

HOUSE No. 789**The Commonwealth of Massachusetts**

PRESENTED BY:

Thomas M. Stanley

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

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

An Act to improve Massachusetts home care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/15/2025</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/28/2025</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/28/2025</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>1/28/2025</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/4/2025</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/4/2025</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/4/2025</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/5/2025</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/5/2025</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/7/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/11/2025</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/12/2025</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/13/2025</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/13/2025</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/14/2025</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/19/2025</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/24/2025</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/24/2025</i>

<i>Manny Cruz</i>	<i>7th Essex</i>	<i>2/28/2025</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/28/2025</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>2/28/2025</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>3/3/2025</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/5/2025</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>3/12/2025</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>3/12/2025</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>3/13/2025</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>3/13/2025</i>
<i>Amy Mah Sangiolo</i>	<i>11th Middlesex</i>	<i>4/7/2025</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>4/7/2025</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>4/14/2025</i>
<i>Mark D. Sylvia</i>	<i>10th Bristol</i>	<i>4/25/2025</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>5/5/2025</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>5/5/2025</i>
<i>Rita A. Mendes</i>	<i>11th Plymouth</i>	<i>5/5/2025</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>5/15/2025</i>
<i>Estela A. Reyes</i>	<i>4th Essex</i>	<i>5/15/2025</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>5/15/2025</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>5/15/2025</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>5/15/2025</i>
<i>Dennis C. Gallagher</i>	<i>8th Plymouth</i>	<i>5/15/2025</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>5/15/2025</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>5/15/2025</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>5/19/2025</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>6/3/2025</i>
<i>Kristin E. Kassner</i>	<i>2nd Essex</i>	<i>6/25/2025</i>

HOUSE No. 789

By Representative Stanley of Waltham, a petition (accompanied by bill, House, No. 789) of Thomas M. Stanley and others for legislation to create safe environments for home care workers and consumers. Elder Affairs.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act to improve Massachusetts home 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 111 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting after section 51K the following 3 sections:-

3 Section 51L. (a) For the purposes of this section and sections 51M and 51N, the
4 following words shall, unless the context clearly requires otherwise, have the following
5 meanings:-

6 “Home care agency”, a business, nonprofit organization or other entity engaged in
7 providing home care services to consumers in the consumers’ residence for compensation or any
8 entity or individual that represents itself as a home care agency by name, advertising or
9 presentments to the public or uses the terms “home care agency” or “home care” in the entity or
10 individual’s name; provided however, that "home care agency" shall not include any of the
11 following: (i) an entity operated by either the federal government or the commonwealth
12 providing home care services, (ii) an entity that limits its business to the provision of house

cleaning services, (iii) an Aging Service Access Points entity as defined in section 4B of chapter 19A, (v) a hospice program licensed under section 57D or (vi) a home health agency as defined in section 51K.

“Home care consumers”, an individual receiving home care services or any legal representative of such individual.

“Home care services”, supportive services provided to an individual in their residence to enable that individual to remain in their residence safely and comfortably, including, but not limited to, assistance with eating, toileting, dressing, bathing, transferring, ambulation and other activities of daily living, housekeeping, personal laundry and companionship. Home care services shall not include hospice services provided by an entity subject to licensure under section 57D or home health services provided by an entity subject to licensure under section 51K, services provided by a personal care attendant in the commonwealth’s personal care attendant program as defined in 130 CMR 422.000 or services provided under the MassHealth adult foster care program as defined in 101 CMR 351.00.

“Home care worker”, an individual employed by a home care agency who provides home care services to a consumer in the consumer’s residence.

“Personal care attendant”, an individual who provides consumer-directed personal care services to a consumer in the consumer’s residence, including, but not limited to, a person providing such services as defined under section 70 of chapter 118E.

“Secretary”, the secretary of health and human services.

(b) Unless otherwise expressly authorized by the secretary, no person shall establish, maintain, operate or hold oneself out as a home care agency without a home care agency license issued by the secretary and no organization or entity shall provide home care services, use the words "home care" to describe its services or establish, maintain, operate or hold itself out as a home care agency without a home care agency license issued by the secretary; provided, that licensure shall be required for home care agencies that directly employ home care workers or directly contract with a company who employs home care workers.

(c) The secretary shall issue for a term to be determined, and may renew for like terms, a home care agency license to any person or entity of any kind, other than a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, that: (i) the secretary deems responsible and suitable to establish or operate a home care agency, and (ii) meets the requirements of the executive office of health and human services established in accordance with the office's rules and regulations developed in consultation with the executive office of elder affairs and the department of public health as provided in subsection (e).

