

Biannual Inspection Report for Health Facilities and Agencies

Pursuant to Section 20158 of the Public Health Code,
1978 PA 368 as amended, MCL 333.20158

Submitted on August 31, 2023

Prepared by

Bureau of Community and Health Systems



PROTECT PEOPLE &
PROMOTE BUSINESS

**GOVERNOR
GRETCHEN WHITMER**

**ACTING DIRECTOR
MARLON BROWN**

REPORT AUTHORITY

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.20158 Biannual inspection reports for certain entities.

Sec. 20158.

The department shall submit biannual reports to the appropriation subcommittees for the department, the senate and house fiscal agencies, and the state budget director containing a summary of input from individuals who perform inspections for entities regulated by the bureau of community and health systems, or a successor agency within the department, under this article. The feedback and input must be regarding the adequacy of federal and state guidelines pertaining to the areas that the individual inspects for the entities described in this section. The summary must include details of the feedback excluding information that identifies the inspectors providing the feedback. The summary may be cumulative in nature but must be understandable to the general public.

History: Add. 2022, Act 117, Imd. Eff. June 24, 2022

Popular Name: Act 368

DEPARTMENT OVERVIEW

LARA is composed of agencies and commissions that promote business growth and job creation through streamlined, simple, fair, and efficient regulation, while at the same time protect the health and safety of Michigan's citizens.

Bureau of Community and Health Systems

The Bureau of Community and Health Systems (BCHS) serves to protect and ensure safe, effective, efficient, and accessible community and health care services delivered by state licensed providers in Michigan. The bureau is responsible for state licensing of facilities, agencies, and programs under the following public acts:

- Adult Foster Care Facility Licensing Act, 1979 PA 218
- Mental Health Code, 1974 PA 258
- Public Health Code, 1978 PA 368

The majority of state licensing activities involve the issuance and renewal of licenses to qualified facilities, agencies, and programs; conducting initial, routine, and revisit inspections to determine compliance with state requirements; and investigating complaints against state licensed providers.

Introduction

Public Act 117 of 2022 added section 20158 to the Public Health Code. This section took effect on June 24, 2022. It refers to “the bureau of community and health systems, or a successor agency within the department. . . .”

On June 28, 2022, the department reorganized the bureau of community and health systems. A new bureau was established, the bureau of survey and certification. All functions pertaining to the federal survey and certification of health facilities for Medicare and Medicaid Services were moved to the new bureau. Each bureau will be submitting their own report.

Methodology

Section 20158 requires “a summary of input from individuals who perform inspections for entities regulated by the bureau of community and health systems, or a successor agency within the department, under this article. The feedback and input must be regarding the adequacy of federal and state guidelines pertaining to the areas that the individual inspects. . . .”

Definitions

Section 20158 does not define “**individuals who perform inspections.**” Based on the context, this phrase is interpreted to mean: health care surveyors, state licensing consultants, and other personnel who inspect, survey, or visit health facilities and agencies for regulatory purposes.

In addition, section 20158 does not define “**federal and state guidelines.**” Based on the context in which these terms are used, they are interpreted to mean federal statutes, federal regulations, state statutes, and state administrative rules.

To gather the information for this report, a survey was conducted. A total of 34 personnel were surveyed. Responses were received from 30 personnel (88% response ratio). The survey opened on August 1 and closed on August 8, 2023.

Section 20158 requires that the **identity (ID)** of inspectors (i.e., survey respondents) shall not be disclosed. Therefore, the survey was designed to ensure that all respondents are anonymous. Each respondent was assigned an ID number so written comments could be linked to an individual respondent. The survey included 3 questions.

Results

Question 1: What types of health facilities and agencies do you inspect (select all that apply)?¹

	Type of Health Facility or Agency	Number of Inspectors
1.	Freestanding Surgical Outpatient Facilities or Ambulatory Surgical Centers	7
2.	Homes for the Aged	12
6.	Hospice Agencies or Residences	7
7.	Hospitals	7
8.	Nursing Homes, County Medical Care Facilities, Hospital Long-Term Care Facilities	15
9.	Nurse Aide Training Programs	1
12.	Psychiatric Hospitals and Psychiatric Units	7
14.	Substance Use Disorder Services Programs	2

Question 2: Rate the overall adequacy of federal and state guidelines pertaining to the areas that you inspect. This includes any federal statutes, federal regulations, state statutes, or state administrative rules for which you determine compliance.

Rating	Responses
Inadequate	1
Somewhat Inadequate	5
Adequate	20
More than Adequate	4
Excessive	0

¹ Note: An individual may inspect more than one type of health facility and agency.

3. Briefly summarize your opinion of any federal or state guidelines that you think are inadequate or excessive along with any recommendations you have for improving them. Cite the federal regulation or the state law or administrative rule along with the subject:

Inspectors' Feedback on Federal and State Guidelines

ID	Guidelines	Comments
3	Homes for the Aged R 325.1921- Governing bodies, administrators, and supervisors	R 325.1921 (editor note: no other comments included)
6	Homes for the Aged R 325.1901- 325.1981	Not specific enough.
8	Substance Use Disorders Programs R 325.1301- 325.1399	We just updated our state administrative rules that govern substance use disorder programs. At this time, I feel strongly that we have streamlined and adjusted our rule sets to meet the best practices of care for this population of recipients that receive this level of care.
12	Homes for the Aged R 325.1931 (5) - Employees; general provisions.	1931 (5) Employees; general provisions. The rules state that a home shall have adequate and sufficient staff on duty at all times. I think there should be a ratio like it is in nursing homes.
13	MCL 333.217.34 – Nursing home; bed rails; provisions; peer-	333.21734--Bedside rails. This statute is not based on best practice and contradicts Federal NH practices that discourage the use of bedside rails due to safety concerns.

