SENATE . . . . . No. 3097

The Commonwealth of Massachusetts

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

SENATE, August 1, 2022

Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate addressing barriers to care for mental health (Senate, No. 2584) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4891**)**,-- reports, a "Bill addressing barriers to care for mental health" (Senate, No. 3097).

For the Committee:

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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:

SECTION 1. Subsection (d) of section 219 of chapter 6 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out clauses (5) and (6) and inserting in place thereof the following 8 clauses:-

(5) facilitate the development of interagency initiatives that: (i) are informed by the science of promotion and prevention; (ii) advance health equity and trauma-responsive care; and (iii) address the social determinants of health;

(6) develop and implement a comprehensive plan to strengthen community and state-level promotion programming and infrastructure through training, technical assistance, resource development and dissemination and other initiatives;

(7) advance the identification and dissemination of evidence-based practices designed to further promote behavioral health and the provision of supportive behavioral health services and programming to address substance use conditions and to prevent violence through trauma-responsive intervention and rehabilitation;

(8) collect and analyze data measuring population-based indicators of behavioral health from existing data sources, track changes over time and make programming and policy recommendations to address the needs of populations at greatest risk;

(9) coordinate behavioral health promotion and wellness programs, campaigns and initiatives;

(10) hold public hearings and meetings to accept comment from the public and to seek advice from experts, including, but not limited to, those in the fields of neuroscience, public health, behavioral health, education and prevention science;

(11) serve as an advisory board to the office of behavioral health promotion established in section 16DD of chapter 6A; and

(12) submit an annual report to the legislature as provided in subsection (e) on the state of preventing substance use and promoting behavioral health in the commonwealth.

SECTION 2. Chapter 6A of the General Laws is hereby amended by striking out section 16P, as so appearing, and inserting in place thereof the following section:-

Section 16P. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Adult", an individual who is older than 22 years of age.

"Awaiting residential disposition", waiting not less than 72 hours to be moved from an acute level of psychiatric care to a less intensive or less restrictive, clinically-appropriate level of psychiatric care.

"Boarding", waiting not less than 12 hours to be placed in an appropriate therapeutic setting after: (i) being assessed; (ii) being determined in need of acute psychiatric treatment, crisis stabilization unit placement, community-based acute treatment, intensive community-based acute treatment, continuing care unit placement or post-hospitalization residential placement; and (iii) receiving a determination from a licensed health care provider of medical stability without the need for urgent medical assessment or hospitalization for a physical condition.

"Children and adolescents", individuals who are 22 years of age or less.

(b)(1) The secretary of health and human services shall facilitate the coordination of services for children and adolescents awaiting clinically-appropriate behavioral health services by developing and maintaining a confidential and secure online portal that enables health care providers, health care facilities, payors and relevant state agencies to access real-time data on children and adolescents who are boarding, awaiting residential disposition or in the care or custody of a state agency and are awaiting discharge to an appropriate foster home or a congregate or group care program. The online portal and information contained in the online portal shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or under chapter 66.

(2) The online portal shall include, but not be limited to, the following data: (i) the total number of children and adolescents boarding, including a breakdown, by location, of where the children and adolescents are boarding, which shall include, but not be limited to, hospital emergency rooms, emergency services sites and medical floors after having received medical stabilization treatment or their homes; (ii) the total number of children and adolescents awaiting residential disposition, including a breakdown, by facility type, of where children and

adolescents are awaiting residential disposition and the level of care or type of placement sought; and (iii) the total number of children and adolescents in the care or custody of a state agency who are hospitalized and have waited not less than 72 hours for discharge to an appropriate foster home or a congregate or group care program after having been determined to no longer need hospital-level care.

(3) For each category of data included pursuant to paragraph (2), the online portal shall include: (i) the average wait time for discharge to the appropriate level of care or placement; (ii) the level of care required as determined by a licensed health care provider; (iii) the primary behavioral health diagnosis and any co-morbidities relevant for the purposes of placement; (iv) the primary reason for boarding, awaiting residential disposition or, for children and adolescents in the care or custody of a state agency, for having waited not less than 72 hours for discharge to an appropriate foster home or a congregate or group care program after an assessment that hospital-level care is no longer necessary; (v) whether the children and adolescents are in the care or custody of the department of children and families or the department of youth services or are eligible for services from the department of mental health or the department of developmental services; (vi) data on the insurance coverage type for the children and adolescents; and (vii) data on the ages, race, ethnicity, preferred spoken languages and gender of the children and adolescents.

(4) The online portal shall include information on the specific availability of pediatric acute psychiatric beds, crisis stabilization unit beds, community-based acute treatment beds, intensive community-based acute treatment beds, continuing care beds and post-hospitalization residential beds. The online portal shall also enable a real-time bed search within a specified geographic region that shall include, but not be limited to: (i) the total number of beds licensed

by the department of mental health, the department of public health and the department of early education and care; (ii) the total number of available beds, broken down by location, licensing authority, age ranges and the distance, in miles, from where a child or adolescent currently resides and is boarding; (iii) the average daily bed availability, broken down by licensing authority and age ranges; (iv) daily bed admissions, broken down by licensing authority and age ranges; (v) the facility or location in which a child or adolescent was admitted; (vi) daily bed discharges, broken down by licensing authority and age ranges; and (vii) the average length of stay in a bed, broken down by licensing authority and age ranges.

(5) Quarterly, not later than 14 days after the end of the preceding quarter, the secretary shall report on the status of children and adolescents who are boarding, awaiting residential disposition or in the care or custody of a state agency and awaiting discharge to an appropriate foster home or a congregate or group care program. The report shall include a summary and assessment of the data published on the online portal pursuant to paragraphs (3) and (4) for the immediately preceding quarter and may include a summary and assessment of the data over several quarters; provided, however, that the report shall present the data in an aggregate and de-identified form. The report shall be submitted to the children's behavioral health advisory council, established in section 16Q, the office of the child advocate, the health policy commission, the clerks of the senate and the house of representatives, the house and senate committees on ways and means, the joint committee on health care financing, the joint committee on mental health, substance use and recovery and the joint committee on children, families and persons with disabilities.

(c) The secretary of health and human services shall facilitate psychiatric and substance use disorder inpatient admissions for adults seeking to be admitted from an emergency

department or hospital medical floor by developing and maintaining a confidential and secure online portal that enables health care providers, health care facilities and payors to conduct a real-time bed search for patient placement. The online portal shall provide real-time information on the specific availability of all licensed psychiatric and substance use disorder inpatient beds that shall include, but not be limited to: (i) location; (ii) care specialty; and (iii) insurance requirements. The online portal and information contained in the online portal shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or under chapter 66.

SECTION 3. Said chapter 6A is hereby further amended by striking out section 16R, as so appearing, and inserting in place thereof the following section:-

Section 16R. (a) There shall be an interagency review team to collaborate on complex cases where there is a need for urgent action to address the lack of consensus or resolution between state agencies about current service needs or placement of an individual who: (i) is under the age of 22; (ii) is disabled or has complex behavioral health or special needs; and (iii) qualifies or may qualify for services from 1 or more state agencies, or special education services through the individual's school district.

(b) The team shall consist of: the secretary of health and human services or a designee, who shall serve as co-chair; the commissioner of elementary and secondary education or a designee, who shall serve as co-chair; the assistant secretary of MassHealth or a designee; the commissioner of mental health or a designee; the commissioner of children and families or a designee; the commissioner of developmental services or a designee; the commissioner of youth services or a designee; the commissioner of early education and care or a designee; the secretary of the executive office of education or a designee; a representative from the office of the child

advocate; and a representative from the school district or districts responsible for any aspect of an individual's education. The co-chairs may agree to convene a subset of the above-listed team members according to the circumstances of the individual's case; provided however, that a representative from the office of the child advocate shall be present at all team meetings.

(c)(1) An individual may be referred to the team by the individual themselves if the individual is age 16 years or older, a state agency including a representative from the agency's ombudsman's office, the juvenile court, a hospital or emergency service provider, a school district, an attorney representing the individual or the individual's parent or guardian, a physician or behavioral health care provider authorized to act on behalf of a parent or guardian who is seeking access to services for the individual or the individual's parent or guardian.

(2) Not later than 5 business days after referral of an individual to the team, the co-chairs shall convene the team; provided, however, that for referrals involving an individual waiting in a hospital emergency department or medical bed, or at home for not less than 5 days to be placed in an appropriate therapeutic setting or to be provided with appropriate evaluations and services, the co-chairs shall convene the team not later than 1 business day after receiving the referral. The team may order expedited eligibility determinations by a state agency or an extended evaluation at a special education residential school in order for the team to make determinations about the individual's current service needs if deemed necessary after the receipt of the referral and a review of relevant materials, including educational records and evaluations and review of any report issued from the area or regional level of state agencies involved.

(3) Upon receipt and review of all necessary and updated information regarding the individual's service needs and eligibility decisions, the team shall determine the services

currently in place, additional services that are needed to meet the current needs of the individual, which agencies shall provide said services, including location or placement where appropriate and ongoing case management services, and which agencies have fiscal responsibilities to pay for such services. The team shall complete its review within 30 business days; provided, however, that for referrals involving an individual waiting in a hospital emergency department or medical bed, or at home for not less than 5 days to be placed in an appropriate therapeutic setting or to be provided with appropriate evaluations and services, the team shall complete its review within 5 business days. The co-chairs may authorize the expenditure of funds pursuant to section 2TTTTT of chapter 29 to effectuate the purposes of this section. If the team does not come to resolution regarding which agency or agencies have fiscal responsibility, the co-chairs shall assume joint fiscal responsibility to avoid any delay in an individual receiving needed services. The co-chairs may authorize the expenditure of funds pursuant to said section 2TTTTT of said chapter 29 to cover the costs of needed services for an individual until a resolution regarding agency fiscal responsibility is reached.

(d) If the individual or their parent or guardian disputes the decision of the team, the individual or their parent or guardian may file an appeal with the division of administrative law appeals, established under section 4H of chapter 7, which shall conduct an adjudicatory proceeding and order any necessary relief consistent with state or federal law; provided, however, that nothing in this section shall be construed to entitle an individual to services that the individual would otherwise be ineligible for under applicable agency statutes or regulations.

(e) Notwithstanding chapters 66A, 112 and 119 or any other state or federal law related to the confidentiality of personal data, the team, the secretary of health and human services and the division of administrative law appeals shall have access to and may discuss materials related to

the case while the case is under review; provided, that the individual or their parent or guardian shall consent in writing; and provided further, that such materials shall not be considered public records and that those having access shall agree in writing to keep the materials confidential.

(f) The secretary of health and human services with the commissioner of elementary and secondary education shall promulgate regulations to effectuate the purposes of this section. The regulations shall include, but not be limited to: (i) the respective roles of the secretary of health and human services and the commissioner of elementary and secondary education for facilitating the work of the team; (ii) processes, including expedited processes, and timelines for required notifications between state agencies, the team and individuals who may be eligible for assistance or their parent or a person legally authorized to act on their behalf; (iii) record sharing processes, including requirements for obtaining consumer or parental consent; (iv) data gathering and reporting requirements; (v) protocols to ensure that individuals, parents and guardians are aware of the interagency review available in accordance with this section, and are provided with regular updates from the team and afforded opportunities to provide input and make decisions throughout the review process; and (vi) the interagency services reserve fund established in section 2TTTTT of chapter 29, including allowable uses of resources from said fund, processes for requesting and documenting requests, authorizations and denials and issuance of resources from said fund.

(g) The secretary of health and human services shall publish an annual report not later than October 1 summarizing the cases reviewed by the team in the previous year, the length of time spent at each stage and the final resolution; provided, however, that the report shall not include any personally identifiable information of an individual. The report shall be provided to the child advocate and the clerks of the senate and the house of representatives.

(h) Nothing in this section shall limit the rights of parents, guardians or children under chapter 71B, the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. or section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 et seq. No decision or action taken under this section by the team shall be considered prejudicial by the Bureau of Special Education Appeals, the Division of Administrative Law Appeals or the MassHealth Board of Hearings.

SECTION 4. Said chapter 6A is hereby further amended by inserting after section 16CC the following 3 sections:-

Section 16DD. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Office", the office of behavioral health promotion.

"Secretary", the secretary of health and human services

(b) There shall be an office of behavioral health promotion within the executive office of health and human services. The office shall be under the supervision and control of a director of behavioral health promotion who shall be appointed by and shall report to the secretary. The commission on community behavioral health promotion established in section 219 of chapter 6 shall serve as an advisory board to the office.

(c) The office shall facilitate the coordination of all executive office, state agency, independent agency and state commission activities that promote behavioral health and wellness. The office shall set goals for the promotion of services and programming for behavioral health and substance use conditions. The office shall, in collaboration with the office of health equity established under section 16AA, fully integrate health equity principles and apply a health equity

framework to all its duties and obligations. The office shall prepare and implement an annual plan for the promotion of behavioral health.

(d) The office shall collaborate with the executive offices and state agencies on behavioral health promotion. The executive offices and agencies shall include, but not be limited to: the executive office of health and human services, the executive office of education, the executive office of elder affairs, the department of mental health, the department of public health, the department of children and families, department of youth services, the department of veterans' services, the department of early education and care, the department of elementary and secondary education, the office for refugees and immigrants, the office of health equity, the office of the child advocate and any other relevant office, agency or commission. The office shall facilitate communication and partnership between relevant entities to develop and promote understanding of the intersections between entity activities and behavioral health promotion.

