



7413 Westshire Drive
Lansing, Michigan 48917

Phone: (517) 627-1561
Fax: (517) 627-3016
Web: www.hcam.org

TO: Senate Committee on Judiciary
FROM: Health Care Association of Michigan (HCAM)
DATE: May 24, 2016
SUBJECT: House Bills 5078, 5079 and 5081

For the past several years there has been considerable discussion regarding the release of “medically frail” prisoners. HCAM has been on record throughout these discussions opposing the parole of elderly, sick prisoners into the current long term care system. For several reasons we have advocated for a separate, dedicated nursing facility to be used.

Nursing facility providers, residents and their families have significant concerns with prisoners being released with the likely outcome of placement in a nursing facility. The population we currently serve are among the frailest and sickest residents in Michigan. Our workforce is predominantly female as well.

Fundamentally, we do not support moving aging prisoners, many of whom committed heinous crimes into nursing facilities prior to their earliest release date as determined by the judicial process. It poses far too great a risk for the residents we serve and our workforce. Additionally, Michigan nursing facilities are one of the most highly regulated businesses in the state, operating under the guidance of more than one thousand state and federal regulations. By way of background, the vast majority of nursing facilities operating in Michigan are certified by the Centers for Medicare and Medicaid (CMS). Facilities operate under the “Requirements of Participation” to receive Medicare/Medicaid reimbursement for services provided. The requirements include regulations related to resident’s rights, quality of life, quality of care and facility administration.

Recently, the CMS Center for Clinical Standards and Quality/Survey & Certification Group released a memorandum to state survey agencies offering guidance to surveyors on federal requirements for providing services to “justice-involved individuals”. As it relates to nursing facilities, CMS stated that providers must operate under current “Requirements of Participation” for ALL residents. In other words, facilities cannot operate or provide services differently for “medically frail” parolees than what they do for their current compliment of residents. Therefore, parolees could not be subject to any conditions of their parole that would violate the “Requirements of Participation”.

Clearly, provisions of the legislation do not comport with how nursing facilities currently operate under federal certification. Facilities may face increased survey citations, enforcement sanctions and the potential for de-certification from the Medicaid/Medicare program. We are alarmed with the potential of violating federal regulations by placing former offenders into these settings. We also feel the definition of “medically frail” is too broad and could potentially include individuals beyond those needing end of life care with limited mobility.

While some positive changes have been made to the legislation, we still feel there are significant problems. These concerns have been verified with the recent policy statement from CMS. **As such, if the legislation were to pass we would advise our membership not accept “medically frail” prisoners.**

HCAM is a statewide trade association representing proprietary, not for profit, county medical and hospital-based long-term skilled nursing and rehabilitation facilities. If you have questions, please contact Melissa Samuel at melissasamuel@hcam.org.