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The Dignity Budget for FY '25

Wording that is **BOLDED** represents new items or provisions within items.

State Budget tweaks to help older adults, people with disabilities, and their caregivers live with greater independence and dignity and, in many cases save taxpayers money while improving nursing home care and home and community-based supports and services. Developed by Dignity Alliance Massachusetts.

JUDICIARY

Funding for the Office of Adult Guardianship and Conservatorship Oversight (OAGCO)

0333-0002 For the Probate and Family Court to continue implementation of a statewide OAGCO to increase court oversight of guardians/conservators and guardian/conservator arrangements to protect adults aged 60 and older and adults with disabilities from abuse, financial exploitation, and neglect.

$800,000

Explanation

OAGCO was initially funded in October 2021 by a two-year federal grant of almost $1 million, as one of only seven court systems selected to receive a national Elder Justice Innovation Grant from the U.S. Department of Health

and Human Services Administration for Community Living. That grant was extended but will soon expire.

The Probate and Family Court has made much progress on the grant, including:

- Hiring and training oversight officers
- Collaborating with a wide range of community stakeholders to develop data and build an evidence-based model for oversight
- Developing mandatory training for all new guardians
- Establishing an Ombudsman program to provide resources and referrals regarding court process, support for family guardians and conservators, and address concerns about guardianship and conservatorship
- Creating systemic tools for monitoring and ensuring that all guardians and conservators comply with annual required Court reports and accounts

The Probate and Family Court requires dedicated, secure state funding to support ongoing implementation of this vital oversight program, to serve an increasingly aging population in Massachusetts. According to the University of Massachusetts Boston's Center for Social and Demographic Research on Aging at the Gerontology Institute, by 2030, it is expected that 28% of Massachusetts residents will be age 60 or older.

TREASURER AND RECEIVER GENERAL.

Office of the Treasurer and Receiver General

0610-0010 For the office of economic empowerment to promote and improve financial literacy**; provided, further that the office shall establish a statewide program to reduce financial abuse of older adults and people with disabilities;**[1/2]

STATE AUDITOR

Office of the State Auditor

0710-0000 For the office of the state auditor, including the review and monitoring of privatization contracts under sections 52 to 55, inclusive, of chapter 7 of the General

[1] Protecting the Elderly from Financial Exploitation | RAND

[2] Money Smart for Older Adults Resource Guide May 2021 (consumerfinance.gov)

Laws, provided further that the office shall periodically audit funds provided by the Commonwealth to skilled nursing facilities licensed pursuant to the provision of Chapter 111 of the General Laws for compliance with the direct care cost quotient.[3]

OFFICE OF THE INSPECTOR GENERAL.

0910-0220 For the operation of the bureau of program integrity established in section 16V of chapter 6A of the General Laws (SEE OUTSIDE SECTION), **provided that the bureau shall increase oversight of the role of the department of public health in the inspection of nursing homes and responses to nursing home resident complaints;**[4]

CULTURAL COUNCIL

Massachusetts Cultural Council.

0640-0300 For the services and operations of the Massachusetts cultural council, including grants to or contracts with public and nonpublic entities; **provided, however, that not less than $150,000 shall be expended for a "Voices from the Nursing Home" project to record first person accounts of nursing home residents about their lives since entering long-term care, p**rovided, further, that ...

EXPLANATION: Nursing homes say they need more money for staffing and quality care, families and advocates claim that quality of care is continuing to suffer since COVID, but the missing voice in this discussion is the voice of the consumer – the nursing home resident. For fear of retaliation, nursing home residents are often reluctant to tell anyone about their care or lack thereof, about issues with roommates and other residents, and concerns about staff. This project will maintain the anonymity of those interviewed in an effort to protect the participants and to elicit true-life stories of those who personally experience living in a nursing home. Current and former residents will be interviewed for

[3] Direct Care Cost Quotient (DCC-Q) Reports | Mass.gov

[4] Two OIG reports, published since 2020, on DPH operations in 50 states support that nursing homes have had little oversight for at least the last decade:

- 2015-18: MA DPH failed by large margins to meet 95% threshold to initiate surveys of high-priority complaints within 10 days in all 4 years of the study period. [Office of Inspector General, 1/14/22, OEI-06-19-00460, page 9:https://oig.hhs.gov/oei/reports/OEI-06-19-00460.asp].
- 2011 - 18: MA DPH is one of only 10 states that failed to perform timely investigations of high priority complaints for 8 consecutive years. [Office of the Inspector General (OIG), 9/22/20, States continued to fall short in meeting required timeframes for investigating nursing home complaints: 2016-2018, OIG OEI-01-19-00421, Data Brief, Results page 6, https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf].

both a publication and an oral documentary with commentary from experts on how improvements could be made.[5/6/7]

Some thoughts:
Nursing home residents are very reluctant to "go public", even though protections will be in place. Working with Carolyn Fenn, State Ombudsman, would be critical, but still, we would be surprised if residents would step forward. The National Consumer Voice for Quality Long-Term Care (Consumer Voice) www.theconsumervoicie.org may be able to help with examples of comments/testimony by residents, although the residents most likely would not live in MA. The Consumer Voice has videos/testimony by residents, and there's always a Q&A with residents and CMS at Consumer Voice conferences. Here's a link to resident voices on the Consumer Voice website: https://theconsumervoice.org/issues/recipients/consumer-engagement .

Is Baker's Council to Address Aging still operating? https://www.mass.gov/executive-orders/no-576-launching-the-governors-council-to-address-aging-in-massachusetts. If so, is this a better opportunity for implementing "Voices from the Nursing Home"? Although, Baker's Council did not address nursing home residents... a telling omission...

Dignity Alliance submitted the following comments in testimony for the Joint Committee on Elder Affairs 6/30/21 Hearing on S.413/H.733 An Act to improve employer standards for Massachusetts nursing homes Nursing Home Resident Survey.
"...The initial nursing home resident survey dates back to 1985 when the National Citizens Coalition for Nursing Home Reform (NCCNHR, currently named The National Consumer Voice for Quality Long-Term Care www.theconsumervoicie.org) published "A Consumer Perspective on Quality Care: The Residents' Point of View" (Consumer Perspective). NCCNHR convened 400 residents in 15 states to describe their vision of quality nursing-home care. This seminal report became the basis for the 1987 Nursing Home Reform Act. As you will see in the following Consumer Perspective's Executive Summary[8], even though the report is 36 years old, the wants, needs, and concerns of nursing home residents remain the same. Here is a sample of resident comments, and any new survey should include these issues:

1. Staff was the most important issue and most often raised: having sufficient numbers of staff, positive staff attitudes, and well-trained and efficient staff.
2. Choices and the right to make them are primary markers of quality care. Food, when to get up, and when to go to bed were the major areas residents identified. Residents wanted freedom of choice in a wide spectrum of living situations: activities, food, roommate assignments, bathing schedules, personal care attendants, physicians, medication, and other dimensions of resident lives, including their desire for freedom to come and go within and outside the nursing home.

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[5] Wishes and Needs of Nursing Home Residents: A Scoping Review - PMC (nih.gov)
[6] [Wishes of nursing home residents concerning their life situation--results of a qualitative study] - PubMed (nih.gov)
[7] What matters to you when the nursing home is your home: a qualitative study on the views of residents with dementia living in nursing homes | BMC Geriatrics | Full Text (biomedcentral.com)
[8] *A Consumer Perspective on Quality Care: The Residents' Point of View*, Executive Summary: https://theconsumervoice.org/uploads/files/issues/resident_pers.pdf, National Citizens' Coalition for Nursing Home Reform, 1985.

