

**HOUSE . . . . . No. 615**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Ruth B. Balsler***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to ensure the quality of care in nursing homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/20/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/14/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/14/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/14/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/14/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/15/2023</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>2/17/2023</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/17/2023</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>2/17/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/21/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/22/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/23/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>2/27/2023</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>3/2/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/4/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>3/6/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>3/13/2023</i>

**HOUSE . . . . . No. 615**

By Representative Balser of Newton, a petition (accompanied by bill, House, No. 615) of Ruth B. Balser and others for legislation to further regulate care in nursing homes. Elder Affairs.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act to ensure the quality of care in nursing homes.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 111 of the General Laws is hereby amended by inserting after  
2 section 72BB the following section:-

3 Section 72CC

4 For the purpose of this section, “hours of care per resident per day” shall mean the total  
5 number of hours worked by registered nurses, licensed practical nurses, and nursing assistants,  
6 including certified nurse aides with direct resident care responsibilities, for each 24 hour period,  
7 divided by the total census of the facility for each day.

8 Long-term care facilities providing Level I, II, or III care shall provide sufficient nursing  
9 personnel to meet resident nursing care needs, based on acuity, resident assessments, care plans,  
10 census and other relevant factors as determined by the facility. Sufficient staffing must include a  
11 minimum number of hours of care per resident per day of 4.1 hours, of which at least 0.75 hours  
12 must be care provided per resident by a registered nurse. The facility must provide adequate

13 nursing care to meet the needs of each resident, which may necessitate staffing that exceeds the  
14 minimum required hours of care per resident per day.

15 SECTION 2. Chapter 111 of the General Laws is hereby amended by inserting after  
16 section 72CC the following section:-

17 Section 72DD

18 1. As used in this Section:

19 “Cohorting” means the practice of grouping patients who are or are not colonized or  
20 infected with the same organism in order to confine their care to one area and prevent contact  
21 with other patients.

22 “Commissioner” means the Commissioner of the Department of Public Health.

23 “Religious and recreational activities” includes any religious, social, or recreational  
24 activity that is consistent with the resident’s preferences and choosing, regardless of whether the  
25 activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities  
26 provider.

27 “Resident” means a person who resides in a long-term care facility.

28 “Social isolation” means a state of isolation wherein a resident of a long-term care facility  
29 is unable to engage in social interactions and religious and recreational activities with other  
30 facility residents or with family members, friends, and external support systems.

31 2. a. The Department of Public Health shall require each long-term care facility in the  
32 state, as a condition of facility licensure, to adopt and implement written policies, to

33 provide technology to facility residents, and to provide appropriate staff to prevent the social  
34 isolation of facility residents.

35 b. The social isolation prevention policies adopted by each long-term care facility  
36 pursuant to this section shall:

37 (1) authorize and include specific protocols and procedures to encourage and enable  
38 residents of the facility to engage in in-person contact, communications, and religious and  
39 recreational activities with other facility residents and with family members, friends, and other  
40 external support systems, except when such in-person contact, communication, or activities are  
41 prohibited, restricted, or limited, as permitted by federal or state statute, rule, or regulation;

42 (2) authorize and include specific protocols and procedures to encourage and enable,  
43 residents to engage in face-to-face or verbal/auditory-based contact, communication, and  
44 religious and recreational activities with other facility residents and with family members,  
45 friends, and other external support systems, through the use of electronic or virtual means and  
46 methods, including, but not limited to, computer technology, the internet, social media,  
47 videoconferencing, and other innovative technological means or methods, whenever such  
48 residents are subject to restrictions that limit their ability to engage in in-person contact,  
49 communications, or religious and recreational activities as authorized by paragraph (1) of this  
50 subsection;

51 (3) provide for residents of the facility who have disabilities that impede their ability to  
52 communicate, including, but not limited to, residents who are blind, deaf, or deaf-blind, residents  
53 who have Alzheimer's disease or other related dementias, and residents who have developmental  
54 disabilities, to be given access to assistive and supportive technology as may be necessary to

55 facilitate the residents' engagement in face-to-face or verbal/auditory-based contact,  
56 communications, and religious and recreational activities with other residents, family members,  
57 friends, and other external support systems, through electronic means, as provided by paragraph  
58 (2) of this subsection;

59 (4) include specific administrative policies, procedures, and protocols governing: (a) the  
60 acquisition, maintenance, and replacement of computers, videoconferencing equipment,  
61 distance-based communications technology, assistive and supportive technology and devices,  
62 and other technological equipment, accessories, and electronic licenses, as may be necessary to  
63 ensure that residents are able to engage in face-to-face or verbal/auditory-based contact,  
64 communications, and religious and recreational activities with other facility residents and with  
65 family members, friends, and external support systems, through electronic means, in accordance  
66 with the provisions of paragraphs (2) and (3) of this subsection; (b) the use of environmental  
67 barriers and other controls when the equipment and devices acquired pursuant to this section are  
68 in use, especially in cases where the equipment or devices are likely to become contaminated  
69 with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to  
70 clean; and (c) the regular cleaning of the equipment and devices acquired pursuant to this  
71 paragraph and any environmental barriers or other physical controls used in association  
72 therewith;

