

HOUSE No. 5033

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2900) of the House Bill to improve quality and oversight of long-term care (House, No. 4193), reports recommending passage of the accompanying bill (House, No. 5033). August 28, 2024.

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**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 units; (B) dementia special care units; (C) degenerative neurological
49 units; (D) geriatric psychiatry units; (E) traumatic brain injury units; (F) in-house dialysis
50 treatment units; (G) behavioral health and substance use disorder units; and (H) bariatric patient
51 care units;

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

53 (iii) support innovative projects, including, but not limited to: (A) converting of sections
54 within skilled nursing facilities into affordable housing, veterans housing or assisted living units

55 to accommodate individual needs of residents; (B) converting multi-bed rooms to single
56 occupancy to enhance privacy and dignity; and (C) establishing voluntary skilled nursing facility
57 reconfigurations, including, but not limited to, providing financial incentives to reduce capacity
58 and balance supply and demand based on regional needs.

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

65 SECTION 2. Section 1 of chapter 19D of the General Laws, as appearing in the 2022
66 Official Edition, is hereby amended by inserting after the definition of “Assisted living
67 residence” or “Residence” the following 3 definitions:-

68 “Authorized medical professional”, an advanced practice registered nurse with
69 prescriptive authority, a physician assistant or a physician; provided, however, that an authorized
70 medical professional shall have been granted authority by a resident to issue care orders for the
71 resident.

72 “Basic health services”, certain services provided at an assisted living residence by
73 employees of the residence that are qualified to administer such services or a qualified third party
74 in accordance with a care order issued by an authorized medical professional; provided,
75 however, that such services shall include all of the following: (i) injections; (ii) the application or
76 replacement of simple non-sterile dressings; (iii) the management of oxygen on a regular and

77 continuing basis; (iv) specimen collection and the completion of a home diagnostic test,
78 including, but not limited to, warfarin, prothrombin or international normalized ratio testing and
79 glucose testing; provided, that such home diagnostic test or monitoring is approved by the United
80 States Food and Drug Administration for home use; and (v) application of ointments or drops.

81 “Care order”, a written order for basic health services issued by an authorized medical
82 professional.

83 SECTION 3. Said section 1 of said chapter 19D, as so appearing, is hereby further
84 amended by striking out the definition of “Elderly housing”.

85 SECTION 4. Said section 1 of said chapter 19D, as so appearing, is hereby further
86 amended by striking out the definition of “Skilled nursing care” and inserting in place thereof the
87 following definition:-

88 "Skilled nursing care", skilled services described in 130 CMR 456.409 or any successor
89 regulation.

90 SECTION 5. Section 2 of said chapter 19D, as so appearing, is hereby amended by
91 striking out clauses (v) and (vi) and inserting in place thereof the following 2 clauses:-

92 (v) provide services to residents in accordance with service plans developed through a
93 process by which employees of the residence discuss the service plan and the needs of the
94 resident with the resident and their representative or designee and ensure the consequences of a
95 decision, including any inherent risk, are understood by all parties; provided, however, that such
96 parties shall review the service plan periodically and consider changes in the resident's status and
97 the ability of the residence to respond accordingly and as set forth in section 12; provided

98 further, that if a resident is receiving basic health services, the staff of the residence shall consult
99 the resident's authorized medical professional when developing the resident's service plan;

100 (vi) coordinate and provide personal services, basic health services, where applicable, and
101 other services required under service plans as set forth in section 12;.

102 SECTION 6. Said chapter 19D is hereby further amended by striking out sections 3 to 6,
103 inclusive, as so appearing, and inserting in place thereof the following 4 sections:-

104 Section 3. (a) No person shall advertise, operate or maintain an assisted living residence
105 without the certification required under this chapter, including assisted living residences
106 sponsored by the following entities; provided, however, that the provisions of this chapter shall
107 not apply to entities for the original facilities and services for which said entities were originally
108 licensed or organized to provide: (i) convalescent homes, licensed nursing homes, licensed rest
109 homes, charitable homes for the aged or intermediate care facilities for persons with an
110 intellectual disability licensed pursuant to section 71 of chapter 111; (ii) hospices licensed
111 pursuant to the provisions of section 57D of said chapter 111; (iii) facilities providing continuing
112 care to residents, as those terms are defined by section 76 of chapter 93; (iv) congregate housing
113 authorized by section 39 of chapter 121B; (v) group homes or supported living programs
114 operating under contract with the department of mental health, the rehabilitation commission or
115 the department of developmental services; or (vi) housing operated for only those duly ordained
116 priests or for the members of the religious orders of the Roman Catholic church in their own
117 locations, buildings, residences or headquarters to provide care, shelter, treatment and medical
118 assistance for any of the said duly ordained priests or members of the said religious order.

119 (b) The provisions of this chapter shall not apply to any residential premises available for
120 lease by elderly or disabled individuals that is financed or subsidized in whole or in part by local,
121 state or federal housing programs established primarily to develop or operate housing rather than
122 to provide housing and personal services in combination; provided, however, that such premises
123 are not currently licensed under chapter 111.

124 Section 4. (a) The department shall issue a certification for a term of 2 years, and shall
125 renew for like terms, to any applicant whom the department determines meets the regulatory
126 requirements promulgated by the department in accordance with this chapter; provided, however,
127 that a certification shall be subject to corrective action, modification, suspension or revocation
128 for cause, as determined by the department. Such certification shall: (i) not be transferable or
129 assignable; (ii) be issued only to the person and for the premises named in the application; (iii)
130 indicate whether the residence has been approved to provide basic health services; and (iv)
131 indicate the certification's expiration date. The department shall issue a certificate, which shall
132 be posted by the residence in a conspicuous place on the approved premises and on the
133 residence's website.

134 (b) Upon applying for initial certification or renewal, an applicant shall pay the
135 department a fee based on the number of units at the assisted living residence, established by the
136 secretary of administration and finance pursuant to the provisions of section 3B of chapter 7;
137 provided, however, that a minimum fee shall be established notwithstanding the number of units
138 at the residence. No fees for initial certification or renewal shall be due from any provider for
139 assisted living units created under the United States Department of Housing and Urban
140 Development Assisted Living Conversion Program.

141 (c) If an application for renewal of a certification is filed not less than 30 days before the
142 expiration date, such certification shall not expire until the department notifies the sponsor that
143 the application for renewal has been denied.

144 (d) Applicants for initial certification shall file with the department an operating plan that
145 includes: (i) the number of units; (ii) the number of residents allowed per unit; (iii) the location
146 of resident units, common spaces and egresses by floor; (iv) the base fee to be charged for each
147 such unit; (v) the services to be offered, including basic health services, if applicable, and
148 arrangements for providing such services, including linkages with hospitals and nursing
149 facilities, if any; (vi) the number of staff to be employed; and (vii) other information the
150 department deems necessary.

151 (e) Residences may seek certification by the department to provide basic health services;
152 provided, however, that such residences shall offer all such basic health services defined in
153 section 1; and provided further, that residences offering basic health services shall not restrict
154 resident choice in the delivery of said services by third party providers. The residence shall
155 submit a revised operating plan to the department in the event of a change in the scope of basic
156 health services offered to residents. A residence seeking to provide basic health services shall
157 include in its operating plan: (i) a proposed administrative and operational structure to ensure the
158 safe and effective use of basic health services and meet the needs of its residents; and (ii) a
159 compliance plan to meet the requirements established under this chapter and promulgated
160 regulations, which shall include, but not be limited to: (A) staff qualifications and training; and
161 (B) effective policies and procedures to ensure the availability of adequate supplies necessary for
162 basic health services and the safe administration and secure storage of medications.

163 (f) Applicants and sponsors shall file material changes to the assisted living residence's
164 operating plan prior to the change's effective date and as may otherwise be required by the
165 department. A sponsor shall file annually on a date established by and on a form prescribed by
166 the department, a statement and a professional opinion prepared by a certified public accountant
167 or comparable reviewer indicating whether the assisted living residence is in sound fiscal
168 condition and is maintaining sufficient cash flow and reserves to meet the requirements of the
169 service plans established for its residents.

170 (g) Applicants for initial certification or renewal shall disclose the name and address of
171 each officer, director, trustee and limited partner or shareholder with not less than 5 per cent
172 interest in the assisted living residence and shall provide to the department documentation of the
173 history of each such individual or entity, including, but not limited to: (i) all multifamily housing,
174 assisted living residences or health care facilities in which the individual or entity has been an
175 officer, director, trustee or partner and, if applicable, evidence from the relevant regulatory
176 authority that said applicant has met criteria for licensure or certification; (ii) documentation of
177 any enforcement action against the applicant and, if applicable, evidence that the applicant has
178 corrected all cited deficiencies without revocation of licensure or certification; and (iii) any other
179 evidence, as determined by the department.

180 (h) The department may deny certification to an applicant who had an ownership interest
181 in an entity licensed under chapter 111, a licensed medical provider or a home health agency
182 certified under Title XVIII of the Social Security Act, as amended, that: (i) has been subject to a
183 patient care receivership action; (ii) has ceased to operate such an entity as a result of: (A)
184 suspension or revocation of license or certification; (B) receivership; or (C) a settlement
185 agreement arising from suspension or revocation of a license or certification; (iii) has a

186 settlement agreement in lieu of or as a result of subclause (B) of clause (ii); (iv) has been the
187 subject of a substantiated case of patient abuse or neglect involving material failure to provide
188 adequate protection or services for the resident in order to prevent such abuse or neglect; or (v)
189 has over the course of its operation been cited for repeated, serious and willful violations of rules
190 and regulations governing the operation of said entity that indicate a disregard for resident safety
191 and an inability to responsibly operate an assisted living residence.

