



# Guest column: Nursing home reform bill overdue on Beacon Hill

**Richard T. Moore and James Lomastro**

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Community college students are, no doubt, cheering at the prospect of a tuition-free postsecondary education. Regular players of the Massachusetts State Lottery are probably salivating at the prospect of online access to lottery tickets.

However, once again, barring any unlikely breakthrough in the remainder of the informal sessions, nursing home residents and their families, who arguably suffered more than others from the tragedy of the COVID-19 pandemic, must now pin their hopes on the next legislative session, beginning in January 2025.

At this time, two years ago, formal legislative sessions ended as a nursing home reform bill languished in the House Committee on Ways and Means. This session, a reform bill, an announced priority of House Speaker Ron Mariano, D-Quincy, passed the House in November 2023, but stalled in the Senate Committee on Ways and Means until it emerged in mid-July 2024.

Sen. Pat Jehlen, D-Somerville, and Rep. Tom Stanley, D-Waltham, along with their colleagues on the Committee on Elder Affairs and other legislators, deserve a lot of credit for crafting bills in their respective branches that could have advanced the cause of nursing home, indeed long-term care, reform. While neither bill included everything that is needed to bring out transformational reform, a final conference committee-negotiated version might have been a major step forward to address the quality and safety so urgently needed in the majority of nursing homes in Massachusetts.

The themes that appeared in the long-term care bills:

## **1. Consumer control and choice**

- **Involvement of resident council members and consumer advocates:** Ensuring that advisory bodies include members from resident councils and consumer advocates.

## **2. Collaboration with all stakeholders**

- **Establishing Workforce and Capital Fund with Advisory Committee:** Involving representatives advocacy and consumers as well from Mass. Senior Care and SEIU 1199 for consultation.

## **3. Transparency and accountability**

- **Auditing grants and loans with clawback provisions:** Ensuring funds are used appropriately and can be reclaimed if misused.
- **Detailed ownership information reporting:** Expanding reporting requirements to include private equity ownership or real estate investment trust involvement.

## **4. Concerns over implementation and feasibility — small homes and emergency preparedness**

- **Regulations for small-house nursing homes:** Requiring specific design and cultural aspects in the business plan indicates a concern over practical implementation and effectiveness.
- **Outbreak response planning and financial performance:** Requiring detailed outbreak response plans and examining cost trends to ensure facilities can handle emergencies effectively.

## **5. Implementing fines and fees that produce intended results**

- **Increased penalties for violations:** Addressing potential issues by setting higher fines for noncompliance and abuse.
- **Guardianship fees and financial eligibility:** Concerns about financial burdens and ensuring fair access to services.

## 6. Maintaining and improving current systems

- **Rate-setting and specific program add-ons:** Ensuring staff have appropriate credentials and that existing programs are strengthened rather than replaced.
- **Uniform prior authorization forms:** Streamlining procedures for admissions and ensuring quick responses from payers.

## 7. Cultural competency and training

- **Training programs for staff:** Emphasizing the need for comprehensive training in infection prevention, resident care and staff safety.

## 9. Performance measures and quality control

- **Inspection and licensure requirements:** Annual inspections, provisional licenses and expanding oversight to ensure quality care.
- **Corrective action plans for violations:** Setting timelines for corrections and the appointment of temporary managers to address chronic issues.

## 10. Potential impact on community and hospital services

- **Potential job losses and financial burdens:** Addressing the possibility of job losses in the current community-based programs and ensuring financial stability of community programs.
- **Impact on hospital throughput and discharge planning:** Establishing task forces to address potential bottlenecks in hospital discharges to long-term care settings.

These are all important issues to address in a redrafted bill for the next term. Hopefully, House and Senate leaders can continue to work out a new bill based on the versions passed in each branch. Given the role that nursing home owners, even those with modest stakes, play in staffing levels and delivery of care, ownership interests in any amount, not the proposed 5%, should be publicly reported, as should the role of related and unregulated third-party interests.

There were a few bright spots in the final formal session. The Affordable Homes Act, which is critical to helping meet the state's commitment to move residents out of nursing homes and back to their communities.

Affordable and accessible housing, along with increased supportive services, are key components in the recent settlement of the *Marsters v. Healey* class-action lawsuit. In the final order, Massachusetts agrees to help at least 2,400 residents leave nursing homes over the next eight years.

Another end-of-formal-sessions bright spot is the passage of reforms to veterans services, which will benefit older adults and people with disabilities who served their country in the armed forces.

The failure to improve oversight and accountability of nursing homes could well increase the number of nursing home residents seeking to go home to their communities. Even if the reforms had passed, helping more nursing home residents to leave the troubled long-term care system is a good thing.

*Richard T. Moore is a former member of the Massachusetts Senate who served as Senate chair of the Committee on Health Care Financing. He is co-founder and legislative chair of Dignity Alliance, which advocates for older adults, people with disabilities, and their caregivers. James Lomastro has been an administrator in health care for 35 years and is a member of the Dignity Alliance coordinating committee.*