



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1094 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Peter J. Lucido
Committee: Health Policy and Human Services

Date Completed: 10-13-20

CONTENT

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

- **Require the Department of Health and Human Services (DHHS), in consultation with the Department of Licensing and Regulatory Affairs (LARA), to conduct, by November 1, 2020, an evaluation of the operation, efficacy, clinical outcomes, and performance of each COVID-19 regional hub that was implemented and operating during the State's response to coronavirus in nursing homes and provide a detailed report on its evaluation to the Legislature.**
- **Require the DHHS, in consultation with LARA, to develop and submit to the Legislature, by November 1, 2020, a plan based on guidance issued by the Centers for Disease Control and Prevention (CDC) and incorporated recommendations from the Michigan Nursing Homes COVID-19 Preparedness Task Force describing a process by which the DHHS was able to implement dedicated facilities for only coronavirus-positive patients in each of the eight health care regions of the State.**
- **Require the plan to incorporate any enhancement that the DHHS considered appropriate to prevent the spread of coronavirus in nursing homes based on the evaluation conducted by the Department, if the plan used the regional hub design.**
- **Require the DHHS to consider and address within the plan any relevant operational or procedural challenges identified by the Task Force.**
- **Require the DHHS to provide, by November 1, 2020, and each month after that, to the Legislature a report that included certain information for each nursing home.**
- **Require the plan to provide that a physician would have to provide, in writing and in a time frame and manner determined by the Department, that an individual who tested positive for COVID-19 and needed to be transferred was medically stable for the transfer.**
- **Require the plan to provide for 24-hour notice be given to an individual, his or her family members, or his or her legal representative regarding a transfer.**
- **Prohibit an individual from being admitted or retained for care in a nursing home if he or she tested positive for coronavirus unless the individual had since recovered from coronavirus or the nursing home demonstrated to the DHHS that it was able to provide a designated area within its facility for individuals who tested positive for coronavirus and had a program for providing the appropriate level of care for those individuals.**

Specifically, the bill would require the DHHS, in consultation with LARA, to do both of the following:

- By November 1, 2020, conduct an evaluation of the operation, efficacy, clinical outcomes, and performance of each COVID-19 regional hub that was implemented and operating during the State's response to coronavirus in nursing homes and provide a detailed report on its evaluation to the Senate and House of Representatives standing committees on health policy.
- By November 1, 2020, develop and submit a plan to the Senate and House standing committees on health policy that was based on relevant guidance issued by the CDC and incorporated recommendations from the Michigan Nursing Homes COVID-19 Preparedness Task Force.

The plan would have to describe a process by which the DHHS was able to implement dedicated facilities available for use for only coronavirus-positive patients in each of the eight health care regions in the State to provide care to individuals who tested positive for coronavirus and were ineligible for admission at a hospital, nursing home, or adult foster care facility. The plan also would have to describe how health care systems and hospitals with excess surge capacity could be used for the placement of individuals who tested positive for coronavirus and were ineligible for admission at a hospital, nursing home, or adult foster care facility, before the individuals were transferred to a dedicated facility described in the bill. The Department would have to consider and address within the plan any relevant operational or procedural challenges identified by the Task Force, including the transfer of nursing home residents, testing and laboratory priority for nursing home residents and staff, and quality of life considerations. If the plan used the regional hub design, it would have to incorporate any enhancement that the DHHS considered appropriate to prevent the spread of coronavirus in nursing homes based on the evaluation conducted by the Department.

"Coronavirus" would mean severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
 "Health care region" would mean a health care region as described by the DHHS.

The DHHS would have to provide, by November 1, 2020, and each month thereafter, a report to the Senate and House standing committees on health policy that included all of the following information for each nursing home:

- The new number of COVID-19 positive cases among nursing home residents and staff for the reporting period.
- The number of new COVID-19 positive cases among nursing home residents and staff that were symptomatic versus asymptomatic for the reporting period.
- The new number of COVID-19 deaths among nursing home residents and staff for the reporting period.
- The new number of COVID-19 recoveries among nursing home residents and staff for the reporting period.
- The new number of COVID-19 tests conducted on nursing home residents and staff for the reporting period.
- The number of new nursing home residents who were transferred out of the facility and into a hospital, care and recovery center, or other facility for the reporting period.
- The cumulative number of COVID-19 positive cases among nursing home residents and staff, to date.
- The cumulative number of COVID-19 deaths among nursing home residents and staff that were symptomatic versus asymptomatic, to date.
- The cumulative number of COVID-19 deaths among nursing home residents and staff, to date.
- The cumulative number of COVID-19 recoveries among nursing home residents and staff, to date.
- The cumulative number of COVID-19 tests conducted on nursing home residents and staff, to date.

- The cumulative number of nursing home residents who were transferred to a hospital, COVID-19 regional hub, care and recovery center, or other facility, to date.
- An inventory of current stock of medical supplies and personal protective equipment.
- Current version of any visitation policy issued by the Department affecting nursing homes.

The plan developed by the DHHS also would have to provide for both of the following regarding an individual who tested positive for coronavirus and needed to be transferred to a dedicated facility or other location described in the bill:

- That a physician would have to provide, in writing and in a time frame and manner determined by the Department, that the individual was medically stable for the transfer.
- 24-hour notice to the individual, his or her family members, or his or her legal representative regarding the transfer.

Under the Code, an individual may not be admitted or retained for care in a nursing home if he or she requires special medical or surgical treatment, or treatment for acute mental illness, developmental disability, communicable tuberculosis, or a communicable disease, unless the home is able to provide an area and a program for the care and the DHHS approved both the area and the program.

The bill specifies that, beginning November 1, 2020, an individual also could not be admitted or retained for care in a nursing home if he or she tested positive for coronavirus unless any of the following applied:

- The individual had since recovered from coronavirus.
- The nursing home elected to establish and subsequently demonstrated to the DHHS that it was able to provide a designated area within its facility for individuals who tested positive for coronavirus and had a program for retaining and providing the appropriate level of care necessary for individuals who tested positive for coronavirus.

To be considered for approval by the DHHS, the nursing home's designated area would have to meet proper infection control safeguards and the program would have to be consistent with adequate supply, dedicated staffing, and operational capacity of the nursing home at the time of an individual's diagnosis. The nursing home could not admit or retain an individual in its care unless the DHHS approved the nursing home's designated area and program. A nursing home with a designated area approved by the DHHS continuously would have to evaluate and ensure the nursing home's ability to meet each standard established by the Department at the time of the initial approval.

Additionally, a person could not be admitted or retained for care in a nursing home if the individual had tested positive for coronavirus, was currently receiving treatment at a hospital, and had less than 72 hours remaining in the individual's overall isolation period as described in guidelines established by the CDC.

MCL 333.21717 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would require the DHHS to evaluate the COVID-19 regional hubs, to provide monthly reports to the Senate and House committees on health policy, and to develop a plan to create a process to ensure that there are dedicated skilled nursing facilities for COVID-19 patients. These provisions would lead to minor administrative costs for the DHHS. The requirement

that COVID-19 positive individuals not be placed in skilled nursing facilities until they had recovered or a designated area in the skilled nursing facility was available could delay some placements of those individuals in skilled nursing facilities.

The Department of Licensing and Regulatory Affairs also could incur minor costs related to the required evaluation and planning activity. However, these costs likely would be covered by existing appropriations.

Fiscal Analyst: Steve Angelotti
Elizabeth Raczkowski

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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.