192 Section 5. (a) The department or its authorized designee shall biennially review all
193 assisted living residences; provided, however, that an authorized designee shall not include
194 sponsors of assisted living residences.

195 (b) Prior to the issuance of the sponsor's initial certification, the department shall conduct
196 a review to determine whether an assisted living residence is compliant with this chapter;
197 provided, however, that the department may conduct such review of an assisted living residence
198 at any time the department has probable cause to believe that such assisted living residence is in
199 violation of a provision of this chapter or any regulation promulgated thereunder. Such review
200 shall include: (i) an inspection of every part of the common areas of the assisted living residence
201 and the living quarters of a resident with the resident's prior consent; (ii) an examination of the
202 operating plan; (iii) an examination of a resident's service plan and written progress reports with
203 the resident's consent; and (iv) resident satisfaction surveys. An inspector shall have authority to
204 confidentially and privately interview the sponsor, manager, staff and residents.

205 (c) Reviews of assisted living residences certified to provide basic health services shall
206 include an inspection of records associated with the provision of basic health services, a review
207 of residence employee qualifications and the residence's operating plan.

208 (d) Upon the completion of an annual or biennial review, the department shall prepare a
209 written report summarizing all pertinent information obtained during the review and shall not
210 disclose confidential or privileged information obtained in connection with such review. The
211 department shall promulgate rules and regulations necessary to ensure the sponsor receives such
212 report and, if applicable, has the opportunity to respond to and resolve any findings of
213 noncompliance prior to departmental enforcement action. Completed reports, responses and
214 notices of final action shall be made available to the public at the department during business
215 hours together with the responses of the applicants or the sponsors and said reports, responses
216 and notices of final action shall be posted on the website of the department.

217 Section 6. (a) If the department determines a sponsor or applicant has failed or refused to
218 comply with requirements established under this chapter or the regulations promulgated
219 thereunder, the department may: (i) deny an application for recertification; (ii) modify, suspend
220 or revoke a certification; or (iii) issue a fine of not more than \$500 for each day of such failure or
221 refusal to comply.

222 (b) Notice of enforcement action and a sponsor's right to an adjudicatory proceeding
223 shall be governed by the provisions of chapter 30A.

224 SECTION 7. Section 8 of said chapter 19D, as so appearing, is hereby amended by
225 striking out, in lines 14 and 15, the words "Any person who violates this subsection shall be
226 subject to" and inserting in place thereof the following words:- A violation of this subsection
227 shall constitute a violation of chapter 93A and shall be punishable by.

228 SECTION 8. Section 10 of said chapter 19D, as so appearing, is hereby amended by
229 striking out subsections (b) to (d), inclusive, and inserting in place thereof the following 9
230 subsections:-

231 (b) The sponsor of the assisted living residence may provide or arrange for the provision
232 of additional services, including: (i) barber and beauty services, sundries for personal
233 consumption and other amenities; (ii) local transportation for medical and recreational purposes;
234 (iii) assistance with and supervision of instrumental activities of daily living; (iv) assistance to
235 residents with accessing telehealth services; (v) basic health services for residents whose service
236 plan includes basic health services, in accordance with the requirements set forth within this
237 chapter, by personnel who meet standards for professional qualifications and training set forth in
238 regulations promulgated pursuant to this chapter; and (vi) ancillary services for health-related
239 care including, but not limited to, restorative therapies, podiatry, hospice care, home health or
240 other such services; provided, however, that such services shall be delivered by an individual
241 licensed to provide such care.

242 (c) No employee of an assisted living residence shall control or manage the funds or
243 property of an assisted living resident; provided, however, that if a resident is unable to manage
244 their funds or property, the assisted living residence shall arrange money management and other
245 financial arrangements with an independent party.

246 (d) A residence certified to provide basic health services may advertise, market and
247 otherwise promote offered services under this chapter and inform residents of the option to
248 directly procure such services from qualified third parties.

249 (e) The residence shall disclose to each resident through the assisted living residence's
250 residency agreement the fees associated with basic health services and shall review such fees
251 with the resident upon the implementation of and any revision to a service plan that includes
252 provision of basic health services. The residence shall notify residents of any changes in fees in
253 advance and in a timely manner. Residents who receive basic health services shall receive an
254 additional service plan review on a quarterly basis and shall have the opportunity to discontinue
255 receiving basic health services from the residence upon written notice to the residence and shall
256 not be charged a cancellation fee or a fee for services not provided due to discontinuation of the
257 services.

258 (f) The department, in consultation with the department of public health, shall promulgate
259 regulations governing the application, criteria for approval or disapproval of such application,
260 and ongoing oversight of residences that elect to offer basic health services authorized in this
261 section. The department may impose an annual fee on assisted living residences that offer basic
262 health services.

263 (g) To ensure patient safety and clinical competence in the application of subsections (d)
264 to (f), inclusive, the department and the department of public health shall establish operating plan
265 requirements for residences that opt to provide basic health services, including staff access to a
266 licensed practical nurse or registered nurse for consultation at all times; provided, however, that
267 the nurse shall not be required to be on the premises. The department shall make available
268 electronic copies of the required components of operating plans on the department's website and
269 shall conduct annual compliance reviews on the documentation created and maintained by
270 assisted living residences for an assisted living resident who received basic health services within
271 the previous 12-month period.

272 (h) No residence shall offer or provide basic health services without first being certified
273 by the department. If the department determines that a residence is offering basic health services
274 without certification, the department shall issue a fine of not more than \$1,000 per day.

275 (i) A residence shall report an incident involving basic health services that causes a
276 resident harm at the residence not later than 24 hours of said incident. The department shall
277 investigate said incidents and may, at the department's discretion, impose a fine or otherwise
278 take an enforcement action if the department determines that the basic health services resulted in
279 injury to a resident.

280 (j) The department shall establish criteria to evaluate the quality of basic health services
281 offered by a residence and shall annually publish its evaluation of residences on the department's
282 website. Such evaluation shall include history of incidents leading to an enforcement action by
283 the department pursuant to subsection (i).

284 SECTION 9. Section 11 of said chapter 19D, as so appearing, is hereby amended by
285 striking out, in lines 1 to 5, inclusive, the words "No assisted living residence shall admit any
286 resident who requires twenty-four hour skilled nursing supervision. No assisted living residence
287 shall provide, or admit or retain any resident in need of skilled nursing care unless all of the
288 following are the case" and inserting in place thereof the following words:- No assisted living
289 residence shall admit a resident who requires 24-hour skilled nursing supervision unless such
290 resident elects to receive basic health services from residences that are certified to provide such
291 services or from qualified third parties. No assisted living residence shall provide skilled nursing
292 care or admit or retain a resident in need of skilled nursing care unless such resident elects to
293 receive basic health services and the following criteria are met.

294 SECTION 10. Section 15 of said chapter 19D, as so appearing, is hereby amended by
295 striking out subsection (c) and inserting in place thereof the following subsection:-

296 (c) No assisted living residence shall discharge, discipline, discriminate against or
297 otherwise retaliate against an employee or resident who, in good faith, files a complaint with or
298 provides information to the department relative to what the employee or resident reasonably
299 believes is a violation of law, rule or regulation or poses a risk to public health or safety or
300 resident or staff well-being. An assisted living residence in violation of this section shall be liable
301 to the person retaliated against by a civil action for up to treble damages, costs and attorney's
302 fees in the event such violation shall be determined to be egregious or willful.

303 SECTION 11. Said chapter 19D is hereby further amended by adding the following
304 section:-

305 Section 19. The department shall promulgate regulations necessary to implement the
306 requirements of this chapter. Such regulations shall include the establishment of standards
307 concerning the education, training and experience of the managers and residence employees,
308 including service coordinators.

309 SECTION 12. Chapter 111 of the General Laws is hereby amended by striking out
310 section 71, as appearing in the 2022 Official Edition, and inserting in place thereof the following
311 section: -

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

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

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

320 “Cohorting”, the practice of grouping patients who: (i) are colonized or infected with the
321 same organism in order to confine their care to 1 area and prevent contact with other patients; or
322 (ii) are not colonized or infected with the same organism in order to confine their care to 1 area
323 and prevent contact with other patients.

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

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

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

331 “Intermediate care facility for persons with an intellectual disability”, any institution,
332 however named, that: (i) is conducted for charity or not for profit; (ii) is advertised, announced or
333 maintained for the purpose of providing rehabilitative services and active treatment to persons
334 with an intellectual disability or persons with related conditions, as defined in regulations
335 promulgated pursuant to Title XIX of the federal Social Security Act, Public Law 89-97; (iii) is

336 not both owned and operated by a state agency; and (iv) makes application to the department for
337 a license for the purpose of participating in the federal program established by said Title XIX.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

391 (4) The fee for a license to establish or maintain and operate a long-term care facility
392 shall be determined annually by the secretary of administration and finance pursuant to section
393 3B of chapter 7.

