

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Thomas A. Golden, Jr.***

*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 stabilizing the Commonwealth's nursing facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>1/17/2013</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>	
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	
<i>William M. Straus</i>	<i>10th Bristol</i>	
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>	
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>	<i>1/25/2013</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>James M. Murphy</i>	<i>4th Norfolk</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	

<i>Walter F. Timilty</i>	<i>7th Norfolk</i>	
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	
<i>William C. Galvin</i>	<i>6th Norfolk</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>	
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>	
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>	
<i>Anne M. Gobi</i>	<i>5th Worcester</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>John P. Fresolo</i>	<i>16th Worcester</i>	
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	
<i>Peter J. Durant</i>	<i>6th Worcester</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>	
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>	
<i>Todd M. Smola</i>	<i>1st Hampden</i>	
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>	
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	
<i>Diana DiZoglio</i>	<i>14th Essex</i>	
<i>John V. Fernandes</i>	<i>10th Worcester</i>	
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	
<i>John J. Binienda</i>	<i>17th Worcester</i>	
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	
<i>David B. Sullivan</i>	<i>6th Bristol</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Benjamin Swan</i>	<i>11th Hampden</i>	
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	

<i>Garrett J. Bradley</i>	<i>3rd Plymouth</i>	
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>	
<i>Randy Hunt</i>	<i>5th Barnstable</i>	
<i>Paul K. Frost</i>	<i>7th Worcester</i>	
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	
<i>Geoff Diehl</i>	<i>7th Plymouth</i>	
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	
<i>Bradford Hill</i>	<i>4th Essex</i>	
<i>John J. Mahoney</i>	<i>13th Worcester</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>	
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>	
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	
<i>John H. Rogers</i>	<i>12th Norfolk</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	
<i>James Arciero</i>	<i>2nd Middlesex</i>	
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	
<i>Steven M. Walsh</i>	<i>11th Essex</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	

**HOUSE . . . . . No.**

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By Mr. Golden of Lowell, a petition (subject to Joint Rule 9) of Thomas A. Golden, Jr. and others relative to stabilizing nursing facilities in the Commonwealth. Health Care Financing.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act relative to stabilizing the Commonwealth’s nursing facilities.

*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 23 of the General Laws, as appearing in the 2010 official edition is  
2 hereby amended by inserting after section 9U the following new section:

3                   The Commonwealth Corporation shall, subject to appropriation, establish an  
4 extended care career ladder grant program, consistent with section 410 of chapter 159 of the Acts  
5 of 2000. Grants shall be available for certified nurses’ aides, home health aides, homemakers  
6 and other entry level workers in long-term care. The grants may include training for English for  
7 speakers of other languages and other language and adult basic education programs to improve  
8 quality of care and improve direct care worker access to and participation in career ladder  
9 training. The length of such grants shall not exceed a period of 3 years. The Commonwealth  
10 Corporation shall submit quarterly reports to the house and senate committees on ways and  
11 means on said grant program including, but not limited to, the number of grants awarded, the  
12 amount of each grant, a description of the career ladder programs, changes in care-giving and  
13 workplace practices that have occurred and their impact on quality of care and worker retention  
14 and the certificates, degrees or professional status attained by each participating employee. The  
15 administrative and program management costs for the implementation of said grant program  
16 shall not exceed 4 per cent of the amount of the grant program. Each grant may include funding  
17 for technical assistance and evaluation.

18           Section 2: Chapter 111 of the General Laws, as appearing in the 2010 official edition, is  
19 hereby amended by inserting after section 4O the following new section:-

20                   4P. The Department shall, subject to appropriation, establish a scholarship  
21 program for certified nurses’ aide and direct care worker training. The department shall establish

