

SENATE No. 1206

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 patient safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Marc R. Pacheco	First Plymouth and Bristol
James J. O'Day	14th Worcester
Chris Walsh	6th Middlesex
Thomas M. McGee	Third Essex
Thomas P. Kennedy	Second Plymouth and Bristol
Sal N. DiDomenico	Middlesex and Suffolk
Michael F. Rush	Norfolk and Suffolk
James E. Timilty	Bristol and Norfolk
James B. Eldridge	Middlesex and Worcester
Ellen Story	3rd Hampshire
Sarah K. Peake	4th Barnstable
Jennifer L. Flanagan	Worcester and Middlesex
Michael O. Moore	Second Worcester
Mark C. Montigny	Second Bristol and Plymouth
Marcos A. Devers	16th Essex
Sean Garballey	23rd Middlesex
Denise Provost	27th Middlesex
Kenneth J. Donnelly	Fourth Middlesex

<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Nick Collins</i>	<i>4th Suffolk</i>	
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>	
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>	
<i>Benjamin Swan</i>	<i>11th Hampden</i>	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>12/18/2015</i>

SENATE No. 1206

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 1206) of Marc R. Pacheco, James J. O'Day, Chris Walsh, Thomas M. McGee and other members of the General Court for legislation relative to patient safety. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 557 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to patient safety.

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 111 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by adding the following sections 229 to 235:-

3 Section 229. Definitions

4 As used in sections 229 through 235 the following words shall have the following
5 meanings:

6 "Facility", a hospital licensed under Section 51, of Chapter 111 of the General Laws, the
7 teaching hospital of the University of Massachusetts medical school, any licensed private or
8 state-owned and state-operated general acute care hospital, an acute psychiatric hospital, an acute

9 care specialty hospital, or any acute care unit within a state operated healthcare facility. This
10 definition shall not include rehabilitation facilities or long-term care facilities.

11 "Health Care Workforce", personnel employed by or contracted to work at a facility that
12 have an effect upon the delivery of quality care to patients, including but not limited to registered
13 nurses, licensed practical nurses, unlicensed assistive personnel, service, maintenance, clerical,
14 professional and technical workers, or other health care workers.

15 "Nursing care", care which falls within the scope of practice as defined in Section 80B of
16 chapter 112 of the General Laws or is otherwise encompassed within recognized standards of
17 nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation and
18 patient advocacy.

19 For the purpose of Section 229 through 235 a patient is said to be assigned to a registered
20 nurse if the registered nurse accepts responsibility for the patient's nursing care.

21 Section 230: The maximum number of patients assigned to a registered nurse in a facility
22 shall not exceed the limits enumerated in this section. However, nothing shall preclude a facility
23 from assigning fewer patients to a registered nurse than the limits enumerated in this section.

24 A. In all units with step-down/intermediate care patients, the maximum patient
25 assignment of step-down/intermediate patients is three (3).

26 B. In all units with post anesthesia care (PACU) patients, the maximum patient
27 assignment of PACU patients under anesthesia is one (1). The maximum patient assignment of
28 PACU patients post anesthesia is two (2).

29 C. In all units with operating room (OR) patients, the maximum patient assignment of OR
30 patients under anesthesia is one (1). The maximum patient assignment of OR patients post
31 anesthesia is two (2).

32 D. In the Emergency Department:

33 The maximum patient assignment of critical unstable or intensive care patients is one (1).
34 A registered nurse may accept a second critical or intensive care patient if that nurse assesses that
35 each patient's condition is stable.

36 The maximum patient assignment of critical stable patients is two (2).

37 The maximum patient assignment of urgent stable patients is three (3).

38 The maximum patient assignment of non-urgent stable patients is four (4).

39 E. As used in this subsection, couplet shall mean one mother and one baby. In all units
40 with maternal child care patients:

41 The maximum patient assignment of active labor patients is one (1) patient.

42 The maximum patient assignment during birth is one nurse responsible for the mother
43 and, for each baby, one nurse whose sole responsibility is the baby.

44 The maximum patient assignment of immediate postpartum patients is one couplet, and
45 in the case of multiple births, one nurse for each additional baby.

