

## 2021-2022 MASSACHUSETTS MENTAL HEALTH OMNIBUS FACT SHEET

In November 2021, the Massachusetts Senate passed [S.2584](#), *An Act addressing barriers to care for mental health*. Subsequently, in June 2022, the Massachusetts House of Representatives took up comprehensive mental health legislation and passed [H.4891](#), *An Act addressing barriers to care for mental health*. Provisions of both bills represent great steps towards improving mental health and ending care disparities in the Commonwealth. While the bills are largely similar, the bills are in review in a conference committee, which has been appointed to negotiate the differences between S.2584 and H.4891. The conference committee first met on June 30, 2022, with about one month to deliberate until formal sessions conclude at the end of July.

### Both the Senate and House bills:

- Address wait times for children in the emergency department by developing a **youth emergency department (ED) boarding portal** to access real-time data on the number of children awaiting clinically appropriate behavioral health services and the availability of beds to meet their needs (Senate sections 1 & 74, House sections 2 & 66)
  - Senate bill also requires the [Child Advocate](#) to file a report making recommendations for decreasing and eliminating the number of children awaiting clinically appropriate behavioral health services (Sections 11 and 73)
- Require **mental health professionals be available during all ED operating hours** to evaluate and stabilize patients and to permit evaluations via telemedicine (Senate sections 23 & 76, House sections 28 & 68)
- Require the 911, [211](#), and [988](#) numbers to have the technological capabilities to link together and establish a **988 commission** (Senate sections 2 & 75, House sections 4 & 67)
  - Senate bill also permits the commission's funding recommendations to include user fees and requires the commission to advise on promoting the 988 number, such as including 988 information on student ID cards and on signs in places where there have been known suicide attempts
- Require insurance carriers to set a **minimum schedule of rates for evaluation and management services offered by behavioral health care providers** that are not less than the base schedule of rates for such services provided by primary care providers of the same or similar licensure type and in the same geographic region, and requires the [Division of Insurance](#) (DOI) to issue regulations for the behavioral health provider rate schedule within one year (Senate sections 49, 70, & 74, House sections 47, 63, & 66)
- Provide health insurance **coverage** for:
  - Annual mental health wellness examinations (Senate sections 18, 33, 42, 44, 46, & 48, House sections 24, 31, 40, 42, & 45)
    - Senate requires [Group Insurance Commission](#) (GIC) plans to provide such coverage with no cost sharing
  - Community based acute treatment (CBAT) and Intensive community-based acute treatment (ICBAT) (Senate sections 16, 33, 42, 44, 46, & 48, House sections 22, 31, 40, 42, 43, & 45)
    - CBAT and ICBAT are 24-hour clinically managed mental health diversionary or step-down services provided to children and adolescents typically as an alternative to acute mental health treatment, without prior authorization.
  - Psychiatric collaborative care models to integrate psychiatric and primary care (Senate sections 17, 33, 42, 44, 46, & 48, House sections 23, 31, 40, 42, 43, & 45)

- Medically necessary behavioral health emergency services (Senate sections 18, 40, 42, 44, & 48, House sections 24, 39, 40, 42, 43, & 45)
- **Parity Enforcement/Consumer Protections**
  - Require [Medicaid](#) to maintain documentation of all requests for benefits or services (Senate section 35, House section 34)
  - **Require insurance carriers to accept appeals, supporting documents, and appointments of an authorized representative by email** (Senate section 50, House section 48)
    - Senate requires a formal internal grievance process to include a written acknowledgement of the receipt of a grievance within 15 days and a written resolution of each grievance sent to the insured by express insurance carrier with proof of delivery, within 30 days from receipt
  - **Set out notice requirements** that insurance carriers must provide insured persons if the expedited review process affirms the denial of coverage or treatment (Senate section 51, House section 49)
    - Senate requires insurance carriers to provide notice within two business days of the decision. House, five business days
  - Require the [Office of Patient Protection](#) to obtain medical records and the treating provider's medical opinion if the insurance carrier has not done so already (Senate section 53, House section 51)
  - **Direct the Commissioner of Insurance to implement and enforce federal and state mental health parity laws, including performing behavioral health parity compliance market conduct examinations** on each insurance carrier, every three years in the Senate bill, and every five years in the House bill (Senate section 14, House section 19)
  - Require the Office of Patient Protection to develop a process for referring matters to the DOI and the Attorney General for review of compliance with state and federal mental health and substance use condition parity laws (Senate section 5, House section 10)
  - **Require qualifying student health programs to comply with federal mental health parity laws** (Senate section 10, House section 14)
- Require MassHealth to annually 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 legislature identifying the difference between the minimum payment rates decided by MassHealth and the payment rates that managed care entities contractually agree to pay providers for all behavioral health services delivered in community behavioral health centers (Senate section 34, House section 32)
- Impose requirements before a commercial insurance carrier may amend or establish a [medical necessity guideline](#) (Senate section 57, House section 55)
  - Senate also requires a commercial insurance carrier use [American Society of Addiction Medicine \(ASAM\) criteria](#) for treatment of substance use disorders and co-occurring mental illnesses and to not subject guidelines to additionally more restrictive criteria (Section 58) and establishes a **special commission to study medical necessity determinations** for behavioral health (Section 61)
- **Eliminate unconstitutional language in G.L. c. 123, s. 18 that applies to people in carceral facilities.** The Massachusetts Supreme Judicial Court (SJC) has found unconstitutional language authorizing the Department of Correction to confine a prisoner at Bridgewater State Hospital, even after a court declines to order such a placement. (Senate section 38, House section 37)
- Establish a **procedure for incarcerated people to petition for a transfer from mental health watch** to a treatment facility (Senate section 39, House section 38)

