



“So Much to Do, So Little Time”

Priorities as the 2023-2024 Massachusetts Legislative Session Nears Its Conclusion

Dignity Alliance Massachusetts has endorsed various bills during the current legislative session. As the Legislature approaches its formal conclusion on July 31, we are highlighting eighteen bills which deserve to be considered and enacted before adjournment including six which have been engrossed in one house.

PREFACE

Today, more than 1.26 million people living in the Commonwealth of Massachusetts are 65 years old or older. They represent approximately 18.1 % of our state’s population, and their numbers will continue to grow rapidly over the next thirty years.

This trend gives us much to celebrate, as older adults contribute to our society in countless ways. Older adults provide wisdom, perspective, and experience to society. They form the backbone of many community programs that depend upon volunteers, accounting for nearly one-third of the total volunteer hours served in the U.S. in 2021. They care for grandchildren, in many cases making it possible for the children’s parents to work, and provide the support that others depend upon to continue to live independently. They are mentors and advisors, and so much more.

Older adults also contribute significantly to our economy – nearly 20 percent of people 65 and older are employed – and the fastest growing segment of the U.S. workforce is people who are between 65 and 74.

At the same time, the aging of our population will create challenges. For example, nearly three quarters of Americans will need some type of assistance from caregivers to age in their communities. The demand for that assistance, which already far exceed the capacity of our systems to provide it, will only continue to grow as the number of older adults increases.

With thoughtful, intentional planning and action – at and across every level of government; across industry, philanthropy, and academia; and in partnership with older adults – we can address these challenges. We can improve the aging experience for the older adults of today and tomorrow and create age-friendly communities that appreciate the

contributions of older adults, sustain health and well-being at all ages, recognize and support family caregivers, and value and reward the work of the professionals who provide in-home and community-based care. ¹

Dignity Alliance Massachusetts respectfully urges the Legislature to enact the following bills before the end of formal sessions on July 31st. As each of these important bills gains enactment, the Commonwealth becomes more age-friendly and able-friendly. Massachusetts will then have much of the foundation necessary for older adults and people with disabilities to live productively in this communities with the services and supports necessary for the vision of independence throughout our adult lives.

“So Much to Do, So Little Time”

John Gunther wrote about it, Louis Armstrong sang about. What can be done about it?

BILLS ENGROSSED IN ONE BRANCH AND SHOULD BE ENACTED IN BOTH

- **H.4193 An Act to Improve Quality and Oversight of Long-Term Care –**
Senate Committee on Ways and Means.

Engrossed in the House, the bill would achieve significant improvements to long-term care, especially if amended to provide more balance for consumers and more oversight and accountability implemented by state government. This legislation that takes a comprehensive approach towards reforming the long-term care industry by supporting and expanding the workforce, enhancing oversight of facilities, and ensuring greater access, all while prioritizing quality of care.

Since early in the two-year term, Mariano has signaled an interest in transforming oversight, staffing supports and disease management in nursing homes and similar facilities, where issues were already apparent before the devastation of the public health emergency.

The legislation would implement several changes a nursing facility task force recommended in January 2020, such as empowering the Department of Public Health with more regulatory muscle and creating career ladder and grant programs to support the industry's stretched-thin workforce.

All long-term care facilities would be required under the bill to develop individualized infection outbreak response plans, which would need to be submitted to DPH for review every year

¹ <https://acl.gov/sites/default/files/ICC-Aging/StrategicFramework-NationalPlanOnAging-2024.pdf>

The legislation lays out new licensing regulations, subjecting long-term care facility management companies to additional oversight and allowing regulators to examine an applicant's "criminal and civil litigation history, financial capacity, and history providing long-term care both in and outside the Commonwealth," according to Mariano's office.

To give state enforcement more teeth, the bill would quintuple penalties the attorney general can seek for abuse and neglect of patients and double the statute of limitations to four years. It would also increase fines for offenses such as operating a facility without a license.

Attorney General Andrea Campbell this year supported the proposed abuse and neglect penalty hikes, telling lawmakers, "If we want to really get accountability when there's wrongdoing, the penalty must be strengthened so that they reflect the severity of the offenses."

- **S. 2546 An Act to reform Wheelchair Warranties for people with disabilities.**
Engrossed in the Senate referred by the House to Committee on Health Care Financing.

The legislation, which has received strong support from disability advocates in Massachusetts, requires all wheelchairs sold or leased in the Commonwealth to come with **express warranties**—a change from the current law, which only requires customized wheelchairs to come with express warranties.

THE PROBLEM: Durable medical equipment devices are often prone to defects and sudden failure. It is commonplace for consumers to be left stranded or isolated in their homes for weeks, or even months, awaiting repairs, unable to get to work, school, medical appointments, the grocery store, and in some cases to move around their own home.

