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TO: Representative Andy Neumann, Chairperson
Members, Committee on Senior Health, Security and Retirement

FROM: David LaLumia, President and CEO
Health Care Association of Michigan

DATE: October 14, 2009

SUBJECT: House Bill 5191

Chairperson Neumann and Members of the Committee. Thank you for the opportunity to testify this afternoon on House Bill 5191. I am David LaLumia, President and CEO of the Health Care Association of Michigan. HCAM is a statewide trade association representing proprietary, non-proprietary, county medical, hospital-based nursing facilities and assisted living communities. There are approximately 420 nursing communities throughout Michigan, employing more than 40,000 dedicated workers caring for nearly 40,000 elderly citizens every day of the year.

We would offer the following observations to strengthen the intent of House Bill 5191. HB 5191, amends section 21771(2) of the Public Health Code (the "Code") by adding the words "and to the department" to the requirement that a nursing home employee immediately report abuse or neglect to the facility administrator or director of nursing.

Under current law, the nursing home administrator or director of nursing must immediately report any violation of this section to the Michigan Department of Community Health (MDCH). The statute creates a chain of command in which the responsibilities of employees, administrators and directors of nursing are clear. Employees report incidents prohibited by this statute to the administration of the home. The administration is required to immediately secure the resident's safety, report to the

department and completely investigate the incident. While the amendment, on the surface, appears to be clean and simple, its effect is potentially harmful to nursing facilities and their staff and will likely create confusion around reporting requirements.

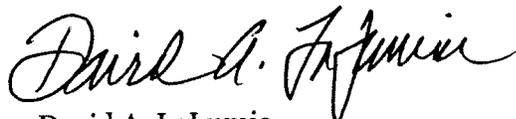
What will be gained by requiring all employees who becomes aware of an incident to report directly to the department? One can easily imagine that any number of nursing home employees might "become aware" of an incident. Does this mean that all of them are required to report it? What if one of them reports it, but the others who may have heard about it through the grapevine do not report it? Are the others in violation of the statute? Are the others subject to prosecution under the penalty section (1299) of the Public Health Code?

The existing reporting requirements of the Public Health Code and those of other parts of state and federal law and regulations are strictly and aggressively enforced. The Complaint Unit of the DCH Bureau of Health Systems receives more than 6,000 reported incidents or complaints a year. More than 5,000 of those are made by nursing facilities themselves who take seriously their responsibility to report incidents that affect the health and safety of residents to the department.

We support the intent of this legislation -- that incidents of abuse and neglect be reported to both the nursing home and to the Department of Community. We fear, however, that the current language will cause confusion, duplicative reporting and place unsuspecting nursing home employees subject to criminal penalties. Before this legislation moves forward, we offer our assistance in clarifying the intent and language of the amendment so that it works for residents, nursing homes and their employees.

Thank you for the opportunity to testify on this bill this afternoon.

Respectfully Submitted,



David A. LaLumia

President/CEO

Health Care Association of Michigan