

---

**INTERAGENCY  
AGREEMENT FOR  
NURSING FACILITY  
CLOSURES****I. PURPOSE OF THE AGREEMENT**

The purpose of this Agreement, among the Department of Community Health (DCH), including the DCH Office of Services to the Aging (OSA), the Department of Consumer and Industry Services (DCIS), and the Family Independence Agency (FIA), is to delineate when residents of licensed nursing facilities must be relocated due to facility closure. This Agreement applies to both for-profit and no-for-profit nursing facilities, including those that are county medical care facilities or hospital long-term care units.

**II. PRINCIPLES OF THE AGREEMENT**

The health, safety and welfare of the nursing facility residents are the primary determinants for the implementation of this Agreement. The Departments recognize that their primary responsibilities to protect the rights, dignity, and self-determination of residents must be balanced with the need to respect the rights of nursing facility owners when faced with resident relocation and facility closure. The Departments also recognize that the varying situations which warrant resident relocation and closure action - voluntary closure, federal and state regulatory or enforcement action, or declared life safety emergency - will affect the staffing, resources, timeliness and procedures required to implement the steps in the closure process.

The following guiding principles will be incorporated in relocation and closure efforts:

- A. Interagency and interdisciplinary coordination and cooperation will be maximized at both the state and local levels.
- B. A team approach will be used for the relocation of residents in nursing facility closure situations. In a situation where DCIS initiates an enforcement order to take a regulatory action or to protect the life and safety of nursing facility residents, closure teams will be convened by DCIS at both the State and local levels to assure that needs of

the affected residents are addressed. In the case of a voluntary closure, a State and/or Local Team may be convened at the request of the DCH and/or FIA. For purposes of this Agreement, a voluntary closure is any closure or resident relocation not required by a DCIS-initiated enforcement order. Such closure could result from an action by DCH to decertify a nursing facility for failure to comply with Medicaid conditions of participation or be initiated by a facility owner wishing to discontinue operations.

- C. When the closure of a facility is required by a DCIS-initiated enforcement order, the DCIS or its designated representative will serve as the Local Team leader. In the case of a voluntary closure, the DCH and/or FIA, or a designated representative, will serve as the Local Team leader. The department designee may be a Contract Closure Agent.
- D. The general responsibilities of the two teams will be as follows:
  - 1. The **State Team** will provide ongoing policy direction, mobilization of resources and oversight for the Local Team. The State Team will include representatives from the DCH, including the OSA, the DCIS, and the FIA. At the time of imminent closure, the State Team will consult with a Contract Closure Agent and other appropriate parties, as necessary.
  - 2. The **Local Team** will provide direct assistance and local leadership at the facility for operations and relocation support. It will be made up of local representatives of the Departments comprising the State Team and will also include, as appropriate, other local organizations that should be involved. The Local Team, when convened, will confer regularly.
- E. Each team will hold pre-closure meetings prior to implementing any resident relocation or facility closure action. The teams will confirm leadership roles, affirm the closure rationale, and set the operating rules for resident relocation and facility closure.
- F. Respect for resident rights, dignity, and self-determination will be honored by involving residents, their families, or

their responsible representatives, in placement decision-making to the extent possible. The Departments' intent is to affect an orderly, safe, expedient, and humane relocation process.

- G. The needs and preferences of residents and their families will be assessed to ensure that the least restrictive placement is offered, including return to their own home or other community living setting.
- H. Alternative placements will meet the medical, social, mental and physical needs of residents. To the fullest extent possible, residents who have closely bonded together in the current nursing facility will be relocated together.
- I. Resident relocation and facility closure are separate activities. In general, a closure will always include resident relocation, but relocation does not always require a closure. For purposes of this Agreement, "closure" used alone will include resident relocation. In the event of a closure necessitated by a DCIS-initiated enforcement order, the DCIS, directly or through a Contract Closure Agent, will monitor both the day-to-day operations of the facility owner/operator and the resident relocation activities of the Local Team. In the event of a voluntary closure, the DCH and FIA will jointly determine the necessity for and extent of convening teams under this agreement. The DCH and FIA will also determine the necessity for involving a Contract Closure Agent.

### III. DEPARTMENT RESPONSIBILITIES

The State Team is responsible for coordinating the relocation and closure process. It will work through the Local Team to implement closure of a designated nursing facility and to facilitate resident relocation. The State Team concludes the closure process through a post-closure review of actions and reporting to the represented Departments.

The State Team will serve as a standing work team and will include representatives from the following organizational work units:

- DCH/Medical Services Administration
- DCH/Health Legislation and Policy Development
- DCH/Office of Services to the Aging

- DCH/OBRA Office
  - DCIS/Bureau of Health Systems
  - DCIS/Enforcement and/or Field Services Representative
  - FIA/Executive Office
  - FIA/Office of Adult Services
  - FIA/Local Office Adult Services Representative
  - DCIS/Contract Closure Agent
- A. The DCH/Medical Services Administration representative will convene and lead the ongoing regular State Team meetings for policy development and oversight.
- B. The DCIS/Bureau of Health Systems representative will lead the State Team in its operational mode during a nursing facility closure required by a DCIS-initiated enforcement order. The DCH and/or FIA will lead the State Team, if convened, in its operational mode during a voluntary nursing facility closure.
- C. The FIA, through its local staff, will have primary responsibility for the physical relocation of residents.
- D. The State Team will mutually develop: a) a written facility closure and relocation protocol to be followed by the State and Local Teams and any Contract Closure Agent; b) the framework for an agreement with a Contract Closure Agent that identifies expectations and responsibilities; and c) proposed policy within the respective Departments that facilitates a timely and resident-centered relocation and closure process.
- E. State Team members will assure that their Local Team representatives are informed about and prepared to implement the provisions of this Interagency Agreement.
- F. The State Team will oversee this Interagency Agreement by meeting on at least a quarterly basis. At such meetings, the State Team will: a) review the Agreement language for continued accuracy, proposing amendments as necessary; b) revise protocol documents if appropriate; and c) discuss any related issues of interest to the group.
- G. State Team members will meet to conduct a debriefing within one month following any nursing facility closure. Local Team members involved in the closure will be invited to the meeting as appropriate to provide insight into

---

related events. The results of the debriefing will be written and shared with appropriate representatives of the Departments.

