitation to mental health and substance use disorder benefits are
559 comparable to, and are not applied more stringently than, the processes and strategies used to
560 design each non-quantitative treatment limitation, as written, and the as-written processes and
561 strategies used to apply the non-quantitative treatment limitation to medical and surgical
562 benefits;

563 (D) provide the comparative analyses, including the results of the analyses, performed to
564 determine that the processes and strategies used to apply each non-quantitative treatment
565 limitation, in operation, for mental health and substance use disorder benefits and provider
566 reimbursement rates are comparable to, and are not applied more stringently than, the processes
567 or strategies used to apply each non-quantitative treatment limitation, in operation, for medical
568 and surgical benefits; and

569 (E) disclose the specific findings and conclusions reached by the division that the results
570 of the analyses under this clause indicate compliance with this section and the federal Paul
571 Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as
572 amended, and federal guidelines and regulations relevant to the act, including, but not limited to,
573 42 CFR Part 457.496.

574 (c) In completing the analyses required under subsection (b), the division shall perform
575 the analyses broadly across each classification of benefits. The division may use any reasonable
576 method to determine how it selects medical and surgical benefits subject to a non-quantitative
577 treatment limitations in the classification of benefits for the purpose of performing the
578 comparative analyses; provided, that the division shall select all medical and surgical benefits
579 sharing the same characteristics as the mental health and substance use disorder benefits subject
580 to the non-quantitative treatment limitations in a classification of benefits for the purposes of
581 performing the analyses.

582 (d) If federal guidance, including, but not limited to, the Self-Compliance Tool for the
583 federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of
584 2008, as amended, is released that indicates a non-quantitative treatment limitation analysis and
585 reporting process that is significantly different from, contrary to or more efficient than the non-
586 quantitative treatment limitation analysis and reporting requirements described in subsection (b),
587 the division may promulgate regulations that delineate a non-quantitative treatment limitation
588 analysis and reporting format that may be used in lieu of the non-quantitative treatment
589 limitation analysis and reporting requirements described in said subsection (b).

590 (e) Any proprietary information submitted to the general court by the division as a result
591 of the requirements in this section shall not be a public record under clause Twenty-sixth of
592 section 7 of chapter 4 or chapter 66; provided, however, that nothing in this section shall limit
593 the authority of the director of Medicaid to use and, if appropriate, make public any final or
594 preliminary examination report, examiner or company work papers or other documents or other
595 information discovered or developed during the course of an examination in the furtherance of
596 any legal or regulatory action that the director may, in their sole discretion, deem appropriate.

597 (f) Not later than 60 days after the completion of the examination, the division shall
598 submit a report of the examination conducted under subsection (b) and any actions taken as a
599 result of such examination to the clerks of the senate and the house of representatives, the joint
600 committee on mental health, substance use and recovery and the joint committee on health care
601 financing.

602 (g) The division shall file an annual report with the clerks of the senate and house of
603 representatives, the joint committee on mental health, substance use and recovery and the the
604 joint committee on health care financing not later than July 1. The report shall include, but not be
605 limited to:

606 (i) the methodology the division is using to check for compliance with the federal Paul
607 Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as
608 amended, and any federal regulations or guidance relevant to the act;

609 (ii) the methodology the division is using to check for compliance with section 80;

610 (iii) a breakdown of treatment authorization data for the division, and for each Medicaid
611 managed care organization, accountable care organization or other entity that manages or

612 administers benefits for the division, for mental health treatment services, substance use disorder
613 treatment services and medical and surgical treatment services for the immediately preceding
614 calendar year.

615 The treatment authorization data shall include, but not be limited to: (A) the number of
616 inpatient days, outpatient services and total number of services requested; (B) the number and
617 per cent of inpatient day requests authorized, inpatient day requests modified, inpatient day
618 requests modified resulting in a lesser amount of inpatient days authorized than requested and the
619 reason for the modification, inpatient day requests denied and the reason for the denial, inpatient
620 day requests where an internal appeal was filed and approved, inpatient day requests where an
621 internal appeal was filed and denied, inpatient day requests where an external appeal was filed
622 and upheld and inpatient day requests where an external appeal was filed and overturned; and
623 (C) the number and per cent of outpatient service requests authorized, outpatient service requests
624 modified, outpatient service requests modified resulting in a lower amount of outpatient service
625 authorized than requested and the reason for the modification, outpatient service requests denied
626 and the reason for the denial, outpatient service requests where an internal appeal was filed and
627 approved, outpatient service requests where an internal appeal was filed and denied, outpatient
628 service requests where an external appeal was filed and upheld and outpatient service requests
629 where an external appeal was filed and overturned;

630 (iv) the number of complaints the division, or any Medicaid managed care organization,
631 accountable care organization or other entity contracting with the division to manage or
632 administer mental health and substance use disorder benefits, has received in the immediately
633 preceding calendar year regarding access to behavioral health services or compliance with parity
634 in mental health and substance use disorder benefits under state and federal laws and a summary

635 of all complaints resolved by the division, or any Medicaid managed care organization,
636 accountable care organization or other entity contracting with the division to manage or
637 administer mental health and substance use disorder benefits, during that time period; and

638 (v) information about any educational or corrective actions the division has taken to
639 ensure carrier compliance with the federal Paul Wellstone and Pete Domenici Mental Health
640 Parity and Addiction Equity Act of 2008, as amended, and section 80.

641 The summary report shall be written in non-technical, readily understandable language
642 and shall be made publicly available on the division's website.

643 (h) The division shall evaluate all consumer or provider complaints regarding mental
644 health and substance use disorder coverage for possible parity violations within 3 months of
645 receipt of the complaint.

646 Section 80. (a) The division and its health insurers, health plans, health maintenance
647 organizations, behavioral health management firms and third-party administrators under contract
648 with the division, a Medicaid managed care organization or a primary care clinician plan shall
649 provide mental health and substance use disorder benefits for the diagnosis and treatment of any
650 behavioral health disorder described in the most recent edition of the Diagnostic and Statistical
651 Manual of Mental Disorders published by the American Psychiatric Association that is approved
652 by the commissioner of mental health. The benefits shall be provided on a nondiscriminatory
653 basis.