(e) The office shall:

(i) facilitate the development of interagency initiatives that: (A) are informed by the science of promotion and prevention; (B) advance health equity and trauma-informed care; and (C) address the social determinants of health;

(ii) develop and implement a comprehensive plan to strengthen community and state-level promotion programming and infrastructure through training, technical assistance, resource development and dissemination and other initiatives;

(iii) advance the identification and dissemination of evidence-based or evidence-informed practices designed to further promote behavioral health and the provision of supportive

behavioral health services and programming to address substance use conditions and sequelae and to prevent violence through trauma-specific intervention and rehabilitation;

(iv) collect and analyze data measuring population-based indicators of behavioral health from existing data sources, track changes over time and make programming and policy recommendations to address the needs of populations at greatest risk;

(v) coordinate behavioral health promotion and wellness programs, campaigns and initiatives;

(vi) provide staffing support for the commission on community behavioral health promotion established in section 219 of chapter 6;

(vii) ascertain the behavioral health needs of veterans, including but not limited to an examination of: (A) the extent to which veterans seek, receive or are required to participate in behavioral health screening and treatment, if known; (B) barriers to veterans receiving or participating in behavioral health screening and treatment; (C) current programs and best practices to incentivize and support veterans to seek, receive and participate in behavioral health screening and treatment; and (D) any recommendations for improving access to and participation in behavioral health screening and treatment by veterans;

(viii) examine: (A) the extent to which municipal and state police, firefighters and public safety personnel seek, receive or are required to participate in behavioral health screening and treatment, if known; (B) barriers to municipal and state police, firefighters and public safety personnel receiving or participating in behavioral health screening and treatment; (C) current programs and best practices to incentivize and support municipal and state police, firefighters and public safety personnel to seek, receive and participate in behavioral health screening and

treatment; and (D) any recommendations for improving access to and participation in behavioral health screening and treatment by municipal and state police, firefighters and public safety personnel;

(ix) establish a statewide evidence-based or evidence-informed education and awareness initiative to: (A) identify and disseminate best practices for preventing suicide and improving the behavioral health, mental wellness and resiliency among health care professionals; (B) encourage health care professionals to seek behavioral health support and care; (C) help such professionals identify risk factors associated with suicide and behavioral health crisis and to help such professionals learn how best to respond to such risks;

(x) convene a student stakeholder advisory committee on mental health to work in collaboration with the department of elementary and secondary education to develop and implement school-based programs that promote student mental health and wellbeing, including but not limited to: (A) addressing and eliminating the stigma associated with mental health conditions and substance use disorder; (B) recognizing the signs and symptoms of mental health conditions; (C) addressing cyberbullying; (D) preventing and responding to student suicide and suicidal ideation, including actions involving self-harm; (E) promoting positive coping behaviors and helping students avoid behaviors that can cause harm to students; and (F) promoting mental health treatment and recovery; provided, however, that no less than 1/3 of the committee members shall be secondary school students; provided further, that the committee shall submit an annual report by June 30 with its findings and recommendations, including any legislative or regulatory changes that may be necessary, to the office, which shall provide such report to the clerks of the house of representatives and the senate, the joint committee on mental health,

substance use and recovery, the joint committee on health care financing, the joint committee on education and, the house and senate committees on ways and means;

(xi) address the stigma associated with seeking behavioral health services; and

(xii) analyze and address any other issues pertaining to behavioral health promotion as deemed relevant by the office or the secretary. The office may enter into service agreements with the department of mental health or the department of public health to fulfill the obligations of the office.

(f) The office shall evaluate the effectiveness of programs and interventions to promote behavioral health and wellness, identifying best practices and model programs for the commonwealth.

(g) Annually, not later than July 1, the office shall report on its progress, and the overall progress of the commonwealth, toward promoting behavioral health and wellness and preventing substance use and violence using, when possible, quantifiable measures and comparative benchmarks, including a description of quantitative and qualitative metrics used to evaluate the office's activities and outcomes of the office's initiatives. The report shall be filed with the governor, the clerks of the senate and house of representatives and the joint committee on mental health, substance use and recovery. The report shall be posted on the official website of the commonwealth.

Section 16EE. (a) As used in this section, the following words shall have the following meanings unless the context requires otherwise:

"Community behavioral health centers", organizations that are designated by the executive office of health and human services, licensed clinics that hold a contract with the department of mental health to provide community-based mental health services and other licensed clinics designated by the department of public health.

"Community crisis stabilization program", a program providing crisis stabilization services with the capacity for diagnosis, initial management, observation, crisis stabilization and follow-up referral services to all persons in a home-like environment, including, but not limited to, emergency service providers and restoration centers.

(b) The secretary of health and human services shall designate at least 1 988 crisis hotline center that shall operate 24 hours a day, 7 days a week to provide crisis intervention services and crisis care coordination to individuals accessing the federally-designated 988 suicide prevention and behavioral health crisis hotline.

(c) A 988 crisis hotline center shall: (i) meet the United States Department of Health and Human Services' Ambulatory Behavioral Health System standards and the National Suicide Prevention Lifeline requirements and best practices guidelines for operational and clinical standards; (ii) provide data, report and participate in evaluations and related quality improvement activities as required by the United States Department of Health and Human Services; (iii) utilize technology, including, but not limited to, chat and text capabilities, that is interoperable between and across crisis and emergency response systems and services, including 911 and 211, as necessary; (iv) have the authority to deploy crisis and outgoing services, including mobile behavioral health crisis responders, and coordinate access to crisis triage, evaluation and counseling services, community crisis stabilization programs or other resources as appropriate;

(v) maintain standing partnership agreements with community behavioral health centers and other behavioral health programs and facilities, including programs led by individuals who are or were consumers of mental health or substance use disorder supports or services; (vi) coordinate access to crisis evaluation, counseling, receiving and stabilization services for individuals accessing the 988 suicide prevention and behavioral health crisis hotline through appropriate information sharing regarding availability of services; (vii) have the capability to serve high-risk and specialized populations including, but not limited to, people with co-occurring substance use and mental health conditions and people with autism spectrum disorders or intellectual or developmental disabilities; (viii) have the capability to serve people of diverse races, ethnicities, ages, sexual orientations and gender identities with linguistically and culturally competent care; (ix) have the capability to provide crisis and outgoing services within a reasonable time period in all geographic areas of the commonwealth; and (x) provide follow-up services to individuals accessing the 988 suicide prevention and behavioral health crisis hotline.

(d) (1) There shall be a state 988 commission within the executive office of health and human services to provide ongoing strategic oversight and guidance in all matters regarding 988 service in the commonwealth.

(2) The commission shall review national guidelines and best practices and make recommendations for implementation of a statewide 988 suicide prevention and behavioral health crisis system, including any legislative or regulatory changes that may be necessary for 988 implementation and recommendations for funding that may include the establishment of user fees. The commission shall also advise on promoting the 988 number including, but not limited to, recommendations for including information about calling 988 on student identification cards and on signage in locations where there have been known suicide attempts.

(3) The commission shall consist of: the secretary of health and human services or the secretary's designee, who shall serve as chair; the secretary of public safety and security or the secretary's designee; the commissioner of mental health or the commissioner's designee; the commissioner of public health or the commissioner's designee; the executive director of the Massachusetts Behavioral Health Partnership or the executive director's designee; the executive director of the state 911 department or the executive director's designee; the executive director of Mass 2-1-1 or the executive director's designee; a representative designated by the Massachusetts Chapter of the National Association of Social Workers, Inc.; a 911 dispatcher designated by the Massachusetts Chiefs of Police Association Incorporated; an emergency medical technician or first responder nominated by the Massachusetts Ambulance Association, Incorporated; and the following members to be appointed by the chair: 1 representative from an emergency service provider, nominated by the Association for Behavioral Healthcare, Inc.; 1 representative from the Association for Behavioral Healthcare, Inc.; 1 representative from a suicide prevention hotline in the commonwealth, nominated by the Samaritans, Inc.; 1 representative from the Riverside Community Care, Inc. MassSupport program; 1 representative from the Massachusetts Coalition for Suicide Prevention; 1 representative from the Children's Mental Health Campaign; 1 representative from the INTERFACE Referral Service at William James College, Inc.; 1 representative from the National Alliance on Mental Illness of Massachusetts, Inc.; 1 representative from the Parent/Professional Advocacy League, Inc.; 1 representative from the Massachusetts Association for Mental Health, Inc.; 1 representative from the Boston branch of the National Association for the Advancement of Colored People; 1 representative from the American Civil Liberties Union of Massachusetts, Inc.; 1 representative from the mental health legal advisors committee; and 3 persons who are or have been consumers

of mental health or substance use disorder supports or services. Every reasonable effort shall be made to ensure representation from all geographic areas of the commonwealth.

(4) Annually, not later than March 1, the commission shall submit its findings and recommendations to the clerks of the senate and house of representatives, the joint committee on mental health, substance use and recovery and the joint committee on health care financing.

Section 16FF. (a) Subject to appropriation, the executive office of health and human services, in coordination with the department of elementary and secondary education, shall develop and implement a statewide program to assist in implementing behavioral health services and supports in each school district which shall include, but not be limited to, consultation, coaching and technical assistance.

(b) The program shall provide web-based, in-person and remote supports to administrators, teachers and school behavioral health staff related to planning, administering and managing behavioral health promotion, prevention and intervention services and supports, including: (i) engagement of families and guardians, with a focus on ensuring equitable, linguistically-competent, culturally-competent and developmentally appropriate responses, and (ii) access to services.

(c) The executive office, in consultation with the department of elementary and secondary education, shall establish a central base of operations within the University of Massachusetts, as well as regional sites, to carry out the program; provided, that there shall be a preference for existing locations providing similar services, such as the state center on child wellbeing and trauma within the University of Massachusetts medical school and the Behavioral

Health Integrated Resources for Children Project within the University of Massachusetts at Boston.

SECTION 5. Section 8 of chapter 6D of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “system”, in line 9, the following words:- and trends in annual behavioral health expenditures.

SECTION 6. Section 18B of said chapter 6A of the General Laws, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) There shall be, within the executive office of public safety and security, a state 911 commission to provide strategic oversight and guidance to the department, and to advise the department relative to its annual budget and all material changes thereto and in all matters regarding enhanced 911 service in the commonwealth. The commission shall consist of: the secretary of public safety and security, who shall serve as chairperson; the chief information officer of the information technology division; the colonel of state police; the state fire marshal; the police commissioner of the city of Boston; the director of the Massachusetts office on disability; the commissioner of public health; the commissioner of mental health; the commissioner of the Massachusetts commission for the deaf and hard of hearing; and 13 members to be appointed by the governor, 1 of whom shall be a sitting police chief and a representative of the Massachusetts Chiefs of Police Association, Inc., 1 of whom shall be a representative of the Massachusetts Police Association, Inc., 1 of whom shall be a sitting police chief and a representative of the Massachusetts Major City Chiefs Association, 2 of whom shall be sitting fire chiefs and representatives of the Massachusetts Fire Chiefs Association, 1 of

whom shall be a representative of the Professional Fire Fighters of Massachusetts, 1 of whom shall be a representative of the Massachusetts Sheriffs Association, Inc., 1 of whom shall be a representative of the Massachusetts Municipal Association, Inc., 1 of whom shall be a representative of the Massachusetts Emergency Medical Care Advisory Board, 1 of whom shall be a representative of the Massachusetts Ambulance Association, Inc., 1 of whom shall be a manager or supervisor of a PSAP and a representative of the Massachusetts Communication Supervisors Association, Inc., 1 of whom shall be a representative of the Association for Behavioral Healthcare, Inc. with experience in delivering psychiatric emergency services, and 1 of whom shall be an individual with lived experience with behavioral health conditions and interactions with police. One of the governor's appointees shall be elected annually by the commission as its vice chairperson. Members of the commission shall be appointed for terms of 3 years with no limit on the number of terms they may serve. Members shall hold office until a successor is appointed and no member shall serve beyond the time the member ceases to hold the office or employment that made the member eligible for appointment to the commission. The commission shall meet at least twice annually, and at other times as necessary. A meeting of the commission may be called by its chairperson, the vice chairperson or 3 of its members. A quorum for the transaction of business shall consist of 9 members. Members of the commission shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The commission shall review and approve by a majority vote of those members present all formulas, percentages, guidelines or other mechanisms used to distribute the grants described in this section, and all major contracts that the department proposes to enter into for enhanced 911 services. The commission shall review and

approve by a majority vote of those members present all regulations and standards proposed by the department.

SECTION 7. Paragraph (2) of subsection (i) of said section 18B of said chapter 6A, as so appearing, is hereby amended by striking out the ninth and tenth sentences and inserting in place thereof the following 2 sentences:- In the guidelines administering this grant, the department may include provisions to increase the allocation of funds to primary PSAPs provided under this grant that dispatch police, fire protection, emergency medical services and mobile behavioral health crisis response services, taking into account if any such services are provided by a private safety department. The department may include in such guidelines provisions to increase the allocation of funds to regional secondary PSAPs that dispatch any combination of regional police, fire protection, emergency medical services or mobile behavioral health crisis response services.

SECTION 8. Said chapter 6A is hereby further amended by striking out section 18C, as so appearing, and inserting in place thereof the following section:-

Section 18C. (a) Each PSAP shall be capable of transmitting a request for law enforcement, firefighting, medical, ambulance, emergency service provider or other emergency services to a public or private safety department that provides the requested services.

(b) Each primary and regional PSAP shall be equipped with a system approved by the department for the processing of requests for emergency services from persons with disabilities.

(c) Each primary and regional PSAP shall be equipped with a system approved by the department for the processing of requests for emergency services from persons with mental health or substance use conditions.

(d) A public safety department or private safety department that receives a request for emergency service outside of its jurisdiction shall promptly forward the request to the PSAP or public safety department responsible for that geographical area. Any emergency unit dispatched to a location outside its jurisdiction in the commonwealth in response to such request shall render service to the requesting party until relieved by the public safety department responsible for that geographical area.

(e) Except as approved by the department, no person shall permit an automatic alarm or other alerting device to dial the numbers 911 automatically or provide a prerecorded message in order to access emergency services directly.

(f) Municipalities may enter into written cooperative agreements to carry out subsections (a) through (d).

SECTION 9. Said section 8 of said chapter 6D, as so appearing, is hereby further amended by striking out, in line 94, the word “and” and inserting in place thereof the following words:- , including behavioral health expenditures, and.

SECTION 10. Section 16 of said chapter 6D, as so appearing, is hereby amended by inserting after the figure “176O”, in line 66, the following words:- , including a process for identifying and referring matters to the division of insurance and the office of the attorney general for review of compliance with state and federal mental health and substance use disorder parity laws.

SECTION 11. Said chapter 6D is hereby further amended by adding the following 2 sections:-

Section 20. Every 3 years, the commission, in collaboration with the department of public health, the department of mental health and the department of developmental services, shall prepare a pediatric behavioral health planning report analyzing the status of pediatric behavioral health in the commonwealth. The report shall include, but not be limited to: (i) a review of data from the online portal established in section 16P of chapter 6A and the reports submitted to the commission pursuant to subsection (f) of said section 16P of said chapter 6A; (ii) an analysis of the availability of pediatric acute psychiatric beds, crisis stabilization unit beds, community-based acute treatment beds, intensive community-based acute treatment beds, continuing care unit beds and post-hospitalization residential beds, broken down by geographic region and by sub-specialty, and an identification of any service limitations; (iii) an analysis of the capacity of the pediatric behavioral health workforce to respond to the acute behavioral health needs of children and adolescents across the commonwealth; (iv) any statutory, regulatory or operational factors that may impact pediatric boarding under said section 16P of said chapter 6A; and (v) any other information deemed relevant by the commission. The report shall be published on the commission's website.

