



Dignity Votes 2022

A Dignity Alliance Massachusetts Initiative

Through the Dignity Votes 2022 initiative, Dignity Alliance Massachusetts has invited candidates for constitutional office to respond to a set of questions drafted specifically for each office. Dignity Alliance Massachusetts is a state-wide coalition of aging and disability service and advocacy organizations and supporters dedicated to the systemic transformation of long-term services, support, and care to ensure the dignity of older adults, people with disabilities, and caregivers.

Candidate Response – Anthony Amore (R) *Candidate for State Auditor*

Question 1: Most Massachusetts residents know someone who has needed long-term services or care due to issues related to aging or disabilities or experienced it themselves.

Has anyone close to you needed nursing home care, congregate living arrangements, or home and community-based services? What implications for public policy and regulatory enforcement do you draw from this experience?

Response to Q1: My paternal grandmother died in a public low-income nursing facility in Providence, Rhode Island when I had just finished college. She was in a very small double room with a woman who spoke incessantly, and my grandmother, a quiet woman, lived her last months there, without peace and with just a modicum of dignity. It was an experience that to this day informs my beliefs about how we fail to ensure a decent quality of life for needy seniors. From a regulatory enforcement point of view, as Auditor I will work to ensure that the state government is doing all it can to address dignity in these facilities is afforded to all.

Question 2: Hundreds of million dollars of state and federal funds have been provided to Massachusetts nursing homes during the pandemic. There has been little to no analysis and accountability of the use of these funds. It is important to know if these expenditures were effective in order to direct future allocation decisions. It is equally essential to provide public assurance that the funding was used as intended.

As the state auditor, will you undertake a comprehensive public audit of the use of pandemic-related spending as an early priority?

Response to Q2: I start from the premise that the Auditor's Office should meet its constitutional obligation to audit every one of the Commonwealth's 209 public agencies every three years. Unfortunately, we have not seen that obligation met in recent history. This is especially concerning given the billions of federal dollars that flowed into state agencies during the pandemic, including those used in nursing homes.

As the Commonwealth works to rebuild the trust of our residents who rely on nursing homes following the devastating failures at the Holyoke Soldiers Home and other institutions, I believe the Auditor's Office must take a leading role in examining whether this one-time infusion of funds will be going towards preventing similar tragedies from ever occurring in the future. ARPA funds were directed toward nursing homes for two reasons: 1) to ensure strike teams are available to reduce response times to COVID outbreaks; and 2) to improve infection protocols and encourage

vaccinations. If the Commonwealth used funds at nursing homes outside of these tailored purposes, then we risk seeing those funds clawed back by the federal government.

Question 3: The ownership of nursing homes is increasingly under the control of out-of-state, investor groups. The organizational structure has been segmented into many components, often under common ownership, e.g., a real estate entity, management company, therapy services, and more. This make it difficult to determine who is controlling major staffing, operational and business decisions and who has responsibility and accountability. Consequently, it is critical to analyze how MassHealth funds are being used. Periodic, independent, comprehensive, and transparent public audits are necessary to assess how nursing homes operate and public funding is spent.

As the state auditor, will you undertake this type of audit on an ongoing basis?

Would you support legislation to ensure transparency and accountability of nursing home ownership interests and control?

Response to Q3: The care of our elder loved ones should not be for sale to the highest bidder. The Attorney General's Office has made great strides in holding organizations accountable that use MassHealth dollars for purposes other than intended. As auditor, I would build on those proactive measures by conducting audits of MassHealth dollars in as close to real time as possible.

It is a well-known problem that some nursing home management groups pursue cost-shifting activities to maximize profits from public dollars instead of passing savings on to residents and their families. If legally permissible, I would support legislation that requires third-party owners to submit annual reports to the Executive Office of Elder Services detailing how MassHealth funds are being used at their facilities. However, in order to prevent such a regulation from becoming an unfunded mandate I would seek guidance from in-state elder care advocates to ensure that reports are streamlined, accessible, and tell the story of public funds spent without being overly burdensome on facility owners.