3. Environment that makes life safe and secure, both physically and emotionally.
4. As much independence as possible, whatever their level of ability, and they want the opportunity to help themselves whenever possible. If help is needed, residents say they would like it given cheerfully, with understanding.
5. Involvement in finding solutions is a right and important to self-determination.
6. Variety in food, and a wide range of fresh, well-prepared and tasty foods to choose from. Foods that provide for ethnic differences and for individual needs and wants. Residents wanted input into planning, advising and monitoring of nursing home food service.
7. Lots of activities, more than what they now have, and a variety to meet their wide range of interests and needs, including activities for less able residents. The responses given by residents reflect personal preferences and represent their diverse individual life experiences and capabilities. Social activities were primary, followed by games and activities outside the home. All indicated they want to take part in community activities and events. And they would like people from the community to participate in and to provide activities in the home. Residents discussed the need for activities during the evenings and on weekends..."

OFFICE OF THE ATTORNEY GENERAL

Funding for new Elder Justice Unit

0810-XXXX For the operation of the Elder Justice unit; provided further, that funds shall continue to be used specifically for the investigation and prosecution of abuse, neglect, mistreatment and misappropriation based on referrals from the department of public health under section 72H of chapter 111 of the General Laws; referrals from the executive office of elder affairs office of the state ombudsman, or from recognized advocacy organizations, and provided further, that the unit shall provide training on a periodic basis for all investigators of the department of public health's division of health care quality responsible for the investigations pursuant to a comprehensive training program to be developed by the division and the unit; and provided further, that training shall include instruction on techniques for improving the efficiency and quality of investigations of abuse, neglect, mistreatment and misappropriation referred under said section 72H of said chapter 111.

EXPLANATION: Attorney General Andrea Joy Campbell has announced Mary Freeley to lead the office's Elder Justice Unit, a new unit established under AG Campbell. The Unit will convene existing resources to protect and promote the safety and well-being of elders through enforcement actions, legislative advocacy, and community engagement and education. **More funding is needed to adequately staff and outreach to older adults and their advocates.**[9]

[9] Elder Justice Committee - National Association of Attorneys General (naag.org)

By creating this Unit, AGO is prioritizing the rights of elderly residents to live with dignity – free from abuse, neglect, and exploitation. My office will continue to serve as a dedicated resource for older adults, address their most-pressing needs and advocate for and implement solutions."

Specifically, the Elder Justice Unit will work with staff from the Attorney General's Criminal, Public Protection and Advocacy, and Health Care and Fair Competition Bureaus to:

- **Convene internal and external elder justice groups** to listen to priorities and ongoing issues
- **Enhance the existing work of the office to prosecute the abuse and exploitation of vulnerable older adults**, including in the areas of long-term care, financial exploitation and scams
- **Work with the AG's Community Engagement Division to conduct intentional outreach** to elders
- **Advocate for state and national policy** that aligns with and advances the work of the Elder Justice Unit.

The Attorney General's Office, continues to see bad actors prey on older adults, whether that's targeting them for financial scams or neglecting care in long-term facilities. The Elder Just Unit will serve as a resource and advocate for elders who face these issues across the Commonwealth. The Attorney General's Office has a statewide, toll-free hotline to help elders with a range of issues: 888-243-5337.

Investigation of Potential Abuse of Direct Care Cost Quotient (requirement that 75% of nursing home revenue be applied to direct care staff)

0810-XXXX For the investigation and prosecution of direct care cost quotient fraud; provided, that notwithstanding any general or special law to the contrary, the amount assessed for these costs shall be equal to the amount appropriated in this item and the associated fringe benefit costs for personnel paid from this item; provided further, that the office of the attorney general shall investigate and prosecute, when appropriate, employers who fail to accurately report expenditures required to be reported by law or regulations, and those employers or employees who may seek to defraud the system; and provided further, that the unit shall investigate and report on all companies not in compliance with chapter XXX of the General Laws……

EXPLANATION: In October of 2020, the Executive Office of Health and Human Services (EOHHS) implemented the Direct Care Cost Quotient (DCC-Q) as a regulatory

requirement to hold facilities financially accountable for prioritizing the support of direct care staff through revenue spent. The requirement applies to all nursing facilities participating in the Massachusetts Medicaid ("MassHealth") program. The DCC-Q requirement was a component of the Nursing Facility Accountability and Supports Package 2.0[10], a larger package of long-term reforms to promote a higher standard of care and improved infection control.[11]/[12]

101 CMR 206.00: Standard Payments to Nursing Facilities: Emergency adoption (date filed: August 11, 2023):206.12: Direct Care Cost Quotient

DCCQ Reports: https://www.mass.gov/info-details/direct-care-cost-quotient-dcc-q-reports?_gl=1*19t58y7*_ga*NDQyOTY5ODk2LjE2NDkwMDk0NTU.*_ga_MCLPEGW7WM*MTY5MzA4Nzg3MC42LjAuMTY5MzA4Nzg3MC4wLjAuMA.

Combating Inappr0priate Use of Psychotropic Drugs

(Anti-psychotic, antidepressant, etc.)

0810-XXXX For the purposes of funding existing and future programs to combat inappropriate use of psychotropic drugs, including antipsychotics, antidepressants, antianxiety drugs, and hypnotics in nursing homes.....$500,000

EXPLANATION:

Antipsychotic Drugging in US Nursing Homes (Q3 2022)

Antipsychotic drug use in MA nursing homes:

Q3'22: 24.38%, or 8,152 MA nursing home residents

MA ranked 6th highest in the US for the administration of antipsychotics to nursing home residents. [13]

155 of 333 reporting were above state average, 18 more than double state average.

US Drugging rate

For-profit nursing homes have higher AP drugging rates (22.1%) than non-profit (16.5%) and government (20.4%) nursing homes. [14]/[15]/[16]

[10] https://www.mass.gov/doc/covid-19-nursing-facility-accountability-and-supports-package-20/download
[11] 3 States Limit Nursing Home Profits in Bid to Improve Care | KFF Health News
[12] Medicaid weighs attaching strings to nursing home payments to improve patient care | Fortune
[13] https://nursinghome411.org/data/ap-drugs/
[14] Feds to Investigate Nursing Home Abuse of Antipsychotics (usnews.com)
[15] Phony Diagnoses Hide High Rates of Drugging at Nursing Homes - The New York Times (nytimes.com)
[16] Why Are Nursing Homes Drugging Dementia Patients Without Their Consent? | Human Rights Watch (hrw.org)

COMMISSION ON THE STATUS OF OLDER ADULTS

0950-XXXX For the commission on the status of older adults established in section XX of this act..... $200,000

EXPLANATION: Just as there are commissions on the status of youth, status of women, disability protection, there should be one for older adults given the changing demographics. Older adults are the fastest growing part of the Commonwealth's population and deserve an official forum for discussion of issues and concerns that frequently cut across the "stove-pipes" of state government bureaucracy. (ALSO see outside section providing for the establishment of the Commission.)

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.

Department of Public Utilities.

2100-0012 For the operation of the department of public utilities; provided, that notwithstanding the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied for fiscal year 2025 under said first paragraph of said section 18 of said chapter 25 shall be made at a rate sufficient to produce the amount expended from this item and the associated fringe benefit costs for personnel paid from this item; **and provided further, that the department shall develop regulations to prevent utility shut-offs during periods of excessive heat...**[17/18]

Executive Office of Education.

