

**SENATE . . . . . No. 1534**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul R. Feeney***

*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 protect the independence of clinical decision making.**

PETITION OF:

NAME:

*Paul R. Feeney*

DISTRICT/ADDRESS:

*Bristol and Norfolk*

**SENATE . . . . . No. 1534**

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By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1534) of Paul R. Feeney for legislation to protect the independence of clinical decision making. Public Health.

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**The Commonwealth of Massachusetts**

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

An Act to protect the independence of clinical decision making.

*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 112 of the General Laws is hereby amended by inserting after  
2 section 4 the following sections:-

3 Section 4A. (a) For the purposes of sections 4A and 4B, the following words shall have  
4 the following meanings:-

5 “Board of Registration in Medicine”, the board of registration in medicine established  
6 pursuant to section 10 of chapter 13.

7 “Board of Registration in Nursing”, the board of registration in nursing established  
8 pursuant to section 13 of chapter 13.

9 “Clinician”, a physician, nurse, physician assistant, psychologist, or independent clinical  
10 social worker, who is licensed to provide health services and registered in the commonwealth  
11 pursuant to chapter 112 to provide such services, and any other individual who is licensed to

12 provide health services and registered in the commonwealth pursuant to chapter 112 to provide  
13 such services.

14 “Clinician with independent practice authority”, a physician registered to practice  
15 medicine in the commonwealth or a nurse practitioner, psychiatric nurse mental health clinical  
16 specialist, or nurse anesthetist who is registered to practice medicine in the commonwealth and  
17 who has independent practice authority pursuant to sections 80E and 80J of said chapter 112.

18 “Management services organization,” a business that provides management or  
19 administrative services to a health care provider or provider organization for compensation.

20 “Health care practice”, a business, regardless of form, through which a clinician with  
21 independent practice authority licensed by the Board of Registration in Medicine or the Board of  
22 Registration in Nursing offers health services; provided, however, that health care practice shall  
23 not include any entity that holds a license issued by the department of public health pursuant to  
24 sections 51, 51M, 51N or 52 of chapter 111.

25 “Physician”, a doctor of medicine or doctor of osteopathy who is registered to practice  
26 medicine in the commonwealth pursuant to section 2 of chapter 112.

27 (b) A clinician with independent practice authority may practice at a health care practice  
28 that meets the following requirements: (1) the health care practice is wholly owned and  
29 controlled by one or more clinicians with independent practice authority who hold a certificate of  
30 registration that (i) is issued by the board of registration in medicine or the board of registration  
31 in nursing pursuant to the requirements of sections 2 and 80B of this chapter, and (ii) has not  
32 been suspended or revoked; or (2) the health care practice is conducted through a business  
33 organization formed as: (i) a professional corporation pursuant to chapter 156A; (ii) a nonprofit

34 organization, a nonprofit hospital services corporation organized under chapter 176A, a nonprofit  
35 medical services corporation organized under chapter 176B; (iii) a limited liability company  
36 organized under chapter 156C; provided, however, that there are no LLC provisions limiting or  
37 eliminating the licensee's liability for intentional tort or negligence; (iv) a partnership organized  
38 under chapter 108A, including, but not limited to, a registered limited liability partnership;  
39 provided, however, that the partnership has no provisions limiting or eliminating the licensee's  
40 liability for intentional torts or negligence; or (v) an organization similar to those organizations  
41 described in clauses (i) through (iv) of this subsection and organized under a comparable law of  
42 any other United States jurisdiction; organized under a comparable law of any other jurisdiction  
43 within the United States; provided, however, that all shares of the organization shall be owned by  
44 clinicians with independent practice authority.

45 (c) It shall constitute the unauthorized practice of medicine in violation of section 6 of  
46 this chapter for any person or entity to own a health care practice other than a clinician with  
47 independent practice authority who holds a certificate of registration that is issued by the board  
48 of registration in medicine or the board of registration in nursing pursuant to the requirements of  
49 sections 2 or 80B and has not been suspended or revoked. This section shall not apply to a health  
50 care facility or entity that holds a license issued by the department of public health pursuant to  
51 sections 51, 51M, 51N or 52 of chapter 111.

