

**Long-Term Care Report on
Protocol for Review of Citation Patterns
Survey Information & Data**

(Pursuant to MCL 333.20155 and MCL 333.20155a of PA 322 of 2012)

March 1, 2013

Prepared by

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RICK SNYDER
GOVERNOR



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Executive Summary:

Governor Rick Snyder on October 9, 2012 signed into law Public Act 322 of 2012 (SB 884 - Senator Hansen, sponsor) which amended MCL 333.20155 in addition to including a new section, MCL 333.20155a. Pursuant to this new law, this report has been prepared and issued electronically to the House and Senate appropriations subcommittees, the House and Senate standing committees involving senior issues, and the House and Senate Fiscal Agencies to meet the March 1 reporting requirement. In addition, this report may also be found online under the following locations:

- The Long-Term Care section of the Bureau of Health Care Services website at: www.michigan.gov/bhcs.
- The All About LARA section - Legislative Reports of the Department of Licensing and Regulatory Affairs website at: www.michigan.gov/lara.

The Bureau of Health Care Services (BHCS), where the Long-Term Care (LTC) Division is located, is responsible for implementing this new law. The mission of BHCS and its LTC Division is to assure that residents residing in Michigan's nursing homes receive the highest quality of care and quality of life in accordance to state and federal laws.

In addition to protecting Michigan's vulnerable population, the LTC Division also licenses and regulates Michigan's 440 long-term care facilities. As the State Agency for the Centers of Medicare and Medicaid (CMS), the LTC Division licenses and certifies 426 nursing homes that meet the certification requirements by CMS. Another 14 non-CMS nursing homes are also licensed by the LTC Division.

Specifically, this report covers the 2012 calendar year from January 1, 2012 to December 31, 2012. This being the first report since enactment of the new law, BHCS made every effort to meet all the reporting requirements and where data is not available explanations have been provided as to how the information is being collected for the next report.

PROTOCOL FOR REVIEW OF CITATION PATTERNS

Reporting Requirement(s):

Section 20155 (8) requires the department to do the following:

The department shall develop protocol for the review of citation patterns compared to regional outcomes and standards and complaints regarding the nursing home survey process. The review will be included in the report required under subsection (20).

Background:

The Survey and Certification Providing Data Quickly (PDQ) is an online reporting system maintained federally by CMS. This system provides timely data about providers and suppliers of Medicare and Medicaid services, such as hospitals and nursing homes. State Agencies for CMS can obtain reports in a format that reflect comparisons among national, regional and state data.

Process Review of Data:

As the reports are issued and made available by CMS to the LTC Division of BHCS, the management staff will review this information and data on a quarterly basis. Findings will also be conveyed to front line managers in staff meetings. Summaries of this data will also be provided at the Joint Provider Surveyor Training sessions, held in April and September of each year.

2012 Data:

Unfortunately, the Survey and Certification PDQ website has been down for over a year and at the time of this report, the CMS PDQ website was still offline. It is expected that the website will be back in service and once it is the LTC Division and BHCS will resume reviewing and comparing the aggregate data.

SURVEY INFORMATION & DATA

Reporting Requirement(s):

Section 20155 (20) requires the following:

The department may consolidate all information provided for any report required under this section and section 20155a into a single report. The department shall report to the appropriations subcommittees, the senate and house of representatives standing committees having jurisdiction over issues involving

senior citizens, and the fiscal agencies on March 1 of each year on the initial and follow-up surveys conducted on all nursing homes in this state. The report shall include all of the following information: items listed (a) - (t) below.

2012 Data:

The following items, from (a) – (t), contain the data and information as required under this Section 20155 (20) for reporting purposes. Please note most of this data was pulled from the CMS ASPEN data system. For information or data that was not available through the CMS ASPEN system or collected by BHCS at the time of this report, explanations are provided as to how the data will be maintained to include in future reports.

(a) The number of surveys conducted:

- 463 standard (annual) surveys.
- 499 standard revisits.
- 2,215 complaint investigations.
- 747 complaint revisits.

