

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1094

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 21717 (MCL 333.21717), as amended by 2014 PA
66, and by adding section 5145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5145. (1) The department, in consultation with the
2 department of licensing and regulatory affairs, shall do all of the
3 following:

4 (a) By November 15, 2020, develop and submit a report to the
5 house and senate standing committees on health policy that is based
6 on relevant guidance issued by the federal Centers for Disease
7 Control and Prevention and incorporates recommendations from the
8 Michigan nursing homes COVID-19 preparedness task force. The report



1 must include, but is not limited to, a description of any updates
2 to the final recommendations of the Michigan nursing homes COVID-19
3 preparedness task force in its report dated August 30, 2020, the
4 status on implementing the recommendations, and a description of
5 any barriers to implementing the recommendations. The department
6 may use health care systems and hospital capacity data when
7 preparing the report. The report must also address each of the
8 following quality-of-life recommendations from the task force
9 report described in this subdivision:

- 10 (i) Outdoor visits.
11 (ii) Small-group noncontact activities.
12 (iii) Communal dining for residents.
13 (iv) Indoor visitation participation opt-in.
14 (v) Resident small-group "pod" opt-in.
15 (vi) Increased virtual visitation opportunities.
16 (vii) Staff access to creative engagement ideas.
17 (viii) Support for meaningful engagement activities.
18 (ix) Ancillary service providers.
19 (x) Visitation volunteers.
20 (xi) Off-campus health and wellness visits.
21 (xii) Window visits.

22 (b) By November 15, 2020, implement a statewide policy for
23 nursing homes on providing in-person indoor and outdoor visitations
24 to all nursing home residents. The department shall post a copy of
25 the policy on the department's publicly available website and post
26 any updates to the policy within 48 hours after making the updates.
27 The department shall also provide a copy of the policy to the house
28 and senate standing committees on health policy. The policy may



1 limit in-person indoor and outdoor visitations for a nursing home
2 resident who tests positive for coronavirus, if a nursing home is
3 experiencing an outbreak of coronavirus, or if a community is
4 experiencing an outbreak of coronavirus.

5 (c) By November 15, 2020, develop and submit a report to the
6 house and senate standing committees on health policy on the
7 department's plans to identify laboratories that will process and
8 prioritize coronavirus diagnostic tests from nursing homes. The
9 report must include the department's plans for issuing requests for
10 proposals that include a provision requiring a successful bidder to
11 be able to process a high volume of tests, including, but not
12 limited to, rapid testing for coronavirus and provide expedited
13 results.

14 (d) By November 15, 2020, implement a process for the creation
15 of care and recovery centers within nursing homes for the purpose
16 of providing care to individuals who have tested positive for
17 coronavirus who have not met the criteria for the discontinuation
18 of transmission-based precautions from the federal Centers for
19 Disease Control and Prevention. The department shall require a
20 nursing home seeking to operate a care and recovery center to apply
21 to the department on a form provided by the department and meet all
22 of the following requirements:

23 (i) Demonstrate each of the following to the department:

24 (A) That the nursing home has at least a 3-star rating based
25 on the Five-Star Quality Rating System established by the federal
26 Centers for Medicare and Medicaid Services.

27 (B) That the nursing home is not operating under a denial of
28 payment for new admissions under 42 CFR 488.417.

29 (C) That the nursing home is not designated on the Nursing



1 Home Compare website of the federal Centers for Medicare and
 2 Medicaid Services as a "red hand facility", indicating a citation
 3 for abuse.

4 (D) That the nursing home meets physical plant capacity to
 5 designate a distinct area within the nursing home for individuals
 6 who have tested positive for coronavirus.

7 (E) That the nursing home has dedicated staff for the sole
 8 purpose of treating individuals in the care and recovery center.

9 (ii) Agrees to comply with any facility requirements that the
 10 department considers appropriate to prevent the spread of
 11 coronavirus in nursing homes, including, but not limited to,
 12 infection control safeguards, personal protective equipment,
 13 testing for coronavirus, and operational capacity.