654 (b) In addition to the mental health and substance use disorder benefits established
655 pursuant to this section, the division shall provide benefits on a non-discriminatory basis for
656 children and adolescents under the age of 19 for the diagnosis and treatment of mental,

657 behavioral, emotional or substance use disorders described in the most recent edition of the
658 Diagnostic and Statistical Manual of Mental Disorders that substantially interfere with or
659 substantially limit the functioning and social interactions of such a child or adolescent; provided,
660 however, that the interference or limitation is documented by and the referral for the diagnosis
661 and treatment is made by the primary care provider, primary pediatrician or a licensed mental
662 health professional of such a child or adolescent or is evidenced by conduct, including, but not
663 limited to: (i) an inability to attend school as a result of such a disorder; (ii) the need to
664 hospitalize the child or adolescent as a result of such a disorder; or (iii) a pattern of conduct or
665 behavior caused by such a disorder that poses a serious danger to self or others.

666 (c) For the purposes of this section, the division shall be deemed to be providing such
667 coverage on a non-discriminatory basis if the plan does not contain any annual or lifetime dollar
668 or unit of service limitation on coverage for the diagnosis and treatment of the mental disorders
669 that is less than any annual or lifetime dollar or unit of service limitation imposed on coverage
670 for the diagnosis and treatment of physical conditions.

671 (d) Benefits authorized pursuant to this section shall consist of a range of inpatient,
672 intermediate and outpatient services that shall permit medically necessary and active and
673 noncustodial treatment for the mental disorders to take place in the least restrictive clinically
674 appropriate setting. For purposes of this section, inpatient services may be provided in a general
675 hospital licensed to provide such services, in a facility under the direction and supervision of the
676 department of mental health, in a private mental hospital licensed by the department of mental
677 health or in a substance abuse facility licensed by the department of public health. Intermediate
678 services shall include, but not be limited to, Level III community-based detoxification, acute
679 residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or

680 approved by the department of public health or the department of mental health. Outpatient
681 services may be provided in a licensed hospital, a mental health or substance abuse clinic
682 licensed by the department of public health, a public community mental health center, a
683 professional office or as home-based services.

684 (e) The division and its health insurers, health plans, health maintenance organizations,
685 behavioral health management firms and third-party administrators under contract with the
686 division, a Medicaid managed care organization or a primary care clinician plan shall not require,
687 as a condition to receiving benefits mandated by this section, consent to the disclosure of
688 information regarding services for mental disorders under different terms and conditions than
689 consent is required for disclosure of information for other medical conditions. A determination
690 by the division or its agents that services authorized pursuant to this section are not medically
691 necessary shall only be made by a mental health professional licensed in the appropriate
692 specialty related to such services and, where applicable, by a provider in the same licensure
693 category as the ordering provider; provided, however, that this subsection shall not apply to
694 denials of service resulting from an enrollee's lack of coverage or use of a facility or professional
695 that has not entered into a negotiated agreement with the division or its agents. The benefits
696 provided by the division or its agents pursuant to this section shall meet all other terms and
697 conditions of the plan not inconsistent with state or federal law.

698 (f) Nothing in this section shall require the division to pay for mental health or substance
699 use disorder benefits or services that:

700 (i) are provided to a person who has third-party insurance;

701 (ii) are provided to a person who is presently incarcerated, confined or committed to a
702 jail, house of correction, prison or custodial facility in the department of youth services within
703 the commonwealth or a political subdivision of the commonwealth;

704 (iii) constitute educational services required to be provided by a school committee
705 pursuant to section 5 of chapter 71B;

706 (iv) constitute services provided by the department of mental health, or the department of
707 public health or the department of developmental services; or

708 (v) are not eligible for federal financial participation.

709 Section 81. Notwithstanding any general or special law to the contrary, the office of
710 Medicaid shall seek a waiver and promulgate regulations in order to require the division and its
711 health insurers, health plans, health maintenance organizations, behavioral health management
712 firms and third-party administrators under contract with the division, a Medicaid managed care
713 organization or primary care clinician plan to meet the parity requirements described under the
714 federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of
715 2008, as amended, and any federal guidance or regulations relevant to the act, including 42 CFR
716 438 Subpart K, 42 CFR 440.395 and 42 CFR 457.496, for all enrollees. For persons under the
717 age of 21, MassHealth and its agents may comply with this section by meeting the obligations
718 related to Early and Periodic Screening, Diagnostic and Treatment benefits under 42 CFR
719 457.496(b) or 440.395(c).

720 Section 82. Medical necessity and utilization management determinations for treatments
721 for substance use disorder or co-occurring mental illness and substance use disorder authorized
722 under this chapter shall be made in accordance with the criteria established by the American

723 Society of Addiction Medicine. No additional criteria may be used to make medical necessity or
724 utilization management determinations for treatments for substance use disorder or co-occurring
725 mental illness and substance use disorder, unless such criteria are less restrictive. Authorization
726 or coverage for treatment for substance use disorder or co-occurring mental illness and substance
727 use disorder shall not be denied by the division, or a Medicaid managed care organization,
728 accountable care organization or other entity that manages or administers mental health and
729 substance use disorder benefits for the division, on the basis that such treatment was authorized
730 or ordered by a court of law or other law enforcement agency. Any such authorization or order
731 for such services shall be considered a factor in support of coverage for such treatment.

732 SECTION 34. Chapter 123 of the General Laws is hereby amended by inserting after
733 section 2 the following section:-

734 Section 2A. The department shall establish within its regulations additional factors to be
735 considered when contracting for services in geographically-isolated communities, including, but
736 not limited to, travel and transportation, to ensure availability and access to services.

737 SECTION 35. Section 1 of chapter 175 of the General Laws, as appearing in the 2018
738 Official Edition, is hereby amended by inserting after the definition of “Domestic company” the
739 following definition:-

740 “Emergency services programs”, all programs subject to contract between the
741 Massachusetts Behavioral Health Partnership and nonprofit organizations for the provision of
742 community-based emergency psychiatric services, including, but not limited to, behavioral
743 health crisis assessment, intervention and stabilization services 24 hours per day, 7 days per
744 week, through the following service components: (i) mobile crisis intervention services for

745 youth; (ii) mobile crisis intervention services for adults; (iii) emergency service provider
746 community-based locations; and (iv) adult community crisis stabilization services.

747 SECTION 36. Section 47B of said chapter 175, as so appearing, is hereby amended by
748 inserting after the word “specialist,” in line 122, the following words:-, a clinician practicing
749 under the supervision of a licensed professional, and working towards licensure, in a clinic
750 licensed under chapter 111.

751 SECTION 37. Subsection (i) of said section 47B of said chapter 175 is hereby amended
752 by inserting after the second paragraph, as so appearing, the following paragraph:-

753 An insurer shall not deny coverage for any behavioral health service or any
754 primary care office visit solely because the services were delivered on the same day and in the
755 same practice or facility.

