

HOUSE No. 4193

House bill No. 4178, as amended and passed to be engrossed by the House. November 15, 2023.

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 10 of the General Laws is hereby amended by inserting after
2 section 35SSS the following section:-

3 SECTION 35TTT. (a) There shall be established and set up on the books of the
4 commonwealth a separate fund known as the Long-Term Care Workforce and Capital Fund. The
5 fund shall be administered by the secretary of health and human services in consultation with the
6 advisory committee established pursuant to subsection (c). The secretary may use amounts
7 credited to the fund to pay for: (i) the administration of the capital loan program pursuant to
8 subsection (e); and (ii) the workforce training programs pursuant to subsection (d), including the:
9 (A) program costs, tuition, books and fees related to the cost of education and training for
10 participants in the programs; (B) costs related to obtaining an applicable license, including, but
11 not limited to, examination and licensing fees; (C) stipends for program participants; and (D)
12 stipends for childcare and transportation for program participants.

13 (b) The fund shall consist of: (i) any revenues or other financing sources directed to the
14 fund by appropriation; (ii) 50 per cent of any amount recovered by the commonwealth and
15 credited thereto in connection with civil actions brought pursuant to section 72K of chapter 111;
16 (iii) bond revenues or other money authorized by the general court and specifically designated to
17 be credited to the fund; (iv) any income derived from the investment of amounts credited to the
18 fund or repayment of loans from the fund; (v) funds from public or private sources, including,
19 but not limited to, gifts, federal or private grants, donations, rebates and settlements received by
20 the commonwealth that are specifically designated to be credited to the fund; and (vi) all other
21 amounts credited or transferred into the fund from any other source. The executive office of
22 health and human services shall seek to maximize fund revenues through federal money,
23 matching funds and grants. Any unexpended balances in the fund at the end of the fiscal year
24 shall not revert to the General Fund and shall be available for expenditures in subsequent fiscal
25 years. Any fiscal year-end balance in the fund shall be excluded from the calculation of the
26 consolidated net surplus pursuant to section 5C of chapter 29. The fund shall not be subject to
27 appropriation.

28 (c) There shall be an advisory committee that shall consist of the following members: the
29 assistant secretary for MassHealth, or their designee, who shall serve as chair; the secretary of
30 labor and workforce development, or their designee; the commissioner of public health, or their
31 designee; and 2 persons to be appointed by the governor, 1 of whom shall be a representative of
32 the Massachusetts Senior Care Association, Inc. and 1 of whom shall be a representative of
33 Local 1199 Service Employees International Union.

34 (d) The secretary of health and human services, in consultation with the advisory
35 committee, shall establish, and the executive office of health and human services shall
36 administer, workforce training grant programs to:

37 (i) train new certified nurses' aides to work in licensed long-term care facilities;

38 (ii) advance the skills of certified nurses' aides, home health aides, homemakers and
39 other entry-level workers in long-term care facilities to improve quality of care and improve
40 worker access to and participation in a career pathway to become a licensed practical nurse; and

41 (iii) provide long-term care supervisory and leadership training, which shall consist of
42 evidence-based supervisory training for the purposes of improving staff satisfaction, retaining
43 staff and reducing staff turnover.

44 (e) The secretary of health and human services, in consultation with the advisory
45 committee, shall establish a no interest or forgivable capital loan program for skilled nursing
46 facilities to:

47 (i) support the development of specialized care units, including, but not limited to: (A)
48 infectious disease isolation; (B) dementia special care; (C) degenerative neurological units; (D)
49 geriatric psychiatry; (E) traumatic brain injury; (F) in-house dialysis treatment; (G) behavioral
50 health and substance use disorder; and (H) bariatric patient care;

51 (ii) enable facilities to offset the costs of pay-go capital; and

52 (iii) support innovative projects, including, but not limited to: (A) converting of sections
53 within skilled nursing facilities into affordable housing, veterans housing or assisted living units
54 to accommodate individual needs of residents; (B) converting multi-bed rooms to single

55 occupancy to enhance privacy and dignity; and (C) establishing voluntary skilled nursing facility
56 reconfigurations, including, but not limited to, providing financial incentives to reduce capacity
57 and balance supply and demand based on regional needs.

58 (f) Annually, not later than December 1, the secretary of health and human services shall
59 report on the activities of the fund to the clerks of the house of representatives and the senate and
60 to the house and senate committees on ways and means. The report shall include: (i) an
61 accounting of expenditures made from the fund with a description of the authorized purpose of
62 each expenditure; (ii) an accounting of amounts credited to the fund; and (iii) any unexpended
63 balance remaining in the fund.

64 SECTION 2. Chapter 111 of the General Laws is hereby amended by striking out section
65 71 and inserting in place thereof the following section:-

66 Section 71. (a) For purposes of this section and sections 71A½ to 73, inclusive, the
67 following words shall, unless the context clearly requires otherwise, have the following
68 meanings:

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

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

74 “Cohorting”, the practice of grouping patients who: (i) are colonized or infected with the
75 same organism in order to confine their care to 1 area and prevent contact with other patients; or

76 (ii) are not colonized or infected with the same organism in order to confine their care to 1 area
77 and prevent contact with other patients.

78 “Convalescent or nursing home”, any institution, however named, including a skilled
79 nursing facility, whether conducted for profit or not for profit, which is advertised, announced or
80 maintained for the express or implied purpose of caring for 4 or more persons admitted thereto
81 for the purpose of nursing or convalescent care.

82 “Correct by date”, the date by which a licensee shall remedy or correct any violation
83 discovered after an inspection by the department pursuant to section 72E.

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

85 “Intermediate care facility for persons with an intellectual disability”, any institution,
86 however named, that: (i) is conducted for charity or not for profit; (ii) is advertised, announced or
87 maintained for the purpose of providing rehabilitative services and active treatment to persons
88 with an intellectual disability or persons with related conditions, as defined in regulations
89 promulgated pursuant to Title XIX of the federal Social Security Act, Public Law 89-97; (iii) is
90 not both owned and operated by a state agency; and (iv) makes application to the department for
91 a license for the purpose of participating in the federal program established by said Title XIX.

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

94 “License”, an initial or renewal license issued by the department and which permits the
95 licensee to establish or maintain and operate a long-term care facility.

96 “Licensee”, a person permitted to establish or maintain and operate a long-term care
97 facility through a license.

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

101 “Long-term care services”, include: (i) long-term resident, nursing, convalescent or
102 rehabilitative care; (ii) supervision and care incident to old age for ambulatory persons; or (iii)
103 retirement home care for elderly persons.

104 “Management company”, an organization engaged by a licensee to manage the operations
105 at a long-term care facility.

