



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 64 (as introduced 2-3-15)
Sponsor: Senator Goeff Hansen
Committee: Families, Seniors and Human Services

Date Completed: 3-18-15

CONTENT

The bill would amend Article 17 (Facilities and Agencies) of the Public Health Code to do the following:

- Delete and replace 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 that a nursing home use evidence-based, nationally recognized clinical process guidelines or best practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes in specific practice areas.
- Allow LARA to include training on new and revised evidence-based, nationally recognized clinical process guidelines or best-practice resources in its joint provider and surveyor training, rather than including training on clinical process guidelines that it develops.
- Require LARA to post on its website all evidence-based, nationally recognized clinical process guidelines and 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 assuring that applicable concepts, clinical process guidelines, and other tools are used consistently, accurately, and effectively.
- Require LARA to give grants and other awards to nursing homes to encourage the rapid implementation of policies and protocols from 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 best-practice protocols, rather than develop guidelines, for the use and maintenance of bed rails and properly fitted mattresses.
- Refer to a nursing home "resident" rather than a nursing home "patient".

Development & Use of Guidelines & Best Practice Resources

Article 17 requires LARA to develop and adopt clinical process guidelines. 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 evidence-based, nationally recognized clinical process guidelines or best-practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes specifically in the following 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, the bill would permit a nursing home to use 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. The bill would delete that provision.

Surveyor Training

The 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. The bill instead would allow LARA to include training on new and revised evidence-based, nationally recognized clinical process guidelines or best-practice resources that contain measurable outcomes, in the joint provider and surveyor training sessions 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.

The Department would have to post on its website all evidence-based, nationally recognized clinical process guidelines and best-practice resources used in a training session for provider, surveyor, and public reference.

The Code also requires LARA to instruct and train surveyors in the clinical process guidelines adopted by the Department in citing deficiencies. The bill would delete that requirement.

The bill would require surveyors to consider evidence-based, nationally recognized clinical process guidelines or best-practice resources with measurable outcomes that are used by a nursing home to develop and implement resident care policies and compliance protocols when making compliance decisions.

Review

The 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. The bill 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 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. The bill 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 evidence-based, nationally recognized clinical process guidelines or best-practice resources with measurable outcomes to promote performance excellence.

Bed Rails

The Code requires a nursing home to give each resident who uses a hospital-type bed, or the resident's legal guardian, patient advocate, or other legal representative the option of having bed rails. 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. The bill would require the Department to maintain clear and uniform best-practice protocols, rather than guidelines, for this purpose.

The Department must develop the bed-rail guidelines in consultation with the long-term care workgroup established under the Code. The bill instead would require LARA to maintain the best-practice protocols for bed rails in consultation with the long-term care stakeholders workgroup.

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 stakeholders 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. The bill would delete those requirements.

Nursing Home Resident

The bill would refer to a nursing home "resident" rather than a "patient". 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.

MCL 333.20155 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a minor, but likely negative fiscal impact on the Bureau of Health Care Services (BHCS) within the Department of Licensing and Regulatory Affairs (LARA), and no fiscal impact on local units of government. Under the bill, nursing homes, which are surveyed by the BHCS, would be required to use nationally recognized clinical process guidelines for clinical processes in those facilities. To the extent that this would require the BHCS to change its internal policies and practices, which could include training staff, changing forms, and making other changes, the bill would introduce some new, but likely minor administrative costs to the BHCS. The bill also would require that resources relating to all of these guidelines be posted on LARA's website, which would introduce additional minor administrative costs. These costs would be borne by existing resources and would likely be one-time in nature.

Fiscal Analyst: Josh Sefton

S1516\64sa

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.