A home care agency license shall be subject to suspension, revocation or refusal to renew for cause. License application and renewal fees shall be established pursuant to section 3B of chapter 7.

The secretary may issue a provisional license for a term not to exceed 120 days to an applicant that has not previously operated home care services, or to a home care agency that is operating but is temporarily unable to meet applicable standards and requirements. If a provisional licensee has made significant progress towards meeting such requirements, the

secretary may renew the provisional license once for a period not to exceed 120 days from the expiration of the initial provisional license.

(d) The secretary may impose a fine on a person or entity that advertises, announces, establishes, or operates a home care agency without a license granted by the secretary. The secretary may impose a fine on a licensed home care agency that violates this section, or any rule or regulation promulgated hereunder. Each day during which a violation continues shall constitute a separate offense.

The secretary, in collaboration with the executive office of elder affairs and the department of public health, may conduct surveys and investigations to enforce compliance with this section.

(e) The secretary shall, in consultation with the executive office of elder affairs and the department of public health, promulgate rules and regulations for the licensing and conduct of a home care agency. In developing these rules and regulations, the secretary shall review all existing licensure, reporting and oversight requirements across the long-term care services and support system and other relevant state agencies, including the provider monitoring conducted by the Aging Services Access Points, to avoid duplication or conflicting requirements and to ensure that home care agency licensure processes align with the current licensure for home health agencies and with state oversight process already in place through the Aging Services Access Points and the nurse aide registry.

The regulations shall include, but shall not be limited to:

(i) background screening check requirements for all home care workers which may include: (1) Massachusetts criminal background checks, (2) state or county criminal history

screenings for each location outside of the commonwealth in which the home care professional is known to have lived or worked during the previous 5 years, (3) review of the federal Office of Inspector General List of Excluded Individuals/Entities, (4) review of the nurse aide registry, (5) applicable professional licensing board check and (6) for all home care professionals who will transport consumers, verification of auto insurance and driving records for a minimum of the previous 5 years;

(ii) minimum standards for consumer-specific service plans and contracts; provided, that the plans shall include: (1) a detailed description of services, including services the primary agency is subcontracting to another agency or provider, (2) a written unit rate and total cost of services, inclusive of any additional fees or deposits, and (3) contact information for consumer questions;

(iii) minimum coverage requirements for workers' compensation insurance and liability insurance;

(iv) maintenance of a payroll process that follows all state and federal labor and wage laws;

(v) annual and ongoing training and competency requirements for home care agency staff that are in direct contact with home care consumers; provided, that minimum training requirements shall include (1) confidentiality and privacy of home care consumer's rights, (2) infection control and communicable diseases, (3) handling of emergencies, including safety and falls prevention, (4) observation, reporting and documenting changes in consumer needs and environment, (5) identifying and reporting suspected abuse, neglect or theft, (6) understanding Alzheimer's disease and dementia, including person centered care, activities of daily living,

safety and dementia-related behaviors and communication and (7) wage theft. The trainings shall be culturally and linguistically competent for the trainee;

(vi) policies and procedures to ensure home care workers have safe working conditions, adequate training and a process for submitting complaints;

(vii) maintenance of an emergency preparedness plan;

(viii) meeting of quality metrics and standards to be set forth in the licensing regulations;

(ix) requirements and written processes for the timely reporting of home care consumer complaints;

(x) a suitability determination process; provided, that the process shall include, but not be limited to, requiring all applicants to attest to having sufficient financial capacity to provide ongoing care and services in compliance with state law and regulation; and

(xi) providing adequate equipment and supplies for home care workers.

(f)The secretary shall be responsible for licensing home care agencies. To accomplish the objectives set forth in this section, the secretary may coordinate and consult with the offices and agencies that are interested in matters pertaining to the delivery of home care services, including but not limited to: (1) the department of public health, (2) the executive office of elder affairs, (3) the department of consumer affairs and business regulation and (4) the department of public health. The responsibilities of the regulating agency shall include:

(i) reviewing and processing licensure applications, including a suitability review that ensures the applicant can meet the obligations and conditions of licensure, including:

118 (A) a review of the state disbarment list and federal Office of Inspector General List of
119 Excluded Individuals/Entities; and

