

SENATE No. 381

The Commonwealth of Massachusetts

PRESENTED BY:

James T. Welch

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 improve Massachusetts home care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James T. Welch</i>	<i>Hampden</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/22/2019</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/23/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/23/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/23/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/23/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/25/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/29/2019</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/29/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/30/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>1/30/2019</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>1/30/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/31/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/31/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/31/2019</i>

<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>1/31/2019</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/1/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/1/2019</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/4/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/8/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/1/2019</i>

SENATE No. 381

By Mr. Welch, a petition (accompanied by bill, Senate, No. 381) of James T. Welch, Jack Patrick Lewis, Angelo J. Puppolo, Jr., José F. Tosado and other members of the General Court for legislation to improve Massachusetts home care. Elder Affairs.

The Commonwealth of Massachusetts

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

An Act to improve Massachusetts home care.

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 is hereby amended by inserting after
2 Section 57D, the following new section:

3 Section 57E

4 (a) The department shall, after a public hearing and in consultation with the Executive
5 Office of Elder Affairs, promulgate rules and regulations for the licensing and conduct of a home
6 care aid agency. No home care aide agency shall operate in the Commonwealth without
7 satisfying the conditions of licensure established by this section. For the purpose of this section
8 “home care aide agency” shall mean any business, non-profit or other entity seeking to contract
9 to provide homemaker, personal care homemaker, or home health services in the
10 Commonwealth, whether or not such entity is currently providing such services.

11 (b) Any process for obtaining a license established by the department shall require an
12 application to be filed by a home care aide agency with the department in which the applicant
13 shall specify:

14 1) the types of home care or home health services offered by the applicant;

15 2) the expected service area, including municipality and county names;

16 3) the structure and operations of an ongoing quality assurance program that complies
17 with all applicable federal and state quality of care standards;

18 4) a written assurance that it will fully comply with all cost reporting and minimum
19 average employee compensation standards established by state law; and

20 5) any other requirements as determined by the department.

21 (c) Any license application submitted by a home care aide agency shall be accompanied
22 by a comprehensive annual cost report. The department in consultation with Executive Office of
23 Elder Affairs, shall determine the contents of such a cost report, provided that the cost report
24 shall at a minimum include a full accounting of annual costs for supplies, labor, and
25 administrative expenses.

26 (d) The department may establish an application fee in an amount as necessary to
27 administer this licensure program.

28 SECTION 2. Notwithstanding any general or special law to the contrary, the Executive
29 Office of Health and Human Services, in consultation with the Department of Elder Affairs, shall
30 adjust the rates and capitations for home and community-based services providers. Provided that
31 such adjustments shall include no less than a \$1,000,000 increase for the Elder Home Care Case

32 Management & Administration program in order to increase capitation rates paid to contracted
33 aging service access points; provided that such adjustments shall also include no less than
34 \$6,000,000 for the Elder Home Care Purchased Services program in order to provide a rate add-
35 on for wages and compensation for program personnel providing homemaker and personal care
36 homemaker services; and provided further that no less than \$3,000,000 for the MassHealth
37 Senior Care program in order to increase rates for home health aide services for the purpose of
38 providing Title XIX services.

39 The Department of Elder Affairs, in consultation with the Executive Office of Health and
40 Human Services and the Division of Purchased Services, shall issue new regulations and
41 procedures to implement this section. Such additional regulations and procedures shall mandate
42 full compliance reporting from home care agencies and an audit by the Department of Elder
43 Affairs of the home care agencies receiving these rate add-on funds. That audit shall include a
44 full accounting of the uses of these funds, itemizing spending of the rate add-on funds for hourly
45 rate increases, other categories of worker compensation and other categories of related eligible
46 costs.

47 The Department of Elder Affairs regulations shall require annual reporting of hourly
48 wage rates and shall limit eligibility for the rate increases provided in this section to home care
49 agencies that meet responsible employer standards established by the Department. Such
50 responsible employer standards shall, at a minimum, require full compliance with all applicable
51 state regulations, including any licensing and financial reporting regulations. Further, such
52 standards shall require that eligible each eligible home care agency pays each of their workers an
53 hourly wage that is at least twenty-five cents per hour higher than the statewide minimum wage.

54 No later than six months after the effective date of this act, the Department of Elder
55 Affairs shall report to the house and senate committees on ways and means an analysis of the
56 impact on the wages for the workforce at the home care agencies receiving said rate adjustments.

57 SECTION 3. Notwithstanding any general or special law to the contrary, in consultation
58 with the Department of Elder Affairs and the Executive Office of Health and Human Services,
59 the Division of Purchased Services shall amend 808 CMR 1.00 to improve and strengthen
60 compliance, reporting, and auditing of home care agencies providing subcontracted home care
61 services in Massachusetts through the state's Aging Service Access Points (ASAPs). Such
62 amendments shall ensure that, except for a home care agency subcontracting for less than
63 \$100,000 annually, all home care agencies contracting with one or more Aging Service Access
64 Points to provide state home care services are mandated to fill out a complete Uniform Financial
65 Report and that no other exemptions to this reporting requirement will be permitted.

66 SECTION 4. Notwithstanding any general or special law to the contrary, the Office of the
67 Attorney General, under authority granted under in Section 11N of Chapter 12 of the General
68 Laws to monitor trends in the health care market, may investigate any home care aide agency
69 contracting with Aging Service Access Points to provide homemaker and personal care services
70 through the Massachusetts Home Care program. Further, the attorney general may require that
71 any such agency produce documents, answer interrogatories and provide testimony under oath.
72 Nothing in this section shall limit the authority of the attorney general to regulate all home care
73 providers or protect home care consumers under any other law.