

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4079 (Substitute H-2 as reported without amendment)
Sponsor: Representative Gary Woronchak
House Committee: Senior Health, Security and Retirement
Senate Committee: Senior Citizens and Veterans Affairs

Date Completed: 4-2-03

RATIONALE

The Public Health Code and administrative rules promulgated under the Code include rights and procedures for health facility patients and their families to register complaints. Under the Code, a health facility or agency (other than an emergency medical services facility), including an unlicensed health facility that holds itself out as providing medical services, must conspicuously display in its patient waiting areas or other common areas copies of a pamphlet provided by the Department of Consumer and Industry Services (DCIS). The pamphlet must outline the procedure for filing a complaint with the Department against a health facility or agency or a licensed or registered health professional employed by, under contract to, or granted privileges by the facility or agency. The Code also allows a person to request an investigation of a nursing home if he or she believes that there may have been a violation of Part 217 (Nursing Homes) of the Code, a rule promulgated under Part 217, or a Federal certification regulation applying to a nursing home. The person must submit the request to the DCIS as a written complaint or, if a person makes an oral request, the Department must help the person to write a complaint within seven days after the oral request is made.

In addition, Rule 325.20113 requires a nursing home to adopt written policies and procedures to implement patients' rights and responsibilities, as prescribed in the Public Health Code. The rule requires that the policy and procedures be available, before and after admission, to the patient, the patient's next of kin, family member, or guardian, employees of the facility, and the public, among others. The procedures must include provisions for the initiation, investigation, and resolution of complaints. In response to concerns that

nursing home patients or their family members may have been unaware of these procedures or unsure of where to direct a complaint or question, Public Act 11 of 2002 amended the Code to require a nursing home to post, in an area accessible to residents, employees, and visitors, the name, title, location, and telephone number of an individual in the nursing home who is responsible for receiving complaints and conducting complaint investigations, and a procedure for communicating with that individual. Public Act 11 also requires an individual responsible for receiving complaints and conducting investigations to be on duty and on site 24 hours per day, seven days a week.

Even with the procedures now in place, however, the complaint process evidently may not always be clear and easily understood. Some people believe that standardized complaint forms, including a form specific to nursing homes, should be developed and made available to patients and their families, and that the forms and the procedures for filing them should be easy to understand.

CONTENT

The bill would amend the Public Health Code to do all of the following:

- Require the Department of Consumer and Industry Services to include a model standardized complaint form in the complaint pamphlet the Department must provide to a health facility or agency.**
- Require the Department periodically to distribute copies of the pamphlet to health facilities and agencies.**

- **Require the DCIS to develop a model standardized complaint form specific to nursing homes.**
- **Allow the DCIS to distribute current complaint pamphlets until they were exhausted or until October 1, 2003.**
- **Require the DCIS to make the complaint pamphlet and model complaint form available on the Internet.**

("Health facility or agency" means an ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical first response service; a clinical laboratory; a county medical care facility; a freestanding surgical outpatient facility; a health maintenance organization; a home for the aged; a hospital; a nursing home; a hospice; a hospice residence; or a facility listed above located in a university, college, or other educational institution.)

Complaint Pamphlet

The bill would require the DCIS to include a model standardized complaint form in the pamphlet that the Department is required to provide to health facilities. The DCIS also could develop a separate model standardized complaint form that was specific to a particular health facility or agency or category of health facilities or agencies.

The Code requires the DCIS to print the pamphlet in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be displayed. The bill also would require the Department to use large, easily readable type and nontechnical, easily understood language.

The bill would require that the DCIS periodically distribute copies of the pamphlet to each health facility or agency and to each unlicensed health facility that holds itself out as providing medical services.

Nursing Home Complaint Form

The bill would require the DCIS to develop a model standardized complaint form that was specific to nursing homes. The Department would have to include on the model form simple instructions on how to file a complaint with the nursing home, the DCIS, the State

Long-Term Care Ombudsman, the Michigan Protection and Advocacy Service, Inc., and the health care fraud unit of the Department of Attorney General. The Department also would have to include on the model form a telephone number for receiving oral complaints.

The DCIS would have to distribute copies of the model standardized complaint form for nursing homes simultaneously with copies of the pamphlet distributed to health facilities and agencies. A nursing home would have to display conspicuously and make available multiple copies of the pamphlet and complaint form with other complaint information that must be posted in the patient waiting areas or other common areas of the nursing home that are easily accessible to patients and their visitors. Also, a nursing home would have to provide a copy of the pamphlet and complaint form to each nursing home resident, or the resident's surrogate decision-maker, upon admission to the nursing home.

The bill specifies that a person filing a complaint against a nursing home and requesting an investigation could file the complaint on a model standardized complaint form developed and distributed by the DCIS pursuant to the bill, or could file the complaint as provided by the Department on the Internet.

Distribution of Pamphlets & Forms

The bill would allow the DCIS to continue to distribute the complaint pamphlets in its possession on the bill's effective date until those pamphlets were exhausted or until October 1, 2003, whichever was sooner. Beginning on October 1, 2003, the DCIS could distribute only the complaint pamphlets and model standardized complaint forms that complied with the bill.

The DCIS also would have to make the complaint pamphlet and model form available to the public on the Department's Internet website. The DCIS would have to take affirmative action toward the development and implementation of an electronic filing system that would allow an individual to file a complaint through the website.

MCL 333.20194 & 333.21799a

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

An extended stay in a nursing home or other health facility can be very difficult and stressful for both patients and their families. Part of their frustration may involve the difficulty of getting problems addressed. While the law includes several provisions for resolving problems through complaint procedures, it is not always clear to patients and others how or where complaints can be registered either with a facility or with State health care regulators. Also, some patient advocates reportedly believe that the DCIS written materials can be confusing and difficult to read. By requiring that the DCIS complaint pamphlet use large type and easily understood, nontechnical language, that it include a model standardized complaint form, and that the pamphlet and model forms be made available on the Internet, the bill would build upon patient protections already in place and make the complaint process more convenient and less confusing.

In addition, requiring the DCIS to develop a model standardized complaint form strictly for nursing homes would provide nursing home residents and their families with a clear and specific process for filing complaints with the facility, the DCIS, the State Long-Term Care Ombudsman, the Michigan Protection and Advocacy Service, and the Attorney General. Having a separate nursing home complaint form also would help to ensure that complaints about those facilities were segregated from complaints about other health facilities. Separating the complaints could result in quicker action to address patient and caretaker concerns about nursing homes.

Supporting Argument

The bill would improve the complaint process by requiring the DCIS to take steps toward developing a system that would allow people to file complaints electronically. For someone trying to look after a relative in a nursing home or other facility, while keeping up with work and family responsibilities, the convenience of filing a complaint from home could mean the difference between getting a

problem resolved and not receiving help at all. Although not everyone subscribes to the Internet from his or her home, many people do, and Internet access is available in public libraries.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would require small changes to the complaint form and the awareness pamphlet but the costs associated with these adjustments would be minimal; therefore, the bill would have no fiscal impact.

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.