



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 – Andrea Joy Campbell (D) Candidate for Attorney General

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, such as personal care assistants (PCAs)? What implications for public policy and regulatory enforcement do you draw from this experience?*

Response to Q1: Yes, I've seen the selfless work of our community-based providers and PCAs firsthand and as Attorney General would make sure they receive the wages and benefits they deserve. At the same time, I would push to make sure the conditions in which residents are living in are of the highest standard and would hold all stakeholders who do not deliver on that accountable.

Question 2. The first comprehensive revision to federal nursing home regulations occurred in 2016, 25 years after inception in 1991. Then, in 2020, the disastrous consequences of the COVID pandemic put a spotlight on infection prevention and other critical protocols. However, Chapter 93A consumer protection regulations have never been updated to address these critical developments. Furthermore, Chapter 93A consumer protection regulations have never been created for assisted living residences (ALR). *What will you do to prioritize updating Chapter 93A consumer protection regulations for long term care nursing home residents and to establish ALR regulations to protect those residents?*

Response to Q2: The COVID-19 pandemic spotlighted the failure of nursing home and assisted living residences to develop and adhere to critical protocols for the benefit of their residents; and it further highlighted that nursing homes and assisted living facilities must communicate better with their residents, the friends and family of their residents, and other stakeholders. In the extreme cases, lives were tragically lost and families were devastated; even in many of the best cases, residents and families found it difficult to get reliable and dependable information from the facilities, causing uncertainty and unnecessary anxiety.

The Attorney General's consumer protection regulations complement the Department of Public Health's regulation of nursing home and assisted living protocols. As I have committed in other contexts, I intend to work with my Policy and Government Division to review and, if appropriate, revise all of the consumer protection regulations promulgated by the Attorney General. During that time frame, I commit to updating the nursing home regulations, and I look forward to hearing from all stakeholders during the course of that update; likewise, I commit during the same time frame to promulgate regulations concerning assisted living facilities.

Question 3. In 2019 and then in May 2022, the AG imposed fines totaling about \$500,000 plus certain requirements on 12 nursing homes to resolve systemic failures that led to several resident deaths and injuries. Synergy Health Centers was also banned from operating any taxpayer-funded nursing homes in MA for 7 years.

Another concern is that even though informed written consent is required, about one of four MA nursing home residents is administered anti-psychotics, a drug that can be deadly to elders. This is one of the highest rates in the country. Furthermore, misdiagnosing nursing home residents with schizophrenia, an ailment of young people and for which anti-psychotics are allowed, means dispensing anti-psychotics with impunity. Nearly 10% of MA nursing home residents are diagnosed with schizophrenia, even though it occurs in less than 1% of the US population.

The AG filed S.416[1] to increase civil penalties for the abuse or neglect of nursing home residents and other covered patients and to increase the time for bringing a civil suit from 2 to 4 years. How else would you strengthen the AG's response to poor performing nursing homes and their owners? Would you implement an Elder Rights Advisory Council?

[1] S.416, An Act strengthening the Attorney General's tools to protect nursing home residents and other patients from abuse and neglect. This bill is currently included in H.4780 An Act to Improve Quality and Oversight of Long-Term Care.

Response to Question 3: First, the next Attorney General should be an advocate for the enactment of S.416, which we must encourage the Legislature to pass. I'm the only AG candidate in this race who has passed legislation at Beacon Hill and I will continue to leverage those partnerships to push for the passage of S. 416.

In addition, I will work with Maura Healey, who has endorsed me in this race and who I believe will be the next Governor, to establish, populate, and give a platform to an Elder Rights Advisory Council, meant to give voice to the rights of nursing home residents in Massachusetts and to develop recommendations on how best to protect those rights.

In addition, it is not acceptable anywhere, let alone in one of the most prosperous states in the world's most prosperous country, to have those late in life treated with antipsychotic medication that is not medically indicated because it makes nursing home administration easier. To hold nursing homes accountable, I will ensure the AGO's investigators are trained in, and prioritize, the violations of laws and regulations by nursing homes, assisted living facilities, and their owners. These investigators will benefit from tips provided through the AG's elder hotline, and will work closely with patient's family members and, where appropriate, local law enforcement.