- Require the [Health Policy Commission \(HPC\)](#) annual report to include data on behavioral health expenditures (Senate section 4, House section 9) and direct the HPC to develop a **pediatric behavioral health planning report** (Senate sections 6 & 71, House sections 11 & 64)
- Require the [Center for Health Information and Analysis \(CHIA\)](#) annual report to include costs, cost trends, price, quality, utilization, and patient outcomes related to behavioral health service subcategories (Senate sections 7 & 8, House sections 12 & 13)

**!** *Some of the differences that need to be reconciled include actions that only the Senate bill or House bill include and issues that both bills address, but differently.*

### Provisions only included in the Senate bill:

- Require **MassHealth to comply with state mental health parity laws** by covering all behavioral health conditions, performing behavioral health parity compliance examinations on its contractors, and permitting MassHealth to highlight any policy that violates parity, also require MassHealth and their plans to use ASAM criteria for deciding treatment of behavioral health condition (Section 36)
- Establish a **special commission to review barriers to accessing mental health services** (Section 63)
- Direct the Department of Public Health (DPH), as a part of its **suicide data collection**, to record the location, property type, and past number of suicide attempts at the location (Section 24)
- Establish within DPH a **suicide postvention task force** to address the aftereffects of a confirmed suicide (Section 67)
- Require DMH to consider additional factors such as transportation when contracting for services in geographically isolated communities (Section 37)
- Require the Executive Office of Public Safety and Security (EOPSS) to examine improving access and participation in behavioral health screening and treatment by police, firefighters, public safety personnel, and veterans (Section 65)
- Expand the charge of the [Childhood Trauma Task Force](#) to make recommendations on how the Commonwealth can better identify, support, and provide services to children and youth who have experienced trauma and to review available tools, protocols, and best practices for targeted or universal screening for childhood trauma and protective factors for all children, including those children entering foster care (Section 12)
- **Exempt from determinations of need requirements health care facilities planning capital expenditures solely for the development of acute psychiatric services** (Section 22)
- Establish an advisory group under the **HPC to recommend a standard release form** including for digital use (Section 62)
- Direct DPH to establish a voluntary program for monitoring the rehabilitation of licensed health care professionals who have a mental health or substance use condition and permits a licensing board to dismiss any pending investigation or complaint against a licensed health care professional admitted into the program that relates to their mental health or substance use condition (Section 26)
- Amend the membership of the **Board of Registration of Social Workers to include the Commissioner of the Department of Children and Families (DCF), the Commissioner of the Department of Mental Health (DMH), a representative of an accredited school of social work, and a member that represents underserved populations** (Section 9)
- Replace definition of "the independent practice of social work" with definition of "clinical social work practice" that emphasizes that clinical social workers practice within an ecological and ethically principled framework (Sections 27 & 28)

- Include, in the definition of “licensed supervised mental health counselor,” marriage and family therapists (after completion of an additional two years of supervised clinical experience in a clinic or hospital licensed by DPH), rehabilitation counselors, mental health counselors, educational psychologists, and applied behavior analysts; prohibits persons from advertising themselves as a licensed supervised mental health counselor, advisor or consultant unless they are licensed; and permits the Board of Registration of Allied Mental Health and Human Services Professions to issue licenses for licensed supervised mental health counselors, advisors or consultants (Sections 29 – 32)
- Include in the definition of “licensed mental health professional,” clinicians working towards licensure (Sections 41, 43, 45, & 47)

