

SUBSTITUTE FOR  
HOUSE BILL NO. 4362

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 21720a (MCL 333.21720a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21720a. (1) ~~A~~ THE DEPARTMENT SHALL NOT LICENSE A  
2 nursing home ~~shall not be licensed~~ under this part unless  
3 ~~that~~ THE nursing home has on its staff at least 1 registered  
4 PROFESSIONAL nurse LICENSED UNDER ARTICLE 15 with specialized  
5 training or relevant experience in the area of gerontology, who  
6 ~~shall serve~~ SERVES as the director of nursing, and who ~~shall~~  
7 ~~be~~ IS responsible for planning and directing nursing care. The  
8 nursing home shall have at least 1 ~~licensed nurse~~ REGISTERED  
9 PROFESSIONAL NURSE OR LICENSED PRACTICAL NURSE LICENSED UNDER  
10 ARTICLE 15 on duty at all times and shall employ additional  
11 registered PROFESSIONAL NURSES and licensed practical nurses ~~in~~

**HB4362, As Passed House, May 30, 2000**

House Bill No. 4362

2

1 ~~accordance~~ AS NECESSARY TO COMPLY with subsection (2). ~~This~~  
2 ~~subsection shall not take effect until January 1, 1980.~~

3 (2) A nursing home shall employ ~~nursing personnel~~ DIRECT  
4 PATIENT CARE PROVIDERS sufficient to provide continuous 24-hour  
5 nursing care and services sufficient to meet the needs of each  
6 patient in the nursing home. ~~Nursing personnel~~ DIRECT PATIENT  
7 CARE PROVIDERS employed in the nursing home shall be under the  
8 supervision of the director of nursing. ~~A licensee shall main-~~  
9 ~~tain a nursing home staff sufficient to provide not less than~~  
10 ~~2.25 hours of nursing care by employed nursing care personnel per~~  
11 ~~patient per day. The ratio of patients to nursing care personnel~~  
12 ~~during a morning shift shall not exceed 8 patients to 1 nursing~~  
13 ~~care personnel; the ratio of patients to nursing care personnel~~  
14 ~~during an afternoon shift shall not exceed 12 patients to 1 nurs-~~  
15 ~~ing care personnel; and the ratio of patients to nursing care~~  
16 ~~personnel during a nighttime shift shall not exceed 15 patients~~  
17 ~~to 1 nursing care personnel and there shall be sufficient nursing~~  
18 ~~care personnel available on duty to assure coverage for patients~~  
19 ~~at all times during the shift. An employee designated as a~~  
20 ~~member of the nursing staff shall not be engaged in providing~~  
21 ~~basic services such as food preparation, housekeeping, laundry,~~  
22 ~~or maintenance services, except in an instance of natural~~  
23 ~~disaster or other emergency reported to and concurred in by the~~  
24 ~~department. In a nursing home having 30 or more beds, the direc-~~  
25 ~~tor of nursing shall not be included in counting the minimum~~  
26 ~~ratios of nursing personnel required by this subsection.~~ SUBJECT  
27 TO SUBSECTION (4) AND EXCEPT AS OTHERWISE PROVIDED IN

01060'99 (H-1)

**HB4362, As Passed House, May 30, 2000**

House Bill No. 4362

3

1 SECTION 21720C(1), A LICENSEE SHALL MAINTAIN A NURSING HOME  
2 STAFF-TO-PATIENT RATIO SUFFICIENT TO PROVIDE NOT LESS THAN 3.0  
3 HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER  
4 PER PATIENT PER DAY. THE STAFF-TO-PATIENT RATIO REQUIRED UNDER  
5 THIS SUBSECTION SHALL BE COMPUTED ON A 24-HOUR BASIS SO THAT AT  
6 NO TIME DURING THE 24-HOUR PERIOD DOES THE STAFF-TO-PATIENT RATIO  
7 FALL BELOW 1 DIRECT PATIENT CARE PROVIDER TO 15 NURSING HOME  
8 PATIENTS.