120 (B) a competency review where all individuals with at least a 5 per cent ownership stake
121 in the home care agency shall submit the individuals' names, contact information, companies
122 where they have at least a 5 per cent ownership, any civil or criminal findings against said
123 individual, and a completed background check;

124 (ii) establishing a process for a change of ownership that includes advanced notice to
125 home care consumers and home care workers and a review by the regulating state agency to
126 determine if the new licensee can meet the obligations and conditions of licensure, including a
127 suitability review; provided, that home care agency licenses shall not be transferable;

128 (iii) working with other regulators to investigate and resolve complaints;

129 (iv) imposing fines on the licensee when determined to be appropriate;

130 (v) suspending or revoking licenses when determined to be appropriate;

131 (vi) posting a listing of licensed home care agencies on a publicly available webpage;

132 (vii) allowing for "deemed status" for licensure of home care agencies if an Aging
133 Service Access Points or MassHealth provider contract is in place;

134 (viii) establishing of quality metrics and standards for monitoring the licensed home care
135 agency performance, including reporting mechanisms for tracking performance; and

136 (ix) annual reporting by home care agencies, which may include reporting on quality
137 metrics and significant changes related to home care agency finances.

Section 51M. (a) The secretary, in consultation with the home care worker and consumer abuse stakeholder advisory committee establishing in subsection (b), MassHealth, the department of elder affairs, the department of public health and the PCA quality home care workforce council established pursuant to section 71 of chapter 118E, shall adopt minimum standards and procedures for addressing abusive treatment and bullying of Massachusetts home care workers, personal care attendants and home care consumers. The standards and procedures shall address physical, verbal and mental abuse either of or from individual home care consumers as well as any abusive treatment or bullying from home care consumer surrogates, family members, other caregivers and any others present in the home care consumers' household when the home care worker is providing home care services. The standards and procedures shall promote appropriate home care worker and home care consumer training and support and a safe and healthy work environment for home care workers, while recognizing the privacy rights of home care consumers, the role of personal care attendant consumer employers and that home care consumers may have a disruptive behavioral disorder underlying abuse behavior.

(b) There shall be a home care worker and consumer abuse stakeholder advisory committee that shall meet, study and make recommendations to the secretary relative to standards and procedures for addressing abusive treatment and bullying of home care workers, personal care attendants and home care consumers.

The advisory committee shall consist of the following 16 members: the secretary or a designee, who shall serve as chair; the assistant secretary for MassHealth or a designee; the secretary of elder affairs or a designee; the commissioner of public health or a designee; the chairs of the joint committee on elder affairs or their designees; and 10 persons to be appointed by the governor, 1 of whom shall be a personal care attendant, 1 of whom shall be a home care

161 agency direct care worker, 1 of whom shall be a consumer of personal care attendant services
162 who shall be a member of the PCA workforce council, 1 of whom shall be a consumer of home
163 care agency services, 1 of whom shall be a representative of the statewide independent living
164 council, 1 of whom shall be a representative of the Disability Law Center, Inc., 1 of whom shall
165 be a representative of the Massachusetts Home Care, Inc., 1 of whom shall be a representative of
166 the Home Care Aide Council, 1 of whom shall be a representative of the Home Care Alliance of
167 Massachusetts, Inc., and 1 of whom shall be a representative of the Massachusetts division of
168 1199SEIU. The members of the advisory committee shall serve without compensation.

169 The advisory committee shall submit a report containing initial findings and
170 recommendations, including drafts of proposed legislation or regulatory changes to carry out its
171 recommendations, by filing the same with the clerks of the senate and house of representatives,
172 the joint committee on elder affairs and the joint committee on public health. The advisory
173 committee shall continue to meet quarterly following submission of the report and until the
174 advisory committee votes to dissolve itself.

175 (c) The home care worker and consumer abuse stakeholder advisory committee shall
176 study and make findings and recommendations relative to the development and implementation
177 of minimum standards and procedures for addressing abusive treatment and bullying of
178 Massachusetts home care workers, personal care attendants and home care consumers. The
179 advisory committee's study, findings and recommendations shall include, but not be limited to:

180 (1) Reporting and debriefing, including best practices for standards and procedures for
181 home care workers and their home care consumers experiencing abusive treatment, bullying or
182 neglect to report abuse to the home care workers' employers or appropriate state entities,

including the PCA workforce council or MassHealth for personal care assistants, without retaliation and while retaining the right to report any criminal activity to law enforcement. The standards shall include, but not be limited to, best practices for a debriefing process for affected home care workers and home care consumers following violent acts.

