



## **LEGISLATIVE WORK GROUP**

# **Annual Report 2022**

### **LEGISLATIVE WORK GROUP PURPOSE**

The Legislative Work Group studies the current Congressional, State Senate and House legislation to determine those bills which align with the Dignity Alliance mission and goals. To be recommended for endorsement a bill should contribute to one of Dignity Alliance Massachusetts goals.

The Legislative Work Group recommends bills for Dignity Endorsement to the Coordinating Committee and then polls the full list of Dignity Alliance participants for potential endorsement. Participants are also given the opportunity to add their own or their organization's endorsement.

While the majority of endorsements occur at the beginning of each two-year session, a small number come to the attention of the Work Group during the two-year session and may be recommended. In addition, relevant Budget Items are also reviewed and recommended for endorsement.

Dignity Alliance participants and friends are encouraged to refer to the section of the Dignity Alliance web site under the heading "Legislative Endorsement," and to advocate for our endorsed bills by contacting their legislators. Whenever possible, endorsed bills may be accompanied by copies of testimony submitted by Dignity Alliance which can help those contacting their legislators to share the position of our advocacy.

In addition, the Legislative Work Group is responsible for:

1. Managing the Dignity Awards process for Legislators.
2. Develops and presents information on the legislative process for DignityMA members.
3. Works closely with other DignityMA work groups to advance bills to best serve elders, people with disabilities, and their caregivers.

## **STATE LEGISLATION DIGNITY ENDORSED**

- **Legislative Victories**

**Chapter 126, Section 144 - (H 4691) to establish a special commission to study and report on the history of state institutions** for people with intellectual or developmental disabilities or mental health conditions in the commonwealth including, but not limited to, the Walter E. Fernald state school and the Metropolitan state hospital. (Originally filed as S.1257/H2090)

**House 4792 (Senate 773/H1274) -An Act to Preserve Special Needs Trusts for Disabled Seniors.** Filed by MassNAELA, and endorsed by Dignity Alliance, the legislation made it to the Governor's desk, but was vetoed by Governor Baker. Dignity Alliance urged the legislative leadership to return to formal session and override the veto.

**House 2246 An Act relative to CNA training.** The text of the bill was included in H15374 as section 115, and was enacted as part of Chapter 268, however the section was returned by the Governor Section 115 requires the Department of Public Health (DPH) to offer certified nurses' aide (CNA) exams in languages other than English to nurses' aides who receive their training or work in facilities with primarily non-English speaking populations. In addition to Spanish and Chinese, it is up to DPH to determine the other languages in which to offer the test. CNAs are critical to our health care workforce. As we work to recover from the COVID19 pandemic, the strain on our health care workforce remains a challenge. I support Section 115, as it expands access to testing for CNAs who might otherwise not have the opportunity to join the workforce due to limited English proficiency. However, Section 115 does not include an implementation deadline. This initiative would benefit from having a clearly defined timeline for DPH to develop the testing program, and to identify providers who are qualified to offer, proctor, and score the tests in each new language. In order to ensure the smooth and adequate implementation of this important initiative, I am returning this section with language requiring DPH to implement the section on or before October 1, 2023.

- **Making Progress – A Glass Half Full**

Several Dignity-endorsed bills made significant progress during the 192<sup>nd</sup> General Court:

**House 4792 (Senate 773/H1274) -An Act to Preserve Special Needs Trusts for Disabled Seniors.** A transfer by an individual age 65 and over into a trust that conforms to 42 U.S.C. §1396p(d)(4)(C) established for the sole benefit of said individual shall be considered by the division as a disposal of resources for fair market value, to the extent that such resources could, under any circumstances, be used by the trustee to provide goods or services to the individual at fair market value. The bill was passed to be enacted by both Senate and House, but was vetoed. It is part of the Dignity Half-Dozen we support for early action in the new legislative term.

**Senate 2695 - An Act Relative to Pharmaceutical Access, Costs and Transparency”,** otherwise known as the P.A.C.T. Act. This law marks a major step in guaranteeing access to affordable healthcare across the Commonwealth, as we finally cap prices on prescription drugs like insulin. The bill was engrossed in the Senate (39 – 1). Dignity Alliance contacted House Ways and Means urging passage during the informal sessions, however no further action was taken. It is part of the Dignity Half-Dozen we support for early action in the new legislative term.

**Senate 2848 - An Act relative to supported decision-making** Supported Decision-Making (SDM) allows individuals with disabilities to make choices about their own lives with support from a team of people they choose. Individuals with disabilities choose people they know and trust to be part of a support network to help with decision-making. Supported Decision-Making is an alternative to guardianship. Instead of having a guardian make a decision *for* the person with the disability, Supported Decision-Making allows the person with the disability to make his or her own decisions.

