



251 West Central Street
Suite 21
Natick, MA 01760

T 508.647.8385
F 508.647.8311
www.ABHmass.org

Vicker V. DiGravio III PRESIDENT / CEO
Diane E. Gould, LICSW CHAIR

ASSOCIATION
FOR BEHAVIORAL
HEALTHCARE

Chapter 208 of the Acts of 2018

Expansion of Access to Medication Assisted Treatment (MAT)

Prisons (Sections 75-78, 97, 111)¹

- Requires the Department of Corrections (DOC) to meet certain requirements regarding the availability of all three FDA-approved medications for the treatment of opioid addiction as well as access in correctional facilities to *qualified addiction specialists* and *behavioral health counseling* for opioid use disorder;
 - Mandates availability of MAT for detainees at the Massachusetts Alcohol and Substance Abuse Center (MASAC), the Massachusetts Correctional Institution at Framingham (MCI Framingham) or the South Middlesex Correctional Center upon the recommendation of a qualified addiction specialist, and specifically excludes mandatory availability at other state correctional facilities;
 - Permits offering such treatment at MCI Cedar Junction to detainees receiving treatment prior to their incarceration either during their first 90 days as part of a detox program, or during their last 90 days under a re-entry treatment plan;
- Requires pre-release access to a qualified addiction specialist to determine appropriateness of MAT on release, and induction 90 days pre-release for those for whom treatment is recommended for all individuals incarcerated within DOC;
- Defines “behavioral health counseling”² and “qualified addiction specialist”³ ;
- Establishes reporting requirements related to opioid use disorder treatment services provided; and
- Directs the DOC to ensure that regulations pertaining to the availability of MAT meets criteria around consent, treatment alternatives, and options for termination of treatment.
- These provisions are effective April 1, 2019.

¹ The statute does not specify whether DOC or the County Sheriffs provide MAT services or contract these services to health care providers.

² “Behavioral health counseling”, a non-pharmacological intervention carried out by a qualified behavioral health professional in a therapeutic context at an individual, family or group level; provided, however, that such an intervention may include a structured, professionally administered intervention delivered in person or an intervention delivered remotely via telemedicine.

³ “Qualified addiction specialist”, a treatment provider who is: (i) a physician licensed by the board of registration of medicine, a licensed advanced practice registered nurse or a licensed physician assistant; and (ii) a qualifying practitioner or qualifying other practitioner, as defined in the federal Controlled Substances Act, as codified at 21 U.S.C. 823(G), who has been issued an identification number by the United States Drug Enforcement Administration pursuant to the federal Controlled Substances Act, as codified at 21 U.S.C. 823(g)(2)(D)(ii) or 21 U.S.C. 823(g)(2)(D)(iii).

County Corrections Pilot Program (Section 98)

- Establishes and regulates the operation of a pilot program for delivering MAT in county correctional facilities located in Franklin, Hampden, Hampshire, Middlesex and Norfolk counties;
- Directs the Department of Public Health (DPH), in collaboration with the Executive Office of Public Safety & Security (EOPSS), MassHealth, and the County Sheriffs to implement the program;
- Details duties of pilot correctional facilities to maintain the capacity to possess, dispense and administer all FDA-approved drugs, ability to provide MAT to all individuals in their custody, regardless of status, who were receiving MAT prior to their incarceration, provide MAT at least 30 days prior to release when clinically appropriate, and provide behavioral health counseling as part of the treatment;
- Involuntary change or discontinuation of MAT received in the community for newly incarcerated individuals is prohibited, except upon medical determination;
- Requires consent of participants and establishes mandatory reporting requirements;
- These provisions are effective September 1, 2019. DPH informed consent protocols must be published by March 1, 2019; and
- Commissioner of DPH will submit an annual report on outcomes of the pilot program, with first report on September 1, 2020 and annually thereafter until 2023.

Civil Commitments under Section 35 (Section 74)

- Requires all Section 35 facilities to maintain or provide for the capacity to possess, dispense and administer all FDA-approved drugs for use in opioid addiction and to make MAT treatment available to any person for whom it is medically appropriate.