756 SECTION 38. Said chapter 175 is hereby further amended by inserting after section
757 47LL the following 2 sections:-

758 Section 47MM. An individual policy of accident and sickness insurance issued under
759 section 108 that provides hospital expense and surgical expense insurance and any group blanket
760 or general policy of accident and sickness insurance issued under section 110 that provides
761 hospital expense and surgical expense insurance that is issued or renewed shall provide benefits
762 on a nondiscriminatory basis for medically necessary emergency services programs.

763 Section 47NN. For the purposes of this section, the following terms shall have the
764 following meanings unless the context clearly requires otherwise:

765 “Community-based acute treatment”, 24-hour clinically managed mental health
766 diversionary or step-down services for children and adolescents that is usually provided as an
767 alternative to mental health acute treatment.

768 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
769 mental health diversionary or step-down services for children and adolescents that is usually
770 provided as an alternative to mental health acute treatment.

771 “Mental health acute treatment”, 24-hour medically supervised mental health services
772 provided in an inpatient facility, licensed by the department of mental health, that provides
773 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
774 milieu.

775 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
776 renewed within the commonwealth, which is considered creditable coverage under section 1 of
777 chapter 111M, shall provide coverage for medically necessary mental health acute treatment,
778 community-based acute treatment and intensive community-based acute treatment and shall not
779 require a preauthorization before obtaining treatment; provided, however, that the facility shall
780 notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

781 SECTION 39. Section 8A of chapter 176A of the General Laws, as appearing in the 2018
782 Official Edition, is hereby amended by inserting after the word “specialist”, in line 125, the
783 following words:- , a clinician practicing under the supervision of a licensed professional, and
784 working towards licensure, in a clinic licensed under chapter 111.

785 SECTION 40. Subsection (i) of said section 8A of said chapter 176A is hereby amended
786 by inserting after the second paragraph, as so appearing, the following paragraph:-

787 A non-profit hospital service corporation shall not deny coverage for any behavioral
788 health service or any primary care office visit solely because the services were delivered on the
789 same day in the same practice or facility.

790 SECTION 41. Said chapter 176A is hereby further amended by inserting after section
791 8NN the following 2 sections:-

792 Section 8OO. For the purposes of this section, the following terms shall have the
793 following meanings unless the context clearly requires otherwise:

794 “Community-based acute treatment”, 24-hour clinically managed mental health
795 diversionary or step-down services for children and adolescents that is usually provided as an
796 alternative to mental health acute treatment.

797 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
798 mental health diversionary or step-down services for children and adolescents that is usually
799 provided as an alternative to mental health acute treatment.

800 “Mental health acute treatment”, 24-hour medically supervised mental health services
801 provided in an inpatient facility, licensed by the department of mental health, that provides
802 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
803 milieu.

804 Any contract between a subscriber and the corporation under an individual or group
805 hospital service plan that is delivered, issued or renewed within the commonwealth shall provide
806 coverage for medically necessary mental health acute treatment, community-based acute
807 treatment and intensive community-based acute treatment and shall not require a

808 preauthorization before obtaining treatment; provided, however, that the facility shall notify the
809 carrier of the admission and the initial treatment plan within 72 hours of admission.

810 Section 8PP. A contract between a subscriber and the corporation under an individual or
811 group hospital service plan that is issued or renewed within or without the commonwealth shall
812 provide benefits on a nondiscriminatory basis for medically necessary emergency services
813 programs, as defined in section 1 of chapter 175.

814 SECTION 42. Section 4A of chapter 176B of the General Laws, as appearing in the 2018
815 Official Edition, is hereby amended by inserting after the word “specialist”, in line 120, the
816 following words:- , a clinician practicing under the supervision of a licensed professional, and
817 working towards licensure, in a clinic licensed under chapter 111.

818 SECTION 43. Subsection (i) of said section 4A of said chapter 176B is hereby amended
819 by inserting after the second paragraph, as so appearing, the following paragraph:-

820 A non-profit medical service corporation shall not deny coverage for any behavioral
821 health service or any primary care office visit solely because the services were delivered on the
822 same day in the same practice or facility.

823 SECTION 44. Said chapter 176B is hereby further amended by inserting after section
824 4NN the following 2 sections:-

825 Section 4OO. For the purposes of this section, the following terms shall have the
826 following meanings unless the context clearly requires otherwise:

827 “Community-based acute treatment”, 24-hour clinically managed mental health
828 diversionary or step-down services for children and adolescents that is usually provided as an
829 alternative to mental health acute treatment.

830 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
831 mental health diversionary or step-down services for children and adolescents that is usually
832 provided as an alternative to mental health acute treatment.

833 “Mental health acute treatment”, 24-hour medically supervised mental health services
834 provided in an inpatient facility, licensed by the department of mental health, that provides
835 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
836 milieu.

837 Any subscription certificate under an individual or group medical service agreement
838 delivered, issued or renewed within the commonwealth shall provide coverage for medically
839 necessary mental health acute treatment, community-based acute treatment, intensive
840 community-based acute treatment and shall not require a preauthorization before obtaining
841 treatment; provided, however, that the facility shall notify the carrier of the admission and the
842 initial treatment plan within 72 hours of admission.

843 Section 4PP. A subscription certificate under an individual or group medical service
844 agreement that is issued or renewed shall provide benefits on a nondiscriminatory basis for
845 medically necessary emergency services programs, as defined in section 1 of chapter 175.

846 SECTION 45. Section 4M of chapter 176G of the General Laws, as appearing in the
847 2018 Official Edition, is hereby amended by inserting after the word “specialist”, in line 117, the

848 following words:- , a clinician practicing under the supervision of a licensed professional, and
849 working towards licensure, in a clinic licensed under chapter 111.

850 SECTION 46. Subsection (i) of said section 4M of said chapter 176G is hereby amended
851 by inserting after the second paragraph, as so appearing, the following paragraph:-

852 A health maintenance organization shall not deny coverage for any behavioral health
853 service or any primary care office visit solely because the services were delivered on the same
854 day in the same practice or facility.

855 SECTION 47. Said chapter 176G is hereby further amended by inserting after section
856 4FF the following 2 sections:-

857 Section 4GG. For the purposes of this section, the following terms shall have the
858 following meanings unless the context clearly requires otherwise:

859 “Community-based acute treatment”, 24-hour clinically managed mental health
860 diversionary or step-down services for children and adolescents that is usually provided as an
861 alternative to mental health acute treatment.