106 “Outbreak”, any unusual occurrence of disease or any disease above endemic levels.

107 “Owner”, any person with an ownership interest of not less than 5 per cent, or with a
108 controlling interest in an applicant, licensee, potential transferee or the real property on which a
109 long-term care facility is located.

110 “Person”, an individual, trust, partnership, association, corporation or other form of
111 business association.

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

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

117 “Resident”, an individual who resides in a long-term care facility.

118 “Rest home”, any institution, however named, which is advertised, announced or
119 maintained for the express or implied purpose of providing care incident to old age to 4 or more
120 persons who are ambulatory and who do not require a specific level of nursing care or other
121 medically related services on a routine basis.

122 “Skilled nursing facility”, any institution, however named, whether conducted for profit
123 or not for profit, which is certified by the federal Centers for Medicare and Medicaid Services for
124 the purpose of providing continuous skilled nursing care and rehabilitative services for 4 or more
125 persons.

126 “Small house nursing home”, 1 or more units of a convalescent or nursing home designed
127 and modeled as a residential home including a central living space, kitchen, dining area, living
128 area and outdoor space.

129 “Transfer of facility operations”, a transfer of the operations of a long-term care facility
130 from a licensee to a potential transferee.

131 (b)(1) The department shall issue for a term of 2 years, and shall renew for like terms, a
132 license, subject to the restrictions in this section, to each applicant the department deems
133 responsible and suitable to establish or maintain and operate a long-term care facility and which
134 meets all other requirements for long-term care facility licensure pursuant to this chapter. A
135 license issued pursuant to this section shall not be transferable or assignable and shall be issued
136 only for the premises named in the application.

137 (2) Each long-term care facility shall be subject to not less than 1 periodic, resident-
138 centered inspection per year for the purpose of gathering information about the quality of
139 services furnished in the long-term care facility to determine compliance with applicable state
140 and federal requirements.

141 (3) The department may, when public necessity and convenience require, or to prevent
142 undue hardship to an applicant or licensee, pursuant to such rules and regulations as it may
143 adopt, grant a temporary provisional or probationary license pursuant to this section; provided,
144 however, that no such license shall be for a term exceeding 1 year.

145 (4) The fee for a license to establish or maintain and operate a long-term care facility
146 shall be determined annually by the secretary of administration and finance pursuant to section
147 3B of chapter 7.

148 (c) The department shall not issue a license to establish or maintain an intermediate care
149 facility for persons with an intellectual disability unless the department determines that there is a
150 need for such a facility at the designated location; provided, however, that in the case of a facility
151 previously licensed as an intermediate care facility for persons with an intellectual disability in
152 which there is a change in ownership or transfer of operations, no such determination shall be
153 required; and provided further, that in the case of a facility previously licensed as an intermediate
154 care facility for persons with an intellectual disability in which there is a change in location, such
155 determination shall be limited to consideration of the suitability of the new location.

156 (d)(1) In the case of the transfer of facility operations of a long-term care facility, a
157 potential transferee shall submit a notice of intent to acquire to the department not less than 90
158 days prior to the proposed transfer date. The notice of intent to acquire shall be on a form

159 supplied by the department and shall be deemed complete upon submission of all information the
160 department requires on said form. The potential transferee shall be deemed responsible and
161 suitable upon the expiration of the 90-day period, or upon the expiration of said period as
162 extended, if the department fails to notify said potential transferee in writing of its decision
163 within the 90-day period or within the expiration of the extension period, whichever is
164 applicable.

165 (2) A potential transferee shall, concurrently with the submission of an intent to acquire,
166 provide notice to the current staff of the facility, and to any labor organization that represents the
167 facility's staff at the time the notice of intent to acquire is submitted, of the potential transferee's
168 plans to retain or not retain the facility staff and to recognize and bargain with any labor
169 organizations currently representing the facility staff.

170 (3) Upon determination by the department that a potential transferee is responsible and
171 suitable for licensure, the potential transferee may file an application for a license. In the case of
172 a potential transfer of facility operations, the filing of an application for a license shall have the
173 effect of a temporary provisional or probationary license until the department takes final action
174 on such application.

175 (4) Upon an approved transfer of facility operations, the department shall not reduce the
176 number of beds it originally approved in granting a license, unless a reduction in the number of
177 beds is in the interest of public health, welfare or safety.

178 (e) Every applicant for a license shall provide on or with its application, and every
179 potential transferee shall provide on or with its notice of intent to acquire, a sworn statement of
180 the names and addresses of any owner of the applicant or the potential transferee.

181 (f) No license shall be issued to an applicant or potential transferee prior to a
182 determination by the department that the applicant or potential transferee is responsible and
183 suitable pursuant to subsection (g).

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

186 (1) the criminal history of the applicant or the potential transferee, including its respective
187 owners and management companies, and, to the extent possible, the civil litigation history of the
188 applicant or potential transferee, including its respective owners and contracted management
189 companies, including litigation related to the operation of a long-term care facility, such as
190 quality of care, safety of residents or staff, employment and labor issues, fraud, unfair or
191 deceptive business practices and landlord-tenant issues; provided, that such criminal and civil
192 litigation history may include pending or other court proceedings in the commonwealth and in
193 any other state or federal jurisdiction. Any information related to criminal or civil litigation
194 obtained by the department pursuant to this section shall be confidential and exempt from
195 disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66;

196 (2) the financial capacity of the applicant or potential transferee, including its respective
197 owners and management companies, to establish or maintain and operate a long-term care
198 facility; provided, that financial capacity may include, but shall not be limited to, recorded liens
199 or unpaid fees or taxes in the commonwealth or in other states;

200 (3) the history of the applicant or potential transferee, including its respective owners and
201 management companies, in providing quality long-term care in the commonwealth as measured

202 by compliance with applicable quality measures, statutes and regulations governing the operation
203 of long-term care facilities; and

204 (4) the history of the applicant or potential transferee, including its respective owners and
205 management companies, in providing quality long-term care in states other than the
206 commonwealth, if any, as measured by compliance with the applicable quality measures, statutes
207 and regulations governing the operation of long-term care facilities in said states.

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

213 (2) During the pendency of an adjudicatory hearing, the applicant or potential transferee
214 shall not operate the facility as a licensee, nor, without prior approval of the department, manage
215 such facility.

216 (i) Each applicant, potential transferee and licensee shall maintain current records of all
217 information provided to the department. After the applicant, potential transferee or licensee
218 becomes aware of any change related to information it has provided or is required to provide to
219 the department, such person shall submit to the department written notice of the change as soon
220 as practicable and without unreasonable delay; provided, that any change in financial status shall
221 be provided to the department and shall include, but shall not be limited to, filing for bankruptcy,
222 any default under a lending agreement or under a lease, the appointment of a receiver or the

223 recording of any lien. Failure to provide timely notice of such change shall be subject to the
224 remedies or sanctions available to the department pursuant to this chapter.

