SENATE DOCKET, NO. 1386 FILED ON: 1/16/2025

SENATE . . . . . No. 154

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 establishing guardians as providers of medical care to support the rights of incapacitated persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Joan B. Lovely	*Second Essex*	
Vanna Howard	*17th Middlesex*	*3/4/2025*
Dylan A. Fernandes	*Plymouth and Barnstable*	*3/27/2025*

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SENATE . . . . . No. 154

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 154) of Joan B. Lovely and Vanna Howard for legislation to establish guardians as providers of medical care to support the rights of incapacitated persons. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *108* OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act establishing guardians as providers of medical care to support the rights of incapacitated persons.

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

SECTION 1. Section 8 of chapter 118E of the General Laws is hereby amended by striking out paragraph (f) and inserting in place thereof the following paragraph:-

“Provider", includes any institution, agency, individual or other legal entity (i) qualified under the laws of the commonwealth to perform the medical care or services for which medical assistance and medical benefits are available under this chapter or (ii) that is duly appointed (or recognized, if appointed elsewhere) under the laws of the commonwealth as guardian of a member who is eligible for medical assistance under this chapter while engaged in activities that are reasonably related to consenting or gaining access to medical care or services for the member. Provided, however, that no person who is a spouse, parent, child, or sibling of the

member (hereinafter, an “immediate family relationship”) shall be included in the definition of Provider herein.

SECTION 2. Section 13C of chapter 118E of the General Laws is hereby amended by striking out the second paragraph and inserting in its place the following paragraph:-

The secretary of the executive office shall establish rates of payment for social service programs which are reasonable and adequate to meet the costs which are incurred by efficiently and economically operated social service program providers in providing social service programs in conformity with federal and state law, regulations and quality and safety standards; provided, that the secretary may designate another governmental unit to perform such ratemaking functions. When establishing rates of payment for social service programs and guardians, the secretary of the executive office shall adjust rates to take into account factors, including, but not limited to: (i) the reasonable cost to social service program providers or guardians of any existing or new governmental mandate that has been enacted, promulgated or imposed by any branch of government, governmental unit or federal governmental authority; (ii) rates customarily charged by professional guardians in the region of the commonwealth; (iii) a cost adjustment factor to reflect changes in reasonable costs of goods and services of social service programs including those attributed to inflation; and (iv) geographic differences in wages, benefits, housing and real estate costs in each metropolitan statistical area of the commonwealth and in any city or town therein where such costs are substantially higher than the average cost within that area as a whole. The secretary of the executive office shall not consider any of the resources specified in section 13G when establishing, reviewing or approving rate of payment for social service programs.

SECTION 3. Section 13D of chapter 118E of the General Laws is hereby amended by inserting the following paragraph after the seventh paragraph:

In establishing rates for medically-related services for which a guardian is considered a "Provider" under section 8 of this chapter, the secretary of the executive office shall determine hourly or fee-for-service rates for professional guardians by considering the rates customarily charged by professional guardians in the region of the commonwealth.

SECTION 4. Section 35 of chapter 118E of the General Law is hereby amended by striking the first paragraph and inserting in place thereof the following paragraph:-

No claim for medical care or services provided for under this chapter shall be reimbursed if any health insurance company, non-profit hospital service corporation, medical service corporation, or other health insurer is liable for such claim under the terms of a group or individual policy providing coverage for such claim to a person eligible for assistance under this chapter; in the case of a guardian, no claim for care or services shall be reimbursed if any department of the state or federal judiciary is liable for such claim. The division shall establish procedures to ensure that no such unauthorized claims are paid, including the soliciting of information regarding alternative health coverage from all applicants and recipients.

SECTION 5. Said section 36 of chapter 118E of the General Law is hereby further amended by inserting after paragraph (5) the following paragraph:-

A claim submitted by a guardian that is paid for under this chapter shall be disclosed to the court that has appointed the guardian as part of the guardian's annual report to the court; provided, however, that prior or subsequent judicial approval shall not be a condition or required

as evidence of entitlement for reimbursement of any claim by a guardian that is submitted for services provided for under this chapter.

SECTION 6. Section 36 of chapter 118E of the General Laws is hereby amended by striking paragraph (1) and inserting in place thereof the following paragraph:

(1) indicate their intention to the division to so participate; provided that renewal of such indication of intention by a guardian shall not be required more often than once every 12 months;

SECTION 7. Section 36 of chapter 118E of the General Law is hereby amended by striking paragraph (2) and inserting in place thereof the following paragraph:-

(2) present evidence, satisfactory to the division, of their qualifications to provide such services. For guardians, satisfactory evidence of qualification shall consist of (i) a certificate of appointment dated within one year of the request for payment and a sworn statement of its validity on the dates of service; and (ii) affidavit of no immediate family relationship with the member.