Question 4: Under state law and federal requirements, the Massachusetts Department of Public Health (DPH) has the primary responsibility for ensuring the safety, well-being, and effectiveness of care for all nursing home residents including adherence to resident's rights. Over the past few years, DPH's performance has come under criticism in several state and federal studies. Additionally, nursing homes with recent state-approved changes of ownership experienced significant care giving failures. There also have been changes in DPH's key staffing. All put into question the adequacy and efficacy of nursing home oversight, licensure adherence, and quality of operations within the Department.

As the state auditor, what steps would you take to ensure that strong and comprehensive nursing home oversight and a thorough and transparent nursing home licensure process are vital responsibilities for the Department?

Response to Q4: Under the current auditor, the Auditor's Office has identified serious offenses against nursing home residents by personal care attendants and stressed the importance of DPH recommending the most egregious offenses to the Attorney General's Office for prosecution. While the Auditor's Office cited a backlog in the referral process, the DPH made clear that data used in the audit was outdated by the time of the report by stating that no backlog had existed for at least a year prior.

This does not mean that DPH funding and staffing levels should not be considered as part of the auditor's oversight efforts. However, I stress this because the Auditor's Office has a history of using data outdated by years by the time reports are released. This does a disservice to both the DPH and the nursing homes who rely on an accurate assessment of the DPH's current state.

In addition, the Auditor's Office has failed to recommend changes to the hiring and background check processes for nursing home attendants, including instituting a state-level background check that would supplement the federal CORI system. Such a reform must be carefully implemented to avoid unfair burdens on nursing home administrators, but given the history of abuses and oversights in our state's nursing homes I lean toward considering such a recommendation as part of any review of the DPH I would conduct as auditor.

Question 5: In recent years, there have been targeted MassHealth rate enhancements for nursing homes. Their efficacy has not been analyzed and reported publicly.

What can the state auditor do to ensure that current and future rate increases are effective and they accomplish intended goals?

Response to Q5: In general, I believe rate enhancements without enhancing our levels of oversight is a dangerous precedent to set. MassHealth currently gives nursing home operators wide latitude to determine how increased MassHealth funds may be spent. As your organization has noted, many out-of-state, for-profit nursing home administrators feel pressure from investors to maximize profits as well as salaries for executives. When this occurs, it almost certainly leads to fewer caregivers and poorer rates of pay.

As auditor, I would incorporate a comprehensive review of pass-through mechanisms used by nursing homes to obscure the use of state funds which may not be serving their intended purpose. Any audit of the MassHealth system relating to nursing homes would also consider the reasons behind these rate enhancements and whether implementation has failed to address the need, however necessary and laudable it may be.

Question 6: In efforts to "rebalance" the provision of long-term services and care, Massachusetts has secured various Medicaid waivers from the federal government to expand eligibility for and availability of home and community-based alternatives to institutional care for older adults and persons with disabilities. As the state auditor, what role do you have in analyzing the effectiveness of these waiver programs which have been implemented in Massachusetts?

Response to Q6: When seeking care outside of the regulated nursing home industry, I believe our seniors and their families face risks from online, predatory organizations that offer quick connections with unlicensed or under-licensed personal care attendants. It is reasonable to expect that any individual who cares for elders, regardless of their affiliation with a nursing home, should undergo the same licensing processes that the DPH requires of nursing home attendants.

If these waiver programs offer our residents additional resources to "age in place" by hiring PCAs directly, then the next auditor should be examining and cataloguing the rate of abuse by at-home PCAs, the instances of recommendations for criminal prosecution, and whether Medicaid waivers are offering more freedoms or instead putting residents at greater risk. If necessary, the auditor should consider recommending that independently-hired PCAs undergo a state level background check in addition to a federal CORI check.