225 (j) An applicant, potential transferee or licensee and its respective owners and
226 management companies shall comply with all applicable federal, state and local laws, rules and
227 regulations.

228 (k)(1) Prior to entering into a contract with a management company, an applicant,
229 potential transferee or licensee shall notify and receive a determination from the department that
230 the management company is responsible and suitable to manage a long-term care facility.

231 (2) In its notification to the department and to inform the department's review, the
232 applicant, potential transferee or licensee shall provide the proposed management company's
233 name, contact information and any other information on the proposed management company and
234 its personnel that may be reasonably requested by the department, including, but not limited to,
235 information required pursuant to subsection (g). Upon a determination by the department that the
236 proposed management company is responsible and suitable to manage a long-term care facility,
237 the applicant, potential transferee or licensee may engage said company to manage the long-term
238 care facility.

239 (3) The applicant, potential transferee or licensee shall memorialize any such engagement
240 in a written agreement with the management company. Such written agreement shall include a
241 requirement that the management company and its personnel comply with all applicable federal,
242 state and local laws, regulations and rules. Promptly after the effective date of any such
243 agreement, the applicant, potential transferee or licensee shall provide to the department a copy
244 of the valid, fully executed agreement. Any payment terms included in the agreement shall be

245 confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and
246 chapter 66.

247 (4) If the department determines that a management company is not responsible and
248 suitable, the department's determination shall take effect on the date of the department's notice
249 to the applicant, potential transferee or licensee. In such cases and upon the filing of a written
250 request, the department shall afford the applicant, potential transferee, licensee or management
251 company an adjudicatory hearing pursuant to chapter 30A.

252 (l) The department shall not reduce the number of beds it originally approved in granting
253 a license for a convalescent or nursing home or rest home upon the transfer of facility operations
254 of said convalescent or nursing home or rest home from 1 licensee to another, unless a reduction
255 in the number of beds is in the interest of public health, welfare or safety.

256 (m)(1) The department shall not issue a license unless the applicant first submits to the
257 department, with respect to each building occupied by residents: (i) a certificate of inspection of
258 the egresses, the means of preventing the spread of fire and apparatus for extinguishing fire,
259 issued by an inspector of the office of public safety and inspections within the division of
260 professional licensure; and (ii) a certificate of inspection issued by the head of the local fire
261 department certifying compliance with local ordinances; provided, however, that for
262 convalescent or nursing homes, the division of health care quality within the department shall
263 have sole authority to inspect and issue a certificate required pursuant to clause (i) of this
264 paragraph.

265 (2) Any applicant who is aggrieved, on the basis of a written disapproval of a certificate
266 of inspection by the head of the local fire department or by the office of public safety and

267 inspections of the division of professional licensure, may, within 30 days from such disapproval,
268 appeal in writing to the division of professional licensure. Failure to either approve or disapprove
269 within 30 days after a written request by an applicant shall be deemed a disapproval. With
270 respect to certificates of inspection issued to convalescent or nursing homes by the division of
271 health care quality within the department, an applicant may, within 30 days from disapproval of
272 a certificate of inspection, appeal in writing to the department. Failure to either approve or
273 disapprove within 30 days after a written request by an applicant shall be deemed a disapproval.

274 (3) If the division of professional licensure or, where applicable, the department approves
275 the issuance of a certificate of inspection after an appeal, the certificate shall be issued by the
276 issuing agency. If the division of professional licensure or, where applicable, the department
277 does not approve the issuance of a certificate of inspection, the applicant may appeal to the
278 superior court. Failure of said division or said department to either approve or disapprove the
279 issuance of a certificate of inspection within 30 days after receipt of an appeal shall be deemed a
280 disapproval. The department shall not issue a license until issuance of an approved certificate of
281 inspection, as required pursuant to paragraph (1).

282 (4) Nothing in this section or in sections 72 or 73 shall be construed to supersede or
283 otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning,
284 registration or maintenance of a long-term care facility.

285 (n)(1) For cause, the department may limit, restrict, suspend or revoke a license.

286 (2) Grounds for cause on which the department may take action pursuant to paragraph (1)
287 shall include: (i) substantial or sustained failure or inability to provide adequate care to residents;
288 (ii) substantial or sustained failure to maintain compliance with applicable statutes, rules and

289 regulations; or (iii) the lack of financial capacity to maintain and operate a long-term care
290 facility.

291 (3) The limits or restrictions the department may impose on a licensee include requiring a
292 facility to limit new admissions.

293 (4) Suspension of a license may include suspending the license during a pending license
294 revocation action or suspending the license to permit the licensee a period of time, not less than
295 60 days, to terminate operations, and discharge and transfer all residents, if applicable.

296 (5) With respect to an order by the department to limit, restrict or suspend a license,
297 within 7 days of receipt of the written order, the licensee may file a written request with the
298 department for an adjudicatory proceeding pursuant to chapter 30A.

299 (6) Upon a written request by a licensee who is aggrieved by the revocation or limitation
300 of a license or by an applicant who is aggrieved by the refusal of the department to renew a
301 license, the licensee or applicant so aggrieved shall have all the rights provided in chapter 30A
302 with respect to adjudicatory proceedings. In no case shall the revocation of such a license take
303 effect in less than 30 days after written notification by the department to the licensee.

304 (o) In the case of the new construction of, or major addition, alteration or repair to, any
305 long-term care facility, preliminary and final architectural plans and specifications shall be
306 submitted to a qualified person designated by the commissioner. Written approval of the final
307 architectural plans and specifications shall be obtained from said person prior to said new
308 construction or major addition, alteration or repair.

309 (p) Notwithstanding any of the other provisions of this section, the department shall not
310 issue a license to establish or maintain and operate a long-term care facility to an applicant who
311 applies to the department for said license to establish or maintain and operate a convalescent or
312 nursing home unless the applicant for such license submits to the department a certificate that
313 each building to be occupied by residents of such convalescent or nursing home meets the
314 construction standards of the state building code, and is of at least type 1-B fireproof
315 construction; provided, however, that this subsection shall not apply in the instance of a transfer
316 of facility operations of a convalescent or nursing home whose license has not been revoked as
317 of the time of such transfer; and provided, further, that a public medical institution as defined in
318 section 8 of chapter 118E, which meets the construction standards as defined herein, shall not be
319 denied a license as a long-term care facility pursuant to this section because it was not of new
320 construction and designed for the purpose of operating a long-term care facility at the time of
321 application for a license to operate a long-term care facility. An intermediate care facility for
322 persons with an intellectual disability shall be required to meet the construction standards
323 established for such facilities by Title XIX of the Social Security Act, Public Law 89-97 and any
324 regulations promulgated pursuant thereto, and by regulations promulgated by the department.

