

# HOUSE . . . . . No. 3929

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 15, 2023.

The committee on Elder Affairs, to whom were referred the petition (accompanied by bill, Senate, No. 364) of Julian Cyr and Angelo J. Puppolo, Jr., for legislation relative to promoting the betterment of resident health and safety in long term care facilities, the petition (accompanied by bill, Senate, No. 378) of Patricia D. Jehlen for legislation relative to regulations for small house nursing homes, the petition (accompanied by bill, Senate, No. 379) of Patricia D. Jehlen, Thomas M. Stanley, Joanne M. Comerford, Jack Patrick Lewis and other members of the General Court for legislation to improve quality and oversight of long-term care, the petition (accompanied by bill, Senate, No. 384) of Jason M. Lewis and Andrea Joy Campbell for legislation to strengthen the Attorney General's tools to protect nursing home residents and other patients from abuse and neglect, the petition (accompanied by bill, House, No. 616) of Ruth B. Balsler and Andrea Joy Campbell relative to the authority of the Attorney General to protect nursing home residents and other patients from abuse and neglect, the petition (accompanied by bill, House, No. 627) of Denise C. Garlick and others that the Division of Health Care Facility Licensure and Certification be authorized to establish a program for training and education for certain licensed providers, and the petition (accompanied by bill, House, No. 648) of Thomas M. Stanley, Kate Lipper-Garabedian and others for legislation to improve quality and oversight of long-term care, reports recommending that the accompanying bill (House, No. 3929) ought to pass.

For the committee,

THOMAS M. STANLEY.

**HOUSE . . . . . No. 3929**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act to improve quality and oversight of long-term 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 23 of the General Laws, as appearing in the 2020 Official  
2 Edition, is hereby amended by inserting after section 9U the following 2 sections:-

3           Section 9V. The executive office of labor and workforce development shall, in  
4 consultation with the commonwealth corporation, establish a grant program for nursing facility  
5 supervisory and leadership training. The program shall include, but not be limited to, covering  
6 the cost of nursing facility worker participation in evidence-based supervisory training for the  
7 express purpose of improving staff satisfaction, retaining staff and reducing turnover. Grants for  
8 supervisory and leadership training may include the cost of both in-person and online training  
9 programs.

10          Section 9W. The commonwealth corporation shall, subject to appropriation, establish  
11 extended care career ladder grant programs in long-term care facilities to upgrade skills of  
12 certified nurse’s aides and entry-level workers in nursing homes, to improve employee retention  
13 rates and to improve the quality of care provided in such facilities. Such programs shall be

14 developed in consultation with the local workforce investment boards and the department of  
15 public health. Such career ladder programs shall include, but not be limited to, programs that  
16 establish a three-level career pathway for certified nurses' aides or that develop employee  
17 competencies in specialized areas of care. The commonwealth corporation shall make grants  
18 available for certified nurses' aides, home health aides, homemakers and other entry-level  
19 workers in long-term care to improve quality of care and improve direct care worker access to  
20 and participation in career ladder training. Said corporation shall award such grants, subject to  
21 appropriation, on a competitive basis to long-term care facilities or long-term care facilities for  
22 the development of career ladder programs, including but not limited to curriculum development,  
23 instructors, instructional materials and technical assistance. Said corporation shall establish  
24 criteria for the selection of grant recipients to effectuate the purposes of this section. Grant  
25 funding may cover tuition, fees, curricular materials, staff wages, stipends for childcare and  
26 transportation to enable eligible workers to attend classes and secure practical nursing  
27 certificates. Said corporation shall require, as a condition of receipt of such grants, that each  
28 participating long-term care facility shall: (1) provide at least 50 per cent paid time for  
29 employees participating in training or instruction in connection with said career ladder program;  
30 (2) assist each participating employee in developing a career advancement plan; (3) increase  
31 employee compensation upon successful completion of each stage of the career ladder program;  
32 and (4) report quarterly to said corporation on the progress of the career ladder program  
33 implemented including, but not limited to, the number of employees served by the grant and their  
34 career progression within the long-term care facility and the certificates, degrees or professional  
35 status attained. Coursework may include English language training, training in other languages  
36 and adult basic education programs. The length of such grants shall not exceed a period of 3

37 years. Said corporation shall develop partnerships with local workforce investment boards,  
38 community colleges and other community-based education and training providers and  
39 organizations to assist long-term care facilities and long-term care facility employees to fulfill  
40 training needs, including but not limited to, identifying sources of funding for such training, and  
41 to encourage and enhance access to additional and ongoing skill enhancement and career  
42 development in long-term care. The commonwealth corporation shall submit quarterly reports to  
43 the house and senate committees on ways and means on said grant program including, but not  
44 limited to, the number of grants awarded, the amount of each grant, a description of the career  
45 ladder programs, changes in care-giving and workplace practices that have occurred as a result of  
46 the grant program, the grant program's impact on quality of care and worker retention and the  
47 certificates, degrees or professional status attained by each participating employee.  
48 Administrative and program-management costs for the grant program shall not exceed 4 per cent  
49 of the amount of the grant program. Each grant may include funding for technical assistance and  
50 evaluation.

