

Reforms promising greater oversight and regulation of nursing and long-term care facilities pass Senate

By [Jason Laughlin](#) Globe Staff, Updated July 25, 2024, 5:50 p.m.



A woman walked in a nursing home in Massachusetts. JIM DAVIS/GLOBE STAFF

Sweeping reforms to the nursing and long-term care industry passed the Massachusetts Senate on Thursday, moving closer to [legislation](#) that would give the state more oversight and quality control over an industry wracked by staff shortages and closures.

The legislation would make the state Department of Public Health a more potent

gatekeeper for the long-term care industry, able to review financial and legal information from potential owners and management companies before issuing operating licenses for assisted living facilities, nursing homes, or other long-term care facilities. The department would be empowered to do more to spot and weed out owners who could gut homes for profit at the expense of residents' care.

“The goal of that is to prevent bad actors getting into the industry in Massachusetts,” said state Representative Thomas Stanley, a Democrat from Waltham and a sponsor of the House bill.

Similar legislation passed the House in [November](#). Legislators must reconcile the two drafts of the bill in conference, and the two houses must vote on the revised version before the end of the legislative session next week for the bill to reach Governor Maura Healey's desk.

The Senate passed the bill by a vote of 39 to 0.

“The whole continuum of care is under stress,” said state Senator Patricia Jehlen, a Somerville Democrat and the bill's sponsor. “There's a workforce crisis, there's a question about pay, there's a question about accountability.”

The bill's reach goes beyond licensing. It includes language that requires long-term care facilities to have outbreak response plans that include isolation protocols, notification policies for families and public health officials, and disease monitoring procedures. The bill would mandate facility inspections at least once every nine to 15 months, require that insurers process approvals for admission to long-term care facilities from hospitals within a day, waive such approvals over weekends, and encourage the development of “small house” nursing homes, facilities with no more than 14 residents who would receive private rooms arranged around a central living space.

The Public Health Department's stated policy is already to conduct inspections every nine to 15 months, but the legislation's passage would make that schedule a legal requirement.

The legislation details the department's authority to set standards for long-term care facilities and increases the fine for a rule or regulation violation from \$50 to \$500 daily, or more, if the department determines it is needed. A worker responsible for abusing or neglecting a resident could also face thousands of dollars in civil penalties, \$25,000 for incidents that don't involve bodily injury, and up to \$250,000 if a resident dies.

The legislation also seeks to ensure workforce development and encourage more generous Medicaid rate increases for the industry. Both are seen as ways to attract and retain workers in a field with a roughly [20 percent](#) vacancy rate for direct care providers, practical nurses, and registered nurses, according to a [workforce survey](#) released last month by the state's Center for Health Information and Analysis.

"I think this would be a first step," said Marlishia Aho, a spokesperson for SEIU Local 1199, a union representing about 1,000 nursing home personnel statewide. "Turnover is rampant in this space."

Advocates for people with disabilities describe the legislation as a needed counterweight to for-profit and private equity investment in the nursing home industry. Nursing homes owned by private equity firms are associated with a mortality rate 11 percent greater than the mean in the industry, according to [a report](#) from the National Bureau of Economic Research.

"There are definitely safeguards and review processes that need to be more aggressively applied," said Paul Lanzikos, a coordinator for the disability advocacy group Dignity Alliance Massachusetts.

The legislation also gives the state more authority to respond to facilities that fail to maintain stability, both for patients and workers. If the legislation becomes law, the Department of Public Health would have the power to require a struggling facility to appoint a temporary manager to get the facility back on track. It's a less drastic step than a court stepping in and appointing a receiver to take over a nursing home, which has happened at least four times in the past four months.

Earlier this month, a judge approved temporary receiverships for three homes in South Hadley, Whitinsville, and Amesbury run by Bluepoint Healthcare, which wasn't paying staff and vendors, according to public health officials. One of the homes, Pioneer Valley Health and Rehabilitation, received almost \$340,000 in federal fines in 2021 and 2022. During comments at the Senate hearing for the bill Thursday, state Senator Jacob Oliveira, a Democrat from Ludlow, described the circumstances at the home as "unconscionable."

"These are the reasons why this bill is so important," he said.

Bluepoint could not be reached for comment.

Inadequate staffing, reliance on Medicaid reimbursement rates, and a cultural shift away from nursing care for seniors are all taking a toll on the long-term care industry. The state reported a net loss of 56 nursing homes between 2018 and 2023, according to Public Health Department data. Five long-term nursing facilities in the state have [closed or filed plans to close](#) so far this year, the agency reported. Staffing shortages at nursing homes have also reached concerning levels.

Lanzikos sees an industry in a downward spiral.

"As the sector deteriorates, both in reputation and quality, fewer and fewer people who care about the job they do are going to be going into the field," he said.

Tara Gregorio, president of the Massachusetts Senior Care Association, said in a

statement that demand for nursing homes in the state is in fact growing, and 93 percent of available beds are occupied. She added that she supports the proposed reforms but is concerned that the bill doesn't address long-term care facilities' serious financial struggles. She estimated the state would need to spend \$300 million more annually to support the industry.

“A nursing facility's ability to provide quality resident care, invest in our dedicated workforce, and comply with thousands of government regulations is dependent on state funding,” Gregorio said.

An amendment to the bill addresses the controversial practice of [estate recovery](#), which allows MassHealth, the state's Medicaid program, to claim the assets of clients after they die to recoup the cost of long-term care. The practice can unduly burden poorer families and rob them of the opportunity to build intergenerational wealth, officials have said. The amendment would significantly curtail the practice and better align the state's estate recovery practices with more modest federal standards, said state Senator Joanne Comerford, a Democrat from Northampton who supported the amendment. The estate recovery change had been proposed as an independent bill earlier in this session but was added as an amendment to the long-term care bill since it was related to services for seniors and people with disabilities.

“We've been trying to do this for some time,” she said. “People's legacies and estates are at stake.”

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