325 (q) The department shall notify the secretary of elder affairs of the pendency of any
326 proceeding, public hearing or action to be taken pursuant to this section relating to any
327 convalescent or nursing home, rest home or charitable home for the aged. The department shall
328 notify the commissioner of the department of developmental services of the pendency of any
329 proceeding, public hearing or action to be taken pursuant to this section relating to any
330 intermediate care facility for persons with an intellectual disability.

331 SECTION 3. Said chapter 111 is hereby further amended by striking out section 72 and
332 inserting in place thereof the following section:-

333 Section 72. (a)(1) The department shall classify long-term care facilities and shall, after a
334 public hearing, promulgate rules and regulations for the conduct of such facilities. Rules and
335 regulations for long-term care facilities shall include, but not be limited to, minimum
336 requirements for medical and nursing care, the keeping of proper medical and nursing records,
337 uniform requirements for the handling of patient funds, minimum requirements relative to the
338 prevention and reparation of lost or damaged patient possessions, including personal clothing
339 and minimum requirements relative to facility sanitation.

340 (2) Regulations for intermediate care facilities for persons with an intellectual disability
341 shall, in addition to the requirements pursuant to paragraph (1), include minimum requirements
342 for social services, psychological services and other services appropriate for the care of persons
343 with an intellectual disability and shall limit the size of such facilities to not more than 15 beds.

344 (3) The department in promulgating rules and regulations for long-term care facilities
345 shall consider the ability of long-term care facilities to provide service under rates set pursuant to
346 section 13C of chapter 118E. No such rule or regulation shall apply to a long-term care facility
347 licensed at the time of promulgation of such rule or regulation, or a long-term care facility being
348 constructed at the time of such promulgation under plans approved by the department, unless
349 such rule or regulation has a direct and material relation to patient diet, cleanliness, nursing care
350 or health, or to habilitative services and active treatment for persons with an intellectual
351 disability or persons with related conditions; provided, however, that nothing herein contained

352 shall be interpreted to prevent the department from adopting or interpreting rules and regulations
353 more favorable toward existing long-term care facilities.

354 (b)(1) The department or its agents and the board of health or its agents of the city or
355 town wherein any portion of such long-term care facility is located may visit and inspect such
356 institution at any time; provided, that a board of health or its agents conducting an inspection of a
357 long-term care facility located within its city or town shall notify the department of the results of
358 any inspection conducted pursuant to this paragraph.

359 (2) Any person making an inspection pursuant to paragraph (1) shall record in writing
360 every violation of the applicable rules and regulations of the department that they discover
361 during the course of their inspection. Every record of inspection shall be treated as a public
362 record except to such extent the record or a portion thereof is expressly exempt from such
363 treatment pursuant to clause Twenty-sixth of section 7 of chapter 4. A record of inspection
364 containing violations shall be made public by the department at the same time that a written plan
365 of correction is submitted. If a written plan of correction is not submitted within the allowable
366 time, said violations shall be made public at the expiration of the allowable time. Inspections
367 hereunder shall be unannounced and made at such intervals as the department shall specify in its
368 rules and regulations; provided, that, each long-term care facility shall be subject to not less than
369 1 periodic, resident-centered inspection per year pursuant to subsection (b) of section 71. A visit
370 made to a facility for the purpose of providing consultation shall not be considered to be an
371 inspection.

372 (c) The superior court shall have jurisdiction in equity to enforce the rules and regulations
373 promulgated pursuant to this section.

374 (d)(1) The department shall promulgate regulations for the operation of small house
375 nursing homes. Newly constructed small house nursing homes shall house no more than 14
376 individuals per unit, in resident rooms that accommodate not more than 1 resident per room;
377 provided, however, that if a resident requests to share a room with another resident to
378 accommodate a spouse, partner, family member or friend, such resident room shall have
379 sufficient space and equipment, as established by the department, for 2 residents; provided,
380 further, that determinations to grant such requests shall be determined based on space and
381 availability of rooms. All resident rooms shall contain a full private and accessible bathroom.

382 (2) The department shall promulgate regulations for construction and physical plant
383 standards for small house nursing homes that shall consider environmental standards and
384 sustainability.

385 (3) The department may promulgate regulations for small house nursing homes for a
386 staffing model that: (i) allows for a universal worker approach to resident care that is organized
387 to support and empower all staff to respond to the needs and desires of residents, including, but
388 not limited to, cooking and meal preparation, without exceeding the lawful scope of practice of
389 said employee; and (ii) provides for consistent staff in each small house nursing home.

390 (4) The regulations promulgated pursuant to this subsection shall ensure the convalescent
391 or nursing home meets the requirements necessary to be eligible to participate in both the
392 Medicare and Medicaid programs.

393 SECTION 4. Said chapter 111 is hereby further amended by striking out section 72E and
394 inserting in place thereof the following section:-

395 Section 72E. (a) The department shall, after every inspection by its agent pursuant to
396 section 72, provide the licensee of the inspected long-term care facility notice in writing of every
397 violation of the applicable statutes, rules and regulations found during said inspection. With
398 respect to the date by which the licensee shall remedy or correct each violation, the department
399 in such notice shall specify a reasonable time, not more than 60 days after receipt, by which time
400 the licensee shall remedy or correct each violation cited or, in the case of any violation which in
401 the opinion of the department is not reasonably capable of correction within 60 days, the
402 department shall require only that the licensee submit a written plan for the timely correction of
403 the violation in a reasonable manner. The department may modify any nonconforming plan upon
404 notice, in writing, to the licensee.

405 (b) Failure to remedy or correct a cited violation by the correct by date shall be cause to
406 pursue or impose the remedies or sanctions available to the department pursuant to this chapter,
407 unless the licensee demonstrates to the satisfaction of the department or a court, where
408 applicable, that such failure was not due to any neglect of its duty and occurred despite an
409 attempt in good faith to make correction by the correct by date. An aggrieved licensee may
410 pursue the remedies available to it pursuant to chapter 30A.

411 (c) If the department determines the licensee failed to maintain substantial or sustained
412 compliance with applicable state and federal laws, rules and regulations, in addition to imposing
413 any of the other remedies or sanctions available to it, the department may require the licensee to
414 engage, at the licensee's own expense, a temporary manager to assist the licensee with bringing
415 the facility into substantial compliance and with sustaining such compliance. Such temporary
416 manager shall be subject to the department's approval; provided, that such approval shall not be
417 unreasonably withheld. Any such engagement of a temporary manager shall be for a period of

418 not less than 3 months and shall be pursuant to a written agreement between the licensee and the
419 management company. A copy of said agreement shall be provided by the licensee to the
420 department promptly after execution. Any payment terms included in the agreement shall be
421 confidential and exempt from disclosure pursuant to clause Twenty-sixth of section 7 of chapter
422 4 and chapter 66.