9 ~~-(3) In administering this section, the department shall~~  
10 ~~take into consideration a natural disaster or other emergency.~~

11 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUB-  
12 SECTION (4), A NURSING HOME SHALL NOT USE AN INDIVIDUAL WHO IS  
13 NOT A DIRECT PATIENT CARE PROVIDER IN COMPUTING THE  
14 STAFF-TO-PATIENT RATIO AND HOURS-PER-PATIENT-PER-DAY REQUIREMENT  
15 UNDER SUBSECTION (2). HOWEVER, THE NURSING HOME MAY USE SUCH AN  
16 INDIVIDUAL TO PROVIDE SOME TYPES OF DIRECT PATIENT CARE, IF THE  
17 NURSING HOME PROVIDES THE INDIVIDUAL WITH THE TRAINING REQUIRED  
18 UNDER SECTION 21795 FOR EACH TYPE OR ELEMENT OF DIRECT PATIENT  
19 CARE PROVIDED. A NURSING HOME MAY, FOR PURPOSES OF COMPUTING THE  
20 STAFF-TO-PATIENT RATIO AND HOURS-PER-PATIENT-PER-DAY REQUIREMENT  
21 UNDER SUBSECTION (2), USE AN INDIVIDUAL WHO HAS COMPLETED THE  
22 APPLICABLE TRAINING REQUIRED UNDER TITLE XVIII OR TITLE XIX, BUT  
23 HAS NOT YET BEEN TESTED AS REQUIRED UNDER TITLE XVIII AND TITLE  
24 XIX, AS LONG AS NOT MORE THAN 120 DAYS HAVE ELAPSED SINCE THE  
25 INDIVIDUAL COMPLETED THE TRAINING.

26 (4) IN COMPUTING THE STAFF-TO-PATIENT RATIO AND THE  
27 HOURS-PER-PATIENT-PER-DAY REQUIREMENT UNDER SUBSECTION (2) DURING

**HB4362, As Passed House, May 30, 2000**

Sub. H.B. 4362 (H-1) as amended May 30, 2000 4

1 AN EMERGENCY, A NURSING HOME MAY USE A NURSING HOME STAFF MEMBER  
2 WHO IS A REGISTERED PROFESSIONAL NURSE OR A LICENSED PRACTICAL  
3 NURSE LICENSED UNDER ARTICLE 15 AND IS NOT NORMALLY USED IN COM-  
4 PUTING THE RATIO AND REQUIREMENT BECAUSE THE STAFF MEMBER PER-  
5 FORMS PRIMARILY ADMINISTRATIVE FUNCTIONS, IF THE STAFF MEMBER  
6 PROVIDES DIRECT PATIENT CARE DURING THE EMERGENCY, BUT ONLY FOR  
7 AS LONG AS THE EMERGENCY EXISTS.

8 (5) FOR PURPOSES OF SUBSECTION (2), FROM [APRIL 1, 2001] TO  
9 [OCTOBER] 1, 2001, A LICENSEE SHALL ASSURE THAT THE NUMBER OF HOURS  
10 OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER  
11 PATIENT PER DAY IN THE NURSING HOME IS NOT LESS THAN 2.75. FROM  
12 [OCTOBER 2, 2001 TO APRIL 1, 2002], A LICENSEE SHALL ASSURE THAT  
13 THE NUMBER OF HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT  
14 CARE PROVIDER PER PATIENT PER DAY IN THE NURSING HOME IS NOT LESS  
15 THAN 2.85. AFTER [APRIL 1, 2002], A LICENSEE SHALL ASSURE THAT  
16 THE NUMBER OF HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT  
17 CARE PROVIDER PER PATIENT PER DAY IN THE NURSING HOME IS NOT LESS  
18 THAN 3.0.

19 (6) IF A DIRECT PATIENT CARE PROVIDER PERFORMS DUTIES OTHER  
20 THAN DIRECT PATIENT CARE DURING HIS OR HER SHIFT, THE NURSING  
21 HOME MAY COUNT THE NUMBER OF DIRECT PATIENT CARE HOURS PROVIDED  
22 BY THE DIRECT PATIENT CARE PROVIDER DURING THE SHIFT IN COMPUTING  
23 COMPLIANCE WITH SUBSECTION (2) OR SUBSECTION (5), OR BOTH. A  
24 NURSING HOME MAY USE THE TIME A DIRECT PATIENT CARE PROVIDER  
25 SPENDS IN DOCUMENTING THE DIRECT PATIENT CARE THAT HE OR SHE PRO-  
26 VIDED IN COMPUTING COMPLIANCE WITH SUBSECTION (2) OR SUBSECTION  
27 (5), OR BOTH.