394 (c) The department shall not issue a license to establish or maintain an intermediate care
395 facility for persons with an intellectual disability unless the department determines that there is a
396 need for such a facility at the designated location; provided, however, that in the case of a facility
397 previously licensed as an intermediate care facility for persons with an intellectual disability in
398 which there is a change in ownership or transfer of operations, no such determination shall be

399 required; and provided further, that in the case of a facility previously licensed as an intermediate
400 care facility for persons with an intellectual disability in which there is a change in location, such
401 determination shall be limited to consideration of the suitability of the new location.

402 (d)(1) In the case of the transfer of facility operations of a long-term care facility, a
403 potential transferee shall submit a notice of intent to acquire to the department not less than 90
404 days prior to the proposed transfer date. The notice of intent to acquire shall be on a form
405 supplied by the department and shall be deemed complete upon submission of all information the
406 department requires on said form. The potential transferee shall be deemed responsible and
407 suitable upon the expiration of the 90-day period, or upon the expiration of said period as
408 extended, if the department fails to notify said potential transferee in writing of its decision
409 within the 90-day period or within the expiration of the extension period, whichever is
410 applicable.

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

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

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

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

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

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

432 (1) the criminal history of the applicant or the potential transferee, including its respective
433 owners and management companies, and, to the extent possible, the civil litigation history of the
434 applicant or potential transferee, including its respective owners and contracted management
435 companies, including litigation related to the operation of a long-term care facility, such as
436 quality of care, safety of residents or staff, employment and labor issues, fraud, unfair or
437 deceptive business practices and landlord-tenant issues; provided, however, that such criminal
438 and civil litigation history may include pending or other court proceedings in the commonwealth
439 and in any other state or federal jurisdiction. Any information obtained by the department
440 pursuant to this section that is related to criminal or civil litigation or otherwise protected from
441 public disclosure by federal or state law shall be confidential and exempt from disclosure under
442 clause Twenty-sixth of section 7 of chapter 4 and chapter 66;

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

447 (3) the history of the applicant or potential transferee, including its respective owners and
448 management companies, and if applicable, the involvement of private equity firms, in providing
449 quality long-term care in the commonwealth as measured by compliance with applicable quality
450 measures, statutes and regulations governing the operation of long-term care facilities; provided,
451 however, that applicable quality measures may include the Centers for Medicare and Medicaid
452 Services Quality Rating System; and

453 (4) the history of the applicant or potential transferee, including its respective owners and
454 management companies, and if applicable, the involvement of private equity firms, in providing
455 quality long-term care in states other than the commonwealth, if any, as measured by compliance
456 with the applicable quality measures, statutes and regulations governing the operation of long-
457 term care facilities in said states; provided, however, that applicable quality measures may
458 include the Centers for Medicare and Medicaid Services Quality Rating System.

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

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

467 (i) Each applicant, potential transferee and licensee shall maintain current records of all
468 information provided to the department. After the applicant, potential transferee or licensee
469 becomes aware of any change related to information it has provided or is required to provide to
470 the department, such person shall submit to the department written notice of the change as soon
471 as practicable and without unreasonable delay; provided, that any change in financial status shall
472 be provided to the department and shall include, but shall not be limited to, filing for bankruptcy,
473 any default under a lending agreement or under a lease, the appointment of a receiver or the
474 recording of any lien. Failure to provide timely notice of such change shall be subject to the
475 remedies or sanctions available to the department pursuant to this chapter.

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

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

482 (2) In its notification to the department and to inform the department's review, the
483 applicant, potential transferee or licensee shall provide the proposed management company's
484 name, contact information and any other information on the proposed management company and
485 its personnel that may be reasonably requested by the department, including, but not limited to,

486 information required pursuant to subsection (g). Upon a determination by the department that the
487 proposed management company is responsible and suitable to manage a long-term care facility,
488 the applicant, potential transferee or licensee may engage said company to manage the long-term
489 care facility.

490 (3) The applicant, potential transferee or licensee shall memorialize any such engagement
491 in a written agreement with the management company. Such written agreement shall include a
492 requirement that the management company and its personnel comply with all applicable federal,
493 state and local laws, regulations and rules. Promptly after the effective date of any such
494 agreement, the applicant, potential transferee or licensee shall provide to the department a copy
495 of the valid, fully executed agreement. Any payment terms included in the agreement shall be
496 confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and
497 chapter 66.

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

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

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

516 (2) Any applicant who is aggrieved, on the basis of a written disapproval of a certificate
517 of inspection by the head of the local fire department or by the office of public safety and
518 inspections of the division of occupational licensure, may, within 30 days from such disapproval,
519 appeal in writing to the division of occupational licensure. Failure to either approve or
520 disapprove within 30 days after a written request by an applicant shall be deemed a disapproval.
521 For certificates of inspection issued to convalescent or nursing homes by the bureau of health
522 care safety and quality within the department, an applicant may, within 30 days of disapproval of
523 a certificate of inspection, submit a written appeal to the department; provided, however, that
524 failure of the department to either approve or disapprove of a written appeal within 30 days of
525 the submission of such written appeal shall constitute a disapproval.

526 (3) If the division of occupational licensure or, where applicable, the department
527 approves the issuance of a certificate of inspection after an appeal, the certificate shall be issued
528 by the issuing agency. If the division of occupational licensure or, where applicable, the
529 department does not approve the issuance of a certificate of inspection, the applicant may appeal

530 to the superior court. Failure of said division or said department to either approve or disapprove
531 the issuance of a certificate of inspection within 30 days after receipt of an appeal shall be
532 deemed a disapproval. The department shall not issue a license until issuance of an approved
533 certificate of inspection, as required pursuant to paragraph (1).

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

537 (n)(1) For cause, the department may limit, restrict, suspend or revoke a license;
538 provided, however, that the department may temporarily suspend a license without a hearing if:
539 (i) the suspension is due to an emergency; and (ii) the department allows for a hearing on the
540 suspension in a reasonable timeframe.

541 (2) Grounds for cause on which the department may take action pursuant to paragraph (1)
542 shall include: (i) substantial or sustained failure or inability to provide adequate care to residents;
543 (ii) substantial or sustained failure to maintain compliance with applicable statutes, rules and
544 regulations; or (iii) the lack of financial capacity to maintain and operate a long-term care
545 facility.

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

548 (4) Suspension of a license may include suspending the license during a pending license
549 revocation action or suspending the license to permit the licensee a period of time, not less than
550 60 days, to terminate operations, and discharge and transfer all residents, if applicable.

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

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

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

564 (p) Notwithstanding any of the other provisions of this section, the department shall not
565 issue a license to establish or maintain and operate a long-term care facility to an applicant who
566 applies to the department for said license to establish or maintain and operate a convalescent or
567 nursing home unless the applicant for such license submits to the department a certificate that
568 each building to be occupied by residents of such convalescent or nursing home meets the
569 construction standards of the state building code, and is of at least type 1-B fireproof
570 construction; provided, however, that this subsection shall not apply in the instance of a transfer
571 of facility operations of a convalescent or nursing home whose license has not been revoked as
572 of the time of such transfer; and provided, further, that a public medical institution as defined in

573 section 8 of chapter 118E, which meets the construction standards as defined herein, shall not be
574 denied a license as a long-term care facility pursuant to this section because it was not of new
575 construction and designed for the purpose of operating a long-term care facility at the time of
576 application for a license to operate a long-term care facility. An intermediate care facility for
577 persons with an intellectual disability shall be required to meet the construction standards
578 established for such facilities by Title XIX of the Social Security Act, Public Law 89-97 and any
579 regulations promulgated pursuant thereto, and by regulations promulgated by the department.

580 (q) The department shall notify the secretary of elder affairs of the pendency of any
581 proceeding, public hearing or action to be taken pursuant to this section relating to any
582 convalescent or nursing home, rest home or charitable home for the aged. The department shall
583 notify the commissioner of the department of developmental services of the pendency of any
584 proceeding, public hearing or action to be taken pursuant to this section relating to any
585 intermediate care facility for persons with an intellectual disability.

586 (r) The department shall notify the clerks of the senate and house of representatives, the
587 joint committee on elder affairs and the senate and house committees on ways and means within
588 3 business days of being notified of a long-term care facility's decision to close pursuant to
589 department regulations.

590 SECTION 13. Said chapter 111 is hereby further amended by striking out section 72, as
591 so appearing, and inserting in place thereof the following section:-

592 Section 72. (a)(1) The department shall classify long-term care facilities and shall, after a
593 public hearing, promulgate rules and regulations for the conduct of such facilities. Rules and
594 regulations for long-term care facilities shall include, but not be limited to, minimum

595 requirements for medical and nursing care, the keeping of proper medical and nursing records,
596 uniform requirements for the handling of patient funds, minimum requirements relative to the
597 prevention and reparation of lost or damaged patient possessions, including personal clothing
598 and minimum requirements relative to facility sanitation.

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

603 (3) The department in promulgating rules and regulations for long-term care facilities
604 shall consider the ability of long-term care facilities to provide service under rates set pursuant to
605 section 13C of chapter 118E. No such rule or regulation shall apply to a long-term care facility
606 licensed at the time of promulgation of such rule or regulation, or a long-term care facility being
607 constructed at the time of such promulgation under plans approved by the department, unless
608 such rule or regulation has a direct and material relation to patient diet, cleanliness, nursing care
609 or health, or to habilitative services and active treatment for persons with an intellectual
610 disability or persons with related conditions; provided, however, that nothing herein contained
611 shall be interpreted to prevent the department from adopting or interpreting rules and regulations
612 more favorable toward existing long-term care facilities.

