

HOUSE BILL No. 4362

March 2, 1999, Introduced by Reps. Price, Jamnick, Cherry, Lockwood, Switalski, Hansen, Brater, Hale, Vaughn, Kelly, Lemmons, Garza, Frank, Gielegghem, Rivet, LaForge, Jacobs, Reeves, Bogardus, Minore, Schauer, Woodward, Martinez, Spade, Dennis, Clarke, Daniels, Kilpatrick and Thomas and referred to the Committee on Senior Health, Security and Retirement.

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~~

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 SUBSECTION

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

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

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

25 (4) IN COMPUTING THE STAFF-TO-PATIENT RATIO AND THE
26 HOURS-PER-PATIENT-PER-DAY REQUIREMENT UNDER SUBSECTION (2) DURING
27 AN EMERGENCY, A NURSING HOME MAY USE A NURSING HOME STAFF MEMBER

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

7 (5) FOR PURPOSES OF SUBSECTION (2), FROM OCTOBER 1, 1999 TO
8 APRIL 1, 2000, A LICENSEE SHALL ASSURE THAT THE NUMBER OF HOURS
9 OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER
10 PATIENT PER DAY IN THE NURSING HOME IS NOT LESS THAN 2.75. FROM
11 APRIL 2, 2000 TO OCTOBER 1, 2000, A LICENSEE SHALL ASSURE THAT
12 THE NUMBER OF HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT
13 CARE PROVIDER PER PATIENT PER DAY IN THE NURSING HOME IS NOT LESS
14 THAN 2.85. AFTER OCTOBER 1, 2000, A LICENSEE SHALL ASSURE THAT
15 THE NUMBER OF HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT
16 CARE PROVIDER PER PATIENT PER DAY IN THE NURSING HOME IS NOT LESS
17 THAN 3.0.

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

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) SUBJECT TO SUBSECTION (9), IF A NURSING HOME'S COSTS OF
15 OPERATION ARE INCREASED AS A RESULT OF ITS COMPLIANCE WITH THE
16 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE NURSING HOME MAY
17 ADVISE THE DEPARTMENT IN WRITING OF THE INCREASED OPERATIONAL
18 COSTS. THE NURSING HOME MAY INCLUDE IN THE WRITTEN ADVISORY A
19 REQUEST FOR REIMBURSEMENT FROM THE DEPARTMENT FOR THE INCREASED
20 COSTS. UPON RECEIPT OF A WRITTEN ADVISORY FROM A NURSING HOME
21 UNDER THIS SUBSECTION THAT INCLUDES A REQUEST FOR REIMBURSEMENT,
22 THE DEPARTMENT SHALL IMMEDIATELY ADJUST THE NURSING HOME'S PER
23 DIEM REIMBURSEMENT UNDER TITLE XVIII IN AN AMOUNT SUFFICIENT TO
24 REIMBURSE THE NURSING HOME FOR THE INCREASED COSTS. THE DEPART-
25 MENT SHALL INCREASE THE NURSING HOME'S PER DIEM REIMBURSEMENT
26 RATE UNDER THIS SUBSECTION REGARDLESS OF PREVIOUSLY APPLIED COST
27 LIMITS. IF THE DEPARTMENT FAILS TO ADJUST A NURSING HOME'S PER

1 DIEM REIMBURSEMENT RATE UNDER THIS SUBSECTION WITHIN 30 DAYS
2 AFTER RECEIVING A WRITTEN ADVISORY THAT INCLUDES A REQUEST FOR
3 REIMBURSEMENT UNDER THIS SUBSECTION, THEN ALL OF THE FOLLOWING
4 SHALL OCCUR:

5 (A) THE NURSING HOME IS EXEMPT FROM THE STAFF-TO-PATIENT
6 RATIOS AND THE HOURS-PER-PATIENT-PER-DAY REQUIREMENTS OF THIS
7 SECTION UNTIL THE DEPARTMENT ADJUSTS THE NURSING HOME'S PER DIEM
8 REIMBURSEMENT RATE UNDER THIS SUBSECTION.

9 (B) THE NURSING HOME SHALL PROVIDE EACH PATIENT WITH NOT
10 LESS THAN 2.25 HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT
11 CARE PROVIDER AND SHALL MAINTAIN THE STAFF-TO-PATIENT RATIO
12 REQUIRED UNDER THIS SECTION BEFORE IT WAS AMENDED BY THE AMENDA-
13 TORY ACT THAT ADDED THIS SUBSECTION.