51 SECTION 2. Chapter 111 of the General Laws, as so appearing, is hereby amended by  
52 inserting after section 4O the following section:-

53 Section 4P. The department shall, subject to appropriation, establish a tuition  
54 reimbursement program for certified nursing assistant training. The department shall reimburse  
55 for the costs of certified nursing assistant training or competency, provided that: (i) the costs  
56 have been incurred for enrollment in an approved certified nursing assistant training program;  
57 (ii) the costs have been actually paid by the certified nursing assistant from their own personal  
58 funds; and (iii) the individual has begun employment as a certified nursing assistant in a licensed

59 nursing facility within 12 months of completing the training program, including passing the  
60 competency testing.

61 SECTION 3. Said chapter 111 of the General Laws is hereby further amended by striking  
62 out section 71 and inserting in place thereof the following section:-

63 Section 71. (a) For purposes of this section and sections 71A½ to 73, inclusive, the  
64 following terms shall have the following meanings unless the context or subject matter clearly  
65 requires otherwise:

66 “Applicant”, any person who applies to the department for a license to establish or  
67 maintain and operate a long-term care facility.

68 “Charitable home for the aged”, any institution, however named, conducted for charitable  
69 purposes and maintained for the purpose of providing a retirement home for elderly persons and  
70 which may provide nursing care within the home for its residents.

71 “Convalescent or nursing home or skilled nursing facility”, any institution, however  
72 named, whether conducted for charity or profit, which is advertised, announced or maintained for  
73 the express or implied purpose of caring for four or more persons admitted thereto for the  
74 purpose of nursing or convalescent care.

75 “Intermediate care facility for persons with an intellectual disability”, any institution,  
76 however named, that: (i) is conducted for charity; (ii) is advertised, announced or maintained for  
77 the purpose of providing rehabilitative services and active treatment to persons with an  
78 intellectual disability or persons with related conditions, as defined in regulations promulgated  
79 pursuant to Title XIX of the federal Social Security Act (P.L. 89-97); (iii) is not both owned and

80 operated by a state agency; and (iv) makes application to the department for a license for the  
81 purpose of participating in the federal program established by said Title XIX.

82 “License”, an initial or renewal license to establish or maintain and operate a long-term  
83 care facility issued by the department.

84 “Licensee”, a person to whom a license to establish or maintain and operate a long-term  
85 care facility has been issued by the department.

86 “Long-term care facility”, a charitable home for the aged, convalescent or nursing home,  
87 skilled nursing facility, intermediate care facility for persons with an intellectual disability or rest  
88 home.

89 “Management Company”, an organization engaged by a licensee to manage all or a  
90 subset of the operations at a long-term care facility.

91 “Owner”, any person with an ownership interest of 5 per cent or more, or with a  
92 controlling interest in an applicant, potential transferee or the real property on which a long-term  
93 care facility is located.

94 “Person”, an individual, trust, estate, partnership, association, company or corporation.

95 “Potential transferee”, a person who submits to the department a notice of intent to  
96 acquire the facility operations of a currently operating long-term care facility.

97 “Rest home”, any institution, however named, which is advertised, announced or  
98 maintained for the express or implied purpose of providing care incident to old age to four or  
99 more persons who are ambulatory and who need supervision.

100           “Transfer of facility operations”, a transfer of the operations of a currently operating  
101 long-term care facility from the current licensee of the long-term care facility to a potential  
102 transferee, pending licensure, pursuant to a written “transfer of operations” agreement.

103           (b)(1) To each applicant it deems suitable and responsible to establish or maintain and  
104 operate a long-term care facility and which meets all other requirements for long-term care  
105 facility licensure, the department shall issue for a term of 2 years, and shall renew for like terms,  
106 a license, subject to the restrictions set forth in this section or revocation by it for cause;  
107 provided, however, that each long-term care facility shall be inspected at least once a year. The  
108 license shall not be transferable or assignable and shall be issued only for the premises named in  
109 the application.

110           (2) The department shall not issue a license to establish or maintain an intermediate care  
111 facility for persons with an intellectual disability unless the department determines that there is a  
112 need for such a facility at the designated location; provided, however, that in the case of a facility  
113 previously licensed as an intermediate care facility for persons with an intellectual disability in  
114 which there is a change in ownership, no such determination shall be required; and provided  
115 further, that in the case of a facility previously licensed as an intermediate care facility for  
116 persons with an intellectual disability in which there is a change in location, such determination  
117 shall be limited to consideration of the suitability of the new location.