423 (d) Nothing in this section shall be construed to prohibit the department from enforcing a
424 statute, rule or regulation, administratively or in court, without first affording formal opportunity
425 to make correction pursuant to this section, where, in the opinion of the department, the violation
426 of such statute, rule or regulation jeopardizes the health or safety of residents or the public or
427 seriously limits the capacity of a licensee to provide adequate care, or where the violation of such
428 statute, rule or regulation is the second such violation occurring during a period of 12 full
429 months.

430 SECTION 5. Section 72K of said chapter 111, as appearing in the 2022 Official Edition,
431 is hereby amended by striking out subsection (b) and inserting in place thereof the following 2
432 subsections:-

433 (b) The attorney general may file a civil action against a person who: (i) commits abuse,
434 mistreatment or neglect of a patient or resident; (ii) misappropriates patient or resident property;
435 or (iii) wantonly or recklessly permits or causes another to commit abuse, mistreatment or
436 neglect of a patient or resident or misappropriate patient or resident property. The civil penalty
437 for such abuse, mistreatment, neglect or misappropriation shall not exceed: \$25,000 if no bodily
438 injury results; \$50,000 if bodily injury results; \$100,000 if sexual assault or serious bodily injury
439 results; and \$250,000 if death results. Section 60B of chapter 231 shall not apply to an action

440 brought by the attorney general pursuant to this section. Nothing in this section shall preclude the
441 filing of any action brought by the attorney general or a private party pursuant to chapter 93A or
442 any action by the department pursuant to this chapter. The comptroller shall deposit not less than
443 50 per cent of any amount secured by the attorney general as a result of a civil action brought
444 pursuant to this section into the Long-Term Care Workforce and Capital Fund established in
445 section 35TTT of chapter 10.

446 (c) Notwithstanding section 5 of chapter 260, the attorney general may file a civil action
447 within 4 years next after an offense is committed.

448 SECTION 5A. Said chapter 111 is hereby further amended by inserting after section
449 72W, the following section:-

450 Section 72W½. (a) For the purposes of this section the following words shall, unless the
451 context clearly requires otherwise, have the following meanings:

452 “Certified medication aide,” an employee of a long-term care facility that satisfies
453 eligibility criteria established by the department and that has successfully completed the required
454 training and competency testing developed by the department to administer medications to
455 residents of long-term care facilities.

456 “Medication”, any non-narcotic, prescription or non-prescription drug that may be
457 administered via oral, sublingual, buccal, inhalation, spray on oral mucosa, topical, nasal, ocular,
458 or otic route.

459 (b) The department shall create a program for the certification, training and oversight of
460 certified medication aides who shall be authorized to administer medications to residents of long-

461 term care facilities. Certified medication aides shall be supervised by a licensed practical nurse, a
462 licensed registered nurse, a licensed advanced practice registered nurse or a licensed physician,
463 and shall be evaluated by their supervisor regularly, but not less than once every 6 months.

464 (c) The department, in consultation with the board of registration in nursing, shall
465 develop and approve training curricula, competency evaluation procedures and standards for
466 qualifications of applicants for certification; provided, that such standards shall include the
467 completion of not less than 60 hours of training on the proper administration of medication.

468 (d) The department shall establish regulations that include (i) provisions for continuing
469 education requirements, (ii) requirements for re-certification on a biennial basis, and (iii) fees for
470 the issuance of certifications.

471 (e) The department shall allow for the creation of apprenticeship programs for resident
472 care assistants and certified nurses' aides to become certified medication aides.

473 (f) Nothing in this section shall be construed to authorize certified medication aides to
474 engage in prescriptive practice.

475 (g) The department shall promulgate rules and regulations to carry out the provisions of
476 this section.

477 SECTION 6. Said chapter 111 is hereby further amended by inserting after section 72BB
478 the following 4 sections:-

479 Section 72CC. (a) The department shall require long-term care facilities to develop an
480 outbreak response plan which shall be customized to the long-term care facility. Each long-term
481 care facility's plan shall include, but shall not be limited to:

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

484 (2) clear policies for the notification of residents, residents' families, visitors and staff in
485 the event of an outbreak of a contagious disease at a long-term care facility;

486 (3) information on the availability of laboratory testing, protocols for screening visitors
487 and staff for the presence of a communicable disease, protocols to require infected staff to not
488 present at the long-term care facility for work duties and processes for implementing evidence-
489 based outbreak response measures;

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

492 (5) policies for reporting outbreaks to public health officials, including the chief
493 executive officer or the chief administrative officer of the municipality in which the facility is
494 located, in accordance with applicable laws and regulations; and

495 (6) policies to meet staffing, training and long-term care facility demands during an
496 infectious disease outbreak and to successfully implement the outbreak response plan.

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

499 (c)(1) Every long-term care facility shall review the outbreak response plan it submitted
500 to the department pursuant to subsection (a) on an annual basis.

501 (2) If a long-term care facility makes any material changes to its outbreak response plan,
502 the facility shall submit to the department an updated outbreak response plan within 30 days. The

503 department shall, upon receiving an updated outbreak response plan, verify that the plan is in
504 compliance with the requirements of subsection (a).

505 (d) The department shall promulgate regulations necessary to implement this section.

506 Section 72DD. (a) The division of health care facility licensure and certification shall
507 establish and implement a process and program for providing training and education to staff of
508 long-term care facilities licensed by the department pursuant to section 71. The training and
509 education program may include, but shall not be limited to: (i) infection prevention and control;
510 (ii) development, implementation, adherence and review of comprehensive resident care plans;
511 (iii) falls prevention; (iv) procedures to ensure timely notification of changes in a resident's
512 condition to the resident's primary care physician; (v) prevention of abuse and neglect; (vi)
513 development and implementation of a program to ensure staff safety; and (vii) review of the
514 inspection process established in section 72.

515 (b) The training and education program shall be interactive and shall include, but shall
516 not be limited to: (i) an annual training for long-term care facility supervisory and leadership
517 staff on the licensure and certification process, including, but not limited to, the department's
518 interpretation of the general laws and relevant changes or additions to applicable rules,
519 regulations, procedures and policies concerning the licensure and certification process for long-
520 term care facilities; and a (ii) biannual training of staff of long-term care facilities on the most
521 frequently cited deficiencies, identified deficiency trends, both state and federal, and best
522 practices to ensure resident quality of care.

