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BILL ANALYSIS



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House Bill 5389 (as passed by the House)
Sponsor: Representative Paul Clemente
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 5-27-14

CONTENT

The bill would amend the Public Health Code to do the following:

- **Allow a nursing home to use a dining assistant to provide feeding assistance to a patient, under certain circumstances.**
- **Require a nursing home that chose to use dining assistants to train individuals through a training curriculum approved by the Department of Licensing and Regulatory Affairs (LARA).**
- **Establish criteria for an approved dining assistants training curriculum.**
- **Prohibit a nursing home from employing or allowing a person under 17 years of age to provide feeding assistance as a dining assistant.**
- **Require a dining assistant to work under the supervision of a nurse; specify that feeding assistance would be a dining assistant's sole purpose; and prohibit a dining assistant from performing any other nursing or nursing-related services.**
- **Provide that dining assistants would be subject to criminal history checks required under the Code.**
- **Allow feeding assistance to be provided in a patient's room rather than a designated dining area, if approved by the charge nurse.**
- **Require a nursing home that used dining assistants to maintain a written record of each person used in that capacity.**
- **Specify that family members or friends could provide feeding assistance without completing the training curriculum.**

"Dining assistant" would mean an individual who met the bill's requirements and who was paid by the nursing home only to provide feeding assistance to nursing home patients, or who was used under an arrangement with another agency or organization.

Dining Assistants

Under the bill, with the consent of the patient or the patient's representative, a nursing home could use a dining assistant to provide feeding assistance to a patient who, based on the charge nurse's assessment and the patient's most recent plan of care, needed assistance or encouragement with eating and drinking but did not have complicated feeding problems, including difficulty swallowing, recurrent lung aspirations, tube or parenteral feedings, or behavioral issues that could compromise nutritional intake.

The charge nurse's assessment and plan of care would have to be documented in the patient's medical record. For a patient who was assigned a dining assistant and experienced

an emergent change in condition, the charge nurse would have to perform a special assessment to monitor the appropriateness of the continued use of a dining assistant.

Training Curriculum

A nursing home that chose to use dining assistants would have to train individuals through a training curriculum approved by LARA. The Department and the Long-Term Care Stakeholder Advisory Workgroup would have to develop a dining assistants training curriculum, and the Department would have to approve the training curriculum. In order to be approved, the training curriculum would have to include at least eight hours of course material covering all of the following:

- Dining assistants program overview.
- Patient rights.
- Communication and interpersonal skills.
- Appropriate responses to patient behavior.
- Recognizing changes in patients.
- Infection control.
- Assistance with feeding and hydration.
- Feeding techniques.
- Safety and emergency procedures.
- End of life.

An individual could not provide feeding assistance as a dining assistant in a nursing home unless he or she had successfully completed the dining assistants training curriculum.

Scope of Duties

A dining assistant would have to work under the supervision of a nurse (an individual licensed as a registered professional nurse or a licensed practical nurse). "Under the supervision of a nurse" would mean that a nurse who oversaw the work of a dining assistant was physically present in the nursing home and was immediately available. The bill would define "immediately available" as being capable of responding to provide help to the dining assistant, if needed, at any time during a feeding either in person or by voice or call light system, radio, telephone, pager, or other method of communication.

A dining assistant's sole purpose would be to provide feeding assistance to patients, and he or she could not perform any other nursing or nursing-related services, such as toileting or transporting patients. A dining assistant would not be nursing personnel and a nursing home could not include a dining assistant in computing the ratio of patients to nursing personnel or use a dining assistant to supplement or replace nursing personnel.

If approved by the charge nurse, a dining assistant could provide feeding assistance in a patient's room if the patient were unable to go to or chose not to dine in a designated dining area. A nurse would not have to be physically present within the patient's room during the feeding, but a nurse would have to be immediately available. A dining assistant who provided feeding assistance to a patient in the patient's room could not be assigned to assist another patient at the same time.

Written Records

A nursing home that used dining assistants would have to maintain a written record of each individual used as a dining assistant. At a minimum, the nursing home would have to include in the written record the person's complete name and address, the date the person successfully completed the dining assistants training curriculum, a copy of the written

record of satisfactory completion of the training curriculum, and documentation of the criminal history check.

Family Members & Friends

The bill specifies that it would not prohibit a family member or friend from providing feeding assistance to a patient within the nursing home or require a friend or family member to complete the training program required under the bill. A nursing home, however, could offer to provide the dining assistant training curriculum to family members and friends.

Proposed MCL 333.21794

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a minor, but negative, fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government. The bill would require LARA to work with the Long-Term Care Stakeholder Advisory Workgroup to develop a training curriculum for dining assistants. This requirement would result in some minor and likely nonrecurring costs for LARA that would be borne by existing resources.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.