

HOUSE No. 633

The Commonwealth of Massachusetts

PRESENTED BY:

Sally P. Kerans and Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to transparency and accountability in nursing homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>1/20/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/20/2023</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/7/2023</i>

HOUSE No. 633

By Representative Kerans of Danvers and Senator Jehlen, a joint petition (accompanied by bill, House, No. 633) of Sally P. Kerans, Patricia D. Jehlen and Ruth B. Balser relative to transparency and accountability in nursing homes. Elder Affairs.

The Commonwealth of Massachusetts

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

An Act relative to transparency and accountability in nursing homes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1.

2 Section 72 of chapter 111 of the General Laws, as most recently appearing in the 2020
3 Official Edition, is hereby amended, by inserting after said section 72, the following:

4 Section 72 ½. Financial Transparency and Consolidated Financial Report.

5 (a) (1) Commencing with fiscal years ending December 31, 2025, an organization that
6 operates, conducts, owns, manages, or maintains a nursing home or facilities licensed pursuant to
7 105 CMR 150.000 shall prepare and file with the office, at the times as the office shall require,
8 an annual consolidated financial report.

9 (2) The annual consolidated financial report required to be prepared pursuant to
10 paragraph (1) shall be reviewed by a certified public accountant in accordance with generally
11 accepted accounting principles and with the Financial Accounting Standards Board’s financial

12 reporting requirements, with financial statements prepared using the accrual basis. If the
13 organization has prepared an audit by a certified public accountant of its annual consolidated
14 financial report for any reason, that audit shall be filed with the office, and, in that instance, no
15 review of the consolidated financial report shall be necessary. The reviewed or audited report, as
16 applicable, shall, in addition to the requirements set forth in 105CMR 150.000 include, but not
17 be limited to, the following statements:

18 (A) A balance sheet detailing the assets, liabilities, and net worth at the end of its fiscal
19 year.

20 (B) A statement of income, expenses, and operating surplus or deficit for the annual fiscal
21 period, and a statement of ancillary utilization and patient census.

22 (C) A statement detailing patient revenue by payer, including, but not limited to,
23 Medicare, MassHealth, and other payers, and revenue center.

24 (D) A statement of cashflows, including, but not limited to, ongoing and new capital
25 expenditures and depreciation.

26 (E) A combined financial statement that includes all entities reported in the consolidated
27 financial report, unless the organization is prohibited from including a combined financial
28 statement in a consolidated financial report pursuant to a state or federal law or regulation or a
29 national accounting standard. When applicable, the organization must disclose to the office the
30 applicable state or federal law or regulation or national accounting standard.

31 (3) In addition to the consolidated financial report, the following information shall be
32 provided to the office as an attachment to the consolidated financial report:

33 (A) The financial information required by paragraph (2) of subdivision (a) from all
34 operating entities, license holders, and related parties in which the organization has an ownership
35 or control interest of 5 percent or more and that provides any service, facility, or supply to the
36 skilled nursing facility.

37 (B) A detailed document outlining a visual representation of the organization's structure
38 that includes both of the following:

39 (i) All related parties in which the organization has an ownership or control interest of 5
40 percent or more and that provides any service, facility, or supply to the skilled nursing facility.

41 (ii) Unrelated parties that provide services, facilities, or supplies to the skilled nursing
42 facility or facilities that are operated, conducted, owned, managed, or maintained by the
43 organization, including, but not limited to, management companies and property companies, and
44 that are paid more than two hundred thousand dollars (\$200,000) by the skilled nursing facility.

45 (b) The office shall post reports and related documents submitted pursuant to this section
46 to its internet website.

47 (c) Any report, document, statement, writing or any other type of record received, owned,
48 used, or retained by the office in connection with this section is a public record within the
49 meaning of section 7, clause 20th of chapter 4 of the Massachusetts General Laws and is subject
50 to disclosure pursuant to the Massachusetts Public Records Act, chapter 66 MGL.

51 (d) The office shall develop policies and procedures to outline the format of information
52 to be submitted pursuant to this section. The office shall determine if the information submitted
53 pursuant to subdivision (a) is complete, but shall not be required to determine its accuracy.

54 (e) For the purposes of this section, “related party” means a home offices; management
55 organizations; owners of real estate; entities that provide staffing, therapy, pharmaceutical,
56 marketing, administrative management, consulting, and insurance services; providers of supplies
57 and equipment; financial advisors and consultants; banking and financial entities; any and all
58 parent companies, holding companies, and sister organizations; and any entity in which an
59 immediate family member of an owner of those organizations has an ownership interest of 5
60 percent or more. “Immediate family member” includes spouse, natural parent, child, sibling,
61 adopted child, adoptive parent, stepparent, stepchild, stepsister, stepbrother, father-in-law,
62 mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent, and
63 grandchild.

64 (f) This section shall not apply to an organization that has no related parties as defined in
65 subdivision (e), except that the organization is required to submit a detailed document outlining a
66 visual representation of the organization’s structure as set forth in subparagraph (B) of paragraph
67 (3) of subdivision (a). Nothing in this section shall be construed to require a government entity
68 license holder, that is not a related party, to file a consolidated financial report for a nursing
69 home management company that operates under its license.

70 (h) Consistent with the reports and requirements required for subdivisions (a) to (e), all
71 information submitted pursuant to this section shall be accompanied by a report certification
72 signed by a duly authorized official of the health facility or of the health facility’s home office
73 that certifies that, to the best of the official’s knowledge and information, each statement and
74 amount in the accompanying report is believed to be true and correct.

75 SECTION 2.

76 The Office of the State Auditor shall have full access to all reports filed in accordance
77 with this section, and shall periodically report concerning the quality of care, financial practices,
78 and statewide oversight of Massachusetts skilled nursing facilities. Said report shall be filed with
79 the Joint Committee on Health Care Financing and the House and Senate Committees on Ways
80 and Means.