

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 5431, 5817, 9315, 20201, 21034, and 21761
(MCL 333.5431, 333.5817, 333.9315, 333.20201, 333.21034, and
333.21761), section 5431 as amended by 1992 PA 81 and sections
20201 and 21034 as amended by 1982 PA 354.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5431. (1) A health professional in charge of the care
2 of a newborn infant or, if none, the health professional in
3 charge at the birth of an infant shall administer or cause to be
4 administered to the infant a test for ~~phenylketonuria, galactos-~~
5 ~~emia, hypothyroidism, maple syrup urine disease, biotinidase~~
6 ~~deficiency, sickle cell anemia, congenital adrenal hyperplasia,~~
7 ~~and other~~ EACH OF THE FOLLOWING:

(A) PHENYLKETONURIA.

(B) GALACTOSEMIA.

(C) HYPOTHYROIDISM.

(D) MAPLE SYRUP URINE DISEASE.

(E) BIOTINIDASE DEFICIENCY.

(F) SICKLE CELL ANEMIA.

(G) CONGENITAL ADRENAL HYPERPLASIA.

(H) OTHER treatable but otherwise ~~handicapping~~ DISABLING conditions as designated by the department.

(2) The test REQUIRED UNDER SUBSECTION (1) shall be administered and reported within a time and under conditions prescribed by the department. The department may require that the test be performed by the department.

(3) ~~-(2)-~~ If the results of a test administered under subsection (1) are positive, the results shall be reported to the infant's parents, guardian, or person in loco parentis. A person is in compliance with this subsection if the person makes a good faith effort to report the positive test results to the infant's parent, guardian, or person in loco parentis. ~~Within 90 days after the effective date of the 1992 amendatory act that added this sentence, the department shall submit for promulgation under section 48 of the administrative procedures act of 1969, being section 24.248 of the Michigan Compiled Laws, emergency~~ THE DEPARTMENT SHALL PROMULGATE rules that define a good faith effort to report positive test results for purposes of this subsection.

(4) ~~-(3)-~~ If the department performs a test required under subsection (1), the department may charge a fee for the test of

1 not more than \$25.00. The amount stated in this subsection shall
2 be adjusted annually by an amount determined by the state trea-
3 surer to reflect the cumulative annual percentage change in the
4 Detroit consumer price index. As used in this subsection,
5 "Detroit consumer price index" means the most comprehensive index
6 of consumer prices available for the Detroit area from the bureau
7 of labor statistics of the United States department of labor.

8 (5) ~~-(4)-~~ A person who violates this section or a rule
9 promulgated under this part is guilty of a misdemeanor.

10 (6) ~~-(5)-~~ The department shall provide for a hardship waiver
11 of the fee authorized under subsection ~~-(3)-~~ (4) under circum-
12 stances found appropriate by the department.

13 Sec. 5817. The department shall:

14 (a) Formulate and administer detailed plans to implement the
15 policy stated in section 5805. The plans shall include provi-
16 sions for:

17 (i) Financial participation by this state.

18 (ii) Administration of the plans including methods of admin-
19 istration necessary for efficient operation of the plans.

20 (iii) Maintenance of records and preparation of reports of
21 services rendered.

22 (iv) Cooperation with medical, health, nursing, and welfare
23 groups and organizations, and with any agency of this state
24 charged with the administration of laws providing for vocational
25 rehabilitation and special education of ~~physically handicapped~~
26 children WITH PHYSICAL DISABILITIES.

1 (b) Expend in accordance with the plans funds made available
2 to this state by the federal government for those purposes.

3 (c) Cooperate with the federal government, under title ~~5~~ V
4 of the social security act, ~~of 1935~~ CHAPTER 531, 49 STAT. 620,
5 42 U.S.C. 701 to 716, through its appropriate agency or instru-
6 mentality, in developing, extending, and improving services, pro-
7 vided by this part and in the administration of the plans.

8 Sec. 9315. (1) The director may appoint an advisory commit-
9 tee consisting of health professionals in hearing and vision,
10 physicians and optometrists, and individuals representing
11 schools. The advisory committee shall assist the department with
12 hearing and vision programs and shall conform to the requirements
13 of section 2215.

14 (2) The department shall cooperate with any agency of the
15 state charged with the administration of laws providing for
16 ~~handicapped~~ children WITH DISABILITIES, and with a local health
17 department or other community group in encouraging remedial mea-
18 sures and correctional devices available for children with hear-
19 ing or vision impairment.

