

By Mr. Ruane of Salem, petition of J. Michael Ruane relative to nursing home waiting lists. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT RELATIVE TO NURSING HOME WAITING LISTS.

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

1 Chapter 118E of the General Laws is hereby amended by  
2 inserting after section 27 the following new section:—

3 Section 28. Each long term care facility licensed pursuant to  
4 section 72 of chapter 111 and participating in the medical assis-  
5 tance program pursuant to section 18 of chapter 118E and/or  
6 section 131 E of chapter 6 shall:

7 (A) Maintain in a bound volume, using a format specified by  
8 the department, a written list, hereinafter referred to as a waiting  
9 list, of the individuals requesting admission to the facility, here-  
10 inafter referred to as applicants, ordered chronologically by the  
11 date of application. Each entry in said list shall include:

12 (1) the date, hereinafter referred to as the date of application,  
13 the applicant's name was most recently added to the list pursuant  
14 to subparagraph (D);

15 (2) the name of the applicant;

16 (3) a serial number uniquely identifying the applicant and the  
17 application date described in (1);

18 (4) the gender of the applicant;

19 (5) the level of care sought;

20 (6) the date of the most recent renewal of such application by  
21 the applicant or his representative pursuant to the provisions of  
22 paragraph (H) below;

23 (7) the date of any offer by the facility to admit the applicant  
24 which was refused, or to which the applicant failed to respond  
25 within a customary time frame, and an indication of the appli-  
26 cant's response or lack thereof; and

27 (8) an indicator clearly denoting whether the application has  
28 been classified as "inactive" as allowed under subparagraph (H)  
29 below. For the purposes of this section, an application which  
30 has not been classified as "inactive" shall be considered to be  
31 "active."

32 (B) Provide a standardized receipt of each individual  
33 requesting admission or to his representative, stating the date and  
34 time the facility received the request.

35 (C) Mail a standardized application form to any individual  
36 requesting admission to the facility.

37 (D) Upon the receipt of a substantially completed application  
38 for admission to the facility, add the applicant's name to the  
39 waiting list described in subparagraph (A), assigning said appli-  
40 cant a unique serial number pursuant to the provisions of said  
41 subparagraph (A).

42 In determining whether a returned written application is "sub-  
43 stantially complete", a nursing home may not reject as incomplete  
44 a written application when said facility has accepted as "substan-  
45 tially complete" other written applications which are as complete  
46 or less complete than the application in question.

47 For the purpose of this section, the term "substantially com-  
48 plete" shall include certification of the need for long term care, or  
49 of the diagnosis of a medical condition which can be expected to  
50 result in such a need within twelve months of the date of applica-  
51 tion, by the long term care connection program, so-called, of the  
52 department, or its successor program in the department or in the  
53 executive office of elder affairs, or by a physician or any other  
54 entity empowered to certify the need for such care.

55 (E) Upon the request of an applicant or his representative, pro-  
56 vide information about that applicant's current place on the  
57 waiting list relative to other persons whose applications remain  
58 "active".

59 (F) Maintain a list of persons whose applications have been  
60 classified as "inactive", chronologically ordered by the date of  
61 such classification. Entries into said list shall indicate:—

- 62 (1) the date and serial number of the application;
- 63 (2) the date the application was classified as inactive; and
- 64 (3) the reason for that classification, as allowed under subpara-  
65 graph (H) below.

66 (G) Make the lists described in subparagraphs (A) and (F)  
67 available for inspection during normal business hours by per-  
68 sonnel from the departments of public health and public welfare,  
69 office of the attorney general, Massachusetts commission against  
70 discrimination, executive office of elder affairs to ombudsman  
71 program, and other such state agencies or bodies established by  
72 state statute whose statutory duties necessitate access to such  
73 lists. Such lists shall also be available, in a manner which protects  
74 the confidentiality of other applicants and residents, to applicants  
75 and their representatives.

76 (H) Not classify an application as “inactive” unless the appli-  
77 cant (1) is admitted to the nursing home, (2) dies, (3) gives the  
78 nursing home written notice of withdrawal of the application, or  
79 (4) becomes unsuitable for admission into the facility, in the  
80 opinion of the medical director of the facility, on account of a  
81 change in health status; provided, however, that a facility may  
82 require that an applicant contact the facility at intervals no shorter  
83 than 30 days for the purpose of affirming continued interest in  
84 admission into the facility, and may, if the applicant fails to con-  
85 tact the facility within 10 days of any such deadline, re-classify  
86 that individual’s application as “inactive”; and provided further  
87 that the facility shall be required to inform each applicant, at the  
88 time of application, in writing, of any such requirement for peri-  
89 odic renewal of an application.