22 appropriate guidelines and application criteria for the administration of the program. The  
23 scholarships shall cover the full cost of tuition to an approved certified nurses' aide or long-term  
24 care direct worker training program, including approved programs providing for cross-training.  
25 Funds may also be available to provide adult basic education and English as a second language  
26 training for applicants otherwise meeting criteria for the scholarships, as well as pilot training  
27 programs using enhanced curricula designed to support increased retention. The department  
28 shall, in consultation with the nursing home industry, consumer groups, the department of labor  
29 and workforce development, the Commonwealth Corporation, training providers and other  
30 appropriate state and local agencies, conduct outreach regarding the availability of such  
31 scholarships. The department shall consult with the scholarship program advisory council to  
32 review and recommend new training requirements for certified nurses' aides, home health aides  
33 and home care workers to improve the quality of the direct care workforce and the quality of care  
34 provided in all long-term care settings by developing skill standards, supporting the transition  
35 from training to work, improving retention, promoting portability, recognizing career  
36 advancement curricula and addressing language and education barriers. The costs for outreach  
37 activities shall not exceed 3 per cent of the amount of the program and administrative costs of the  
38 program shall not exceed 3 per cent of the amount of the program.

39 Section 3: Section 14A of chapter 118E of the General Laws as appearing in the official  
40 2010 edition is hereby amended by adding the following paragraphs:

41 In the event that a nursing facility resident who is a MassHealth recipient enters a  
42 hospital, the division shall pay to preserve his or her bed in the nursing facility for a period of up  
43 to 10 days. The division shall reimburse the nursing facility for the medical leave of absence,  
44 which shall include an observation stay in a hospital in excess of twenty-four hours, at the  
45 recipient's pre-absence rate during the medical leave and upon the resident's return.

46 In the event that a nursing facility resident who is a MassHealth recipient leaves the  
47 nursing facility for non-medical reasons, the division shall pay to preserve his or her bed in the  
48 facility for a period of up to 15 days. The division shall reimburse the nursing facility for the  
49 non-medical leave of absence at the recipient's pre-absence rate during the non-medical leave  
50 and upon the resident's return.

51 Section 4: Chapter 118E as amended by section 123 of chapter 224 of the Acts of 2012 is  
52 hereby amended by adding at the end thereof the following new section: -

53 Notwithstanding any general or special law to the contrary, the Department, in the  
54 calculation of Medicaid payment rates for nursing facility services shall use the wage component  
55 of the Medicare Skilled Nursing Facility Prospective Payment System, national Average Hourly  
56 Earnings price index, as established in the annual rule published in the Federal Register, to adjust  
57 allowable base year labor costs (whether facility-specific or reflected in standard payments) to  
58 the rate year; provided further that the Department is required to obtain from IHS Global Insight

59 a wage and salary price index proxy based on New England regional nursing facility labor costs.  
60 Upon establishment of the regional labor-based proxy, the Department shall substitute it for the  
61 national index cited above.

62 Section 5: Chapter 118E as amended by section 123 of chapter 224 of the acts of 2012 is  
63 hereby amended by adding the following new section language:

64 Notwithstanding any general or special law to the contrary, In the event the division  
65 conducts or utilizes an audit of nursing facilities' base year costs for the purpose of reducing  
66 rates below levels that would be in effect in the absence of the audit, the division shall:—

67 (1) conduct a field audit of 50 per cent of total nursing facilities licensed in the base year  
68 in accordance with specified, uniform criteria;

69 (2) inform each audited nursing facility in writing of its right to appeal to the division of  
70 administrative law appeals each and every audit disallowance to which the nursing facility is  
71 subject;

72 (3) delay implementing the audit until all appeals by nursing facilities have been  
73 completely adjudicated by the division of administrative law appeals;

74 (4) delay implementing the audit until the division has conducted a public hearing the  
75 notice of which describes with particularity the methodology, audit criteria and substantive  
76 standards utilized in the audit and the impact of implementing the audit on quality care for  
77 nursing facility residents; and

78 (5) not implement any audit disallowance that is not fully concluded in accordance with  
79 the preceding subsections by one year after the conclusion of the base period.

80 Section 6: Notwithstanding any general or special law to the contrary, effective July 1,  
81 2013 for the fiscal year ending June 30, 2014 nursing facility MassHealth rates shall be set using  
82 2010 costs.