

The Commonwealth of Massachusetts

INITIATIVE PETITION OF KATHLEEN A. DELSORDO AND OTHERS.

OFFICE OF THE SECRETARY.

BOSTON, JANUARY 1, 2020.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: - I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, "An Initiative Petition for a Law Establishing Adequate Funding for Residents of Massachusetts Nursing Homes," signed by ten qualified voters and filed with this department on or before December 4, 2019, together with additional signatures of qualified voters in the number of 101,999, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

HOUSE No. 4304

The Commonwealth of Massachusetts

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

An Act establishing adequate funding for residents of Massachusetts nursing homes.

Be it enacted by the People, and by their authority, as follows:

1 SECTION 1. Section 13D of chapter 118E of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place
3 thereof the following paragraph:-

4 Such rates for nursing homes and rest homes, as defined under section 71 of chapter 111,
5 shall be established as of October 1 of each year. In setting such rates, the executive office shall
6 use as base year costs for rate determination purposes the reported costs of the calendar year not
7 more than 2 years prior to the current rate year, and shall incorporate any audit findings
8 applicable to said base year costs. In calculating rates, the occupancy standard for nursing homes
9 shall be set at the statewide average from the base year. Notwithstanding any other general or
10 special law or regulation to the contrary, the rate that is set for each provider of services, whether
11 funded directly or indirectly by MassHealth, or through any Medicaid replacement plan, shall be
12 sufficient to pay, and such funds shall be used to pay, 100 percent of the allowable cost to
13 providers of caring for patients who are beneficiaries of section 9A of this chapter, and 100
14 percent of additional allowable costs, and fees and assessments, such as the nursing facility user

15 fee, associated with the implementation of any state or federal law, regulation, or other
16 governmental mandate, all to the extent permissible by the United States Department of Health
17 and Human Services Centers for Medicare and Medicaid Services Centers for Medicare and
18 Medicaid Services, and including the full amount of the annual increase in the applicable market
19 basket index as determined by said Centers for Medicare and Medicaid Services; provided that
20 any additional costs incurred by a provider of services as a result of this paragraph shall be added
21 to the rate for said provider. In addition, each governmental unit shall pay to a provider of
22 services and each state institution shall charge as a provider of health care services, as the case
23 may be, the rates for general health supplies, care and rehabilitative services and
24 accommodations determined and certified by the executive office. In establishing rates of
25 payment to providers of services, the executive office shall comply with the above methods and
26 standards and shall ensure reimbursement for those costs which are incurred in the ordinary
27 course of business. In calculating rates pursuant to this paragraph, the executive office shall
28 apply 101 CMR 206.00, et seq., in effect as of January 25, 2019, to the extent consistent with this
29 paragraph, which regulation shall not be changed or superseded after January 25, 2019. Rates
30 produced using these methods and standards shall be in conformance with Title XIX of the
31 Federal Social Security Act, including the upper limit on provider payments. This paragraph
32 shall only be amended by a 2/3 vote taken by a call of the yeas and nays of each branch of the
33 general court.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Kathleen A. DelSordo	12 Beverly Street	Dartmouth
David J. Donnelly	402 Admiralty Hts.	Yarmouthport
Erica J. Hanks	23 Hammond Street	New Bedford
Andrew D. Hodgdon	23 Wall Street	Arlington
Albert Carlo Sivo	62 Old Nugent Farm Road	Gloucester
Richard L. Jasiak	18 Granite Street	Haverhill
Ryan Gagne	7 Coachman Lane	Methuen
Robert W. Woodcock	130 Rea Street	North Andover
Diane Gagne	7 Coachman Lane	Methuen
Lisa Lannon	8 Arrowwood Street	Methuen

CERTIFICATE OF THE ATTORNEY GENERAL.

September 4, 2019

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 19-11: An Act Establishing Adequate Funding
for Residents of Massachusetts Nursing Homes

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Sincerely,

MAURA HEALEY,
Attorney General.

Summary of 19-11.

This proposed law would change how reimbursement rates for nursing homes and rest homes paid by the state are established by the state Executive Office of Health and Human Services.

The proposed law would require the Executive Office to use historical costs from a “base year” not more than two years before the current year in calculating a provider’s reimbursement rates. The proposed law would eliminate the Executive Office’s ability to make adjustments for reasonableness, remove the current restriction against providers using costs from years other than the chosen base year to appeal the reimbursement rates established by the Executive Office, and set the occupancy standard for nursing homes used in calculating a nursing home’s reimbursement rate as the statewide average from the base year.

The proposed law would require that the rates set for each provider be sufficient to pay all allowable costs of caring for beneficiaries of the state’s MassHealth program and all allowable costs of implementation of any state or federal law, regulation, or other governmental mandate to the extent permissible by the United States Department of Health and Human Services Centers for Medicare and Medicaid Services. Any additional costs incurred by a provider as a result of the rate-setting process established by the proposed law would also be included in that provider’s rate.

The proposed law would require the Executive Office, in compliance with the methods and standards described above, to determine and certify rates for general health supplies, care, rehabilitative services, and accommodations incurred in the ordinary course of running a facility.

The proposed law would require that the Executive Office apply the regulations governing the calculation of nursing home rates in effect on January 25, 2019, to the extent that those regulations are consistent with the proposed law, when establishing rates for the covered facilities.

The proposed law could be amended only by a two-thirds roll-call vote of the Legislature.