



STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JANET OLSZEWSKI
DIRECTOR

March 9, 2010

Dear Administrator:

I am writing to request your support and cooperation in the Michigan Department of Community Health's (MDCH) efforts to provide a responsive, efficient long-term care system that offers Medicaid beneficiaries multiple options in the continuum of long-term care services. The U.S. Supreme Court Olmstead decision in 1999 required states to provide services to beneficiaries "in the most integrated setting appropriate to the needs of the qualified individuals," and since that time the department has implemented various policies and programs assisting individuals achieve the goal of living as independently as possible.

In support of the Olmstead decision and the Americans with Disabilities Act, MDCH has expanded its home and community based service options. As such, the department contracts with MI Choice Waiver Agents and Centers for Independent Living (CILs) to provide information to nursing facility residents and their families, as well as nursing facility staff, about the available community choices. The department also contracts with these same entities to provide transition services to residents desiring to live in the community. Therefore, it is necessary for Waiver Agent and CIL staff to visit with residents expressing an interest in transitioning to a new home outside of the nursing facility.

The informational and transition activities for which Waiver Agents and CILs are responsible are supported by the Michigan Public Health Code at Sections 333.20201 and 333.21763, which address resident rights to speak with persons of their choice and access to nursing home residents. I enjoin you to respect the residents' rights to speak with representatives of the Waiver Agents and CILs and expect that you are supportive of their wishes when they express a desire to explore a move to the community.

I thank you again for your support of Michigan's long-term care system and our shared vision of providing quality services to those who need them most.

Sincerely,

A handwritten signature in black ink that reads "Stephen Fitton".

Stephen Fitton, Director
Medical Services Administration

attachment

**Michigan Public Health Code
Act 368 of 1978
(Excerpt)**

333.20201

Policy describing rights and responsibilities of patients or residents; adoption; posting and distribution; contents; additional requirements; discharging, harassing, retaliating, or discriminating against patient exercising protected right; exercise of rights by patient's representative; informing patient or resident of policy; designation of person to exercise rights and responsibilities; additional patients' rights; definitions.

Sec. 20201 (2)(k)

A patient or resident is entitled to associate and have private communications and consultations with his or her physician, attorney, or any other person of his or her choice and to send and receive personal mail unopened on the same day it is received at the health facility or agency, unless medically contraindicated as documented by the attending physician in the medical record. A patient's or resident's civil and religious liberties, including the right to independent personal decisions and the right to knowledge of available choices, shall not be infringed and the health facility or agency shall encourage and assist in the fullest possible exercise of these rights. A patient or resident may meet with, and participate in, the activities of social, religious, and community groups at his or her discretion, unless medically contraindicated as documented by the attending physician in the medical record.

Sec. 20201 (3)(b)

Each nursing home patient may associate and communicate privately with persons of his or her choice. Reasonable, regular visiting hours, which shall be not less than 8 hours per day, and which shall take into consideration the special circumstances of each visitor, shall be established for patients to receive visitors. A patient may be visited by the patient's attorney or by representatives of the departments named in section 20156, during other than established visiting hours. Reasonable privacy shall be afforded for visitation of a patient who shares a room with another patient. Each patient shall have reasonable access to a telephone. A married nursing home patient or home for the aged resident is entitled to meet privately with his or her spouse in a room that assures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented by the attending physician in the medical record.

333.21763

Access to nursing home patients; purposes; requirements; termination of visit; confidentiality; complaint; determination; prohibited entry.

Sec. 21763

(1) A nursing home shall permit a representative of an approved organization, who is known by the nursing home administration to be authorized to represent the organization or who carries identification showing that the representative is authorized to represent the organization, a family member of a patient, or a legal representative of a patient, to have access to nursing home patients for 1 or more of the following purposes:

(a) Visit, talk with, and make personal, social, and legal services available to the patients.

(b) Inform patients of their rights and entitlements, and their corresponding obligations, under federal and state laws by means of the distribution of educational materials and discussion in groups and with individual patients.

(2) Access as prescribed in subsection (1) shall be permitted during regular visiting hours each day. A representative of an approved organization entering a nursing home under this section promptly shall advise the nursing home administrator or the acting administrator or other available agent of the nursing home of the representative's presence. A representative shall not enter the living area of a patient without identifying himself or herself to the patient and without receiving the patient's permission to enter. A representative shall use only patient areas of the home to carry out the activities described in subsection (1).

(3) A patient may terminate a visit by a representative permitted access under subsection (1). Communications between a patient and the representative are confidential, unless otherwise authorized by the patient.