Section 21. The commission shall develop a standard release form for exchanging confidential mental health and substance use disorder information. The standard release form shall be available in electronic and paper format and shall be accepted and used by all public and private agencies, departments, corporations, provider organizations and licensed professionals involved with the medical or behavioral health treatment of an individual experiencing mental illness, serious emotional disturbance or substance use disorder. The commission shall promulgate regulations for the proper use of the standard release form that shall comply with federal and state laws relating to the protection of individually identifiable health information.

SECTION 12. Subsection (a) of section 16 of chapter 12C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out clauses (10) and (11) and inserting in place thereof the following 3 clauses:- (10) the development and status of provider organizations in the commonwealth including, but not limited to, acquisitions, mergers, consolidations and any evidence of excess consolidation or anti-competitive behavior by provider organizations; (11) the impact of health care payment and delivery reform on the quality of care delivered in the commonwealth; and (12) costs, cost trends, price, quality, utilization and patient outcomes related to behavioral health service subcategories described in section 21A.

SECTION 13. Section 21A of said chapter 12C, as so appearing, is hereby amended by adding the following sentence:- The investigation and study shall also include developing and defining criteria for health care services to be categorized as behavioral health services, with subcategories including, but not limited to: (i) mental health; (ii) substance use disorder; (iii) outpatient; (iv) inpatient; (v) services for children; (vi) services for adults; and (vii) provider type.

SECTION 14. Section 88 of chapter 13 of the General Laws, as so appearing, is hereby amended by striking out the figure “13”, in line 4, and inserting in place thereof the following figure:- 15.

SECTION 15. Section 89 of said chapter 13, as so appearing, is hereby amended by striking out paragraph (A) in its entirety and inserting in place thereof the following paragraph:-

(A) 12 members shall be licensed practicing mental health and human services professionals and shall have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner rendering professional services in that field, in the education

and training of graduate students or interns in the field, in appropriate human developmental research, or in another area substantially equivalent thereto, and shall, during the 2 years preceding the appointment, have spent the majority of their professional time in such activity in the commonwealth. One of the 12 shall also be a member of a union licensable under sections 163 to 172, inclusive, of chapter 112.

Said members shall be appointed in such a manner as to proportionally represent the total number of active holders of each professional license type, as determined from time to time by the board; provided, that at least 1 member shall be a marriage and family therapist, at least 1 shall be a rehabilitation counselor, at least 1 shall be a clinical mental health counselor, at least 1 shall be an educational psychologist and at least 1 shall be a behavior analyst who meet the qualifications in the last 2 paragraphs of section 165 of chapter 112.

SECTION 16. Chapter 13 of the General Laws is hereby amended by striking out section 80, as so appearing, and inserting in place thereof the following section:-

Section 80. There shall be a board of registration of social workers that shall consist of: the commissioner of children and families or a designee who shall be licensed as a certified social worker or as an independent clinical social worker under sections 130 to 137, inclusive, of chapter 112; the commissioner of mental health or a designee who shall be licensed as a certified social worker or as an independent clinical social worker under said sections 130 to 137, inclusive, of said chapter 112; and 7 persons to be appointed by the governor, 1 of whom shall be a representative of an accredited school of social work, 3 of whom shall be licensed as certified social workers or as independent clinical social workers under said sections 130 to 137, inclusive, of said chapter 112, 1 of whom shall be an active member of an organized labor

organization representing social workers who shall be licensed under said sections 130 to 137, inclusive, of said chapter 112 and 2 of whom shall be members of the general public . At least 1 member who is a licensed social worker and at least 1 member from the general public shall represent an underserved population as defined by the United States Department of Health and Human Services.

SECTION 17. Section 18 of chapter 15A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

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

SECTION 18. Chapter 15D of the General Laws is hereby amended by inserting after section 12 the following section:-

Section 12A. (a)(1) The department shall develop performance standards necessary for prohibiting or significantly limiting the use of suspension and expulsion in all licensed early education and care programs pursuant to clause (t) of section 2. The standards shall be developed

with input from relevant stakeholders including, but not limited to the mixed delivery early education and child care field.

(2) The standards shall ensure that expulsion and suspension are limited to extraordinary circumstances where there is a documented assessment that the child's behavior poses a serious ongoing threat to the safety of others that cannot be reduced or eliminated by reasonable program modifications that are accessible to the program.

(b) The performance standards shall include, but not be limited to: (i) benchmarks and goals for supporting children's social, emotional and behavioral development to (A) reduce the use of expulsion as a disciplinary tool; (B) guidance on eliminating disparities in the use of suspension and expulsion, (C) facilitate referrals for children with intensive needs; and (D) establish programs to provide transitional support for children returning to early education and care programming after extended absences, including behavioral health-related absences; (ii) engagement steps to be taken with the child and parent or guardian prior to suspension or expulsion; (iii) requirements for communicating disciplinary policies, including suspension and expulsion policies, to staff, families, guardians and community partners; (iv) pathways for programs to access technical assistance through the statewide program established in section 16EE of chapter 6A to support ongoing development of staff and teacher skills for supporting children's social, emotional and behavioral development, reducing disparities and limiting the use of suspension and expulsion; and (v) requirements for assessing and documenting a serious ongoing threat to the safety of others.

SECTION 19. Section 5 of chapter 18C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The child advocate shall receive complaints from children, including children in the care of the commonwealth, families and guardians and shall assist such persons in resolving problems and concerns associated with placement, access to behavioral health services, plans for life-long adult connections and independent living and decisions regarding custody of persons aged between 18 and 22, including ensuring that relevant executive agencies have been alerted to the complaint and facilitating inter-agency cooperation, if appropriate. For the purposes of this section, the office shall develop procedures to ensure appropriate responses to the concerns of youth in foster care.

SECTION 20. Chapter 18C of the General Laws is hereby amended by inserting after section 10 the following section:-

Section 10A. Annually, not later than April 1, the child advocate shall file a report making recommendations for decreasing and eliminating the number of children and adolescents awaiting clinically-appropriate behavioral health services. The report shall include a review of the data included on the online portal established pursuant to section 16P of chapter 6A and the report submitted to the child advocate in accordance with subsection (f) of said section 16P of said chapter 6A. The child advocate's report shall be submitted to the governor, the children's behavioral health advisory committee established in section 16Q of said chapter 6A, the clerks of the senate and the house of representatives, the joint committee on health care financing, the

joint committee on mental health, substance use and recovery, the joint committee on children, families and persons with disabilities and the senate and house committees on ways and means.

SECTION 21. Said chapter 19 is hereby further amended by adding the following section:-

Section 26. (a) There shall be an expedited psychiatric inpatient admission advisory council within the department which shall investigate and recommend policies and solutions regarding the emergency department boarding of patients seeking mental health and substance use disorder services. The advisory council shall: (i) implement the expedited psychiatric inpatient admissions protocol, as established by the department; (ii) collect data on the number of patients boarding in emergency departments and the reasons for extended wait times, including capacity constraints; and (iii) make recommendations for measures to reduce the wait times for admissions.

(b) The advisory council shall consist of the following members: the commissioner of mental health or a designee, who shall serve as chair; the commissioner of public health or a designee; the director of the office of Medicaid or a designee; the commissioner of insurance or a designee; a representative from the Massachusetts Association of Health Plans, Inc.; a representative of Blue Cross and Blue Shield of Massachusetts, Inc.; a representative of the Massachusetts Health and Hospital Association, Inc.; a representative of the Massachusetts College of Emergency Physicians, Inc.; a representative of the Association for Behavioral Healthcare, Inc.; a representative of the National Alliance on Mental Illness of Massachusetts, Inc.; a representative of the Massachusetts Association of Behavioral Health Systems, Inc.; a

member representing emergency services providers; and a consumer representative with lived experience boarding in an emergency department.

(c) Annually, not later than December 31, the advisory council shall file a report with the secretary of health and human services, the joint committee on mental health, substance use and recovery and the joint committee on health care financing. The report shall: (i) summarize the data collected on the number of patients boarding in emergency departments identified by age, gender identity, race, ethnicity, insurance status, diagnosis and reason for the delay in admission; and (ii) include recommendations for reducing boarding in emergency departments and any suggested legislative or regulatory action to implement those recommendations, which shall include, but not be limited to, requirements for the delivery system to operate on a 24 hours a day, 7 days a week basis for admissions and discharges and penalties for noncompliance.

(d) Notwithstanding any general or special law to the contrary, the expedited psychiatric inpatient admissions protocol established by the department shall: (i) require, for patients under the age of 18, notification by the hospital emergency department to the department in order to expedite placement in or admission to an appropriate treatment program or facility within 48 hours of boarding or within 48 hours of being assessed to need acute psychiatric treatment and having been determined by a licensed health care provider to be medically stable without the need for urgent medical assessment or hospitalization for a physical health condition; (ii) include, within the escalation protocol, patients who initially had a primary medical diagnosis or primary presenting problem requiring treatment on a medical-surgical floor, who have been subsequently medically cleared and are boarding on a medical-surgical floor for an inpatient psychiatric placement; and (iii) include, for patients under the age of 18, notification upon

discharge from the emergency department, satellite emergency facility or medical-surgical floor to the patient's primary care physician or treating behavioral health clinician, if known.

SECTION 22. Chapter 26 of the General Laws is hereby amended by striking out section 8K, as appearing in the 2020 Official Edition, and inserting in place thereof the following section:-

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

(i) evaluating and resolving all consumer complaints alleging a carrier's non-compliance with state or federal laws related to mental health and substance use disorder parity as described in subsection (f);

(ii) performing behavioral health parity compliance market conduct examinations of each carrier not less than once every 4 years, or more frequently if noncompliance is suspected, with a focus on: (A) nonquantitative treatment limitations under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and applicable state mental health and substance use disorder parity laws, including, but not limited to, prior

authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates, network adequacy and geographic restrictions; (B) denials of authorization, payment and coverage; and (C) any other criteria determined by the division of insurance, including factors identified through consumer or provider complaints; provided, however, that: (1) a market conduct examination of a carrier subject to said chapter 175, 176A, 176B or 176G shall follow the procedural requirements in subsections 10, 11 and 15 of section 4 of said chapter 175 regarding notice and rebuttal of examination findings, subsequent hearings and conflicts of interest; (2) the commissioner shall publicize the fees for a market conduct examination under section 3B of chapter 7 and said subsection 11 of said section 4 of said chapter 175; and (3) nothing contained in clause (ii) or in said section 4 of said chapter 175, section 7 of said chapter 176A, section 9 of said chapter 176B and section 10 of said chapter 176G shall limit the commissioner's authority to use and, if appropriate, publish any final or preliminary examination report, any examiner or company work papers or other documents or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the commissioner may, in their sole discretion, deem appropriate;

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

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

(v) assessing a fee upon any carrier for the costs and expenses incurred in any market conduct examination authorized by law, consistent with the costs associated with the use of division personnel and examiners, the costs of retaining qualified contract examiners necessary to perform an examination, electronic data processing costs, supervision and preparation of an examination report and lodging and travel expenses; provided, however, that the commissioner shall maintain active management and oversight of examination costs and fees to ensure that the examination costs and fees comply with the National Association of Insurance Commissioners market conduct examiners handbook unless the commissioner demonstrates that the fees prescribed in the handbook are inadequate under the circumstances of the examination; and provided further, that the commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

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

The amount of any penalty imposed shall be $100 for each day in the noncompliance period per product line with respect to each participant or beneficiary to whom such violation relates; provided, however, that the maximum annual penalty under this subsection shall be $1,000,000; provided further, that for purposes of this subsection, the term "noncompliance

period" shall mean the period beginning on the date a violation first occurs and ending on the date the violation is corrected.

A penalty shall not be imposed for a violation if the commissioner determines that the violation was due to reasonable cause and not to willful neglect or if the violation is corrected not more than 30 days after the start of the noncompliance period.

(c) If a violation of state laws related to mental health and substance use disorder parity or the mental health parity provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued under the act, was likely to have caused denial of access to behavioral health services, the commissioner shall require carriers to provide remedies for any failure to meet the requirements of state laws related to mental health and substance use disorder parity or the mental health parity provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued under the act, which may include, but shall not be limited to:

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

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

(iii) informing plan members of changes;

(iv) requiring the carrier to reprocess and pay all inappropriately denied claims to affected plan members, notify members of their right to file claims for services previously denied

and for which members paid out-of-pocket and reimburse for services eligible for coverage under corrected standards; or

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

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

(e) The commissioner shall consult with the office of patient protection in connection with any behavioral health parity compliance market conduct examination conducted and completed under clause (ii) of subsection (a).

(f) The commissioner shall evaluate and resolve a consumer complaint alleging a carrier's non-compliance with a state or federal law related to mental health and substance use disorder parity, including any matters referred to the commissioner by the office of patient protection under subsection (g) of section 14 of chapter 176O. A consumer complaint may be submitted orally or in writing; provided, however, that an oral complaint shall be followed by a written submission to the commissioner that shall include, but not be limited to, the complainant's name and address, the nature of the complaint and the complainant's signature authorizing the release of any information regarding the complaint to help the commissioner with the review of the complaint; and provided further, that the commissioner shall create a process for a consumer to request the appointment of an authorized representative to act on the consumer's behalf.

The commissioner shall review consumer complaints under this subsection using the legal standards pertaining to quantitative treatment limitations and nonquantitative treatment limitations under applicable state and federal mental health and substance use disorder parity laws, regulations and guidance, including, but not limited to, 45 CFR Part 146.136 and 29 CFR Part 2590.712. When reviewing the complaint, the commissioner shall consider: (i) any related right to a treatment or service under any related state or federal law or regulation; (ii) written documents submitted by the complainant; (iii) medical records and medical opinions by the complainant's treating provider that requested or provided a disputed service, which shall be obtained by the complainant's carrier or by the commissioner if the carrier fails to do so; (iv) the relevant results of any behavioral health parity compliance market conduct examination conducted and completed under clause (ii) of subsection (a); (v) any relevant information included in a carrier's annual reporting requirements under section 8M; (vi) additional information from the involved parties or outside sources that the commissioner deems necessary or relevant; and (vii) information obtained from any informal meeting held by the commissioner with the parties. The commissioner shall send final written disposition of the complaint and the reasons for the commissioner's decision to the complainant and the carrier not more than 90 days after the receipt of the written complaint. If the commissioner determines that a violation of a state or federal mental health and substance use disorder parity law occurred, the commissioner shall exercise its enforcement authority under subsections (b) and (c).

