

SENATE No. 2731

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 to prevent COVID-19 deaths in senior living facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>5/18/2020</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>5/18/2020</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>5/18/2020</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>5/18/2020</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>5/18/2020</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>5/18/2020</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>5/18/2020</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>5/18/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>5/18/2020</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>5/18/2020</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>5/18/2020</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>5/18/2020</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>5/19/2020</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>5/19/2020</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>5/28/2020</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>6/10/2020</i>

<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>6/16/2020</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>6/18/2020</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>6/20/2020</i>

SENATE No. 2731

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 2731) (subject to Joint Rule 12) of Mark C. Montigny, Lori A. Ehrlich, Smitty Pignatelli, Patrick M. O'Connor and other members of the General Court for legislation to prevent COVID-19 deaths in senior living facilities. Elder Affairs.

The Commonwealth of Massachusetts

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

An Act to prevent COVID-19 deaths in senior living 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. Notwithstanding any general or special law to the contrary, the executive
2 office of elder affairs shall require each assisted living residence certified pursuant to chapter
3 19D of the General Laws to satisfy the following requirements:

4 (i) provide COVID-19 diagnostic testing all personnel, including employees, contract
5 staff, medical staff, and administrators, regardless of whether said personnel is symptomatic, at
6 least twice per week pursuant to a written plan submitted by the facility to the executive office of
7 elder affairs;

8 (ii) provide a written policy to the executive office of elder affairs outlining measures
9 implemented to ensure all personnel undergo appropriate COVID-19 screening prior to the start
10 of each shift, including but not limited to non-invasive body temperature checks, self-attestation

11 checklists, and proper mask donning, while maintaining appropriate levels of individual privacy
12 under federal and state law;

13 (iii) provide additional COVID-19 diagnostic testing to any personnel, including
14 employees, contract staff, medical staff, and administrators, who develop symptoms associated
15 with COVID-19 and take reasonable measures to quarantine said personnel experiencing
16 symptoms, pursuant to guidance issued by the department, until such time that test results are
17 made available;

18 (iv) offer, in writing, to each resident to arrange for COVID-19 diagnostic testing;

19 (v) attest to the executive office of elder affairs that testing has been provided to all
20 personnel and offered in writing to each resident on its premises;

21 (vi) report all positive results to the executive office of elder affairs, department of public
22 health, and the local health department in the jurisdiction of the facility within 12 hours of
23 receipt;

24 The executive office of elder affairs may deny, suspend, or revoke a certification in
25 accordance with procedures set forth under section 6 of chapter 19D for any assisted living
26 residence not in compliance with this act.

27 SECTION 2. Notwithstanding any general or special law to the contrary, the department
28 of public health shall require each long-term care facility licensed pursuant to section 71 of
29 chapter 111 of the General Laws to satisfy the following requirements:

30 (i) provide COVID-19 diagnostic testing to all residents and personnel, including
31 employees, contract staff, medical staff, and administrators, regardless of whether said personnel

32 is symptomatic, at least twice per week pursuant to a written plan submitted by the facility to the
33 department;

34 (ii) provide a written policy to the department outlining measures implemented to ensure
35 all personnel undergo appropriate COVID-19 screening prior to the start of each shift, including
36 but not limited to non-invasive body temperature checks, self-attestation checklists, and proper
37 mask donning, while maintaining appropriate levels of individual privacy under federal and state
38 law;

39 (iii) provide additional COVID-19 diagnostic testing to any resident or personnel,
40 including employees, contract staff, medical staff, and administrators, who develop symptoms
41 associated with COVID-19 and take reasonable measures to quarantine said resident or personnel
42 experiencing symptoms, pursuant to guidance issued by the department, until such time that test
43 results are made available;

44 (iv) report all positive results to the department and the local health department in the
45 jurisdiction of the facility within 12 hours of receipt;

46 (v) provide weekly reports to the department of all inventory of personal protective
47 equipment, including type, quantity, and lot number;

48 (vi) comply with COVID-19 infection control policies, guidance, and regulations issued
49 by the department;

50 (vii) provide unrestricted access to the department wherever necessary to ensure testing
51 of all residents and personnel, personal protective equipment inventories, infection control

52 protocols, staffing levels, and any other inspection deemed necessary by the department to
53 protect the health and safety of residents and personnel.

54 Each long-term care facility not in compliance with this section shall be subject to a
55 penalty of no less than \$2,000 per violation per day, and each subsequent violation shall be
56 subject to a penalty no less than \$10,000 per violation per day. All fines collected shall be
57 deposited into the Long-Term Care Facility Quality Improvement Fund, established in section
58 2UUUU of chapter 29 of the General Laws.

59 The department may petition for the appointment of a receiver pursuant to section 72M of
60 chapter 111 for any long-term care facility not in compliance with this act in order to protect the
61 health, safety, and welfare of residents. Non-compliance with this act shall not constitute a
62 natural disaster for purposes of section 72M.

63 SECTION 3. The department shall provide adequate personnel protective equipment to
64 all surveyors inspecting long-term care facilities licensed by the department, including but not
65 limited to, properly fitted respirators, gowns, gloves, and face shields. The department shall
66 provide written guidance to each surveyor regarding the proper donning and doffing of said
67 equipment and procedures to request additional equipment whenever necessary to carry out
68 expeditious infection control audits at licensed long-term care facilities.

69 SECTION 4. This act shall take effect upon passage and remain in effect until such time
70 that the Governor rescinds the state of emergency declared under Executive Order No. 591 dated
71 March 10, 2020.