DignityAlliance Massachusetts

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Legislative Endorsement

Bill No.	Bill Title	Sponsor(s)	Committee	Legislative history
S 414 H 727	**An Act to Ensure Quality of Care in Nursing Home**	Sen. Jehlen Rep. Balser	Elder Affairs	Hearing:

Endorsed by 37 members of Dignity Alliance Massachusetts including:

- Boston Center for Independent Living
- Center for Living and Work, Inc.
- COP Amputee Association –COPAA
- Disability Policy Consortium
- Disability Resource Center
- Easterseals Massachusetts
- John Ford, Esq.
- Lachan Forrow, MD
- Judi Fonsh, LCSW, MSW
- Wynn Gerhard
- Pamela Goodwin
- Greater Boston Chapter of United Spinal Association
- Fred Gross
- Jerry Halberstadt, Stop Bullying Coalition
- Sandy Hovey
- Anne Johansen
- James Lomastro, PhD
- Paul J. Lanzikos
- Massachusetts Advocates for Nursing Home Reform, Arlene Germain, Policy Director
- Massachusetts Aging and Mental Health Coalition
- Massachusetts Law Reform Institute
- MetroWest Center for Independent Living, Paul Spooner, Executive Director
- Richard T. Moore
- Sandy Alissa Novack, MSW, MBA
- SeniorCare, Scott Trenti, CEO

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https://malegislature.gov/Bills/192/S414 https://malegislature.gov/Bills/192/H727

SECTION 1. Chapter 111 of the General Laws is hereby amended by inserting after section 72BB the following section:-

Section 72CC

For the purpose of this section, "hours of care per resident per day" shall mean the total number of hours worked by registered nurses, licensed practical nurses, and nursing assistants, including certified nurse aides with direct resident care responsibilities, for each 24 hour period, divided by the total census of the facility for each day.

Long-term care facilities providing Level I, II, or III care shall provide sufficient nursing personnel to meet resident nursing care needs, based on acuity, resident assessments, care plans, census and other relevant factors as determined by the facility. Sufficient staffing must include a minimum number of hours of care per resident per day of 4.1 hours, of which at least 0.75 hours must be care provided per resident by a registered nurse. The facility must provide adequate nursing care to meet the needs of each resident, which may necessitate staffing that exceeds the minimum required hours of care per resident per day.

SECTION 2. Chapter 111 of the General Laws is hereby amended by inserting after section 72CC the following section:-

Section 72DD

As used in this section:

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism in order to confine their care to one area and prevent contact with other patients.

"Department" means the Department of Public Health.

"Endemic level" means the usual level of given disease in a geographic area.

"Isolating" means the process of separating persons colonized or infected with a communicable disease from those who are not colonized or infected with a communicable diseases.

"Outbreak" means any unusual occurrence of disease or any disease above background or endemic levels.

b. Notwithstanding any provision of law to the contrary, the department shall require long-term care facilities to develop an outbreak response plan which shall be customized to the facility. At a minimum, each facility's plan shall include, but shall not be limited to:

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

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

(3) information on the availability of laboratory testing, protocols for assessing whether facility visitors are colonized or infected with a communicable disease, protocols to require those staff who are colonized or infected with a communicable disease to not present at the facility for work duties, and processes for implementing evidence-based outbreak response measures;

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

(5) policies for reporting outbreaks to public health officials in accordance with applicable laws and regulations.

c. (1) In addition to the requirements set forth in subsection b. of this section, the department shall require long-term care facilities to include in the facility's outbreak response plan written policies to meet staffing, training, and facility demands during an infectious disease outbreak and to successfully implement the outbreak response plan, including either employing on a full-time or part-time basis, or contracting with on a consultative basis, the following individuals:

(a) an individual certified by the Certification Board of Infection Control and Epidemiology; or

(b) a physician who has completed an infectious disease fellowship.

(2) Each long-term care facility shall submit its outbreak response plan to the department within 180 days of the effective date of this act.

(3) The department shall verify that the outbreak response plans submitted by long-term care facilities are in compliance with the requirements of subsection b. of this section and with the requirements of paragraph (1) of subsection c.

d. (1) Each long-term care facility that submits an outbreak response plan to the department pursuant to subsection c. of this section shall review the plan on an annual basis.