The commissioner shall respond as soon as practicable to all questions or concerns from consumers about carrier compliance with state or federal laws related to mental health and substance use disorder parity that are referred to the commissioner from the office of patient protection under subsection (g) of section 14 of chapter 176O.

(g) Nothing in this section shall limit the authority of the attorney general to enforce any state or federal law, regulation or guidance described in this section.

(h) Nothing in this section shall prevent the commissioner from publishing any illustrative utilization review criteria, medical necessity standard, clinical guideline or other policy, procedure, criteria or standard, regardless of its origin, as an example of the type of policy, procedure, criteria or standard that contributes to a violation of state or federal law parity requirements, including any document that would normally be subject to disclosure to plan members or their providers under section 16 of chapter 6D, section 16 of chapter 176O or the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended.

SECTION 23. Said chapter 26 is hereby further amended by inserting after section 8L the following section:-

Section 8M. (a) All carriers licensed under chapters 175, 176A, 176B and 176G that provide mental health or substance use disorder benefits, directly or through a behavioral health manager, as defined in section 1 of chapter 176O, or any other entity that manages or administers such benefits for the carrier, shall submit an annual report not later than July 1 to the commissioner of insurance that contains:

(i) the specific plan or coverage terms or other relevant terms regarding the nonquantitative treatment limitations and a description of all mental health and substance use disorder benefits and medical and surgical benefits to which each term applies in each respective benefits classification; provided, however, that the nonquantitative treatment limitations shall include the processes, strategies, evidentiary standards or other factors used to develop and apply

the carrier's reimbursement rates for mental health and substance use disorder benefits and medical and surgical benefits in each respective benefits classification;

(ii) the factors used to determine that the nonquantitative treatment limitations will apply to mental health and substance use disorder benefits and medical and surgical benefits;

(iii) the evidentiary standards used for the factors identified in clause (ii), when applicable, and any other source or evidence relied upon to design and apply the nonquantitative treatment limitations to mental health and substance use disorder benefits and medical and surgical benefits; provided, however, that every factor shall be defined;

(iv) a comparative analysis demonstrating that the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to mental health and substance use disorder benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to medical and surgical benefits in the benefits classification;

(v) the specific findings and conclusions reached by the carrier with respect to health insurance coverage, including any results of the analysis described in clause (iv) that indicate whether the carrier is in compliance with this section and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and any federal guidance or regulations relevant to the act, including, but not limited to, 45 CFR Part 146.136, 45 CFR Part 147.160 and 45 CFR Part 156.115(a)(3);

(vi) the number of requests for parity documents received under 29 CFR 2590.712(d)(3) or 45 CFR 146.136(d)(3) and the number of any such requests for which the plan refused, declined or was unable to provide documents;

(vii) the additional information, if any, that a carrier is required to provide under 42 U.S.C. 300gg-26(a)(8)(B)(ii); and

(viii) any other data or information the commissioner deems necessary to assess a carrier's compliance with mental health parity requirements.

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

(c) Any proprietary portions of information submitted to the commissioner by a carrier as a result of the requirements of this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or chapter 66; provided, however, that: (i) the commissioner may produce reports summarizing any findings; (ii) nothing in this section shall limit the authority of the commissioner to use and, if appropriate, publish any final or preliminary examination report, examiner or company work papers or other documents or other information discovered or

developed during the course of an examination in the furtherance of any legal or regulatory action that the commissioner may, in their sole discretion, deem appropriate; and (iii) nothing in this section shall prevent the commissioner of insurance from publishing any illustrative utilization review criteria, medical necessity standard, clinical guideline or other policy, procedure, criteria or standard, regardless of its origin, as an example of the type of policy, procedure, criteria or standard that contributes to a violation of state or federal law parity requirements, including any document that would normally be subject to disclosure to plan members or their providers under section 16 of chapter 6D, section 16 of chapter 176O or under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended.

(d) Annually, not later than December 1, the commissioner shall submit a summary of the reports that the commissioner receives from all carriers under subsection (a) to the clerks of the senate and house of representatives, the joint committee on mental health, substance use and recovery and the joint committee on health care financing; provided, that the summary shall include, but not be limited to:

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

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

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

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

(v) the number of consumer complaints received by the division of insurance under subsection (f) of section 8K in the immediately preceding calendar year and a summary of all

such complaints resolved by the division during that time period, including: (A) the number of complaints resolved in favor of the consumer; (B) the number of complaints resolved in favor of the carrier; and (C) any enforcement actions taken in response to such complaints; and

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

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

(e) The commissioner shall, upon receipt of an annual report submitted pursuant to subsection (a), provide the annual report to the attorney general. The commissioner shall, upon request by the attorney general, provide to the attorney general: (i) the comparative analyses and related information described in 42 U.S.C. 300gg-26(a)(8)(A); and (ii) any findings that may be shared with the commissioner pursuant to 42 U.S.C. 300gg-26(a)(8)(C)(iii), 29 U.S.C. 1185a(a)(8)(C)(iii) and 26 U.S.C. 9812(a)(8)(C)(iii).

SECTION 24. Chapter 29 of the General Laws is hereby amended by inserting after section 2SSSSS the following section:-

Section 2TTTTT. (a) There shall be an interagency services reserve fund established on the books of the commonwealth to be expended without prior appropriation. The fund shall be credited with money from public and private sources, including gifts, grants and donations, interest earned on such money, any other money authorized by the general court and specifically

designated to be credited to the fund and any funds provided from other sources. Money in the fund shall be used to fund the operations of the interagency review team established under section 16R of chapter 6A. The secretary of health and human services shall administer the fund and shall make expenditures for the purpose of covering the cost of providing additional evaluation as needed by the interagency review team for an individual eligible under said section 16R of said chapter 6A. Any unexpended balance in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(b) Annually, not later than August 1, the interagency review team shall submit required financial reporting on the fund, including reporting of expenditures from the fund, to the secretary of health and human services, the secretary of education and the house and senate committees on ways and means.

SECTION 25. Chapter 32A of the General Laws is hereby amended by inserting after section 17R the following section:-

Section 17S. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:-

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

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

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

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

(c) Benefits for an employee under this section shall be the same for the employee’s covered spouse and covered dependents.

SECTION 26. Said chapter 32A is hereby further amended by inserting after section 22 the following 2 sections:-

Section 22A. (a) For the purposes of this section, “psychiatric collaborative care model” shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

Section 22B. (a) The commission shall implement and enforce the mental health parity provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, federal guidance or regulations issued under the act, applicable state mental health parity laws and regulations and, to the degree applicable to its health benefit plans, guidance issued by the commissioner of insurance under section 8K of chapter 26 by:

(i) utilizing the commission's procurement, contracting, vendor oversight and auditing authority to ensure that the commission's health benefit plans that provide medical and surgical benefits and mental health and substance use disorder benefits are compliant with the applicable state or federal laws related to mental health and substance use disorder parity;

(ii) performing audits of each of the commission's health benefit plans at least once every 4 years, or more frequently if noncompliance is suspected, with a focus on: (A) nonquantitative treatment limitations under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and applicable state mental health and substance use disorder parity laws, including, but not limited to, prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates, network adequacy and geographic restrictions; (B) denials of authorization, payment and coverage; and (C) any other criteria determined by the commission, including factors identified through consumer or provider complaints;

(iii) requiring the commission's health benefit plans that provide medical and surgical benefits and mental health and substance use disorder benefits to comply with the annual reporting requirements under subsection (b); and

(iv) evaluating all consumer or provider complaints regarding mental health and substance use disorder coverage for possible parity violations not more than 3 months after receipt.

(b) The commission's health benefit plans that provide medical and surgical benefits and mental health and substance use disorder benefits shall submit an annual report not later than July 1 to the commission that contains:

(i) the specific plan or coverage terms or other relevant terms regarding the nonquantitative treatment limitations and a description of all mental health and substance use disorder benefits and medical and surgical benefits to which each term applies in each respective benefits classification; provided, however, that the nonquantitative treatment limitations shall include the processes, strategies, evidentiary standards or other factors used to develop and apply the health benefit plan's reimbursement rates for mental health and substance use disorder benefits and medical and surgical benefits in each respective benefits classification;

(ii) the factors used to determine that the nonquantitative treatment limitations will apply to mental health and substance use disorder benefits and medical and surgical benefits;

(iii) the evidentiary standards used for the factors identified in clause (ii), when applicable; provided, that every factor shall be defined, and any other source or evidence relied upon to design and apply the nonquantitative treatment limitations to mental health and substance use disorder benefits and medical and surgical benefits;

(iv) a comparative analysis demonstrating that the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to mental health and substance use disorder benefits, as written and in operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards and other factors used to apply the nonquantitative treatment limitations to medical or surgical benefits in the benefits classification;

(v) the specific findings and conclusions reached by the health benefit plan with respect to health insurance coverage, including any results of the analysis described in clause (iv) that indicate whether the health benefit plan is in compliance with this section and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and any federal guidance or regulations relevant to the act; and

(vi) any other data or information the commission deems necessary to assess a health benefit plan's compliance with state or federal laws related to mental health and substance use disorder parity.

(c) If federal guidance, including, but not limited to, the Self-Compliance Tool for the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, is released that indicates a nonquantitative treatment limitation analysis process and reporting format that is significantly different from, contrary to or more efficient than the nonquantitative treatment limitation analysis process and reporting format requirements described in subsection (b), the commission may revise the analysis and reporting requirements described in said subsection (b).

(d) Any proprietary portions of information submitted to the commission by a health benefit plan as a result of the requirements of this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or chapter 66; provided, however, that the commission may produce reports summarizing any findings.

(e) Annually, not later than December 1, the commission shall submit a summary of the reports that the commission receives from all health benefit plans under subsection (b) to the clerks of the senate and house of representatives, the joint committee on mental health, substance use and recovery and the joint committee on health care financing. The summary report shall include, but not be limited to:

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

(ii) the methodology the commission is using to check for compliance with applicable state mental health parity laws and regulations, including section 22 of chapter 32A, and, to the degree applicable to its health benefit plans, guidance issued by the commissioner of insurance under section 8K of chapter 26;

(iii) a summary of any audit findings for audits conducted and completed under clause (ii) of subsection (a) during the immediately preceding calendar year regarding access to behavioral health services or compliance with parity in mental health and substance use disorder benefits under state and federal laws and any actions taken as a result of such audit; and

(iv) the number of consumer complaints the commission has received in the immediately preceding calendar year regarding access to behavioral health services or compliance with parity

in mental health and substance use disorder benefits under state and federal laws and a summary of all complaints resolved by the commission during that time period.

The summary report shall be written in nontechnical, readily understandable language and made available to the public by posting the report on the commission's website.

SECTION 27. Said chapter 32A is hereby further amended by adding the following 2 sections:-

Section 31. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission benefits on a nondiscriminatory basis for medically necessary emergency services programs, as defined in section 1 of chapter 175.

Section 32. (a) For the purpose of this section, the following words shall have the following meanings:

"Licensed mental health professional", a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination", a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems, who: (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) Any coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit. The examination shall be covered with no patient cost-sharing; provided, however, that cost-sharing shall be required if the applicable plan is governed by the Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

SECTION 28. Chapter 69 of the General Laws is hereby amended by striking out section 8A, as appearing in the 2020 Official Edition, and inserting in place thereof the following section:-

Section 8A. (a) Each school committee and commonwealth charter school board of trustees shall ensure that every school under its jurisdiction has a written emergency response plan that addresses both medical and behavioral health crises to reduce the incidence of life-threatening medical emergencies and behavioral health crises and to promote efficient and appropriate responses to such emergencies. The plan shall be in addition to the multi-hazard evacuation plan required under section 363 of chapter 159 of the acts of 2000.

(b) Each plan shall include:

(1) a method for establishing a rapid communication system linking all parts of the school campus, including outdoor facilities and practice fields, to the emergency medical or mobile behavioral health crisis response services and protocols to clarify when the emergency medical services or mobile behavioral health mobile crisis response services and other emergency contact people shall be called;

(2) a determination of medical or behavioral health emergency response time to any location on the school campus;

(3) a list of relevant contacts and telephone numbers with a protocol indicating when each person shall be called, including names of professionals to help with post-emergency support;

(4) a method to efficiently direct emergency medical services or behavioral health mobile crisis personnel to any location on campus, including to the location of available rescue equipment;

(5) protocols for informing parents and guardians and reporting to the department when police, emergency medical technicians or other non-behavioral health personnel are contacted to respond to a behavioral health crisis;

(6) safety precautions to prevent injuries in classrooms and facilities;

(7) a method of providing access to training in cardiopulmonary resuscitation and first aid for teachers, athletic coaches, trainers and other school staff, which may include training high school students in cardiopulmonary resuscitation; and

(8) the location of any automated external defibrillator device the school possesses, whether its location is fixed or portable and those personnel who are trained in its use.

(c) Each plan shall be developed in consultation with the school principal, school nurse, school mental health counselor or social worker, school athletic director, team physicians, coaches, trainers and local police, fire, behavioral health mobile crisis team and emergency personnel, as appropriate. Schools shall practice the response sequence at the beginning of each school year and periodically throughout the year and evaluate and modify the plan as necessary. School officials shall review the response sequence with local fire and police officials at least 1 time each year and shall conduct periodic walk-throughs of school campuses. Plans shall be submitted once every 3 years to the department, the local police department and the local fire department on or before September 1 of the third year. Plans shall be updated in the event of new

construction or physical changes to the school campus as determined by the local police or fire department.

(d) Included in each initial and subsequent filing of an emergency response plan, each school district shall report on the availability of automated external defibrillators in each school within the district, including the total amount available in each school, the location of each within the school, whether the device is in a fixed location or is portable, those personnel or volunteers who are trained in its use, those personnel with access to the device during and after regular school hours and the total estimated amount of automated external defibrillators necessary to ensure campus-wide access during school hours, after-school activities and public events.

(e) The department, in consultation with the department of public health and the department of mental health, shall develop a cost-neutral model emergency response plan that includes both medical and behavioral health crisis response in order to promote best practices, including clear guidelines for the roles and responsibilities of behavioral and other health professionals, including, but not limited to, school counselors and community intervention professionals and, where applicable, school resource officers or police officers on school campuses; provided, however, that such model plan shall be designed to limit referrals to law enforcement or arrests on school property to cases in which an imminent risk to the health and safety of individuals on school property necessitates such referral or arrest. The model plan shall be made available to school committees and commonwealth charter school boards. In developing the model plan, the department shall refer to research prepared by the American Heart Association, Inc., the American Academy of Pediatrics, MassHealth and other relevant organizations that identify the essential components of an emergency response plan. The

department shall biennially review and update the model plan and publicly post the model plan on its website.

