

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-Four.

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 assistance
5 program pursuant to section 18 of chapter 118E and/or section
6 131E 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,
10 hereinafter referred to as applicants, ordered chronologically by
11 the 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
21 by the applicant or his representative pursuant to the provisions
22 of 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
26 applicant'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 has
30 not been classified as “inactive” shall be considered to be “active.”

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

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

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

41 In determining whether a returned written application is
42 “substantially complete”, a nursing home may not reject as
43 incomplete a written application when said facility has accepted
44 as “substantially complete” other written applications which are
45 as complete or less complete than the application in question.

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

54 (E) Upon the request of an applicant or his representative,
55 provide information about that applicant’s current place on the
56 waiting list relative to other persons whose applications remain
57 “active.”

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

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

65 (G) Make the lists described in subparagraphs (A) and (F)
66 available for inspection during normal business hours by

67 personnel from the departments of public health and public
68 welfare, office of the attorney general, Massachusetts commission
69 against discrimination, executive office of elder affairs
70 ombudsman program, and other such state agencies or bodies
71 established by state statute whose statutory duties necessitate
72 access to such lists. Such lists shall also be available, in a manner
73 which protects the confidentiality of other applicants and
74 residents, to applicants and their representatives.

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