Department of Early Education and Care.

PROGRAM TO PROMOTE DAY CARE FOR CHILDREN OF NURSING HOME STAFF

3000-1045 For grants to support and stabilize the early education and care workforce and address varied operational costs at state child care programs supervised by the department of early education and care; provided, that the department shall establish a pilot program of cooperative agreements and grants to licensed skilled nursing facilities for children of the staff of said facilities, provided**...**[19/20]

[17] Opinion | 19 states ban utility shutoffs during heat waves. More should follow. - The Washington Post

[18] In 31 states, utilities can shut off electricity for nonpayment in a heat wave | Analysis – Pennsylvania Capital-Star (penncapital-star.com)

[19] Who Is Taking Care of Hospital Workers' Children? - The Atlantic

[20] Nursing Home Day Care Combination (healthline.com)

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

4000-0320 For the executive office of health and human services, which may expend not more than $225,000,000 for medical care and assistance rendered in the current year from the monies received from recoveries and collections of any current or prior year expenditures; provided, that notwithstanding any general or special law to the contrary, the balance of any personal needs accounts collected from nursing and other medical institutions upon the death of a medical assistance recipient and held by the executive office for more than 3 years **shall be applied to support the personal needs allowance for residents not eligible for Social Security**..... $225,000,000

EXPLANTION: Residents of nursing homes who receive social security have a portion of the social security that is paid to the nursing homes, deducted for a Personal Needs Allowance (PNA). This PNA money belongs to the residents and was earned by them and deducted from their paychecks. Other older adults who don't qualify for Social Security have their PNA funded by the state. Older adults who die and have unclaimed PNAs would prefer to see those unclaimed funds either returned to their surviving family members or applied to offset the cost of the PNA from state funds.[21]

Increase Personal Needs Allowance

4000-0601 For health care services provided to MassHealth members who are seniors including those provided through the Medicare Savings Program, and for the operation of the MassHealth senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to recipients in prior fiscal years; provided further, that notwithstanding any general or special law to the contrary, for the purposes of an individual's eligibility for the Senior Care Options program, an individual is deemed to reach the age of 65 on the first day of the month in which his or her 65th birthday occurs; provided further, that funds shall be expended from this item **to maintain a personal needs allowance of $160.00 per month for individuals residing in nursing and rest homes who are eligible for MassHealth**, **and provided further that said personal needs allowance shall be adjusted annually to keep pace with inflation;** emergency aid to the elderly, the disabled and children program or supplemental security income; provided further, that notwithstanding any general or special law to the contrary, for any nursing home facility or non-acute chronic disease hospital that provides kosher food to its residents, the executive office of health

[21] What You Need to Know About Medicaid's Personal Needs Allowance (elderlawanswers.com)

and human services, in consultation with the center for health information and analysis and in recognition of the special innovative program status granted by the executive office of health and human services, shall continue to make the standard payment rates to reflect the high dietary costs incurred in providing kosher food; provided further, that the secretary of health and human services shall report on January 29, 2023 to the house and senate committees on ways and means on the implementation of the Medicare Savings Program (MSP) expanded program eligibility for seniors that was effective January 1, 2020; provided further, that said report shall include: (i) the number of members who are seniors whose household incomes, as determined by the executive office, exceed 130 per cent of the federal poverty level that are enrolled in Medicare Savings Programs during each month of the fiscal year; (ii) total enrollment in the Qualified Medicare Beneficiary (QMB) program, Specified Low-Income Medicare Beneficiary (SLMB) Program and Qualifying Individual (QI) Program; (iii) total annual spending on Medicare premiums and cost-sharing for such members; (iv) total annual transfers from the prescription advantage program in line item 9110-1455 and Health Safety Net Trust Fund to fund the MSP expanded program eligibility; and provided further, that nursing facility rates effective October 1, 2022 under section 13D of chapter 118E of the General Laws may be developed using the costs of calendar year 2019, or any subsequent year that the secretary of health and human services may select in the secretary's discretion

EXPLANATION: The personal needs allowance hasn't kept pace with inflation and needs to be increased and indexed to inflation, especially as economists are reporting increased prices as a result of inflation and/or supply chain issues.[22]/[23]

Preserving Nursing Home Bed Holds

4000-0601 For health care services provided to MassHealth members who are seniors, including those provided through the Medicare Savings Program, and for the operation of the MassHealth Senior Care Options program under section 9D of chapter 118E of the General Laws;

provided further, that MassHealth shall reimburse nursing home facilities for up to and including 20 medical leave-of-absence days and shall reimburse the facilities for up to and including 10 non-medical leave-of-absence days; provided further, that medical leave-of-absence days shall include an observation stay in a hospital in excess of 24 hours; provided further, that no nursing home shall reassign a resident's bed during a leave of absence that is eligible for reimbursement under this item; provided further, that not later than January 16, 2025, MassHealth shall submit a report to the house and senate committees on ways and means detailing, for fiscal year 2023, the: (a) number of nursing facility clients on a leave of absence, delineated by the nursing facility, medical

[22] Personal Needs Allowance — FOR Long-Term Care (forltc.org)

[23] Low Medicaid allowances leave nursing home residents behind | Modern Healthcare

leave-of-absence days and medical leave-of-absence days that exceeded 10 days per hospital stay, nonmedical leave-of-absence days and the total number of days on leave of absence unduplicated member count; (b) monthly licensed bed capacity level per nursing home and the monthly total number of empty beds per nursing facility, total number of all nursing home residents and total MassHealth nursing home residents; (c) 25 separate MassHealth payment rate and the average payment amount rate per nursing facility client resident; (d) actual number of nursing home residents for each of the 25 payment rate in clause (c); and (e) aggregate payment amount per nursing facility by month; and provided further, that the information in the report shall be delineated by nursing facility, including grand totals where appropriate.

EXPLANATION: Bed Hold Language has been routinely included in the budget by the Legislature for many years. It's past time for the Governor to lead in protecting older adults in nursing homes by including this language in the budget as initially submitted.[24]

Accountability for Compliance with state nursing home staffing regulations

4000-0641 For nursing facility Medicaid rates; provided, that in fiscal year 2024, the executive office of health and human services, in consultation with the center for health information and analysis, shall establish rates that cumulatively total $470,100,000 more than the annual payment rates established under the rates in effect as of June 30, 2002**;** provided further, that not less than $112,000,000 shall be expended in base rates for additional payments over the rate established in December 2022 to reflect nursing facility resident care and workforce costs including wages, hiring of staff and training for nursing facility workers; provided further, that an amount for expenses related to the collection and administration of section 63 of chapter 118E of the General Laws shall be transferred to the executive office; **provided further that only facilities that have maintained direct care staffing ratios at, or above the state regulation for hours per resident day shall be eligible for such reimbursement;** and provided further, that the payments made under this item shall be allocated in an amount sufficient to implement section 622 of chapter 151 of the acts of 1996.....

EXPLANATION: 105 CMR 150.007 requires minimum direct care staff. Care by any lower ratio, which is already below the level recommended in research reports, is deemed unsafe care. State law and regulation 101 CMR 206.00: Standard Payments to Nursing Facilities requires that at least 75% of nursing home revenues be devoted to direct care staff. Only facilities in compliance with these regulations deserve to receive the full reimbursement provided in the budget. Anything less than full compliance should be pro-rated. Furthermore, 105 CMR 150.007 (b)(2)(d) states, "The facility

[24] 130 CMR 456 : 456.425 – 456.433 https://www.mass.gov/doc/130-cmr-456-long-term-care-services/download.

must provide adequate nursing care to meet the needs of each resident, which may necessitate staffing that exceeds the minimum required PPD."[25]

- For additional background, see above 0810-XXXX Investigation of Potential Abuse of Direct Care Cost Quotient (requirement that 75% of nursing home revenue be applied to direct care staff).