- H. State Team members will be expected to participate in State Team activities during any relocation and closure process required by a DCIS-initiated enforcement order, and during any voluntary relocation and closure process for which the State Team has been convened. A list of State Team members, with designated alternates, will be maintained and updated on a regular basis in the DCIS/Bureau of Health Systems Director's Office. The list will include telephone numbers for 24-hour availability. State Team members will each be given a copy of this list.
- I. The DCIS Communications Office will coordinate the State's notification to the media and response to their inquiries related to involuntary nursing facility closures. Information regarding both notifications and media response will be shared in a timely manner with Communications staff in the other Departments. The DCH and FIA Communications Offices will jointly coordinate such activities related to a voluntary closure.

The **Local Team** will provide operational support and local leadership to assist and monitor facility-based relocation activities. In the case of a closure required by a DCIS-initiated enforcement order, the Local Team will be chaired by the DCIS, directly or through a Contract Closure Agent. In the case of a voluntary closure for which a Local Team has been convened, the Local Team will be chaired jointly by DCH and FIA, directly or through a Contract Closure Agent. The Local Team will include, at a minimum, representatives from the following organizational work units:

- DCH/Medical Services Administration
- DCIS/Bureau of Health Systems (Licensing Officer)
- FIA/Local Office (Adult Protective Services or Community Placement)

- A. The facility relocation and closure protocol developed by the State Team will identify other local organizations that should also be involved, as appropriate, in closures with the activities that these organizations will be expected to perform.

- B. Team members will meet and confer regularly during relocation and closure to assure that each member's designated responsibilities are carried out in coordination with the other team members.
- C. The Local Team will conduct informational meetings for residents, families and other interested parties to make information available related to the rationale for relocation and closure, identification of agencies to be involved, description of steps to be taken for relocation, and discussion of care alternatives available.

The **Contract Closure Agent** may be designated by and represent the DCIS at a nursing facility ordered closed by that Department. If designated, the Contract Closure Agent will oversee the resident relocation activities of the Local Team. The DCIS and DCH will co-author an agreement specific to each closure for which a Contract Closure Agent's services are necessary. Such agreement will identify the Contract Closure Agent's authority during and after the closure. The agreement may include authorization to make expenditures from any available Medicaid funds for day-to-day operation of the facility and for the protection of resident health and safety during the facility closure and relocation process if the owner/operator fails to comply with applicable operating standards and legal duties.

The Contract Closure Agent's responsibilities will include, at a minimum, the following:

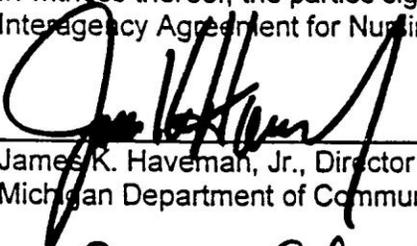
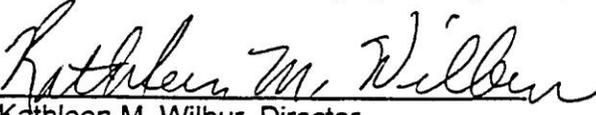
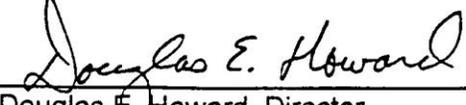
- A. Responsibility for monitoring day-to-day operations of the nursing care facility in cooperation with the facility staff for the period during which the facility is undergoing closure. In any closure and/or relocation process, the owner/operator of the facility will continue to be responsible for compliance with all applicable operating requirements and legal duties until the last resident is moved from the facility. This will include ensuring that: a) the facility is adequately staffed; b) necessary food, medications and supplies are available; c) residents and their belongings are safe and secure; and d) resident medical and financial records and personal belongings are protected and available for relocation with the resident.
- B. Provision of direction and support to the Local Team related to resident assessment and identification of post-relocation care needs. This will include ensuring that: a) the Minimum Data Set for Discharge is completed for each resident; b) resident care

plans for both health and social services are up to date; and c) on-site visits to other appropriate and proposed nursing facility or community living settings are offered and arranged for residents and/or family members or authorized representatives.

In the event of a Voluntary closure, the DCH may author a similar agreement that identifies the Contract Closure Agent's authority during and after the closure.

V. SIGNATORIES

In witness thereof, the parties sign their names as evidence of their approval of this Interagency Agreement for Nursing Facility Closures.

	<u>2/5/01</u>
James K. Haveman, Jr., Director Michigan Department of Community Health	Date
	<u>2/14/01</u>
Lynn Alexander, Director Office of Services to the Aging, Michigan Department of Community Health	Date
	<u>2/14/01</u>
Kathleen M. Wilbur, Director Michigan Department of Consumer and Industry Services	Date
	<u>2/22/01</u>
Douglas E. Howard, Director Michigan Family Independence Agency	Date