523 (c) The department may consult with industry trade associations before issuing or
524 promulgating guidance, regulations, interpretations, program letters, memoranda or any other

525 materials used in inspector training for the inspection of long-term care facilities pursuant to
526 section 72.

527 Section 72EE. (a) The department shall promulgate regulations to encourage and enable
528 residents of a long-term care facility to engage in in-person, face-to-face, verbal or auditory-
529 based contact, communications and religious and recreational activities with others to the extent
530 that in-person contact, communication or activities are not prohibited, restricted or limited by
531 federal or state statute, rule or regulation. Said regulations shall include specific protocols and
532 procedures to provide for residents of the facility who have disabilities that impede their ability
533 to communicate, including, but not limited to, residents who are blind, deaf, have Alzheimer's
534 disease or other dementias and developmental disabilities.

535 (b) The department may distribute federal civil monetary penalty funds, subject to
536 approval by the federal Centers for Medicare and Medicaid Services, and any other available
537 federal and state funds, upon request, to facilities for communicative technologies and
538 accessories pursuant to this section.

539 Section 72FF. (a) The department, in consultation with the center for health information
540 and analysis, the division of medical assistance, the executive office of elder affairs and the
541 health policy commission, shall annually conduct an examination and report on cost trends and
542 financial performance among skilled nursing facilities. The information shall be analyzed on an
543 institution-specific and industry-wide basis. The examination shall aggregate information
544 collected on multiple skilled nursing facilities that are owned and operated by a single owner.

545 (b) The examination and report shall include, but shall not be limited to collection and
546 analysis of: (i) gross and net patient service revenues; (ii) other sources of operating and non-

547 operating revenue; (iii) trends in relative price, payer mix, case mix, utilization and length of
548 stay; (iv) affiliations with other health care providers, including, but not limited to, preferred
549 clinical relationships and partnerships; (v) categories of costs, including, but not limited to,
550 general and administrative costs, nursing and other labor costs and salaries, building costs,
551 capital costs and other operating costs; (vi) total spending on direct patient care as a percent of
552 total operating expenses; (vii) operating and total margin; (viii) occupancy rates and total
553 resident population; and (ix) any other relevant measures of financial performance and service
554 delivery the department deems necessary; provided, that these measures shall distinguish long-
555 term residents from short-stay residents where possible.

556 (c) Annually, not later than December 1, the report and any policy recommendations shall
557 be filed with the clerks of the house of representatives and the senate, the house and senate
558 committees on ways and means and the joint committee on elder affairs.

559 (d) The department shall utilize ownership information submitted as part of the long-term
560 care facility licensure determination process pursuant to section 71 to determine affiliations
561 between skilled nursing facilities and other health care providers as required.

562 SECTION 7. Said chapter 111 is hereby further amended by striking out section 73 and
563 inserting in place thereof the following section:-

564 Section 73. (a) Whoever advertises, announces, establishes or maintains, or is concerned
565 in establishing or maintaining, a long-term care facility, or otherwise is engaged in any such
566 business without a license granted pursuant to section 71, or whoever being licensed pursuant to
567 said section 71 violates any provision of sections 71 to 73, inclusive, shall for a first offense be

568 punished by a fine of not more than \$1,000, and for a subsequent offense by a fine of not more
569 than \$2,000 or by imprisonment for not more than 2 years.

570 (b) Whoever violates any rule or regulation promulgated pursuant to sections 71, 72 and
571 72C shall be punished by a fine, not to exceed \$500. If any person violates any such rule or
572 regulation by allowing a condition to exist which may be corrected or remedied, the department
573 shall order such person, in writing, to correct or remedy such condition. If such person fails or
574 refuses to comply with such order by the correct by date, each day after the correct by date
575 during which such failure or refusal to comply continues shall constitute a separate offense. A
576 failure to pay the fine imposed by this section shall be a violation of this subsection.

577 SECTION 8. Section 25 of chapter 118E of the General Laws, as appearing in the 2022
578 Official Edition, is hereby amended by inserting after the word “provided.”, in line 61, the
579 following 2 sentences:- In the case of an incompetent applicant or member that requires long-
580 term care services, the division shall authorize a deduction from the applicant or member’s
581 income for guardianship fees and related expenses when the appointment of a guardian is
582 essential to enable an incompetent applicant or member to gain access or consent to medical
583 treatment. The division shall authorize a deduction for the reasonable costs, as approved by the
584 probate and family court, associated with: (i) the appointment of a guardian; (ii) the guardian’s
585 services during the application process; and (iii) the guardian’s services during the
586 redetermination process; provided, however, that said deduction shall not exceed, in any case,
587 \$1,500.

588 SECTION 9. Said chapter 118E is hereby further amended by adding the following 2
589 sections:-

590 Section 83. To establish Medicaid rates for skilled nursing facilities licensed pursuant to
591 section 71 of chapter 111, the division of medical assistance shall use as base year costs for rate
592 determination purposes the reported costs of the calendar year not more than 2 years prior to the
593 current rate year.

594 Section 84. (a) The division of medical assistance shall establish a skilled nursing facility
595 rate add-on program for bariatric patient care and a rate add-on program for 1-on-1 staffing of at-
596 risk residents requiring 24-hour monitoring and supervision for their safety and the safety of
597 other residents and staff. The division of medical assistance shall identify at-risk resident
598 populations to include in the rate add-on program for 1-on-1 staffing which shall include, but not
599 be limited to, residents that: (i) have demonstrated suicidal ideation; (ii) have demonstrated
600 aggressive behavior toward other residents or staff; (iii) have demonstrated exit-seeking
601 behavior; or (vi) are registered sex offenders. The rate add-ons for said program shall be
602 sufficient to defray the cost of employing the required staff to conduct the 24-hour monitoring
603 and supervision of the at-risk residents.

604 (b) The division of medical assistance may develop an add-on to rate of payment for
605 skilled nursing facilities that develop small house nursing homes and meet criteria established by
606 the executive office.

607 SECTION 10. Subsection (c) of section 25 of chapter 176O of the General Laws, as
608 appearing in the 2022 Official Edition, is hereby amended by inserting after the second sentence
609 the following sentence:- The division shall develop and implement a uniform prior authorization
610 form for the admission of patients from an acute care hospital to a post-acute care facility or

611 transitioned to a home health agency certified by the federal Centers for Medicare and Medicaid
612 Services for covered post-acute care services.

613 SECTION 11. (a) For the purposes of this section, the following words shall have the
614 following meanings unless the context clearly requires otherwise:

615 “Enrollee”, as defined in section 8A of chapter 118E of the General Laws; provided, that
616 “enrollee” shall include “insured” as defined in section 1 of chapter 176O of the General Laws.