Clarification of the Format for Submitting Nursing Home Cost Reports to the Center for Health Information and Analysis

4000-0641 For nursing facility Medicaid rates; provided, that in fiscal year 2024, the executive office of health and human services, in consultation with the center for health information and analysis, shall establish rates that cumulatively total $470,100,000 more than the annual payment rates established under the rates in effect as of June 30, 2002**;** provided further, that an amount for expenses related to the collection and administration of section 63 of chapter 118E of the General Laws shall be transferred to the executive office; **provided further that skilled nursing facility cost reports (including any related management company cost reports [MGT-CR] or real estate management cost reports [REA-CR]) submitted to the Center for Health Information and Analysis (CHIA) shall be provided in excel format and shall include the name and contact information of the physician serving as medical director of the facility,** and provided further, that the payments made under this item shall be allocated in an amount sufficient to implement section 622 of chapter 151 of the acts of 1996.

EXPLANTION: The format for submitting annual cost reports and other related reports must be in a format that allows CHIA and other agencies or research organizations to analyze the reports and related party information to minimize waste, fraud and abuse and must include the medical director information to provide greater transparency and accountability.[26]

Establish Guardians as Fee-for-Service Providers of Medical care to support the rights of incapacitated persons

4000-xxxx For the Office of Medicaid, to establish and implement fee-for-service payments to qualified guardians who are necessary to give informed consent for incapacitated persons to access appropriate care.

$500,000

[25] HHS Takes Actions to Promote Safety and Quality in Nursing Homes | CMS

[26] Ensuring Access to Research Data - Ensuring the Integrity, Accessibility, and Stewardship of Research Data in the Digital Age - NCBI Bookshelf (nih.gov)

Explanation

A professional guardian is needed when a person with incapacity does not have family or friends to act for them. Once appointed, the guardian must ensure proper medical care for the individual. Yet many who need professional guardians cannot pay for this service. Providing support for guardians for those in need will improve quality of care and save the Commonwealth expense by providing decisional support and preventive care, thus preventing emergency room visits, long waits for hospital discharge, homelessness, and unnecessary nursing home admission.

• Every year it becomes more difficult to find professional guardians to serve for free for incapacitated individuals who have no means of payment. Individuals cannot be protected if there is no guardian.
• Professional guardians cannot always be available if they cannot be paid. Neither the professional nor the person under guardianship gets fair treatment.
• The Supreme Judicial Court has determined that "the expenses incurred by guardians are 'necessary . . .medical or remedial care' expenses 'recognized under state law,'" if the guardian "is essential for an incompetent Medicaid recipient to gain access to or consent to medical treatment[.]" *See Rudow v. Commissioner*, 429 Mass. 218, 226-230 (1999).
• Current state policy undermines the right to informed consent to medical care for impoverished persons who need guardians, because without a way to pay a professional guardian, there may be no one to serve.

Center for Health Information and Analysis (CHIA).

4100-0060 For the operation of CHIA established in chapter 12C of the General Laws; provided, that the estimated costs of the center shall be assessed in the manner prescribed by section 7 of said chapter 12C; provided further, that not less than $2,500,000 of this appropriation shall be expended for the operation of the Betsy Lehman Center https://betsylehmancenterma.gov/; and provided further, that CHIA shall report to the house and senate committees on ways and means not later than January 11, 2024 on: (i) the MassHealth rates of payment for telehealth services; (ii) the MassHealth rates of payment for comparable in-person services; and (iii) the utilization rates of telehealth services where in person services are available;

Independent Living Centers

4120-0200 For independent living centers; provided, that not later than April 1, 2025, the Massachusetts rehabilitation commission shall report to the house and senate committees on ways and means on the services provided by independent living centers,

which shall include, but not be limited to, the: (i) total number of consumers that request and receive services; (ii) types of services requested and received by consumers; (iii) total number of consumers moved from nursing homes; and (iv) total number of independent living plans and goals set and achieved by consumers..... **$12,000,000**

EXPLANATION *$12 Million for 10 Independent Living Centers*

(Increase $4,853,883)

The ten Independent Living Centers (ILCs) that serve Massachusetts are advocating for a funding increase to Line Item 4120-0200 in the FY25 budget to $12 Million. This funding increase is imperative to ensure the ILCs can maintain services, hire, and retain staff, and **ensure the individuals we serve can remain living independently in the community.** Please consider these numbers:

- 35,000 – number of individuals ILCs work with annually!
- 1 – Number of line-item funding increases ILCs have received since 2016.
- 23.74% – Percentage of total inflation since 2016.
- 15%-25% - Percentage ILC wages are below like positions in other agencies.
- 18% - Percentage of open positions.
- 10% + - Percentage ILC health insurance premiums increase annually.
- 47 – Number of bilingual staff employed at the ILCs.
- 24% - Percentage of ILC staff who maintain a second job to make ends meet.
- 40% - Average turnover rate for ILC staff.
- 50% + - Number of staff with a disability.
- 14 – Number of counties served by the ten ILCs. (This is every county in the state).

Facts about ILCs

- Massachusetts ILCs need more state funding to ensure we can continue to meet increasing demands for services. Some of our services include:
    - Nursing Facility Transition
    - Peer Counselling

- *Employment support services*
- *Outreach to impoverished, unserved and underserved people*
- *Education support services*
- *Housing application and search assistance*
- *Youth Services*
- *Advocacy Services*
- *ADA Assessments*

- *ILCs are a requirement of the Rehabilitation Act of 1973; there are 10 ILCs in MA.*
- *ILCs are consumer-directed, consumer-controlled, cross-disability non- profit agencies and serve tens of thousands of individuals annually. We serve individuals of all cultures, races, across all disabilities, ages, sexual orientation, and gender identification.*
- *ILCs are critical in keeping individuals with disabilities independent in the community and out of costly institutional settings.*
- *ILCs support people with disabilities in going back to work and being productive in their communities.*

Historically, ILCs have been underfunded in comparison to agencies who do similar work. Over 50% of our staff are individuals living with a disability, and our ability to pay them a living wage is undermined by our low rate of funding. The ILCs receive minimal if any funding through Chapter 257 funds, so ILCs are not able to compete with agencies that benefit from these funds for staff wages. We urgently request this funding increase, which is long overdue, in order to continue to not only hire and retain staff to maintain our services, but also grow to meet ever-increasing demand for our services.

DEPARTMENT OF PUBLIC HEALTH

Office of Health Services

Improving Oversight of Antipsychotic Medication in Nursing Homes

4510-0616 For the department of public health, which may expend not more than $1,195,365 for a prescription drug registration and monitoring program from retained revenues collected from fees charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists, optometrists, **and medical directors of skilled nursing facilities,** for controlled substance**, including antipsychotics,** registration; **provided further that a part of the drug registration and monitoring program** that funds may be expended from this item for the costs of personnel; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this

authorization or the most recent revenue estimate as reported in the state accounting system.....

than $1,176,658 for a prescription drug registration and monitoring program from revenues collected from fees charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists and optometrists for controlled substance registration; provided, that funds may be expended from this item for the costs of personnel; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained $1,176,658 revenues and related expenditures, **provided further that prescribers of antipsychotic drugs to residents of nursing homes shall register and report,** the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system.....$1,176,658

EXPLANATION: The intent of this section is to include abuse of anti-psychotic meds in nursing homes in the same process as prescribers of opioids.[27]/[28]

Antipsychotic Drugging in US Nursing Homes (Q2 2021)

Published: Jan 11, 2022**Updated:** Jan 11, 2022

Massachusetts antipsychotic drug use in nursing homes 23.92 Rank 7

106 of 349 reporting were above state average, 17 more than double state average

US - Drugging rate 20.9%
More than 1 in 5 residents (20.9%) received APs in Q2 2021. Of the residents receiving APs, 86.8% receive them daily.

