



Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bill 635 (as enrolled)  
Sponsor: Senator Bev Hammerstrom  
Senate Committee: Health Policy  
House Committee: Senior Health, Security and Retirement

**PUBLIC ACT 74 of 2004**

Date Completed: 5-7-04

**RATIONALE**

Among the options available to elderly people who can no longer be cared for at home are homes for the aged. These homes are typically larger than adult foster care homes, serving 21 or more people, and provide residents with substantial independence and privacy. Previously, under the Public Health Code, a home for the aged could not admit a person under the age of 60 unless the Director of the Department of Consumer and Industry Services (DCIS) granted a waiver. (Since the DCIS is now within the new Department of Labor and Economic Growth, this responsibility has been transferred to the Director of the Family Independence Agency.) To grant the waiver, the Director had to determine that admitting a person under 60 was in the best interest of a resident of the home and the individual for whom the waiver was sought. Some people suggested that the Director should be required to grant the waiver if certain conditions are met.

**CONTENT**

**The bill amended the Public Health Code to revise the criteria for a waiver of the age limitation for a resident of a home for the aged; and require the Director of the Family Independence Agency (FIA) to approve a waiver if those criteria are met.** The bill took effect on April 21, 2004.

Previously, the Director was permitted to waive the age limitation if he or she determined that a waiver was in the best interests of a resident of the home and the individual for whom the waiver was sought. Under the bill, instead, the Director is required to waive the age restriction if the

individual, the individual's guardian or other legal representative, if appointed, and the owner, operator, and governing body of the home for the aged, upon consultation with the individual's physician, agree on each of the following:

- The home for the aged is capable of meeting all of the individual's medical, social, and other needs as determined in his or her plan of service.
- The individual will be compatible with the other residents.
- The placement in that home for the aged is in the individual's best interests.

The owner, operator, and governing body of the home must submit, with the waiver request, documentation to the Director that supports each of the listed points of agreement. Within five days after receiving the required information, the Director must determine if that documentation collectively substantiates each of the points of agreement, and approve or deny the waiver. If the Director denies a waiver, he or she must send written notice of the denial and the reasons for the denial to the requesting party.

MCL 333.21311

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Younger people who are stricken with medical conditions or illnesses that necessitate 24-hour care, such as multiple

sclerosis or Alzheimer's disease, often decide that the apartment-based setting offered in a home for the aged is their best option. Over the last few years, the Code evidently was interpreted to mean that a person seeking a waiver had to demonstrate that he or she had a pre-existing relationship with a person already living in the home, such as a spouse. A person's choice for long-term care, however, usually is based on factors in addition to age, such as affordability and medical, clinical, and social needs.

In rural areas with few options for long-term care, people sometimes must move far away from their families and friends to live in a facility that meets their physical needs. The limited exception to the age requirement for homes for the aged further restricted their choices, and led to the placement of people in nursing homes when a home for the aged might have been more appropriate. Requiring the FIA Director to grant waivers under certain circumstances will maximize choice for consumers and provide them with more control over the provision of their care.

The factors that must be agreed upon will ensure that waiving the age requirement will be in the best interests of the individual without being disruptive to the other residents, and the Director will remain responsible for determining whether the required conditions are met.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

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

Fiscal Analyst: Maria Tyszkiewicz

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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.