20 Sec. 20201. (1) A health facility or agency which provides
21 services directly to patients or residents and which is licensed
22 under this article shall adopt a policy describing the rights and
23 responsibilities of patients or residents admitted to the health
24 facility or agency. Except for a licensed health maintenance
25 organization which shall comply with section 21086, the policy
26 shall be posted at a public place in the facility and shall be

1 provided to each member of the facility staff. Patients or
2 residents shall be treated in accordance with the policy.

3 (2) The policy describing the rights and responsibilities of
4 patients or residents shall include as a minimum:

5 (a) A patient or resident will not be denied appropriate
6 care on the basis of race, religion, color, national origin, sex,
7 age, ~~handicap~~ DISABILITY, marital status, sexual preference, or
8 source of payment.

9 (b) An individual who is or has been a patient or resident
10 is entitled to inspect, or receive for a reasonable fee, a copy
11 of his or her medical record upon request. A third party shall
12 not be given a copy of the patient's or resident's medical record
13 without prior authorization of the patient.

14 (c) A patient or resident is entitled to confidential treat-
15 ment of personal and medical records, and may refuse their
16 release to a person outside the facility except as required
17 because of a transfer to another health care facility or as
18 required by law or third party payment contract.

19 (d) A patient or resident is entitled to privacy, to the
20 extent feasible, in treatment and in caring for personal needs
21 with consideration, respect, and full recognition of his or her
22 dignity and individuality.

23 (e) A patient or resident is entitled to receive adequate
24 and appropriate care, and to receive, from the appropriate indi-
25 vidual within the facility, information about his or her medical
26 condition, proposed course of treatment, and prospects for
27 recovery, in terms that the patient or resident can understand,

1 unless medically contraindicated as documented by the attending
2 physician in the medical record.

3 (f) A patient or resident is entitled to refuse treatment to
4 the extent provided by law and to be informed of the consequences
5 of that refusal. When a refusal of treatment prevents a health
6 facility or its staff from providing appropriate care according
7 to ethical and professional standards, the relationship with the
8 patient or resident may be terminated upon reasonable notice.

9 (g) A patient or resident is entitled to exercise his or her
10 rights as a patient or resident and as a citizen, and to this end
11 may present grievances or recommend changes in policies and serv-
12 ices on behalf of himself or herself or others to the facility
13 staff, to governmental officials, or to another person of his or
14 her choice within or outside the facility, free from restraint,
15 interference, coercion, discrimination, or reprisal. A patient
16 or resident is entitled to information about the facility's poli-
17 cies and procedures for initiation, review, and resolution of
18 patient or resident complaints.

19 (h) A patient or resident is entitled to information con-
20 cerning an experimental procedure proposed as a part of his or
21 her care and shall have the right to refuse to participate in the
22 experiment without jeopardizing his or her continuing care.

23 (i) A patient or resident is entitled to receive and examine
24 an explanation of his or her bill regardless of the source of
25 payment and to receive, upon request, information relating to
26 financial assistance available through the facility.

1 (j) A patient or resident is entitled to know who is
2 responsible for and who is providing his or her direct care, is
3 entitled to receive information concerning his or her continuing
4 health needs and alternatives for meeting those needs, and to be
5 involved in his or her discharge planning, if appropriate.

6 (k) A patient or resident is entitled to associate and have
7 private communications and consultations with his or her physi-
8 cian, attorney, or any other person of his or her choice and to
9 send and receive personal mail unopened on the same day it is
10 received at the health facility or agency, unless medically con-
11 traindicated as documented by the attending physician in the med-
12 ical record. A patient's or resident's civil and religious lib-
13 erties, including the right to independent personal decisions and
14 the right to knowledge of available choices, shall not be
15 infringed and the facility shall encourage and assist in the
16 fullest possible exercise of these rights. A patient or resident
17 may meet with, and participate in, the activities of social,
18 religious, and community groups at his or her discretion, unless
19 medically contraindicated as documented by the attending physi-
20 cian in the medical record.

21 (l) A patient or resident is entitled to be free from mental
22 and physical abuse and from physical and chemical restraints,
23 except those restraints authorized in writing by the attending
24 physician for a specified and limited time or as are necessitated
25 by an emergency to protect the patient or resident from injury to
26 self or others, in which case the restraint may only be applied
27 by a qualified professional who shall set forth in writing the

1 circumstances requiring the use of restraints and who shall
2 promptly report the action to the attending physician. In case
3 of a chemical restraint a physician shall be consulted within 24
4 hours after the commencement of the restraint.

5 (m) A patient or resident is entitled to be free from per-
6 forming services for the facility that are not included for ther-
7 apeutic purposes in the plan of care.

8 (n) A patient or resident is entitled to information about
9 the health facility rules and regulations affecting patient or
10 resident care and conduct.

