

**SENATE . . . . . No. 748**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Cindy F. Friedman*

*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 protect medically fragile children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/24/2023</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>1/30/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/31/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/2/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/6/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/6/2023</i>

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By Ms. Friedman, a petition (accompanied by bill, Senate, No. 748) of Cindy F. Friedman, Sean Garballey, Richard M. Haggerty, Joanne M. Comerford and other members of the General Court for legislation to protect medically fragile children. Health Care Financing.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 768 OF 2021-2022.]

**The Commonwealth of Massachusetts**

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

An Act to protect medically fragile children.

*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 118E of the General Laws is hereby amended by adding the  
2 following section:-

3           Section 80. (a) Notwithstanding any general or special law to the contrary, and subject to  
4 appropriation, the executive office of health and human services shall increase the budget for  
5 continuous skilled nursing care, as defined in 101 CMR 361 and 130 CMR 403.402, by an  
6 amount that ensures:

7           (1) At least 75 percent of continuous skilled nursing hours authorized by MassHealth are  
8 filled on or before July 1, 2023;

9 (2) At least 80 percent of continuous skilled nursing hours authorized by MassHealth are  
10 filled on or before July 1, 2024; and

11 (3) At least 85 percent of continuous skilled nursing hours authorized by MassHealth are  
12 filled on or before July 1, 2025, and shall remain at 85 percent or above thereafter.

13 (b) The executive office of health and human services may require any portion of the  
14 budget increases provided for in this section to be used exclusively to increase the wage payment  
15 rate of nurses providing continuous skilled nursing care.

16 (c) To satisfy the requirements in subsection (a), the executive office of health and human  
17 services shall require MassHealth to submit an annual report no later than January 1 that:

18 (1) demonstrates that MassHealth has not changed its authorization criteria for  
19 continuous skilled nursing services in a way that is more restrictive and results in a reduction in  
20 the amount of authorized hours that would have been authorized previously; and

21 (2) includes the following information from the immediately preceding calendar year: (i)  
22 the number of filled and unfilled continuous skilled nursing hours authorized by MassHealth; (ii)  
23 the number of appeals received by MassHealth for the denial or modification of continuous  
24 skilled nursing hours and the number of patients that filed an appeal; (iii) the number of patients  
25 that received a reduction in the amount of authorized continuous skilled nursing hours; and (iv)  
26 the number of authorized continuous skilled nursing hours reduced from the immediately  
27 preceding calendar year, if any.

28 (d) The executive office of health and human services, in collaboration with MassHealth  
29 and after consultation with the Massachusetts Pediatric Nursing Care Campaign, shall  
30 promulgate regulations to implement this section.

31 (e) Nothing in this section shall be construed to prohibit filling 85 percent of the  
32 continuous skilled nursing hours authorized by MassHealth prior to July 1, 2025.

33 SECTION 2. Notwithstanding any general or special law to the contrary, the office of  
34 Medicaid shall review the wage payment rates established by home health agencies that provide  
35 continuous skilled nursing care, as defined in 101 CMR 361.00 and 130 CMR 403.402, for the  
36 providers of those services. The office shall provide: (i) an aggregated overview of the wage  
37 payment rates paid by home health agencies to staff or contracted nurses providing continuous  
38 skilled nursing care, including any increases in said wage rates resulting from increases in  
39 Medicaid rates paid to home health agencies for continuous skilled nursing care in state fiscal  
40 years 2020, 2021 and 2022; (ii) an aggregated breakdown of said wage rates as applied to the  
41 acuity level of patients receiving continuous skilled nursing care; (iii) an aggregated breakdown  
42 of said wage rates as applied to the licensure level of the providers of continuous skilled nursing  
43 care; and (iv) recommendations on criteria to be included in any future reporting by home health  
44 agencies receiving an increase of continuous skilled nursing care rates provided by the office.  
45 The office shall provide this report not later than March 1, 2025 to the clerks of the senate and  
46 house of representatives, the joint committee on health care financing and the senate and house  
47 committees on ways and means. Home health agencies providing continuous skilled nursing care  
48 shall provide all information and documentation requested by the office of Medicaid to compile  
49 the required report under this section.