46 The maximum patient assignment of postpartum patients is six (6) patients or three (3)
47 couplets.

48 The maximum patient assignment of intermediate care babies is three (3) babies. The
49 nurse may accept a fourth intermediate care baby if the nurse assesses that each baby's condition
50 is stable.

51 The maximum patient assignment of well-baby patients is six (6) babies.

52 F. In all units with pediatric patients, the maximum patient assignment of pediatric
53 patients is four (4).

54 G. In all units with psychiatric patients, the maximum patient assignment of psychiatric
55 patients is five (5).

56 H. In all units with medical, surgical and telemetry patients, the maximum patient
57 assignment of medical, surgical and telemetry patients is four (4).

58 I. In all units with observational/outpatient treatment patients, the maximum patient
59 assignment of observational/outpatient treatment patients is four (4).

60 J. In all units with transitional care patients the maximum patient assignment of
61 transitional care patients is five (5).

62 K. In all units with rehabilitation patients, the maximum patient assignment of
63 rehabilitation patients is five (5).

64 L. In any unit not otherwise listed, the maximum patient assignment is four (4).

65 Section 231: Each facility shall implement the patient limits established by Section 230
66 without

67 diminishing the staffing levels of its health care workforce.

68 Section 232: The Massachusetts Health Policy Commission shall promulgate regulations
69 governing the implementation and operation of this act.

70 Section 233: Patient Acuity System. Each facility shall develop a patient acuity system,
71 to determine if the maximum number of patients that may be assigned to a unit’s registered
72 nurses on a particular shift should be lower than the limits specified in Section 230, in which
73 case that lower number will govern for the duration of that shift. The patient acuity system shall
74 be written so as to be readily used and understood by registered nurses, and it shall consider
75 criteria including, but not limited to,: (1) the need for specialized equipment and technology; (2)
76 the intensity of nursing interventions required and the complexity of clinical nursing judgment
77 needed to design, implement and evaluate patients nursing care plans consistent with
78 professional standards of care; (3) the skill mix of members of the health care workforce
79 necessary to the delivery of quality care for each patient; (4) the proximity of patients, the
80 proximity and availability of other healthcare resources, and facility design; and (5) patient and
81 family communication skills and cultural/linguistic characteristics. A facility’s patient acuity
82 system shall, prior to implementation, be certified by the Health Policy Commission as meeting
83 the above criteria, and the Commission may issue regulations governing such systems, including
84 their content and implementation.

85 Section 234: This act shall not be construed to impair any collective bargaining
86 agreement or any other contract in effect upon passage of this act that permits fewer patients to
87 be assigned to a registered nurse than the limits established by this act but shall have full force
88 and effect upon the earliest expiration date of any such collective bargaining agreement or other
89 contract. Nothing in this act shall prevent the enforcement of terms in a collective bargaining

90 agreement or other contract that provides for fewer patients to be assigned to a registered nurse
91 than those established by this act.

92 Section 235: Enforcement. A facility's failure to adhere to the limits set by Section 230
93 and adjusted pursuant to Section 233 and those limits established in Chapter 155 of the Acts of
94 2014, shall be reported by the Health Policy Commission to the Attorney General for
95 enforcement, for which the Attorney General may bring a Superior Court action seeking
96 injunctive relief and civil penalties. A separate and distinct violation, for which the facility shall
97 be subject to a civil penalty of up to twenty-five thousand dollars, shall be deemed to have been
98 committed on each day during which any violation continues after written notice thereof by the
99 Health Policy Commission to the authority in charge of the facility is received. The requirements
100 of this act, and its enforcement, shall be suspended during a state or nationally declared public
101 health emergency.

102 SECTION 2. Severability. The provisions of this law are severable, and if any clause,
103 sentence, paragraph or section of this law or an application thereof shall be adjudged by any
104 court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate
105 the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph,
106 section or application adjudged invalid and such clause, sentence, paragraph, section or
107 application shall be reformed and construed so that it would be valid to the maximum extent
108 permitted.

109 SECTION 3. The provisions of Sections 229 to 235 shall be effective commencing upon
110 passage of this act, except that regulations required by Section 232 and 233 shall be promulgated
111 to be effective no later than 180 days following the passage of this act.