14 (C) WITHIN 30 DAYS AFTER BEING NOTIFIED BY THE DEPARTMENT
15 THAT THE NURSING HOME'S STATUS HAS CHANGED AND THAT THE NURSING
16 HOME WILL BE REIMBURSED AT THE APPROPRIATE LEVEL, THE NURSING
17 HOME SHALL RETURN TO THE STAFF-TO-PATIENT RATIO AND THE
18 HOURS-PER-PATIENT-PER-DAY REQUIREMENT REQUIRED BY THE AMENDATORY
19 ACT THAT ADDED THIS SUBSECTION.

20 (9) SUBSECTION (8) IS NOT INTENDED AS A REMEDY THAT ALLOWS
21 THE DEPARTMENT TO REIMBURSE A NURSING HOME AT A RATE THAT ALLOWS
22 THE NURSING HOME TO MAINTAIN A NURSING HOME STAFF-TO-PATIENT
23 RATIO THAT IS NOT SUFFICIENT TO PROVIDE AT LEAST 3.0 HOURS OF
24 DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER PATIENT
25 PER DAY AS REQUIRED UNDER SUBSECTION (2). IT IS THE INTENT OF
26 THE LEGISLATURE THAT THE DEPARTMENT REIMBURSE NURSING HOMES UNDER
27 TITLE XVIII IN AN AMOUNT SUFFICIENT TO MAINTAIN THE

1 STAFF-TO-PATIENT RATIO AND THE NUMBER OF DIRECT PATIENT CARE
2 HOURS PER PATIENT PER DAY REQUIRED UNDER SUBSECTION (2). IF THE
3 DEPARTMENT FAILS TO ADJUST A NURSING HOME'S REIMBURSEMENT RATE
4 UNDER SUBSECTION (8) WITHIN THE 30-DAY TIME PERIOD REQUIRED UNDER
5 SUBSECTION (8), THE DEPARTMENT IMMEDIATELY SHALL FILE A WRITTEN
6 REPORT WITH THE STANDING APPROPRIATIONS COMMITTEES OF THE SENATE
7 AND THE HOUSE OF REPRESENTATIVES AND WITH THE APPROPRIATE
8 SUBCOMMITTEES. THE DEPARTMENT SHALL INCLUDE IN THE REPORT ITS
9 REASONS FOR FAILING TO ADJUST THE NURSING HOME'S REIMBURSEMENT
10 RATE IN COMPLIANCE WITH THIS SECTION.

11 (10) THE DEPARTMENT SHALL DETERMINE WHETHER A NURSING HOME'S
12 OPERATIONAL COSTS WERE ACTUALLY INCREASED AS DESCRIBED IN SUBSEC-
13 TION (8) DURING THE DEPARTMENT'S AUDIT OF THE NURSING HOME'S
14 ANNUAL COST REPORT. IF THE DEPARTMENT DETERMINES AS A RESULT OF
15 THE AUDIT THAT THE NURSING HOME'S COSTS WERE NOT IN FACT
16 INCREASED, THE DEPARTMENT MAY RETROACTIVELY DISALLOW THE
17 INCREASED COSTS CLAIMED BY THE NURSING HOME IN AN AMOUNT EQUAL TO
18 THE AMOUNT OF COSTS DETERMINED BY THE DEPARTMENT NOT TO HAVE BEEN
19 INCURRED BY THE NURSING HOME. A RETROACTIVE DISALLOWANCE BY THE
20 DEPARTMENT UNDER THIS SUBSECTION IS AN "ADVERSE ACTION" AS THAT
21 TERM IS DEFINED IN R 400.3401 OF THE MICHIGAN ADMINISTRATIVE CODE
22 AND IS SUBJECT TO APPEAL UNDER R 400.3401 TO R 400.3425 OF THE
23 MICHIGAN ADMINISTRATIVE CODE.