617 “Payer”, the group insurance commission under chapter 32A of the General Laws, the
618 division of medical assistance under chapter 118E of the General Laws, insurance companies
619 organized under chapter 175 of the General Laws, non-profit hospital service corporations
620 organized under chapter 176A of the General Laws, medical service corporations organized
621 under chapter 176B of the General Laws, health maintenance organizations organized under
622 chapter 176G of the General Laws and preferred provider organizations organized under chapter
623 176I of the General Laws, or a utilization review organization acting under contract with the
624 aforementioned entities.

625 “Post-acute care facility or agency”, any: (i) facility licensed under chapter 111 of the
626 General Laws to provide inpatient post-acute care services, including, but not limited to skilled
627 nursing facilities, long-term care hospitals, intermediate care facilities, or rehabilitation facilities;
628 or (ii) a home health agency certified by the federal Centers for Medicare and Medicaid Services.

629 (b) Notwithstanding any general or special law to the contrary, all payers shall approve or
630 deny a request for prior authorization for admission to a post-acute care facility or transition to a
631 post-acute care agency for any inpatient of an acute care hospital requiring covered post-acute
632 care services by the next business day following receipt by the payer of all necessary information

633 to establish medical necessity of the requested service. If the calendar day immediately following
634 the date of submission of the completed request is not a payer's business day, and the payer
635 cannot otherwise make a determination by the next calendar day, and the receiving post-acute
636 care facility or agency is both open to new admissions and has indicated that said facility or
637 agency will accept the enrollee, then prior authorization shall be waived; provided, that the payer
638 shall provide coverage and may begin its concurrent review of the admission on the next
639 business day; provided further, that the payer shall not retrospectively deny coverage for services
640 to an enrollee admitted to a post-acute care facility or transitioned to a post-acute care agency
641 after a waiver of prior authorization pursuant to this section unless the claim was a result of
642 fraud, waste or abuse. An adverse determination of a prior authorization request pursuant to this
643 section may be appealed by an enrollee or the enrollee's provider and such appeal, in the case of
644 an enrollee of a commercial payer, shall be subject to the expedited grievance process pursuant
645 to clause (iv) of subsection (b) of section 13 of chapter 176O of the General Laws. An enrollee
646 of an insurance program of the division of medical assistance or the enrollee's provider may
647 request an expedited appeal of an adverse determination of a prior authorization request. Nothing
648 in this section shall be construed to require a payer to reimburse for services that are not a
649 covered benefit.

650 (c) In the case of non-emergency transportation between an acute care hospital and a
651 post-acute care facility, payers shall approve or deny a request for prior authorization according
652 to the same process provided pursuant to subsection (b); provided, that once authorization has
653 been granted, said authorization shall be valid for not less than 7 calendar days following
654 approval.

655 (d) The division of insurance and the division of medical assistance shall issue sub-
656 regulatory guidance to effectuate the purposes of this subsection.

657 SECTION 12. (a) There shall be a task force to study and propose recommendations to
658 address acute care hospital throughput challenges and the impact of persistent delays in
659 discharging patients from acute to post-acute care settings. The task force shall examine: (i)
660 hospital discharge planning and case management practices; (ii) payer administrative barriers to
661 discharge; (iii) legal and regulatory barriers to discharge; (iv) efforts to increase public
662 awareness of health care proxies and the importance of designating a health care agent; (v) post-
663 acute care capacity constraints and additional opportunities to provide financial incentives to
664 increase capacity; (vi) administrative day rates and the cost to hospitals of discharge delays; (vii)
665 enhanced hospital case management practices and reimbursement for wraparound services; (viii)
666 the adequacy of post-acute care facility insurance networks and the establishment of an out-of-
667 network rate for post-acute care facilities; (ix) expanding MassHealth Limited coverage to
668 include post-acute and long-term care services; (x) the effectiveness of interagency coordination
669 to resolve complex case discharges; (xi) the adequacy of reimbursement rates of MassHealth and
670 commercial carriers for nonemergency medical transportation; (xii) opportunities to expand
671 coverage and reimbursement for services delivered by mobile integrated health programs
672 certified by the department of public health and by participating providers in the federal Centers
673 for Medicare and Medicaid Services acute hospital care at home program; (xiii) alternative
674 transportation options for patients being discharged and transferred to post-acute care facilities or
675 home health agencies; and (xiv) the adequacy of state resources and infrastructure to place
676 complex case discharges in appropriate post-acute care settings, including, but not limited to,
677 patients with dementia diagnoses, geriatric patients with psychiatric diagnoses, patients with

678 behavioral health diagnoses, patients with substance use disorder diagnoses, justice-involved
679 patients, and patients who have been unable to find an appropriate placement for post-acute care
680 for 6 months or longer.

681 (b) The task force shall consist of: the secretary of health and human services, or a
682 designee, who shall serve as chair; the assistant secretary for MassHealth, or a designee; the
683 commissioner of mental health, or a designee; the attorney general, or a designee; the
684 commissioner of correction, or a designee; 1 sheriff appointed by the Massachusetts Sheriffs'
685 Association, Inc.; 1 member representing the division of the probate and family court department
686 of the trial court to be appointed by the chief justice of said division; and 10 members to be
687 appointed by the chair, 1 of whom shall be a representative of the Massachusetts Hospital
688 Association, Inc., 1 of whom shall be a representative of the Massachusetts Senior Care
689 Association, Inc., 1 of whom shall be a representative of the Home Care Alliance of
690 Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Academy of Elder
691 Law Attorneys, 1 of whom shall be a representative from the Massachusetts Ambulance
692 Association, Incorporated, 1 of whom shall be a representative from the Massachusetts
693 Association of Health Plans, Inc., 1 of whom shall be a representative from Blue Cross and Blue
694 Shield of Massachusetts, Inc., 1 of whom shall be a representative from an academic medical
695 center located in Worcester county, 1 of whom shall be a representative of an acute care hospital
696 located in Suffolk county and 1 of whom shall be a representative from an acute care hospital
697 designated by the health policy commission as an independent community hospital for the
698 purposes of 105 CMR 100.715(B)(2)(b).

699 (c) Not later than July 31, 2024, the task force shall submit its report, including its
700 recommendations or any proposed legislation necessary to carry out its recommendations, to the

701 clerks of the house of representatives and the senate, the house and senate committees on ways
702 and means and the joint committee on health care financing.