SECTION 29. Section 37H¾ of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Any principal, headmaster, superintendent or person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall consider ways to re-engage the student in the learning process; and shall not suspend or expel a student until alternative remedies have been employed and their use and results documented, following and in direct response to a specific incident or incidents, unless specific reasons are documented as to why such alternative remedies are unsuitable or counter-productive, and in cases where the student's continued presence in school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in school. Alternative remedies may include, but shall not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice; and (iv) collaborative problem solving. The principal, headmaster, superintendent or person acting as a decision-maker shall also implement school- or district-wide models to re-engage students in the learning process which shall include but not be limited to: (i) positive behavioral interventions and supports models and (ii) trauma sensitive learning models; provided, however, that school- or district-wide models shall not be considered a direct response to a specific incident.

SECTION 30. Section 37Q of chapter 71 of the General Laws, as so appearing, is hereby amended by inserting after the word "school", in line 22, the first time it appears, the following

words:- ; provided, that the medical and behavioral health emergency response plans submitted pursuant to section 8A of chapter 69 shall satisfy the requirement for emergency and acute treatment planning required by this section.

SECTION 31. Chapter 75 of the General Laws is hereby amended by inserting after section 36D, as so appearing, the following new section:-

Section 36E. (a) The University of Massachusetts medical school in Worcester shall develop a continuing education program for licensed mental health professionals on military service-related behavioral health conditions.

(b) The training and curriculum for the program shall include, but not be limited to: (i) military culture and its influence on the behavioral health of service members and veterans; (ii) symptoms of deployment-related and non-deployment-related behavioral health conditions, including, but not limited to, depression, suicide, insomnia, substance use and post-traumatic stress disorder; (iii) deployment cycle stressors for students who are service members and veterans; (iv) deployment cycle stressors that impact the behavioral health of service members and veterans; (v) outreach strategies for available administrative, non-clinical and clinical services; and (vi) available resources and methods of referral for the treatment of deployment-related behavioral health conditions, including peer support.

(c) In developing the curriculum for the program, the University of Massachusetts medical school shall consult with relevant stakeholders, including, but not limited to: (i) medical professional associations; (ii) peers and other service members and veterans who have lived experience of seeking or receiving behavioral health services or treatment; and (iii) behavioral health professionals with expertise in providing culturally-competent care.

SECTION 32. Said chapter 111 is hereby further amended by inserting after section 51½ the following section:-

Section 51¾. The department, in consultation with the department of mental health, shall promulgate regulations requiring all acute-care hospitals licensed under section 51G to provide, or arrange for, licensed mental health professionals during all operating hours of an emergency department or a satellite emergency facility as defined in section 51½ to evaluate and stabilize a person admitted with a mental health presentation to the emergency department or satellite facility and to refer such person for appropriate treatment or inpatient admission. The regulations shall define "licensed mental health professional", which shall include, but not be limited to, a: (i) licensed physician who specializes in the practice of psychiatry; (ii) licensed psychologist; (iii) licensed independent clinical social worker; (iv) licensed certified social worker; (v) licensed mental health counselor; (vi) licensed supervised mental health counselor; (vi) licensed physician assistant who practices in the field of psychiatry (vii) licensed psychiatric clinical nurse specialist; or (ix) healthcare provider, as defined in section 1, qualified within the scope of the individual's license to conduct an evaluation of a mental health condition, including an intern, resident or fellow pursuant to the policies and practices of the hospital and medical staff.

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

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

SECTION 33. Section 232 of said chapter 111, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words “and (vii) a record of past mental health treatment of the decedent” and inserting in place thereof the following words:- “(vii) a record of past mental health treatment of the decedent; and (viii) the physical location of the suicide, whether the location is private or public property and the number of known attempts previously made by any other person at the same location.

SECTION 34. Said chapter 111 is hereby further amended by adding the following section:-

Section 244. The department shall administer an initiative to increase public awareness of and education on the availability of the extreme risk protection order process established pursuant to sections 131R to 131Y, inclusive, of chapter 140, to remove a firearm from the control, ownership or possession of an individual who poses a risk of causing bodily injury to themself or others. The initiative shall focus on the heighted risk of suicide associated with the possession of a firearm and shall include information on: (i) eligibility to petition for an extreme risk protection order; (ii) the procedure to petition for an extreme risk protection order; (iii) options to voluntarily surrender a firearm to a law enforcement agency; and (iv) the availability of existing legal resources and support services for a potential petitioner.

SECTION 35. Section 80I of chapter 112, as so appearing, is hereby amended by inserting after the word “practitioner”, in line 4, the following words:- or psychiatric nurse mental health clinical specialist.

SECTION 36. Said chapter 112 is hereby further amended by inserting after section 65F the following section:-

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

"Applicant", a licensed health care professional who believes a mental health or substance use condition may impede or has affected their ability to safely practice their profession and submits to the program a completed and signed application form provided by the program for that purpose.

"Board of registration", a board of registration: (i) serving in the department pursuant to section 9 of chapter 13; (ii) serving pursuant to section 76 of said chapter 13; (iii) serving pursuant to section 80 of said chapter 13; (iv) serving pursuant to section 88 of said chapter 13; or (v) serving under the supervision of the commissioner pursuant to section 1.

"Commissioner", the commissioner of public health.

"Department", the department of public health.

"License", a license, registration, authorization or certificate issued by a board of registration.

"Licensed health care professional", an individual who holds a license.

"Licensing board", a board of registration that has issued a license.

"Participant", a licensed health care professional who has been admitted into the program under this section.

"Program", the voluntary program established by the department in paragraph (1) of subsection (b).

"Record of participation", the materials received and reviewed by the program's director, rehabilitation evaluation committee or a licensing board in connection with the application of a licensed health care professional for admission into the program and in connection with the progress of a participant during the program and compliance with an individualized rehabilitation plan.

(b)(1) The department shall establish a voluntary program for monitoring the rehabilitation of licensed health care professionals who seek support for their mental health or substance use or who are referred to the program by a licensing board.

(2) A board of registration that is required to establish a similar rehabilitation program by another requirement of this chapter shall fulfill that requirement by formally adopting the program in lieu of establishing its own.

(c)(1) There shall be an advisory committee to assist the department in the development and implementation of the program. The committee shall consist of not less than the following members or their designees: the commissioner, who shall serve as chair; the director of the bureau of health professions licensure; and 9 persons to be appointed by the commissioner, 1 of whom shall have expertise in the treatment of health care professionals with a mental health or substance use condition, 1 of whom shall be a representative of the Massachusetts Nurses Association, 1 of whom shall be a representative of Local 509 Service Employees International Union, 1 of whom shall be a representative of Local 1199 Service Employees International Union, 1 of whom shall be a representative of the Massachusetts Chapter of the National Association of Social Workers, Inc., 1 of whom shall be a representative of the Massachusetts Association of Physician Assistants, Inc., 1 of whom shall be a representative of the

Massachusetts Dental Society, 1 of whom shall be a representative of the Massachusetts Pharmacists Association Foundation, Inc. and 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc.; provided, however, that the commissioner may appoint additional members as the commissioner determines necessary.

(2) The committee shall: (i) review data, medical literature and expert opinions on the prevalence of mental health and substance use conditions among licensed health care professionals; (ii) make estimates regarding the number of licensed health care professionals who could potentially benefit from participation in the program; (iii) examine the effectiveness of the rehabilitation program for registered pharmacists, pharmacy interns and pharmacy technicians established in section 24H and the rehabilitation program for nurses established in section 80F including, but not limited to, overall trends in enrollment, completion rates, non-completion rates, program design, eligibility criteria, application requirements, wait times for admissions, program duration, conditions of participation, penalties for noncompliance, privacy and confidentiality protections and return-to-work restrictions; (iv) identify best practices in voluntary, alternative-to-discipline rehabilitation programs that have been adopted in other states and any opportunities to modernize standards in the commonwealth; and (v) make recommendations to the department regarding eligibility criteria for admission into the program and the attributes necessary for the program to expand its access to licensed health care professionals, minimize stigma and other deterrents to participation, increase participation and completion rates, facilitate the successful return of participants to professional practice and enhance public health and safety, including, but not limited to, the size, scope and design of the program, the level of staffing and other resources necessary to adequately operate the program

and protocols to ensure that the rehabilitation evaluation committee established in subsection (d) performs its duties in a timely fashion.

(d)(1) There shall be a rehabilitation evaluation committee which shall consist of the following members to be appointed by the commissioner: 1 medical doctor or advanced practice registered nurse with experience in the treatment of mental health or substance use conditions; 3 licensed health care professionals with demonstrated experience in the field of mental health or substance use; 1 licensed health care professional in recovery from substance use for not less than 3 years; 1 licensed health care professional living with a mental health condition; 1 person who is either a peer specialist or a person with experience advocating for people with mental health or substance use conditions; and 2 current or former consumers of behavioral health services, 1 of whom shall be a current or former consumer of mental health services and 1 of whom shall be a current or former consumer of substance use disorder services. Four members of the committee shall constitute a quorum. The committee shall elect a chair and a vice chair from its membership. Members of the committee shall serve for terms of 4 years. No member shall be appointed or reappointed to the committee who is licensed to practice by a board of registration and has had any disciplinary or enforcement action taken against them by their respective licensing board during the 5 years preceding their appointment or reappointment to the committee. No current member of any board of registration shall serve on the committee. Meetings of the committee shall not be subject to sections 18 to 25, inclusive, of chapter 30A.

(2) The rehabilitation evaluation committee shall: (i) receive and review information concerning participants in the program; (ii) evaluate licensed health care professionals who request to participate in the program within 5 business days of receipt of such request and provide recommendations regarding the admission of such licensed health care professionals;

(iii) review and designate treatment facilities and services to which participants may be referred; (iv) make recommendations for each participant as to whether the participant may continue or resume professional practice within the full scope of the participant's license; and (v) make recommendations for an individualized rehabilitation plan with requirements for supervision and surveillance for each participant; provided, however, that no action taken by the rehabilitation evaluation committee pursuant to this section shall be construed as the practice of medicine or behavioral health care.

(e) The department shall employ a program director with demonstrated professional expertise in the field of mental health or substance use care and treatment to oversee participants in the rehabilitation program. The director shall: (i) admit eligible licensed health care professionals who request to participate in the program; (ii) receive and review information concerning participants in the program; (iii) provide each participant with a written individualized rehabilitation plan with requirements for supervision and surveillance and update the plan as appropriate, taking into account the participant’s compliance with the program and recommendations of the rehabilitation evaluation committee; (iv) call meetings of the rehabilitation evaluation committee as necessary to review the requests of licensed health care professionals to participate in the program and review reports regarding participants; (v) serve as a liaison among the participant, the participant’s licensing board, the rehabilitation evaluation committee and approved treatment programs and providers; (vi) terminate a participant from the program based on the participant’s noncompliance with the participant’s individualized rehabilitation plan or material misrepresentations by the participant concerning the participant’s participation in the program or professional practice; (vii) provide information to licensed health care professionals who request to participate in the program; and (viii) in such cases where an

applicant or participant is referred to the program by a licensing board or if an applicant or participant is the subject of a pending or completed investigation or complaint that arises from or relates to an applicant's or participant's mental health or substance use, report to the licensing board of the applicant or participant the name and license number of the applicant or participant in the event of: (A) the applicant's failure to complete the program's admission process; (B) the participant's admission into the program; (C) the participant's termination from the program; (D) the participant's withdrawal from the program before completion; and (E) the initial restrictions or conditions relating to the participant's professional practice incorporated into the participant's individualized rehabilitation plan and any changes or removal of the restrictions or conditions during the course of the participant's participation and the basis for such restrictions or conditions and any changes to them; provided, however, that any restriction or condition relating to a participant's professional practice required under this subsection or any changes to a restriction or condition shall be subject to the approval of the participant's licensing board.

(f) A licensed health care professional who applies to participate in or is referred by the licensing board to the program shall specify, in a form and format as set forth by the department, the mental health condition or substance use that they believe may impede or has affected their ability to safely practice their profession and shall agree to comply, to the best of their ability, with an individualized rehabilitation plan to be admitted into the program. Noncompliance with an individualized rehabilitation plan may result in a participant's termination from the program only if the participant's individual rehabilitation plan states that noncompliance with the plan will result in termination from the program.

(g) Upon admission of a licensed health care professional into the program, the licensing board may dismiss any pending investigation or complaint against the participant that arises from

or relates to the participant's mental health or substance use. The licensing board may change the participant's publicly-available license status to reflect the existence of non-disciplinary restrictions or conditions. The licensing board may immediately suspend the participant's license as is necessary to protect the public health, safety and welfare upon receipt of notice from the director that the participant has withdrawn from the program before completion or that the director has terminated the participant from the program.

(h) The record of participation shall not be a public record and shall be exempt from disclosure pursuant to clause Twenty-sixth of section 7 of chapter 4 and chapter 66. If a licensed health care professional referred to the program by a licensing board fails to complete the application process, a licensing board may use information and documents in the record of participation as evidence in a disciplinary proceeding as necessary to protect public health, safety and welfare. In all other instances, the record of participation or application to the program shall be kept confidential and shall not be subject to subpoena or discovery in any civil, criminal, legislative or administrative proceeding without the prior written consent of the participant or applicant. Upon the determination by the rehabilitation evaluation committee that a participant has successfully completed the program and their ability to safely practice their profession is not impaired or affected by their mental health or substance use, the department, the program, the rehabilitation evaluation committee and the licensing board, if applicable, shall seal all records pertaining to the participant's participation in the program. The records of participation of participants who successfully complete the program shall be destroyed 3 years following the date of successful completion.

SECTION 37. Section 130 of chapter 112 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking the definition of “The independent practice of clinical social work” and inserting in place thereof the following definition:-

“The independent practice of clinical social work", rendering or offering to render professional services for any fee, monetary or otherwise, to individuals, families or groups of individuals which services involve the application of evidence-informed social work theories and methods in the comprehensive assessment and treatment of cognitive, affective, mental, emotional and behavioral disorders and distress arising from physical, environmental, psychological, emotional or relational conditions application of social work theory and methods in the treatment of mental and emotional disorders through the use of psychotherapy of a nonmedical nature by an individual who is not providing such services under the employ of a recognized educational institution, federal, state or municipal institution, or an institution, facility or agency which is licensed to operate under the laws of the commonwealth.