(2) If a long-term care facility makes any material changes to its outbreak response plan, the facility shall submit to the department an updated outbreak response plan within 30 days. The department shall, upon receiving an updated outbreak response plan, verify that the plan is compliant with the requirements of subsections b. and c. of this section.

e. The department shall promulgate regulations necessary to implement this section.

SECTION 3. Chapter 111 of the General Laws is hereby amended by inserting after section 72DD the following section:-

Section 72EE

1. As used in this Section

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism in order to confine their care to one area and prevent contact with other patients.

"Commissioner" means the Commissioner of the Department of Public Health.

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with the resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

"Resident" means a person who resides in a long-term care facility.

"Social isolation" means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

2. a. The Department of Public Health shall require each long-term care facility in the state, as a condition of facility licensure, to adopt and implement written policies, to provide technology to facility residents, and to provide appropriate staff to prevent the social isolation of facility residents.

b. The social isolation prevention policies adopted by each long-term care facility pursuant to this section shall:

(1) authorize and include specific protocols and procedures to encourage and enable residents of the facility to engage in in-person contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, except when such in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by federal or state statute, rule, or regulation;

(2) authorize and include specific protocols and procedures to encourage and enable, residents to engage in face-to-face or verbal/auditory-based contact, communication, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, through the use of electronic or virtual means and methods, including, but not limited to, computer technology, the internet, social media, videoconferencing, and other innovative technological means or methods, whenever such residents are subject to restrictions that limit their ability to engage in in-person contact, communications, or religious and recreational activities as authorized by paragraph (1) of this subsection;

(3) provide for residents of the facility who have disabilities that impede their ability to communicate, including, but not limited to, residents who are blind, deaf, or deaf-blind, residents who have Alzheimer's disease or other related dementias, and residents who have developmental disabilities, to be given access to assistive and supportive technology as may be necessary to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, as provided by paragraph (2) of this subsection;

(4) include specific administrative policies, procedures, and protocols governing: (a) the acquisition, maintenance, and replacement of computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices, and other technological equipment, accessories, and electronic licenses, as may be necessary to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means, in accordance with the provisions of paragraphs (2) and (3) of this subsection; (b) the use of environmental barriers and other controls when the equipment and devices acquired pursuant to this section are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and (c) the regular cleaning of the equipment and devices acquired pursuant to this paragraph and any environmental barriers or other physical controls used in association therewith;

(5) require appropriate staff to assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities, and include specific protocols and procedures to ensure that the quantity of devices and equipment maintained on-site at the facility remains sufficient, at all times, to meet the assessed social and activities needs and preferences of each facility resident;

(6) require appropriate staff, upon the request of a resident or the resident's family members or guardian, to develop an individualized visitation plan for the resident, which plan shall: (a) identify the assessed needs and preferences of the resident and any preferences specified by the resident's family members; (b) address the need for a visitation schedule, and establish a visitation schedule if deemed to be appropriate; (c) describe the location and modalities to be used in visitation; and (d) describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan;

(7) include specific policies, protocols, and procedures governing a resident's requisition, use, and return of devices and equipment maintained pursuant to this act, and require appropriate staff to communicate those policies, protocols, and procedures to residents; and

(8) designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, designate at least one senior staff member, as determined by facility management, to train other appropriate facility employees, including, but not limited to, activities professionals and volunteers, social workers, occupational therapists, and therapy assistants, to provide direct assistance to residents, upon request and on an as-needed basis, as necessary to ensure that each resident is able to successfully access and use, for the purposes specified in paragraphs (2) and (3) of this subsection, the technology, devices, and equipment acquired pursuant to this paragraph.

c. The department shall distribute civil monetary penalty (CMP) funds, as approved by the federal Centers for Medicare and Medicaid Services, and any other available federal and state funds, upon request, to facilities for communicative technologies and accessories needed for the purposes of this act.