01060'99 (H-1)

**HB4362, As Passed House, May 30, 2000**

House Bill No. 4362

5

1       (7) A DIRECT PATIENT CARE PROVIDER SHALL NOT PROVIDE  
2 SERVICES OTHER THAN DIRECT PATIENT CARE TO PATIENTS IN A NURSING  
3 HOME, INCLUDING, BUT NOT LIMITED TO, FOOD PREPARATION, HOUSEKEEP-  
4 ING, LAUNDRY, AND MAINTENANCE SERVICES, EXCEPT IN TIME OF NATURAL  
5 DISASTER OR OTHER EMERGENCY CIRCUMSTANCES THAT ARE REPORTED TO  
6 AND CONCURRED IN BY THE DEPARTMENT. A NURSING HOME MAY DIRECT A  
7 NURSING HOME EMPLOYEE WHO IS NOT QUALIFIED AS A DIRECT PATIENT  
8 CARE PROVIDER TO PROVIDE DIRECT PATIENT CARE IN TIME OF NATURAL  
9 DISASTER OR OTHER EMERGENCY CIRCUMSTANCES THAT ARE REPORTED TO  
10 AND CONCURRED IN BY THE DEPARTMENT. A NURSING HOME MAY USE THE  
11 HOURS OF DIRECT PATIENT CARE PROVIDED UNDER THIS SUBSECTION IN  
12 COMPUTING COMPLIANCE WITH SUBSECTION (2) OR SUBSECTION (5), OR  
13 BOTH.

14       (8) AS USED IN THIS SECTION AND SECTION 21720C:

15       (A) "COMPETENCY-EVALUATED NURSE ASSISTANT" MEANS A NURSE'S  
16 AIDE OR NURSE ASSISTANT TRAINED AS REQUIRED UNDER SECTION  
17 1819(b)(5) OF TITLE XIII OF THE SOCIAL SECURITY ACT, CHAPTER 531,  
18 49 STAT. 620, 42 U.S.C. 1395i-3, AND UNDER SECTION 1919(b)(5) OF  
19 TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,  
20 42 U.S.C. 1396r.

21       (B) "DIRECT PATIENT CARE" MEANS 1 OR MORE OF THE FOLLOWING  
22 ACTIVITIES OR SERVICES PROVIDED BY A DIRECT PATIENT CARE PROVIDER  
23 TO A PATIENT IN A NURSING HOME AS REQUIRED BY THE PATIENT'S CARE  
24 PLAN:

25       (i) PERSONAL CARE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE  
26 FOLLOWING: BATHING A PATIENT WHILE ENCOURAGING THE PATIENT'S  
27 INDEPENDENCE; SUPPORTIVE AND PREVENTATIVE SKIN CARE; ROUTINE

1 MORNING AND EVENING MOUTH CARE; HAIR AND NAIL CARE; SHAVING;  
2 DRESSING AND UNDRESSING, WITH EMPHASIS ON ENCOURAGING AND MAIN-  
3 TAINING THE PATIENT'S INDEPENDENCE; ASSISTING IN THE USE OF PROS-  
4 THETIC DEVICES; AND OTHER MATTERS OF PERSONAL HYGIENE.

5       (ii) NUTRITION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE  
6 FOLLOWING: MAKING MEALTIME A PLEASANT EXPERIENCE; MEASURING AND  
7 RECORDING THE PATIENT'S FOOD INTAKE; ASSISTING THE PATIENT IN  
8 INCREASING OR REDUCING FLUID INTAKE; ASSISTING THE PATIENT IN  
9 EATING, WITH EMPHASIS ON ENCOURAGING THE PATIENT'S INDEPENDENCE  
10 AND DIGNITY.

11       (iii) ELIMINATION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE  
12 FOLLOWING: ENCOURAGING AND MAINTAINING THE PATIENT'S INDEPEN-  
13 DENCE IN TOILET, BEDPAN, AND URINAL USE; CATHETER CARE; PREVENT-  
14 ING INCONTINENCE; THE PREVENTION OF CONSTIPATION; PERINEAL CARE;  
15 MEASURING AND RECORDING BLADDER OUTPUT; URINE TESTING; AND BOWEL  
16 AND BLADDER TRAINING.

