

“CARE” FACILITIES AND COVID-19 REPORTING FOR LONG-TERM CARE FACILITIES

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House Bills 6137 and 6138 as introduced

Sponsor: Rep. Leslie Love

Committee: Health Policy

Complete to 9-16-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6137 would amend Article 17 (Facilities and Agencies) of the Public Health Code to stipulate the conditions under which the Department of Health and Human Services (DHHS) would designate a structure in a home for the aged or a nursing home as a *care and recovery emergency (CARE) facility* for the treatment of *coronavirus*, as well as the requirements for those facilities.

Coronavirus would mean severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

If designated by DHHS as one providing room, board, and supervised personal care to its residents who test positive for coronavirus, a home for the aged or a nursing home would have to dedicate a facility as a *CARE facility* for those purposes. The CARE facility would have to be a stand-alone structure, be isolated and separate from any structure where residents live who have not tested positive for coronavirus, and have staff that work exclusively in the CARE facility. (Additionally, if a nursing home, the facility would have to have at least a three-star rating based on the Five-Star Quality Rating System established by the federal Centers for Medicare and Medicaid Services.)

A CARE facility would exist and operate temporarily during a declared public health state of emergency if any of the following occurred:

- A resident of the home for the aged or nursing home was released from a hospital after receiving treatment for coronavirus and it is determined that the resident cannot be safely isolated or either of the following, as applicable:
 - For a home for the aged, safely provided room, board, and supervised personal care in the home for the aged.
 - For a nursing home, safely provided nursing care and medical treatment.
- A resident of the home for the aged or nursing home tested positive for coronavirus.
- An individual was released from a hospital after receiving treatment for coronavirus and it is determined that he or she requires, as applicable:
 - Room, board, and supervised personal care in a home for the aged.
 - Nursing care and medical treatment in a nursing home.

A home for the aged or nursing home could receive CARES funding or other financial incentives only if it were designated as a CARES facility by DHHS, with a stand-alone structure and dedicated staff, separate from COVID-negative residents.

If a resident of a home for the aged or nursing home tested positive for coronavirus and a physician signed a statement that the resident was medically stable for **transfer**, the home for the aged or nursing home would have to do one of the following:

- Move the resident to a hospital with adequate bed capacity for care and treatment.
- Move the resident to a CARE facility for care and treatment (if a hospital does not have adequate bed capacity).
- Allow the patient to remain at the home for the aged or nursing home in a designated unit (if neither a hospital nor CARE facility has adequate bed capacity). The designated unit would have to have a separate entrance and exit and have its own nursing stations, supply room for linen storage, medications, restrooms, and shower facilities for the residents, unless it is not reasonably possible.

A resident of a home for the aged or nursing home who was moved after testing positive for coronavirus would be entitled to notice and an **opportunity for a hearing** according to the rules that apply for involuntary transfers or discharges from nursing homes under the code.

MCL 333.21717 and proposed MCL 333.21317 and 333.21717a

House Bill 6138 would create an act that would require long-term care facilities to report certain **COVID-19** data daily to DHHS, and require DHHS to submit weekly reports on that data to the legislature. DHHS could promulgate rules to implement the act.

COVID-19 would mean severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

The bill would require a long-term care facility to submit a daily report to DHHS containing the following data:

- Cumulative number of COVID-19 positive cases, deaths, and recoveries among residents and staff.
- County where the facility is located.
- Type of long-term care facility (assisted living facility, adult foster care facility, home for the aged, or nursing home).
- Number of residents.
- Number of staff and staff shortages.
- Cumulative number of COVID-19 tests conducted on residents and staff.
- Age, ethnicity, race, and gender of each resident and staff member.
- Number of isolation beds.
- Number of transfers of residents to hospitals, regional hubs, or other facilities.
- Amount of medical supplies necessary to respond to COVID-19 (including gloves, cloth face coverings, sterile gloves, surgical masks, nonsurgical masks, and isolation gowns).
- Any other data considered necessary by DHHS.

DHHS would have to compile this information and submit a report to the House and Senate Health Policy committees each week until the COVID-19 pandemic ceased to constitute a state of emergency or disaster as declared by the governor.

A person who violated the act could be ordered to pay a civil fine of up to \$500 for each violation or day that the violation continued.

FISCAL IMPACT:

House Bill 6137 would be unlikely to have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) or any other unit of state or local government. The bill may result in additional hearings, as allowed under the bill, but this would not be expected to result in a significant cost increase for LARA. The bill does have the potential to increase costs for homes for the aged and nursing homes, but this would not have a fiscal impact on any governmental units.

House Bill 6138 would have a minimal to negligible fiscal impact on the state and local units of government. Any fiscal impact would also be temporary, as the provisions of the bill would no longer apply once the COVID-19 pandemic ceases to constitute a state of emergency or disaster as declared by the governor.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.