11 (3) The following additional requirements for the policy
12 described in subsection (2) shall apply to licensees under parts
13 213 and 217:

14 (a) The policy shall be provided to each nursing home
15 patient or home for the aged resident upon admission, and the
16 staff of the facility shall be trained and involved in the imple-
17 mentation of the policy.

18 (b) Each nursing home patient may associate and communicate
19 privately with persons of his or her choice. Reasonable, regular
20 visiting hours, which shall be not less than 8 hours per day, and
21 which shall take into consideration the special circumstances of
22 each visitor, shall be established for patients to receive
23 visitors. A patient may be visited by the patient's attorney or
24 by representatives of the departments named in section 20156,
25 during other than established visiting hours. Reasonable privacy
26 shall be afforded for visitation of a patient who shares a room
27 with another patient. Each patient shall have reasonable access

1 to a telephone. A married nursing home patient or home for the
2 aged resident is entitled to meet privately with his or her
3 spouse in a room which assures privacy. If both spouses are res-
4 idents in the same facility, they are entitled to share a room
5 unless medically contraindicated and documented by the attending
6 physician in the medical record.

7 (c) A nursing home patient or home for the aged resident is
8 entitled to retain and use personal clothing and possessions as
9 space permits, unless to do so would infringe upon the rights of
10 other patients or residents, or unless medically contraindicated
11 as documented by the attending physician in the medical record.
12 Each nursing home patient or home for the aged resident shall be
13 provided with reasonable space. At the request of a patient, a
14 nursing home shall provide for the safekeeping of personal
15 effects, funds, and other property of a patient in accordance
16 with section 21767, except that a nursing home shall not be
17 required to provide for the safekeeping of a property which would
18 impose an unreasonable burden on the nursing home.

19 (d) A nursing home patient or home for the aged resident is
20 entitled to the opportunity to participate in the planning of his
21 or her medical treatment. A nursing home patient shall be fully
22 informed by the attending physician of the patient's medical con-
23 dition unless medically contraindicated as documented by a physi-
24 cian in the medical record. Each nursing home patient shall be
25 afforded the opportunity to discharge himself or herself from the
26 nursing home.

1 (e) A home for the aged resident may be transferred or
2 discharged only for medical reasons, for his or her welfare or
3 that of other residents, or for nonpayment of his or her stay,
4 except as provided by title ~~18 or 19~~ XVIII of the social secur-
5 ity act, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 to ~~1396k~~
6 1395b, 1395b-2, 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO
7 1395t, 1395u TO 1395w-2, 1395w-4 TO 1395yy, AND 1395bbb TO
8 1395ddd, OR BY TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531,
9 49 STAT. 620, 42 U.S.C. 1396 TO 1396f AND 1396g-1 TO 1396w. A
10 nursing home patient may be transferred or discharged only as
11 provided in sections 21773 to 21777. A nursing home patient or
12 home for the aged resident is entitled to be given reasonable
13 advance notice to ensure orderly transfer or discharge. Those
14 actions shall be documented in the medical record.

15 (f) A nursing home patient or home for the aged resident is
16 entitled to be fully informed before or at the time of admission
17 and during stay of services available in the facility, and of the
18 related charges including any charges for services not covered
19 under title ~~18 or 19 of the social security act, 42 U.S.C. 1395~~
20 ~~to 1396k~~ XVIII, or not covered by the facility's basic per diem
21 rate. The statement of services provided by the facility shall
22 be in writing and shall include those required to be offered on
23 an as-needed basis.

24 (g) A nursing home patient or home for the aged resident is
25 entitled to manage his or her own financial affairs, or to have
26 at least a quarterly accounting of personal financial
27 transactions undertaken in his or her behalf by the facility

1 during a period of time the patient or resident has delegated
2 those responsibilities to the facility. In addition, a patient
3 or resident is entitled to receive each month from the facility
4 an itemized statement setting forth the services paid for by or
5 on behalf of the patient and the services rendered by the
6 facility. The admission of a patient to a nursing home does not
7 confer on the nursing home or its owner, administrator, employ-
8 ees, or representatives the authority to manage, use, or dispose
9 of a patient's property.

10 (h) A nursing home patient or a person authorized by a
11 patient in writing may inspect and copy the patient's personal
12 and medical records. The records shall be made available for
13 inspection and copying by the nursing home within a reasonable
14 time, not exceeding 1 week, after the receipt of a written
15 request.

16 (i) If a nursing home patient desires treatment by a
17 licensed member of the healing arts, the treatment shall be made
18 available unless it is medically contraindicated, and the medical
19 contraindication is justified in the patient's medical record by
20 the attending physician.