For-profit nursing homes have higher AP drugging rates (22.1%) than non-profit (16.5%) and government (20.4%) nursing homes

Improving Oversight of Long-Term Care

4510-0710 For the operation of the bureau of health care safety and quality and the office of patient protection; provided, that services funded through this item shall include, but not be limited to, education, training, intervention, support, surveillance and evaluation; provided further, that funds shall be expended for the advancement of the prescription monitoring program and the maintenance and enhancement of prescription drug monitoring information exchange architecture to support interstate

[27] Feds to Investigate Nursing Home Abuse of Antipsychotics (usnews.com)
[28] The Never-Ending Misuse of Antipsychotics In Nursing Homes | Health Affairs

prescription drug monitoring data sharing; provided further, that the division shall be responsible for assuring quality of patient care provided by the Commonwealth's health care facilities and services and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for individuals with intellectual or developmental disabilities and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services; provided further, that investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation; provided further, that all investigators in the division of health care quality responsible for the investigations shall receive training by the Medicaid fraud control unit in the office of the attorney general; provided further, that funds shall be expended for the full registration of practitioners, physician assistants and registered nurses authorized by the board of registration in nursing to practice in advanced practice nursing roles under section 7A of chapter 94C of the General Laws **complaints ...**[29/30/31]

Uninspected and Neglected, US Senate Special Committee on Aging
https://www.aging.senate.gov/imo/media/doc/UNINSPECTED%20&%20NEGLECTED%20-%20FINAL%20REPORT.pdf

Pages 8-9 provide required frequencies of surveys and addresses different complaint levels. Based on the statistics below, it looks like MA may now have enough surveyors, but they are relatively new and need experience.

Summary:

Nearly a third of the Nation's 15,000 nursing homes are behind on comprehensive annual inspections, including 1 in 9 that have not received an annual inspection in 2 years or more. Infrequent annual inspections have led more residents and families to file complaints. However, advocates shared stories of nursing home residents waiting months for complaints to be investigated, even when abuse, neglect, and serious health deficiencies were reported.

More than half the Nation's state inspection agencies said such delays are directly linked to underfunding for—and understaffing—within these critical state offices. The investigation found that 32 agencies have vacancy rates of 20% or higher among nursing home inspectors, and nine of those agencies have vacancy rates of 50% or higher. More than 80% of States pointed to noncompetitive salaries as a barrier to recruiting and retaining inspectors.

Table 1:

#nh	#nhBeds	Budgeted Surveyor Positions	#nh Per Surveyor	#nh Beds Per Surveyor
363	41,299	82	4.4	504

Table 2: % of Vacant Surveyor Positions: MA 2002: 14% **2022: 4%**

Table 3: Surveyors with Two Years or Less Experience: MA 2002: 16% **2022: 48%.**

Table 5: Infection Control Surveys: MA **2020** 1,647 **2021** 796 **2022** 397 **Total:** 2,840

[29] Appropriate Nurse Staffing Levels for U.S. Nursing Homes - PMC (nih.gov)/

[30] Chronic Understaffing In Nursing Homes And The Impacts On Healthcare - NurseJournal

[31] The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes - PMC (nih.gov)

[A] bottom page 21: Per CMS, states must complete standard surveys no later than 15 months after the previous standard survey. Facilities with excellent histories of compliance may be surveyed less frequently to determine compliance, but no less frequently than every 15 months and the state-wide standard survey average must not exceed 12 months. (page 21 A Guide to Nursing Home Oversight & Enforcement -LTCCC https://nursinghome411.org/reports/survey-enforcement/guide-oversight/)

[B] Once a state selects a facility as an SFF, the State Agency, on CMS's behalf, conducts a full, onsite inspection of all Medicare health and safety requirements every six months, and recommends progressive enforcement (e.g., civil money penalty, denial of Medicare payment, etc.) until the nursing home either (1) graduates from the SFF program; or (2) is terminated from the Medicare and/or Medicaid program(s). While in the SFF program, CMS expects facilities to take meaningful actions to address the underlying and systemic issues leading to poor quality. (Per CMS --- see this link: https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcomplianc/downloads/sfflist.pdf)
CMS Memorandum, 10/17/19, Admin Info: 20-02-ALL, Fiscal Year (FY) 2020 State Performance Standards System (SPSS) Guidance, https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/downloads/admininfo-20-02-all.pdf

DEPARTMENT OF PUBLIC HEALTH

Pedestrian Safety[32]

4510-0710 For the operation of the bureau of health care safety and quality and the office of patient protection; **provided that the bureau shall conduct an investigation and study with recommendations of the incidence of pedestrian injuries and death among pedestrians who are older adults and people with disabilities;**

Explanation: The physical and psychological health benefits of walking have been well-established, leading to the widespread promotion of walking amongst older adults. However, walking can result in an increased risk of injury as a pedestrian at the roadside, which is a greater risk for older adults who are overrepresented in pedestrian casualty figures. Adults aged 65 years and older accounted for about 17% of the U.S. population in 2020. However, people ages 65 and older accounted for 20% of all pedestrian deaths in 2020.

EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

[32] Why Are Older Adults More at Risk as Pedestrians? A Systematic Review - Kate Wilmut, Catherine Purcell, 2022 (sagepub.com)

Affordable Accessible Housing Grants Program

7004-9031 For capital grants to improve or create accessible affordable housing units for persons with disabilities; provided, that grants shall be administered by the executive office of housing and livable communities in consultation with the executive office of health and human services; provided further, that the executive office shall prioritize capital projects that include units that accommodate or will accommodate voucher recipients under **the alternative housing voucher program** established in chapter 179 of the acts of 1995; provided further, that the projects shall be for the purpose of improved accessibility and may include, but not be limited to, the widening of entrance ways, the installation of ramps, the renovation of kitchen or bathing facilities, the installation of signage in compliance with the federal Americans with Disabilities Act and the implementation of assistive technologies; and provided further, that not later than March 1, 2025, the executive office shall submit a report to the joint committee on housing and the house and senate committees on ways and means including, but not be limited to, the: (i) number of eligible units created or modified; (ii) types of capital projects funded; and (iii) costs associated with these projects..... $2,500,000

The Accessible Affordable Housing Grants were funded at $2.5 million, however with rising real estate prices and lack of new construction, demand is exceeding supply.[33]/[34]

Nobody should have to choose between an unsafe residence and a nursing home. According to the CDC, in-home falls from lack of accessibility features like grab bars cost Massachusetts $972 million per year.[35] Living in nursing homes already puts people at greater risk for disease than those who live independently. The COVID-19 pandemic has put a spotlight on this issue. As of 4/30/23, last reported data, nursing home residents represented 28% of COVID-19 deaths in the Commonwealth, even though they comprised less than ½% of the state's population.[36]

BOARDS OF REGISTRATION

Board of Nursing Home Administrators

4510-0721 For the operation and administration of the boards of registration for health professions licensure; provided, that funds shall be expended for the operation and administration of the boards of registration in nursing, pharmacy, dentistry, nursing home administrators, physician assistants, naturopathy, perfusionists, genetic counselors, community health workers and respiratory care; provided further, **that the**

[33] Special Needs & Accessible Living | Mass.gov

[34] Adaptable Housing – Accessible Massachusetts

[35] https://accessiblema.org/

[36] As of 4/30/23, last data reported: 6,374 nursing home resident COVID deaths/22,588 MA COVID deaths.

board of registration of nursing home administrators shall review facilities closed during the fiscal year for compliance with 105 CMR 153 Licensure procedure and suitability requirements for long-term care facilities; and provided further, that not later than December 1, 2025, the board shall submit a report to the house and senate committees on ways and means and the joint committee on elder affairs that shall include, but not be limited to, accounts of compliance issues and violations of the regulations; and provided further, that a licensed nursing home administrator shall be legally responsible for the care of residents and management of direct care staff.

