

## **NURSING HOMES: PEER-REVIEWED, EVIDENCE-BASED CLINICAL GUIDELINES & BEST PRACTICE RESOURCES**

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**Senate Bill 64 (passed by the Senate as S-2)**

**Sponsor: Sen. Goeff Hansen**

**House Committee: Health Policy**

**Senate Committee: Families, Seniors, and Human Services**

**Complete to 5-19-15**

Analysis available at  
<http://www.legislature.mi.gov>

### **REVISED SUMMARY:**

Senate Bill 64 would amend the Public Health Code (MCL 333.20155 et al) to update the way in which the Department of Licensing and Regulation establishes compliance with, and standards for, nursing homes. The bill would take effect 90 days after it was enacted into law.

Overall, Senate Bill 64 (S-2) would do all of the following:

- Refer to a nursing home "resident" rather than to a nursing home "patient."
- Delete a requirement that the Department of Licensing and Regulatory Affairs (LARA) develop and adopt clinical process guidelines and compliance protocols with outcome measures for nursing homes in specific areas of care.
- Require, instead, that a nursing home use peer-reviewed, evidence-based, nationally recognized clinical process guidelines, as well as peer-reviewed, evidence-based best practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes in specific practice areas.
- Eliminate the requirement that the department instruct and train surveyors in the clinical process compliance guidelines used to cite deficiencies.
- Require LARA to post on its website all peer-reviewed, evidence-based, nationally recognized clinical process guidelines and peer-reviewed, evidence-based best-practice resources used in a training session.
- Require LARA's process for reviewing and authorizing the issuance of certain citations to assure the consistent and accurate application of federal and state survey protocols, rather than assure that applicable concepts, clinical process guidelines, and other tools are used consistently, accurately, and effectively.
- If funds are available, require LARA to give grants and other awards to nursing homes to encourage the rapid implementation of policies and protocols from peer-reviewed, evidence-based, nationally recognized guidelines to promote performance excellence, rather than to encourage the rapid implementation or maintenance of guidelines developed by LARA.
- Require LARA to maintain clear and uniform peer-reviewed, evidence-based best-practice resources, rather than develop guidelines, for the use and maintenance of bed rails and properly fitted mattresses.

A more detailed description of the bill follows.

### ***Development & Use of Guidelines & Best Practice Resources***

Article 17 of the Public Health Code, entitled "Facilities and Agencies," requires LARA to develop and adopt *clinical process guidelines*. Now under the law, the department must establish and adopt clinical process guidelines and compliance protocols with outcome measures for the following areas and for other topics where it determines that clarification will benefit providers and consumers of long-term care:

- Bed rails
- Adverse drug effects
- Falls
- Pressure sores
- Nutrition and hydration, including heat-related stress
- Pain management
- Depression and depression pharmacotherapy
- Heart failure
- Urinary incontinence
- Dementia
- Osteoporosis
- Altered mental states.
- Physical and chemical restraints
- Culture change principles, person-centered caring, and self-directed care

The bill, instead, would require a nursing home to use peer-reviewed evidence-based, nationally recognized clinical process guidelines and best-practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes, specifically in the following, nearly identical, clinical practice areas:

- Use of bed rails
- Adverse drug effects
- Prevention of falls
- Prevention of pressure ulcers
- Nutrition and hydration
- Pain management
- Depression and depression pharmacotherapy
- Heart failure
- Urinary incontinence
- Dementia care
- Osteoporosis
- Altered mental states
- Physical and chemical restraints
- Person-centered care principles

In an area of clinical practice that is not listed above, Senate Bill 64 (S-2) would permit a nursing home to use peer-reviewed, evidence-based, nationally recognized clinical process guidelines or best-practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes, to promote performance excellence.

Currently, LARA must biennially review and update all clinical process guidelines as needed and must continue to develop and implement clinical process guidelines for topics that have not been developed from the current list and other topics identified as a result of quarterly

meetings with stakeholders that are required under the Code. Senate Bill 64 (S-2) would delete that provision.

### ***Surveyor Training***

Now, the Public Health Code requires LARA to include training on new and revised clinical process guidelines in the joint provider and surveyor training sessions as those guidelines are developed and revised. Instead, Senate Bill 64 (S-2) would allow (rather than require) LARA to include training on new and revised peer-reviewed, evidence-based, nationally recognized clinical process guidelines or peer-reviewed, evidence-based, best-practice resources that contain measurable outcomes, in its joint provider and surveyor training sessions. Under the bill, the purposes for doing so would be to assist provider efforts toward improved regulatory compliance and performance excellence, and to foster a common understanding of accepted best-practice standards between providers and the survey agency.