862 “Intensive community-based acute treatment”, intensive 24-hour clinically managed
863 mental health diversionary or step-down services for children and adolescents that is usually
864 provided as an alternative to mental health acute treatment.

865 “Mental health acute treatment”, 24-hour medically supervised mental health services
866 provided in an inpatient facility, licensed by the department of mental health, that provides
867 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
868 milieu.

869 Any individual or group health maintenance contract that is issued or renewed shall
870 provide coverage for medically necessary mental health acute treatment, community-based acute
871 treatment and intensive community-based acute treatment and shall not require a
872 preauthorization before obtaining treatment; provided, however, that the facility shall notify the
873 carrier of the admission and the initial treatment plan within 72 hours of admission.

874 Section 4HH. A health maintenance contract that is issued or renewed shall provide
875 benefits on a nondiscriminatory basis for medically necessary emergency services programs, as
876 defined in section 1 of chapter 175.

877 SECTION 48. Chapter 176O of the General Laws is hereby amended by inserting after
878 section 5C the following section:-

879 Section 5D. For the purposes of this section, the term “base fee schedule” shall mean the
880 minimum rates, typically set forth in fee schedules, paid by the carrier to an in-network health
881 care provider who is not paid under an alternative payment arrangement for covered health care
882 services; provided, however, that final rates may be subject to negotiations or adjustments that
883 may result in payments to in-network providers that are different from the base fee schedule.

884 A carrier, directly or through any entity that manages or administers mental health or
885 substance use disorder benefits for the carrier, shall establish a base fee schedule for primary care
886 services for behavioral health providers that is not less than the base fee schedule used for
887 evaluation and management services for primary care providers of the same or similar licensure
888 type and in the same geographic region; provided, however, that a carrier shall not lower its base
889 fee schedule for primary care providers to comply with this section.

890 The division shall promulgate regulations to implement this section.

891 SECTION 49. Subsection (b) of section 16 of chapter 176O of the General Laws, as
892 appearing in the 2018 Official Edition, is hereby amended by striking out the last sentence and
893 inserting in place thereof the following sentence:- If a carrier or utilization review organization
894 intends to implement a new medical necessity guideline or amend an existing requirement or
895 restriction, the carrier or utilization review organization shall ensure that the new guideline or
896 amended requirement or restriction shall not be implemented unless: (i) the carrier's or
897 utilization review organization's website has been updated to reflect the new or amended
898 requirement or restriction; and (ii) the carrier or utilization review organization has assessed the
899 limitation to show it is in compliance with state and federal parity requirements under chapter 26.

900 SECTION 50. Said section 16 of said chapter 176O, as so appearing, is hereby further
901 amended by adding the following subsection:-

902 (d) Medical necessity and utilization management determinations for treatments for
903 substance use disorder or co-occurring mental illness and substance use disorder shall be made in
904 accordance with the criteria established by the American Society of Addiction Medicine. No
905 additional criteria may be used to make medical necessity or utilization management
906 determinations for treatments for substance use disorder or co-occurring mental illness and
907 substance use disorder, unless such criteria are less restrictive. A carrier, or any entity that
908 manages or administers mental health and substance use disorder benefits for the carrier, shall
909 not deny authorization or coverage for treatment for substance use disorder or co-occurring
910 mental illness and substance use disorder on the basis that such treatment was authorized or
911 ordered by a court of law or other law enforcement agency. Such authorization shall be
912 considered a factor in support of coverage for such treatment, including as allowed under clause
913 (4) of subsection (a) of section 6 and clause (7) of subsection (a) of section 7.

914 SECTION 51. Said chapter 176O is hereby further amended by adding the following
915 section:-

916 Section 29. (a) The bureau of managed care shall develop and implement standard
917 credentialing forms for health care providers. A carrier, or any entity that manages or administers
918 benefits for a carrier, shall accept the standard credentialing form for contracting providers as
919 sufficient information necessary to conduct its credentialing process.

920 (b) The bureau shall promulgate regulations establishing uniform standards and
921 methodologies for credentialing of health care providers. The regulations shall include, but not
922 be limited to, requirements that, for conducting a credentialing review of a health care provider, a
923 carrier, or any entity that manages or administers benefits for a carrier, shall: (i) use and accept
924 only the credentialing forms designated by the commissioner; and (ii) review a submitted
925 credentialing form for a health care provider and respond to the health care provider within 20
926 business days after receiving a completed credentialing request.

927 Nothing in this section shall prohibit a carrier, or any entity that manages or administers
928 benefits for a carrier, from using a credentialing methodology that utilizes an internet webpage,
929 internet webpage portal or similar electronic, internet and web-based system in lieu of a paper
930 form; provided, however, that upon request, a carrier, or any entity that manages or administers
931 benefits for a carrier, shall make a paper credentialing form available to a health care provider.

932 (c) A carrier, or an entity that manages or administers benefits for a carrier, that contracts
933 with another entity to perform some or all of the functions governed by this chapter shall be
934 responsible for ensuring compliance by the contracted entity with this chapter. A failure by the
935 contracted entity to meet the requirements of this chapter shall be the responsibility of the carrier

936 to remedy and shall subject the carrier to enforcement actions, including financial penalties,
937 authorized under this chapter.

938 SECTION 52. Section 200 of chapter 233 of the General Laws, as appearing in the 2018
939 Official Edition, is hereby amended by striking out the definition of “Emergency service
940 provider” and inserting in place thereof the following definition:-

941 “Emergency service provider”, an active or retired law enforcement officer, police
942 officer, state police trooper, sheriff or deputy sheriffs, correction officer, firefighter, or
943 emergency medical personnel.

944 SECTION 53. There shall be, subject to appropriation, a pilot program administered by
945 the department of higher education, in consultation with the department of mental health, to
946 encourage a culturally, ethnically and linguistically diverse behavioral health workforce. The
947 program shall be a partnership between colleges and behavioral health providers in the
948 community and may be funded through the behavioral health outreach, access and support trust
949 fund established under section 2GGGGG of chapter 29 of the General Laws.

950 Participants shall attend graduate-level classes to receive academic credits toward a
951 master’s degree in the field of behavioral health and receive a clinical placement by the college
952 providing the graduate-level classes. The college shall prioritize placements with community
953 providers serving high-need populations, including children, veterans, clients of the department
954 of children and families, incarcerated or formerly incarcerated individuals, including justice-
955 involved youth and emerging adults, individuals with post-traumatic stress disorder, aging adults,
956 school-aged youth and individuals with a co-morbidity. Not more than 12 months after the
957 completion of the pilot , the department of higher education shall file a report with the clerks of

958 the senate and house of representatives, the joint committee on higher education and the joint
959 committee on mental health, substance use and recovery that provides: (i) a description of the
960 community partners participating in the pilot; (ii) a summary of post-program employment or
961 continuing education plans of participating students; and (iii) any recommendations on ways to
962 further encourage a culturally, ethnically and linguistically diverse behavioral health workforce.
963 The report shall be written in non-technical, readily understandable language and shall be made
964 available to the public by posting the report on the department of higher education’s website.