**Senate 3136 - An Act expediting wheelchair warranty protections for consumers with disabilities** – protects consumers on repair and replacement of wheelchairs.

**House 2124 - An Act to establish a COVID - 19 Remembrance Day** – The bill received a lot of publicity, but did not get through either banch.

## **FEDERAL LEGISLATION DIGNITY-ENDORSED**

### **Legislative Victories**

**Enacted A.B.L.E Age Adjustment Act.** The Achieving a Better Life Experience Act, one of several federal bills endorsed this term by Dignity Alliance Massachusetts, operates as a long-term savings account for

disability beneficiaries without running the risk of losing additional federal benefits, such as Social Security Income and Medicaid. The bill is known as the A.B.L.E. Act, is sponsored by Senator Robert Casey (D-PA), and is included in the Omnibus bill approved by Congress and sent to the President at the end of the session. Under the bill, age eligibility requirements for ABLE beneficiaries would extend to individuals whose disability onset began after 26 years of age, the current threshold in the original legislation, written in 2014. New language eases restrictions for individuals up to 46 years of age.

**Extended funding for the Money Follows the Person program through 2027.** This program has already supported over 100,000 people to move out of nursing homes and other institutions and back into their communities, and we will continue fighting for it to be made permanent!

**Legislative Endorsement – In addition to the above, the following bills were reviewed and recommended for Dignity Endorsement and, subsequently endorsed by the full Alliance.**

HR 2812 - Fairness in Nursing Home Arbitration Act - This bill prohibits, and nullifies any existing , pre-dispute arbitration agreements with respect to Medicare skilled nursing facilities or Medicaid nursing facilities, home- and community-based services, or home health care services.

S 2694 - Nursing Home Improvement and Accountability Act of 2021 -, the bill requires facilities to have registered professional nurses available 24-7 and to provide infection control services overseen by a full-time infection preventionist. This bill establishes reporting, staffing, and other quality control requirements for Medicare skilled nursing facilities and Medicaid nursing facilities. For example, infection preventionists at least 40 hours per week.

HR 5169 - Nursing Home Improvement and Accountability Act of 2021 -Nursing Home Improvement and Accountability Act of 2021. This bill establishes reporting, staffing, and other quality control requirements for Medicare skilled nursing facilities and Medicaid nursing facilities. For example, the bill requires facilities to have registered professional nurses available 24-7 and to provide infection control services overseen by infection preventionists at least 40 hours per week.

S 2618 - Medicare and Medicaid Dental, Vision, and Hearing Benefit Act of 2021 - This bill provides for Medicare coverage of dental, vision, and hearing care. Coverage includes (1) routine dental cleanings and exams, basic and major dental services, emergency dental care, and dentures; (2) routine eye exams, eyeglasses, and contact lenses; and (3) routine hearing exams, hearing aids, and exams for hearing aids. With respect to such care, the bill establishes special payment rules, limitations, and coinsurance requirements. The bill also increases the Medicaid Federal Medical Assistance Percentage (i.e., federal matching rate) for dental, vision, and hearing services.

S 880 - Protecting Older Workers Against Discrimination Act = A bill to amend the Age Discrimination in Employment Act of 1967 and other laws to clarify appropriate standards for Federal employment

discrimination and retaliation claims, and for other purposes.

S104.HR 379 Improving Social Determinants of Health Act of 2021. The bill would create of program at CDC including grants to states for public health to include SDOH programs.

HR 6302 Protecting the Health of America's Older Adults Act would create a health aging program at the CDC, including grants to states for public health approaches to healthy aging.

HR 2062 = Protecting Older Workers Against Discrimination Act of 2021 - This bill revises the evidentiary standard for age discrimination by establishing an unlawful employment practice when the complaining party demonstrates that age or participation in an investigation, proceeding, or litigation related to an age discrimination claim was a motivating factor for an adverse practice, even though other factors also motivated the practice (thereby allowing what are commonly known as *mixed motive* claims). The bill (1) permits the complaining party to rely on any type or form of admissible evidence, which need only be sufficient for a reasonable trier of fact to find that an unlawful practice occurred; and (2) declares that the complaining party shall not be required to demonstrate that age or retaliation was the sole cause of the employment practice (thereby rejecting the Supreme Court's decision in *Gross v. FBL Financial Services, Inc.*, which requires the complainant to prove that age was the *but-for* cause for the employer's decision). The bill applies this evidentiary standard to other employment discrimination and retaliation claims, including

claims under the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973. In a claim in which age discrimination is shown, but where the employer demonstrates that it would have taken the same action absent the motivating factor of age, the bill authorizes courts to grant declaratory and injunctive relief, but prohibits the court from awarding damages or issuing an order requiring any admission, reinstatement, hiring, promotion, or payment. This limitation also applies to claims of discrimination based on disability. The bill also includes reporting requirements for the Equal Employment Opportunity Commission and the Department of Labor.