Question 4. Hundreds of millions of 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. *The candidates for State Auditor have committed to audit pandemic funds. As Attorney General, how would you liaison with the State Auditor?*

Response to Question 4: I will have a strong working relationship with the State Auditor from day one, because that is a crucial component of the Attorney General's responsibility. I will make sure we are communicating effectively and sharing resources and information.

Specifically concerning the use of pandemic funds by nursing homes, I will prioritize enforcement against any misuse, and particularly any such misuse documented by the State Auditor. Public

spending for pandemic response was meant to support the public good; my office will have little tolerance where the facts indicate that certain bad actors misdirected those funds to private benefit.

Question 5. People with disabilities are three times more likely than nondisabled folks to experience sexual violence, and the more disabilities they have, the greater the likelihood they may experience sexual violence. Often reproductive rights focus on the fetus, but for women with disabilities, trying to carry a baby to term could be deleterious for their health or lead to possible death.

As Attorney General, how will you protect the rights of people with disabilities for reproductive and other health care if they are a victim of sexual violence in nursing homes or elsewhere?

Response to Question 5: As Attorney General, I will use every tool available to the office to protect people from disabilities from sexual violence, in nursing homes or anywhere else. Sexual violence in any setting is unacceptable; such violence against the differently abled is particularly abhorrent.

On the issue of reproductive rights, I will be a champion of all in Massachusetts, including people with disabilities, and I proudly have been endorsed by Planned Parenthood Advocacy Fund. The right to make reproductive health choices, including the choice to have an abortion, are fundamental human rights for all people in Massachusetts, no matter their background or ability to pay.

Question 6. Public health professionals need support in the discharge of their responsibilities to gather data for early warnings about the onset of infectious diseases and to identify leading indicators, to educate the public about recommended behaviors, and to institute mandates for protective measures such as indoor masking.

How will your administration strengthen the public health capabilities at both the state and local levels?

Response to Question 6. The Attorney General's Office has the power of advocacy and legal policy. Guided by the Office's Health Care Division, I will work to ensure that valuable protections for patient privacy are given effect while also allowing for the use of data to properly facilitate public health research and sound policy decision making. Where the data indicates that steps like masking are appropriate, my office will work with other portions of the Executive Branch and private stakeholders to ensure those steps are taken when and where appropriate; and, if government intervention is necessary, my office will provide legal guidance and a full and firm defense of any challenge to that intervention.

Question 7. Issues regarding the safety, well-being, and rights of disabled and older persons living in public as well as subsidized housing include but are not limited to failure to protect victims from bullying and mobbing; failure to grant reasonable accommodations to disabled persons; and evictions leading to homelessness and emotional and physical trauma. Accountability is lacking.

How will your administration assure the safety and rights of people in these situations?

Response to Question 7. As Attorney General, I will have enforcement authority to ensure that subsidized housing does, in fact, provide reasonable accommodations to disabled persons, as failure to do so violates state law. Where such accommodations are not provided, disabled communities are thrown into housing instability, which yields negative life and public health outcomes, including profound anxiety. That is not only illegal, it is just plain wrong. As a statewide leader, I also will advocate for greater funding and increased affordable housing units for the disabled and elderly.

Question 8. Recent census data indicate that 12% to 15 % of the population identify as living with a disability and 20% identify as older.

Will your administration commit to appoint individuals with disabilities and older adults to key positions? Will you ensure your staffing reflects the diversity of the general population?

Response to Question 8. I absolutely commit to appointing people with disabilities and older adults with important lived experiences to key positions in my office. I know how my own experiences have influenced my work, and I value diversity and the perspective people with diverse lived experiences bring to any professional environment. I will give voice and power to those communities that have been traditionally marginalized and lacked a seat at the table. This commitment emanates from a deep respect for the important and valuable contributions, experiences, and perspectives of our elders and individuals with disabilities. They will help me be a better Attorney General.

