

SENATE No. 413

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 employer standards for Massachusetts nursing homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/26/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/2/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/4/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/4/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/10/2021</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>3/16/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/23/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/1/2021</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>4/12/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>7/20/2021</i>

SENATE No. 413

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 413) of Patricia D. Jehlen, Jack Patrick Lewis, Carol A. Doherty, Angelo J. Puppolo, Jr. and other members of the General Court for legislation to improve employer standards for Massachusetts nursing homes. Elder Affairs.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to improve employer standards for Massachusetts nursing homes.

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: The Department of Public Health shall amend the Licensure Procedure and
2 Suitability Requirements for Long-Term Care Facilities in Massachusetts (105 CMR 153)
3 regulations. Such amendment shall improve upon the Application for a License (105 CMR
4 153.006) and/or Other Licensure (105 CMR 153.007) procedures included in the existing
5 regulations to establish new requirements for applicants that would precede approval of any
6 application for a new license and/or any notice of intent for transfer of ownership or notice of
7 intent to sell any skilled nursing facility whether for-profit or non-profit.

8 The Department of Public Health, the Office of Elder Affairs, the Office of Medicaid and
9 the Office of the Attorney General shall work together with all interested stakeholders to review
10 and develop recommendations for the improvements outlined above to the licensing of long-term
11 care facilities in the Commonwealth. Such recommendations shall include amendments to these
12 regulations to:

13 a) Establish additional and stronger threshold requirements for applicants seeking to be
14 “deemed suitable” by the department under 105 CMR 153.006(D). Such new requirements shall
15 include but not be limited to enhanced character and competency review of all applicants, a
16 comprehensive review of the current finances and operations of any skilled nursing facilities or
17 other related businesses owned or control by the applicant, and the submission by the applicant
18 of an initial prospective annual operating budget and of an attestation concerning any anticipated
19 changes to the facility’s workforce or working conditions. Subject to approval and amendment
20 by the department, stakeholders shall also recommend provisions to establish a “provisional
21 licensure” procedure under which original applicants not currently doing business in the
22 Commonwealth would be issued a provisional original license that would be further subject to
23 bi-annual review and revocation procedures.

24 b) Provide more transparent, timely and complete public access to information
25 concerning skilled nursing facility licensing and suitability determination standards; and

26 c) Otherwise enhance the regulation of skilled nursing facilities in the Commonwealth.

27 The Department of Public Health shall host the stakeholder process outlined above,
28 review recommendations from those stakeholders and other state entities, and submit appropriate
29 amendments to 105 CMR 153 for public review no later than six months after passage of this
30 Act.

31 SECTION 2: The Department of Public Health shall amend the Standards for Long-Term
32 Care Facilities (105 CMR 150) regulations. Such amendments shall improve upon the Level 1-3
33 facility Utilization Review (105 CMR 150.014) processes under those regulations to establish
34 and require an annual survey of the facility’s workforce. Such annual worker survey shall

35 include but not be limited to a survey of worker satisfaction with their jobs, worker's views on
36 the quality of care at the facility, and worker's view on management practices and the
37 effectiveness of any joint labor-management activities or other worker engagement. Worker
38 survey results shall be public information accessible upon request to the department, and shall
39 inform the department's review of the services, quality of care, and utilization of a skilled
40 nursing facility.

41 SECTION 3: Notwithstanding any special or general law to the contrary, the Center for
42 Health Information and Analysis, in consultation with MassHealth, the Department of Elder
43 Affairs, and the Health Policy Commission, shall conduct an examination of cost trends and
44 financial performance among nursing facilities, as defined by 957 CMR 7.02. The information
45 shall be analyzed on an institution-specific, provider organization, and industry-wide basis and
46 shall include, but not be limited to: (i) gross and net patient service revenues; (ii) other sources of
47 operating and non-operating revenue; (iii) trends in relative price, payer mix, case mix,
48 utilization, and length of stay dating back to 2010; (iv) affiliations with other health care
49 providers, including, but not limited to, preferred clinical relationships and partnerships; (v)
50 categories of costs, including, but not limited to, general and administrative costs, nursing and
51 other labor costs and salaries, building costs, capital costs, and other operating costs; (vi) total
52 spending on direct patient care as a percent of total operating expenses; (vii) operating and total
53 margin; (viii) occupancy rates, and (ix) other relevant measures of financial performance and
54 service delivery. These measures should distinguish long-term from short-stay residents where
55 possible. The report and any policy recommendations shall be filed with the clerk of the House
56 of Representatives, the clerk of the Senate, the House Committee on Ways and Means, the

57 Senate Committee on Ways and Means, and the Joint Committee on Elder Affairs no later than
58 six months after the passage of this act.