SENATE DOCKET, NO. 01705 FILED ON: 01/21/2011

SENATE . . . . . No. 01142

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 passage of the accompanying bill:

An Act relative to patient, medical intern, and resident-physician safety and protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	*Worcester and Norfolk*

SENATE . . . . . No. 01142

By Mr. Moore, petition (accompanied by bill, Senate, No. 1142) of Moore for legislation relative to safe work hours for physicians in training and protection of patients [Joint Committee on Public Health].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
 SENATE
 , NO. *845* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to patient, medical intern, and resident-physician safety and protection.

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

SECTION 1. Chapter 11 of the general laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 4L, the following new section:

Section 4M. Advisory Council on Physician Work Hours

(a) there is hereby established with the department, the advisory council for resident-physicians. The advisory council shall be comprised of 13 members to be appointed by the commissioner of public health, 1 of whom shall be a representative from the Massachusetts Medical Society, 1 of whom shall be the dean of the University of Massachusetts Medical School, 1 of whom shall be the executive director of the board of registration in medicine or her

designee, 2 of whom shall be representatives of the Massachusetts Hospital Association at least on from a teaching hospital, 1 of whom shall be a representative of the committee of interns and residents/SEIU, 1 of whom shall be a resident-physician from an academic medical institution that does not have representation by the committee of interns and residents/SEIU, 1 of whom shall be a resident-physician from a community hospital, 1 of whom shall be the director of a graduate medical education office at a hospital located in the Commonwealth, 1 of whom shall be a consumer, two shall be experts in sleep deprivation who are members of the Sleep Research Society; and 1 of whom shall be the executive director of the Betsy Lehman Center for Patient Safety and Medical Error Reduction who shall serve as the chairperson of the council. The members of the council shall serve without compensation.

(b) The advisory council shall make an investigation and study into the duty hours and working conditions of resident-physicians in the commonwealth. Based on the study, the department shall adopt rules and regulations for the purpose of establishing an evidence-based standard duty hour schedule that promotes quality of care and patient and resident-physician safety. The study shall consider, but not be limited to implementing recommendations from the Sleep Research Society (2005) and the Institute of Medicine Report (Resident Duty Hours: Enhancing Sleep, Supervision and Safety, 12/2/08), specifically: limiting the work hours of resident physicians and other trainees in clinical training programs to an optimal limit of 60 hours per week, but not more than a maximum limit of 80 hours per week; limiting the consecutive work hours of to an optimal limit of 12 hours per shift, but not more than a maximum of 16 scheduled hours per shift, including time for the transition of patient care information, with an additional two hours of work allowed when deemed necessary for patient safety by a supervisor; limiting the work hours of residents who are assigned to patient care

responsibilities in an emergency department to not more than 12 consecutive hours; limiting the number of consecutive night shifts worked to no more than 4, with a minimum of 48 hours off duty after 3 or 4 consecutive night shifts; requiring a nonworking period of not less than 16 consecutive hours following a 16 hour shift; requiring a nonworking period of optimally 12 or more hours, but not less than 10 hours, between other scheduled shifts; requiring that resident physicians and other trainees in clinical training programs optimally have 48 consecutive hours free of work once every seven days, but at a minimum, 36 consecutive hours free of work including two consecutive nights once every seven days; and requiring optimally 60 consecutive hours free of work once every two weeks, but at a minimum, 60 consecutive hours free of work once every four weeks; requiring that the optimal, rather than the minimal, work hour recommendations be met by resident physicians and other trainees in clinical training programs in any setting designated a high-intensity setting by the advisory council (a setting where the probability and/or potential consequence of a medical error is high, such as an intensive care unit); limiting overnight, on-call work shifts that exceed 12 consecutive hours to a frequency of no more than one night every three days; accommodations that can be made in any recommended time limitations for a state of emergency declared by the commonwealth that applies with respect to that hospital or for an emergency situation when a resident-physician is providing critical physician-care to an individual patient and cannot be replaced; requirements for each hospital to inform resident-physicians of their rights under any rules and regulations promulgated by the department; enforcement of such rules and regulations including, but not limited to, the posting of maximum hours limitations in all departmental offices, informing all resident-physicians of their rights to report any violations of the regulations, whistleblower protections and the use of surveys of resident-physicians and reporting by hospitals to determine

compliance with rules and regulations promulgated under this section; and requiring that resident-physicians and hospital supervisors be informed of the effects of acute and chronic sleep deprivation both on the resident-physicians and on the quality of patient care. The study shall also consider mechanisms for meaningful enforcement of any standards proposed and for effective sanctions for violations.

(c) The council shall make an investigation and study into appropriate penalties for violations of any rules and regulations promulgated pursuant to subsection (b). Based on the study, the department shall adopt rules and regulations to establish a model work environment that promotes quality of care and patient and resident-physician safety and shall establish an enforcement mechanism and penalties for violations of the rules and regulations promulgated under subsection (b). Any rules or regulations established under this subsection shall include penalties for any hospital or other institution hosting resident-physicians, an attending physician supervising resident-physicians, and resident-physicians who habitually violate the rules and regulations promulgated under subsection (b). The study shall consider, but shall not be limited to: identifying a position within the department responsible for investigating all complaints of violations of any rules and regulations promulgated by the department pursuant to subsection (b) and the use of monetary and non-monetary penalties to maximize improvement of patient safety.

(d) The investigation and study shall be conducted and recommendations shall be presented to the department not later than one year after the effective date of this act.

(e) For the purposes of this section, the term ‘resident-physician’ shall include a medical intern, resident or fellow enrolled in an ACGME or ADA accredited graduate medical or dental education program.

SECTION 2: Effective dates.

(a) The provision of subsection (a) and subsection (b) of Section 1 shall take effect upon passage.

(b) The provisions of subsection (c) of Section 1 shall take effect one year after the implementation of the rules and regulations promulgated under subsection (b) of Section 1.