ID	Guidelines	Comments
	reviewed, evidence-based, best practices resources; liability.	
14	Homes for the Aged R. 325.1931(5)- Employees; general provisions.	HFA administrative rule 1931(5) too much open for misinterpretation. Facilities continue to struggle to staff accordingly.
15	Homes for the Aged R 325.1924- Reporting of incidents, quality review program. R 325.1901- Definitions. R 325.1932- Medications.	<p>Recently, some administrative rules for licensed homes for the aged were revised without adequate input from health care surveyors that directly license these homes and conduct complaint investigations. Consequently, the changes in these rules resulted in far less regulation and assurance of adequate care in these facilities. For examples:</p> <p>R325.1924 revisions remove the department's oversight of any/all incidents occurring at the homes for the aged. Incidents are no longer reported to the department. The rule changes have the facility responsible for their own incident oversight. At licensing renewal inspections, the dept may only review whether the facility has a quality review program in place. In a complaint investigation, our health care surveyors can only confirm if incidents were reviewed by the facility's multi-disciplinary team and if corrective actions were taken. It specifically reads the dept shall not request any other case-specific information. That implies the surveyor cannot review the incident report itself. I believe this undermines regulation. Also, the revised rules indicate the facility is to notify the resident's health care professional OR the resident's authorized representative of the incident. Consequently, if the facility chooses to notify only the health professional, then the resident's authorized representative will not be informed of incidents occurring with their loved one.</p> <p>R325.1901 The definition of an incident was changed from "an event in which a resident suffers harm or is at risk of</p>

ID	Guidelines	Comments
		<p>more than minimal harm, such as, but not limited to abuse, neglect, exploitation, or natural death" to specify "an event including, but not limited to, elopements and medication errors, where a resident suffers physical or emotional harm". If actual "harm" cannot be proven as having occurred, then there is no incident. What of residents with dementia that elope from the facility but are not physically harmed? What about repeated falls with no injuries? What of a medication error that did not result in injury? This new definition implies no incident occurred. Also, if a resident has cognitive deficit and is unaware of what is going on or does not recall an incident, it could be argued that the resident did not suffer emotional harm from any incident. This change in definition allows for various events to not be deemed a reportable "incident".</p> <p>R325.1932 was revised to remove (5) A home shall take reasonable precautions to ensure or assure that prescription medication is not used by a person other than the resident for whom the medication is prescribed. This rule was often cited for medications left unattended and accessible to others; for psychotropic medications not being accounted for; and medications stolen.</p> <p>A new rule R325.1932(6) reads For a resident who is identified as self-administered . . . the home must have a policy to offer a secured method of storage for medications if desired by the resident. Therefore, if the resident does not "desire" a secure method of storage, there is no responsibility that the medication be secured. Residents with cognitive deficit often wander into one another's rooms and take things. Unsecured medications would be no different.</p>
16	N/A	There are many issues that pertaining to homes for the aged that are not specified in either rule or statute, for examples, the quality of the service plan, or truthfulness in documentation, to name just 2 that I can think of off the top of my head.
17	Homes for the Aged R 325.1901-325.1981	The Rules for the Home for the Aged needs to be revised/updated.

ID	Guidelines	Comments
18	<p>Federal Regulations</p> <p>483.151(b)-State review and approval of nurse aide training and competency evaluation programs.</p>	<p>483.151 (b) Requirements for approval of programs. (1) Before the State approves a nurse aide training and competency evaluation program or competency evaluation program, the State must (iii) In all reviews other than the initial review, visit the entity providing the program.</p> <p>The federal law doesn't say what you are to look for when visiting the program.</p>
19	<p>Homes for the Aged</p> <p>R 325.1924-Reporting of incidents, quality review program.</p>	<p>The amended Administrative Rules: R 325.1924 Reporting of incidents, quality review program: the rule requires a Department approved form in which has not been created. BITS has not been updated with the amended rules</p>
20	<p>Licensing of Facilities Psychiatric Hospital/Unit</p> <p>R 330.1201-330.1299</p>	<p>The Licensing of Facilities Psychiatric Hospital/Unit Administrative Rules R 330.1201 to 330.1299 are out of date and have not been comprehensively updated since the 1980s. The entire rule set should be reviewed and possibly revised.</p>
21	<p>Licensing of Facilities Psychiatric Hospital/Unit</p> <p>R 330.1201-330.1299</p>	<p>The psych hospital rules are very outdated, from 1984 I believe. With the increase in funding in mental health institutions these should be updated.</p>
23	N/A	<p>The inspections our team completes are more of a consultive survey. The guidelines we fall under have been adequate for the surveys we complete. The SLCS team does not cite federal tags when we survey a facility and consult only.</p>
25	N/A	<p>At this time, I feel the regulations in place are more than adequate to keep the residents in the facilities I survey safe.</p>

ID	Guidelines	Comments
27	<p>Homes for the Aged</p> <p>R 325.1924- Reprting of incidents</p> <p>R 325.1921 (2)- Governing bodies, administrators, and supervisors.</p>	<p>R 325.1924 reporting of incidents. We advise in this rule: (6) The facility must have a policy and procedure to report an incident using a department approved form to the multi-disciplinary team responsible for the quality review program required under subrule (1) of this rule, but we have no examples of a department approved form and have no guidance to give to licensees.</p> <p>R 325.1921 (2) governing bodies, administrators and supervisors. Administrator qualifications are severely lacking. We only require the following: (a) Be at least 18 years old. (b) Have education, training, and/or experience related to the population served by the home. (c) Be capable of assuring program planning, development, and implementation of services to residents consistent with the home's program statement and in accordance with the residents' service plan and agreements.</p>