



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

**TESTIMONY IN SUPPORT OF H.1391/S.982
AN ACT TO RELATIVE TO TREATMENT, NOT IMPRISONMENT
BEFORE THE JOINT COMMITTEE ON THE JUDICIARY
September 19, 2023**

The MMS is a professional association of over 25,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients, for a better health care system, and on behalf of physicians, to help them provide the best care possible. **The Medical Society thus supports H.1391/S.982, An Act Relative to Treatment, Not Imprisonment**, which ensures that when persons on probation are engaged in active treatment for their substance use disorder, they are not incarcerated solely for a positive toxicology screen. The Medical Society believes this legislation offers critical alignment between court policies and best medical practices for persons with substance use disorder, a population that is at high risk for overdose death.

Underlying this call for policy change is the reality that substance use disorder is a chronic brain disease, a common symptom of which is relapse. Relapse is part of the natural course of this disease, just as remission is for cancer or as a seizure is for epilepsy. When a patient in recovery experiences a sudden period of substance use, the standard of care is for the patient and physician to come together to discuss the occurrence and to reevaluate aspects of the care plan, such as medication dosage or behavioral health supports. The patient and physician together devise a plan to best treat the disease moving forward. Collaborative planning at this critical juncture in clinical care occurs at a vulnerable and dangerous time for the patient and cannot occur properly—or at all—if a patient is incarcerated. It is in the patient's best interest, from both a recovery and overall health perspective, not to be incarcerated, particularly for patients who—despite the fear and trauma that a relapse can provide—are committed to their recovery and are engaged with their physician in active treatment.

In Massachusetts, persons with a history of incarceration are at a 120-times higher risk of overdose death than the general population. Health disparities are particularly acute for Black

and Hispanic individuals, who are represented in the Massachusetts justice-involved population at rates of 7.9 and 4.9 times that of white individuals, respectively.¹² For individuals with substance use disorder, incarceration at the moment of relapse is actually worse than withholding treatment and can have a detrimental impact. The stress of incarceration, the disruption from family support, and the discontinuity in clinical care all increase risks of overdose and death—even despite the ongoing efforts to improve access to care for treatment of substance use disorder in correctional institutions. We are at a critical juncture in our battle against the opioid use epidemic. There were 2,357 confirmed and estimated opioid-related overdose deaths in 2022, surpassing the previous peak in 2021. Opioid-related overdose deaths in Massachusetts increased by 2.5 percent in 2022 compared to 2021, with rates among Black, non-Hispanic residents making up the largest increase.³ Given the dire circumstances, there is a strong need for multifaceted policy change – this legislation is one important piece of a more holistic, evidence-based approach to reducing opioid deaths.

The Commonwealth has made great strides in moving toward a humane, treatment-based approach to addiction. We have undertaken great efforts to increase access to low-barrier treatment and to promote life-saving harm-reduction efforts. Many remaining policy avenues to address the opioid crisis require significant state resources and capacity. This legislation requires neither; it ensures that patients on probation who are actively engaged in a treatment program can continue with their treatment, uninhibited by the disruption of incarceration, and have the best opportunity possible for recovery.

Thank you for your consideration of this matter. For the foregoing reasons, the Massachusetts Medical Society respectfully urges a favorable report on H.1391/S.982, *An Act relative to Treatment, Not Imprisonment*.

¹ Data Brief: An Assessment of Opioid-Related Deaths in Massachusetts. Massachusetts Department of Public Health. <https://www.mass.gov/doc/chapter-55-data-brief-2017/download#:~:text=Key%20Finding%3A%20Compared%20to%20the%20rest%20of%20the%20adult%20population,from%20Massachusetts%20prisons%20and%20jails>.

² Massachusetts Sentencing Commission, selected race statistics 2 (Sept. 27, 2016), <https://www.mass.gov/files/documents/2016/09/tu/selected-race-statistics.pdf>.

³ Massachusetts opioid-related overdose deaths rose 2.5 percent in 2022. Massachusetts Department of Public Health. <https://www.mass.gov/news/massachusetts-opioid-related-overdose-deaths-rose-25-percent-in-2022#feedback>