Emergency Departments (Sections 50, 106)

- Requires acute-care hospitals that provide emergency services and satellite emergency facilities to maintain protocols and capacity to provide evidence-based interventions prior to discharge that reduce the risk of subsequent harm following an opioid-related overdose and the ability to possess, dispense, administer and prescribe opioid agonist treatment after an overdose;
- Requires patients who are administered or prescribed an opioid agonist to be directly connected to an appropriate provider or treatment site to continue treatment;
- Allows DPH to promulgate regulations in relation to this section; and
- Requires the Division of Insurance (DOI) and Medicaid to develop and issue bulletins identifying the Healthcare Common Procedure Coding System codes to be used by providers and carriers for initiation and continuation of opioid antagonist treatment of opioid use disorders; provides that the procedure codes identified in said bulletins shall be based on medical necessity and shall not require a prior authorization for access to such treatment; requires the bulletin to be posted on the websites of the division and the office by January 1, 2019.

Addiction Treatment

Substance Abuse Evaluations & Treatment for Overdoses seen in Emergency Department (Sections 51-57, 96)

- Expands the definition of “licensed mental health professional” for the purpose of substance use evaluations in EDs following an overdose.⁴ Adds licensed certified social worker, certified addictions registered nurse and a “healthcare provider, as defined in section 1⁵, qualified within the scope of the individual’s license to perform substance use disorder evaluations, including an intern, resident or fellow pursuant to medical staff policies and practice” to perform these evaluations.
- Allows EDs to discharge patients who refuse further treatment and who are medically stable; requires EDs to directly connect patients who elect further treatment after discharge with community services;
- Requires EDs to record opioid-related overdoses and make substance use disorder evaluations available in a patient’s electronic medical record for use by other healthcare providers, consistent with Federal privacy requirements;
- Repeals provisions requiring DPH to collect information on the substance abuse evaluations ordered for patients experiencing overdose; and instead
- Requires the Center for Health Information and Analysis (CHIA) to annually submit a report regarding the frequency and location of substance use disorder evaluations for patients experiencing opioid-related overdoses at an acute care hospital or emergency satellite facility.

Statewide Remote Consultation Program for Addiction & Chronic Pain (Section 3, 95)

- Directs EOHHS to develop and implement a statewide program to provide remote consultations to primary care practices, nurse practitioners and other health care providers for persons over 17 who exhibit a possible substance use disorder or who are experiencing chronic pain;
- Authorizes the Secretary of EOHHS to assess commercial payers for services provided to their members; and
- Requires EOHHS to consider how to most effectively adopt the program model from the current Massachusetts Child Psychiatry Access Program (MCPAP) model, what the program structure should be, and the necessity of a needs assessment, program metrics and costs.

⁴ Previously, the definition included, “a licensed physician who specializes in the practice of psychiatry or addiction medicine, a licensed psychologist, a licensed independent social worker, a licensed mental health counselor, a licensed psychiatric clinical nurse specialist or a licensed alcohol and drug counselor I as defined in section 1 of chapter 111J.”

⁵ This section allows for a clinic licensed under DPH and its agents and employees to meet this definition.

Voluntary Rehabilitative Alternatives (Section 99)

- Requires DPH to submit recommendations to the Legislature for improving access to voluntary treatment alternatives for licensed health care professionals, including dentists, who have a substance use disorder, by January 1, 2019.

State Agency Directives

Department of Mental Health

DMH Licensure (section 15-19)

- Amends the DMH statute regarding residential or day care services for the treatment of mental illness to codify many current DMH licensure practices and increase DMH authority to issue provisional licenses for new facilities or those temporarily unable to meet licensing standards;
- Replaces the antiquated term 'ward' in sections on DMH residential or day care services;
- Allows DMH to inspect facilities as part of the licensing process and the authority to require corrective action as part of the licensing process; and
- Allows DMH to condition the license if determination of need criteria have not been met.

Center for Police Training in Crisis Intervention (Section 20)

- Establishes and regulates the operation of a police training crisis intervention center within the Department of Mental Health (DMH);
- Requires the center to provide cost-effective, evidence-based mental health and substance use crisis response training programs for municipal police and other public safety personnel throughout the commonwealth;
- Regulates programming provided by the center, and requires that police leadership and patrol officers have access to available training; and
- Establishes and regulates the membership and operation of a community policing and behavioral health advisory council to advise the center on best practices.

DPH – BSAS Licensure (Sections 58-69)

- Makes changes to the section of general law outlining the licensing authority of the “Division of Drug Rehabilitation” to instead make the Department of Public Health’s licensing and enforcement authority more explicit;⁶
- Allows DPH additional licensing standards to consider including the requirement that a facilities not discriminate against individuals with public insurance and that the facility demonstrate a need for the license;

⁶ MGL had previously outlined this authority under the Division of Drug Rehabilitation, which is essentially operating as the Bureau of Substance Addiction Services (BSAS). DPH has indicated these changes will not affect the licensing structure at this time, but were instead made to streamline and clean up the statute to allow for more flexible licensing authority in the future if it is needed.

