

SENATE No. 845

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Safe Work Hours for Physicians in Training and Protection of Patients

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Susan C. Tucker	Second Essex and Middlesex
Christine E. Canavan	10th Plymouth
Jennifer M. Callahan	18th Worcester
Kay Khan	11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02666 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO SAFE WORK HOURS FOR PHYSICIANS IN TRAINING AND PROTECTION OF PATIENTS.

*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. Chapter 11 of the general laws, as appearing in the 2006 Official Edition, is
2 hereby amended by inserting after section 4L, the following new section:

3 Section 4M. Advisory Council on Physician Work Hours

4 (a) there is hereby established with the department, the advisory council for resident-physicians.

5 The advisory council shall be comprised of 13 members to be appointed by the commissioner of

6 public health, 1 of whom shall be a representative from the Massachusetts Medical Society, 1 of

7 whom shall be the dean of the University of Massachusetts Medical School, 1 of whom shall be

8 the executive director of the board of registration in medicine or her designee, 2 of whom shall

9 be representatives of the Massachusetts Hospital Association at least one from a teaching hospital,

10 1 of whom shall be a representative of the committee of interns and residents/SEIU, 1 of whom

11 shall be a resident-physician from an academic medical institution that does not have

12 representation by the committee of interns and residents/SEIU, 1 of whom shall be a resident-

13 physician from a community hospital, 1 of whom shall be the director of a graduate medical
14 education office at a hospital located in the Commonwealth, 1 of whom shall be a consumer, two
15 shall be experts in sleep deprivation who are members of the Sleep Research Society; and 1 of
16 whom shall be the executive director of the Betsy Lehman Center for Patient Safety and Medical
17 Error Reduction who shall serve as the chairperson of the council. The members of the council
18 shall serve without compensation.

19 (b) The advisory council shall make an investigation and study into the duty hours and working
20 conditions of resident-physicians in the commonwealth. Based on the study, the department shall
21 adopt rules and regulations for the purpose of establishing an evidence-based standard duty hour
22 schedule that promotes quality of care and patient and resident-physician safety. The study shall
23 consider, but not be limited to implementing recommendations from the Sleep Research Society
24 (2005) and the Institute of Medicine Report (Resident Duty Hours: Enhancing Sleep,
25 Supervision and Safety, 12/2/08), specifically: limiting the work hours of resident physicians and
26 other trainees in clinical training programs to an optimal limit of 60 hours per week, but not more
27 than a maximum limit of 80 hours per week; limiting the consecutive work hours of to an
28 optimal limit of 12 hours per shift, but not more than a maximum of 16 scheduled hours per shift,
29 including time for the transition of patient care information, with an additional two hours of work
30 allowed when deemed necessary for patient safety by a supervisor; limiting the work hours of
31 residents who are assigned to patient care responsibilities in an emergency department to not
32 more than 12 consecutive hours; limiting the number of consecutive night shifts worked to no
33 more than 4, with a minimum of 48 hours off duty after 3 or 4 consecutive night shifts; requiring
34 a nonworking period of not less than 16 consecutive hours following a 16 hour shift; requiring a
35 nonworking period of optimally 12 or more hours, but not less than 10 hours, between other

36 scheduled shifts; requiring that resident physicians and other trainees in clinical training
37 programs optimally have 48 consecutive hours free of work once every seven days, but at a
38 minimum, 36 consecutive hours free of work including two consecutive nights once every seven
39 days; and requiring optimally 60 consecutive hours free of work once every two weeks, but at a
40 minimum, 60 consecutive hours free of work once every four weeks; requiring that the optimal,
41 rather than the minimal, work hour recommendations be met by resident physicians and other
42 trainees in clinical training programs in any setting designated a high-intensity setting by the
43 advisory council (a setting where the probability and/or potential consequence of a medical error
44 is high, such as an intensive care unit); limiting overnight, on-call work shifts that exceed 12
45 consecutive hours to a frequency of no more than one night every three days; accommodations
46 that can be made in any recommended time limitations for a state of emergency declared by the
47 commonwealth that applies with respect to that hospital or for an emergency situation when a
48 resident-physician is providing critical physician-care to an individual patient and cannot be
49 replaced; requirements for each hospital to inform resident-physicians of their rights under any
50 rules and regulations promulgated by the department; enforcement of such rules and regulations
51 including, but not limited to, the posting of maximum hours limitations in all departmental
52 offices, informing all resident-physicians of their rights to report any violations of the
53 regulations, whistleblower protections and the use of surveys of resident-physicians and
54 reporting by hospitals to determine compliance with rules and regulations promulgated under this
55 section; and requiring that resident-physicians and hospital supervisors be informed of the effects
56 of acute and chronic sleep deprivation both on the resident-physicians and on the quality of
57 patient care. The study shall also consider mechanisms for meaningful enforcement of any
58 standards proposed and for effective sanctions for violations.

59 (c) The council shall make an investigation and study into appropriate penalties for violations of
60 any rules and regulations promulgated pursuant to subsection (b). Based on the study, the
61 department shall adopt rules and regulations to establish a model work environment that
62 promotes quality of care and patient and resident-physician safety and shall establish an
63 enforcement mechanism and penalties for violations of the rules and regulations promulgated
64 under subsection (b). Any rules or regulations established under this subsection shall include
65 penalties for any hospital or other institution hosting resident-physicians, an attending physician
66 supervising resident-physicians, and resident-physicians who habitually violate the rules and
67 regulations promulgated under subsection (b). The study shall consider, but shall not be limited
68 to: identifying a position within the department responsible for investigating all complaints of
69 violations of any rules and regulations promulgated by the department pursuant to subsection (b)
70 and the use of monetary and non-monetary penalties to maximize improvement of patient safety.

71 (d) The investigation and study shall be conducted and recommendations shall be presented to
72 the department not later than one year after the effective date of this act.

73 (e) For the purposes of this section, the term 'resident-physician' shall include a medical intern,
74 resident or fellow enrolled in an ACGME or ADA accredited graduate medical or dental
75 education program.

76 SECTION 2: Effective dates.

77 (a) The provision of subsection (a) and subsection (b) of Section 1 shall take effect upon passage.

78 (b) The provisions of subsection (c) of Section 1 shall take effect one year after the
79 implementation of the rules and regulations promulgated under subsection (b) of Section 1.