Our laws must be reformed to strengthen warranty protections for MA residents with disabilities. We need to: 1) level the playing field for consumers, 2) shorten repair wait times, 3) prevent harm to our economy, 4) save taxpayer money that MassHealth currently spends fixing these defective wheelchairs, and 5) ensure that we are all treated with dignity and respect.

THE SOLUTION: The Warranty Protections for Consumers with Disabilities Act. This act draws upon legislation already adopted in other states to ensure stronger warranty protections for consumers with disabilities here in MA. These reforms include: 1) Expanding the warranty to cover all wheelchairs for two years;
2) Protecting wheelchair users' right to reasonable repair; 3) Reimbursement of costs incurred by consumers as a result of their defective chair; 4) Providing

loaner chairs while a consumers' chair is inoperable; and more. Passing this bill would protect the health, autonomy, time, and money of consumers with disabilities who rely on wheelchairs every day.

- **H.4707 The Affordable Homes Act** – Senate Committee on Ways and Means.

As engrossed in the House, the bill could benefit older adults and people with disabilities if the House approved amendments for accessory dwelling units as a right in zoning and the provisions of the Act for Accessible Massachusetts remain in the bill.

The Affordable Homes Act, provides a comprehensive bill to increase housing production and invest in livable communities. The House increased funding to a record \$6.2 billion investment. In Massachusetts, an infusion of new homes is needed to lower costs, accommodate population growth and achieve a healthy vacancy rate. In combination with the housing development tax credits that were part of the tax relief package signed into law by Governor Healey on October 4, the initiatives in the initial \$4.2 billion plan as projected to fund or enable the creation of more than 40,000 homes that otherwise would not be built, including 22,000 new homes for low-income households and 12,000 new homes for middle-income households. In addition, the Affordable Homes Act will preserve, rehabilitate or make resilience improvements to 12,000 homes for low-income households, support more than 11,000 moderate-income households, and fund accessibility improvements for 4,500 homes. With the additional \$2 billion authorized by the House, those numbers will be even more impactful.

- **S.4/H.4601 An Act relative to the FY '25 State Budget** – Senate/House Budget Conference Committee.

Engrossed in both House and Senate, but differ in amount and language. There are a number of provisions and appropriations in either or both the House or Senate versions of the budget that, if agreed to by the Conference Committee would make H.2 filed by the Healey/Driscoll Administration a more age-friendly and able-friendly state budget. Dignity Alliance is also concerned about several cuts to programs such as home and community-based services, independent living centers

and AHVP housing vouchers that will need to be better funded if the state is to meet the terms of the Marsters v. Healey Settlement.

- **H.4653 An Act Enhancing the Market Review Process (Comprehensive Health Reform)** – Senate Committee on Ways and Means.

The legislation has been engrossed in the House, awaiting action in the Senate. Much of the plan is aimed at addressing problems resulting from the increase of private equity and real estate investment trust participation in health care here, and throughout the United States. The goals of the bill are to restore stability to the health care system, bolster accountability within the industry, and control health care spending to ensure that everyone in Massachusetts has access to quality, affordable health care. The bill also includes important updates to how the Commonwealth regulates and monitors the health care market, informed by the Steward Health Care crisis.

- **S2814 An Act to provide for the future information technology needs of Massachusetts.** House Committee on Ways and Means

Engrossed in the House and Senate. Awaiting Conference Committee action. supports key projects that continue building out the digital experience for Massachusetts residents, allowing people to interface with state agencies online in a way that makes sense, ensuring residents can easily find and access the services and information they need, and supporting investments that make government more effective and efficient. The bill also funds future projects in AI and emerging tech that allow us to leverage Massachusetts' innovation ecosystem to make government better for everyone, while supporting key business applications that will modernize government information technology (IT) systems and make them more secure. Additionally, it reaffirms the Administration's commitment to investing in municipalities, by supporting established and successful municipal IT grant programs.

SIMPLE RENAMING BILLS THAT SHOULD BE PROMPTLY ENACTED

- **S.2797 An Act to rename the Executive Office of Elder Affairs as the Executive Office of Aging and Independence.** Committee on State Administration and Regulatory Oversight.

The Executive Office of Elder Affairs was established more than 50 years ago and was one of the nation's first agencies responsible for addressing the needs of older people. Today, the agency manages programs and services that are available to 1.7 million older adults and their family caregivers and supports an extensive aging services network. These programs and services provide supports to help people age in the community of their choice, most often in their home or other community-based setting.