EXPLANATION: The current budget requires the Board to oversee compliance with the Department of Public Health nursing home closure regulations. This oversight needs to continue.

In addition, licensed nursing home administrators, who often are required to report to regional vice presidents or other officers of the entity who may be located out of state and not licensed by the Board, need to be accountable for the care of the residents of the respective nursing homes, consistent with the policy established by the Supreme Judicial Court (Commonwealth v. Bennett and Clinton, Appeals Court Nos. 2022-P-0309, 2022-P-o321)[37].

DEPARTMENT OF MENTAL HEALTH

Suicide Prevention Among Older Adults

4513-1026 For the provision of statewide and community-based suicide prevention, intervention, post-intervention and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that funds shall be expended for a program to address elder suicide behavior and attempts with the geriatric mental health services program within the department of elder affairs; **provided further than funds shall be expended to promote awareness of the 988 Suicide and Crisis Lifeline;** provided further, that funds shall be expended for a veterans-in-crisis hotline to be used by veterans or concerned family members seeking counseling programs operated by the department of veterans' services so that they may be directed towards the programs and services offered by their local or regional veterans' services office to be staffed by counselors or outreach program personnel contracted by the department and trained in issues of mental health counseling and veterans' services; and provided further, that not less than $1,000,000 shall be expended for 988 suicide and crisis call centers for implementation and personnel costs, prior appropriation continued.

[37] Fellsmere Nursing Home Abuse Watch: Holding Administrators Accountable — Florida Nursing Home Lawyer Blog — June 6, 2012

EXPLANATION: Why is suicide higher in older adults? Suicidal behavior is common in older adults for a number of reasons. Loneliness has been found to top the list. Many seniors are homebound and live on their own. If their spouse has recently died and there are no family members or friends nearby, they may lack the social connections they need to thrive.

Other reasons for suicidal intent in older adults include:

- **Grief over lost loved ones:** Adults who live long enough may begin to lose cherished family members and friends to old age and illness. They may wrestle with their own mortality and experience anxiety about dying. For some, this "age of loss" is overwhelming and can intensify feelings of loneliness and hopelessness.
- **Loss of self-sufficiency:** Seniors who were once able to dress themselves, drive, read, and lead an active life may grapple with a loss of identity. They may mourn the independent, vibrant person they once were.
- **Chronic illness and pain:** Older adults are more likely to face illnesses and chronic disease such as arthritis, heart problems, high blood pressure, and diabetes. These conditions can bring on pain and mobility issues that compromise quality of life. Seniors may also experience loss of vision and other senses, such as hearing, making it harder to do the things they love.
- **Cognitive impairment:** In a 2021 study, researchers found that older adults with mild cognitive impairment and dementia had a higher risk for suicide.[5] Declines in cognitive function can affect a person's decision-making abilities and increase impulsivity.
- **Financial troubles:** Older adults living on a fixed income may struggle to pay their bills or keep food on the table. For someone who is already struggling with health issues or grief, financial stress can be a trigger for suicidal thoughts.

The physical, emotional, and cognitive struggles faced by older adults can lead to feelings of depression, which over time can evolve into clinical depression. Clinical depression is a mood disorder characterized by prolonged feelings of sadness, hopelessness, and loss of interest in activities. While most people with clinical depression do not commit suicide, having major depression increases this outcome.
38/39

Anti-Bullying

4513-XXXX For a statewide Anti-Bullying program; provided, that funds shall be expended for treatment and ongoing prevention services; provided

[38] Understanding and Preventing Suicide in Older Adults (ncoa.org)
[39] What to Know About Suicide Rates in Older Adults (webmd.com)

further, that the department of public health shall expend not less than $200,000 to provide educational programming as part of the STOP BULLYING campaign on the signs and symptoms of bullying with a focus on communities that have the highest incidence of reports of incidents of bullying, which shall not be used for personnel costs...$500,000

EXPLANATION: Curiously, while adult bullying is fairly common (some studies say it's as common as childhood bullying), it doesn't make its way into our conversations as frequently as childhood and adolescent bullying. Furthermore, there are more online resources when it comes to childhood bullying. While there is research on adult bullying that mostly focuses on bullying in the workplace and higher education, it's not something that we often talk about. Why isn't adult bullying more a part of our casual conversations?

There isn't a clear answer as to *why* there seems to be a shortage of both material and conversation surrounding adult bullying despite its pervasiveness. We offer this hypothesis: We talk less about bullying in adulthood because it carries a greater stigma with potentially higher consequences than it does in childhood.

Because adult bullying is often hidden and unreported, the person being bullied carries shame and self-doubt—wondering if it's all "in their head" and they are misinterpreting what is happening. Furthermore, the person getting bullied may likely be worried about real-life outcomes that can have long-ranging and devastating effects — loss of their job, relationships, or reputation. Because of this, adult bullying feels taboo and carries more weight. Therefore, it's easy to see why being bullied as an adult can be a lonely experience.[40]/[41]

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.

7002-XXXX For a program targeting older adults and people with disabilities in high-demand employment fields; provided, that these funds may be expended for the development and implementation of a year-round employment program for older adults and people with disabilities, and existing year-round employment programs, including programs that serve adults who are not less than 55 years-of-age, including lesbian, gay, bisexual, transgender, adults of color, adults of all abilities, national origins and religions and low-income older adults, including single income households, adults who are experiencing housing insecurity.....$500,000[42]

[40] Adult Bullying Is a Thing, Too | Psychology Today

[41] Bullying in Senior Living: What to Do (usnews.com)

[42] https://www.brookings.edu/articles/the-challenges-and-promises-of-productive-aging/?utm_campaign=Brookings%20Brief&utm_medium=email&utm_content=273679370&utm_source=hs_email

EXPLANATION: To continue to grow in the face of declining and aging populations, high- and middle-income countries have three options: increase migration, use more automation, and retain and attract older workers into the labor force. Restrictions on the number of migrants states are willing to absorb, and limits on the impact of automation on productivity in post-industrial economies make the third option the most economically and politically viable in many settings.[43]

Area economists affiliated with the MassBenchmarks journal reported Thursday that Massachusetts has a "declining labor force and shrinking working age population" and needs to focus on competitiveness issues in the areas of housing, transportation, and high costs relative to other states. "With little or no labor force or working age population growth, the state's employers are having to draw on labor from elsewhere," according to the latest MassBenchmarks bulletin.[44]

EXECUTIVE OFFICE OF EDUCATION

Age-Friendly State Universities

7066-0000 For the operation of the department of higher education; provided, that the department shall recommend savings proposals that permit public institutions of higher education to achieve administrative and program cost reductions, resource reallocation and program reassessment and to utilize resources otherwise available to such institutions; **provided, further, that the department of higher education shall enter into cooperative agreements with the age-friendly global network and the state university system to investigate and report on the steps and funding needed to ensure that each state university can become a full participant in the age-friendly university system, and submit a report to the Joint Committee on Higher Education and the House and Senate committees on ways and means not later than July 1, 2026;**

EXPLANATION - Ten Principles of an Age-Friendly University

1. To encourage the participation of older adults in all the **core activities** of the University, including educational and research programs.
2. To promote personal and career development in the second half of life and to support those who wish to pursue **second careers**.
3. To recognize the **range of educational needs** of older adults (from those who were early school-leavers through to those who wish to pursue Master's or Ph.D. qualifications).
4. To promote **intergenerational learning** in order to facilitate the reciprocal sharing of expertise between learners of all ages.

