



An Act Relative to Stabilizing the Commonwealth's Nursing Facilities ***SB336 Filed by Senator Harriette Chandler; HB2072 Filed By Representative Thomas Golden***

The Commonwealth's nursing facilities provide a core state service to frail elders and disabled individuals who can no longer be cared for safely at home. Approximately two-thirds of nursing home residents (about 30,000) have their care paid for by the state Medicaid program, which reimburses \$37 per day below the cost of patient care. And, since three-quarters of a nursing home's budget is used to fund employee wages and benefits, a nursing home's ability to increase wages and benefits is largely dependent upon state funding for nursing home care. The proposed legislation would make significant investments in the long term care workforce and would seek to close the record-high gap between Medicaid payments and the cost of providing quality care.

Section one would require the Executive Office of Health and Human Services (EOHHS) to update nursing home rates by applying the same inflation factor Medicare uses in establishing Skilled Nursing Facility (SNF) prospective payment rates. Each year, the Centers for Medicare & Medicaid Services (CMS) publishes a final rule on setting Medicare SNF rates. This rule includes an annual Market Basket Update to reflect inflation cost increases for that year. Use of a valid inflation factor in the specific rate year would better ensure nursing facilities have the necessary resources to invest in staff and resident care.

Section two would require the state to update MassHealth payments for nursing home care using 2014 costs. Currently, rates are based on 2007 costs and do not accurately reflect inflationary increases in staff wages, health insurance and other labor benefits, energy, food and capital improvements.

Section three would prohibit EOHHS from continuing to apply an outdated budget-drive utilization ('occupancy penalty') standard in setting Medicaid nursing home rates. EOHHS currently uses a 96 percent occupancy penalty. The penalty was put into Medicaid regulations more than 30 years ago as a standard for efficiency that is no longer relevant due to changes in the delivery care system, including the dramatic increase in the number of post-acute care patients coupled with the expansion of home and community based services for frail elders capable of remaining in their homes with formal and informal supports. And, to our knowledge, no other Medicaid institutional provider is subject to such a rigorous occupancy penalty, notwithstanding the fact that the actual average occupancy of nursing homes is significantly higher than all other institutional providers.

Section four would require the Commonwealth Corporation, subject to appropriation, to establish a career ladder program for long term care. This program was previously funded in past state budgets and was instrumental in workers advancing their skills and thereby enhancing quality patient care. At the height of the program, nearly 30% of the Commonwealth's skilled nursing facilities were participating in career ladder programs.

Section five would require the Department of Public Health, subject to appropriation, to establish a direct care scholarship program for long term care workers. During better economic times, this successful program was included in the state budget with more than 1,500 long term care workers receiving scholarships for direct care training.