965 SECTION 54. For the purposes of this section, “community health center” shall mean a
966 community health center receiving a grant under 42 USC 254b.

967 Notwithstanding any general or special law to the contrary, there shall be a 24-month
968 psychiatric mental health nurse practitioner fellowship pilot program to recruit and retain
969 psychiatric mental health nurse practitioners at community health centers to increase access to
970 high-quality community-based behavioral health care for medically underserved populations.
971 The program shall be administered by the department of public health and the department may
972 work with an external partner selected through a competitive grant process.

973 To be considered for selection in the psychiatric mental health nurse practitioner
974 fellowship pilot program, a community health center shall, at a minimum: (i) provide and
975 administer a 24-month post-graduate fellowship program for certified psychiatric mental health
976 nurse practitioners who have graduated from an accredited school of nursing and obtained
977 relevant licensure from a national licensing body designated by the board of registration in
978 nursing within the past 18 months; (ii) provide psychiatric mental health nurse practitioners in
979 the program with patient panels under the preceptorship of a psychiatrist or psychiatric mental

980 health nurse practitioner who has been licensed and in clinical practice for not less than 12
981 months before the beginning of the preceptorship; and (iii) demonstrate strategies and supports
982 for psychiatric mental health nurse practitioners to continue careers in integrated primary and
983 behavioral health care models or other fields at community health centers.

984 Nothing in this section shall be interpreted to conflict with, replace or supersede any
985 licensure requirements or standards for the advanced nursing practice established pursuant to
986 chapters 94C or 112 of the General Laws.

987 The department shall make expenditures, subject to appropriation, to implement this
988 program and shall consult, to the extent possible, with the executive office of health and human
989 services to maximize available federal funding for the program including, but not limited to,
990 Medicaid reimbursement. The fellowship may be funded through the behavioral health outreach,
991 access and support trust fund established under section 2GGGGG of chapter 29 of the General
992 Laws.

993 Not later than July 31 following the disbursement of funding to eligible community
994 health centers, the department of public health, in conjunction with any external partner, shall
995 submit a report including data on the number of psychiatric mental health nurse practitioner
996 applicants, participant retention, care provided to patients in underserved populations and all
997 program expenditures to the secretary of health and human services, the secretary for
998 administration and finance, the joint committee on health care financing, the clerks of the senate
999 and house of representatives and the house and senate committees on ways and means. The
1000 report shall be written in non-technical, readily understandable language and shall be made
1001 available to the public by posting the report on the department's website.

1002 SECTION 55. Notwithstanding any general or special law to the contrary, the department
1003 of public health, in consultation with the department of mental health, the health policy
1004 commission and the department of elementary and secondary education, shall establish a pilot
1005 program to increase student access to telebehavioral health services in schools. The program
1006 shall provide for a competitive grant program to allow local providers to provide telebehavioral
1007 health services through interactive video conferencing technology on-site at local public schools,
1008 which may be funded through the behavioral health outreach, access and support trust fund
1009 established under section 2GGGGG of chapter 29 of the General Laws.

1010 Delivery of behavioral health services shall be provided by a licensed mental health
1011 provider through live video conferencing between the provider and an individual student.
1012 Participating schools and providers shall follow best practices and ensure the privacy of all
1013 participating students.

1014 The department shall, subject to appropriation, provide funding to assist with costs for the
1015 participating students, public school and local providers. The department shall encourage
1016 participating providers to seek third-party reimbursement for these services; provided, however,
1017 that the inability of a student or family to pay for services shall not be a barrier to accessing the
1018 program.

1019 When identifying criteria for participating sites, the department of public health shall
1020 consider: (i) the availability of affordable behavioral health services for school-aged youth within
1021 the geographic region; and (ii) barriers within the geographic region that may prevent school-
1022 aged youth from accessing services outside the school.

1023 One year after the implementation of the pilot program, the department of public health
1024 shall submit a report on the program’s performance, including, but not limited to: (i) the number
1025 of students participating in the program; (ii) the frequency with which students use the program;
1026 (iii) the cost of the services provided, including the use of support staff; and (iv) the manner in
1027 which costs have been supported by third-party reimbursement. The report shall be submitted to
1028 the clerks of the senate and the house of representatives, the joint committee of mental health,
1029 substance use and recovery, the joint committee on education and the house and senate
1030 committees on ways and means. The report shall be written in non-technical, readily
1031 understandable language and shall be made available to the public by posting the report on the
1032 department’s website.

1033 SECTION 56. The office of health equity, in consultation with the department of public
1034 health and the department of mental health, shall, subject to appropriation, conduct a study
1035 assessing the availability of culturally competent behavioral health providers in the
1036 commonwealth. The study may be conducted by an entity with a demonstrated capacity to
1037 deliver research results passing an academic peer-review process in analyzing both quantitative
1038 and qualitative data and to communicate study results in an accessible manner.

1039 The study shall review the availability of culturally competent behavioral health
1040 providers within networks of both public and private health care payers and identify potential
1041 barriers to care for underserved cultural, ethnic and linguistic populations in the community. The
1042 review shall include, but not be limited to: (i) the number of culturally competent and diverse
1043 behavioral health providers that reflect the cultural, ethnic and linguistic population of the
1044 community; (ii) the existence of culturally competent services; (iii) geographic challenges to
1045 access culturally competent providers; (iv) training opportunities for providers to most

1046 effectively serve diverse populations; and (v) consideration of the impact of gender, gender
1047 identity, race, ethnicity, sexual orientation, status as a client of the department of children and
1048 families, status as an incarcerated or formerly incarcerated individual, including justice-involved
1049 youth and emerging adults, status as a veteran, status as an individual with post-traumatic stress
1050 disorder, status as an aging adult, linguistic barriers and social determinants of health on access
1051 to behavioral health services.

1052 Pursuant to memorandums of understanding with the center for health information and
1053 analysis established under chapter 12C of the General Laws, the group insurance commission
1054 established under chapter 32A of the General Laws and MassHealth established under chapter
1055 118E of the General Laws, respectively, the office shall receive data to complete the charge of
1056 this study.