[43] Another year with population loss in Massachusetts draws concern from Gov. Healey – New Bedford Guide

[44] 10 Advantages of Older Workers | Columbia Public Health

5. To widen access to **online educational opportunities** for older adults to ensure a diversity of routes to participation.
6. To ensure that the university's **research agenda** is informed by the needs of an aging society and to promote public discourse on how higher education can better respond to the varied interests and needs of older adults.
7. To increase the understanding of students of the **longevity dividend** and the increasing complexity and richness that aging brings to our society.
8. To enhance access for older adults to the university's range of **health and wellness** programs and its arts and **cultural activities**.
9. To engage actively with the university's own **retired community**.
10. To ensure regular **dialogue** with organizations representing the interests of the aging population.

EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES

Supportive Senior Housing Program

9110-1604 For the operation of the supportive senior housing program at state- or federally-assisted housing sites..... 9,492,576.00

NOTE: The amount listed is the FY'24 appropriation, however, an increase will be necessary for FY'25.

AHVP Program

AHVP was funded at $16.8 million, and with prior appropriations continued, this means we got our ask of **$26 million for AHVP**! We also got the language change that would allow AHVP to be used for both mobile and project-based vouchers.

EXECUTIVE OFFICE OF ELDER AFFAIRS

Department of Elder Affairs

Protective Services

9110-1636 For the elder protective services program, including, but not limited to, protective services case management, guardianship services, **supportive decision-making,** the statewide elder abuse hotline, and money management services 42,764,147

EXPLANATION: The amendment would add "supportive decision-making" to the range of programs supported by this line item.

Elder Mental Health Outreach Teams (EMHOTS)

9110-1640 Currently, $2.5 million was appropriated in FY24, the same amount as in the previous budget. Dignity Alliance recommends this be increased by at least $1 million.

Explanation - Background:

- According to MA Healthy Aging data, 1 in 3 older adults are diagnosed with a behavioral health condition.
- Older adults are the **least likely** of any age group to receive treatment due to barriers including: ageism/ableism, cost of co-pays, social isolation, difficulty getting to appointments/accessing telehealth.
- Untreated behavioral health conditions are associated with high health costs including high rates of hospitalization/emergency department use, nursing home admissions, and preventable health concerns.

Recommendation:

- Add $1 million to the Geriatric Mental Health Line item over the Governor's FY23 H2 Budget to expand access to Elder Mental Health Outreach Services (EMHOTs) across the Commonwealth.

Proven Track Record:

- EMHOTs overcome treatment barriers by working with older adults **in their own homes** to address issues associated with behavioral health conditions, such as chronic diseases, social isolation, housing insecurity, and financial challenges.
- The current allocation of $2.5 million is a significant investment which provides vital services but is only enough to cover less than 50% of the municipalities.

Estimated Cost Savings:

- From 7/1/2021 through 12/31/2021, 92 individuals referred to EMHOTs were in crisis. If these *92* individuals were hospitalized due to lack of EMHOT services, the economic impact would be between $460,000 to $1,472,000 (at $5k to $16k per admission).
- This is a massive increase over the $826 average per client cost of the EMHOTs for the 564 EMHOT clients who received services in the first six months of 2021.
- Providers report that EMHOTs are critical to helping avoid unwanted and costly nursing home admissions.

March 2023 For more information, please contact: Frank Baskin, LICSW: baskinfrank19@gmail.com.

GERIATRIC MENTAL HEALTH SERVICES PROGRAM

9110-XXXX For the geriatric behavioral health program, including outreach, counseling, resource management, and system navigation for community-dwelling older people with behavioral health needs..... 1,200,000

The state has operated a youth mental health program for several years, but there is a need for a comparable program for older adults, including focus on dementia and Alzheimer's.

OUTSIDE SECTIONS

SECTION XX. COMMISSION ON THE STATUS OF OLDER ADULTS

SECTION XX. Chapter 3 of the General Laws as appearing in the 2020 Official Editions is hereby amended by inserting at the end therefore the following new section:

Section 76 (a) There shall be a permanent commission on the status of Older Adults which shall consist of 21 persons as follows: 3 persons to be appointed by the governor; 3 persons to be appointed by the speaker of the house of representatives; 3 persons to be appointed by the president of the senate; 3 persons to be appointed by the state treasurer; 3 persons to be appointed by the state secretary; 3 persons to be appointed by the attorney general; and 3 persons to be appointed by the state auditor. Members of the commission shall be residents of the Commonwealth who have demonstrated a commitment to the concerns of older adults in both institutional settings and the larger community. Members shall be subject to chapter 268A as it applies to special state employees.

(b) Members shall serve for terms of 3 years and until their successors are appointed. Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term. All appointments shall be

made in consultation with organizations advocating for older adults, especially consumers of long -term services, supports and care. No appointee shall be an owner, operator, officer, or employee of a provider of long-term care. Nominations for members shall be solicited by the appointing authorities between August 1 and September 16 of each year through an open application process using a uniform application that is widely distributed throughout the Commonwealth.

(c) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it considers necessary. The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.

(d) The commission shall be a resource to the Commonwealth on issues affecting older adults at present and in the future, including, but not limited to, quality of life, health, housing, transportation, and long-term care in both institutional settings and their community of residence. In furtherance of that responsibility, the commission shall:

(1) promote research and be a clearinghouse and source of information on issues pertaining to older adults in the Commonwealth;

(2) inform the public and leaders of business, education, human services, health care, state and local governments and the communications media of the unique cultural, social, ethnic, economic and educational issues affecting older adults in the Commonwealth;

(3) foster unity among older adults and organizations in the Commonwealth by promoting cooperation and sharing of information and encouraging collaboration and joint activities;

(4) serve as a liaison between government and private interest groups with regard to matters of unique interest and concern to older adults in the Commonwealth;

(5) identify opportunities to expand and improve commercial and cultural ties with older adults of other states of the United States and other nations including, but not limited to policies and programs for better serving the growing population of older adults;

(6) identify and recommend qualified older adults for appointive positions at all levels of government, including boards and commissions, as the commission considers necessary and appropriate;

(7) assess the effect on older adults of programs and practices in all state agencies, as the commission considers necessary and appropriate;

(8) advise executive and legislative bodies on the potential effect on older adults of proposed legislation, as the commission considers necessary and appropriate; and

(9) generally undertake activities designed to enable the Commonwealth to realize the full benefit of the skills, talents and cultural heritage of older adults in the Commonwealth.

(e) The commission shall annually, not later than June 2, report the results of its findings and activities of the preceding year and its recommendations to the governor and to the clerks of the senate and house of representatives.