118           (3) In the case of the transfer of facility operations of a long-term care facility, a potential  
119 transferee shall submit a notice of intent to acquire to the department at least 90 days prior to the  
120 proposed transfer date. The notice of intent to acquire shall be on a form supplied by the  
121 department and shall be deemed complete upon submission of all information which the

122 department requires on said form and is reasonably necessary to carry out the purposes of this  
123 section. In the case of the transfer of facility operations, a potential transferee shall provide  
124 notice to the current staff of the facility and shall provide notice of the potential transferee's  
125 plans regarding retaining the facility workforce and recognizing any current collective  
126 bargaining agreements to the labor organizations that represents the facility's workforce at the  
127 time the potential transferee submits a notice of intent to acquire.

128         Upon determination by the department that a potential transferee is responsible and  
129 suitable for licensure, the potential transferee may file an application for a license. In the case of  
130 a potential transfer of facility operations, the filing of an application for a license shall have the  
131 effect of a license until the department takes final action on such application.

132         Upon an approved transfer of facility operations of long-term care facility from one  
133 licensee to another, the department shall not reduce the number of beds originally approved by it  
134 in granting a license , unless in the interest of public health, welfare or safety.

135         (4) Every applicant for a license and potential transferee shall provide on or with its  
136 application or notice of intent to acquire a sworn statement of the names and addresses of any  
137 owner as defined in this section.

138         (5) No license shall be issued to an applicant or potential transferee unless the department  
139 makes a determination that the applicant or potential transferee is responsible and suitable for  
140 licensure.

141         (6) Every applicant for a license and every potential transferee shall provide on or with its  
142 application or notice of intent to acquire a sworn statement of the names and addresses of any  
143 owner as defined in this section.

144 (c) For purposes of this section, the department's determination of responsibility and  
145 suitability shall include but not be limited to the following factors:

146 (1) the criminal history of the applicant or the potential transferee, including their  
147 respective owners, or the management company and, to the extent possible, the civil litigation  
148 history of the applicant or potential transferee, including their respective owners, or the  
149 management company, including litigation related to the operation of a long-term care facility,  
150 such as quality of care, safety of residents or staff, employment and labor issues, fraud, unfair or  
151 deceptive business practices and landlord/tenant issues; provided that, such criminal and civil  
152 litigation history may include pending or other court proceedings in the commonwealth and in  
153 other states including federal jurisdiction. Any information related to criminal or civil litigation  
154 obtained by the department pursuant to this section shall be confidential and exempt from  
155 disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66;

156 (2) the financial capacity of the applicant or potential transferee, including their  
157 respective owners, or the management company to establish or maintain and operate a long-term  
158 care facility, which may include any recorded liens and unpaid fees or taxes in the  
159 commonwealth and in other states;

160 (3) the history of the applicant or potential transferee, including their respective owners,  
161 or the management company in providing long-term care in the commonwealth, measured by  
162 compliance with applicable statutes and regulations governing the operation of long-term care  
163 facilities; and

164 (4) the history of the applicant or potential transferee, including their respective owners,  
165 or the management company in providing long-term care in states other than the commonwealth,

166 if any, measured by compliance with the applicable statutes and regulations governing the  
167 operation of long-term care facilities in said states.

168 (d)(1) If the department determines that an applicant or potential transferee is not suitable  
169 and responsible, the department's determination shall take effect on the date of the department's  
170 notice. In such cases and upon the filing of a written request, the department shall afford the  
171 applicant or potential transferee an adjudicatory hearing pursuant to chapter 30A.

172 (2) During the pendency of an adjudicatory hearing, the applicant or potential transferee  
173 shall not operate the facility as a licensee.

174 (e) Each applicant, potential transferee and licensee shall maintain current records of all  
175 information provided to the department current. After the applicant, potential transferee or  
176 licensee becomes aware of any change related to information it has provided or is required to  
177 provide to the department, such person shall submit to the department written notice of the  
178 changes as soon as practicable and without unreasonable delay. Changes include, but are not  
179 limited to, changes in financial status, such as filing for bankruptcy, any default under a lending  
180 agreement or under a lease, the appointment of a receiver or the recording of any lien. Failure to  
181 provide timely notice of such change may be subject to the remedies or sanctions available to the  
182 department under sections 71 to 73, inclusive.

183 An applicant, potential transferee or licensee and their respective owners shall be in  
184 compliance with all applicable federal, state and local laws, rules and regulations.

