



**House  
Legislative  
Analysis  
Section**

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**CRITERIA FOR NURSING HOME  
SURVEY TEAM**

**House Bill 6053 with committee  
amendments  
First Analysis (11-19-96)**

**Sponsor: Rep. Mike Green  
Committee: Health Policy**

***THE APPARENT PROBLEM:***

The Public Health Code requires that licensed health facilities and agencies, such as hospitals, clinical laboratories, nursing homes, and emergency medical services (EMS) be reviewed at least annually for the purpose of survey, evaluation, and consultation. The state employs approximately 70 to 80 people who compose about seven survey teams. Most of the survey team members have backgrounds as nurses, physical therapists, dieticians, sanitarians (responsible for the physical environment of health facilities), and social workers. When a survey is conducted, depending on the nature of the survey, anywhere from one to several members of a team is sent on site. Teams are responsible for such tasks as determining a facility's compliance with state and/or federal regulations, and have authority to issue citations for non-compliance. Team members who must survey facilities such as nursing homes which require knowledge of federal regulations pertaining to Medicare and Medicaid receive training in the federal regulations and must pass a federal exam before being assigned to a survey team.

According to representatives from the nursing home industry, recent enforcement changes and changes in the fine structure for nursing homes have resulted in a situation where the actual rules and regulations for nursing homes have not changed, but how surveyors are determining deficient practice by a nursing home and what level of fine should be assessed has changed. This has resulted in many homes facing stiff fines. Reportedly, nursing homes face heavier fines than other health facilities. Some industry members believe that if the surveyors are determining severity of deficient practice so differently than just a few months ago, then perhaps this is an indication that more education is needed pertaining to care practices unique to nursing homes. For example, though there are some similar levels of care in hospitals and nursing homes, hospital care is geared more for acute care, where in nursing homes the emphasis is on long-term care and

rehabilitative care. The approach, and therefore methods and possible problems, will be different from a nursing home to a hospital. Some feel that having at least one member of a survey team with nursing home or other long-term care experience would be a first step in increasing the level of expertise of the survey teams, perhaps even affording better consultation and problem solving between the survey teams and nursing home operators. For that reason, legislation has been sought by some members of the nursing home industry to require that at least one member of a survey team have at least one year's experience as a health professional in a nursing home.

***THE CONTENT OF THE BILL:***

Provisions of the Public Health Code require the Department of Community Health (formerly the Department of Public Health) to visit each licensed health facility or agency at least annually for the purposes of survey, evaluation, and consultation. House Bill 6053 would require that at least one member of a team conducting a survey, evaluation, and consultation visit have at least one year's experience working in a licensed nursing home in the state as a health professional employee. The requirement would take effect one year from the effective date of the bill.

MCL 333.20155

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill's requirement that each survey team include at least one member with a minimum of one year's experience as an employee of a nursing home licensed in Michigan would most likely result in increased costs to the state. However, the magnitude of the increase would yet to be determined. (11-15-96)

House Bill 6053 (11-19-96)

## **ARGUMENTS:**

### ***For:***

In light of apparent recent changes in the fine schedule and determination of deficient practice regarding nursing homes, some in the nursing home industry feel that it is necessary that more people on the survey teams have actual experience not just in the health professions, but specifically with long-term care. The long-term care approach creates situations not found consistently in other health facility settings. Just because someone has been trained to write citations for non-compliance does not mean they have the knowledge to offer solutions. Therefore, survey members with expertise in the delivery of long-term care, and the unique difficulties it affords, could be better suited to not only cite for non-compliance, but would be better able to offer alternatives and solutions to the problems leading to a citation. The bill allows for one year for the department to hire people to be placed on each team, which would be approximately seven to ten new employees. These teams often have high turnover, so as slots open up over the next year, the openings could be filled with nurses and other health professionals with nursing home experience. In this way, no current employees should have to be displaced. The bill is seen as a first step in attempting to bring a greater expertise to the survey teams in regards to long-term care delivery systems, thereby possibly creating a more beneficial system whereby the surveyors would be better able to offer solutions and assistance to nursing home operators and staffs so that the residents of nursing homes may receive a higher level of care.

### ***Against:***

Apparently, some people feel that current survey teams have done an inadequate job in regards to nursing homes because team members lack sufficient knowledge of the inner workings of nursing homes. Therefore, proponents believe that requiring one member to have nursing home experience will automatically increase the effectiveness of the survey teams. However, the same argument could be made to include at least one representative on each team from each of the facilities that these teams survey and evaluate -- hospitals, clinical laboratories, hospices, freestanding surgical outpatient facilities, health maintenance organizations (HMOs), ambulance operations, medical first response services, and homes for the aged. Probably few if any of the survey teams have members with hospice experience or who have worked for an aircraft transportation operation, yet surely it would be just as beneficial for efficiency and accuracy to include workers with experience at these jobs. Meanwhile, survey members that deal with nursing homes are trained, and must pass a stringent exam, in federal standards for Medicare and Medicaid, which have very high standards in regulating specific levels of care.

In addition, since only one to three team members on average are sent to any one facility, there is no guarantee that a team member with nursing home work experience would even be sent to do a survey or evaluation on a nursing home assigned to the team. Scheduling difficulties, as well as possible increased costs to taxpayers, are also foreseen as possible effects of the bill's provisions.

### ***Against:***

Representatives from the Department of Consumer and Industry Affairs and advocacy groups alike have expressed a concern that finding an adequate pool from which to draw qualified survey team members with the necessary nursing home health profession experience may be difficult. Though the Public Health Code does not define "health professional," health profession is defined as those occupations licensed under Article 15 of the code and includes doctors, veterinarians, sanitarians, nurses and trained attendants, optometrists, dentists, dental assistants and dental hygienists, marriage and family therapists, pharmacists, physical and occupational therapists, podiatrists, counselors, psychologists, and physician assistants (but apparently would exclude social workers, who are licensed under the Occupational Code). Though many of these professions are already represented on the survey teams, others of these would not necessarily be suitable even with nursing home work experience due to civil service requirements. Plus, some feel that the pay scale may not attract the highest caliber from the health professions. Further, many seem to believe that the best choice of candidates comes from the broadest pool available. The bill's provisions, they believe, would only serve to make hiring pools smaller, thus inadvertently cutting out some highly qualified people.

## **POSITIONS:**

The Health Care Association of Michigan (representing county, not-for-profit, and for-profit nursing homes) supports the bill. (11-18-96)

The Michigan Association of Homes and Services for the Aging, representing not-for-profit nursing homes and homes for the aged, supports the concept of the bill, but has no position on the committee version. (11-15-96)

The Department of Consumer and Industry Affairs does not support the bill. (11-15-96)

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.