



**MEMORANDUM**

**TO:** Members of the Senior, Health Security and Retirement Committee  
**FROM:** Health Care Association of Michigan and Aging Services of Michigan  
**DATE:** March 24, 2009  
**SUBJECT:** House Bill 4013

As introduced, the Health Care Association of Michigan and Aging Services of Michigan oppose House Bill 4013. This legislation would require new reporting requirements for Homes for the Aged (HFA) and nursing facilities when the resident of a facility passes. The current practice, upon death of a resident for an HFA or nursing facility is to notify an individual's next of kin, any patient advocate or guardian of record and the attending physician. The County Medical Examiner (CME) would be notified under circumstances where the death of the resident is unexpected or suspicious. Death can only be declared by an attending physician or registered nurse.

What are the potential consequences of notifying the CME in all cases? It would compromise the dignity of the person who has died of natural causes, i.e. autopsy. It would also increase family distress and potentially promote family suspicion unnecessarily, as well as further burden CME activities in an environment of extremely limited resources. The staff of HFA and nursing facilities are health care professions who at all times promote best practices regarding a deceased resident and their family members. A strict system of regulatory assessment, evaluation and monitoring already exists for HFA's and nursing facilities statewide.

We question the need - and do not support - the requirement that all deaths be reported to the county medical examiner. Such a requirement, especially one that is added to the Public Health Code, is entirely inconsistent with the currently existing portions of the Public Health Code which clearly limit reporting to the CME to those circumstances in which death is "unexpected" or where the attending physician is unable to determine the cause of death. We feel it is unnecessary to burden the CME's office and the nursing facility with yet another reporting requirement, where the same is inconsistent with present law and common sense, as detailed in the referenced statutes below. As for the remainder of the statute, we do not see a problem with reporting to next of kin, etc., and noting the death in the clinical record as this is current practice of the profession.

We clearly feel that all matters regarding the authority, duties and reporting to the CME are covered by Michigan statute. Two laws are relevant: the county medical examiner statute, found at MCL §§52.201-52.216, and the vital records sections of the Public Health Code, MCL §333.2801-333.2899.

MCL §52.202 provides in relevant part:

Sec. 2. (1) A county medical examiner or deputy county medical examiner shall investigate the cause and manner of death of an individual under each of the following circumstances:

(a) The individual dies by violence.

**Health Care Association of Michigan**  
7413 Westshire Drive  
Lansing, MI 48917  
(517) 627-1561

**Aging Services of Michigan**  
6512 Centurion Drive, Suite 380  
Lansing, MI 48917  
(517) 323 -3687

(b) The individual's death is unexpected.

(c) The individual dies without medical attendance by a physician, or the individual dies while under home hospice care without medical attendance by a physician or a registered nurse, during the 48 hours immediately preceding the time of death, unless the attending physician, if any, is able to determine accurately the cause of death.

(d) The individual dies as the result of an abortion, whether self-induced or otherwise.

The underscored portions are especially important. If the death is "unexpected" (i.e., out of the ordinary course of expected events, taking into account the resident's age, infirmity, needs, abilities and diagnoses), it must be investigated by the ME. If the resident has not been attended by a physician for 48 hours before death, the ME must investigate, but only where the attending physician is unable to accurately determine the cause of death.

MCL §52.203 addresses required reporting to the ME:

Sec. 3. (1) Any physician and any person in charge of any hospital or institution, or any person who shall have first knowledge of the death of any person who shall have died suddenly, unexpectedly, accidentally, violently, or as the result of any suspicious circumstances, or without medical attendance during the 48 hours prior to the hour of death unless the attending physician, if any, is able to determine accurately the cause of death, or in any case of death due to what is commonly known as an abortion, whether self-induced or otherwise, shall notify the county medical examiner or his or her deputy immediately of the death.

The criteria for reporting to the ME are similar to the requirements listed in Sec. 2 above; namely, "...suddenly, unexpectedly, accidentally, violently, or as the result of any suspicious circumstances, or without medical attendance during the 48 hours prior to the hour of death unless the attending physician, if any, is able to determine accurately the cause of death...." While nursing homes are not specifically mentioned, the term "institution" should be read to include nursing homes. In fact, under the vital records sections of the Public Health Code, "institution" is defined as follows:

Sec. 2804. (1) "Institution" means a public or private establishment which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care to 2 or more unrelated individuals, including an establishment to which individuals are committed by law.

As the above demonstrates, the requirement to report the death of a nursing home resident to the ME is extremely limited to only those circumstances discussed above. This is understandable in light of the ME's purpose and function, which is to investigate deaths that have occurred under suspicious, violent or indeterminable circumstances. The ME assists law enforcement in such cases, and assists in determining cause of death where the attending physician is reasonably unable to do so.

The Health Care Association of Michigan is a statewide trade association representing proprietary, non-proprietary, county medical and hospital long-term skilled nursing and rehabilitation facilities. The Michigan Center for Assisted Living, a division of HCAM, represents homes for the aged, adult foster care and assisted living facilities. Aging Services of Michigan represents more than 230 not-for-profit long term care organizations statewide. Aging Services of Michigan represents the entire array of programs and services to seniors. These programs include: home and community based programs, PACE (Program of All Inclusive Care of the Elderly), life care communities, nursing homes, county medical care facilities, homes for the aged, hospital long term care units, affordable assisted living residences, hospice, home health, and low income senior housing .