(f) The powers of the commission shall include, but not be limited, to:

(1) using voluntary and uncompensated services of private individuals, agencies and organizations that may from time to time be offered and needed, including provision of meeting places and refreshments;

(2) holding regular, public meetings and fact-finding hearings and other public forums as it considers necessary;

(3) directing a staff to perform its duties;

(4) establishing and maintaining offices that it considers necessary, subject to appropriation;

(5) enacting by-laws for its own governance that are not inconsistent with any general or special law; and

(6) making policy recommendations to agencies and officers of the state and local subdivisions of government to effectuate the purposes of subsection (d).

(g) The commission may request from all state agencies such information and assistance as the commission requires.

(h) The commission may accept and solicit funds, including any gifts, donations, grants, or bequests, or any federal funds for any of the purposes of this section. These funds shall be deposited in a separate account with the state treasurer, be received by the treasurer on behalf of the Commonwealth and be expended by the commission in accordance with law.

(i) The commission staff shall, subject to appropriation, consist of an executive director, employees and volunteers who assist the commission in effecting its statutory duties. The commission shall, subject to appropriation appoint the executive director for a term of 3 years."

SECTION XX. The department of public health shall promulgate regulations to amend 105 CMR 150.007 (2) to strike the word "oral," and in 105 CMR 150.011 (1) to strike the words "part-time" and insert the words, "full-time," and to review the

allocation of hours for social workers for nursing homes of all sizes. These regulations have not been updated since the 1970's, and the needs for social workers in nursing homes have increased over the past fifty years. **Increase the number of social workers to one social worker per 60 residents**[45]

EXPLANATION: The first change would require only a written order for prescribing medication, treatment, or therapeutic diet by the resident's primary care provider to the resident's nursing home. For resident safety, and reducing the danger of medication error, all orders of a primary care doctor or a nursing facility medical director must be in writing.[46]

The second change would require a full-time, rather than part-time licensed social worker in nursing homes with more than 80 residents. Social workers who provide important services for residents, families, and staff. Many facilities find that they cannot keep social workers.

There is a challenge to hire social workers. Some have reported that they receive very little support from nursing home staff. Many no longer want to work in nursing homes and work elsewhere.

In Massachusetts the DPH social work regulations were written in the 1970s with little modification or addition since then.
At that time:

> A large facility was considered to be 80-100 beds. Today that is a small facility. Most facilities are larger. That requires more social workers.
>
> Most individual places were owned by people who lived in Massachusetts and most are now owned by chains which are often based out of this State. These chains have developed a dizzying array of regulations (which social workers must follow), in addition to the State and Federal regulations.
>
> Many facilities were non-profits and some by governmental authorities. Today, most nursing homes are owned by proprietary organizations. The USA is the only country which has so many for-profit nursing homes. The emphasis on profits for the owners impacts how social workers are allowed and do provide services.
>
> There were no special care units - for example, Rehab/ Medicare; End of life; Dementia care; Behavior/ Mental Health; Neurological Disorders, etc. Social workers then provided services for all residents and now specialize in services

[45] Per 2021 Connecticut law: SB1030:, https://www.cga.ct.gov/2021/amd/S/pdf/2021SB-01030-R00SA-AMD.pdf, pg.5.
[46] Medication administration in long-term care is complicated (nurse.com)

for particular residents. Nursing home social workers are now expected to have an interest in, and skills at, working with particular diseases, etc.

Facilities then rarely discharged residents to the community, but today, community discharges are commonplace. Thus, social workers - who are often the discharge planners - must now be familiar with community-based services as they relate to and communicate with residents, families, and staff.

Facilities had very few residents who were younger and/or who had mental health challenges. Today, there are more such residents, and social workers have to be available to meet the needs of these new populations.

Those changes in the nursing home industry impact what and how social workers provide services.

It is the social worker who interacts with:

Residents/Families who do not understand why a service has changed.

Residents who are upset about a roommate and their choices about sleep time, TV on/off, etc.

Staff who find it a challenge to work with families who advocate for residents.

Families who refuse to speak or work with a staff member of a color different than the family member or who uses a different language.

Staff who find it difficult to work with residents who do not cooperate with them.

All staff as social workers train them about dementia, behavior issues, impacts by families, etc.

Oversight of DPH Nursing Home Inspection Program by Inspector General

SECTION XX. Subsection (b) of section16V of chapter 6A of the general laws as appearing in the 2020 Official Edition is hereby amended, by adding at the end thereof, the following

Said bureau shall annually review and make recommendations for the bureau of health care safety and quality and the office of patient protection relative to adherence to regulations regarding inspection of nursing homes and timely response to nursing home resident complaints.

EXPLANATION:

The Department of Public Health, like other state survey agencies, are on the front lines for ensuring nursing home quality and safety. States conduct on-site surveys at nursing facilities to evaluate the care they provide and respond to allegations of noncompliance with Federal and state requirements from residents, their families, staff, and others. HHS/OIG reports have identified shortcomings in State agencies' effectiveness and recommended improvements to strengthen this safety system for nursing home residents. Two OIG reports published since 2020 on DPH operations in 50 states support that nursing homes have had little oversight for at least the last decade:

- 2015-18: MA DPH failed by large margins to meet 95% threshold to initiate surveys of high-priority complaints within 10 days in all 4 years of the study period.[47]
- 2011 - 18: MA DPH is one of only 10 states that failed to perform timely investigations of high priority complaints for 8 consecutive years.[48]

Rev-Up Massachusetts Access to Voting

SECTION XX. The secretary of the commonwealth shall take necessary steps to ensure the implementation and need for greater usage of the Accessible Electronic Vote By Mail system in Massachusetts, especially for the enhanced ability of older adults and people with disabilities to participate in the 2024 state election and subsequent elections.

EXPLANATION[49]**:** The right to vote is among the most fundamental rights of democracy, and state government has an obligation to ensure that older adults and people with disabilities are fully able to exercise that right in federal, state, and local elections. The Accessible Vote By Mail System needs to be fully implemented in the Commonwealth.[50]

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[47] Office of Inspector General, 1/14/22, OEI-06-19-00460:https://oig.hhs.gov/oei/reports/OEI-06-19-00460.asp. "...Over half of States failed to meet the same SPSS performance measure or measures over 3 or 4 consecutive years We identified 28 States that missed the same SPSS performance measure or measures over 3 or 4 consecutive years. Thirteen of the 28 States repeatedly failed to meet the targets for multiple performance measures in 3 or 4 consecutive years; see Exhibit 3. For example, eight States missed the same two performance measures in all 4 years, and two States missed the same three performance measures in all 4 years.
Several States not only failed to meet the same performance measure in each year, but their scores were far below the performance threshold. For example, Massachusetts failed to meet the 95-percent threshold to initiate surveys of high-priority complaints within 10 days by a large margin in all 4 years of the study period. In FY 2015, the State conducted only 31 percent of required surveys and then dropped to 17 percent in FY 2016. In FY 2017, the State score improved to 36 percent, still well below the 95-percent performance threshold. In FY 2018, Massachusetts' score for this requirement fell to 19 percent..."

[48] Office of the Inspector General (OIG), 9/22/20, States continued to fall short in meeting required timeframes for investigating nursing home complaints: 2016-2018, OIG OEI-01-19-00421, Data Brief, Results page 6, https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf.

[49] https://www.aapd.com/voting-rights-and-accessibility-are-under-attack-across-the-u-s/

[50] Best Practices: Accessibility for Voting By Mail | U.S. Election Assistance Commission (eac.gov)