## Provisions only included in the House bill:

- **School Based Behavioral Health**
  - Establish a statewide program to **implement behavioral health services and supports in school districts** (Section 4)
  - Require school administrators acting as decision makers at a student meeting to **consider ways to re-engage the student in the learning process and not suspend or expel** a student until alternative remedies have been employed (Section 25A)
  - Require the Department of Early Education and Care to **develop performance standards** for prohibiting or significantly **limiting the use of preschool suspension and expulsion** (Section 15)
  - Require **school medical emergency response plans** to address a potential behavioral health emergency and to incorporate an existing requirement regarding acute mental health treatment planning for students (Section 25 & 26)
  - Establish a **student stakeholder advisory commission** on mental health tasked with developing school-based programs to promote student mental health and well being (Section 69)
- Permit **coverage of dependents 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 41)
- Direct DMH to establish clinical competencies and operational standards for care and treatment of patients in mental health facilities; require facilities to have a clinical affiliation with an acute care hospital to ensure access; ensure no facility can refuse to admit a patient who meets admission criteria unless admission exceeds facility's capabilities (Section 17)
- Require **acute care hospitals and satellite emergency facilities** to ensure that all their policies and protocols be applied and implemented in a way that does **not discriminate between patients presenting with a mental health or substance use condition and patients presenting with a medical or surgical condition** (Section 29)
- Require **DCF to ensure behavioral health screenings and referrals** for children entering care (Section 36)
- Require a **behavioral health advisory commission** to develop and make recommendations **for grant programs** to enhance access to behavioral health services in the Commonwealth and **support a diverse behavioral health workforce** (Section 56)
- Require MassHealth to cover **postpartum depression screenings** during a pediatrician visit up to one year after the child's date of birth (Section 70)
- Require UMass Medical School to develop a continuing education program for licensed mental health professionals on military service-related behavioral health conditions (Section 27)
- Establish an **expedited psychiatric inpatient admission advisory council** tasked with recommending policies regarding ED boarding by patients seeking mental health or substance use condition services (Section 18)

- Require DPH to administer an initiative to **increase public awareness of the state's [red flag laws](#)** making protection orders available in situations involving firearms (Section 30)
- Reallocate the seats on the Board of Registration of Allied Mental Health and Human Services Professions to match the proportion of licensed professionals (Sections 13A & 13B)
- Require a study on the feasibility and cost of creating a Board of Registration of Mental Health Counselors (Section 56A)

## Issues that both bills address, but differently:

### Behavioral Health Promotion

Senate	House
Establish an Office of Behavioral Health Promotion to facilitate the development of interagency initiatives, implement a plan to strengthen promotion programming and infrastructure, disseminate evidence based behavioral health practices, and collect and analyze behavioral health data (Section 2)	Expand the charge the Commission on Community Behavioral Health Promotion and Prevention to include facilitating the development of interagency initiatives, implementing a plan to strengthen promotion programming and infrastructure, disseminating evidence based behavioral health practices, and collecting and analyzing behavioral health data (Section 1)

### Complex Cases

Senate	House
Require the Office of the Child Advocate to convene a complex case resolution panel (Section 13)	<ul style="list-style-type: none"> <li>- Establish a fund to support an interagency review team co-chaired by the Secretary of EOHHS and the Commissioner of the Department of Elementary and Secondary Education (DESE) and requires EOHHS and DESE to issue regulations for the team (Sections 3, 21, &amp; 62)</li> <li>- Permit the Child Advocate to receive complaints from children not in the care of the Commonwealth, and to assist in ensuring access to behavioral health services (Section 16)</li> </ul>

### 911 Expansion

Senate	House
Direct the State 911 Department to update state regulations on certification requirements for enhanced 911 telecommunicators, to integrate training on identification of and response to callers experiencing behavioral health crises (Section 69)	<ul style="list-style-type: none"> <li>- Add to the State 911 Commission, the DMH Commissioner, an Association for Behavioral Health representative/emergency service program provider, and a person with lived behavioral health experience and interactions with the police (Section 6)</li> <li>- Expand a grant program supporting Public Service Access Points (<a href="#">PSAPs</a>) and regional emergency communication centers to include mobile behavioral health crisis response services (Section 7)</li> </ul>

- |   |
|---|
| <ul style="list-style-type: none"><li>- Require PSAPs to be equipped to respond to requests for emergency services from individuals with mental health or substance use conditions (Section 8)</li><li>- Direct the State 911 Department to create a statewide disability indicator form that a person may submit to the department to notify primary and regional PSAPs of certain disabilities (Section 8A)</li></ul> |
|---|

***Please note: This document provides an extensive overview but does not include every provision/element of each bill.***

---

**For more information:** Please contact Kate Alicante, Senior Policy Research Associate  
katealicante@mamh.org | (617) 742-7452