185 (f) Prior to entering into an engagement with a management company, as defined in  
186 subsection (a), an applicant, potential transferee, or a licensee shall notify and receive a  
187 determination from the department that the management company is responsible and suitable for

188 managing the long-term care facility. In its notification to the department and to inform the  
189 department's review, the applicant, potential transferee, or licensee shall provide the proposed  
190 management company's name, contact information and any other information on the proposed  
191 management company and its personnel that may be reasonably requested by the department  
192 including but not limited to information required in section (c). Upon a determination by the  
193 department that the proposed management company is responsible and suitable for managing a  
194 long-term care facility, the applicant, potential transferee, or licensee may engage said company  
195 to manage the long-term care facility. The applicant, potential transferee, or licensee shall  
196 memorialize any such engagement in a written agreement with the management company. Such  
197 written agreement shall include a requirement that the management company and its personnel  
198 comply with all applicable federal, state and local laws, regulations and rules. Promptly after the  
199 effective date of any such agreement, the applicant, potential transferee, or licensee shall provide  
200 to the department a copy of the valid, fully executed agreement. Any payment terms included in  
201 the agreement shall be confidential and exempt from disclosure under clause Twenty-sixth of  
202 section 7 of chapter 4 and chapter 66. If the department determines that a management company  
203 is not suitable and responsible, the department's determination shall take effect on the date of the  
204 department's notice. In such cases and upon the filing of a written request, the department shall  
205 afford the applicant or licensee an adjudicatory hearing pursuant to chapter 30A.

206 (g) The department shall not reduce the number of beds originally approved by it in  
207 granting a license for a convalescent or nursing home or rest home upon the transfer of facility  
208 operations of said convalescent or nursing home or rest home from one licensee to another,  
209 unless in the interest of public health, welfare, or safety.

210 (h) The department shall not issue a license unless the authorities in charge of the long-  
211 term care facility first submit to the department, with respect to each building occupied by  
212 residents: (1) a certificate of inspection of the egresses, the means of preventing the spread of fire  
213 and apparatus for extinguishing fire, issued by an inspector of the office of public safety and  
214 inspections of the division of professional licensure; provided, however, that with respect to  
215 convalescent or nursing homes only, the division of health care quality of the department of  
216 public health shall have sole authority to inspect for and issue such certificate and (2) a  
217 certificate of inspection issued by the head of the local fire department certifying compliance  
218 with the local ordinances.

219 Any applicant who is aggrieved, on the basis of a written disapproval of a certificate of  
220 inspection by the head of the local fire department or by the office of public safety and  
221 inspections of the division of professional licensure, may, within 30 days from such disapproval,  
222 appeal in writing to the division of professional licensure. With respect to certificates of  
223 inspection that the division of health care quality of the department of public health has the sole  
224 authority to issue, an applicant may, within 30 days from disapproval of a certificate of  
225 inspection, appeal in writing to the department of public health only. Failure to either approve or  
226 disapprove within 30 days after a written request by an applicant shall be deemed a disapproval.

227 If the division of professional licensure or, where applicable, the department of public  
228 health approves the issuance of a certificate of inspection where initially disapproved, it shall  
229 forthwith be issued by the agency that failed to approve. If the relevant agency further  
230 disapproves the issuance of a certificate of inspection, the applicant may appeal to the superior  
231 court. Failure of said department to either approve or disapprove the issuance of a certificate of  
232 inspection within 30 days after receipt of an appeal shall be deemed a disapproval. The

233 department shall not issue a license until issuance of an approved certificate of inspection, as  
234 required in this section.

235 Nothing in this section or in sections 72 or 73 shall be construed to revoke, supersede or  
236 otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning,  
237 registration or maintenance of a long-term care facility.

238 (i)(1) For cause, the department may limit, restrict, suspend or revoke a license. Grounds  
239 for cause on which the department may take such action shall include: (i) substantial or sustained  
240 failure or inability to provide adequate care to residents; (ii) substantial or sustained failure to  
241 maintain compliance with applicable statutes, rules and regulations; (iii) or the lack of financial  
242 capacity to maintain and operate a long-term care facility. Limits or restrictions include requiring  
243 a facility to limit new admissions. Suspension of a license may include suspending the license  
244 during a pending license revocation action or suspending the license to permit the licensee a  
245 period of time, not shorter than 60 days, to terminate operations, and discharge and transfer, if  
246 applicable, all residents.

247 (2) The department may, when public necessity and convenience require, or to prevent  
248 undue hardship to an applicant or licensee, under such rules and regulations as it may adopt,  
249 grant a temporary provisional or probationary license under this section; provided, however, that  
250 no such license shall be for a term exceeding 1 year.

251 (3) With respect to an order to limit, restrict or suspend a license, within 7 days of receipt  
252 of the written order, the licensee may file a written request with the department for an  
253 adjudicatory proceeding pursuant to chapter 30A.

254 (4)(i) Upon a written request by a licensee who is aggrieved by the revocation of a license  
255 or by an applicant who is aggrieved by the refusal of the department to renew a license, the  
256 applicant so aggrieved shall have all the rights provided in chapter 30A with respect to  
257 adjudicatory proceedings.

258 (ii) In no case shall the revocation of such a license take effect in less than 30 days after  
259 written notification by the department to the licensee.

260 (j) The fee for a license to establish or maintain and operate a long-term care facility shall  
261 be determined annually by the secretary of administration and finance pursuant to section 3B of  
262 chapter 7.

263 (k) Nursing institutions licensed by the department of mental health, or the department of  
264 developmental services for persons with intellectual disabilities shall not be licensed or inspected  
265 by the department of public health. The inspections herein provided shall be in addition to any  
266 other inspections required by law.