24 (11) A NURSING HOME MAY FILE WITH THE DEPARTMENT A PETITION
25 FOR TEMPORARY, EMERGENCY RATE RELIEF FROM THE STAFF-TO-PATIENT
26 RATIO AND THE DIRECT PATIENT CARE HOURS-PER-PATIENT-PER-DAY
27 REQUIREMENT OF SUBSECTION (2) OR THE MINIMUM HOURS OF DIRECT

1 PATIENT CARE REQUIRED UNDER SUBSECTION (5), OR BOTH. THE
2 DEPARTMENT MAY GRANT THE NURSING HOME'S PETITION FOR TEMPORARY,
3 EMERGENCY RATE RELIEF IF THE NURSING HOME DEMONSTRATES TO THE
4 SATISFACTION OF THE DEPARTMENT THAT THE STAFF-TO-PATIENT RATIO
5 AND THE DIRECT PATIENT CARE HOURS-PER-PATIENT-PER-DAY REQUIREMENT
6 OF SUBSECTION (2) OR THE MINIMUM NUMBER OF HOURS OF DIRECT
7 PATIENT CARE REQUIRED UNDER SUBSECTION (5), OR BOTH, HAS A SUB-
8 STANTIAL EFFECT ON THE NURSING HOME'S OPERATING COSTS. THE
9 DEPARTMENT SHALL ISSUE A DECISION ON A PETITION FILED UNDER THIS
10 SUBSECTION WITHIN 90 DAYS AFTER RECEIPT OF THE PETITION. IF THE
11 DEPARTMENT DENIES THE PETITION, THE DEPARTMENT SHALL PROVIDE THE
12 NURSING HOME, IN WRITING, WITH THE REASONS FOR THE DENIAL. IF
13 THE DEPARTMENT FAILS TO ISSUE A DECISION ON A PETITION WITHIN THE
14 90-DAY TIME LIMIT, THE PETITION IS GRANTED.

15 (12) A NURSING HOME MAY APPEAL A DENIAL OF A PETITION FOR
16 TEMPORARY, EMERGENCY RATE RELIEF UNDER SUBSECTION (11). THE
17 DEPARTMENT SHALL HOLD A HEARING ON THE APPEAL. THE DEPARTMENT OR
18 THE DEPARTMENT'S DESIGNEE SHALL CONDUCT THE HEARING IN A LESS
19 FORMAL MANNER THAN IT WOULD CONDUCT A CONTESTED CASE HEARING
20 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969. THE DEPARTMENT
21 SHALL ALLOW A REPRESENTATIVE OF THE NURSING HOME TO PRESENT
22 INFORMATION, DATA, AND OTHER EVIDENCE IN SUPPORT OF GRANTING THE
23 PETITION UNDER SUBSECTION (11). THE DEPARTMENT OR THE
24 DEPARTMENT'S DESIGNEE SHALL PRESENT THE DEPARTMENT'S REASONS FOR
25 DENYING THE PETITION. THE DEPARTMENT SHALL ISSUE A WRITTEN DECISION ON THE APPEAL WITHIN 30 DAYS AFTER THE HEARING HELD UNDER
26 THIS SUBSECTION. THE DEPARTMENT SHALL INCLUDE IN THE WRITTEN
27

1 DECISION THE REASONS FOR DENYING THE APPEAL. A DENIAL OF AN
2 APPEAL BY THE DEPARTMENT UNDER THIS SUBSECTION HAS THE EFFECT OF
3 CREATING AN EMERGENCY UNDER SECTION VII, ENTITLED "EXCEPTION
4 PROCEDURE", OF THE POLICY AND METHODS FOR ESTABLISHING PAYMENT
5 RATES IN THE STATE PLAN REQUIRED UNDER TITLE XIX, WHICH DOCUMENT
6 IS INCORPORATED BY REFERENCE FOR PURPOSES OF THIS SUBSECTION.

7 (13) A NURSING HOME MAY APPEAL AN ADVERSE DECISION UNDER
8 SUBSECTION (12) TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
9 NURSING HOME IS LOCATED OR THE CIRCUIT COURT FOR INGHAM COUNTY.
10 IF THE NURSING HOME PREVAILS ON THE APPEAL, THE COURT MAY AWARD
11 COMPENSATORY DAMAGES TO THE NURSING HOME FOR THE COST OF PROVID-
12 ING CARE TO ITS RESIDENTS DURING THE PERIOD FROM THE FILING OF A
13 PETITION WITH THE DEPARTMENT UNDER SUBSECTION (11) TO THE DECI-
14 SION ON THE APPEAL UNDER THIS SUBSECTION. THE COURT MAY ALSO
15 AWARD COSTS TO THE NURSING HOME IF IT PREVAILS ON THE APPEAL.