613 (4) The department may authorize specialized care units serving persons requiring
614 treatment for infectious diseases, isolation, strokes, degenerative neurological conditions,
615 traumatic brain injuries, in-house dialysis treatments, behavioral health treatments, substance use
616 disorder treatments, bariatric patient care and conditions requiring 24-hour or 1-on-1 patient

617 supervision. The department may promulgate rules and regulations to regulate the conduct of any
618 such specialized care units.

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

624 (2) Any person making an inspection pursuant to paragraph (1) shall record in writing
625 every violation of the applicable rules and regulations of the department that they discover
626 during the course of their inspection. Every record of inspection shall be treated as a public
627 record except to such extent the record or a portion thereof is expressly exempt from such
628 treatment pursuant to clause Twenty-sixth of section 7 of chapter 4. A record of inspection
629 containing violations shall be made public by the department at the same time that a written plan
630 of correction is submitted. If a written plan of correction is not submitted within the allowable
631 time, said violations shall be made public at the expiration of the allowable time. Inspections
632 hereunder shall be unannounced and made at such intervals as the department shall specify in its
633 rules and regulations; provided, that, each long-term care facility shall be subject to not less than
634 1 periodic, resident-centered inspection per year pursuant to subsection (b) of section 71. A visit
635 made to a facility for the purpose of providing consultation shall not be considered to be an
636 inspection.

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

639 (d)(1) The department shall promulgate regulations for the construction, physical plant
640 standards and operation of small house nursing homes. Newly constructed small house nursing
641 homes shall house no more than 14 individuals per unit, in resident rooms that accommodate not
642 more than 1 resident per room; provided, however, that if a resident requests to share a room
643 with another resident to accommodate a spouse, partner, family member or friend, such resident
644 room shall have sufficient space and equipment, as established by the department, for 2
645 residents; provided, further, that determinations to grant such requests shall be determined based
646 on space and availability of rooms. All resident rooms shall contain a full private and accessible
647 bathroom.

648 (2) The department shall promulgate regulations for construction and physical plant
649 standards for small house nursing homes that shall consider environmental standards and
650 sustainability.

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

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

660 SECTION 14. Said chapter 111 is hereby further amended by striking out section 72E, as
661 so appearing, and inserting in place thereof the following section:-

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

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

678 (c) If the department determines the licensee failed to maintain substantial or sustained
679 compliance with applicable state and federal laws, rules and regulations, in addition to imposing
680 any of the other remedies or sanctions available to it, the department may require the licensee to
681 engage, at the licensee's own expense, a temporary manager to assist the licensee with bringing

682 the facility into substantial compliance and with sustaining such compliance. Such temporary
683 manager shall be subject to the department's approval; provided, that such approval shall not be
684 unreasonably withheld. Any such engagement of a temporary manager shall be for a period of
685 not less than 3 months and shall be pursuant to a written agreement between the licensee and the
686 management company. A copy of said agreement shall be provided by the licensee to the
687 department promptly after execution. Any payment terms included in the agreement shall be
688 confidential and exempt from disclosure pursuant to clause Twenty-sixth of section 7 of chapter
689 4 and chapter 66.

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

697 SECTION 15. Section 72K of said chapter 111, as appearing in the 2022 Official Edition,
698 is hereby amended by striking out subsection (b) and inserting in place thereof the following 2
699 subsections:-

700 (b) The attorney general may file a civil action against a person who: (i) commits abuse,
701 mistreatment or neglect of a patient or resident; (ii) misappropriates patient or resident property;
702 or (iii) wantonly or recklessly permits or causes another to commit abuse, mistreatment or
703 neglect of a patient or resident or misappropriate patient or resident property. The civil penalty

704 for such abuse, mistreatment, neglect or misappropriation shall not exceed: \$25,000 if no bodily
705 injury results; \$50,000 if bodily injury results; \$100,000 if sexual assault or serious bodily injury
706 results; and \$250,000 if death results. Section 60B of chapter 231 shall not apply to an action
707 brought by the attorney general pursuant to this section. Nothing in this section shall preclude the
708 filing of any action brought by the attorney general or a private party pursuant to chapter 93A or
709 any action by the department pursuant to this chapter. The comptroller shall deposit not less than
710 50 per cent of any amount secured by the attorney general as a result of a civil action brought
711 pursuant to this section into the Long-Term Care Workforce and Capital Fund established in
712 section 35TTT of chapter 10.

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

715 SECTION 16. Said chapter 111 is hereby further amended by inserting after section
716 72W, the following section:-

717 Section 72W^{1/2}. (a) For the purposes of this section the following words shall, unless the
718 context clearly requires otherwise, have the following meanings:

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

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

726 (b) The department shall create a program for the certification, training and oversight of
727 certified medication aides who shall be authorized to administer medications to residents of long-
728 term care facilities. Certified medication aides shall be supervised by a licensed practical nurse, a
729 licensed registered nurse, a licensed advanced practice registered nurse or a licensed physician,
730 and shall be evaluated by their supervisor regularly, not less than once every 6 months.

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

735 (d) The department shall establish regulations that include: (i) provisions for continuing
736 education requirements; (ii) requirements for re-certification on a biennial basis; and (iii) fees for
737 the issuance of certifications.

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

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

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

744 SECTION 17. Said chapter 111 is hereby further amended by inserting after section
745 72BB the following 5 sections:-

746 Section 72CC. (a) The department shall require long-term care facilities to develop and
747 submit to the department an outbreak response plan, which shall be customized to the long-term
748 care facility. The department shall review such plan to ensure compliance with the requirements
749 under this section. Each long-term care facility's plan shall include, but shall not be limited to:

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

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

754 (3) information on the availability of laboratory testing, protocols for screening visitors
755 and staff for the presence of a communicable disease, protocols to prohibit infected staff from
756 appearing for work at the long-term care facility and processes for implementing evidence-based
757 outbreak response measures;

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

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

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

765 (b) The department shall verify that the outbreak response plans submitted by long-term
766 care facilities are in compliance with the requirements of subsection (a); provided, however, that

767 a long-term care facility shall review the outbreak response plan it submitted to the department
768 pursuant to subsection (a) on an annual basis and if it makes any material changes to such plan,
769 the facility shall submit to the department an updated outbreak response plan within 30 days of
770 making such change. The department shall, upon receiving an updated outbreak response plan,
771 verify that the plan is in compliance with the requirements of subsection (a).

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

774 (2) If a long-term care facility makes any material changes to its outbreak response plan,
775 the facility shall submit to the department an updated outbreak response plan within 30 days. The
776 department shall, upon receiving an updated outbreak response plan, verify that the plan is in
777 compliance with the requirements of subsection (a).

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

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

788 (b) The training and education program shall be interactive and shall include, but shall
789 not be limited to: (i) an annual training for long-term care facility supervisory and leadership
790 staff on the licensure and certification process, including, but not limited to, the department's
791 interpretation of the General Laws and relevant changes or additions to applicable rules,
792 regulations, procedures and policies concerning the licensure and certification process for long-
793 term care facilities; and (ii) a biannual training of staff of long-term care facilities on the most
794 frequently cited deficiencies, identified deficiency trends, both state and federal, and best
795 practices to ensure resident quality of care.

796 (c) The department may consult with industry trade associations before issuing or
797 promulgating guidance, regulations, interpretations, program letters, memoranda or any other
798 materials used in inspector training for the inspection of long-term care facilities pursuant to
799 section 72.

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

808 (b) The department may distribute federal civil monetary penalty funds, subject to
809 approval by the federal Centers for Medicare and Medicaid Services, and any other available

810 federal and state funds, upon request, to facilities for communicative technologies and
811 accessories pursuant to this section.

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

818 (b) The examination and report shall include, but shall not be limited to collection and
819 analysis of: (i) gross and net patient service revenues; (ii) other sources of operating and non-
820 operating revenue; (iii) trends in relative price, payer mix, case mix, utilization and length of
821 stay; (iv) affiliations with other health care providers, including, but not limited to, preferred
822 clinical relationships and partnerships; (v) categories of costs, including, but not limited to,
823 general and administrative costs, nursing and other labor costs and salaries, building costs,
824 capital costs and other operating costs; (vi) total spending on direct patient care as a percent of
825 total operating expenses; (vii) operating and total margin; (viii) occupancy rates and total
826 resident population; and (ix) any other relevant measures of financial performance and service
827 delivery the department deems necessary; provided, that these measures shall distinguish long-
828 term residents from short-stay residents where possible.

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

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

835 Section 72GG. (a) As used in this section the following words shall have the following
836 meanings unless the context clearly requires otherwise:

837 "Gender expression", the manner in which a person represents or expresses gender to
838 others, often through behavior, clothing, hairstyles, activities, voice or mannerisms.

839 "Gender identity" or "gender", a person's gender identity, appearance or behavior,
840 whether or not that gender identity, appearance or behavior is different from that traditionally
841 associated with the person's physiology or birth sex; provided, however, that gender identity
842 may be demonstrated through medical history, care or treatment of the gender identity, consistent
843 and uniform assertion of the gender identity or any other evidence that the gender identity is
844 sincerely held as part of a person's core identity; and provided further, that gender identity shall
845 not be asserted for any improper purpose.

