

SENATE BILL NO. 1113

September 15, 2020, Introduced by Senator POLEHANKI and referred to the Committee on Health Policy and Human Services.

A bill to require long-term care facilities to follow certain testing and procedural requirements in response to COVID-19; to require the reporting of certain data; to prescribe civil sanctions; to provide for the powers and duties of certain state officers and entities; to require the promulgation of rules; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

1 (a) "Adult foster care facility" means that term as defined in
2 section 3 of the adult foster care facility licensing act, 1979 PA
3 218, MCL 400.703.

4 (b) "Assisted living facility" means an unlicensed
5 establishment that offers community-based residential care for at
6 least 3 unrelated adults who are over the age of 65 or who need
7 assistance with activities of daily living, including, but not
8 limited to, personal, supportive, and intermittent health-related
9 services that are available 24 hours a day.

10 (c) "COVID-19" means severe acute respiratory syndrome
11 coronavirus 2 (SARS-CoV-2).

12 (d) "Department" means the department of health and human
13 services.

14 (e) "Director" means the director of the department or his or
15 her designee.

16 (f) "Home for the aged" means that term as defined in section
17 20106 of the public health code, 1978 PA 368, MCL 333.20106.

18 (g) "Long-term care facility" means an assisted living
19 facility, adult foster care facility, home for the aged, and
20 nursing home.

21 (h) "Nursing home" means that term as defined in section 20109
22 of the public health code, 1978 PA 368, MCL 333.20109.

23 Sec. 3. A long-term care facility shall submit a report to the
24 department containing the data described in the emergency order
25 issued by the department under section 2253 of the public health
26 code, 1978 PA 368, MCL 333.2253, dated June 15, 2020, and any other
27 data considered necessary by the department to assist the
28 department in preventing the spread of COVID-19. The report
29 required under this section must be submitted daily by 12 p.m.,

1 eastern standard time, in a form and manner required by the
2 department.

3 Sec. 5. (1) Subject to subsections (2) and (3), a long-term
4 care facility shall conduct COVID-19 diagnostic testing on each
5 resident and staff member of the long-term care facility as
6 follows:

7 (a) Conduct an initial test of each resident and staff member.

8 (b) Test each new or returning resident during intake unless
9 the resident was tested in the 72 hours immediately preceding the
10 date of intake.

11 (c) Immediately test any resident or staff member with
12 symptoms of or suspected exposure to COVID-19.

13 (d) If any resident or staff member tests positive for COVID-
14 19, conduct weekly testing of each resident and staff member until
15 14 days after the last new positive test result for COVID-19.

16 (e) If the long-term care facility is located in an area
17 designated as medium or high risk by the department, test each
18 staff member on a weekly basis.

19 (f) Conduct any other testing as required by the director of
20 the department.

21 (2) Before conducting the COVID-19 diagnostic testing required
22 under this section, the long-term care facility must obtain consent
23 from the individual who is the subject of the test or from an
24 individual who is legally authorized to make medical decisions on
25 behalf of the individual who is the subject of the test.

26 (3) Each long-term care facility shall develop and implement a
27 plan for conducting the COVID-19 diagnostic testing required under
28 this section by a date determined by the department. The plan must
29 be made available, on request, to the department, the department of

1 licensing and regulatory affairs, and the public, and must identify
2 all of the following:

3 (a) A schedule for conducting the testing, including the date
4 on which testing will begin in the long-term care facility.

5 (b) Laboratories or hospitals with which the long-term care
6 facility will partner for purposes of conducting the testing.

7 (c) Any support that may be needed from the department for
8 purposes of conducting the testing.

9 (d) A procedure for addressing residents who decline or are
10 unable to be tested.

11 (e) A procedure for how staff members who refuse to be tested
12 will not have contact with residents of the long-term care
13 facility.

14 (4) The department may provide support to long-term care
15 facilities in implementing the testing required under this section.
16 A long-term care facility seeking support from the department shall
17 file the plan described in subsection (3) with the department in a
18 form and manner required by the department, highlighting the
19 support requested. A long-term care facility that requests support
20 from the department under this subsection is not in violation of
21 this act if the long-term care facility does not receive assistance
22 from the department and the department determines that the long-
23 term care facility cannot comply with the plan described in
24 subsection (3) due to reasons beyond the long-term care facility's
25 control and the long-term care facility reports to the department
26 within 24 hours after recognizing its inability to comply with the
27 plan. As used in this subsection, "reasons beyond the long-term
28 care facility's control" includes, but is not limited to,
29 inadequate testing supplies.

1 Sec. 7. If a staff member or resident of a long-term care
2 facility tests positive for COVID-19, the long-term care facility
3 shall take all necessary precautions in accordance with guidance
4 from the federal Centers for Disease Control and Prevention to
5 prevent the transmission of COVID-19, including, but not limited
6 to, excluding any staff member with COVID-19 from the long-term
7 care facility until he or she has met all conditions for returning
8 to the long-term care facility as established by the federal
9 Centers for Disease Control and Prevention.

10 Sec. 9. (1) If a person violates this act, the department may
11 issue a citation for a monetary civil penalty in the same manner as
12 provided in section 2262 of the public health code, 1978 PA 368,
13 MCL 333.2262.

14 (2) A person issued a citation under subsection (1) is
15 entitled to an appeal in the same manner as provided in section
16 2263 of the public health code, 1978 PA 368, MCL 333.2263.

17 (3) The department shall report a violation of this act to the
18 department of licensing and regulatory affairs.

19 Sec. 11. This act is repealed effective 1 year after the
20 effective date of this act.