The scope of the independent practice of clinical social work shall include, but not be limited to: (i) assessment, evaluation, psychotherapy and counseling for individuals, families and groups; (ii) client-centered advocacy, consultation and supervision; and (iii) case management services. The independent practice of clinical social work shall be within an ecological and ethically-principled framework and shall be multi-systemic, trauma-informed and committed to public health and well-being.

SECTION 38. Section 163 of said chapter 112, as so appearing, is hereby amended by inserting after the definition of “Licensed mental health counselor” the following definition:-

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

SECTION 39. Section 164 of said chapter 112, as so appearing, is hereby amended by inserting after the word “consultant”, in line 7, the following words:- or licensed supervised mental health counselor, advisor or consultant.

SECTION 40. Section 165 of said chapter 112, as so appearing, is hereby amended by inserting after the word “health”, in line 16, the following words:- or the department of public health.

SECTION 41. Said section 165 of said chapter 112, as so appearing, is hereby further amended by adding the following 3 paragraphs:-

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

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

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

SECTION 42. Chapter 118E of the General Laws is hereby amended by inserting after section 10N the following 3 sections:-

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

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

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

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

The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall cover the cost of medically necessary mental health acute treatment, community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before

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

Section 10P. (a) For the purposes of this section, "psychiatric collaborative care model" shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

Section 10Q. (a) For the purpose of this section, the following words shall have the following meanings:

"Licensed mental health professional", a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter

111J, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination", a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems who: (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit. The examination shall be covered with no patient cost-sharing, provided, however, that cost-sharing shall be required if the applicable plan is governed by the

Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

SECTION 43. Said chapter 118E is hereby further amended by inserting after section 13D the following section:-

Section 13D½. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Behavioral health services", the evaluation, diagnosis, treatment, care coordination, management or peer support of patients with mental health, developmental or substance use disorders.

"Community behavioral health center", organizations that are designated by the executive office of health and human services, licensed clinics that hold a contract with the department of mental health to provide community-based mental health services and other licensed clinics designated by the department of public health.

"Division", the division of medical assistance.

"Managed care entity", health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract with a Medicaid managed care organization or primary care clinician plan; provided, however, that "managed care entity" shall also include accountable care organizations.

"Minimum payment rates", rates of payment for services below which managed care entities shall not enter into provider agreements.

(b) Annually, not later than January 1, the division shall review the minimum payment rates to be paid to providers of behavioral health services delivered in community behavioral health centers by managed care entities and submit a report to the house and senate committees on ways and means, the joint committee on health care financing and the joint committee on mental health, substance use and recovery identifying the difference between the minimum payment rates decided by the division and the payment rates that managed care entities contractually agree to pay providers for all behavioral health services delivered in community behavioral health centers.

SECTION 43A. Section 47 of said chapter 118E, as appearing in the 2020 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Notwithstanding any general or special law to the contrary, the division shall promulgate regulations that require the division, its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract with the division, a Medicaid managed care organization or primary care clinician plan, to maintain documentation of all requests for benefits or services, whether the request is submitted by, or on behalf of, the intended recipient of those benefits or services. Any request that is not fulfilled in full shall be considered a denial and shall result in the prompt written notification to the intended recipient through electronic means, if possible. The notification shall include a description of the requested service, the response by the entity and the intended recipient’s due process and appeal rights. All such entities shall accept requests for authorized representatives or for appeals by electronic means.

SECTION 44. Said chapter 118E is hereby further amended by adding the following 3 sections:-

Section 80. (a) The division, its managed care organizations, accountable care organizations or other entity contracting with the division to manage or administer mental health and substance use disorder benefits shall ensure that there are no separate non-quantitative treatment limitations that apply to mental health and substance use disorder benefits but do not apply to medical and surgical benefits within any classification of benefits as defined under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and applicable state mental health parity laws, including, but not limited to, section 81; provided, however, that the non-quantitative treatment limitations shall include the processes, strategies or methodologies for developing and applying the division's reimbursement rates for mental health and substance use disorder benefits and medical and surgical benefits within each classification of benefits.

(b) The division shall perform a behavioral health parity compliance examination of each Medicaid managed care organization, accountable care organization or other entity contracted with the agency that manages or administers mental health and substance use disorder benefits for the division at least once every 4 years. The examination shall include examination of entities that manage medical and surgical benefits, as necessary. The examination shall only apply where the division is the primary payer. The examination shall include, but not be limited to:

(i) non-quantitative treatment limitations, including, but not limited to, prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates and geographic restrictions;

(ii) approvals and denials of authorization, payment and coverage; and

(iii) any other specific criteria as may be determined by the division, including factors identified through consumer or provider complaints.

(c) The division shall require each of its managed care organizations, accountable care organizations or other entity contracting with the division to manage or administer mental health and substance use disorder benefits to submit an annual report to the division on or before July 1 that shall include:

(i) the specific plan or coverage terms or other relevant terms regarding the non-quantitative treatment limitations and a description of all mental health and substance use disorder benefits and medical and surgical benefits to which each term applies in each respective benefits classification; provided, however, that the non-quantitative treatment limitations shall include the processes, strategies, evidentiary standards or other factors used to develop and apply the entity's reimbursement rates for mental health and substance use disorder benefits and medical and surgical benefits in each respective benefits classification;

(ii) the factors used to determine that the non-quantitative treatment limitations will apply to mental health and substance use disorder benefits and medical and surgical benefits;

(iii) the evidentiary standards used to define the factors identified in clause (ii), when applicable; provided, however, that every factor shall be defined and any other source or evidence relied upon to design and apply the non-quantitative treatment limitations to mental health and substance use disorder benefits and medical and surgical benefits;

(iv) a comparative analyses demonstrating that the processes, strategies, evidentiary standard and other factors used to apply the non-quantitative treatment limitations to mental health and substance use disorder benefits, as written and in operation, are comparable to and are applied no more stringently than the processes, strategies, evidentiary standards and other factors used to apply the non-quantitative treatment limitations to medical and surgical benefits in the benefits classification;

(v) the specific findings and conclusions reached by the entity with respect to health insurance coverage, including any results of the analysis described in clause (iv) that indicates whether the entity is in compliance with this section and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and federal guidelines and regulations relevant to the act, including, but not limited to, 42 CFR Part 457.496;

(vi) the treatment authorization data for the prior calendar year, which shall include, but not be limited to: (A) the number of inpatient days, outpatient services and total number of services requested; (B) the number and per cent of inpatient day requests authorized, inpatient day requests modified, inpatient day requests modified resulting in a lesser amount of inpatient days authorized than requested and the reason for the modification, inpatient day requests denied and the reason for the denial, inpatient day requests where an internal appeal was filed and approved, inpatient day requests where an internal appeal was filed and denied, inpatient day requests where an external appeal was filed and upheld and inpatient day requests where an external appeal was filed and overturned; and (C) the number and per cent of outpatient service requests authorized, outpatient service requests modified, outpatient service requests modified resulting in a lower amount of outpatient service authorized than requested and the reason for the modification, outpatient service requests denied and the reason for the denial, outpatient service

requests where an internal appeal was filed and approved, outpatient service requests where an internal appeal was filed and denied, outpatient service requests where an external appeal or hearing before the board of hearings was filed and upheld and outpatient service requests where an external appeal was filed and overturned;

(vii) the additional information, if any, that an entity is required to provide under 42 U.S.C. 300gg-26(a)(8)(B)(ii); and

(viii) any other data or information the division deems necessary to assess an entity's compliance with mental health parity requirements.

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

(e) Any proprietary information submitted to the general court by the division as a result of the requirements in this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or chapter 66; provided, however, that nothing in this section shall limit the authority of the director of Medicaid to use and, if appropriate, publish any final or preliminary examination report, examiner or company work papers or other documents or other

information discovered or developed during the course of an examination in the furtherance of any legal or regulatory action that the director may, in their sole discretion, deem appropriate; provided further, that nothing in this section shall prevent the director of Medicaid from publishing any illustrative utilization review criteria, medical necessity standard, clinical guideline or other policy, procedure, criteria or standard, regardless of its origin, as an example of the type of policy, procedure, criteria or standard that contributes to a violation of state or federal law parity requirements, including any information that is subject to disclosure to plan members under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, or under any member right to receive such guideline under applicable federal law.

(f) Annually, not later than December 1, the division shall submit a summary of the reports that the division receives from all entities under subsection (c) to the clerks of the senate and house of representatives, the joint committee on mental health, substance use and recovery and the joint committee on health care financing. The summary report shall include, but not be limited to:

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

(ii) the methodology the division is using to check for compliance with section 81;

(iii) the report of each examination conducted or completed under subsection (b) during the immediately preceding calendar year regarding access to behavioral health services or

compliance with parity in mental health and substance use disorder benefits under state and federal laws and any actions taken as a result of such examinations;

(iv) a breakdown of treatment authorization data for the division, and for each Medicaid managed care organization, accountable care organization or other entity that manages or administers benefits for the division, for mental health treatment services, substance use disorder treatment services and medical and surgical treatment services for the immediately preceding calendar year indicating for each treatment service: (A) the number of inpatient days, outpatient services and total number of services requested; (B) the number and per cent of inpatient day requests authorized, inpatient day requests modified, inpatient day requests modified resulting in a lesser amount of inpatient days authorized than requested and the reason for the modification, inpatient day requests denied and the reason for the denial, inpatient day requests where an internal appeal was filed and approved, inpatient day requests where an internal appeal was filed and denied, inpatient day requests where an external review under section 47B or hearing before the board of hearings under section 48 was filed and upheld and inpatient day requests where an external review under said section 47B or hearing before the board of hearings under said section 48 was filed and overturned; and (C) the number and per cent of outpatient service requests authorized, outpatient service requests modified, outpatient service requests modified resulting in a lower amount of outpatient service authorized than requested and the reason for the modification, outpatient service requests denied and the reason for the denial, outpatient service requests where an internal appeal was filed and approved, outpatient service requests where an internal appeal was filed and denied, outpatient service requests where an external review under said section 47B or hearing before the board of hearings under said section 48 was filed and

upheld and outpatient service requests where an external review under said section 47B or hearing before the board of hearings under said section 48 was filed and overturned;

(v) the number of complaints the division, or any Medicaid managed care organization, accountable care organization or other entity contracting with the division to manage or administer mental health and substance use disorder benefits, has received in the immediately preceding calendar year regarding access to behavioral health services or compliance with parity in mental health and substance use disorder benefits under state and federal laws and a summary of all complaints resolved by the division, or any Medicaid managed care organization, accountable care organization or other entity contracting with the division to manage or administer mental health and substance use disorder benefits, during that time period; and

(vi) information about any educational or corrective actions the division has taken to ensure carrier compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and section 81.

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

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

Section 81. (a) The division and its health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract with the division, a Medicaid managed care organization or a primary care clinician plan shall provide mental health and substance use disorder benefits for the diagnosis and medically-

necessary treatment of any behavioral health disorder described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or the most current version of the International Classification of Diseases. The benefits shall be provided on a nondiscriminatory basis.

(b) In addition to the mental health and substance use disorder benefits established pursuant to this section, the division shall provide benefits on a non-discriminatory basis for children and adolescents under the age of 19 for the diagnosis and treatment of mental, behavioral, emotional or substance use disorders described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders that substantially interfere with or substantially limit the functioning and social interactions of such a child or adolescent; provided, however, that the interference or limitation is documented by and the referral for the diagnosis and treatment is made by the primary care provider, primary pediatrician or a licensed mental health professional of such a child or adolescent or is evidenced by conduct including, but not limited to: (i) an inability to attend school as a result of such a disorder; (ii) the need to hospitalize the child or adolescent as a result of such a disorder; or (iii) a pattern of conduct or behavior caused by such a disorder that poses a serious danger to oneself or others.

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

(d) Benefits authorized pursuant to this section shall consist of a range of inpatient, intermediate and outpatient services that shall permit medicallynecessary, active and noncustodial treatment for the mental disorders to take place in the least restrictive clinically appropriate setting. For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health or in a substance abuse facility licensed by the department of public health. Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office or as home-based services.

(e) The division and its health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract with the division, a Medicaid managed care organization or a primary care clinician plan shall not require, as a condition of receiving benefits mandated by this section, consent to the disclosure of information regarding services for mental disorders under different terms and conditions than consent is required for disclosure of information for other medical conditions. A determination by the division or its agents that services authorized pursuant to this section are not medically necessary shall only be made by a mental health professional licensed in the appropriate specialty related to such services and, where applicable, by a provider in the same licensure category as the ordering provider; provided, however, that this subsection shall not apply to

denials of service resulting from an enrollee's lack of coverage or use of a facility or professional that has not entered into a negotiated agreement with the division or its agents. The benefits provided by the division or its agents pursuant to this section shall meet all other terms and conditions of the plan consistent with state or federal law.

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

(i) are otherwise covered by third-party insurance;

(ii) are provided to a person who is presently incarcerated, confined or committed to a jail, house of correction or prison;

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

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

(v) are not eligible for federal financial participation.

Section 82. Notwithstanding any general or special law to the contrary, the office of Medicaid shall seek a waiver and promulgate regulations in order to require the division and its health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract with the division, a Medicaid managed care organization or primary care clinician plan to meet the parity requirements described under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and any federal guidance or regulations relevant to the act, including 42 CFR

438 Subpart K, 42 CFR 440.395 and 42 CFR 457.496, for all enrollees. For persons under the age of 21, MassHealth and its agents may comply with this section by meeting the obligations related to Early and Periodic Screening, Diagnostic and Treatment benefits under 42 CFR 457.496(b) or 440.395(c).

SECTION 45. Section 32 of chapter 119 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The department shall ensure that every child, upon entry into the foster care system, shall be screened and evaluated under the early and periodic screening, diagnostic and treatment standards established by Title XIX of the Social Security Act and assessed for behavioral health symptoms and sequelae, including those related to the precipitating factors of their entry into care, unless the child has been screened and evaluated within 30 days prior to the child's entry into the system; provided, however, that each child with identified behavioral health needs shall be provided appropriate referrals to related professionals to conduct more comprehensive diagnostic assessment, prescribe treatment and ensure the behavioral health and trauma-related needs of such child are addressed in a timely manner.

SECTION 46. Chapter 123 of the General Laws is hereby amended by inserting after section 2 the following section:-

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

SECTION 47. Section 18 of said chapter 123, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 27 to 34, inclusive, the words "; provided, however, that, notwithstanding the court's failure, after an initial hearing or after any subsequent hearing, to make a finding required for commitment to the Bridgewater state hospital, the prisoner shall be confined at said hospital if the findings required for commitment to a facility are made and if the commissioner of correction certifies to the court that confinement of the prisoner at said hospital is necessary to insure his continued retention in custody.

