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Senate Bill 213 (as enacted)
Sponsor: Senator Kimberly LaSata
Senate Committee: Health and Human Services
House Committee: Families, Children, and Seniors

PUBLIC ACT 159 of 2021

Date Completed: 12-12-22

CONTENT

The bill amended the Older Michiganians Act to do the following:

- **Delete a provision specifying when the Michigan Long-Term Ombudsman and the local or regional long-term care ombudsman had to be granted access to any long-term care facility.**
- **Specify that if a restriction is placed on the ability to visit a resident of a long-term care facility, and the restriction lasts longer than seven days, it does not apply to a representative of the Long-Term Care Ombudsman Program.**
- **Require a facility to make a good-faith effort to facilitate a virtual visit if a restriction or visitation prohibits a representative of the Long-Term Care Ombudsman Program from entering a long-term care facility.**
- **Require an individual entering a long-term care facility to take proper precautions, including obtaining appropriate screening and using personal protective equipment (PPE) if it is necessary to protect the health of residents or staff at the facility.**
- **Modify the definition of "access".**

The bill took effect on March 30, 2022.

The Act specifies that the Michigan Long-Term Care Ombudsman, the local or regional long-term care ombudsmen, and their trained volunteers must be granted access to any long-term care facility for the purpose of carrying out Section 6h of the Act (which prescribes the responsibilities of local or regional long-term ombudsman programs.)

Previously, for the Michigan Long-Term Care Ombudsman and the local or regional long-term care ombudsmen, access had to be allowed each day from 8 AM to 8 PM. For ombudsman-trained volunteers, access had to be allowed to nursing homes during regular visiting hours each day as required by Section 20201(3)(b) of the Public Health Code (which requires licensees to adopt a policy allowing nursing home patients to associate and communicate privately with individuals of their choice and establishing at least eight hours of reasonable, regular visiting hours). The bill deleted this provision.

Under the bill, if a restriction is placed on the ability to visit a resident of a long-term care facility, and that restriction lasts longer than seven days, that visitation restriction does not apply to a representative of the Long-Term Care Ombudsman Program. A representative of the Long-Term Care Ombudsman Program must be allowed access to the long-term care facility to carry out the duties required under the Act.

If a restriction on visitation prohibits a representative of the Long-Term Care Ombudsman Program from entering a long-term care facility to carry out his or her duties, the facility must make a good-faith effort to facilitate a virtual visit, if necessary.

If necessary to protect the health of residents or staff at a long-term care facility, an individual entering the facility to carry out his or her duties under the Act would have to take proper precautions, including obtaining appropriate screening and use of PPE.

The Code defines "access" as the right to do all of the following:

- Seek consent from a resident to communicate privately and without restriction with that resident.
- Communicate privately and without restrictions with any resident who consents to communication.
- Observe all resident areas of the facility except the living area of any resident who protests the observation.

"Access" also meant the right to enter any facility and identify himself or herself. The bill deleted this provision.

In addition to those rights currently prescribed under the definition of "access", under the bill, the term also means the right to do any of the following:

- Enter a long-term care facility, and identify himself or herself, at any time during that long-term care facility's regular business hours or regular visiting hours, and at any other time when access could be required by the circumstances to be investigated.
- Obtain the name and contact information of the resident's representative, if any, when needed to perform the functions and duties set forth in Section 6h.
- Review and, upon request, receive copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

MCL 400.586i

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Ellyn Ackerman

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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.