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NURSING HOME COMPLAINTS

House Bill 4195 as passed by the House Second Analysis (11-14-01)

Sponsor: Rep. Bruce Patterson
**Committee: Senior Health, Security and
Retirement**

THE APPARENT PROBLEM:

Often when a nursing home resident has a question or concern, he or she is not sure how to direct it. Simply telling a staff member does not necessarily ensure resolution. Though administrative rules already require that nursing homes have procedures in place to receive complaints and investigate them, residents or family members may be unaware of these procedures or unaware of which staff member is designated to receive complaints. Legislative has been proposed to require the posting of such information.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code (MCL 333.21723) to require a nursing home to post, in an area accessible to residents, employees, and visitors, the name, title, location, and telephone number of the staff person in the nursing home who is responsible for receiving complaints and conducting complaint investigations, and a procedure for communicating with that individual. A nursing home would have to have a staff person on duty 24 hours a day, 7 days a week, who was responsible for receiving complaints and conducting complaint investigations.

The staff person on duty as designated in the bill would have to respond to each complaint, inquiry, or request using the procedures adopted by the nursing home according to administrative rule R 325.20113. (See *Background Information*.)

To assist the person responsible for receiving complaints in a nursing home in performing his or her duties, the Department of Consumer and Industry Services (CIS) would have to post the following information on its Internet web site:

- links to federal and state regulations and rules governing the nursing home industry;
- any scheduled training sessions concerning nursing home or elderly care issues sponsored by CIS;

- a list of long-term care contact phone numbers that would have to include the CIS 24-hour hotline, the CIS nursing home licensing division, any commonly known nursing home provider groups, the state long-term care ombudsman, and any commonly known nursing home patient care advocacy groups;
- information on the availability of e-mail access to file complaints concerning nursing home violations directly with the CIS; and
- any other information that the CIS believes would be helpful in responding to complaints, requests, and inquiries of nursing home residents or their surrogate decision makers.

The bill specifies that a nursing home receiving Medicaid reimbursement would be required to designate one or more current employees to fulfill the duties and responsibilities outlined in the bill. The bill would not constitute a basis for increasing nursing home staffing levels.

MCL 333.21723

BACKGROUND INFORMATION:

Administrative rule R 325.20113 requires a nursing home to adopt written policies and procedures to implement patient rights and responsibilities as required by the Public Health Code. The rule requires that the policy be available, before and following the patient's admission, to the patient, his or her next of kin, the attending physician, members of the patient's family (or guardian, designated representative, or person or agency responsible for placing and maintaining the patient in the home), employees of the home, and the public.

The procedures must include a procedure for the initiation, investigation, and resolution of complaints, subject to Department of Consumer and Industry approval, and, at a minimum:

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- A statement that a patient may have the alternative to complain either to the home or the department about any condition, event, or procedure in the home without citing a specific violation of the code or the rules.
- A procedure for submitting written complaints to the home identifying potential violations of law or rule, including a procedure to assist a complainant in reducing an oral complaint to writing if the oral complaint is not resolved to the satisfaction of the complainant. If there is a standard complaint form, a copy must be provided to each patient at the time of admission, and additional copies must be provided upon request.
- The name, title, location, and telephone number of the individual in the home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.
- A requirement that all complaints be investigated within 15 days following receipt of the complaint by the home, and a requirement that, within 30 days following receipt of the complaint, the home deliver to the complainant a written report of the results of the investigation or a written status report indicating when the report may be expected.
- A mechanism for appealing the matter to the administrator of the home if the complainant is not satisfied with the investigation or resolution of the complaint.

The rule also requires nursing homes to maintain complaints and investigation reports for three years, and to make their records available to the department upon request.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state or on local units of government. (11-8-01)

ARGUMENTS:

For:

Residents of nursing homes do not always know who to address their questions or concerns to. The tendency is to ask anyone who comes near the same question, hoping that someone will be able to help. Staff members, who work under very demanding conditions, may not know the answer or may not have time to help the resident find the solution he or

she desires. In one example cited, a patient's family member waited five weeks to get a room change desired by the patient. Some issues may not rise to the level of a formal complaint, but are still in need of resolution in a more timely manner for the well-being of the residents. And, it is in the best interests of all concerned if complaints or concerns can be addressed at the nursing home level, rather than being referred into the regulatory system, with all the time, expense, and rancor that may cost. The bill would require nursing homes to post the name and title of a responsible person so that patients and families would know which staff member is responsible at any given time to respond to complaints. Further, it would require that homes have such a person on duty at all times. And, to assist the person who receives complaints in carrying out his or her responsibilities, the bill would require that the department post certain information on its Internet web site that could be helpful in resolving the concerns of nursing home patients and their families.

Against:

Concerns have been raised about amendments added on the House floor. Nursing home providers do not support the amendment that would require that a list of long-term care contact phone numbers be posted on the DCIS web site. The provision could make the complaint process confusing for residents and families. Further, the DCIS has concerns about the amendment that would require nursing homes that participate in Medicaid (almost all the state's nursing homes) to designate one or more current employees to fulfill the duties outlined in the bill.

POSITIONS:

The Michigan Association of Homes and Services for the Aging supports the bill. (11-8-01)

The Department of Consumer and Industry Services supports the concept of the bill, but does not support the bill as it passed the House. (11-14-01)

The Health Care Association of Michigan supported the bill as it was reported out of the House committee, but opposes the bill as it passed the House. (11-8-01)

Analyst: D. Martens

■ 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.