SECTION 48. Said section 18 of said chapter 123, as so appearing, is hereby further amended by inserting after subsection (a) the following subsection:-

(a½)(1) For purposes of this subsection, "mental health watch" shall mean a status designated by the place of detention intended to protect a prisoner from a risk of imminent and serious self-harm.

(2) A prisoner or a prisoner's legal representative, or a staff person at the request of a prisoner, may petition the district court with jurisdiction over the prisoner's place of detention or, if the prisoner is awaiting trial to the court with jurisdiction of the criminal case, to be transferred to a suitable inpatient psychiatric facility or unit licensed or operated by the department of mental health or to Bridgewater state hospital. The court may order the prisoner's requested transfer if the prisoner: (i) has been on mental health watch for at least 72 hours; or (ii) is at serious risk of imminent and serious self-harm. A transfer under this subsection to Bridgewater state hospital shall only be ordered if: (i) the prisoner is male and no bed is available in a timely manner at a unit licensed or operated by the department of mental health; or (ii)(A) the prisoner is not a proper person for commitment to an inpatient psychiatric facility or unit licensed or

operated by the department of mental health; and (B) the failure to retain the prisoner in strict custody would create a likelihood of serious harm. When a prisoner has been on mental health watch for 48 hours, and once every 24 hours thereafter that the prisoner remains on mental health watch, a member of the mental health staff of the place of detention shall advise the prisoner of the prisoner's right to petition under this subsection and advise the prisoner that staff at the place of detention may also, at the prisoner's request, petition on the prisoner's behalf. If the prisoner requests, either orally or in writing, that staff at the place of detention petition under this subsection, an employee, representative, agent or other designee of the place of detention shall file a petition with the appropriate court within 12 hours. If a prisoner, a prisoner's legal representative or a staff person files a petition in a court that lacks jurisdiction under this subsection, the clerk of the court shall, as soon as is practicable, determine the court with jurisdiction and forward the petition to that court for adjudication. The court may order periodic reviews of transfers under this subsection.

SECTION 49. Section 1 of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Domestic company" the following definition:-

"Emergency services programs", all programs subject to contract between the Massachusetts Behavioral Health Partnership and nonprofit organizations for the provision of community-based emergency psychiatric services, including, but not limited to, behavioral health crisis assessment, intervention and stabilization services 24 hours per day, 7 days per week, through: (i) mobile crisis intervention services for youth; (ii) mobile crisis intervention services for adults; (iii) emergency service provider community-based locations; and (iv) adult community crisis stabilization services.

SECTION 50. Section 47B of said chapter 175, as so appearing, is hereby amended by inserting after the word “specialist”, in line 122, the following words:- , a clinician practicing under the supervision of a licensed professional and working towards licensure in a clinic licensed under chapter 111.

SECTION 51. Said chapter 175 is hereby further amended by inserting after section 47PP, the following 4 sections:-

Section 47QQ. (a) For the purposes of this section, “psychiatric collaborative care model” shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) An individual policy of accident and sickness insurance issued pursuant to section 108 that provides hospital expense and surgical expense insurance or a group blanket or general policy of accident and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical expense insurance that is issued or renewed within or without the commonwealth shall provide coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

Section 47RR. An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance or a group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance that is issued or renewed within or without the

commonwealth shall provide benefits on a nondiscriminatory basis for medically necessary emergency services programs.

Section 47SS. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

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

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

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

(b) A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within or without the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for medically necessary mental health acute treatment, community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before the administration of such treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

Section 47TT. (a) For the purpose of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Licensed mental health professional," a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination," a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems, who: (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) The following shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit: (i) any policy of accident and sickness insurance, as described in section 108, which provides hospital expense and surgical expense insurance and which is delivered, issued or subsequently renewed by agreement between the insurer and policyholder in the commonwealth; (ii) any blanket or general policy of insurance described in subdivision (A), (C) or (D) of section 110 which provides hospital expense and surgical expense insurance and which is delivered, issued or subsequently renewed by agreement between the insurer and the policyholder in or outside of the commonwealth; and (iii) any employees' health and welfare fund which provides hospital expense and surgical expense benefits and which is delivered, issued to or renewed for any person or group of persons in the commonwealth. The examination shall be covered with no patient cost-sharing, provided, however, that cost-sharing shall be required if the applicable plan is governed by the Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

(c) The division of insurance, in consultation with the office of Medicaid, and the department of mental health, shall develop guidelines to implement this section.

SECTION 52. Section 110 of said chapter 175, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word "age", in line 463, the following words:- or without regard to age, so long as the dependent, who is covered under the membership of their parent as a member of a family group, is mentally or physically incapable of earning their own living due to disability.

SECTION 53. Section 8BB of chapter 176A, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “age”, in line 8, the following words:- or without regard to age, so long as the dependent, who is covered under the membership of their parent as a member of a family group, is mentally or physically incapable of earning their own living due to disability.

SECTION 54. Section 8A of chapter 176A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “specialist”, in line 125, the following words:- , a clinician practicing under the supervision of a licensed professional and working towards licensure in a clinic licensed under chapter 111.

SECTION 55. Said chapter 176A is hereby further amended by inserting after section 8QQ the following 4 sections:-

Section 8RR. (a) For the purposes of this section, “psychiatric collaborative care model” shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) A contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within or without the commonwealth shall provide coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

Section 8SS. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

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

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

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

(b) A contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within the commonwealth shall provide coverage for medically necessary mental health acute treatment, community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before the administration of any such treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

Section 8TT. A contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within or without the

commonwealth shall provide benefits on a nondiscriminatory basis for medically necessary emergency services programs, as defined in section 1 of chapter 175.

Section 8UU. (a) For the purpose of this section, the following words shall have the following meanings:

"Licensed mental health professional," a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed supervised mental health counselor, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J of the General Laws, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination," a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews, and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems, who (i) supervises, coordinates, prescribes or otherwise

provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) A contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit. The examination shall be covered with no patient cost-sharing, provided, however, that cost-sharing shall be required if the applicable plan is governed by the Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

(c) The division of insurance, in consultation with the office of Medicaid, and the department of mental health, shall develop guidelines to implement this section.

SECTION 56. Section 4A of chapter 176B of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “specialist”, in line 120, the following words:- , a clinician practicing under the supervision of a licensed professional and working towards licensure in a clinic licensed under chapter 111.

SECTION 57. Section 4BB of said chapter 176B, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “age”, in line 8, the following words:- or without regard to age, so long as the dependent, who is covered under the membership of their parent as a member of a family group, is mentally or physically incapable of earning their own living due to disability.

SECTION 58. Said chapter 176B is hereby further amended by inserting after section 4QQ the following 4 sections:-

Section 4RR. (a) For the purposes of this section, “psychiatric collaborative care model” shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) A subscription certificate under an individual or group medical service agreement that is issued or renewed within or without the commonwealth shall provide coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

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

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

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

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

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

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

Section 4UU. (a) For the purpose of this section, the following words shall have the following meanings:

"Licensed mental health professional," a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter

111J, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination," a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports, and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews, and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems, who: (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) A subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit. The examination shall be covered with no patient cost-sharing, provided, however, that cost-sharing shall be required if the applicable plan is governed by the Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

(c) The division of insurance, in consultation with the office of Medicaid, and the department of mental health, shall develop guidelines to implement this section.

SECTION 59. Section 4M of chapter 176G of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “specialist”, in line 117, the following words:- , a clinician practicing under the supervision of a licensed professional and working towards licensure in a clinic licensed under chapter 111.

SECTION 60. Section 4T of said chapter 176G, as so appearing, is hereby amended by inserting after the word “age”, in line 6, the following words:- or without regard to age, so long as the dependent, who is covered under the membership of the dependent’s parent as a member of a family group, is mentally or physically incapable of earning their own living due to disability.

SECTION 61. Said chapter 176G is hereby further amended by inserting after section 4II the following 4 sections:-

Section 4JJ. (a) For the purposes of this section, “psychiatric collaborative care model” shall mean the evidence-based, integrated behavioral health service delivery method in which a primary care team consisting of a primary care provider and a care manager provides structured care management to a patient, and that works in collaboration with a psychiatric consultant that provides regular consultations to the primary care team to review the clinical status and care of patients and to make recommendations.

(b) Any individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide coverage for mental health or substance use disorder services that are delivered through the psychiatric collaborative care model.

Section 4KK. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

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

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

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

(b) An individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide coverage for medically necessary mental health acute treatment, community-based acute treatment and intensive community-based acute treatment and shall not require a preauthorization before the administration of such treatment; provided, however, that the facility shall notify the carrier of the admission and the initial treatment plan within 72 hours of admission.

Section 4LL. An individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide benefits on a nondiscriminatory basis for medically necessary emergency services programs, as defined in section 1 of chapter 175.

Section 4MM. (a) For the purpose of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Licensed mental health professional," a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed certified social worker, a licensed mental health counselor, a licensed supervised mental health counselor, a licensed psychiatric nurse mental health clinical specialist, a licensed psychiatric mental health nurse practitioner, a licensed physician assistant who practices in the area of psychiatry, a licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J, or a licensed marriage and family therapist within the lawful scope of practice for such therapist.

"Mental health wellness examination," a screening or assessment that seeks to identify any behavioral or mental health needs and appropriate resources for treatment. The examination may include: (i) observation, a behavioral health screening, education and consultation on healthy lifestyle changes, referrals to ongoing treatment, mental health services and other necessary supports, and discussion of potential options for medication; and (ii) age-appropriate screenings or observations to understand a covered person's mental health history, personal history and mental or cognitive state and, when appropriate, relevant adult input through screenings, interviews and questions.

"Primary care provider", a health care professional qualified to provide general medical care for common health care problems, who (i) supervises, coordinates, prescribes or otherwise provides or proposes health care services; (ii) initiates referrals for specialist care; and (iii) maintains continuity of care within the scope of practice.

(b) An individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide coverage for an annual mental health wellness examination that is performed by a licensed mental health professional or primary care provider, which may be provided by the primary care provider as part of an annual preventive visit. The examination shall be covered with no patient cost-sharing, provided, however, that cost-sharing shall be required if the applicable plan is governed by the Federal Internal Revenue Code and would lose its tax-exempt status as a result of the prohibition on cost-sharing for this service.

(c) The division of insurance, in consultation with the office of Medicaid, and the department of mental health, shall develop guidelines to implement this section.

SECTION 62. Section 1 of chapter 176J of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “age”, in line 86, the following words:- or without regard to age, so long as the dependent, who is covered under the membership of the dependent’s parent as a member of a family group is mentally or physically incapable of earning their own living due to disability.

SECTION 63. Chapter 176O of the General Laws is hereby amended by inserting after section 5C the following section:-

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

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

The division shall promulgate regulations to implement this section.

SECTION 64. Subsection (a) of section 13 of said chapter 176O, as appearing in the 2020 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

A carrier or utilization review organization shall maintain a formal internal grievance process that is compliant with the Patient Protection and Affordable Care Act, Public Law 111–148, as amended, as well as with any rules, regulations or guidance applicable thereto, and such formal internal grievance process shall provide for adequate consideration and timely resolution of grievances, which shall include but not be limited to: (i) a system for maintaining records of each grievance filed by an insured or on the insured’s behalf, and responses thereto, for a period of 7 years, which records shall be subject to inspection by the commissioner; (ii) the provision of a clear, concise and complete description of the carrier's formal internal grievance process and the procedures for obtaining external review pursuant to section 14 with each notice of an adverse determination; (iii) the carrier's toll-free telephone number for assisting insureds in resolving such grievances and the consumer assistance toll-free telephone number maintained by the office of patient protection; (iv) a written acknowledgement of the receipt of a grievance

within 15 days and a written resolution of each grievance sent to the insured by certified or registered mail, or other express carrier with proof of delivery, within 30 days from receipt thereof; (v) a procedure to accept grievances by telephone, in person, by mail and by electronic means; (vi) a process for an insured to request the appointment of an authorized representative to act on the insured's behalf; and (vii) a procedure to accept an insured's request for medical release forms by electronic means, which shall include delivery to a designated email address or access to an online consumer portal accessible by the insured, the insured's family member or the insured's authorized representative who can provide the insured's membership identification number.

SECTION 65. Subsection (b) of said section 13 of said chapter 176O, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- If the expedited review process affirms the denial of coverage or treatment, the carrier shall provide the insured, within 2 business days of the decision, including by any electronic means consented to by the insured: (1) a statement setting forth the specific medical and scientific reasons for denying coverage or treatment; (2) a description of alternative treatment, services or supplies covered or provided by the carrier, if any; (3) a description of the insured's rights to any further appeal; and (4) a description of the insured's right to request a conference.

SECTION 66. Subsection (c) of said section 13 of said chapter 176O, as so appearing, is hereby amended by adding the following sentence:- The external review of a grievance under section 14 shall be decided in favor of the insured unless the carrier provides substantial evidence, such as proof of delivery, that the carrier properly complied with the time limits required under this section.

SECTION 67. Subsection (a) of section 14 of said chapter 176O, as so appearing, is hereby amended by striking out the eighth sentence and inserting in place thereof the following sentence:- The panel shall consider, but not be limited to considering: (i) any related right to such treatment or service under any related state statute or regulation; (ii) written documents submitted by the insured; (iii) medical records and medical opinions regarding medical necessity by the insured's treating provider that requested or provided the disputed service, which shall be obtained by the carrier, or by the panel if the carrier fails to do so; (iv) additional information from the involved parties or outside sources that the review panel deems necessary or relevant; and (v) information obtained from any informal meeting held by the panel with the parties.

SECTION 68. Subsection (b) of said section 14 of said chapter 176O, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- An insured may apply to the external review panel to seek continued provision of health care services that are the subject of the grievance during the course of an expedited or non-expedited external review upon a showing of substantial harm to the insured's health absent such continuation or other good cause as determined by the panel; provided, however, that good cause shall include a pattern of denials that have been overturned by prior internal or external appeals.

SECTION 69. Subsection (c) of said section 14 of said chapter 176O, as so appearing, is hereby amended by adding the following sentence:- A carrier's failure to promptly comply with a decision of the review panel shall be an unfair and deceptive practice in violation of chapter 93A.