The agency strives to be the trusted, first point of contact for older adults and their caregivers. However, research has shown the growing older population does not identify with the term "elder." Modernizing the agency's name reduces negative images about aging, normalizes aging as a natural process and emphasizes that older people value independence and self-determination.

Research revealed that aging adults do not connect with the term “elder,” and often associate the term with someone who is at the end of their life. Instead, residents prefer neutral terms such as “aging” and “older people.”

Additionally, research showed older adults deeply value the ability to maintain their independence through the aging journey. From these findings, the agency needs a new name to more accurately reflect its programs and services, and to better connect with eligible adults. The goal is for Massachusetts to be a state in which every person has the tools, resources, and support they need to fully embrace the aging experience. Dignity Alliance believes that the goal will best be achieved if the Governor raises the visibility of the agency as a full partner with the other cabinet agencies of state government, and which the legislation authorizes.

- **H.4161 An Act to rename the Massachusetts Rehabilitation Commission as MassAbility to reflect the self-determination and limitless possibilities for people with disabilities.** Senate Ways and Means

The 67- year-old Massachusetts Rehabilitation Commission would be renamed MassAbility, under a new bill filed Thursday. "Rehabilitation is a term that is no longer relevant to the work" of the agency, she said, and connotes that something is wrong or needs to be fixed. The goal is to ensure that no one is left behind in their efforts to pursue strong livelihoods, living, working, thriving, as I said, here in the state. It will modernize the language across all enabling statutes with the aim of removing outdated and stigmatizing terms. These changes will provide clarity and consistency."

The commission provides job preparation for students ages 14 and older, in addition to the Vocational Rehabilitation Program to support individuals in the workplace who have physical, cognitive, intellectual or mental health conditions. The agency also helps people navigate their disability benefits, offers assistive technology like wheelchairs and car modifications, and provides services to allow people with disabilities to live in their communities.

BILLS THAT MERIT FAVORABLE REPORTS AND PROMPT ACTION

- **S.2024 An Act to modernize the open meeting law** – Committee on State Administration and Regulatory Oversight.

The bill would permanently authorize Hybrid (Both in-person and virtual) public meetings that are essential for older adults and people with disabilities to be able to actively participate in state executive and legislative public meetings as well as municipal meetings. Hybrid meetings at the State House time of citizens, money for gas and parking, benefit the environment. S.4/H.601

- **H.4722 An Act relative to strengthening Massachusetts Economic Leadership** – Committee on Bonding, Capital Expenditures and Debt.

This bill could be more age and able-friendly if amendments are adopted that encourage funding of private-sector project is amended to include air-conditioning in skilled nursing facilities and rest homes. Older adults also contribute significantly to our economy – nearly 20 percent of people 65 and older are employed – and the fastest growing segment of the U.S. workforce is people who are between 65 and 74.

- **S.385 An Act relative to expanding the availability of personal care homes for older adults** – Senate Committee on Ways and Means

Personal Care Homes (PCHs) are residences that provide shelter, meals, supervision and assistance with personal care tasks, typically for older people, or people with physical, behavioral health, or cognitive disabilities who are unable to care for themselves but do not need nursing home or medical care. Available services vary and are based on the individual needs of each resident. This program is essential for Massachusetts to live up to the settlement of *Marsters v. Healey* which found the state failing to meet the terms of the U.S. Supreme Court *Olmstead* Decision.

- **S115 An Act increasing the personal care allowance for long term care residents** – Senate Committee on Ways and Means.

The Personal Needs Allowance (PNA) is the monthly sum of money that residents who receive Medicaid may retain from their personal income. Any income above the allowance is applied toward the cost of their care.

The legislation would allow a long-overdue increase to the Personal Needs Allowance for nursing home residents. The Personal Needs Allowance (PNA) is the maximum amount of income nursing home residents can retain to cover personal expenses such as clothing, haircuts, and communication devices like cell phones. Currently, the amount set in Massachusetts some 35 years ago has stagnated at \$72.80/month for an individual; a rate that has remained the same despite dramatic increases in the cost of goods and services. This PNA amount falls grossly short of today's prices and living costs.

The pending bill would increase the monthly stipend to \$100/month and provide for annual increases to keep pace with benefits provided to other citizens in other programs. This legislation would enhance the quality of life for nursing home residents by addressing the inadequacy of current PNA levels and ensuring that they have greater autonomy and dignity in managing their personal expenses. Dignity Alliance urges the Senate Ways and Means Committee to either include

the text as an amendment to the House-passed H.4193 Comprehensive Long-Term Care Bill or report the bill favorably on its own merits.

- **S.726/H.1202 An Act Protecting the Homes of Seniors and Disabled People on Mass Health** - The bill needs to be favorably reported by House Ways and Means, receive final approval in the House and engrossment in the Senate.