846 "Gender-nonconforming", gender expression does not conform to stereotypical
847 expectations of such gender.

848 "Gender transition", a process in which a person begins to live according to that person's
849 gender identity, rather than the sex the person was assigned at birth, which may include changing
850 one's clothing, appearance, name or identification documents or undergoing medical treatments.

851 "HIV", human immunodeficiency virus.

852 "Intersex", a person whose sexual or reproductive anatomy or chromosomal pattern is not
853 consistent with typical definitions of male or female.

854 "LGBTQI", lesbian, gay, bisexual, transgender, questioning, queer and intersex.

855 "Long-term care facility staff", all individuals employed by, or contracted directly with, a
856 long-term care facility.

857 "Non-binary" describes a person whose gender identity falls outside of the traditional
858 gender binary structure of man and woman.

859 "Queer", a person whose gender expression, gender identity or sexual orientation does
860 not conform to dominant expectations or standards.

861 "Questioning", a person who is exploring or unsure about their own sexual orientation or
862 gender identity or expression.

863 "Sexual orientation", a person's romantic or sexual attraction to other people.

864 "Transgender", a person whose gender identity or gender expression differs from the birth
865 sex of that person.

866 (b) Except as provided in subsection (c), long-term care facilities and long-term care
867 facility staff shall not take any of the following actions based in whole or in part on a person's
868 actual or perceived sexual orientation, gender identity, gender expression, intersex status or HIV
869 status:

870 (i) denying admission to a long-term care facility, transferring or refusing to transfer a
871 resident within a facility or to another facility or discharging or evicting a resident from a
872 facility;

873 (ii) denying a request by residents to share a room;

874 (iii) where rooms are assigned by gender, assigning, reassigning or refusing to assign a
875 room to (A) a transgender resident other than in accordance with the transgender resident's
876 gender identity, unless at the transgender resident's request, or (B) a non-binary resident other
877 than in accordance with the non-binary resident's preference;

878 (iv) prohibiting a resident from using or harassing a resident for using or seeking to use, a
879 restroom available to other persons of the same gender identity, regardless of whether the
880 resident is making a gender transition, has taken or is taking hormones, has undergone gender
881 affirmation surgery or presents as gender-nonconforming; provided, however, that for the
882 purposes of this clause, harassment shall include, but not be limited to, requiring a resident to
883 show identity documents to gain entrance to a restroom;

884 (v) repeatedly and intentionally failing to use a resident's chosen name or pronouns after
885 being informed of the chosen name or pronouns, in a manner that constitutes discrimination or
886 harassment in violation of any applicable federal, state or local law;

887 (vi) denying a resident the right to wear or be dressed in clothing, accessories or
888 cosmetics or to engage in grooming practices that are permitted to any other resident;

889 (vii) restricting a resident's right to associate with other residents or with visitors,
890 including the right to consensual sexual relations where sexual relations would not be restricted
891 if the participants were heterosexual or married;

892 (viii) denying or restricting medical or nonmedical care that is appropriate to a resident's
893 organs and bodily needs or providing such care that unduly demeans the resident or causes
894 avoidable discomfort or harm; or

895 (ix) refusing or willfully failing to provide any service, care or reasonable
896 accommodation to a resident or an applicant for services or care.

897 (c) The requirements of this section shall not apply to the extent that compliance with the
898 requirement is incompatible with any professionally reasonable clinical judgment or inconsistent
899 with 42 CFR § 483.15(c)(1), 42 CFR § 483.24 and 105 CMR 150.003.

900 (d) Each facility shall distribute a document containing the following notice alongside the
901 informational document required by section 72AA:

902 "[Name of facility] does not discriminate and does not permit discrimination by persons
903 employed by the facility including, but not limited to, abuse or harassment, on the basis of actual
904 or perceived sexual orientation, gender identity, gender expression, intersex status or HIV status
905 or based on association with another individual on account of that individual's actual or
906 perceived sexual orientation, gender identity, gender expression, intersex status or HIV status.
907 You may file a complaint with the office of the long-term care ombudsman, [provide current
908 contact information] if you believe you have experienced this kind of discrimination."

909 (e) Each long-term care facility shall ensure that resident records, including records
910 generated at the time of admission, include the resident's gender and the name and pronouns by
911 which the resident would like to be identified, as indicated by the resident.

912 (f) Unless expressly authorized by the resident or the resident's authorized representative,
913 long-term care facility staff not involved in providing direct care to a resident shall not be present
914 during physical examination of, or the provision of personal care to, that resident if the resident
915 is partially or fully unclothed.

916 (g) Transgender residents shall be provided access to such transition-related assessments,
917 therapy and treatments as have been recommended by the resident's health care provider,
918 including, but not limited to, transgender-related medical care, including hormone therapy and
919 supportive counseling, subject to availability and third-party medical coverage.

920 (h) LGBTQI-related programming, such as an LGBTQI Pride Month event or a
921 Transgender Day of Remembrance event, shall be allowed and treated equally to other cultural
922 celebrations or commemorations.

923 (i) The department shall promulgate regulations relative to discipline and penalties for
924 long-term care facilities that violate the requirements of this section or that employ a staff
925 member who violates the requirements of this section, which shall include, but not be limited to,
926 civil penalties and other administrative action. Nothing in this section shall be construed to limit
927 the ability of any party to bring a civil, criminal or administrative action for conduct constituting
928 a violation of any other provision of law.

929 (j) (1) A long-term care facility shall ensure that the long-term care facility staff receive
930 training, on at least a biennial basis, concerning:

931 (i) the care of LGBTQI older adults and older adults living with HIV; and

932 (ii) the prevention of discrimination based on sexual orientation, gender identity or
933 expression, intersex status and HIV status.

934 (2) The training required by this section shall include, but not be limited to:

935 (i) the definition of the terms commonly associated with sexual orientation, gender
936 identity and expression, intersex status and HIV status;

937 (ii) best practices for communicating with or about LGBTQI older adults and older adults
938 living with HIV and others who are LGBTQI or living with HIV, including the use of any name
939 and pronouns by which residents may express the desire to be identified;

940 (iii) a description of the health and social challenges historically experienced by LGBTQI
941 older adults and older adults living with HIV and others who are LGBTQI or living with HIV,
942 including discrimination when seeking or receiving care at long-term care facilities, and the
943 demonstrated physical and mental health effects within the LGBTQI community associated with
944 such discrimination;

945 (iv) strategies to create a safe and affirming environment for LGBTQI seniors and
946 residents living with HIV, including suggested changes to facility policies and procedures,
947 forms, signage, communication between residents and their families, activities and staff training
948 and in-services; and

949 (v) an overview of the provisions of this section.

950 (3) The department shall select an entity that has demonstrated expertise in creating safe
951 and affirming environments and identifying the legal, social and medical challenges faced by

952 LGBTQI older adults and older adults living with HIV and others who are LGBTQI or living
953 with HIV, who reside in long-term care facilities, to provide the training required by this section.

954 (4) Long-term care facility staff shall complete all training required by this section within
955 1 year of their date of hire unless the new hire provides the long-term care facility with
956 documentation demonstrating that they have completed equivalent training within the past 2
957 years.

958 (5) Each long-term care facility shall retain records documenting the completion of the
959 training required pursuant to this section by each administrator and staff member at the long-term
960 care facility. Compliance records shall be made available, upon request, to the department, the
961 executive office of health and human services and the office of the statewide long-term care
962 ombudsman.

963 (6) Each long-term care facility shall assume the cost of providing the training required
964 pursuant to this section.

965 (k) The commissioner and the secretary of health and human services shall adopt rules
966 and regulations as may be necessary to implement this section.

967 SECTION 18. Said chapter 111 is hereby further amended by striking out section 73, as
968 appearing in the 2022 Official Edition, and inserting in place thereof the following section:-

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

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

975 (b) Whoever violates any rule or regulation promulgated pursuant to sections 71, 72 and
976 72C shall be punished by a fine, not to exceed \$500, unless the department determines a higher
977 amount is appropriate in accordance with 42 CFR 488.438. If any person violates any such rule
978 or regulation by allowing a condition to exist which may be corrected or remedied, the
979 department shall order such person, in writing, to correct or remedy such condition. If such
980 person fails or refuses to comply with such order by the correct by date, each day after the
981 correct by date during which such failure or refusal to comply continues shall constitute a
982 separate offense. A failure to pay the fine imposed by this section shall be a violation of this
983 subsection.

984 SECTION 19. Section 28 of chapter 118E of the General Laws, as so appearing, is
985 hereby amended by adding the following paragraph:-

986 The division shall consider a transfer of assets by an individual age 65 or older or a
987 transfer made for the sole benefit of an individual age 65 or older into a trust pursuant to 42
988 U.S.C. 1396p(d)(4)(C), established for the sole benefit of said individual, to be a disposal of
989 resources for fair market value, to the extent that such resources shall be available, under any
990 circumstances, to be used by the trustee to provide goods and services to the individual, or to
991 reimburse such costs, at fair market value.

