

Legislative Analysis



NURSING HOME COMPLAINT HOT LINE

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House Bill 4062 as enrolled
Public Act 189 of 2004
Sponsor: Rep. Lisa Wojno
House Committee: Health Policy
Senate Committee: Health Policy

Second Analysis (12-29-04)

BRIEF SUMMARY: The bill would require the Department of Community Health to provide a 24-hour toll-free hot line for consumers with complaints regarding nursing homes.

FISCAL IMPACT: Requiring the Department of Community Health to provide a 24-hours per day toll-free telephone consumer complaint line for nursing homes and a response to a "priority complaint" within 24 hours after its receipt will result in a modest increase in costs for the department. There also will be one-time costs associated with creation of the forms required by Public Act 189 of 2004.

THE APPARENT PROBLEM:

The Public Health Code allows any person who believes that nursing home laws or regulations have been violated to make a complaint to the Department of Community Health requesting that an investigation take place. The provision says that a person must submit the request for an investigation in writing, or the department must assist a person making an oral complaint to turn the request into a written complaint within seven days. When the department receives a written complaint, it must determine, based on the allegations presented in the complaint, whether or not state or federal laws have been, are, or in danger of being violated. Investigations of complaints are done according to the level of urgency, but must be commenced within 15 days of receiving the written complaint.

Some feel, however, that serious complaints – such as those involving the physical, mental, or emotional abuse of nursing home residents – should be investigated more quickly than submission of a written report can afford. One proposed method of ensuring a quick response to these serious allegations involves the creation of a 24-hour, toll-free, consumer complaint hotline within the department, and requiring that a response to any complaint deemed to be a "priority" complaint be initiated within 24 hours.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to require the Department of Community Health to provide a toll-free telephone consumer complaint line. The complaint line would have to be accessible 24 hours per day and monitored at a level to ensure that each priority complaint were identified. A response to a priority complaint would have to be

initiated within 24 hours of receiving the complaint. The bill would define "priority complaint" to mean a complaint that alleged an existing situation involving physical, mental, or emotional abuse, mistreatment, or harmful neglect of a resident that required immediate corrective action to prevent serious injury, serious harm, serious impairment, or death of a resident while receiving care in a facility. The department would also have to establish a system for the complaint line that included, at a minimum, all of the following:

- An intake form that served as a written complaint for purposes of reducing an oral complaint to a written complaint (the seven-day time period currently allowed for this would be deleted) and that also served to record the complaints received on the toll-free hotline.
- The forwarding of an intake form to an investigator not later than the next business day if the complaint had been identified as a priority complaint.
- The forwarding of a copy of the completed intake form to the person who made the complaint not later than five business days after it was completed. (This would not apply to complaints made anonymously.)

Further, under the code, upon receiving a complaint, the DCH must determine whether Part 217, a rule, or a federal regulation has been, is being, or is in danger of being violated. The DCH must investigate the complaint according to the urgency determined by the department, and the initiation of an investigation must begin within 15 days after receiving the written complaint. Under the bill, the requirement to investigate a complaint according to its urgency would also be subject to the provisions of the bill.

Lastly, the bill would delete references to the Department of Industry and Consumer Services to reflect the current regulatory authority of the Department of Community Health over nursing homes.

MCL 333.21799a

ARGUMENTS:

For:

Prior to this legislation, the Department of Community Health (and, before that, the Department of Consumer and Industry Services) operated a 24-hour complaint hotline and a complaint intake process similar to that required by the bill. However, the complaint line was not staffed on weekends or holidays. Under the bill, the hotline would not necessarily have to be staffed 24 hours a day, but monitored in such a way that a complaint meeting the criteria of a priority complaint would be identified and a response initiated within 24 hours of when the complaint was made. The criteria for what constitutes a priority complaint would be clarified and placed in statute. In addition, an intake form for a priority complaint would have to be forwarded to an investigator by the next business day, thereby ensuring a timely response to consumer complaints about violations of nursing home laws and regulations that place residents in jeopardy. All complainants would be forwarded a copy of a completed complaint intake form within

five days of its completion. Previously, DCH staff had to assist a person who was making an oral complaint reduce his or her complaint to a written form within seven days of the complaint. The bill would replace this process with the intake form and the time frames established in the bill; all complaints would see an investigation initiated within 15 days of receiving the complaint, with priority complaint investigations being initiated within 24 hours. The bill therefore is a good first step in making it easier for residents and family members to file complaints via the 24-hour hotline and for ensuring timely responses for complaints involving suspicious deaths, unexplained injuries, assaults, abuse, and neglect.

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