(2) Tracking and record retention, including best practices for standards and procedures for the secretary to track and monitor reports of both home care worker abuse and reports of home care consumer abuse or neglect.

(3) Informing workers, including best practices for standards and procedures that would require employers of home care workers or other appropriate state entities, including the PCA workforce council or MassHealth for personal care assistants, to regularly inform home care workers of patterns of consumer or worker abuse or bullying that indicates a potentially unsafe working environment. The standards and procedures shall respect home care consumer privacy while prioritizing home care worker safety and while ensuring continuity of care.

(4) Training and employer policies, including best practices for standards and procedures for the secretary, in consultation with home care employers and other stakeholders, to develop and implement home care worker and home care consumer orientations and other trainings on: (i) worker abuse and bullying, (ii) escalation cycles and effective de-escalation techniques and (iii) culturally competent and peer-to-peer trainings and strategies to prevent physical harm with hands-on practice or role play. The training and employer policies shall also include best practices for home care employers to implement additional internal plans and procedures to: (A) reduce workplace violence and abuse, (B) offer resources to employees for coping with the effects of violence and (C) develop labor-management workplace safety committees. The

training and employer policies shall consider and avoid duplication of existing requirements and trainings in place through Aging Service Access Points.

Section 51N. (a) There is hereby established a home care oversight advisory council within the executive office of health and human services.

The advisory council shall advise the secretary relating to the regulations described in subsection (e) of section 51L. The executive office of health and human services shall consult with the advisory council on implementation of the home care agency licensure process outlined in section 51L. The advisory council may also conduct a review concurrently with the development of the home care agency licensure process to include, but not be limited to:

(i) the process of implementing the new home care agency licensure process in the commonwealth, including the creation of a provisional license to address identified gaps in home care services;

(ii) existing licensure, reporting and oversight requirements across the long-term care services and support systems and other relevant state agencies, including the provider monitoring conducted by the Aging Services Access Points, to avoid duplication and conflicting requirements;

(iii) home care agency licensure requirements in other states;

(iv) processes to ensure that the home care agency licensure process will align with licensure for home health agencies and with state oversight process already in place through the Aging Services Access Points, the home care worker registry established in section 4D of chapter 19A and the nurse aide registry established in section 72J;

(v) the development of a process for state government to conduct a statewide home care market analysis and report on current available home care services in all regions that may inform the regulating agency and the issuance of new home care agency licenses; and

(vi) any additional subjects that the home care oversight advisory council and the secretary deem necessary and appropriate.

(b) The advisory council shall be composed of the secretary or their designee, who shall serve as chair; the chairs of the joint committee on elder affairs or their designees; the secretary of elder affairs or their designee; the commissioner of public health or their designee; the assistant secretary for MassHealth or their designee; 1 person to be appointed by the minority leader of the house of representatives; 1 person to be appointed by the minority leader of the senate; and 4 persons to be appointed by the governor, 1 of whom shall be a representative of the Home Care Aide Council, 1 of whom shall be a representative of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a representative of Massachusetts Home Care, Inc. and 1 of whom shall be a representative of the Massachusetts division of 1199SEIU.

(c) The council shall meet quarterly. Upon the promulgation of regulations for home care agency licensure pursuant to subsection (e) of section 51L, the council may introduce a motion to dissolve by a majority vote of its members.

SECTION 2. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby amended by inserting after the word “thereof”, in line 21, the following words:- and an employer of a personal care attendant as defined in section 70 of chapter 118E, including individual consumers of a personal care attendant.

247 SECTION 3. The secretary of health and human services shall, in consultation with the
248 executive office of elder affairs and the department of public health, promulgate rules and
249 regulations for the licensing and conduct of a home care agency, as provided in subsection (e) of
250 section 51L of chapter 111 of the General Laws, within 1 year of the effective date of this act.

251 SECTION 4. The home care worker and consumer abuse stakeholder advisory committee
252 established in subsection (b) of section 51M of said chapter 111 shall meet at least monthly in
253 the first 6 months after the effective date of this act to develop initial findings and
254 recommendations. The advisory committee shall submit the report described in said subsection
255 (b) of said section 51M of said chapter 111 not later than 6 months after the effective date of this
256 act.

257 SECTION 5. Members of the home care oversight advisory council established in section
258 51N of said chapter 111 shall be named and the council shall commence its work within 60 days
259 of the effective date of this act.