1057 Not later than March 15, 2021, the office shall submit the study's findings with clerks of
1058 the senate and house of representatives, the joint committee on mental health, substance use and
1059 recovery, the joint committee on public health and the joint committee on health care financing.

1060 SECTION 57. The interagency health equity team, as supported through the office of
1061 health equity, shall, in consultation with the advisory council appointed in this section, study
1062 ways to improve access to, and the quality of, culturally competent behavioral health services.
1063 The review shall include, but not be limited to: (i) the need for greater racial, ethnic and
1064 linguistic diversity within the behavioral health workforce; (ii) the role of gender, gender
1065 identity, race, ethnicity, linguistic barriers, status as a client of the department of children and
1066 families, status as an incarcerated or formerly incarcerated individual, including justice-involved
1067 youth and emerging adults, status as a veteran, status as an individual with post-traumatic stress

1068 disorder, status as an aging adult, sexual orientation and social determinants of health regarding
1069 behavioral health needs; and (iii) any other factors identified by the team that create disparities in
1070 access and quality within the existing behavioral health service delivery system, including
1071 stigma, transportation and cost.

1072 The advisory council shall consist of: the chairs of the joint committee on mental health,
1073 substance use and recovery; the chair of the Black and Latino Caucus or a designee; and the
1074 following members to be appointed by the commissioner of public health, 1 of whom shall be a
1075 local public health official representing a majority-minority municipality, 1 of whom shall be a
1076 representative of a racial or ethnic equity advocacy group, 1 of whom shall be a representative of
1077 a linguistic equity advocacy group, 1 of whom shall be a licensed behavioral health provider, 1
1078 of whom shall be a representative of a mental health advocacy group, 1 of whom shall be a
1079 representative of an organization serving the health care needs of the lesbian, gay, bisexual,
1080 transgender, queer and questioning community, 1 of whom shall be a representative of an
1081 organization serving the health care needs of individuals experiencing housing insecurity and 1
1082 of whom shall be an individual with expertise in school-based mental health services.

1083 The team shall meet not less than quarterly with the advisory council. Not later than
1084 March 30, 2021 and annually for the following 3 years at the close of the fiscal year, the team
1085 shall issue a report with legislative, regulatory or budgetary recommendations to improve the
1086 access and quality of culturally competent mental and behavioral health services. The report shall
1087 be written in non-technical, readily understandable language and shall be made available to the
1088 public by posting the report on the office of health equity's website.

1089 The office of health equity, the department of mental health and the department of public
1090 health may, subject to appropriation, provide administrative, logistical and research support to
1091 produce the report.

1092 SECTION 58. (a) Notwithstanding any general or special law to the contrary, there shall
1093 be a pediatric mental health care task force to undertake a comprehensive analysis of the delivery
1094 of pediatric mental health services in the commonwealth and make recommendations to improve
1095 the availability, access and cost-effectiveness of such services.

1096 (b) The task force shall consist of the following members or a designee: the secretary of
1097 health and human services, who shall serve as chair; the assistant secretary for MassHealth; the
1098 commissioner of public health; 2 members to be appointed by the senate president; 2 members to
1099 be appointed by the speaker of the house of representatives; 1 member to be appointed by the
1100 minority leader of the senate; 1 member to be appointed by the minority leader of the house of
1101 representatives; and 8 members to be appointed by the governor, 1 of whom shall be a
1102 representative of the Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a
1103 representative of the Massachusetts Medical Society, 2 of whom shall be representatives of
1104 providers of pediatric mental health, 2 of whom shall be representatives of academic medical
1105 institutions and 2 of whom shall be representatives of parents or family members of consumers
1106 of pediatric mental health services.

1107 (c) The task force shall submit a report of its findings, together with any proposed
1108 legislation, not later than August 1, 2020 to the clerks of the senate and the house of
1109 representatives, the joint committee on health care financing and the senate and house
1110 committees on ways and means.

1111 SECTION 59. The health policy commission, in consultation with the division of
1112 insurance, shall review the role of behavioral health managers, as defined in section 1 of chapter
1113 176O of the General Laws, within the health care delivery system. The commission shall review:
1114 (i) oversight practices by other states on behavioral health managers; (ii) the effects of behavioral
1115 health manager state licensure, regulation or registration on access to behavioral health services;
1116 (iii) other aspects of behavioral health managers as deemed appropriate by the commission.

1117 Not later than January 1, 2021, the health policy commission shall file a report of its
1118 findings with the clerks of the senate and house of representatives, the joint committee on health
1119 care financing, the joint committee on mental health, substance use and recovery and the joint
1120 committee on financial services.

1121 SECTION 60. Notwithstanding any special or general law to the contrary, there shall be a
1122 special commission to study and make recommendations on the establishment of a common set
1123 of criteria for providers and payers to use in making medical necessity determinations for
1124 behavioral health treatment.

1125 The commission shall consist of the following members or their designees: the
1126 commissioner of mental health, who shall serve as chair; the commissioner of insurance; the
1127 director of the bureau of substance addiction services within the department of public health; the
1128 assistant secretary for MassHealth; the executive director of the group insurance commission;
1129 and the following members to be appointed by the chair: 1 of whom shall be a representative of
1130 the health policy commission; 2 of whom shall be representatives of the Massachusetts
1131 Psychiatric Society, Inc., 1 of whom shall specialize in the treatment of children; 2 of whom
1132 shall be representatives of the Massachusetts Psychological Association, Inc., 1 of whom shall

1133 specialize in the treatment of children; 1 of whom shall be a representative of the Massachusetts
1134 Society of Addiction Medicine, Inc.; 1 of whom shall be a representative of the National
1135 Association of Social Workers, Inc.; 1 of whom shall be a representative of the Massachusetts
1136 Mental Health Counselors Association, Inc.; 1 of whom shall be a representative of the
1137 Children’s Mental Health Campaign; 1 of whom shall be a representative of the Association for
1138 Behavioral Healthcare, Inc.; 1 of whom shall be a representative of the Massachusetts
1139 Association of Behavioral Health Systems, Inc.; 1 of whom shall be a representative of the
1140 Massachusetts Association for Mental Health, Inc.; 1 of whom shall be a representative of the
1141 National Alliance on Mental Illness of Massachusetts, Inc.; 1 of whom shall be a representative
1142 of the Massachusetts Organization for Addiction Recovery, Inc.; 1 of whom shall be a
1143 representative of Blue Cross and Blue Shield of Massachusetts, Inc.; and 1 of whom shall be a
1144 representative of the Massachusetts Association of Health Plans, Inc..

