

# HOUSE BILL No. 5975

June 25, 1992, Introduced by Rep. Perry Bullard and referred to the Committee on Social Services and Youth.

A bill to regulate certain fees and charges imposed by nursing homes; and to provide remedies and impose penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "nursing home prepayment regulation act".

3       Sec. 2. As used in this act:

4       (a) "Advance payment" means payment of a patient's nursing  
5 home care costs before that care is provided.

6       (b) "Applicant" means an individual who applies for admis-  
7 sion to a nursing home, and does not include a patient of that  
8 nursing home.

9       (c) "Application fee" means a nonrefundable charge to an  
10 applicant for consideration of his or her application for  
11 admission to a nursing home.

1 (d) "Damage deposit" means money paid by or on behalf of an  
2 applicant or a nursing home patient and held by the nursing home  
3 or an agent of the nursing home as security for the applicant's  
4 or patient's possible damage to the nursing home premises.

5 (e) "Medicaid" means the program established under title XIX  
6 of the social security act, chapter 531, 49 Stat. 620, 42  
7 U.S.C. 1396 to 1396d, 1396f to 1396g, 1396i, and 1396s.

8 (f) "Medicare" means the program established under title  
9 XIII of the social security act, chapter 531, 49 Stat. 620, 42  
10 U.S.C. 1395 to 1395b, 1395b-2, 1395c to 1395i, 1395i-2 to  
11 1395i-4, 1395j to 1395w-2, 1395w-4 to 1395dd, 1395ff to 1395yy,  
12 and 1395bbb to 1395ccc.

13 (g) "Nursing home" means that term as defined in section  
14 20109 of the public health code, Act No. 368 of the Public Acts  
15 of 1978, being section 333.20109 of the Michigan Compiled Laws.

16 (h) "Patient" means a person who is receiving inpatient care  
17 in a nursing home.

18 (i) "Private pay individual" means an applicant or patient  
19 who is not eligible for or receiving medicaid or medicare bene-  
20 fits for nursing home care.

21 (j) "Reservation deposit" means a payment to reserve a nurs-  
22 ing home bed for future use.

23 Sec. 3. A nursing home shall not condition the admittance  
24 of an applicant eligible for medicaid or medicare nursing home  
25 care benefits upon the payment of an application fee, an advance  
26 payment, a damage deposit, a reservation deposit, or any other

1 transfer of money or property by the applicant or his or her  
2 representative.

3       Sec. 4. A person shall not charge or collect from a private  
4 pay individual, or from that individual's legal representative,  
5 either of the following:

6       (a) An application fee of more than \$100.00.

7       (b) A reservation deposit of more than \$250.00.

8       Sec. 5. (1) A reservation deposit is refundable upon the  
9 request of an applicant or his or her legal representative at any  
10 time prior to the applicant's admission to the nursing home. A  
11 person in receipt of a reservation deposit shall refund that res-  
12 ervation deposit within 3 days of receipt of a refund request.

13       (2) Upon an applicant's admission to a nursing home, a  
14 person in possession of that applicant's reservation deposit  
15 shall apply that deposit to payment of the applicant's first bill  
16 for nursing home care.

17       Sec. 6. (1) Except as provided in subsection (2), a person  
18 shall not charge a damage deposit to an applicant or nursing home  
19 resident.

20       (2) If a private pay individual intentionally damages nurs-  
21 ing home premises, and the nursing home documents that the cost  
22 to repair that damage is greater than \$100.00, the nursing home  
23 may charge that patient a damage deposit of not more than \$500.00  
24 as security against future, intentional damage by that patient.

25       Sec. 7. (1) A nursing home shall not charge or collect from  
26 a private pay individual an advance payment that is more than the  
27 cost of 1 month of nursing home care.

1       (2) A nursing home shall not charge or collect from a  
2 private pay individual an advance payment for a period of serv-  
3 ice, if that advance payment is due before the sixteenth day of  
4 the month preceding the period of service.

5       (3) Upon the occurrence of either of the following, a nurs-  
6 ing home shall refund to a patient or the patient's legal repre-  
7 sentative that portion of an advanced payment for which nursing  
8 home services were not provided:

9       (a) The patient dies.

10       (b) The patient vacates or never occupies the nursing home.

11       Sec. 8. Within 28 days after the effective date of this  
12 act, a person who has received money for nursing home care shall  
13 refund to a patient or the patient's designee that portion of a  
14 payment, fee, or deposit for nursing home care that is not in  
15 compliance with this act.

16       Sec. 9. An applicant or patient who is required to pay an  
17 application fee, reservation deposit, damage deposit, or advance  
18 payment that violates this act may bring a civil action and  
19 recover 3 times his or her actual damages or \$1,000.00, whichever  
20 is greater, plus his or her costs and reasonable attorney fees.

21       Sec. 10. A person who knowingly demands or collects a pay-  
22 ment, fee, or deposit in violation of this act is subject to a  
23 civil fine of \$10,000.00 for each violation.