

**SENATE . . . . . No. 845**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Relative to Safe Work Hours for Physicians in Training and Protection of Patients.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 11 of the general laws, as appearing in the 2006 Official Edition, is  
2 hereby amended by inserting after section 4L, the following new section:

3 Section 4M. Advisory Council on Physician Work Hours

4 (a) there is hereby established with the department, the advisory council for resident-  
5 physicians. The advisory council shall be comprised of 13 members to be appointed by the  
6 commissioner of public health, 1 of whom shall be a representative from the Massachusetts  
7 Medical Society, 1 of whom shall be the dean of the University of Massachusetts Medical  
8 School, 1 of whom shall be the executive director of the board of registration in medicine or her  
9 designee, 2 of whom shall be representatives of the Massachusetts Hospital Association at least  
10 on from a teaching hospital, 1 of whom shall be a representative of the committee of interns and  
11 residents/SEIU, 1 of whom shall be a resident-physician from an academic medical institution  
12 that does not have representation by the committee of interns and residents/SEIU, 1 of whom  
13 shall be a resident-physician from a community hospital, 1 of whom shall be the director of a  
14 graduate medical education office at a hospital located in the Commonwealth, 1 of whom shall

15 be a consumer, two shall be experts in sleep deprivation who are members of the Sleep Research  
16 Society; and 1 of whom shall be the executive director of the Betsy Lehman Center for Patient  
17 Safety and Medical Error Reduction who shall serve as the chairperson of the council. The  
18 members of the council shall serve without compensation.

19 (b) The advisory council shall make an investigation and study into the duty hours and  
20 working conditions of resident-physicians in the commonwealth. Based on the study, the  
21 department shall adopt rules and regulations for the purpose of establishing an evidence-based  
22 standard duty hour schedule that promotes quality of care and patient and resident-physician  
23 safety. The study shall consider, but not be limited to implementing recommendations from the  
24 Sleep Research Society (2005) and the Institute of Medicine Report (Resident Duty Hours:  
25 Enhancing Sleep, Supervision and Safety, 12/2/08), specifically: limiting the work hours of  
26 resident physicians and other trainees in clinical training programs to an optimal limit of 60  
27 hours per week, but not more than a maximum limit of 80 hours per week; limiting the  
28 consecutive work hours of to an optimal limit of 12 hours per shift, but not more than a  
29 maximum of 16 scheduled hours per shift, including time for the transition of patient care  
30 information, with an additional two hours of work allowed when deemed necessary for patient  
31 safety by a supervisor; limiting the work hours of residents who are assigned to patient care  
32 responsibilities in an emergency department to not more than 12 consecutive hours; limiting the  
33 number of consecutive night shifts worked to no more than 4, with a minimum of 48 hours off  
34 duty after 3 or 4 consecutive night shifts; requiring a nonworking period of not less than 16  
35 consecutive hours following a 16 hour shift; requiring a nonworking period of optimally 12 or  
36 more hours, but not less than 10 hours, between other scheduled shifts; requiring that resident  
37 physicians and other trainees in clinical training programs optimally have 48 consecutive hours

38 free of work once every seven days, but at a minimum, 36 consecutive hours free of work  
39 including two consecutive nights once every seven days; and requiring optimally 60 consecutive  
40 hours free of work once every two weeks, but at a minimum, 60 consecutive hours free of work  
41 once every four weeks; requiring that the optimal, rather than the minimal, work hour  
42 recommendations be met by resident physicians and other trainees in clinical training programs  
43 in any setting designated a high-intensity setting by the advisory council (a setting where the  
44 probability and/or potential consequence of a medical error is high, such as an intensive care  
45 unit); limiting overnight, on-call work shifts that exceed 12 consecutive hours to a frequency of  
46 no more than one night every three days; accommodations that can be made in any  
47 recommended time limitations for a state of emergency declared by the commonwealth that  
48 applies with respect to that hospital or for an emergency situation when a resident-physician is  
49 providing critical physician-care to an individual patient and cannot be replaced; requirements  
50 for each hospital to inform resident-physicians of their rights under any rules and regulations  
51 promulgated by the department; enforcement of such rules and regulations including, but not  
52 limited to, the posting of maximum hours limitations in all departmental offices, informing all  
53 resident-physicians of their rights to report any violations of the regulations, whistleblower  
54 protections and the use of surveys of resident-physicians and reporting by hospitals to determine  
55 compliance with rules and regulations promulgated under this section; and requiring that  
56 resident-physicians and hospital supervisors be informed of the effects of acute and chronic sleep  
57 deprivation both on the resident-physicians and on the quality of patient care. The study shall  
58 also consider mechanisms for meaningful enforcement of any standards proposed and for  
59 effective sanctions for violations.

60 (c) The council shall make an investigation and study into appropriate penalties for  
61 violations of any rules and regulations promulgated pursuant to subsection (b). Based on the  
62 study, the department shall adopt rules and regulations to establish a model work environment  
63 that promotes quality of care and patient and resident-physician safety and shall establish an  
64 enforcement mechanism and penalties for violations of the rules and regulations promulgated  
65 under subsection (b). Any rules or regulations established under this subsection shall include  
66 penalties for any hospital or other institution hosting resident-physicians, an attending physician  
67 supervising resident-physicians, and resident-physicians who habitually violate the rules and  
68 regulations promulgated under subsection (b). The study shall consider, but shall not be limited  
69 to: identifying a position within the department responsible for investigating all complaints of  
70 violations of any rules and regulations promulgated by the department pursuant to subsection (b)  
71 and the use of monetary and non-monetary penalties to maximize improvement of patient safety.

72 (d) The investigation and study shall be conducted and recommendations shall be  
73 presented to the department not later than one year after the effective date of this act.

74 (e) For the purposes of this section, the term ‘resident-physician’ shall include a medical  
75 intern, resident or fellow enrolled in an ACGME or ADA accredited graduate medical or dental  
76 education program.

77 SECTION 2: Effective dates.

78 (a) The provision of subsection (a) and subsection (b) of Section 1 shall take effect upon  
79 passage.

80 (b) The provisions of subsection (c) of Section 1 shall take effect one year after the  
81 implementation of the rules and regulations promulgated under subsection (b) of Section 1.