

Legislative Analysis



NURSING HOMES & ADULT FOSTER CARE: DISCLOSURE OF SURVEY AND INSPECTION RESULTS

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House Bill 5794 (Substitute H-2)
Sponsor: Rep. Randy Richardville

House Bill 5795 (Substitute H-4)
Sponsor: Rep. Rep. Tupac Hunter

Committee: Senior Health, Security and Retirement
First Analysis (6-22-04)

BRIEF SUMMARY: The bills would help residents and prospective residents of nursing homes and adult foster care facilities learn about the results of the facilities' inspections by the Department of Community Health, and the Family Independence Agency, respectively. The state regulatory agencies would have to transmit their reports to the facilities in a timely manner, and the operators of the facilities would be required to inform residents, if, in the case of a nursing home, the home was in "immediate jeopardy," and if, in the case of an adult foster care facility, the facility was notified that its licensure status was about to change. Further, upon admission, the operator of an adult foster care facility would be required to give residents a copy of the most recent inspection report.

FISCAL IMPACT: House Bill 5794 will require mailings or electronic copies of inspection reports to approximately 431 licensed nursing homes. House Bill 5795 will require inspection report mailings to approximately 3,573 adult foster care licensees. The combined fiscal impact of both bills on the State of Michigan could potentially result in increased annual costs of \$9,000 to \$11,000 for copying and mailing costs. Other costs to distribute reports to the residents or their families will be born by the licensees. Note that the adult foster care facility inspection reports are already available through the Family Independence Agency Internet web site, which could reduce the distribution costs by a small, but indeterminate, amount

THE APPARENT PROBLEM:

In early August 2003, the Department of Community Health revoked the license of a Detroit nursing home, the Rosewood Living Center. The home was one of 23 facilities operated in Michigan by the Southfield-based Ciena Health Care Management corporation. The nursing home had a lengthy list of violations following its July inspection—45 health citations detailed in a 79-page report, and dozens of safety hazards listed in a 15-page report—more than 100 examples of noncompliance, in all. See [Background Informations](#) below.

When the nursing home's license was revoked, department officials worked together with those at the Family Independence Agency and the office of the State Long Term Care

Ombudsman to ensure a safe transition to other facilities for all of Rosewood's 106 residents.

Despite the serious violations at Rosewood and a long history of non-compliance with state regulatory standards (the home continually received three times the number of citations of other nursing homes who generally average between seven and nine violations), many residents of the nursing home was surprised to learn that the nursing home would be required to close, and the experience was deeply unsettling.

In order to help the residents of nursing homes and adult foster care facilities (and their families) learn more about the facilities' inspection reports and licensure status, legislation has been introduced to require the homes to give residents timely notice, and more information.

THE CONTENT OF THE BILLS:

House Bill 5794 would amend the Public Health Code (MCL 333.20155) to specify that the Department of Community Health transmit to a nursing home a written or electronic copy of the results of each visit and survey conducted, within 10 working days after the visit. Currently under the law, a nursing home must post its survey reports in a conspicuous place for public view. House Bill 5794 would retain this provision. In addition, the nursing home would also be required to post the report in a searchable format on the department's web site. If the nursing home's report indicated that the home was in a situation of immediate jeopardy, then the nursing home would be required to provide each resident, the resident's family, or the resident's designated representative with a summary of the report within 15 days after it had been received from the department. The summary would have to include the definition of "immediate jeopardy," and the specific citation or citations that had placed the nursing home in a situation of "immediate jeopardy." Under the bill, "immediate jeopardy" means that term as defined under subsection (17). [There, "immediate jeopardy is defined to mean a situation in which immediate corrective action is necessary because the nursing home's noncompliance with one or more requirements of participation has caused or is likely to cause serious injury, harm, impairment, or death to a resident receiving care in a nursing.]

In addition, the bill would require that, before issuing or renewing a license, the department review the most recent inspection, survey, and evaluation of that facility, and any written determination made concerning a complaint filed with the past two years.

House Bill 5795 would amend the Adult Foster Care Facility Licensing Act (MCL 400.711 and 400.713) to specify that if the Family Independence Agency conducts an investigation or inspection and then recommends a change in a foster care facility's licensure status, then the department would be required to transmit a written or electronic copy of that investigation or inspection report to the licensee within 15 days after the report is completed.

Also under the bill, before issuing or renewing a license, the FIA would be required to review the most recent investigation and inspection reports and any written determinations or resolutions made concerning a complaint filed within the past two years.

The bill specifies that a licensee or applicant that received a notice regarding a proposed change in its licensure status would be required to provide each resident and his or her designated representative with a copy of the department's summary report that recommended the change. [Under the bill, "designated representative" would be defined to mean a person other than the licensee or an employee or person having a direct or indirect ownership interest in the facility, designated in writing by a resident or a resident's guardian for a specific, limited purpose or for general purposes, or, if a written designation of a representative is not made, the guardian of the resident.]

Finally, upon admission to the facility, a licensee would be required to provide each resident and his or her designated representative with a copy of the most recent final investigation report completed within the immediately preceding three years and the most recent inspection report.

The bills are tie-barred so that neither could become law unless both were enacted.

BACKGROUND INFORMATION:

For more information about the Rosewood Living Center, and other nursing homes, visit the Nursing Home Information and Inspection Reports web site, maintained by the Department of Labor and Economic Growth (formerly the Department of Consumer and Industry Services) at <http://www.michigan.gov/cis>

ARGUMENTS:

For:

The residents of nursing homes and adult foster care facilities, as well as members of their families, need more information about a home's compliance with standards of care and safety. With more information, they can make decisions to find better care when that is necessary. This legislation would ensure that residents and, in the case of adult foster care facilities, prospective residents, would have more and better information about the inspection reports for their facilities. It also would require the regulatory agencies to review a facility's inspection reports before re-licensing a home.

POSITIONS:

The Family Independence Agency supports House Bill 5795 as amended. (6-17-04)

The Michigan Department of Community Health supports House Bill 5794. (6-17-04)

The American Association of Retired People (AARP) supports the bills as amended.
(6-17-04)

Elder Law of Michigan supports House Bill 5795. (6-17-04)

The Michigan Association of Homes and Services for the Aging opposes House Bill
5794. (6-17-04)

The Michigan Assisted Living Association is neutral on the bills. (6-17-04)

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■ 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.