S 2210 - Better Care Better Jobs Act - This bill establishes programs and provides funds for state Medicaid programs to improve home- and community-based services (HCBS), such as home health care, personal care, case management, and rehabilitative services. Specifically, the bill provides funds for the Centers for Medicare & Medicaid Services to award planning grants, develop quality measures, and provide technical assistance to states regarding specified HCBS improvements, particularly with respect to access, utilization, and the associated workforce. The bill also increases the Federal Medical Assistance Percentage (i.e., federal matching rate) for HCBS in states that develop plans and meet specified benchmarks for improvements. The bill also makes permanent (1) the Money Follows the Person Rebalancing Demonstration Program (a grant program to help states increase the use of HCBS for long-term care and decrease the use of institutional care), and (2) certain provisions regarding Medicaid eligibility that protect against spousal impoverishment for recipients of HCBS.

S 2065 - Supplemental Security Income Restoration Act of 2021 - A bill to amend title XVI of the Social Security Act to update eligibility for the supplemental security income program, and for other purposes.

HR 3733 - Essential Caregivers Act of 2021 - To amend titles XVIII and XIX of the Social Security Act to require skilled nursing facilities, nursing facilities, intermediate care facilities for the intellectually disabled, and inpatient rehabilitation facilities to permit essential caregivers access during any public health emergency

under the Medicare and Medicaid programs.

S 4986 - Social Security COVID Correction and Equity Act - A bill to prevent an unintended drop in Social Security benefits due to COVID-19 and the application of the National Average Wage Index, and improve Social Security and Supplemental Security Income benefits on an emergency basis.

S 1773 - Prescription Drug Pricing Dashboard Act - Prescription Drug Pricing Dashboard Act. This bill provides statutory authority for, and establishes requirements regarding, the Medicare and Medicaid prescription drug pricing dashboards that are operated by the Centers for Medicare & Medicaid Services (CMS).

HR 598 - Quality Care for Nursing Home Residents and Workers During COVID-19 and Beyond Act to amend titles XVIII and XIX of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare program and nursing facilities under the Medicare program during the COVID-19 emergency period, and for other purposes

S3942 The Disabled Jurors Nondiscrimination Act. Prohibits excluding a person from federal jury service on account of a disability. Currently, federal law prohibits discrimination based on race, color, religion, sex national origin, or economic status. This adds “disability” to these protected classes.

## **OUTSTANDING DIGNITY LEGISLATOR AWARDS**

Based on nominations for Dignity Alliance participants, the Work Group honored several state legislators for their support of key Dignity endorsements and for their sponsorship of Dignity activities. These are the first Dignity Awards ever presented.

Lifetime Dignity Achievement Awards

**Senator Harriette Chandler**  
**Representative Linda Dean Campbell**

Outstanding Dignity Legislators

**Senator Patricia Jehlen**  
**Representative Ruth Balsler**

Honorable Mention

**Senator Joanne Comerford**  
**Senator Julian Cyr**  
**Senator Jamie Eldridge**  
**Senator Cindy Friedman**  
**Senator Michael O. Moore**  
**Representative Christine Barber**  
**Representative Josh Cutler**

**Representative Marjorie Decker**  
**Representative Kate Lipper-Garabedian**  
**Representative Thomas Stanley**

## **LEGISLATIVE ADVOCACY EFFORTS**

**Legislative Training** – In cooperation with the Dignity Communications Work Group, a virtual legislative training workshop was held on March 8, 2022 with Jessica Costantino, AARP Massachusetts Legislative Director to provide an orientation for members of the Legislative Work Group and other interest Dignity Alliance participants. Approximately 50 participated, and copies of the slide presentation have been posted on the Dignity Website.

**Communications with the Legislature** – Written testimony was provided to the relevant legislative committees on bills endorsed by Dignity Alliance. Copies of the testimony, along with lists of additional sponsors are available on the Dignity Website. In addition, letters were sent to legislative leaders urging an override of the Governor’s veto of the pooled trust bill, and the COVID-19 Remembrance Day. Letters were also sent to House Ways and Means in support of several budget items and to urge favorable action on five Dignity-endorsed bills that were engrossed in the Senate before the end of formal sessions.

**Dignity Votes 2022** – As part of Dignity Votes 2022, candidates for the Legislature were polled regarding their support for addressing issues, if they were elected, that would benefit older adults, people with disabilities and their caregivers. The survey helped us to identify potential legislative allies as well as to introduce the candidates to Dignity Alliance and our issues. A follow-up survey is planned in the new term along with letters congratulating those who were elected and thanking all who ran for legislative office for their willingness to serve the people of the Commonwealth.

