



STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JANET OLSZEWSKI
DIRECTOR

March 9, 2010

Dear MI Choice Waiver Agents and Centers for Independent Living:

Re: Transition Work in Nursing Facilities

In support of the 1999 Olmstead decision and the Americans with Disabilities Act, the Michigan Department of Community Health (MDCH) has expanded its Medicaid home and community based service options. As such, the department contracts with MI Choice waiver agents and Centers for Independent Living (CILs) to share information with nursing facility residents and their families, as well as nursing facility staff, about the available community alternatives. The department also contracts with these same entities to provide transition services to residents expressing a desire to move to a community setting. Therefore, it is incumbent upon Waiver Agent and CIL staff to visit with residents expressing an interest in transitioning to a new home outside of the nursing facility.

MDCH strongly encourages the activities of waiver agents and CILs in working with nursing facility residents seeking information and assistance in relocating to the community. The Michigan Public Health Code (PHC) provides statutory support for the work of these agencies and their staff. MCL 333.20201 addresses resident rights to speak with persons of their choice so that if a resident expresses a desire to talk with a transition agent, the request must be honored. MCL 333.21763 addresses visitor access to nursing home residents, outlining the requirements that must be followed by both visitors and facilities when a resident seeks to discuss information and options with transition agents.

Thank you for your commitment and continued efforts in working with residents seeking relocation to residences in the community.

Sincerely,

A handwritten signature in cursive script 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.