(b) The number requiring follow-up surveys:

- Out of the 463 standard (annual) surveys conducted, 455 required follow-up surveys.
- Out of the 499 standard revisits conducted, 37 required additional surveys.
- Out of the 2,215 complaint investigations conducted, 2,145 required follow-up surveys.
- Out of the 747 complaint revisits conducted, 28 required additional follow-up surveys.

(c) The average number of citations per nursing home for the most recent calendar year:

- 14.06 is the average number of citations per nursing home for 2012. Calculated by taking the total number of citations (excluding citations with correction dates) divided by the total facilities surveyed during the year (including surveys with no citations).

(d) The number of night and weekend complaints filed:

- 260 complaints received during the night or weekend (non-business working hours) for 2012.

(e) The number of night and weekend responses to complaints conducted by the department:

- 4 complaint surveys for 2012 conducted outside of the Monday to Friday from 8:00 am to 5:00 pm working hours. To assure accurate tracking, ongoing training of staff and continued monitoring has been implemented.

(f) *The average length of time for the department to respond to a complaint filed against a nursing home:*

- 19.21 days is the average length of time for the department to respond to a complaint filed against a nursing home.

(g) *The number and percentage of citations disputed through the informal dispute resolution and independent informal dispute resolution:*

- 367 citations or 5.93% out of a total of 6,186 citations went through the IDR or IIDR process for 2012.

(h) *The number and percentage of citations overturned or modified, or both:*

- Out of the 367 citations under IDR or IIDR review, 31.88% of the total citations were overturned, modified, or both.

(i) *The review of citation patterns developed under subsection (8):*

- Referenced previously under the Citation Review Protocol portion of this report:

As the reports are issued and made available by CMS to the LTC Division of BHCS, the management staff will review this information and data on a quarterly basis. Findings will also be conveyed to front line managers in staff meetings. Summaries of this data will also be provided at the Joint Provider Surveyor Training sessions, held in April and September of each year.

(j) *Implementation of the clinical process guidelines and the impact of the guidelines on resident care:*

- This work is being carried out by the permanent Clinical Guidelines Workgroup in accordance to Section 20155 (27). This advisory workgroup was established and created on October 31, 2012.

(k) *Information regarding the progress made on implementing the administrative and electronic support structure to efficiently coordinate all nursing home licensing and certification functions:*

- Pursuant to the following item:

Section 20155a. (1) Nursing home health survey tasks shall be facilitated by the licensing and regulatory affairs bureau of health systems to ensure consistent and efficient coordination of the nursing home licensing and certification functions for standard and abbreviated surveys. The department shall develop an electronic system to support the coordination of these activities and shall submit a report on the development of an electronic system, including a proposed budget for implementation, to the senate and house appropriations subcommittees for the department, the senate and house of representatives standing committees having jurisdiction over issues involving senior citizens, and the senate and house fiscal agencies by November 1, 2012. If funds are appropriated for the system, the department shall implement the system within 120 days of that appropriation.

- The department received a cost estimate and proposal from DTMB and sent on November 1, 2012 to the legislative leadership a request for \$2.3 million in appropriations to support the development of this type of electronic system. The request is pending further consideration by the legislature. (Appendix A).

(l) The number of annual standard surveys of nursing homes that were conducted during a period of open survey or enforcement cycle:

- 162 enforcement cases were started by a complaint survey and a recertification survey was subsequently added to the case.

(m) The number of abbreviated complaint surveys that were not conducted on consecutive surveyor workdays:

- This data was not previously collected. The Bureau has implemented a shared calendar log specific for the purpose of tracking any interrupted abbreviated surveys as a way to gather this data moving forward for 2013.

(n) The percent of all form CMS-2567 reports of findings that were released to the nursing home within the 10-working day requirement:

- 76.22% of re-certifications were released to the nursing homes within the 10-working day requirement.
- 42.66% of complaints were released to the nursing homes within the 10-working day requirement.