SECTION 70. Said section 14 of said chapter 176O, as so appearing, is hereby further amended by adding following subsection:-

(g) The office of patient protection shall monitor carrier denials and shall identify any trends regarding particular treatments or services or carrier practices and may refer such matters to the division of insurance, the group insurance commission or the office of the attorney general for review for compliance with state or federal laws related to mental health and substance use disorder parity including, but not limited to, section 22 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter 176B and sections 4, 4B and 4M of chapter 176G, in regard to any carrier licensed under chapters 175, 176A, 176B or 176G, any carrier offering a student health plan issued under section 18 of chapter 15A or the group insurance commission, or the mental health parity provisions of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), as amended, and federal guidance or regulations issued under the act. The office of patient protection shall refer any questions or concerns from consumers about carrier compliance with state or federal laws related to mental health and substance use disorder parity to the division of insurance, the group insurance commission or the office of the attorney general.

SECTION 71. Subsection (b) of section 16 of said chapter 176O, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- If a carrier or utilization review organization intends to implement a new medical necessity guideline or amend an existing requirement or restriction, the carrier or utilization review organization shall ensure that the new guideline or amended requirement or restriction shall not be implemented unless: (i) the carrier’s or utilization review organization’s website has been updated to reflect the new or amended requirement or restriction; and (ii) the carrier or

utilization review organization has assessed the limitation to show it is in compliance with state and federal parity requirements under chapter 26.

SECTION 72. The interagency health equity team, as supported through the office of health equity, shall, in consultation with the advisory council appointed in this section, study ways to improve access to, and the quality of, culturally competent behavioral health services. The review shall include, but not be limited to: (i) the need for greater racial, ethnic and linguistic diversity within the behavioral health workforce; (ii) the role of gender, sexual orientation, gender identity, race, ethnicity, linguistic barriers, status as a client of the department of children and families, status as an incarcerated or formerly incarcerated individual, including justice-involved youth and emerging adults, status as a veteran, status as an individual with post-traumatic stress disorder, status as an aging adult, status as a person with any other physical or invisible disability and social determinants of health regarding behavioral health needs; and (iii) any other factors identified by the team that create disparities in access and quality within the existing behavioral health service delivery system, including stigma, transportation and cost.

The advisory council shall consist of: the chairs of the joint committee on mental health, substance use and recovery; the chair of the Black and Latino Caucus or a designee; and 8 members to be appointed by the commissioner of public health, 1 of whom shall be a local public health official representing a majority-minority municipality, 1 of whom shall be a representative of a racial or ethnic equity advocacy group, 1 of whom shall be a representative of a linguistic equity advocacy group, 1 of whom shall be a licensed behavioral health provider, 1 of whom shall be a representative of a behavioral health advocacy group, 1 of whom shall be a representative of an organization serving the health care needs of the lesbian, gay, bisexual, transgender, queer and questioning community, 1 of whom shall be a representative of an

organization serving the health care needs of individuals experiencing housing insecurity and 1 of whom shall be an individual with expertise in school-based behavioral health services.

The team shall meet not less than quarterly with the advisory council. Not later than March 30, 2022, and annually for the following 3 years at the close of the fiscal year, the team shall issue a report with legislative, regulatory or budgetary recommendations to improve the access and quality of culturally competent mental and behavioral health services. The report shall be written in non-technical, readily understandable language and shall be made publicly available on the office of health equity's website.

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

SECTION 73. The executive office of health and human services and the department of public health shall conduct a study relative to the feasibility and cost, if any, of creating a board of registration of mental health counselors. The report shall be submitted not later than June 30, 2023, to the clerks of the senate and house of representatives, the joint committee on mental health and substance use and recovery and the joint committee on labor and workforce development.

SECTION 74. The health policy commission, in consultation with the division of insurance, shall conduct an analysis of the effects of behavioral health managers, as defined in section 1 of chapter 176O of the General Laws, on the commonwealth's health care delivery system. The commission shall seek input from the executive office of health and human services,

other state agencies, health care providers and payers, behavioral health and economic experts, patients and caregivers.

The commission shall analyze: (i) the services that behavioral health managers provide; (ii) the effect of behavioral health managers on accessibility, quality and cost of behavioral health services, including an analysis of their impact on patient outcomes; (iii) the oversight practices by other states on behavioral health managers; (iv) the effects of behavioral health manager state licensure, regulation or registration on access to behavioral health services; and (v) any other issues pertaining to behavioral health managers as deemed relevant by the commission.

Not later than December 31, 2022, the health policy commission shall file a report of its findings, together with any recommendations for legislation, with the clerks of the senate and house of representatives, the joint committee on health care financing, the joint committee on mental health, substance use and recovery and the joint committee on financial services.

SECTION 75. There shall be a special commission to study and make recommendations on the establishment of a common set of criteria for providers and payers to use in making medical necessity determinations for behavioral health treatment.

The commission shall consist of the following members or their designees: the commissioner of mental health, who shall serve as chair; the commissioner of insurance; the director of the bureau of substance addiction services within the department of public health; the assistant secretary for MassHealth; the executive director of the group insurance commission; and 17 members to be appointed by the chair: 1 of whom shall be a representative of the health policy commission; 2 of whom shall be representatives of the Massachusetts Psychiatric Society, Inc., 1 of whom shall specialize in the treatment of children; 2 of whom shall be representatives

of the Massachusetts Psychological Association, Inc., 1 of whom shall specialize in the treatment of children; 1 of whom shall be a representative of the Massachusetts Society of Addiction Medicine, Inc.; 1 of whom shall be a representative of the National Association of Social Workers, Inc.; 1 of whom shall be a representative of the Massachusetts Mental Health Counselors Association, Inc.; 1 of whom shall be a representative of the Children's Mental Health Campaign; 1 of whom shall be a representative of the Association for Behavioral Healthcare, Inc.; 1 of whom shall be a representative of the Massachusetts Association of Behavioral Health Systems, Inc.; 1 of whom shall be a representative of the Massachusetts Health and Hospital Association;; 1 of whom shall be a representative of the Massachusetts Association for Mental Health, Inc.; 1 of whom shall be a representative of the National Alliance on Mental Illness of Massachusetts, Inc.; 1 of whom shall be a representative of the Massachusetts Organization for Addiction Recovery, Inc.; 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc.; and 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc..

The commission's review shall include, but not be limited to: (i) existing reference sources or services utilized by payers to make medical necessity determinations for behavioral health treatment; (ii) commonly accepted treatment guidelines and standards of care utilized by behavioral health providers and the evidentiary basis for those guidelines and standards; (iii) the feasibility of establishing a common set of medical necessity criteria that behavioral health providers and payers can agree to and any barriers to this task; and (iv) the experiences of other states in addressing the standardization of medical necessity for behavioral health.

Not later than 1 year after the effective date of this act, the commission shall submit its findings and recommendations, together with drafts of legislation or regulations necessary to

carry those recommendations into effect, to the clerks of the senate and house of representatives and the joint committee on mental health, substance use and recovery.

SECTION 76. The health policy commission shall convene an advisory group to advise the commission on the implementation of section 21 of chapter 6D of the General Laws. The advisory group shall include: the director of the health policy commission or a designee, who shall serve as chair; the secretary of health and human services or a designee; the assistant secretary of MassHealth or a designee; the commissioner of insurance or a designee; 1 member appointed by the governor, who shall be from a commonwealth-based electronic health record vendor who specializes in behavioral health care; 1 member appointed by the Association for Behavioral Healthcare, Inc.; 1 member appointed by Blue Cross and Blue Shield of Massachusetts, Inc.; 1 member appointed by Health Law Advocates, Inc.; 1 member appointed by the Massachusetts Association of Health Plans, Inc.; 1 member appointed by the Massachusetts Health and Hospital Association, Inc.; 1 member appointed by National Alliance on Mental Illness of Massachusetts, Inc.; 1 member appointed by the Massachusetts Organization for Addiction Recovery, Inc. ; 1 of who shall be a person who has received mental health or substance use disorder treatment; 1 of whom shall be a family member of a person being treated for a mental health or substance use disorder substance use disorder; and 1 member appointed by the Parent/Professional Advocacy League, Inc.

The advisory group shall study and make recommendations on the development and proper use of the standard release form required under said section 21 of said chapter 6D. The advisory group shall consider: (i) existing and potential technologies that could be used to securely transmit a standard release form; (ii) national standards pertaining to electronic release of confidential information, including protecting a patient’s identity and privacy in accordance

with the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191; (iii) any prior release forms and methodologies used in the commonwealth; (iv) any prior release forms and methodologies developed by federal agencies; and (v) any other factors the advisory group deems relevant.

The advisory group shall submit written recommendations to the commission not more than 6 months after the effective date of this act. The commission shall develop the standard release form after receiving the advisory group's recommendations.

SECTION 77. (a) The department of veterans' services shall convene an advisory committee that shall consist of: 2 representatives of the Massachusetts chapter of Team Red, White & Blue; 2 representatives of the Red Sox Foundation and Massachusetts General Hospital's Home Base Program; 2 representatives of the Wounded Warriors Project; 2 representatives of the Mass Mentoring Partnership, Inc.; 2 representatives of the Massachusetts Coalition for Suicide Prevention; 2 representatives of the Massachusetts Psychological Association, Inc.; and such other members as the committee deems necessary. The members of the committee shall have experience in mental health or veterans' support services with an emphasis on treatment of post-traumatic stress disorder, depression and anxiety among veterans.

(b) The committee, in coordination with the department of veterans' services and the department of mental health, shall investigate and study: (i) ways to augment services to returning veterans to reduce the rate of suicide and the effects of post-traumatic stress disorder, depression and anxiety; and (ii) the complexity of reintegration into civilian life and issues related to isolation and suicide among veterans. The committee shall provide support and expertise to reduce isolation and suicide among returning veterans.

The committee shall examine: (i) the impact of having a community peer liaison on a veteran's reintegration into society; (ii) the relationship between isolation and suicide among veterans; and (iii) the impact of having a community peer liaison on symptoms of post-traumatic stress disorder, depression and anxiety in diagnosed veterans.

The committee shall file a report of its findings and any recommendations, with the clerks of the senate and house of representatives, the joint committee on veterans and federal affairs and the joint committee on mental health, substance use and recovery not later than January 1, 2023.

SECTION 78. Notwithstanding any general or special law to the contrary, the division of insurance shall promulgate regulations or issue sub-regulatory guidance, within 30 days of the effective date of this act, to establish reasonable rates at which carriers shall reimburse acute care hospitals for each day a member waits in an emergency department, observation unit or inpatient floor, for placement in an appropriate inpatient psychiatric placement. The division of insurance shall consult with the division of medical assistance on establishing a reasonable rate for said reimbursement.

SECTION 79. The department of mental health shall prepare a comprehensive plan to address access to continuing care beds, intensive residential treatment programs and community-based programs for patients awaiting discharge from acute psychiatric hospitals and units. The plan shall include, but not be limited to, strategies to reduce the wait times for patients awaiting discharge so that the patients determined appropriate for continuing care, intensive residential treatment and community-based programs would be admitted to an appropriate continuing care bed, intensive residential treatment program, community-based program or other appropriate

setting within 30 days after approval of their application. The department of mental health shall submit a copy of the plan to the governor, the clerks of the senate and house of representatives and the joint committee on mental health, substance use and recovery within 60 days after the effective date of this act.

SECTION 80. (a) There shall be within the department of public health's division of violence and injury prevention a suicide postvention task force to address the after effects of a confirmed suicide. Using recent data, the task force shall prepare best practices and mental health standards and a postvention care kit that shall include materials and contact information for behavioral health resources and supports, including but not limited to grief counseling, that shall be made available to individuals in the aftermath of a suicide. The task force shall study best practices and privacy considerations in proactively distributing the care kit or other resources to family members and others at risk of suicide behavior contagion.

(b) The suicide postvention task force shall consist of the following members or their designees: the director of the Massachusetts Suicide Prevention Program, who shall serve as chair; the secretary of health and human services; and 7 persons to be appointed by the chair, 1 of whom shall be a representative of the National Alliance on Mental Illness of Massachusetts, Inc., 1 of whom shall be a representative of the Parent/Professional Advocacy League, Inc., 1 of whom shall be a representative of the Massachusetts Coalition for Suicide Prevention, 1of whom shall be a representative of Riverside Community Care, Inc., 1 of whom shall be a representative of the Samaritans, Inc., 1 of whom shall be a representative of an organization that provides suicide prevention and postvention support to communities of color and 1 of whom shall be an individual who has experienced a suicide within their family.

(c) The task force shall prepare its findings and recommendations, together with drafts of legislation or regulations necessary to carry those recommendations into effect, by filing the same with the clerks of the senate and house of representatives and the joint committee on mental health, substance use and recovery not later than 1 year after the effective date of this act.

SECTION 81. The state 911 department shall update 560 CMR 5.00 to integrate training on identification of and response to callers experiencing behavioral health crises, which may include crisis intervention training and training on the appropriate diversion of people with behavioral health conditions away from law enforcement response to appropriate behavioral health treatment and support, into the certification standards for certified enhanced 911 telecommunicators.

SECTION 82. The division of insurance shall promulgate regulations to implement section 5D of chapter 176O of the General Laws not later than 1 year from the effective date of this act; provided, however, that the division shall, upon publication, forward any draft regulations to the joint committee on health care financing and the joint committee on mental health, substance use and recovery.

SECTION 83. The health policy commission shall publish its first pediatric behavioral health planning report required by section 20 of chapter 6D of the General Laws not later than 18 months after the effective date of this act.

SECTION 84. For the purposes of section 22A of chapter 32A of the General Laws, section 10P of chapter 118E of the General Laws, section 47MM of chapter 175 of the General Laws, section 8OO of chapter 176A of the General Laws, section 4OO of chapter 176B of the General Laws and section 4GG of chapter 176G of the General Laws, reimbursement for the

psychiatric collaborative care model shall include, but not be limited to, the following current procedural terminology billing codes established by the American Medical Association: (i) 99492; (ii) 99493; and (iii) 99494.

SECTION 85. The office of the child advocate shall publish the first annual report required by section 10A of chapter 18C of the General Laws not later than 18 months after the development of the online portal established pursuant to section 16P of chapter 6A of the General Laws.

SECTION 86. Section 5D of chapter 176O of the General Laws shall take effect 1 year after the effective date of this act.

SECTION 87. Section 51¾ of chapter 111 of the General Laws, inserted by section 23, shall take effect on January 1, 2023; provided, however, the department of public health shall promulgate regulations to implement said section 51¾ of said chapter 111 not later than 90 days after the effective date of this act.