992 SECTION 20. Section 31 of said chapter 118E is hereby amended by striking out
993 subsection (b), as so appearing, and inserting in place thereof the following 2 subsections:-

994 (b) This subsection shall apply to estates of individuals dying on or after April 1, 1995
995 but not after July 31, 2024. There shall be no adjustments or recovery of medical assistance
996 correctly paid except as follows:

997 (1) Recovery from the Permanently Institutionalized: From the estate of an individual,
998 regardless of age, who was an inpatient in a nursing facility or other medical institution when
999 said individual received such assistance. Recovery of such assistance shall be limited to
1000 assistance provided on or after March 22, 1991.

1001 (2) Recovery from Persons Age 65 and Over: From the estate of an individual who was
1002 not less than 65 years of age when said individual received such assistance.

1003 (3) Recovery from Persons Age 55 and Over for Post–October 1, 1993 Medicaid: From
1004 the estate of an individual who was not less than 55 years of age when said individual received
1005 such assistance, where such assistance was for services provided on or after October 1, 1993.

1006 Recovery may be made only after the death of the surviving spouse, if any, and only at a
1007 time when such surviving spouse has no surviving child who is under 21 years of age or is blind
1008 or permanently and totally disabled. The division shall waive recovery if such recovery would
1009 work an undue hardship, as defined by the division in its regulations.

1010 (b½) This subsection shall apply to estates of individuals dying on or after August 1,
1011 2024. There shall be no adjustments or recovery of medical assistance correctly paid except for
1012 recovery from the estate of an individual who was:

1013 (i) regardless of age, a resident in a nursing facility or other medical institution within the
1014 meaning of 42 U.S.C. 1396p(a)(1)(B)(i) when the individual received such assistance; provided,

1015 however, that recovery of such assistance shall be limited to assistance provided on or after
1016 March 22, 1991; or

1017 (ii) 55 years of age or older when the individual received such assistance, where such
1018 assistance was for services provided on or after October 1, 1993, but only for medical assistance
1019 consisting of nursing facility services, home and community-based services and related hospital
1020 and prescription drug services for which estate recovery is mandated under 42 U.S.C.
1021 1396p(b)(1)(B)(i) or other federal law.

1022 Any recovery may be made only after the death of the surviving spouse, if any, and only
1023 at a time when the individual has no surviving child who is: (i) under the age of 21; or (ii) an
1024 individual who is blind or an individual with a disability.

1025 SECTION 21. Said section 31 of said chapter 118E, as so appearing, is hereby further
1026 amended by adding the following subsection:-

1027 (e) Notwithstanding subsection (b^{1/2}), there shall be no adjustment or recovery of medical
1028 assistance correctly paid from the estate of an individual who was receiving such assistance
1029 under the CommonHealth program for adults with disabilities or for payment of personal care
1030 attendant services; provided, however, that the executive office shall seek federal authority, if
1031 required, to implement this subsection.

1032 SECTION 22. Said chapter 118E is hereby further amended by adding the following 2
1033 sections:-

1034 Section 83. To establish Medicaid rates for skilled nursing facilities licensed pursuant to
1035 section 71 of chapter 111, the division of medical assistance shall use as base year costs for rate

1036 determination purposes the reported costs of the calendar year not more than 2 years prior to the
1037 current rate year.

1038 Section 84. (a) The division of medical assistance shall establish a skilled nursing facility
1039 rate add-on program for bariatric patient care and a rate add-on program for 1-on-1 staffing of at-
1040 risk residents requiring 24-hour monitoring and supervision for their safety and the safety of
1041 other residents and staff. The division of medical assistance shall identify at-risk resident
1042 populations to include in the rate add-on program for 1-on-1 staffing which shall include, but not
1043 be limited to, residents that: (i) have demonstrated suicidal ideation; (ii) have demonstrated
1044 aggressive behavior toward other residents or staff; (iii) have demonstrated exit-seeking
1045 behavior; or (vi) are registered sex offenders. The rate add-ons for said program shall be
1046 sufficient to defray the cost of employing the required staff to conduct the 24-hour monitoring
1047 and supervision of the at-risk residents.

1048 (b) The division of medical assistance may develop an add-on to rate of payment for
1049 skilled nursing facilities that develop small house nursing homes and meet criteria established by
1050 the executive office.

1051 SECTION 23. Subsection (c) of section 25 of chapter 176O of the General Laws, as
1052 appearing in the 2022 Official Edition, is hereby amended by inserting after the second sentence
1053 the following sentence:- The division shall develop and implement a uniform prior authorization
1054 form for the admission of patients from an acute care hospital to a post-acute care facility or
1055 transitioned to a home health agency certified by the federal Centers for Medicare and Medicaid
1056 Services for covered post-acute care services.

1057 SECTION 24. (a) For the purposes of this section, the following words shall have the
1058 following meanings unless the context clearly requires otherwise:

1059 “Enrollee”, as defined in section 8A of chapter 118E of the General Laws; provided, that
1060 “enrollee” shall include “insured” as defined in section 1 of chapter 176O of the General Laws.

1061 “Payer”, the group insurance commission under chapter 32A of the General Laws, the
1062 division of medical assistance under chapter 118E of the General Laws, insurance companies
1063 organized under chapter 175 of the General Laws, non-profit hospital service corporations
1064 organized under chapter 176A of the General Laws, medical service corporations organized
1065 under chapter 176B of the General Laws, health maintenance organizations organized under
1066 chapter 176G of the General Laws and preferred provider organizations organized under chapter
1067 176I of the General Laws, or a utilization review organization acting under contract with the
1068 aforementioned entities.

1069 “Post-acute care facility or agency”, any: (i) facility licensed under chapter 111 of the
1070 General Laws to provide inpatient post-acute care services, including, but not limited to skilled
1071 nursing facilities, long-term care hospitals, intermediate care facilities, or rehabilitation facilities;
1072 or (ii) a home health agency certified by the federal Centers for Medicare and Medicaid Services.

1073 (b) Notwithstanding any general or special law to the contrary, all payers shall approve or
1074 deny a request for prior authorization for admission to a post-acute care facility or transition to a
1075 post-acute care agency for any inpatient of an acute care hospital requiring covered post-acute
1076 care services by the next business day following receipt by the payer of all necessary information
1077 to establish medical necessity of the requested service; provided, however, that no new
1078 admission may occur until the applicable pre-admission screening and resident review required

1079 pursuant to 42 CFR 483 is complete. If the calendar day immediately following the date of
1080 submission of the completed request is not a payer's business day, and the payer cannot
1081 otherwise make a determination by the next calendar day, and the receiving post-acute care
1082 facility or agency is both open to new admissions and has indicated that said facility or agency
1083 will accept the enrollee, then prior authorization shall be waived; provided, that the payer shall
1084 provide coverage and may begin its concurrent review of the admission on the next business day;
1085 provided further, that the payer shall not retrospectively deny coverage for services to an enrollee
1086 admitted to a post-acute care facility or transitioned to a post-acute care agency after a waiver of
1087 prior authorization pursuant to this section unless the claim was a result of fraud, waste or abuse.
1088 An adverse determination of a prior authorization request pursuant to this section may be
1089 appealed by an enrollee or the enrollee's provider and such appeal, in the case of an enrollee of a
1090 commercial payer, shall be subject to the expedited grievance process pursuant to clause (iv) of
1091 subsection (b) of section 13 of chapter 176O of the General Laws. An enrollee of an insurance
1092 program of the division of medical assistance or the enrollee's provider may request an expedited
1093 appeal of an adverse determination of a prior authorization request. Nothing in this section shall
1094 be construed to require a payer to reimburse for services that are not a covered benefit.

1095 (c) In the case of non-emergency transportation between an acute care hospital and a
1096 post-acute care facility, payers shall approve or deny a request for prior authorization according
1097 to the same process provided pursuant to subsection (b); provided, that once authorization has
1098 been granted, said authorization shall be valid for not less than 7 calendar days following
1099 approval.

1100 (d) The division of insurance and the division of medical assistance shall issue sub-
1101 regulatory guidance to effectuate the purposes of this subsection.

1102 SECTION 25. (a) There shall be a task force to study and propose recommendations to
1103 address acute care hospital throughput challenges and the impact of persistent delays in
1104 discharging patients from acute to post-acute care settings. The task force shall examine: (i)
1105 hospital discharge planning and case management practices; (ii) payer administrative barriers to
1106 discharge; (iii) legal and regulatory barriers to discharge; (iv) efforts to increase public
1107 awareness of health care proxies and the importance of designating a health care agent; (v) post-
1108 acute care capacity constraints and additional opportunities to provide financial incentives to
1109 increase capacity; (vi) administrative day rates and the cost to hospitals of discharge delays; (vii)
1110 enhanced hospital case management practices and reimbursement for wraparound services; (viii)
1111 the adequacy of post-acute care facility insurance networks and the establishment of an out-of-
1112 network rate for post-acute care facilities; (ix) expanding MassHealth Limited coverage to
1113 include post-acute and long-term care services; (x) the effectiveness of interagency coordination
1114 to resolve complex case discharges; (xi) the adequacy of reimbursement rates of MassHealth and
1115 commercial carriers for nonemergency medical transportation; (xii) opportunities to expand
1116 coverage and reimbursement for services delivered by mobile integrated health programs
1117 certified by the department of public health and by participating providers in the federal Centers
1118 for Medicare and Medicaid Services acute hospital care at home program; (xiii) alternative
1119 transportation options for patients being discharged and transferred to post-acute care facilities or
1120 home health agencies; and (xiv) the adequacy of state resources and infrastructure to place
1121 complex case discharges in appropriate post-acute care settings, including, but not limited to,
1122 patients with dementia diagnoses, geriatric patients with psychiatric diagnoses, patients with
1123 behavioral health diagnoses, patients with substance use disorder diagnoses, justice-involved

1124 patients and patients who have been unable to find an appropriate placement for post-acute care
1125 for 6 months or longer.