This bill needs a favorable report, and approval of both House and Senate. Special needs trusts for older adults have been a vital part of the health care landscape in Massachusetts for three decades, but sadly they are slated to be eliminated on March 1 of next year unless legislative action is taken to protect them. A special needs trust is a legal document recognized under federal law that allows assets to be set aside for the sole benefit of a person with disabilities without jeopardizing their access to public benefits.

A pooled special needs trust is the only option for people 65 and over who need a special needs trust. Each beneficiary has a separate account that is “pooled” with other accounts for investment purposes only, and federal regulations require that a nonprofit organization administer this type of trust. This allows people with disabilities to establish a trust that is protected and professionally managed by a nonprofit. These trusts work quite simply: Individuals with a disability who have assets that exceed the limit imposed by Medicaid, currently \$2,000 in Massachusetts, can have those assets placed in a pooled trust with others in the same situation. The trust enables beneficiaries to qualify for Medicaid (called MassHealth in Massachusetts) and other public benefits, while using the funds of the beneficiary during their lifetime to pay for uncovered medical expenses as well as non-medical essentials, such as clothes, transportation and other social supports. The trust administrator then reimburses Medicaid, from the remaining balance in the pooled trust sub-account, for its cost of caring for the disabled beneficiary after that person passes away. The state collects millions of dollars every year through this process. Upon the death of a beneficiary, federal regulations require that Medicaid is to be paid for anything it paid out during the lifetime of a beneficiary. A pending MassHealth policy change will affect many of these disabled seniors of modest means. (Special needs trusts can be established for people under the age of 65, and the MassHealth policy change will not affect these.)

Older adults who use special needs trusts are 65 and older and living with a wide range of physical, cognitive, neurological and other conditions. They live in a variety of settings — independently, in group homes, assisted-living residences, and nursing homes. They are marginalized individuals who merely seek to set aside funds for basic necessities not otherwise covered by Medicaid or insurance that others take for granted. Individuals that reside in nursing homes are allowed \$72.80 per month to meet their personal needs, such as clothing, co-payments, and major dental work. As the state’s population ages dramatically in the coming

years, the next wave of seniors should have the same benefit as those before them.

- **H.1201 An Act relative to supported decision-making** - Committee on Children, Families, and Persons with Disabilities.

Supported decision-making (SDM) offers a way for adults with disabilities and elders to maintain their rights, dignity, and independence by choosing one or more trusted supporters to provide them with assistance in making decisions about their lives. The Committee for Public Representation has piloted SDM across Massachusetts and seen the ways this model can transform lives. Too many people are unnecessarily placed under restrictive guardianships when they could make their own decisions with individualized assistance from people they trust. This bill would pave the way for many more individuals to use SDM in Massachusetts.

- **S.2499 An Act relative to pharmaceutical access, cost, and transparency** Senate Committee on Bills in Third Reading.

The bill needs final Senate approval and engrossment in the House. The legislation would make urgent and much-needed reforms to the pharmaceutical system in the state by lowering the cost of drugs at the pharmacy counter and improving oversight of the pharmaceutical industry.

It also takes firm steps to create more equitable access to life-saving medications by providing a free, no-cost sharing option for certain drugs used to treat chronic illnesses that disproportionately affect people of color.

- **S.799 An Act to Advance Health Equity** – Senate Committee on Ways and Means.

Massachusetts has the best health care system in the country, but not everyone in MA reaps the benefits. People of color, individuals with disabilities, and low-income communities are at greater risk for chronic illness, severe health complications, and even death. Throughout the United States, a person's zip code is more predictive of their life expectancy than their genetic code.

- **S.2527 An Act relative to assisted living and basic health services** – Senate Committee on Ways and Means

This bill expands limited new health services that would be authorized to be included in assisted living services. These services have been available as a result of temporary approval during the COVID pandemic, but will expire unless extended

or made permanent. The services are a recognition of the increasing health needs of older adults who prefer assisted living over more restrictive nursing home residency.

- **H.3031 An Act relative to the 401(k) CORE program** – House Committee on Ways and Means

The CORE Plan was created because many non-profit businesses cannot afford to sponsor retirement savings programs. The CORE Plan is a tax deferred and post-tax 401(k) savings plan developed for employees of eligible small nonprofit organizations. The mission of the CORE Plan is to help Massachusetts nonprofit employees save and invest for a financially secure retirement. Under the proposed legislation, the core plan would be expanded to include nonprofits with more than 20 people employed. Making it easier for people to save their own money for retirement is not just the right thing to do- it is also fiscally responsible. Cost-savings to states in the form of social services due to increased savings by individuals for retirement are significant.