52 (d)(1) Nothing in this section shall prohibit a clinician with independent practice  
53 authority from practicing medicine as an employee of a health care facility or entity that holds a  
54 license issued by the department of public health pursuant to sections 51, 51M, 51N or 52 of  
55 chapter 111.

56 (2) An entity that provides compensation to one or more clinicians with independent  
57 practice authority, including, but not limited to a health care facility licensed pursuant to sections  
58 51, 51M, 51N or 51, shall not directly or indirectly interfere with, control, or otherwise direct the  
59 professional judgment or clinical decisions of such clinicians with independent practice  
60 authority. Conduct prohibited under this paragraph shall include, but not be limited to,  
61 controlling, either directly or indirectly through discipline, punishment, threats, adverse  
62 employment actions, coercion, retaliation or excessive pressure, regarding: (i) the amount of time  
63 spent with patients, including the time permitted to triage patients in the emergency department  
64 or evaluate admitted patients; (ii) the time period within which a patient must be discharged; (iii)  
65 decisions involving the patient's clinical status, including, but not limited to, whether the patient  
66 should be kept in observation status, whether the patient should receive palliative care and where  
67 the patient should be placed upon discharge; (iv) the diagnosis, diagnostic terminology or codes  
68 that are entered into the medical record; or (v) any other conduct the department of public health  
69 determines by regulation would interfere with, control or otherwise direct the professional  
70 judgement or clinical decisions of clinicians with independent practice authority. Such entities  
71 shall not limit the range of clinical orders available to clinicians either directly or by configuring  
72 the medical record to prohibit or significantly limit the clinical order options available.  
73 Nondisclosure or non-disparagement agreements regarding subsections (i) through (v), inclusive,  
74 between a clinician with independent practice authority and any person or entity shall be  
75 considered void and unenforceable. If a court of competent jurisdiction finds a policy, contract or  
76 contract provision void and unenforceable pursuant to this section, the court shall award the  
77 plaintiff reasonable attorney's fees and costs. Nothing in this section shall limit the ability of any

78 person to bring any action relating to defamation, disclosure of confidential or proprietary  
79 information or trade secrets or similar torts.

80 (e) All health care practices shall provide written certification that the health care practice  
81 meets the requirements in this section to the board of registration in medicine or the board of  
82 registration in nursing at the time of formation and on a biennial basis thereafter. If a practice's  
83 owners consist of individuals registered solely with the board of registration in medicine or the  
84 board of registration in nursing, the practice shall provide the certification to the applicable  
85 board. If the practice's owners consist of individuals registered with both boards, the practice  
86 shall provide the certification to the board of registration in medicine, which shall transmit a  
87 copy to the board of registration in nursing. Health care practices shall, at the time that such  
88 clinicians with independent practice authority are hired or affiliated with the practice and within  
89 30 days of providing certification to the applicable board pursuant to this section, provide a copy  
90 of the most recent certification to all clinicians with independent practice authority who: (i)  
91 engage in providing health services at the practice; and (ii) do not hold any ownership interest in  
92 the practice.

93 (f) All health care practices shall file with the applicable board a registration application  
94 containing such information as the board may reasonably require, including, but not limited to:  
95 (i) the identity of the applicant and of the clinicians with independent practice authority which  
96 constitute the practice; (ii) any management services organization under contract with the health  
97 care practice; (iii) a certified copy of the health care practice's certificate of organization, if any,  
98 as filed with the secretary of the commonwealth, or any applicable partnership agreement; (iv)  
99 the address of the health care practice; (v) the services provided by the health care practice; and  
100 (vi) any information the board, in consultation with the health policy commission and the center

101 for health information and analysis, deems relevant for the state health plan and focused  
102 assessments pursuant to section 22 of chapter 6D and the health care resources inventory  
103 pursuant to section 9 of chapter 12C. The application shall be accompanied by a fee in an amount  
104 to be determined pursuant to section 3B of chapter 7. All health care practices registered in the  
105 commonwealth shall renew their certificates of registration with the board every 2 years. The  
106 board shall share information relevant to the state health plan and focused assessments pursuant  
107 to section 22 of chapter 6D with the commission and information relevant to the health care  
108 resources inventory pursuant to section 9 of section 12C with the center.