1126 (b) The task force shall consist of: the secretary of health and human services, or a
1127 designee, who shall serve as chair; the assistant secretary for MassHealth, or a designee; the
1128 commissioner of mental health, or a designee; the attorney general, or a designee; the
1129 commissioner of correction, or a designee; 1 sheriff appointed by the Massachusetts Sheriffs'
1130 Association, Inc.; 1 member representing the division of the probate and family court department
1131 of the trial court to be appointed by the chief justice of said division; and 10 members to be
1132 appointed by the chair, 1 of whom shall be a representative of the Massachusetts Hospital
1133 Association, Inc., 1 of whom shall be a representative of the Massachusetts Senior Care
1134 Association, Inc., 1 of whom shall be a representative of the Home Care Alliance of
1135 Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Academy of Elder
1136 Law Attorneys, 1 of whom shall be a representative from the Massachusetts Ambulance
1137 Association, Incorporated, 1 of whom shall be a representative from the Massachusetts
1138 Association of Health Plans, Inc., 1 of whom shall be a representative from Blue Cross and Blue
1139 Shield of Massachusetts, Inc., 1 of whom shall be a representative from an academic medical
1140 center located in Worcester county, 1 of whom shall be a representative of an acute care hospital
1141 located in Suffolk county and 1 of whom shall be a representative from an acute care hospital
1142 designated by the health policy commission as an independent community hospital for the
1143 purposes of 105 CMR 100.715(B)(2)(b).

1144 (c) Not later than July 31, 2025, the task force shall submit its report, including its
1145 recommendations or any proposed legislation necessary to carry out its recommendations, to the

1146 clerks of the house of representatives and the senate, the house and senate committees on ways
1147 and means and the joint committee on health care financing.

1148 SECTION 26. The division of medical assistance shall study the cost and feasibility of
1149 changes to the eligibility requirements for Medicaid long-term care services with the goal of
1150 reducing the time applicants spend at acute care hospitals awaiting long-term care eligibility
1151 determinations. The study shall consider: (i) improvements to the eligibility determination
1152 process; (ii) establishing a rebuttable presumption of eligibility; (iii) guaranteeing payment for
1153 long-term care services for up to 1 year regardless of eligibility status; and (iv) expanding the
1154 undue hardship waiver criteria. The division of medical assistance shall seek input from the
1155 Massachusetts Senior Care Association, Inc., the Massachusetts Academy of Elder Law
1156 Attorneys and other interested stakeholders. The division of medical assistance shall submit a
1157 report with the results of its study and policy recommendations to the clerks of the house of
1158 representatives and the senate and the house and senate committees on ways and means, not later
1159 than 180 days after the effective date of this act.

1160 SECTION 27. (a) There shall be a task force to evaluate the governance and regulatory
1161 structure of rest homes in the commonwealth. The task force shall include, but shall not be
1162 limited to, an examination of the following: (i) the licensing, regulatory and reporting structure
1163 for rest homes; (ii) an inventory of licensed rest homes and licensed rest home beds; (iii) the
1164 location and service areas of existing rest homes; (iv) a review of rest home closures since 2015;
1165 (v) a review of the recommendations implemented from the nursing facility task force report
1166 issued pursuant to section 91 of chapter 41 of the acts of 2019; (vi) the feasibility of receiving
1167 federal reimbursement for rest home expenses; and (vii) a review of the current rate structure for
1168 rest homes compared to the actual cost of care to residents.

1169 (b) The task force shall consist of the secretary of health and human services, or their
1170 designee, who shall serve as chair; the secretary of elder affairs, or their designee; the
1171 commissioner of public health, or their designee; the assistant secretary for MassHealth, or their
1172 designee; the commissioner of the department of mental health, or their designee; the
1173 commissioner of the department of transitional assistance, or their designee; the chairs of the
1174 joint committee on elder affairs, or their designees; 1 person to be appointed by the minority
1175 leader of the house of representatives; 1 person to be appointed by the minority leader of the
1176 senate; and 5 members to be appointed by the governor, 1 of whom shall be a representative
1177 from the Massachusetts Association of Residential Care Homes, Inc., 1 of whom shall be a
1178 representative of LeadingAge Massachusetts, Inc., 1 of whom shall be a representative of
1179 Massachusetts Senior Action Council, Inc., 1 of whom shall have direct care giver experience
1180 and 1 of whom shall have experience in health care administration and finance.

1181 (c) The task force shall submit a report of its findings, including any recommendations or
1182 proposed legislation necessary to carry out its recommendations, to the clerks of the house of
1183 representatives and the senate and to the house and senate committees on ways and means, not
1184 later than April 1, 2025.

1185 SECTION 28. (a) The health policy commission shall conduct an analysis and issue a
1186 report on the impact of the Medicare shared savings program and participating Medicare
1187 accountable care organizations, hereinafter referred to as Medicare ACOs, on the financial
1188 viability of long-term care facilities in the commonwealth and continued access to long-term care
1189 facility services for Medicare patients. The analysis shall include, but not be limited to, an
1190 examination of the following:

1191 (i) the impact of Medicare ACOs on clinical eligibility decisions related to initial long-
1192 term care facility placement and patient length of stay for Medicare ACO beneficiaries compared
1193 to Medicare fee-for-service beneficiaries, including an analysis of the impact of length of stay on
1194 quality outcomes including readmissions, functional status and patient experience;

1195 (ii) the amount of payments Medicare ACOs have received from the federal government
1196 from capitated, shared savings or other related initiatives and how those payments have been
1197 utilized, or not, to enhance patient care and outcomes in long-term care facilities;

1198 (iii) Medicare ACO practices related to patient care utilization controls and the financial
1199 and quality care impact of these controls on beneficiaries in the acute and post-acute care system;
1200 and

1201 (iv) Medicare ACOs long-term care network adequacy.

1202 (b) The health policy commission shall submit the report to the clerks of the house of
1203 representatives and the senate, the house and senate committees on ways and means, the joint
1204 committee on health care financing and the joint committee on elder affairs not later than June 1,
1205 2025.

1206 SECTION 29. (a) There shall be a special legislative commission established pursuant to
1207 section 2A of chapter 4 of the General Laws to study oversight of continuing care retirement
1208 communities to protect the consumer and financial rights of residents.

1209 (b) The commission shall consist of: the chairs of the joint committee on elder affairs,
1210 who shall serve as co-chairs; the attorney general or a designee; the secretary of elder affairs or a
1211 designee; the commissioner of public health or a designee; 3 persons to be appointed by the

1212 governor, 1 of whom shall be a certified public accountant or an actuary and 2 of whom shall be
1213 residents at a continuing care retirement community; a representative of the Massachusetts
1214 chapter of National Academy of Elder Law Attorneys; a representative of LeadingAge
1215 Massachusetts, Inc.; a representative of Massachusetts Assisted Living Association, Inc.; a
1216 representative of AARP Massachusetts; a representative of the Alzheimer's Association; a
1217 representative of Massachusetts Advocates for Nursing Home Reform, Inc.; a representative of
1218 the Massachusetts Life Care Residents' Association, Inc.; a representative of Massachusetts
1219 Senior Care Association, Inc.; and a representative of Local 1199 SEIU. The commission shall
1220 meet not less than 6 times and shall hold not less than 1 public hearing.

1221 (c) The commission shall study and report on: (i) continuing care retirement
1222 communities, their care contracts and their impact on consumers; (ii) the financial viability of
1223 such communities; (iii) the payment and return of entrance fees at such communities; (iv)
1224 statutory and regulatory oversight of such communities, including any activities by state agencies
1225 to enforce regulatory requirements; (v) advertising practices communicated to potential residents
1226 and families about such communities; and (vi) regulatory procedures for the closure or change of
1227 ownership of such communities.

1228 (d) The commission shall submit a report with recommendations, including legislation or
1229 regulations necessary to carry out such recommendations, to the clerks of the house of
1230 representatives and the senate, the joint committee on elder affairs and the senate and house
1231 committees on ways and means not later than August 1, 2025.

1232 SECTION 30. (a) The department of public health shall study and report on the need and
1233 feasibility of qualified professional guardians to give informed medical consent for indigent

1234 persons and whether such guardians would reduce hospital discharge issues and increase access
1235 to long-term care and preventive care; provided, however, that the report shall include, but not be
1236 limited to: (i) the need for qualified professional guardians to assist indigent persons with
1237 accessing appropriate medical care, including preventive care; (ii) data on the current number of
1238 Rogers guardians and similar guardians and the financial impact of reimbursing such guardians;
1239 (iii) the fiscal impact of establishing MassHealth fee-for-service guardians; (iv) consideration of
1240 the benefits to an individual and cost to the commonwealth of deducting from an applicant for
1241 MassHealth or a MassHealth member's income for guardianship fees and related expenses when
1242 the appointment of a guardian is essential to enable an applicant or member to gain access or
1243 consent to medical treatment and an estimation of reasonable costs for such a deduction; and (v)
1244 other recommendations deemed necessary by the department.