**Soft Edge** – The Work Group interviewed three vendors, and recommended that Dignity Alliance work with Soft Edge to provide an advocacy system for participants in the Alliance to easily contact their federal and state legislators and others in support of Dignity sponsored and endorsed legislation. The service will cost \$3,000 annually.

## **LOOKING TO THE FUTURE**

Now that Dignity Alliance Massachusetts is more established and recognized by policymakers, and as a consequence of our merger with the Massachusetts Advocates for Nursing Home Reform (MANHR), we plan, for the first time, to sponsor legislation, as well as to endorse bills filed by others that address our values, mission and goals. In addition to our primary bills – the Dignity Dozen, there are six bills that will be refiled – the Dignity Half-Dozen, the were endorsed bills the, in one case, made it to the Governor’s Desk only to be vetoed, and five others that were engrossed in the Senate but, regrettably, died in House Ways and Means. It is our hope

that these bills will receive favorable reports early in the new General Court, and gain swift acceptance by both branches and the new Governor.

## **The 2023-2024 Legislative Package and the Goals Supported**

### **Dignity Dozen**

**Goal # 1: Nursing Home Reform that is person-centered and respectful of human dignity with oversight, accountability, and transparency.**

1. An Act to improve quality and safety in skilled nursing facilities
2. An Act relative to transparency and accountability in skilled nursing facilities

**Goal # 2: Congregate Living (other than skilled nursing facilities) and other opportunities for independence, informed choices, and integration in the community**

3. An Act to improve quality and accountability in Assisted Living Residences.

**Goal #3: Home and Community-Based Supports and Services improvement and expansion of opportunities.**

4. An Act Relative to Community Living for Older Adults and People with Disabilities
5. An Act promoting accessible dwellings for older adults and people with disabilities to remain in their communities. (p. 61 of the October 27 document)
6. An Act to Improve Discharge Opportunities from Acute Care Facilities

**Goal #4: Strengthen Support of Long-Term Care workers whether in careers, volunteers, or family members.**

7. An Act to Improve Long-Term Care Staffing and Dignity for Caregivers

**Goal #5: Strengthen Accessible, Universally-Designed Emergency Procedures and Responses.**

8. An Act to Improve Resilience in Older Adults and People with Disabilities during public health, environmental or technological emergencies. (in development)

### **Supporting Multiple Dignity Goals**

9. An act to Establish the Office of Elder Advocate
10. An Act to Ease the Tax Burden on Older Adults and People with Disabilities (In development)



11. An Act to Protect Dignity of Residents and Quality of Care in a residential care facility or long-term care facility. (in development)
12. An Act to establish a board of residential care settings.

### **Dignity Half Dozen**

Dignity Endorsed Bills Approved by one branch to be Refiled.

Proposals numbered 13 -18 are bills endorsed by Dignity Alliance in the 2021-22 term that made it through the Senate, but ended in House Ways and Means. It was suggested that certain bills that passed on branch, even though they will need to start all over, such be refiled as Dignity Alliance sponsored bills in the hope that they might move more quickly than new bills.

13. An Act to preserve special needs trusts for disabled seniors  
(H4792 in the 2021-2022 Legislative Session/veto H5188 – Jehlen/Hogan)
14. An Act relative to supported decision-making (H2848 - Lovely/Tucker)
15. An Act expanding wheelchair warranty protections for consumers with disabilities (S3136 Cronin/O’Day)
16. An Act to establish a COVID 19 Remembrance Day (Dignity Redraft)
17. An Act relative to pharmaceutical access, costs and transparency (S2695 Friedman)
18. An Act protecting the homes of seniors and disabled people on MassHealth.(S749/H1246 Comerford/Barber)

## **MEMBERSHIP OF THE WORK GROUP**

The following members participated in the Legislative Work Group during all, or a portion, of 2022.

Richard T. Moore, former Massachusetts State Senator, former Senate President Pro Tempore, former Massachusetts State Representative – CHAIR\*

Frank Baskin\*

Charles Carr, former Commissioner, Massachusetts Rehabilitation Commission\*

Chelsea Gordon, Alzheimer’s Association of MA & NH

Fred Grosso

Sandy Hovey, Public Guardian Services

Jennifer Kaplan, Center for Public Representation\*

Michael Kennedy, Center for Living and Working

Paul Lanzikos, former Massachusetts Secretary of Elder Affairs\*

Barbara L'Italien, current Executive Director, Disability Law Center, former Massachusetts State Senator, former Massachusetts State Representative \*

Taylot Nelson, Mass PACE

Sandy Novack

Betty Tegel, Crocker

Joseph Tingale, Stavros

James Willmuth, SEIU 1199

Brianna Zimmerman, Legislative Director, Stavros

(\*) Denotes Member of Dignity Alliance Coordinating Committee