

SENATE No. 733

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to technical corrections to the Uniform Probate Code.

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

SENATE No. 733

By Ms. Creem, a petition (accompanied by bill, Senate, No. 733) of Cynthia S. Creem for legislation relative to technical corrections to the Uniform Probate Code. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to technical corrections to the Uniform Probate Code.

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: Section 5-101(15) of chapter 190B of the General Laws, as inserted by
2 section 9 of chapter 521 of the acts of 2008, is hereby amended by striking out the definition of
3 "Nursing Facility" and inserting in place thereof the following new definition:

4 (15) 'Nursing facility', an institution or a distinct part of an institution which is primarily
5 engaged in providing to residents: (A)skilled nursing care and related services for residents who
6 require medical or nursing care, (B)rehabilitation services for the rehabilitation of injured,
7 disabled or sick persons, or (C)on a regular basis, health-related care and services to individuals
8 who because of their mental or physical condition require care and services above the level of
9 room and board which can be made available to them only through institutional facilities, and is
10 not primarily a mental health facility or mental retardation facility. Provided however, that the
11 term 'nursing facility' shall not apply with regard to the placement or transfer of a patient to a
12 facility that is (A) licensed by the Department of Public Health under Chapter 111, Section 51 of
13 the General Laws as a long term acute care hospital or inpatient rehabilitation facility, (B)

14 licensed by the Department of Public Health under Chapter 111, Section 71 as a rest home or (C)
15 licensed or certified as an assisted living residence by the Executive Office of Elder Affairs
16 under 651 Code of Massachusetts Regulations 12.00 et seq.

17 SECTION 2: Section 5-309(g) of chapter 190B of the General Laws, as so appearing, is
18 hereby amended by striking out the sentence and inserting in place thereof the following
19 sentence:

20 (g) No guardian shall have the authority to admit an incapacitated person to a nursing
21 facility except upon a specific finding by the court that such admission is in the incapacitated
22 person's best interest; or unless (1) the admission is for ninety days or less, (2) any person
23 authorized to sign a Medical Certificate recommends such admission, (3) all available interested
24 persons and the incapacitated person do not object, 4) upon admission a written Notice of Intent
25 to Admit the Incapacitated Person to a nursing facility has been filed by either the guardian,
26 person's counsel, or the next of kin to the appointing court and a copy has been served in hand on
27 the Incapacitated Person and mailed to the nursing facility and 5) the Incapacitated Person is
28 represented by counsel or counsel is appointed forthwith.