21 (j) A nursing home patient has the right to have his or her
22 parents, if a minor, or his or her spouse, next of kin, or
23 patient's representative, if an adult, stay at the facility 24
24 hours a day if the patient is considered terminally ill by the
25 physician responsible for the patient's care.

26 (k) Each nursing home patient shall be provided with meals
27 which meet the recommended dietary allowances for that patient's

1 age and sex and which may be modified according to special
2 dietary needs or ability to chew.

3 (1) Each nursing home patient has the right to receive rep-
4 resentatives of approved organizations as provided in section
5 21763.

6 (4) A nursing home, its owner, administrator, employee, or
7 representative shall not discharge, harass, or retaliate or dis-
8 criminate against a patient because the patient has exercised a
9 right protected under this section.

10 (5) In the case of a nursing home patient, the rights enu-
11 merated in subsection (2)(c), (g), and (k) and subsection (3)(d),
12 (g), and (h) may be exercised by the patient's representative as
13 defined in section 21703.

14 (6) A nursing home patient or home for the aged resident is
15 entitled to be fully informed, as evidenced by the patient's or
16 resident's written acknowledgment, before or at the time of
17 admission and during stay, of the policy required by this
18 section. The policy shall provide that if a patient or resident
19 is adjudicated incompetent and not restored to legal capacity,
20 the rights and responsibilities set forth in this section shall
21 be exercised by a person designated by the patient or resident.
22 The facility or agency shall provide proper forms for the patient
23 or resident to provide for the designation of this person at the
24 time of admission.

25 (7) This section shall not be construed to prohibit a health
26 facility or agency from establishing and recognizing additional
27 patients' rights.

1 Sec. 21034. The department, with the concurrence of the
2 insurance bureau, shall issue a license to a health maintenance
3 organization upon being satisfied that:

4 (a) Based on acceptable accounting procedures approved by
5 the insurance bureau, the proposed or operating organization is
6 financially and actuarially sound and has adequate working capi-
7 tal, statutory deposits, and reserves as defined by the
8 following:

9 (i) After the date of this subparagraph takes effect, an
10 applicant for an initial license shall have and maintain a net
11 worth of not less than \$100,000.00. As used in this subpara-
12 graph, "net worth" includes capital paid up, gross paid in and
13 contributed surplus, statutory reserve, unassigned funds, and
14 other surplus funds including surplus notes, guaranty capital
15 funds, and other similar instruments repayable only from earned
16 surplus and with prior insurance bureau approval.

17 (ii) An applicant shall make a deposit of \$100,000.00 with
18 the state treasurer or with a federally or state chartered finan-
19 cial institution under a trust indenture acceptable to the com-
20 missioner for the sole benefit of the subscribers and enrollees
21 in case of insolvency. The deposit shall consist of cash or
22 securities as provided in sections 910 and 912 of the insurance
23 code of 1956, ~~Act No. 218 of the Public Acts of 1956, being sec-~~
24 ~~tions 500.910 and 500.912 of the Michigan Compiled Laws~~ 1956 PA
25 218, MCL 500.910 AND 500.912. Interest earned from this deposit
26 is the property of the health maintenance organization.

1 (iii) In addition to the minimum net worth required by
2 subparagraph (i) and before beginning operations, a health
3 maintenance organization shall have working capital of
4 \$250,000.00 or an amount deemed adequate by the commissioner for
5 the kind of health care delivery system the organization proposes
6 to operate, whichever is greater. This working capital may be
7 acquired through equity or debt.

8 (iv) A health maintenance organization shall maintain a min-
9 imum deposit of 5% of that organization's annual subscription
10 income with the state treasurer or with a federally or state
11 chartered financial institution under a trust indenture accept-
12 able to the commissioner, including the initial deposit required
13 in subparagraph (ii), up to a maximum of \$500,000.00 if the
14 organization has a positive net worth or \$1,000,000.00 if the
15 organization has a negative net worth. The deposit shall be held
16 for the sole benefit of the subscribers and enrollees in case of
17 insolvency. The deposit shall consist of cash or securities as
18 provided in sections 910 and 912 of the insurance code of 1956,
19 ~~Act No. 218 of the Public Acts of 1956~~ 1956 PA 218, MCL 500.910
20 AND 500.912. Interest earned from this deposit is the property
21 of the health maintenance organization. As used in this subpara-
22 graph, and in subparagraphs (v) and (vi), "net worth" means net
23 worth as defined according to generally accepted accounting
24 procedures.