Under the bill, and for surveyor, provider and public reference, the department would have to post on its website all peer-reviewed, evidence-based, nationally recognized clinical process guidelines, and also all peer-reviewed, evidence-based best-practice resources used in a training session.

Now, the Public Health Code also requires LARA to instruct and train surveyors in the clinical process guidelines adopted by the department in citing deficiencies. Senate Bill 64 (S-2) would delete that requirement.

Further, the bill would require surveyors, when making compliance decisions, to consider peer-reviewed, evidence-based, nationally recognized clinical process guidelines and similarly vetted best-practice resources having measurable outcomes, as those used by a nursing home to develop and implement resident care policies and compliance protocols.

### ***Review***

The Public Health Code requires LARA to maintain the process by which it reviews and authorizes the issuance of a citation for 'immediate jeopardy' or 'substandard quality of care', before a statement of deficiencies is made final. The review must assure that the applicable concepts, clinical process guidelines, and other tools are being used consistently, accurately, and effectively. Senate Bill 64 (S-2), instead, would require the review to assure the consistent and accurate application of federal and state survey protocols and defined regulatory standards.

### ***Grants & Awards***

The Public Health Code requires LARA, if funds are available, to give grants, awards, or other recognition to nursing homes to encourage the rapid implementation or maintenance of the clinical process guidelines adopted by the Department. Senate Bill 64 (S-2), instead, would require LARA, upon the availability of funds, to give grants, awards, or other recognition to nursing homes to encourage the rapid development and implementation of resident care policies and compliance protocols that were created from peer-reviewed, evidence-based, nationally recognized clinical process guidelines or peer-reviewed, evidence-based best-practice resources with measurable outcomes, to promote performance excellence.

### ***Bed Rails***

Now, the Code requires a nursing home to give each resident who uses a hospital-type bed (or to the resident's legal guardian, patient advocate, or other legal representative) the option of having bed rails. Under the law, the department must develop clear and uniform guidelines to

be used in determining what constitutes acceptable bed rails, proper maintenance of bed rails, properly fitted mattresses, and other hazards created by improperly positioned bed rails, mattresses, or beds. Senate Bill 64 (S-2) would retain these provisions, but require the department to maintain clear and uniform peer-reviewed, evidence-based best-practice resources (rather than guidelines), for this purpose.

Now under the law, the department must develop the bed-rail guidelines in consultation with the long-term care workgroup established under the Code. Senate Bill 64 (S-2), instead, would require LARA to maintain the peer-reviewed, evidence-based best-practice resources for bed rails, in consultation with the long-term care stake-holders workgroup.

Further and under the law, the Code requires that an individual representing manufacturers of bed rails, two residents or family members, and an individual with expertise in bed rail installation and use be added to the long-term care stake-holders workgroup. As part of a report it makes to the legislature, the department must consider the recommendations of the hospital bed safety work group established by the U.S. Food and Drug Administration, if those recommendations are available at the time the report is submitted. Senate Bill 64 (S-2) would delete these requirements.

#### ***Nursing Home Resident***

Throughout this section of the Code, Senate Bill 62 (S-2) would change the term nursing home "patient" to nursing home "resident." Now the Code defines "patient" as a person who receives care or services at a nursing home. Under the bill, "patient" would mean a resident, and "resident" would mean an individual who receives care or services at a nursing home.

#### **FISCAL IMPACT:**

Senate Bill 64, as passed by the Senate, would have a fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) to the extent that LARA would no longer be required to develop, adopt, implement, biennially review, and update, clinical process guidelines and compliance protocols with outcome measures nor provide training to surveyors and providers concerning clinical process guidelines. According to LARA, the annual expenditures associated with performing these functions is approximately \$270,000 for personnel, training, and travel costs.

LARA would also be required to post peer-reviewed, evidence-based, nationally recognized clinical process guidelines and peer-review, evidence-based, best-practice resources used in training sessions on its website; however, LARA currently posts content pertaining to the clinical process guidelines adopted by LARA and thus there would not likely be a change in costs associated with relevant web postings.

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