267 (l) In the case of the new construction of, or major addition, alteration or repair to, any  
268 facility subject to this section, preliminary and final architectural plans and specifications shall  
269 be submitted to a qualified person designated by the commissioner. Written approval of the final  
270 architectural plans and specifications shall be obtained from said person prior to said new  
271 construction or major addition, alteration or repair.

272 (m) Notwithstanding any of the foregoing provisions of this section, the department shall  
273 not issue a license to establish or maintain and operate a long-term care facility to an applicant  
274 who applies to the department for said license to establish or maintain and operate a convalescent  
275 or nursing home or skilled nursing facility unless the applicant for such license submits to the

276 department a certificate that each building to be occupied by residents of such convalescent or  
277 nursing home or skilled nursing facility meets the construction standards of the state building  
278 code, and is of at least type 1–B fireproof construction; provided, however, that this paragraph  
279 shall not apply in the instance of a transfer of facility operations of a convalescent or nursing  
280 home or skilled nursing facility whose license had not been revoked as of the time of such  
281 transfer; and provided, further, that a public medical institution as defined under section 8 of  
282 chapter 118E, which meets the construction standards as defined herein, shall not be denied a  
283 license as a long-term care facility under this section because it was not of new construction and  
284 designed for the purpose of operating a long-term care facility at the time of application for a  
285 license to operate a long-term care facility . An intermediate care facility for persons with an  
286 intellectual disability shall be required to meet the construction standards established for such  
287 facilities by Title XIX of the Social Security Act (P.L. 89–97) and any regulations promulgated  
288 pursuant thereto, and by regulations promulgated by the department.

289 (n) The department shall notify the secretary of elder affairs forthwith of the pendency of  
290 any proceeding, public hearing or action to be taken under this section relating to any  
291 convalescent or nursing home, rest home, or charitable home for the aged. The department shall  
292 notify the commissioner of the department of developmental services forthwith of the pendency  
293 of any proceeding, public hearing or action to be taken under this section relating to any  
294 intermediate care facility for persons with an intellectual disability.

295 SECTION 4. Section 72 of said chapter 111 of the General Laws is amended by striking  
296 out section 72 and inserting in place thereof the following section:-

297           Section 72. (a) The department shall classify long-term care facilities and shall, after a  
298 public hearing, promulgate rules and regulations for the conduct of the same. Such rules and  
299 regulations for long-term care facilities shall include minimum requirements for medical and  
300 nursing care, the keeping of proper medical and nursing records, uniform requirements for the  
301 handling of patient funds, minimum requirements relative to the prevention and reparation of  
302 loss of or damage to patient's possessions including personal clothing, and minimum  
303 requirements relative to facility sanitation. Regulations for intermediate care facilities for persons  
304 with an intellectual disability shall also include minimum requirements for social services,  
305 psychological services and other services appropriate for the care of developmentally disabled  
306 persons and shall limit the size of intermediate care facilities for persons with an intellectual  
307 disability to not more than fifteen beds. The department in promulgating such rules and  
308 regulations for long-term care facilities shall consider the ability of such facilities to provide  
309 service under rates set under the provisions of section thirty-two of chapter six A. No such rule  
310 or regulation shall apply to a long-term care facility licensed at the time of promulgation of such  
311 rule or regulation, or a long-term care facility being constructed at the time of such promulgation  
312 under plans approved by the department, unless such rule or regulation has a direct and material  
313 relation to patient diet, cleanliness, nursing care or health of the patient, or to habilitative services  
314 and active treatment for persons with an intellectual disability or persons with related conditions;  
315 provided, however, that nothing herein contained shall be interpreted to prevent the department  
316 from adopting or interpreting rules and regulations more favorable toward existing long-term  
317 care facilities.

318 (b) The department or its agents and the board of health or its agents of the city or town  
319 wherein any portion of such long-term care facility is located may visit and inspect such  
320 institution at any time.

321 Any person making an inspection under authority of this section shall record in writing  
322 every violation which he finds of the applicable rules and regulations of the department. Every  
323 record of inspection so made shall be treated as a public record except to such extent as the  
324 record or a portion thereof is expressly exempt from such treatment under section seven of  
325 chapter four, said violations shall be made public at the same time that a written plan of  
326 correction is submitted. If a written plan of correction is not submitted within the allowable time,  
327 said violations shall be made public at the expiration of the allowable time. Inspections  
328 hereunder shall be unannounced and made at such intervals as the department shall specify in its  
329 rules and regulations, but at least twice per annum. A visit made to a facility for the purpose of  
330 providing consultation shall not be considered to be an inspection.

331 The superior court shall have jurisdiction in equity to enforce the rules and regulations  
332 promulgated under this section.