Question 7: The quality of care in nursing homes is directly correlated with the adequacy of staffing, namely certified nursing assistants (CNAs), registered nurses (RNs), and licensed practical nurses (LPNs). Yet the majority of MA nursing homes do not meet a newly established MA hourly standard of care. Strong oversight is necessary to ensure safe staffing levels to protect nursing home residents.

In your role as state auditor, what would be done to assure compliance with staffing requirements?

Response to Q7: The most important challenge facing our nursing home industry is ensuring that we have an adequate number of professionally licensed staffers to address a growing demand with our aging population. However, the ability of for-profit nursing homes to pass rate enhancements on to executives and investors has hampered the ability of on-the-ground staffers to benefit from payrate increases which would encourage retention of skilled workers who have completed their certification. In addition, greater rates of pay would encourage new entrants into the field.

While I am hopeful that the Legislature will appropriate new, permanent funding for payrates and build upon the one-time use of federal dollars to benefit frontline nursing home workers, I believe the best interim solution would be for the next auditor to examine the consistent and predictable funding streams from MassHealth and Medicaid to determine whether these funds can be better used to improve facilities and increase staffing levels.

Question 8: About one of four nursing home residents in Massachusetts is administered antipsychotic medications, one of the highest nursing home antipsychotic usage rates in the country. Massachusetts requires informed written consent of a patient or a patient's representative's representative prior to the administration of antipsychotics and other psychotropics to nursing home residents. Additionally, about 10% of Massachusetts nursing home residents have a diagnosis of schizophrenia, many of recent determination. This is a rate ten times greater than that of the general population.

As state auditor, what can be done to reduce the usage of antipsychotic medications as well as ensure meaningful compliance with existing requirements?

Response to Q8: The use of off-label antipsychotics is correlated with a decreased quality of life, more so among nursing home residents. As auditor, I would begin a review of the use of antipsychotic medications in nursing homes by reviewing the results of the 2011-2016 Oasis collaboration with the DPH and MA Senior Care Association and determining why successful strategies to reduce their use have not been more widely implemented since then. While the project greatly reduced the use of antipsychotic medications, I am concerned that the use of grants or other one-time funds may have played a role in the failure to permanently implement these changes. As auditor I would examine where permanent funding may be found to keep these successful policies in place.

In general, the auditor can play a crucial role in this space by recommending greater standardization of guidelines for the use of such medications as well as adverse drug event reporting; reviewing current diagnoses exemptions to the use of such medications; and recommending changes to antipsychotic-related education and communication across care settings.

Question 9: The Massachusetts Inspector General (IG) recently issued a report about the Holyoke Soldiers' Home with a set of recommendations. The report noted that the Executive Office of Health and Human Services (EOHHS) is responsible for approximately one-third of the state's annual budget. Among a number of observations, the IG recommended that EOHHS improve its oversight of each EOHHS subsidiary agency by ensuring direct reporting structures and clear chains of command and regularly evaluating the performance of agency heads through mandatory, structured, independent performance evaluations.

Do you concur with the Inspector General's recommendations? Why or why not?

Response to Q9: I do agree with the IG's assessment and hope that the Legislature reconsiders its current approach to the oversight of subsidiary agencies such as the Holyoke Soldiers' Home. State Senator Velis has advocated for a clear chain of command which I agree should be followed as the House and Senate work to iron out a compromise bill.

This chain of command may also be applied to out-of-state nursing home facilities which do not have a clear and accessible governing structure. I would look to reforms passed by the Legislature and Governor relating to the Holyoke Soldiers' Home and would like to see whether similar reforms at other facilities around the state may be equally successful.

Question 10: Is there anything you would like to add?

Response to Q10: None

Brief profile of Anthony Amore:

Anthony Amore has more than 30 years of experience in investigations, audits, and inspections in public and private sectors. He has served as a federal agent, senior Homeland Security Official, and museum security director. He attended the University of Rhode Island and has earned a Master of Public Administration from Harvard's Kennedy School of Government

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