- Allows DPH to hold a public hearing and suspend, revoke, limit or restrict a license if the application fails to meet DPH's standards for demonstrating the need for the program; and
- Makes more explicit DPH's authority to conduct surveys and investigations to enforce the regulatory standards, and allows DPH to issue corrective action orders to remedy deficiencies.

Center for Health Information & Analysis (CHIA) (Section 8)

- Amends the continuing program of investigation and study of mental health and substance use disorders that CHIA is required to complete to include chronic pain.

Prescribing Practices and Access to Naloxone

Requirements for Electronic Prescribing (Sections 26-30, 33-40, 42, 44, 110)

- Expands the existing information sharing, prescription packaging and labeling requirements for written prescriptions to electronic prescriptions;
- Sets parameters around the release of electronic prescribing and dispensing information to law enforcement;
- Requires electronic prescriptions for Schedule II- VI controlled substances (with some exceptions); and makes these changes effective January 1, 2020.

Prescription Monitoring Program (PMP) Data Sharing (Sections 41, 45-46)

- Allows health care practitioners to access data stored in the PMP for care of their own patients, authorizes DPH to allow electronic prescription monitoring data to be stored in provider's own EHRs; and
- Adds benzodiazepines to the PMP.

Updates to Partial Fill Prescription Law (Section 24, 31, 71, 85, 88, 91)

- Amends the current partial fill law that allows pharmacists, on a patient's request, to dispense Schedule II controlled substance in lesser amounts than originally prescribed to include permitting the same pharmacy to fill the remainder of the prescription from the original amount if requested by the patient;
- Repeals provisions requiring pharmacies to notify health care providers if a lesser amount is requested but requires pharmacies to include the request and amount dispensed in a pharmacy maintained patient record which may be accessed by the health care provider;
- Requires the initial dispensing within 5 days of the prescription date, and the remainder within 30 if requested by the patient;
- Prohibits the GIC and Medicaid from imposing an additional co-payment on individuals who use the partial fill method to get their medications; and
- Requires fully-insured health plans in the Commonwealth to allow for adjustments and reductions in co-payments if a person requests a partial-filled prescription.

Expanding Access to Naloxone (Sections 21, 32)

- Establishes a standing order allowing any licensed pharmacist to dispense an opioid antagonist⁷ and requires pharmacists to annually report the number of times they dispense it;
- Prohibits criminal, civil or professional liability for any individual who dispenses an opioid antagonist in good faith, or for receiving and administering one in good faith;
- Directs DPH, the Board of Registration in Medicine, and the Board of Registration in Pharmacy to establish relevant regulations;
- Allows municipalities that are registered to purchase naloxone or other opioid antagonists to convey or exchange the product to ensure availability and use of unexpired product; and
- Allows a Sheriff of a House of Correction that contracts with DPH to participate in the Municipal Naloxone Bulk Purchase Trust Fund to purchase naloxone for first responders.

Access to Alternatives to Pain Management (Sections 4-5, 24, 81, 85, 88, 91-92, 94)

- Requires the Health Policy Commission (HPC) to include improved access to pain management among required goals for ACO certification;
- Requires the Group Insurance Commission (GIC) to provide coverage and access to a broad spectrum of pain management services as an alternative to opioids;
- Requires fully-insured health plans to develop a plan to provide adequate coverage and access to a broad spectrum of pain management services in accordance with guidelines developed by the Division of Insurance (DOI);
- Requires these plans be a part of the carriers' DOI accreditation; and
- Requires DOI to consult with the HPC to determine appropriate standards for evidence-based pain management and publish guidelines to assist carriers' development and submission of pain management access plans.

Children & Adolescents

Office of Child Advocate Cost Sharing Agreements (Section 2, 14)

- Authorizes the Child Advocate to impose a binding temporary cost share agreement on state agencies and local education authorities disagreeing about responsibility for payment for needed services.⁸

Early Childhood Investment Opportunity Grant Program (Section 6)

Directs the HPC and DPH to create and administer an early childhood investment opportunity grant program for programs to support and care for families with substance

⁷ Defined as naloxone or any other drugs approved by the FDA to be used in the reversal of overdoses caused by opioids.