(o) The percent of provider notifications of acceptance or rejection of a plan of correction that were released to the nursing home within the 10-working day requirement:

- Data was not previously collected nor tracked in the CMS ASPEN data system. The Bureau through a CMS grant is creating an online plan of correction (POC) program where the tracking of status changes will be integrated and included in the new reporting system. This data will be provided and included for 2013.

(p) The percent of first revisits that were completed within 60 days from the date of survey completion:

- 93.72% of re-certifications were completed within the 60 days from the exit date of a survey.
- 59.03% of complaints were completed within the 60 days from the exit date of a survey.

(q) The percent of second revisits that were completed within 85 days from the date of survey completion:

- 24.32% of re-certifications were completed within 85 days from the exit of a survey.
- 28.00% of complaints were completed within the 85 days from the exit of a survey.

(r) The percent of letters of compliance notification to the nursing home that were released within 10-working days of the date of the completion of the revisit.

- This data was not previously collected. The Bureau in working with CMS and its ASPEN data system has identified compliance letters for each specific category of surveys. Dates of compliance notification will be tracked electronically and compared to the exit date of a survey in order to gather data for this requirement in 2013.

(s) A summary of the discussions from the meetings required in subsection (24):

- Minutes from the first quarterly Stakeholder Committee meeting that was held on January 25, 2013 are included in Appendix B.

(t) The number of nursing homes that participated in a recognized quality improvement program as described under section 20155a(3):

- No provider application requests have been submitted to the Bureau to date.

Additional Reporting Requirements:

Section 20155 (21) requires the following items (a) – (c) to be reported.

(a) The percentage of nursing home citations that are appealed through the informal dispute resolution process:

- 367 citations or 5.93% out of a total of 6,136 citations went through the IDR or IIDR process for 2012.

(b) The number and percentage of nursing home citations that are appealed and supported, amended, or deleted through the informal dispute resolution process:

- Out of the 367 citations under IDR or IIDR review, 31.88% of the total citations were overturned, modified, or both.

(c) A summary of the quality assurance review of the amended citations and related survey retraining efforts to improve consistency among surveyors and across the survey administrative unit that occurred in the year being reported.

- An IDR results tracking spreadsheet was created in 2012. This spreadsheet also includes fields for reviewer's comments and notations by staff for follow-up. Results, conclusions, and any necessary direction for surveyors or reviewers are conveyed at staff meetings or discussed with the training unit staff as an area to include for further training.

SUMMARY

The Bureau of Health Care Services (BHCS) executive and legislative charge is to fulfill health care licensing and regulatory responsibilities to the people of Michigan. BHCS continues to serve all consumers, including individuals, health professionals and providers in the health care industry. For the long term care providers, BHCS has engaged and encouraged the Stakeholder Committee, created under PA 322 of 2012, to work together with the mission of improving the care for all residents. Through collaboration and with improved efficiencies to the Bureau, this is an opportunity to look forward as we all strive to achieve the highest level of customer service throughout the state of Michigan.



STATE OF MICHIGAN

DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET
LANSING

RICK SNYDER
GOVERNOR

JOHN E. NIXON, CPA
DIRECTOR

APPENDIX A

October 26, 2012

LARA - BHS:

Following is an estimate of costs related to the development and implementation of an electronic system for the coordination of the standard and abbreviated surveys of nursing homes and rehabilitation facilities in the State of Michigan:

Initial Procurement and Implementation Item Description	Estimated Cost
Oracle Siebel Case Management including rules engine	\$500,000.00
Service Oriented Architecture	\$509,000.00
Oracle data base, hardware and implementation	\$578,200.00
Initial year of software maintenance	\$279,862.00
Technical training	\$ 50,000.00
System testing and staff training	\$144,000.00
System configuration and integration	\$120,000.00
PMO (Architect, Project Manager, Usability tests, Implementation)	\$165,000.00
Total	\$2,346,062.00

Estimated recurring costs related to system support (per year):	
Technical Staff support (Architect, Developers and Proj. Mgr.)	\$ 185,000.00
Software maintenance	\$279,862.00

Please let me know if you have questions or would like further detail regarding the above estimate of costs. Thank you for giving the Department of Management and Budget the opportunity to provide this estimate.