703 SECTION 13. The division of medical assistance shall study the cost and feasibility of
704 changes to the eligibility requirements for Medicaid long-term care services with the goal of
705 reducing the time applicants spend at acute care hospitals awaiting long-term care eligibility
706 determinations. The study shall consider: (i) improvements to the eligibility determination
707 process; (ii) establishing a rebuttable presumption of eligibility; (iii) guaranteeing payment for
708 long-term care services for up to 1 year regardless of eligibility status; and (iv) expanding the
709 undue hardship waiver criteria. The division of medical assistance shall seek input from the
710 Massachusetts Senior Care Association, Inc., the Massachusetts Academy of Elder Law
711 Attorneys and other interested stakeholders. The division of medical assistance shall submit a
712 report with the results of its study and policy recommendations to the clerks of the house of
713 representatives and the senate and the house and senate committees on ways and means, not later
714 than 180 days after the effective date of this act.

715 SECTION 13A. (a) There shall be a task force to evaluate the governance and regulatory
716 structure of rest homes in the commonwealth. The task force shall include, but shall not be
717 limited to, an examination of the following: (i) the licensing, regulatory, and reporting structure
718 for rest homes; (ii) an inventory of licensed rest homes and licensed rest home beds; (iii) the
719 location and service areas of existing rest homes; (iv) a review of rest home closures since 2015;
720 (v) a review of the recommendations implemented from the nursing facility task force report
721 issued pursuant to section 91 of chapter 41 of the acts of 2019; (vi) the feasibility of receiving
722 federal reimbursement for rest home expenses; and (vii) a review of the current rate structure for
723 rest homes compared to the actual cost of care to residents.

724 (b) The task force shall consist of the secretary of health and human services, or their
725 designee, who shall serve as chair; the secretary of elder affairs, or their designee; the
726 commissioner of public health, or their designee; the assistant secretary for MassHealth, or their
727 designee; the commissioner of the department of mental health, or their designee; the
728 commissioner of the department of transitional assistance, or their designee; the chairs of the
729 joint committee on elder affairs, or their designees; 1 person to be appointed by the minority
730 leader of the house of representatives; 1 person to be appointed by the minority leader of the
731 senate; and 5 members to be appointed by the governor, 1 of whom shall be a representative
732 from the Massachusetts Association of Residential Care Homes, Inc., 1 of whom shall be a
733 representative of LeadingAge Massachusetts, Inc., 1 of whom shall be a representative of
734 Massachusetts Senior Action Council, Inc., 1 of whom shall have direct care giver experience,
735 and 1 of whom shall have experience in health care administration and finance.

736 (c) The task force shall submit a report of its findings, including any recommendations or
737 proposed legislation necessary to carry out its recommendations, to the clerks of the house of
738 representatives and the senate and to the house and senate committees on ways and means, not
739 later than April 1, 2025.

740 SECTION 14. (a) The health policy commission shall conduct an analysis and issue a
741 report on the impact of the Medicare shared savings program and participating Medicare
742 accountable care organizations, hereinafter referred to as Medicare ACOs, on the financial
743 viability of long-term care facilities in the commonwealth and continued access to long-term care
744 facility services for Medicare patients. The analysis shall include, but not be limited to, an
745 examination of the following:

746 (i) the impact of Medicare ACOs on clinical eligibility decisions related to initial long-
747 term care facility placement and patient length of stay for Medicare ACO beneficiaries compared
748 to Medicare fee-for-service beneficiaries, including an analysis of the impact of length of stay on
749 quality outcomes including readmissions, functional status and patient experience;

750 (ii) the amount of payments Medicare ACOs have received from the federal government
751 from capitated, shared savings or other related initiatives and how those payments have been
752 utilized, or not, to enhance patient care and outcomes in long-term care facilities;

753 (iii) Medicare ACO practices related to patient care utilization controls and the financial
754 and quality care impact of these controls on beneficiaries in the acute and post-acute care system;
755 and

756 (iv) Medicare ACOs long-term care network adequacy.

757 (b) The health policy commission shall submit the report to the clerks of the house of
758 representatives and the senate, the house and senate committees on ways and means, the joint
759 committee on health care financing and the joint committee on elder affairs not later than
760 December 31, 2024.

761 SECTION 15. Notwithstanding any general or special law to the contrary, the division of
762 insurance shall develop the uniform prior authorization form for admission to a post-acute care
763 facility or transition to a home health agency for any inpatient of an acute care hospital requiring
764 covered post-acute care services pursuant to section 25 of chapter 176O of the General Laws, as
765 amended by section 10, not later than 90 days after the effective date of this act. The division of
766 insurance shall develop said uniform prior authorization form in consultation with the division of
767 medical assistance. The division of medical assistance, or any entity acting for the division of

768 medical assistance under contract, shall accept the uniform prior authorization form as sufficient
769 to request prior authorization for the requested service. All acute care hospitals shall use the
770 uniform prior authorization form to request prior authorization for coverage of post-acute care
771 services at a post-acute care facility or home health agency, and all payers, as defined in section
772 11, or entities acting for a payer under contract shall accept such form as sufficient to request
773 prior authorization for the requested service, not later than 30 days after the form has been
774 developed by the division of insurance.

775 SECTION 16. (a) For the purposes of this section, the terms “licensee” and “management
776 company” shall have the meanings as defined in section 71 of chapter 111 of the General Laws,
777 as amended by section 2.

778 (b) Pursuant to section 71 of chapter 111 of the General Laws, as amended by section 2, a
779 licensee who has entered into a contract with a management company prior to the effective date
780 of this act shall provide the department of public health with the necessary documentation and
781 materials for a determination by the department of the responsibility and suitability as described
782 in subsection (g) of said section 71 of said chapter 111 of the management company, prior to any
783 issuance of a renewed license; provided, however, that the department shall give a licensee
784 reasonable time to provide the department with the necessary documents and materials if the
785 licensee’s renewal date is within 90 days of the effective date of this act. A licensee’s failure to
786 comply with this section shall subject the licensee to the penalties established in section 73 of
787 said chapter 111, as amended by section 7.

788 SECTION 17. Pursuant to section 72CC of chapter 111 of the General Laws, as inserted
789 by section 6, each long-term care facility shall submit its outbreak response plan to the
790 department of public health not later than 180 days after the effective date of this act.

791 SECTION 18. The initial report required by section 72FF of chapter 111 of the General
792 Laws, as inserted by section 6, shall be filed with the clerks of the house of representatives and
793 the senate, the house and senate committees on ways and means and the joint committee on elder
794 affairs not later than 6 months after the effective date of this act.

795 SECTION 19. Section 11 is hereby repealed.

796 SECTION 20. Section 19 shall take effect 2 years after the effective date of this act.

797 SECTION 21. Section 83 of chapter 118E of the General Laws, as inserted by section 9,
798 shall take effect on October 1, 2025.