1145 The commission’s review shall include, but not be limited to: (i) existing reference
1146 sources or services utilized by payers to make medical necessity determinations for behavioral
1147 health treatment, including, but not limited to American Society of Addiction Medicine,
1148 InterQual, Level of Care Utilization System and Milliman; (ii) commonly accepted treatment
1149 guidelines and standards of care utilized by behavioral health providers and the evidentiary basis
1150 for those guidelines and standards; (iii) the feasibility of establishing a common set of medical
1151 necessity criteria that behavioral health providers and payers can agree to and any barriers to this
1152 task; and (iv) experiences of other states addressing the standardization of medical necessity for
1153 behavioral health.

1154 The commission shall submit its findings and recommendations, together with drafts of
1155 legislation or regulations necessary to carry those recommendations into effect, to the clerks of

1156 the senate and house of representatives and the joint committee on mental health, substance use
1157 and recovery not later than 1 year after the effective date of this act.

1158 SECTION 61. For the purposes of this section, the following terms shall have the
1159 following meanings unless the context clearly requires otherwise:

1160 “Adverse childhood experience”, a potentially traumatic event that occurs in childhood,
1161 including, but not limited to: (i) experiencing violence or abuse; (ii) witnessing violence in the
1162 home or community; (iii) having a close family member die or attempt or die by suicide; (iv)
1163 living with close family member or caregiver with substance use disorder or presenting with
1164 behavioral health needs; or (v) experiencing separation from a parent due to divorce,
1165 incarceration or child welfare intervention.

1166 “Trauma”, the result of an event, series of events or set of circumstances that is
1167 experienced by an individual as physically or emotionally harmful or threatening and that has
1168 lasting adverse effects on the individual’s functioning and physical, social, emotional or spiritual
1169 well-being.

1170 There shall be an advisory working group to update, amend or select, as appropriate,
1171 tools and protocols for the screening of children for trauma and adverse childhood experiences
1172 within the developmental and mental health screening protocols applicable to the Early and
1173 Periodic Screening, Diagnosis and Treatment benefit. The advisory working group shall be
1174 comprised of the following members or their designee: the assistant secretary of MassHealth and
1175 the commissioner of insurance, who shall serve as co-chairs; the commissioner of public health;
1176 the commissioner of mental health; and the following members to be appointed by the co-chairs,
1177 at least 2 of whom shall represent commercial health insurance carriers, at least 2 of whom shall

1178 be behavioral health experts, at least 2 of whom shall be developmental pediatric experts, at least
1179 2 of whom shall be child welfare experts and at least 2 of whom shall be child and adolescent
1180 stakeholders.

1181 The advisory working group shall consider: (i) existing screening tools used in the
1182 MassHealth program, including, but not limited to, those outlined in the MassHealth All Provider
1183 Manual Appendix W - Early and Periodic Screening, Diagnosis and Treatment Program Services
1184 Medical and Dental Protocols and Periodicity Schedules; (ii) other validated and reliable
1185 screening tools with empirical support for reliability, validity, standardization of norms,
1186 specificity and sensitivity of measures that assess abuse, neglect, household dysfunction and
1187 related indicators, including parental trauma and toxic stress; (iii) validated and reliable
1188 screening instruments that meet criteria set forth by the American Academy of Pediatrics and the
1189 federal Centers for Medicare and Medicaid Services; (iv) the efficacy and appropriateness of the
1190 types of providers authorized to administer screenings; (v) the training required to support
1191 authorized providers in the sound and efficient administration of adverse childhood events and
1192 trauma screening; (vi) ways to ensure regular periodic review of protocols for the screening of
1193 trauma in children; and (vii) ways to ensure adequate reimbursement for screening children for
1194 adverse childhood experiences.

1195 The advisory working group shall hold the first meeting not later than April 1, 2020 and
1196 report its findings and recommendations to the clerks of the senate and house or representatives,
1197 the joint committee on mental health, substance use and recovery and the joint committee on
1198 health care financing not later than December 31, 2020.

1199 SECTION 62. For the purposes of this section, the term “dual diagnosis” shall mean a
1200 mental illness and a substance abuse problem occurring simultaneously in the same individual.

1201 There may be, on the campus of Taunton state hospital, a behavioral health emergency
1202 department relief pilot program to accept medically stable, high acuity behavioral health and dual
1203 diagnosis patients from emergency departments in the southeast region of the commonwealth.
1204 Medically stable patients presenting in an emergency department with a high acuity behavioral
1205 health condition or a dual diagnosis should be transferred to this pilot program if another
1206 appropriate setting cannot be located within 4 hours of admission to the emergency department.
1207 Patients admitted to the pilot program shall be cared for until an appropriate placement is found
1208 that meets the patient’s needs not more than 14 days after admission to the pilot program. The
1209 program shall be operated and staffed by the department of mental health as needed to provide
1210 appropriate care. Program protocols and a staffing plan shall be developed during the first 6
1211 months following the effective date of this act by a committee including the department of
1212 mental health, the department of public health, the National Alliance on Mental Illness of
1213 Massachusetts, Inc., the Massachusetts Nurses Association and the Emergency Nurses
1214 Association. The pilot program may operate for a period of not more than 2 years. The
1215 department of mental health shall file a report with the joint committee on mental health,
1216 substance use and recovery during the second year of the program to evaluate the success of the
1217 program in decreasing emergency department overcrowding in the southeast region of the
1218 commonwealth and the quality of care provided in the program. The report may be drafted by an
1219 independent entity, utilizing data from the department of mental health and local hospitals in the
1220 southeast region of the commonwealth.

1221 SECTION 63. Notwithstanding any general or special law to the contrary, the executive
1222 office of health and human services, in consultation with the department of mental health, the
1223 department of public health, MassHealth, the office of the child advocate and the division of
1224 insurance, shall establish an expedited protocol that establishes clear steps and responsibilities to
1225 ensure that individuals under the age of 22 in need of inpatient or residential psychiatric
1226 treatment are placed in an appropriate facility from an emergency department or satellite
1227 emergency facility within 48 hours of admission to the emergency department or satellite
1228 emergency facility that shall be incorporated in the regulations required under section 51¾ of
1229 chapter 111 of the General Laws.