333 (c) The department shall establish regulations for the operation of small house nursing  
334 homes, herein defined as 1 or more units of a convalescent or nursing home or skilled nursing  
335 facility designed and modeled as a residential home including a central living space with a  
336 kitchen, dining and living area and outdoor space. Newly constructed small house nursing homes  
337 shall house no more than 14 individuals per unit, in resident rooms that accommodate not more  
338 than 1 resident per room. Should a resident request to share a room with another resident to  
339 accommodate a spouse, partner, family member or friend, such resident room shall have

340 sufficient space and equipment, as established by the department, for two residents. All resident  
341 rooms shall contain a full private and accessible bathroom.

342 Regulations for construction and physical plant standards should consider environmental  
343 standards and sustainability. Regulations may further provide for a staffing model that allows  
344 for a universal worker approach to resident care that is organized to support and empower all  
345 staff to respond to the needs and desires of residents including but not limited to cooking and  
346 meal preparation without exceeding the lawful scope of practice of said employee, and provides  
347 for consistent staff in each small house.

348 The executive office of health and human services may develop an add-on to rates of  
349 payment for convalescent or nursing home or skilled nursing facilities that develop small house  
350 nursing homes and meet criteria established by the executive office.

351 The regulations promulgated pursuant to this subsection shall ensure the convalescent or  
352 nursing home or skilled nursing facilities subject to this section meet the requirements necessary  
353 to be eligible to participate in both the Medicare and Medicaid programs.

354 SECTION 5. Said chapter 111 is hereby further amended by striking out section 72E and  
355 inserting in place thereof the following section:-

356 Section 72E. The department shall, after every inspection by its agent made under  
357 authority of section 72, give the licensee of the inspected long-term care facility notice in writing  
358 of every violation of the applicable statutes, rules and regulations of the department found upon  
359 said inspection. With respect to the date by which the licensee shall remedy or correct each  
360 violation, hereinafter the “correct by date”, the department in such notice shall specify a  
361 reasonable time, not more than 60 days after receipt thereof, by which time the licensee shall

362 remedy or correct each violation cited therein or, in the case of any violation which in the  
363 opinion of the department is not reasonably capable of correction within 60 days, the department  
364 shall require only that the licensee submit a written plan for the timely correction of the violation  
365 in a reasonable manner. The department may modify any nonconforming plan upon notice in  
366 writing to the licensee.

367 Failure to remedy or correct a cited violation by the correct by date shall be cause to  
368 pursue or impose the remedies or sanctions available to the department under sections 71 to 73,  
369 inclusive, unless the licensee shall demonstrate to the satisfaction of the department or a court,  
370 where applicable, that such failure was not due to any neglect of its duty and occurred despite an  
371 attempt in good faith to make correction by the correct by date. The department may pursue or  
372 impose any remedy or sanction or combination of remedies or sanctions available to it under said  
373 sections 71 to 73, inclusive. An aggrieved licensee may pursue the remedies available to it under  
374 said sections 71 to 73, inclusive.

375 In addition, if the licensee fails to maintain substantial or sustained compliance with  
376 applicable statutes, rules and regulations, in addition to imposing any of the other remedies or  
377 sanctions available to it, the department may require the licensee to engage, at the licensee's own  
378 expense, a temporary manager to assist the licensee with bringing the facility into substantial  
379 compliance and with sustaining such compliance. Such manager shall be subject to the  
380 department's approval, provided that such approval not be unreasonably withheld. Any such  
381 engagement of a temporary manager shall be for a period of not less than 3 months and shall be  
382 pursuant to a written agreement between the licensee and the management company. A copy of  
383 said agreement shall be provided by the licensee to the department promptly after execution. Any

384 payment terms included in the agreement shall be confidential and exempt from disclosure under  
385 clause twenty-sixth of section 7 of chapter 4 and chapter 66.

386 Nothing in this section shall be construed to prohibit the department from enforcing a  
387 statute, rule or regulation, administratively or in court, without first affording formal opportunity  
388 to make correction under this section, where, in the opinion of the department, the violation of  
389 such statute, rule or regulation jeopardizes the health or safety of residents or the public or  
390 seriously limits the capacity of a licensee to provide adequate care, or where the violation of such  
391 statute, rule or regulation is the second such violation occurring during a period of 12 full  
392 months.

393 SECTION 6. Section 72K of said chapter 111 of the General Laws, as so appearing, is  
394 hereby amended by striking out subsection (b) and inserting in place thereof the following 2  
395 subsections:-

396 (b) The attorney general may file a civil action against a person who commits abuse,  
397 mistreatment or neglect of a patient or resident or who misappropriates patient or resident  
398 property or against a person who wantonly or recklessly permits or causes another to commit  
399 abuse, mistreatment or neglect of a patient or resident or who misappropriates patient or resident  
400 property. The civil penalty for such abuse, mistreatment, neglect or misappropriation shall not  
401 exceed: \$25,000 if no bodily injury results; \$50,000 if bodily injury results; \$100,000 if sexual  
402 assault or serious bodily injury results; and \$250,000 if death results. Section 60B of chapter 231  
403 shall not apply to an action brought by the attorney general pursuant to this section. Nothing in  
404 this section shall preclude the filing of any action brought by the attorney general or a private  
405 party pursuant to chapter 93A or any action by the department pursuant to this chapter.