3. a. Whenever the department conducts an inspection of a long-term care facility, the department's inspector shall determine whether the facility is in compliance with the provisions of this section and the policies, protocols, and procedures adopted pursuant thereto.

b. In addition to any other applicable penalties provided by law, a long-term care facility that fails to comply with the provisions of this act or properly implement the policies, protocols, and procedures adopted pursuant thereto:

(1) shall be liable to pay an administrative penalty, the amount of which shall be determined in accordance with a schedule established by department regulation, which schedule shall provide for an enhanced administrative penalty in the case of a repeat or ongoing violation; and

(2) may be subject to adverse licensure action, as deemed by the department to be appropriate.

4. Nothing in this section shall be construed as limiting the ability of residents to own or operate a personal electronic device.

5. The department of public health shall promulgate regulations necessary to implement this section.

SECTION 4. Chapter 111 of the General Laws is hereby amended by inserting after section 72EE the following section:-

Section 72FF

For all nursing care units in the Commonwealth, resident bedrooms must adhere to the following:

The floor area of resident bedrooms, excluding closet, vestibule and toilet room areas shall not be less than 125 square feet for single occupancy rooms and 108 square feet per bed for double occupancy rooms.

No resident bedroom shall contain more than two beds.

Rooms shall be shaped and sized so that each bed can be placed with a minimum clearance of 4 feet from any lateral wall, window or radiator on the transfer side of the resident bed and 3 feet from any lateral wall, window or radiator on the non-transfer side of the resident bed. In single occupancy rooms, an unobstructed passageway of at least 3 feet shall be maintained at the foot of each bed. In double occupancy rooms, an unobstructed passageway of at least 4 feet shall be maintained at the foot of each bed. In double occupancy rooms, resident beds must be spaced at least 6 feet apart.

Resident bedrooms shall have a floor level above the grade level adjacent to the building.

All resident bedrooms shall be along exterior walls with window access to the exterior.

All resident bedrooms shall open directly to a main corridor and shall be permanently and clearly identified by number on or beside each entrance door.

Each room with more than one bed shall have cubicle curtains or equivalent built in devices for privacy for each resident.

Each resident bedroom shall contain closet interior space of not less than two feet by two feet per resident with at least five feet clear hanging space for the storage of personal belongings. In addition, either a built in or freestanding multiple drawer bureau not less than two feet wide with a minimum of one drawer per resident shall be provided.

Each resident bedroom shall be sized and dimensioned to accommodate hospital type beds of not less than 76 inches long and 36 inches wide, a hospital type bedside cabinet and an easy chair or comfortable straight back armchair.

SECTION 5. There is hereby established a grant program to be administered by the Corporation for Business Work and Learning, in consultation with the local workforce investment boards and the department of public health, for the development of career ladder programs in long-term care facilities to upgrade skills of certified nurse's aides and entry-level workers in nursing homes, to improve employee retention rates and to improve the quality of care provided in such facilities. Such career ladder programs shall include, but not be limited to, programs that establish a three-level career pathway for certified nurses' aides or that develop employee competencies in specialized areas of care.

Said corporation shall award such grants, subject to appropriation, on a competitive basis to nursing homes or consortiums of nursing homes for the development of career ladder programs, including but not limited to curriculum development, instructors, instructional materials and technical assistance. Said corporation shall establish criteria for the selection of grant recipients to effectuate the purposes of this section. Said corporation shall require, as a condition of receipt of such grants, that each participating nursing home shall: (1) provide at least 50 per cent paid time for employees participating in training or instruction in connection with said career ladder program; (2) assist each participating employee in developing a career advancement plan; (3) increase employee compensation upon successful completion of each stage of the career ladder program; and (4) report quarterly to said corporation on the progress of the career ladder program implemented including, but not limited to, the number of employees served by the grant and their career progression within the long-term care facility and the certificates, degrees or professional status attained.

Said corporation shall develop partnerships with local workforce investment boards, community colleges and other community-based education and training providers and organizations to assist nursing homes and nursing home employees to fulfill training needs, including but not limited to, identifying sources of funding for such training, and to encourage and enhance access to additional and ongoing skill enhancement and career development in long-term care.

SECTION 6. Section 4 of this act shall take effect on January 1st 2023.