17       (iv) RESTORATION AND REHABILITATION, INCLUDING, BUT NOT  
18 LIMITED TO, ALL OF THE FOLLOWING: ASSISTANCE AND ENCOURAGEMENT  
19 WITH AMBULATION, WALKING, AND TRANSFERRING FROM LOCATION TO LOCA-  
20 TION OR FROM POSITION TO POSITION; TURNING A PATIENT; MAINTAINING  
21 PROPER BODY ALIGNMENT; RANGE OF MOTION EXERCISES; THE USE OF  
22 AMBULATION AIDS, SUCH AS WHEELCHAIRS, WALKERS, CANES, AND  
23 CRUTCHES; UTILIZING TRANSFER TECHNIQUES AND THE PROPER BODY  
24 MECHANICS INVOLVED IN LIFTING A PATIENT OR AN OBJECT; USING BED  
25 BOARDS, FOOT BOARDS, FOOT STOOLS, TROCHANTER ROLLS, PILLOWS FOR  
26 POSITIONING, AND ORTHOTIC DEVICES.

1           (v) FEEDING AND CLOTHING PATIENTS AND MAKING AND CHANGING  
2 BEDS.

3           (vi) ADMINISTRATION OF MEDICATIONS AND TREATMENTS.

4           (vii) OTHER ACTIVITIES OR SERVICES, OR BOTH, PERFORMED WITH  
5 OR FOR THE DIRECT PATIENT CARE PROVIDER'S ASSIGNED PATIENT THAT  
6 ENHANCES THAT PATIENT'S QUALITY OF LIFE.

7           (C) "DIRECT PATIENT CARE PROVIDER" MEANS AN INDIVIDUAL WHO  
8 IS A REGISTERED PROFESSIONAL NURSE LICENSED UNDER ARTICLE 15 OR A  
9 LICENSED PRACTICAL NURSE LICENSED UNDER ARTICLE 15 AND WHOSE PRI-  
10 MARY FUNCTION IS AS A NURSE, OR AN INDIVIDUAL WHO IS CERTIFIED,  
11 AT A MINIMUM, AS A COMPETENCY-EVALUATED NURSE ASSISTANT, WHO IS  
12 EMPLOYED BY OR UNDER CONTRACT TO A NURSING HOME, AND WHO PROVIDES  
13 DIRECT PATIENT CARE IN THE NURSING HOME. DIRECT PATIENT CARE  
14 PROVIDER DOES NOT INCLUDE THE FOLLOWING:

15           (i) THE DIRECTOR OF NURSING FOR A NURSING HOME.

16           (ii) A QUALITY ASSURANCE NURSE FOR A NURSING HOME.

17           (iii) A STAFF DEVELOPMENT NURSE FOR A NURSING HOME.

18           (iv) A PHYSICAL THERAPIST LICENSED UNDER ARTICLE 15.

19           (v) A CERTIFIED SPEECH AND LANGUAGE THERAPIST.

20           (vi) AN OCCUPATIONAL THERAPIST REGISTERED UNDER ARTICLE 15.

21           (vii) AN ACTIVITIES DIRECTOR OR ACTIVITIES STAFF.

22           (viii) AN INDIVIDUAL WHO IS HIRED AND PAID PRIVATELY BY A  
23 PATIENT OR THE PATIENT'S FAMILY AND WHO WORKS ONLY WITH THAT  
24 PATIENT.

25           (D) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY  
26 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,  
27 1395b-6 TO 1395b-7, 1395c TO 1395i, 1395i-2 TO 1395i-5, 1395j TO

**HB4362, As Passed House, May 30, 2000**

Sub. H.B. 4362 (H-1) as amended May 30, 2000 8

1 1395t, 1395u TO 1395w, 1395w-2 TO 1395w-4, 1395w-21 TO 1395w-28,  
2 1395x TO 1395yy, AND 1395bbb TO 1395ggg.

3 (E) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,  
4 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f, 1396g-1 TO  
5 1396r-6, AND 1396r-8 TO 1396v.

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12 (9) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT  
13 LIMIT, MODIFY, OR OTHERWISE AFFECT THE PRACTICE OF NURSING AS  
14 THAT TERM IS DEFINED IN SECTION 17201.

15 Enacting section 1. This amendatory act takes effect [October]  
16 1, 2000.

17 Enacting section 2. This amendatory act does not take  
18 effect unless House Bill No. 5827 of the 90th Legislature is  
19 enacted into law.