Stuart Willard
Michigan Department of Technology, Management & Budget
Customer Services/LARA
Business Relationship Manager

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STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

STEVEN H. HILFINGER
DIRECTOR

APPENDIX A

MEMORANDUM

TO: Senator Mark Jansen, Chair
Senate Appropriations Subcommittee on LARA
Senator Judy Emmons, Chair
Senate Committee on Families, Seniors and Human Services
Representative Al Pscholka, Chair
House Appropriations Subcommittee on Energy, Labor, and Economic Growth
Representative Kenneth Kurtz, Chair
House Committee on Families, Children and Seniors

CC: Members of Senate Appropriations Subcommittee on LARA
Members of Senate Committee on Families, Seniors and Human Services
Members of House Appropriations Subcommittee on Energy, Labor and Economic Growth
Members of the House Committee on Families, Children and Seniors
Ellen Jeffries, Director of Senate Fiscal Agency
Mary Ann Cleary, Director of House Fiscal Agency

FROM: Steven Hilfinger, Director
Shelly Edgerton, Deputy Director

DATE: October 31, 2012

RE: Appropriations Request

Pursuant to PA 322 of 2012, MCL 333.20155a (1), the Department of Licensing and Regulatory Affairs (LARA) is required to provide you with a budget proposal outlining the cost to implement an electronic system to support the coordination of the nursing home licensing and certification functions for standard and abbreviated surveys.

Attached is a copy of the proposal from DTMB, which totals just over \$2.3 million. To achieve the objective as outlined in the new law, this is what it would cost to create the software program that would allow for a web based case management system to track and monitor on all types of devices and computers for the standard and abbreviated surveys. Additionally, if LARA is appropriated the \$2.3 million, the new electronic system would also compliment another project that is being funded by CMS (\$3.5 million) where Michigan is taking the lead in creating a program that will make the reporting of facility reported incidents for nursing home providers more efficient.

Please don't hesitate to contact us if you should have any questions.

LARA is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.
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APPENDIX B

STAKEHOLDER COMMITTEE

MEETING | BHCS – Ottawa Building, Lansing | January 25, 2013 | 1:30 – 3:30 PM

MEETING MINUTES

Participants	Attended:
Bureau of Health Care Services	Carole H. Engle, Director Howard Schaefer, LTC Division Director
Health Care Association of Michigan (HCAM)	Beth Bacon
Leading Age Michigan	Kevin Evans
MI County Medical Care Facilities Council	Reneé Beniak
MI Medical Directors Association	Mark Jackson
MI Peer Review Organization (MPRO)	Diane Smith – by phone Charlene Kawchak-Beltisky – by phone
MI Long-Term Care Ombudsman	Sarah Slocum, Ombudsman
Consumer Representative	Sylvia Simons
Others	Cindy Landis, LTC Division

Notes taken by: Cindy Landis

1 Welcome & Introductions – Carole Engle

Director Engle introduced herself to the committee members and gave a brief background of her experience working with the State of Michigan. She also thanked all of the members for participating in this committee and requested all members introduce themselves.

2 Function of Committee

Director Engle indicated that the committee is a result of a statutory requirement (P.A. 322 of 2012) and asked members what they would like to come out of this committee. Four workgroups created previously were finalized and each group will report back to the stakeholder committee.

Committee members were requested to let go of the past and to look to the future, the primary purpose for the committee is to improve the care for the residents. This should be the first priority and everything else should come in second.

The function of the Committee is not to manage or run the Bureau or Department such as how to conduct surveys, etc., that is the responsibility of Director Engle and her staff.

Committee members were asked for suggestions and made the following comments:

- A priority needs to be the education and training, not only of the providers but the surveyors as well.