73 (5) require appropriate staff to assess and regularly reassess the individual needs and  
74 preferences of facility residents with respect to the residents' participation in social interactions  
75 and religious and recreational activities, and include specific protocols and procedures to ensure  
76 that the quantity of devices and equipment maintained on-site at the facility remains sufficient, at

77 all times, to meet the assessed social and activities needs and preferences of each facility  
78 resident;

79 (6) require appropriate staff, upon the request of a resident or the resident's family  
80 members or guardian, to develop an individualized visitation plan for the resident, which plan  
81 shall: (a) identify the assessed needs and preferences of the resident and any preferences  
82 specified by the resident's family members; (b) address the need for a visitation schedule, and  
83 establish a visitation schedule if deemed to be appropriate; (c) describe the location and  
84 modalities to be used in visitation; and (d) describe the respective responsibilities of staff,  
85 visitors, and the resident when engaging in visitation pursuant to the individualized visitation  
86 plan;

87 (7) include specific policies, protocols, and procedures governing a resident's requisition,  
88 use, and return of devices and equipment maintained pursuant to this act, and require appropriate  
89 staff to communicate those policies, protocols, and procedures to residents; and

90 (8) designate at least one member of the therapeutic recreation or activities department,  
91 or, if the facility does not have such a department, designate at least one senior staff member, as  
92 determined by facility management, to train other appropriate facility employees, including, but  
93 not limited to, activities professionals and volunteers, social workers, occupational therapists,  
94 and therapy assistants, to provide direct assistance to residents, upon request and on an as-needed  
95 basis, as necessary to ensure that each resident is able to successfully access and use, for the  
96 purposes specified in paragraphs (2) and (3) of this subsection, the technology, devices, and  
97 equipment acquired pursuant to this paragraph.

98 c. The department shall distribute civil monetary penalty (CMP) funds, as approved by  
99 the federal Centers for Medicare and Medicaid Services, and any other available federal and state  
100 funds, upon request, to facilities for communicative technologies and accessories needed for the  
101 purposes of this act.

102 3. a. Whenever the department conducts an inspection of a long-term care facility, the  
103 department's inspector shall determine whether the facility is in compliance with the provisions  
104 of this section and the policies, protocols, and procedures adopted pursuant thereto.

105 b. In addition to any other applicable penalties provided by law, a long-term care facility  
106 that fails to comply with the provisions of this act or properly implement the policies, protocols,  
107 and procedures adopted pursuant thereto:

108 (1) shall be liable to pay an administrative penalty, the amount of which shall be  
109 determined in accordance with a schedule established by department regulation, which schedule  
110 shall provide for an enhanced administrative penalty in the case of a repeat or ongoing violation;  
111 and

112 (2) may be subject to adverse licensure action, as deemed by the department to be  
113 appropriate.

114 4. Nothing in this section shall be construed as limiting the ability of residents to own or  
115 operate a personal electronic device.

116 5. The department of public health shall promulgate regulations necessary to implement  
117 this section.

118 SECTION 3. Chapter 111 of the General Laws is hereby amended by inserting after  
119 section 72DD the following section:-

120 Section 72EE

121 For all nursing care units in the Commonwealth, resident bedrooms must adhere to the  
122 following:

123 1.The floor area of resident bedrooms, excluding closet, vestibule and toilet room areas  
124 shall not be less than 125 square feet for single occupancy rooms and 108 square feet per bed for  
125 double occupancy rooms.

126 2.No resident bedroom shall contain more than two beds.

127 3.Rooms shall be shaped and sized so that each bed can be placed with a minimum  
128 clearance of 4 feet from any lateral wall, window or radiator on the transfer side of the resident  
129 bed and 3 feet from any lateral wall, window or radiator on the non-transfer side of the resident  
130 bed. In single occupancy rooms, an unobstructed passageway of at least 3 feet shall be  
131 maintained at the foot of each bed. In double occupancy rooms, an unobstructed passageway of  
132 at least 4 feet shall be maintained at the foot of each bed. In double occupancy rooms, resident  
133 beds must be spaced at least 6 feet apart.

134 4.Resident bedrooms shall have a floor level above the grade level adjacent to the  
135 building.

136 5.All resident bedrooms shall be along exterior walls with window access to the exterior.

137 6.All resident bedrooms shall open directly to a main corridor and shall be permanently  
138 and clearly identified by number on or beside each entrance door.



139           7. Each room with more than one bed shall have cubicle curtains or equivalent built in  
140 devices for privacy for each resident.

141           8. Each resident bedroom shall contain closet interior space of not less than two feet by  
142 two feet per resident with at least five feet clear hanging space for the storage of personal  
143 belongings. In addition, either a built in or freestanding multiple drawer bureau not less than two  
144 feet wide with a minimum of one drawer per resident shall be provided.

145           9. Each resident bedroom shall be sized and dimensioned to accommodate hospital type  
146 beds of not less than 76 inches long and 36 inches wide, a hospital type bedside cabinet and an  
147 easy chair or comfortable straight back armchair.

148           SECTION 4.

149           Section 3 of this act shall take effect on January 1, 2024.