

SUBSTITUTE FOR  
HOUSE BILL NO. 6094

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 21734.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21734. (1) NOTWITHSTANDING SECTION 20201(2)(l), A  
2 NURSING HOME SHALL GIVE EACH RESIDENT WHO USES A HOSPITAL-TYPE  
3 BED OR THE RESIDENT'S LEGAL GUARDIAN, PATIENT ADVOCATE, OR OTHER  
4 LEGAL REPRESENTATIVE THE OPTION OF HAVING BED RAILS. A NURSING  
5 HOME SHALL OFFER THE OPTION TO NEW RESIDENTS UPON ADMISSION AND  
6 TO OTHER RESIDENTS UPON REQUEST. UPON RECEIPT OF A REQUEST FOR  
7 BED RAILS, THE NURSING HOME SHALL INFORM THE RESIDENT OR THE  
8 RESIDENT'S LEGAL GUARDIAN, PATIENT ADVOCATE, OR OTHER LEGAL REP-  
9 RESENTATIVE OF ALTERNATIVES TO AND THE RISKS INVOLVED IN USING  
10 BED RAILS. A RESIDENT OR THE RESIDENT'S LEGAL GUARDIAN, PATIENT  
11 ADVOCATE, OR OTHER LEGAL REPRESENTATIVE HAS THE RIGHT TO REQUEST

**HB6094, As Passed House, November 30, 2000**

Sub. HB 6094 (H-2) as amended November 30, 2000

2

1 AND CONSENT TO BED RAILS FOR THE RESIDENT. A NURSING HOME THAT  
2 PROVIDES BED RAILS UNDER THIS SUBSECTION SHALL DO ALL OF THE  
3 FOLLOWING:

4 (A) DOCUMENT THAT THE REQUIREMENTS OF THIS SUBSECTION HAVE  
5 BEEN MET.

6 (B) MONITOR THE RESIDENT'S USE OF THE BED RAILS.

7 (C) IN CONSULTATION WITH THE INDIVIDUAL WHO CONSENTED TO THE  
8 BED RAILS, PERIODICALLY REEVALUATE THE RESIDENT'S NEED FOR THE  
9 BED RAILS.

10 (2) IF A RESIDENT OR HIS OR HER LEGAL GUARDIAN, PATIENT  
11 ADVOCATE, OR OTHER LEGAL REPRESENTATIVE CHOOSES BED RAILS UNDER  
12 SUBSECTION (1), THE NURSING HOME MAY REQUIRE THE RESIDENT, LEGAL  
13 GUARDIAN, PATIENT ADVOCATE, OR OTHER LEGAL REPRESENTATIVE TO SIGN  
14 A STATEMENT WAIVING THE RESIDENT'S RIGHT TO FILE A CIVIL ACTION  
15 FOR DAMAGES FOR AN INJURY CAUSED BY THE USE OF THE BED RAILS IF  
16 THE INJURY IS NOT THE RESULT OF NEGLIGENCE ON THE PART OF THE  
17 NURSING HOME OR AN EMPLOYEE OF THE NURSING HOME.

18 (3) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL  
19 ESTABLISH AN ADVISORY COMMISSION ON BED RAILS USED IN NURSING  
20 HOMES. THE DEPARTMENT SHALL APPOINT [12] MEMBERS TO THE ADVISORY  
21 COMMISSION, AS FOLLOWS:

22 (A) FOUR MEMBERS REPRESENTING NURSING HOMES, 2 WHO REPRESENT  
23 FOR-PROFIT NURSING HOMES AND 2 WHO REPRESENT NONPROFIT NURSING  
24 HOMES.

25 (B) ONE MEMBER REPRESENTING COUNTY MEDICAL CARE FACILITIES.

26 (C) TWO MEMBERS REPRESENTING THE DEPARTMENT.

**HB6094, As Passed House, November 30, 2000**

Sub. HB 6094 (H-2) as amended November 30, 2000 3

1 (D) ONE MEMBER REPRESENTING MANUFACTURERS OF BED RAILS.

2 (E) ONE MEMBER WITH EXPERTISE IN THE INSTALLATION AND USE OF  
3 BED RAILS.

4 (F) THE MICHIGAN LONG-TERM CARE OMBUDSMAN OR HIS OR HER  
5 DESIGNEE.

[ (G) TWO MEMBERS SHALL BE EITHER A RESIDENT OR A FAMILY MEMBER  
OF A RESIDENT. ]

6 (4) THE ADVISORY COMMISSION CREATED IN SUBSECTION (3) SHALL  
7 DEVELOP CLEAR AND UNIFORM STANDARDS TO BE USED IN DETERMINING  
8 WHAT CONSTITUTES AN ACCEPTABLE BED RAIL FOR USE BY NURSING HOMES  
9 IN THIS STATE. NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE  
10 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE ADVISORY COM-  
11 MISSION SHALL SUBMIT THE STANDARDS AS RECOMMENDATIONS TO THE  
12 DEPARTMENT AND TO THE LEGISLATURE. THE DEPARTMENT SHALL PROMUL-  
13 GATE RULES BASED ON THE RECOMMENDATIONS.

14 (5) A NURSING HOME THAT COMPLIES WITH SUBSECTION (1) AND THE  
15 RULES PROMULGATED UNDER SUBSECTION (4) IN PROVIDING BED RAILS TO  
16 A RESIDENT UNDER SUBSECTION (1) IS NOT SUBJECT TO ADMINISTRATIVE  
17 PENALTIES IMPOSED BY THE DEPARTMENT BASED SOLELY ON PROVIDING THE  
18 BED RAILS.

[ (6) IF NO UNIFORM STANDARDS CAN BE DEVELOPED BY THIS ADVISORY  
COMMITTEE, THEN THE LEGISLATURE MAY TAKE THE NECESSARY STEPS TO  
REPEAL THIS AMENDATORY ACT. ]