1245 (b) Not later than July 31, 2025, the department shall submit its report, including any
1246 proposed legislation necessary to carry out its recommendations, to the clerks of the senate and
1247 house of representatives, the senate and house committees on ways and means and the joint
1248 committee on elder affairs.

1249 SECTION 31. (a) There shall be a task force to review the viability and sustainability of
1250 long-term care facilities in the commonwealth.

1251 (b) The task force shall consist of: the secretary of health and human services, who shall
1252 serve as chair; the secretary of elder affairs or a designee; commissioner of public health or a
1253 designee; 4 persons to be appointed by the governor, 1 of whom shall represent long-term care
1254 facilities, 1 of whom shall operate an assisted living residence, 1 of whom shall represent
1255 residents of long-term care facilities in the commonwealth and 1 of whom shall be health care

1256 economist; a representative of LeadingAge Massachusetts, Inc., a representative of Local 1199
1257 SEIU; a representative of Massachusetts Association of Residential Care Homes, Inc.; a
1258 representative of the Massachusetts Senior Action Council, Inc.; and a representative of
1259 Massachusetts Senior Care Association, Inc.

1260 In making appointments, the governor shall, to the maximum extent feasible, ensure that
1261 the task force represents a broad distribution of diverse perspectives and geographic regions.

1262 (c) In making recommendations, the task force shall consider issues including, but not
1263 limited to: (i) the demand for long-term care facilities over the next 5 and 10 years and the ability
1264 to meet that demand in a cost-effective manner; (ii) the geographic accessibility of such
1265 facilities; (iii) staffing challenges and workforce initiatives to support such facilities including,
1266 but not limited to, childcare; (iv) the utilization of pharmacists and other health care providers in
1267 long-term care; (v) any policy reforms to strengthen long-term care in the commonwealth
1268 including, but not limited to, maintaining quality of care; (vi) the adequacy of payor rates; (vii)
1269 costs and impacts of financing for facility construction and maintenance including, but not
1270 limited to, private equity and real estate investment trusts; and (viii) costs associated with
1271 transportation options to and from facilities for individuals.

1272 (d) The task force shall submit its report, recommendations and any proposed legislation
1273 necessary to carry out its recommendations to the clerks of the senate and house of
1274 representatives, the joint committee on health care financing, the joint committee on elder affairs
1275 and the senate and house committees on ways and means not later than July 31, 2025.

1276 SECTION 32. (a) Notwithstanding any general or special law to the contrary, there shall
1277 be an assisted living residences commission to study and recommend policies to ensure assisted

1278 living residences adequately meet the health and safety needs of residents. The areas examined
1279 by the commission shall include, but not be limited to: (i) the current statutory and regulatory
1280 oversight of assisted living residences; (ii) assisted living best practices in other states; (iii) the
1281 impacts of licensing or certifying such residences; (iv) advertising practices of assisted living
1282 residences to potential residents and their families; (v) regulatory procedures for opening, closing
1283 or changing ownership of a residence, including determination of need processes and clustering
1284 of facilities; (vi) trends in incident reports made to the executive office of elder affairs and the
1285 long term care ombudsman's office and resolutions of such incidents; (vii) methods to provide
1286 transparency of information for potential consumers and family members researching and
1287 comparing residences; (viii) safety standards; (ix) existing consumer protections for residents in
1288 statutes and regulations; and (x) basic health services in residences.

1289 (b) The commission shall consist of: the secretary of elder affairs, who shall serve as
1290 chair; the commissioner of public health or a designee; the assistant secretary of MassHealth or a
1291 designee; the long term care ombudsman or a designee; the chairs of the joint committee on elder
1292 affairs; 1 member to be appointed by the senate president; 1 member to be appointed by the
1293 speaker of the house of representatives; 1 member to be appointed by the minority leader of the
1294 senate; 1 member to be appointed by the minority leader of the house of representatives; 3
1295 members to be appointed by the governor, 2 of whom shall be residents or family members of
1296 residents at an assisted living residence; a representative of the Massachusetts chapter of the
1297 National Academy of Elder Law Attorneys; a representative of LeadingAge Massachusetts, Inc.;
1298 a representative of the Massachusetts Assisted Living Association, Inc.; a representative of
1299 AARP Massachusetts; a representative of the New England chapter of the Gerontological
1300 Advanced Practice Nurses Association; a representative of the Massachusetts chapter of the

1301 Alzheimer’s Association; a representative of MassPACE, Inc.; and a representative of Greater
1302 Boston Legal Services, Inc. The commission shall meet not less than 5 times and shall hold at
1303 least 1 public hearing.

1304 (c) The commission shall file its report and recommendations, including any proposed
1305 legislation necessary to carry out its recommendations, to the clerks of the senate and house of
1306 representatives, the joint committee on elder affairs and the house and senate committees on
1307 ways and means not later than August 1, 2025.

1308 SECTION 33. (a) Each long-term care facility shall designate 2 employees, including 1
1309 employee representing management at the facility and 1 employee representing direct care staff
1310 at the facility, to receive in-person training required by section 72GG of chapter 111 of the
1311 General Laws within 6 months of the effective date of this section. The designated employees
1312 shall serve as points of contact for the long-term care facility regarding compliance with the
1313 provisions of this act and shall develop a general training plan for the facility. In the event a
1314 designated employee ceases to be employed by the facility, the facility shall designate another
1315 employee who is representative of the employee group represented by the former designee, who
1316 shall complete the in-person training required pursuant to this section, to serve as a point of
1317 contact for the facility regarding compliance with the provisions of this act and have joint
1318 responsibility for the facility's training plan.

1319 (b) All long-term care facility staff employed by a long-term care facility on the effective
1320 date of this act, other than an employee designated pursuant to subsection (a), shall complete the
1321 training required by section 72GG of chapter 111 of the General Laws within 1 year of the
1322 effective date of this section.

1323 SECTION 34. (a) For the purposes of this section, “payer” shall mean the group
1324 insurance commission under chapter 32A of the General Laws, the division of medical assistance
1325 under chapter 118E of the General Laws, insurance companies organized under chapter 175 of
1326 the General Laws, non-profit hospital service corporations organized under chapter 176A of the
1327 General Laws, medical service corporations organized under chapter 176B of the General Laws,
1328 health maintenance organizations organized under chapter 176G of the General Laws and
1329 preferred provider organizations organized under chapter 176I of the General Laws, or a
1330 utilization review organization acting under contract with the aforementioned entities.

1331 (b) Notwithstanding any general or special law to the contrary, the division of insurance
1332 shall develop the uniform prior authorization form for admission to a post-acute care facility or
1333 transition to a home health agency for any inpatient of an acute care hospital requiring covered
1334 post-acute care services pursuant to section 25 of chapter 176O of the General Laws, not later
1335 than 90 days after the effective date of this act. Said uniform prior authorization form shall state
1336 that no new admission to a nursing facility may occur until the applicable preadmission
1337 screening and resident review required under 42 CFR 483 is complete. The division of insurance
1338 shall develop said uniform prior authorization form in consultation with the division of medical
1339 assistance. The division of medical assistance, or any entity acting for the division of medical
1340 assistance under contract, shall accept the uniform prior authorization form as sufficient to
1341 request prior authorization for the requested service. All acute care hospitals shall use the
1342 uniform prior authorization form to request prior authorization for coverage of post-acute care
1343 services at a post-acute care facility or home health agency, and all payers or entities acting for a
1344 payer under contract shall accept such form as sufficient to request prior authorization for the

1345 requested service, not later than 30 days after the form has been developed by the division of
1346 insurance.

1347 SECTION 35. (a) For the purposes of this section, the terms “licensee” and “management
1348 company” shall have the meanings as defined in section 71 of chapter 111 of the General Laws.

1349 (b) Pursuant to section 71 of chapter 111 of the General Laws, a licensee who has entered
1350 into a contract with a management company prior to the effective date of this act shall provide
1351 the department of public health with the necessary documentation and materials for a
1352 determination by the department of the responsibility and suitability as described in subsection
1353 (g) of said section 71 of said chapter 111 of the management company, prior to any issuance of a
1354 renewed license; provided, however, that the department shall give a licensee reasonable time to
1355 provide the department with the necessary documents and materials if the licensee’s renewal date
1356 is within 90 days of the effective date of this act. A licensee’s failure to comply with this section
1357 shall subject the licensee to the penalties established in section 73 of said chapter 111.

1358 SECTION 36. Pursuant to section 72CC of chapter 111 of the General Laws, inserted by
1359 section 17, each long-term care facility shall submit its outbreak response plan to the department
1360 of public health not later than 180 days after the effective date of this act.

1361 SECTION 37. The initial report required by section 72FF of chapter 111 of the General
1362 Laws, inserted by section 17, shall be filed with the clerks of the house of representatives and the
1363 senate, the house and senate committees on ways and means and the joint committee on elder
1364 affairs not later than 6 months after the effective date of this act.

1365 SECTION 38. Section 24 is hereby repealed.

1366 SECTION 39. Section 23 of chapter 20 of the acts of 2021 is hereby repealed.

1367 SECTION 40. Sections 17 and 33 shall take effect 180 days after the effective date of this
1368 act.

1369 SECTION 41. Section 38 shall take effect 2 years after the effective date of this act.

1370 SECTION 42. Section 83 of chapter 118E of the General Laws, inserted by section 22,
1371 shall take effect on October 1, 2025.