406 (c) Notwithstanding section 5 of chapter 260, the attorney general may file a civil action  
407 only within four years next after an offense is committed.

408 SECTION 7. Said chapter 111 of the General Laws is hereby further amended by  
409 inserting after section 72BB the following 5 sections:-

410 Section 72CC. As used in section 72CC to 72FF, inclusive, the following words shall,  
411 unless the context clearly requires otherwise, have the following meanings:

412 “Cohorting”, the practice of grouping patients who are or are not colonized or infected  
413 with the same organism in order to confine their care to one area and prevent contact with other  
414 patients.

415 “Endemic level”, the usual level of given disease in a geographic area.

416 “Isolating”, the process of separating persons colonized or infected with a communicable  
417 disease from those who are not colonized or infected with a communicable disease.

418 “Long-term care facility”, a charitable home for the aged, convalescent or nursing home  
419 or skilled nursing facility, an intermediate care facility for persons with an intellectual disability  
420 or a rest home.

421 “Outbreak”, any unusual occurrence of disease or any disease above background or  
422 endemic levels.

423 “Religious and recreational activities”, any religious, social or recreational activity that is  
424 consistent with the resident’s preferences and choosing, regardless of whether the activity is  
425 coordinated, offered, provided or sponsored by facility staff or by an outside activities provider.

426 “Resident”, a person who resides in a long-term care facility.

427 Section 72DD. (a) Notwithstanding any general or special law to the contrary, the  
428 department shall require long-term care facilities to develop an outbreak response plan which  
429 shall be customized to the facility. Each facility’s plan shall include, but not be limited to:

430 (1) a protocol for isolating and cohorting infected and at-risk patients in the event of an  
431 outbreak of a contagious disease until the cessation of the outbreak;

432 (2) clear policies for the notification of residents, residents’ families, visitors and staff in  
433 the event of an outbreak of a contagious disease at a facility;

434 (3) information on the availability of laboratory testing, protocols for screening visitors  
435 and staff for the presence of a communicable disease, protocols to require those staff who are  
436 infected with a communicable disease to not present at the facility for work duties and processes  
437 for implementing evidence-based outbreak response measures;

438 (4) policies to conduct routine monitoring of residents and staff to quickly identify signs  
439 of a communicable disease that could develop into an outbreak;

440 (5) policies for reporting outbreaks to public health officials in accordance with  
441 applicable laws and regulations; and

442 (6) policies to meet staffing, training and facility demands during an infectious disease  
443 outbreak and to successfully implement the outbreak response plan.

444 (b) The department shall verify that the outbreak response plans submitted by long-term  
445 care facilities are in compliance with the requirements of subsection (a).

446 (c) (1) Each long-term care facility that submits an outbreak response plan to the  
447 department pursuant to subsection (b) shall review the plan on an annual basis.

448 (2) If a long-term care facility makes any material changes to its outbreak response plan,  
449 the facility shall submit to the department an updated outbreak response plan within 30 days. The  
450 department shall, upon receiving an updated outbreak response plan, verify that the plan is  
451 compliant with the requirements of subsection (a).

452 (e) The department shall promulgate regulations necessary to implement this section.

453 Section 72EE. The department, through its division of health care facility licensure and  
454 certification, shall establish and implement a prescribed process and program for providing  
455 training and education to long-term care providers licensed by the department under section 72.  
456 Content covered in the training and education program may include infection prevention and  
457 control; development, implementation, adherence and review of comprehensive resident care  
458 plans; falls prevention; procedures to ensure timely notification of changes in a resident's  
459 condition to the resident's primary care physician; the prevention of abuse and neglect;  
460 development and implementation of a program to ensure staff safety and review of the survey  
461 and inspection process as permitted by section 72.

462 The training and education program shall be interactive and include, but not be limited to,  
463 the following:

464 (1) annual training for long-term care facilities on the licensure and certification process,  
465 including but not be limited to the department's interpretation of the general laws and relevant  
466 changes or additions to applicable rules, regulations, procedures and policies concerning the  
467 licensure and certification process for long-term care facilities;

468 (2) biannual training of long-term care providers on the most frequently cited  
469 deficiencies, identified deficiency trends, both state and federal and best practices to ensure  
470 resident quality of care

471 The department may consult with industry trade associations before issuing or  
472 promulgating guidance, regulation, interpretation, program letter, memorandum or any other  
473 materials used in surveyor training to survey licensed providers as permitted by section 72.