- Education and training opportunities for the front-line staff providing direct care to the residents.
- Communication will be a key component and must be improved between the provider groups and the Department.
- Continued training via the Joint Provider/Surveyor meetings twice a year.
- Evidence based surveys.

A collaborative educational focus when the survey team comes in the door would be very helpful. However, it was explained to the committee members that CMS Guidance to Surveyors does not allow the Bureau to provide specific information on what a facility needs to do to correct a problem. The Bureau can, however, provide informational tools to the facility and other helpful informational websites that can be used as well.

Communication on the regulations and how they are being interpreted would be very useful. All members agreed that the Quality of Life and Care must be preserved for the residents. It would also be helpful if the providers knew what the surveyors would be looking at while on survey.

Consistency between the survey teams/surveyors is a key objective. Director Engle cautioned the members to be careful what they recommend; sometimes changes result in more rigid functioning, for example, the highly detailed enforcement grid.

In terms of remedies, the punitive approach did not work and changes have been made to the CMP process. However, if a facility is letting bad things happen, CMPs are appropriate.

It was noted by the committee members that Howard Schaefer and Roxanne Perry have been very accessible and it has helped a great deal when issues arise that need to be dealt with.

3 Approval of Agenda

It was agreed that the agenda and process for this committee would be less formal. Director Engle wants to make sure that there are specific items that the committee focuses on for each meeting. Good documentation will be maintained to show that goals are being achieved.

4 Old Business

Reneé Beniak indicated that she is chairing the Customer Service and Communications Workgroup and was looking to the Stakeholder Committee to provide some guidance on what her group should focus on. The first meeting for this group is scheduled for February 22, 2013.

Areas that were discussed for this sub-committee were:

- How to get the message out to everyone.
- A standardized mechanism to allow the provider, resident or family members to provide feedback on the last survey – both positive and negative aspects which could require some form of follow-up.
- Facilities at times have concerns with surveys but do not have a process in place that they can utilize to express these concerns.
- This process could be as simple as 5 questions that can be asked. Howard indicated that this has been considered in recent discussions.

Reneé Beniak asked if her committee could work on an evaluation format or questionnaire. There were no concerns or objections.

The concern was also raised about several stakeholder committee members serving on the Workgroups as well. Should they all be on all of the groups? Especially since a lot of the Wrokgroup subject matter intersects, should some groups be combined?

A key objective is to make sure everyone understands how the survey process works.

It was noted that when the Bureau sent out to the list-serve with the information on the new FRI process that is coming up soon – it was very well received by the provider associations and facilities. This was seen as a very positive move and they would like to have more of this type of notice and communication in the future.

5 New Business

A. BHCS Resources that may be available to support Workgroups

The question was asked what BHCS resources might be available to help support the Workgroups. One of the Licensing Officers, Laura Bauer, had attended a meeting of the Local Area Network for Advancing Excellence. She brought a needed perspective to the process and was invaluable, and this had a very positive affect. It was also asked if more field staff, LO's/SM's could be available to participate in some of these meetings and discussions. Carole indicated that she and Howard would look into this as an option. However, it was noted that because of time constraints and deadlines that need to be completed; none of them would be able to participate on a full time basis.

Deb Ayers is the remaining Nurse Consultant from the Quality Improvement program who was also very involved with the Clinical Process Guidelines development. Deb might also be available on a limited basis; as could possibly one of the other trainers. It was noted that they may not be able to participate in person every time but they may be able to do so by teleconference.

B. CMP Grants

Beth Bacon is the Chair of the Clinical Advisory Work Group. Beth indicated that the last time the Clinical Process Guidelines were worked on Dr. Levinson was

very involved in this process. Dr. Levinson is also involved with CMS and the Regional Office.

Beth asked if the Department would be willing to use a small portion of the CMP money to contract with Dr. Levinson to work on these updates. The cost would be \$25,000 a year for two years. Dr. Levinson would attend meetings a couple of times face to face but do the remainder of consultation via teleconference. Howard will search for the former contract.