109 (g) All health care practices with more than 1 clinician with independent practice  
110 authority that constitutes the practice shall designate a clinician with independent practice  
111 authority at the practice to serve as medical director; provided, however, that the designated  
112 clinician shall hold a certificate of registration that (i) is issued by the Board of Registration in  
113 Medicine or the Board of Registration in Nursing pursuant to the requirements of sections 2 or  
114 80B of this chapter that is not suspended or revoked; and (2) is present in the state and is  
115 substantially engaged in delivering care or managing the practice. The director shall be  
116 responsible for implementing policies and procedures to ensure compliance with local  
117 ordinances and state and federal statutes and regulations governing the practice of medicine or  
118 the practice of nursing, including regulations promulgated and policies established by the  
119 applicable board. The board may impose discipline against the licenses of the medical director  
120 and the clinicians with independent practice authority who own and control the health care  
121 practice for failure of the practice to comply with local ordinances and state and federal statutes  
122 and regulations governing the practice of medicine or the practice of nursing, including  
123 regulations promulgated and policies established by the applicable board.

124 (h) The board of registration in medicine and board of registration in nursing may  
125 promulgate regulations to establish minimum requirements for the conduct of a health care  
126 practice, including, but not limited to: (i) compliance with section 4A of chapter 112; (ii)  
127 maintenance and access to medical records; and (iii) in the event of a planned closure of the  
128 health care practice or an unplanned event that prevents the health care practice from continuing  
129 operations, the development of a continuity plan to: (1) ensure access to medical records, (2)  
130 provide notice to patients; and (3) assist patients with transitioning to a new provider. If a  
131 practice's owners consist of individuals registered solely with the board of registration in  
132 medicine or the board of registration in nursing, the practice shall comply with the applicable  
133 board's regulations. If the practice's owners consist of individuals registered with both boards,  
134 the practice shall comply with the regulations issued by the board of registration in medicine.  
135 Each board shall consult with the other when promulgating regulations.

136 Section 4B. (a) A health care practice shall maintain ultimate control over clinical  
137 decisions.

138 (b) A management services organization shall not exercise control over, or be delegated  
139 the power to do, any of the following: (i) owning or otherwise determining the content of patient  
140 medical records; (ii) selecting, hiring or firing any owner of or clinician associated with the  
141 health care practice based, in whole or in part, on clinical competency or proficiency; (iii) setting  
142 the parameters under which a practice shall enter into contractual relationships with third-party  
143 payers; (iiiv) setting the parameters under which a practice shall enter into contractual  
144 relationships with clinicians for the delivery of care; (iv) making final decisions regarding coding  
145 and billing procedures for patient care services; or (vi) approving the selection of medical  
146 equipment and medical supplies for the practice.

147 (c) A health care practice shall maintain ultimate decision-making authority over: (i)  
148 personnel decisions involving clinicians, including, but not limited to, employment status,  
149 compensation, hours or working conditions; (ii) coding or billing decisions; (iii) the selection and  
150 use of property, including, but not limited to, real property, medical equipment or medical  
151 supplies for the delivery of patient care services; (iv) the number of patients seen in a given  
152 period of time or the amount of time spent with each patient; (v) the appropriate diagnostic test  
153 for medical conditions; (vi) the use of patient medical records; and (vii) referral decisions.

154 (d) A violation of this section shall constitute the unauthorized practice of medicine in  
155 violation of section 6 or the unauthorized practice of nursing in violation of section 80E, 80H or  
156 80J. Any provision of a contract or agreement that has the effect of violating this section shall be  
157 void and unenforceable. If a court of competent jurisdiction finds a policy, contract or contract  
158 provision void and unenforceable pursuant to this section, the court shall award the plaintiff  
159 reasonable attorney's fees and costs.

160 (e) The department of public health shall promulgate regulations to effectuate the  
161 purposes of this section.