474 Section 72FF. (a) The department shall promulgate regulations necessary to encourage  
475 and enable residents of a long-term care facility to engage in in-person, face-to-face, verbal or  
476 auditory-based contact, communications and religious and recreational activities with others  
477 except when such in-person contact, communication or activities are prohibited, restricted or  
478 limited by federal or state statute, rule or regulation. Said regulations shall include specific  
479 protocols and procedures to provide for residents of the facility who have disabilities that impede  
480 their ability to communicate, including, but not limited to, residents who are blind, deaf, have  
481 Alzheimer's disease or other related dementias and residents who have developmental  
482 disabilities.

483 (b) The department may distribute civil monetary penalty funds, as approved by the  
484 federal Centers for Medicare and Medicaid Services, and any other available federal and state  
485 funds, upon request, to facilities for communicative technologies and accessories needed for the  
486 purposes of this section.

487 Section 72GG (a) The department, in consultation with the center for health information  
488 and analysis, MassHealth, the executive office of elder affairs and the health policy commission  
489 shall annually conduct an examination of cost trends and financial performance among nursing

490 facilities, as defined by section 71 of chapter 111 of the general laws. The information shall be  
491 analyzed on an institution-specific and industry-wide basis. The examination shall aggregate  
492 information collected on multiple nursing facilities that are owned and operated by a single  
493 individual, trust, estate, partnership, association, company or corporation with an ownership  
494 interest of 5 per cent or more in the facilities' operating license, management company or  
495 associated real estate. The examination and report shall include but not be limited to the  
496 collection and analysis of the following: (1) gross and net patient service revenues; (2) other  
497 sources of operating and non-operating revenue; (3) trends in relative price, payer mix, case mix,  
498 utilization and length of stay; (4) affiliations with other health care providers including but not  
499 limited to preferred clinical relationships and partnerships; (5) categories of costs including but  
500 not limited to general and administrative costs, nursing and other labor costs and salaries,  
501 building costs, capital costs and other operating costs; (6) total spending on direct patient care as  
502 a percent of total operating expenses; (7) operating and total margin; (8) occupancy rates and  
503 total resident population and (9) other relevant measures of financial performance and service  
504 delivery. These measures shall distinguish long-term residents from short-stay residents where  
505 possible. The initial report and any policy recommendations shall be filed with the clerks of the  
506 house of representatives and the senate, the house of representatives and senate committees on  
507 ways and means and the joint committee on elder affairs no later than 6 months after the passage  
508 of this act.

509 (b) To determine affiliations between nursing facilities and other health care providers as  
510 required, the department shall utilize ownership information submitted as part of the long-term  
511 care facility licensure determination process set forth in section 71 of chapter 111.

512 SECTION 8. Said chapter 111 is hereby further amended by striking out section 73 and  
513 inserting in place thereof the following section:-

514 Section 73. Whoever advertises, announces, establishes or maintains, or is concerned in  
515 establishing or maintaining, a long-term care facility, or otherwise is engaged in any such  
516 business without a license granted under section 71, or whoever being licensed under said  
517 section 71 violates any provision of sections 71 to 73, inclusive, shall for a first offense be  
518 punished by a fine of not more than \$1,000, and for a subsequent offense by a fine of not more  
519 than \$2,000 or by imprisonment for not more than two years.

520 Whoever violates any rule or regulation promulgated pursuant to sections 71, 72 and 72C  
521 shall be punished by a fine, not to exceed \$500. If any person violates any such rule or regulation  
522 by allowing a condition to exist which may be corrected or remedied, the department shall order  
523 such person, in writing, to correct or remedy such condition, and if such person fails or refuses to  
524 comply with such order by the correct by date, as defined in section 72E, each day after the  
525 correct by date during which such failure or refusal to comply continues shall constitute a  
526 separate offense. A failure to pay the fine imposed by this section shall be a violation of this  
527 section.

528 SECTION 9. Chapter 118E of the General Laws, as so appearing, is hereby amended by  
529 inserting after section 82 the following section:-

530 Section 83. To establish Medicaid rates for nursing homes licensed pursuant to section  
531 71 of chapter 111, the executive office of health and human services shall use as base year costs  
532 for rate determination purposes the reported costs of the calendar year not more than 2 years  
533 prior to the current rate year.

534 SECTION 10. Pursuant to section 71 of chapter 111, as amended by this act, a licensee  
535 who has entered into an engagement with a management company prior to the effective date of  
536 this act shall provide the department of public health with the necessary documentation and  
537 materials for a determination by the department of the responsibility and suitability of said  
538 management company, as required by section (f) of said section 72, prior to any issuance of a  
539 renewed license; provided however, that the department shall give a licensee reasonable time to  
540 provide the department with the necessary documents and materials if the licensee's renewal is  
541 within 90 days of the effective date of this act. A licensee's failure to comply with this provision  
542 shall subject the licensee to the penalties established in section 73 of said chapter 111.

543 SECTION 11. Pursuant to section 72DD of chapter 111 of the General Laws, each long-  
544 term care facility shall submit its outbreak response plan to the department within 180 days of  
545 the effective date of this act.

546 SECTION 12. Section 9 shall take effect on October 1, 2025.