Director Engle first asked if there was anyone in Michigan who could do the work in place of Dr. Levinson. Beth indicated that Larry Lawhorne would have been able to assist but he has since moved to Ohio. Dr. Levinson has the connectivity to CMS and the National Medical Directors Association. Dr. Jackson may be asked to consult as well. Director Engle indicated that Beth should put together a proposal to use some of the CMP funds for this contract. Once Beth had the proposal together she should send it to Director Engle who would forward it on to CMS for their approval. CMS is very clear on the criteria to be included. The proposal must be able to show the direct benefits to the residents. Kevin Evans indicated he had just been involved in working on a proposal and will send the information to Beth for her to review.

C. Information/Update on the CMP funded One Vision Project and how to coordinate with this BHCS Stakeholder Committee

Sarah Slocum updated the committee on the One Vision Project. The One Vision group has received CMP Funds in the past to work on Culture Change, the provision of care according to a person centered model and how this can intersect with regulations.

The Bureau and Stakeholders together developed a clarification on Holiday Decorations that was distributed to all providers before Thanksgiving.

They are looking into the following topics: food portions for residents, moving furniture in the residents' rooms (having beds up against the wall) and residents having curling irons in their rooms.

The One Vision Group had recently revised the My Inner View Tool and greatly increased resident responses after the format revision (from 12% to 50%).

D. Report on IT Workgroup meeting and next steps

Kevin Evans indicated that the IT Workgroup had their first meeting in December and talked about the issue of multiple types of software programs at the facilities. They discussed the concept of a computer concierge at the facility who would be familiar with the software and be able to assist the survey team in quickly locating the needed information. This Workgroup also provided great feedback for the SPOTs - POC project. Cedric Libirian presented a power point and talked about the process.

Three meetings have been scheduled. The next one is on February 11, 2013. Kevin also distributed the minutes from the December meeting to the Workgroup members and will forward them to Director Engle.

E. Joint Provider/Surveyor Training Update

Director Engle updated the committee on the Joint Provider/Surveyor Training scheduled in April of 2013. Decisions needed to be made for this training and Director Engle apologized to the committee for not involving them more with the time sensitive decisions. They will be asked for input about the training that is scheduled in the fall. Updates to the process for the JPST: registration will be handled by MPHI and will be available online.

Speakers have been lined up and everything is pretty much set. Several committee members responded positively to the speakers lined up.

Topics for the breakout sessions are:

- How the standard survey process has changed. Changes in the Regulations.
- Shingles and the LTC Resident.
- Reduction of Anti-psychotic drugs in LTC.
- Neurogenic Pain in the Elderly.
- Honoring Resident Choices - Advance Directives and Physician Orders.

There was discussion about having these trainings done as webinars. Committee members indicated that the face to face networking that's done at this training is invaluable. However, if the training was taped and made available on the Bureau webpage, facility staff not able to attend could view those tapes, as well as the additional breakout sessions. This would be beneficial.

Beth also indicated that in the past the associations were contacted to check on dates they might have conferences scheduled to avoid any conflicts with JPST. That has been greatly appreciated. If that could continue it would be very helpful to avoid scheduling conflicts for providers.

6 Announcements – Next Quarterly Meeting Date – April of 2013

Director Engle indicated that she will not be available the first two weeks of April for the next quarterly meeting due to a CMS Conference (required attendance) and other previously scheduled commitments. It was suggested that the meeting be held on Friday afternoon. No one indicated any concerns.

Beth Bacon indicated that the meeting in April could be held at the HCAM building.

Reneé Beniak indicated that the meeting in July could be held at The MCMCFC office.

Kevin Evans indicated that the meeting in October could be held at The Leading Age office.

Everyone was requested to send Cindy Landis an e-mail and let her know the dates they would not be available during the last two weeks of April and their availability in July and October. All of the meetings for 2013 will be scheduled and an e-mail will be sent to all committee members so meeting dates and times can be placed on their schedules.

7 Adjournment

The meeting was adjourned at 3:30 p.m.