25 (v) If a health maintenance organization's net worth changes
26 from negative to positive and the organization has accumulated a
27 deposit required under subparagraph (iv) in excess of

1 \$500,000.00, the organization may reduce the deposit by
2 \$100,000.00 for each \$100,000.00 positive net worth to a minimum
3 of \$500,000.00.

4 (vi) Within 5 years after the date this subparagraph takes
5 effect or after the beginning of operations, whichever is later,
6 a health maintenance organization shall have a net worth of
7 \$500,000.00 excluding land, buildings, and equipment or
8 \$1,000,000.00 including land, buildings, and equipment. Failure
9 to meet this requirement constitutes reasonable cause under sec-
10 tion 21025(1)(d) but is not necessarily grounds for limitation or
11 revocation of a license.

12 (b) The proposed contract and the proposed rates thereof,
13 including any nominal payments, between the organization and its
14 subscribers are fair, sound, and reasonable in relation to the
15 services provided, and do not discriminate on the basis of race,
16 color, creed, national origin, residence within the approved
17 service area of the health maintenance organization, lawful occu-
18 pation, sex, handicap, or marital status, except that marital
19 status may be used to classify individuals or risks for the pur-
20 pose of insuring family units. The commissioner may approve a
21 rate differential based on sex, age, residence, ~~handicap~~
22 DISABILITY, marital status, or lawful occupation, if the differ-
23 ential is supported by sound actuarial principles, a reasonable
24 classification system, and is related to the actual and credible
25 loss statistics or reasonably anticipated experience in case of
26 new coverages.

1 (c) Solicitation of enrollment subscriptions will not work a
2 fraud on the individual solicited.

3 (d) The proposed health maintenance contracts to be issued
4 by the health maintenance organization include, as a minimum, the
5 primary health maintenance services specified in section 21007(1)
6 during the period for which the initial license will be issued,
7 and the contracts issued or in effect after the date of the first
8 renewal of the license shall include, as a minimum, the basic
9 health services specified in section 21003.

10 (e) The person proposes to establish and operate a bona fide
11 health maintenance organization able to provide, as appropriate,
12 health maintenance services in a manner which assures continuity
13 and imparts quality health care under conditions the department
14 deems to be in the public interest.

15 (f) Within the geographic area served by the health mainte-
16 nance organization, the services will be available, accessible,
17 and provided as promptly as appropriate to each of its enrollees
18 in a manner which assures continuity, and will be available and
19 accessible to enrollees 24 hours a day and 7 days a week for the
20 treatment of emergency episodes of illness or injury.

21 (g) The arrangements for continuing evaluation of the qual-
22 ity of health care are adequate.

23 (h) Reasonable provisions exist to provide or obtain emer-
24 gency health services both within and outside of the geographic
25 area served by the health maintenance organization.

26 (i) A reasonable procedure exists for resolving enrollee
27 grievances as required by this part.

1 (j) The health maintenance organization is incorporated as a
2 distinct legal entity under the business corporation act, ~~Act~~
3 ~~No. 284 of the Public Acts of 1972, being sections 450.1101 to~~
4 ~~450.2099 of the Michigan Compiled Laws~~ 1972 PA 284, MCL 450.1101
5 TO 450.2098, or the nonprofit corporation act, ~~Act No. 162 of~~
6 ~~the Public Acts of 1982, being sections 450.2101 to 450.3099 of~~
7 ~~the Michigan Compiled Laws~~ 1982 PA 162, MCL 450.2101 TO
8 450.3192.

9 (k) The health maintenance organization maintains financial
10 records for its health maintenance activities separate from the
11 financial records of any other operation or activity carried on
12 by the person licensed under this part to operate the health
13 maintenance organization.

14 (l) The health maintenance organization has a governing body
15 that meets the requirements of section 21051.

16 Sec. 21761. (1) In addition to the requirements of section
17 20152, a licensee shall certify annually to the department, as
18 part of its application for licensure and certification, that all
19 phases of its operation, including its training program, are
20 without discrimination against persons or groups of persons on
21 the basis of race, religion, color, national origin, sex, age,
22 ~~handicap~~ DISABILITY, marital status, sexual preference, or the
23 exercise of rights guaranteed by law, including freedom of speech
24 and association. If the department finds a violation of rights
25 enumerated in this section, the department shall direct the
26 administrator of the nursing home to take the necessary action to

1 assure that the nursing home is, in fact, operated in accordance
2 with the rights listed in this section.

3 (2) This section shall not be construed to prevent a nursing
4 home operated, supervised, or controlled by a religious or fra-
5 ternal institution or organization from giving preference to
6 applicants who are members of that religious or fraternal insti-
7 tution or organization.