1230 The protocol shall include, but not be limited to: (i) a behavioral health evaluation to
1231 occur, in person or through the use of telehealth technology, within 12 hours of admission to the
1232 emergency department or satellite emergency facility; (ii) notification to the department of
1233 mental health and the patient's insurance carrier to expedite placement in or admission to an
1234 appropriate treatment program or facility upon completion of the behavioral health evaluation;
1235 (iii) where appropriate, monitoring, emergent psychiatric intervention and initiation of treatment
1236 to stabilize the individual until placement in or admission to an appropriate treatment program or
1237 facility; (iv) notification upon discharge from the emergency department or satellite emergency
1238 facility to the patient's primary care physician, if known; and (v) recording by the emergency
1239 department or satellite emergency facility of the behavioral health evaluation in the patient's
1240 electronic medical record upon discharge and making the evaluation directly accessible by other
1241 healthcare providers and facilities consistent with federal and state privacy requirements through
1242 a secure electronic medical record, health information exchange or other similar software or
1243 information systems.

1244 SECTION 64. Notwithstanding any general or special law to the contrary, the executive
1245 office of public safety and security, in consultation with the department of mental health and the
1246 department of public health, shall examine: (i) the availability of behavioral health screening and
1247 preliminary treatment in situations necessitating an emergency response from municipal and
1248 state police, firefighters or other public safety personnel; (ii) ways to assist municipal and state
1249 police; firefighters and other public safety personnel in behavioral health screening and
1250 preliminary treatment in an emergency response; and (iii) incentives to support municipal and
1251 state police, firefighters and other public safety personnel in participating in behavioral health
1252 screening and treatment.

1253 The executive office of public safety and security shall submit the examination and any
1254 recommendations to the clerks of the senate and the house of representatives, the joint committee
1255 on public safety and homeland security, the joint committee on mental health, substance use and
1256 recovery not later than 90 days after the effective date of this act.

1257 SECTION 65. Notwithstanding any special or general law to the contrary, there shall be a
1258 special commission to review ways to increase consumer access to the behavioral health
1259 workforce. The commission shall consider: (i) workforce needs within the behavioral health
1260 field; (ii) identified behavioral health workforce shortages, including, but not limited to,
1261 shortages in inpatient and community-based settings; (iii) ways to identify barriers to mental
1262 health providers' acceptance of commercial insurance and MassHealth, including, but not limited
1263 to, the impact of commercial insurance and MassHealth reimbursement rates and administrative
1264 processes; (iv) ways to increase and incentivize the acceptance of commercial insurance and
1265 MassHealth by behavioral health providers; (v) the feasibility of requiring acceptance of
1266 commercial insurance and MassHealth as a condition of licensure for mental health providers;

1267 (vi) recommendations and best practices proven to have the most impact on addressing
1268 behavioral health workforce shortages, including, but not limited to, the impact of current rates
1269 for behavioral health services and use of peer support groups and alternative therapeutic
1270 interventions to supplement existing interventions and pathways of care; and (vii) ways to
1271 implement the integration of peer support groups and alternative therapeutic interventions into
1272 the existing behavioral health care system.

1273 The commission shall consist of the following members or their designees: the secretary
1274 of health and human services, who shall serve as chair; the commissioner of insurance; the
1275 assistant secretary for MassHealth; the commissioner of public health; the commissioner of the
1276 department of mental health; and the following members to be appointed by the chair, 1 of whom
1277 shall be a representative on the Massachusetts Nurses Association, 1 of whom shall be a
1278 representative of the Massachusetts Psychiatric Society, Inc., 1 of whom shall be a representative
1279 of the Massachusetts Psychological Association, Inc., 1 of whom shall be a representative of the
1280 National Association of Social Workers, Inc., 1 of whom shall be a representative of the
1281 MAAPPN Massachusetts Association of Advanced Practice Psychiatric Nurses, Inc., 1 of whom
1282 shall be a representative of the Massachusetts Mental Health Counselors Association, Inc., 1 of
1283 whom shall be a representative of the Association for Behavioral Healthcare, Inc., 1 of whom
1284 shall be a representative of The Massachusetts Medical Society, 1 of whom shall be a
1285 representative of the National Alliance on Mental Illness of Massachusetts, Inc., 1 of whom shall
1286 be a representative of the American Nurses Association Massachusetts, Inc, 1 of whom shall be a
1287 representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a
1288 representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a
1289 representative of the Children’s Mental Health Campaign, 1 of whom shall be a representative of

1290 Massachusetts League of Community Health Centers, Inc., 1 of whom shall be a representative
1291 of Massachusetts Association for Mental Health, Inc., 1 of whom shall be a representative of the
1292 GPS Group Peer Support, LLC and 1 of whom shall be a representative of the Massachusetts
1293 Health and Hospital Association, Inc.

1294 The commission shall submit its findings and recommendations with the clerks of the
1295 senate and house of representatives, the joint committee on mental health, substance use and
1296 recovery and the joint committee on public health not later than 1 year from the effective date of
1297 this act.

1298 SECTION 66. Notwithstanding any general or special law to the contrary, the department
1299 of public health, in consultation with the division of insurance, the department of mental health,
1300 the center for health information and analysis and the health policy commission, shall conduct a
1301 study on developing a standard release for exchanging confidential behavioral health and
1302 substance use disorder information for use by all public and private agencies, departments,
1303 corporations or individuals, licensed providers that are involved with the treatment of an
1304 individual presenting with behavioral health needs.

1305 The study, together with any legislative recommendations, shall be filed with the clerks
1306 of the senate and house of representatives not later than December 31, 2020.

1307 SECTION 67. The division of insurance shall promulgate regulations to implement
1308 section 5D of chapter 176O of the General Laws not later than 1 year from the effective date of
1309 this act; provided, further that the division shall, upon publication, forward any draft regulations
1310 to the joint committee on health care financing and joint committee on mental health, substance
1311 use and recovery.

1312 SECTION 68. The center for health information and analysis shall revise regulations
1313 relative to reporting requirements under sections 8, 9 and 10 of chapter 12C of the General Laws
1314 to implement section 4 within 6 months of the effective date of this act.

1315 SECTION 69. Section 18 shall take effect on January 1, 2021; provided, however, that
1316 the department of public health shall promulgate regulations to implement section 51³/₄ of
1317 chapter 111 of the General Laws not later than October 1, 2020.

1318 SECTION 70. Sections 16, 17, 31, 35, 38, 39, 41, 44 and 47 shall apply to contracts
1319 entered into or reviewed on or after July 1, 2020.

1320 SECTION 71. Sections 5 to 12, inclusive, sections 19 to 22, inclusive, and sections 24,
1321 25 and 29 shall take effect July 1, 2021.

1322 SECTION 72. Sections 48 and 50 of the act and section 82 of chapter 118E of the
1323 General Laws shall take effect 1 year after the effective date of this act.