14 (iii) Agrees to comply with all of the following if an
 15 individual tests positive for coronavirus and needs to be
 16 transferred to a care and recovery center or other location
 17 described in this section:

18 (A) Provide a notice to the individual; if applicable, the
 19 individual's legal representative; and, if the individual consents,
 20 the individual's emergency contact.

21 (B) That a physician, a nurse practitioner, or a physician's
 22 assistant shall provide, in writing and in a time frame and manner
 23 determined by the department, that the individual is medically
 24 stable for the transfer.

25 (iv) Any other requirement established by the department in
 26 consultation with the department of licensing and regulatory
 27 affairs.

28 (e) By November 15, 2020, implement a process for the approval
 29 of designated areas within nursing homes for individuals who test



1 positive for coronavirus. The department shall require a nursing
 2 home seeking to establish a designated area within its facility to
 3 apply to the department on a form provided by the department and
 4 meet all of the following requirements:

5 (i) Demonstrate each of the following to the department:

6 (A) That the nursing home has a program for retaining and
 7 providing the appropriate level of care necessary for individuals
 8 who test positive for coronavirus and that the program has an
 9 adequate supply of personal protective equipment and adequate
 10 testing capabilities, dedicated staffing, and operational capacity
 11 at the time of an individual's diagnosis.

12 (B) That the nursing home's designated area meets proper
 13 infection control safeguards.

14 (C) That there is no longer capacity at a care and recovery
 15 center and additional facilities are needed for individuals who
 16 test positive for coronavirus, unless the department determines
 17 that there are rare and unique circumstances that must be taken to
 18 protect the health and safety of an individual.

19 (ii) Agrees to continually evaluate and ensure its ability to
 20 meet each requirement for the approval of a designated area under
 21 this subdivision.

22 (iii) Any other requirement established by the department in
 23 consultation with the department of licensing and regulatory
 24 affairs.

25 (2) As used in this section, "coronavirus" means severe acute
 26 respiratory syndrome coronavirus 2 (SARS-CoV-2).

27 Sec. 21717. (1) An individual shall not be admitted or
 28 retained for care in a nursing home ~~who~~ if any of the following
 29 apply:



1 **(a) The individual** requires special medical or surgical
2 treatment, or treatment for acute mental illness, developmental
3 disability, communicable tuberculosis, or a communicable disease,
4 unless the home is able to provide an area and a program for the
5 care. The department shall approve both the area and the program.

6 **(b) The individual has tested positive for coronavirus, is**
7 **currently receiving treatment at a hospital, and has less than 72**
8 **hours remaining in the individual's overall isolation period as**
9 **described in guidelines established by the federal Centers for**
10 **Disease Control and Prevention. However, if the hospital determines**
11 **that it has reached surge capacity, this subdivision does not**
12 **apply.**

13 **(c) Except as otherwise provided in subsection (2), beginning**
14 **November 15, 2020, the individual has tested positive for**
15 **coronavirus unless any of the following apply:**

16 **(i) The individual has since recovered from coronavirus.**

17 **(ii) The nursing home is a care and recovery center.**

18 **(iii) The nursing home demonstrates to the department of health**
19 **and human services that it meets the requirements described in**
20 **section 5145(1) (e) to accept an individual who has tested positive**
21 **for coronavirus within the approved designated area of the nursing**
22 **home.**

23 **(2) If, by November 15, 2020, the department of health and**
24 **human services has not implemented the process for the creation of**
25 **care and recovery centers within nursing homes as described in**
26 **section 5145(1) (d), a nursing home may admit or retain for care an**
27 **individual who has tested positive for coronavirus until the date**
28 **that the process is implemented by the department of health and**
29 **human services and for up to 30 days thereafter.**



1 (3) As used in this section:

2 (a) "Care and recovery center" means a care and recovery
3 center described in section 5145.

4 (b) "Coronavirus" means severe acute respiratory syndrome
5 coronavirus 2 (SARS-CoV-2).