⁸ This section was developed in response to continued issues with ED Boarding for children across the Commonwealth and lack of clarity on who is responsible to pay for needed services.

exposed newborns and requires the program to include a study of long-term effects of neonatal abstinence syndrome (NAS) on children up to the age of 18.

Update to SBIRT School Screening Program (Section 25)

- Requires implementation of verbal screening of substance use disorders for students in accordance with state and federal law and regulations, including those pertaining to student confidentiality and the right of parents and guardians to inspect academic, scholastic or other student records.

Section 35 Civil Commitments (Sections 72-73)

- With the committed individual's consent, requires the superintendent to notify both the committing court and the petitioner if the committed individual is released prior to their expiration date or they are transferred between facilities.

Mandated Benefit Review (Section 105)

- Directs CHIA to conduct a review of the impact on health plans of proposed mandated mental health coverage of community-based acute treatment (CBAT), intensive community-based acute treatment (ICBAT), inpatient psychiatric services and crisis stabilization services by no later than July 1, 2019. The law specifically requires CHIA to assess the impact of these changes on premiums if medical necessity is determined by the treating clinician.

Other

- Removes the age restrictions on the sale of hypodermic syringes and needles (Sections 47-49)
- Prohibits pharmaceutical manufacturing companies from offering a discount, rebate, product voucher or other means of reducing out of pocket expenses for prescription drugs that are opiates, as defined. (Section 82)
- Changes the composition and expertise requirements of the appointees of the Board of Registration of Nursing and the Licensed Practical Nurse Board (Sections 9-12)

Commissions

Commission on Harm Reduction Sites (Section 100) - Establishes a 15-member commission to make recommendations on the feasibility of operating harm reduction sites; defines such sites; articulates the qualifications of the members of the commission; identifies several specific areas of investigation for the commission; requires the commission to submit its report to the Legislature by February 1, 2019.

Commission on Recovery Coach Credentialing (Section 101) - Establishes an 11-member commission to make recommendations on standards for credentialing recovery coaches, including whether such coaches should be subject to a board of registration through DPH; articulates the qualifications of commission members; requires the commission to file its recommendations with

the Legislature not later than one year from August 9, 2018. *Requires the commission to include a community provider who employs recovery coaches.*

Commission on Creating a Taxonomy of Licensed Behavioral Health Clinician Specialties (Section 102) - Establishes an 11-member commission to review evidence-based treatment for individuals with a substance use disorder, mental illness or co-occurring substance use disorder and mental illness and develop a taxonomy of licensed behavioral health clinician specialties that may be used by carriers to develop a provider network; articulates the qualifications of commission members; requires the commission to file its recommendations with the Legislature within 180 day of August 9, 2018.

Commission on Medication-Assisted Treatment for Opioid Use Disorder (Section 103) - Establishes a 19-member Commission to study and make recommendations regarding the use of medication-assisted treatment for opioid use disorder; specifies several areas of investigation for the Commission; articulates the qualifications of Commission members; requires the Commission to report its findings and recommendations to the Legislature within 1 year from August 9, 2018. *Requires the commission include a representative of ABH be included as a member.*

Commission on School & Community-Based Behavioral Health Promotion and Prevention (Section 1, 7) – Makes permanent a 21-member Community-Based Behavioral Health Promotion and Prevention located within (but not subject to the control of) the Executive Office of Health and Human Services that has met and produced a report over the last year. *ABH is a member of this Commission.* Establishes and regulates a new Commonwealth Community-Based Behavioral Health Promotion and Prevention Trust Fund.⁹

Commission on Section 35 (Section 104) - Establishes and regulates the membership and operation of a Section 35 Involuntary Commitment Commission to study the efficacy of involuntary inpatient treatment for non-court involved individuals diagnosed with substance use disorder; establishes components of the study, including development of a statewide standard for the medical review of involuntarily committed individuals with alcohol or substance use disorders; requires submission of findings and recommendations by July 1, 2019.

Commission on Consumer Protection Laws (Section 107) - Establishes a 13-member special commission to study the ways consumer protection laws in the Commonwealth can be strengthened to hold corporate entities responsible for their role in furthering the opioid epidemic; articulates the qualifications of the commission members; identifies several areas of investigation for the commission; requires the Commission to file its report with the Legislature by January 1, 2019.

⁹ There does not appear to be any funding deposited in this trust fund at this time, but would be available for future use for the Legislature, grant and federal funding etc.