Question 9. The members of the disability community have a slogan: "Nothing about us without us". As the Attorney General will you continue the Disability Rights Advisory Committee? Will you commit to ensure the committee is diverse and representative of cross disabilities, cultures, and race?

Response to Question 9. Absolutely. I will proudly continue the Disability Rights Advisory Committee and ensure that diverse voices have a seat at the table.

Question 10. Nursing home social workers provide many services for residents, families and staff. This includes handling issues involving staff, resident, and family relationships; adjustment and adapting to the facility; end of life issues; discharge planning and; behavioral issues due to dementia, other cognitive challenges, and various behavioral impairments (e.g., Multiple Sclerosis, Parkinson's Disease; fractured hips, strokes, etc.)

The social work regulations were developed in the 1970s and are ineffective in the operation of today's facilities. Since well before the pandemic there has been a pervasive shortage of qualified and experienced social workers and personnel from temporary agencies are increasingly utilized.

Will you support significant regulatory changes to the Department of Public Health(DPH) regulations pertaining to social work in nursing homes?

Response to Question 10. I would absolutely champion regulatory updates to require that social workers play an important role in the operation of nursing and assisted living facilities. It is not just about treating the underlying illness or disability, but ensuring that the whole person is getting the care they need and deserve. Social workers play a vital role helping people adjust to life in a nursing and assisted living facility. They help both residents and families with this adjustment. They serve as advocates for the residents and their families during what is a stressful time so that families can focus on their loved ones. Social workers are and need to be at the forefront of our elder care system because of the essential compassionate services they provide. Unfortunately, many nursing facilities seeking to cut costs often eliminate or reduce social worker staffing. I will fight to ensure that the DPH regulations set a floor for the number of required social workers on site at all times- day and night - and that these social workers receive a fair wage. They will have a champion in my Attorney General's office.

Question 11. 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.

Would you support this type of audit on an ongoing basis? Would you support legislation to ensure transparency and accountability of nursing home ownership interests and control? What can the Attorney

General do to ensure corporations that own nursing home, especially out of state ones, operate in compliance with all regulations and statutes?

Response to Question 11. I would support this type of audit on an ongoing basis and not just support - but fight for - legislation that requires transparency and accountability for nursing home ownership. No entity should hide behind a corporate veil to protect themselves from accountability for behavior that threatens the safety and well-being of our loved ones. As previously noted, I would continue Attorney General Healey's advocacy for policy reform to ensure the care and safety of nursing home residents by refiling "An Act strengthening the Attorney General's tools to protect nursing home residents and other long-term care patients from abuse and neglect."

I would direct the Fair Wages Division to ensure that nursing home and assisted living workers are paid the wages they are owed and that companies that play by the rules don't get undercut by competitors who save costs at the expense of their workers. I would also ensure that families with loved ones in nursing homes and assisted living facilities are aware that the Attorney General's Consumer Protection Division enforces laws to protect consumers from fraud, deception, and other unfair practices, and that includes out of state companies doing business in Massachusetts.

Question 12. Is there anything you would like to add?

Response to Question 12. My full plan for how I will advocate for aging residents as Attorney General can be found here: <https://www.andreacampbell.org/issues/advocating-for-aging-residents/>.

Brief profile of Andrea Campbell:

Andrea Campbell graduated from Boston Latin School, Princeton University, and UCLA Law School. After earning her law degree, she worked as a legal services attorney for the EdLaw project, defending the rights of children and their families — particularly those with disabilities. Andrea also practiced law at Proskauer LLP as an employment attorney, and ultimately left to serve the public as General Counsel at the Metropolitan Area Planning Commission. Andrea served as legal counsel to Governor Deval Patrick. In 2015, she was elected to the Boston City Council and in 2018, elected as Council President.

<https://www.andreacampbell.org/>