

By Mr. Flaherty of Cambridge, petition of Charles F. Flaherty relative to regulating the mental health legal advisors committee. Human Services and Elderly Affairs.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Nine.

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AN ACT FURTHER REGULATING THE MENTAL HEALTH LEGAL ADVISORS COMMITTEE.

*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. Section 34E of chapter 221 of the General Laws,  
2 as appearing in the 1984 Official Edition, is hereby amended by  
3 striking out the second paragraph, as so appearing, and inserting  
4 in place thereof the following paragraph: —

5 Any practicing member of the bar of the Commonwealth who  
6 wishes to serve as a mental health legal advisor shall submit this  
7 name to the committee, thereby indicating his or her interest in  
8 serving as a mental health legal advisor. The committee shall  
9 promulgate criteria for participation in a listing of mental health  
10 legal advisors, subject to the approval of the Supreme Judicial  
11 Court. The committee shall annually establish and approve a fee  
12 schedule for such services as shall be performed by the mental  
13 health legal advisors who shall be compensated in accordance  
14 therewith for services performed for an indigent patient.

1 SECTION 2. Said chapter 221 is hereby further amended by  
2 striking out the third paragraph, as so appearing, and inserting  
3 in place thereof the following paragraph: —

4 It shall be the duty of the committee to develop a program of  
5 legal assistance, advice and representation to persons served by  
6 the Department of Mental Health or its contractees, by  
7 Bridgewater State Hospital, by other mental health or retardation  
8 facilities, or by public or private community or residential  
9 programs throughout the commonwealth. The program may

10 utilize the participation of attorneys or such other persons as may  
11 be appropriate in the provision of assistance. Such individuals  
12 may, subject to the approval of the committee, interview and  
13 examine all pertinent records of any such indigent person. The  
14 committee shall appoint such staff as may be necessary to carry  
15 out the duties of the committee.

1 SECTION 3. Said chapter 221 is hereby further amended by  
2 striking out, in lines 42 and 43, the words “patients and residents  
3 at all mental health and retardation facilities in the common-  
4 wealth,” and inserting in place thereof the words: — persons  
5 served by the Department of Mental Health or its contractees,  
6 by Bridgewater State Hospital, by other mental health or  
7 retardation facilities, or by public or private community or  
8 residential programs throughout the Commonwealth.

1 SECTION 4. Said chapter 221 is hereby further amended by  
2 striking out the fifth paragraph, as so appearing, and inserting  
3 in place thereof the following paragraph: —

4 Upon petition of an indigent person served by the Department  
5 of Mental Health or its contractees, by Bridgewater State  
6 Hospital, by other mental health or retardation facilities, or by  
7 public or private community or residential programs throughout  
8 the Commonwealth, or the legal guardian or next friend of such  
9 person, to any department of the trial court, such court shall  
10 appoint the Committee to advise such person of his or her rights  
11 and to represent such person. In addition, if the Committee  
12 becomes aware that an indigent person served by the Department  
13 of Mental Health or its contractees, by Bridgewater State  
14 Hospital, by other mental health or retardation facilities, or by  
15 public or private community or residential programs throughout  
16 the Commonwealth, is in need of counsel, advice or representation  
17 the Committee may contact such person and provide him or her  
18 with advice and representation. It shall be the continuing duty of  
19 the Committee to see that the rights of all such indigent persons  
20 are protected, regardless of the individual’s ability to articulate  
21 his or her request for services. The Committee shall provide such  
22 counsel, advice and representation by appointing an attorney  
23 from the list of mental health legal advisors or by utilizing its own  
24 staff.

1 SECTION 5. Said chapter 221 is hereby further amended by  
2 inserting after the word “appointed” as appearing in line 57 the  
3 words: — or the committee staff.

1 SECTION 6. Said chapter 221 is hereby further amended by  
2 striking out the last sentence of the sixth paragraph, as so  
3 appearing, and inserting in place thereof: —

4 In addition, the committee staff and the mental health legal  
5 advisor may take all necessary inquiries as the Committee deems  
6 proper.

1 SECTION 7. Said chapter 221 is hereby further amended by  
2 striking out the seventh paragraph entirely.

1 SECTION 8. Said chapter 221 is hereby further amended by  
2 striking out, in line 71, the words “compensating and mental  
3 health legal advisor.” and inserting in place thereof the words: —  
4 fulfilling any of its duties as described by this chapter.