16 (14) IN ORDER TO NOTIFY PATIENTS AND THEIR FAMILIES IN
17 REGARDING THE REQUIREMENTS OF THIS SECTION, A NURSING HOME SHALL
18 POST THE NAME OF THE DIRECT PATIENT CARE PROVIDER WHO IS ASSIGNED
19 TO A PARTICULAR PATIENT EITHER IN A CONSPICUOUS PLACE NEAR THE
20 NURSES' STATION OR OUTSIDE THE PATIENT'S DOOR NEAR THE PATIENT'S
21 NAME.

22 (15) AS USED IN THIS SECTION:

23 (A) "COMPETENCY-EVALUATED NURSE ASSISTANT" MEANS A NURSE'S
24 AIDE OR NURSE ASSISTANT TRAINED AS REQUIRED UNDER SECTION
25 1819(b)(5) OF TITLE XIII OF THE SOCIAL SECURITY ACT, CHAPTER 531,
26 49 STAT. 620, 42 U.S.C. 1395i-3, AND UNDER SECTION 1919(b)(5) OF

1 TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,
2 42 U.S.C. 1396r.

3 (B) "DIRECT PATIENT CARE" MEANS 1 OR MORE OF THE FOLLOWING
4 ACTIVITIES OR SERVICES PROVIDED BY A DIRECT PATIENT CARE PROVIDER
5 TO A PATIENT IN A NURSING HOME AS REQUIRED BY THE PATIENT'S CARE
6 PLAN:

7 (i) PERSONAL CARE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE
8 FOLLOWING: BATHING A PATIENT WHILE ENCOURAGING THE PATIENT'S
9 INDEPENDENCE; SUPPORTIVE AND PREVENTATIVE SKIN CARE; ROUTINE
10 MORNING AND EVENING MOUTH CARE; HAIR AND NAIL CARE; SHAVING;
11 DRESSING AND UNDRESSING, WITH EMPHASIS ON ENCOURAGING AND MAIN-
12 TAINING THE PATIENT'S INDEPENDENCE; ASSISTING IN THE USE OF PROS-
13 THETIC DEVICES; AND OTHER MATTERS OF PERSONAL HYGIENE.

14 (ii) NUTRITION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE
15 FOLLOWING: MAKING MEALTIME A PLEASANT EXPERIENCE; MEASURING AND
16 RECORDING THE PATIENT'S FOOD INTAKE; ASSISTING THE PATIENT IN
17 INCREASING OR REDUCING FLUID INTAKE; ASSISTING THE PATIENT IN
18 EATING, WITH EMPHASIS ON ENCOURAGING THE PATIENT'S INDEPENDENCE
19 AND DIGNITY.

20 (iii) ELIMINATION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE
21 FOLLOWING: ENCOURAGING AND MAINTAINING THE PATIENT'S INDEPEN-
22 DENCE IN TOILET, BEDPAN, AND URINAL USE; CATHETER CARE; PREVENT-
23 ING INCONTINENCE; THE PREVENTION OF CONSTIPATION; PERINEAL CARE;
24 MEASURING AND RECORDING BLADDER OUTPUT; URINE TESTING; AND BOWEL
25 AND BLADDER TRAINING.

26 (iv) RESTORATION AND REHABILITATION, INCLUDING, BUT NOT
27 LIMITED TO, ALL OF THE FOLLOWING: ASSISTANCE AND ENCOURAGEMENT

1 WITH AMBULATION, WALKING, AND TRANSFERRING FROM LOCATION TO
2 LOCATION OR FROM POSITION TO POSITION; TURNING A PATIENT; MAIN-
3 TAINING PROPER BODY ALIGNMENT; RANGE OF MOTION EXERCISES; THE USE
4 OF AMBULATION AIDS, SUCH AS WHEELCHAIRS, WALKERS, CANES, AND
5 CRUTCHES; UTILIZING TRANSFER TECHNIQUES AND THE PROPER BODY
6 MECHANICS INVOLVED IN LIFTING A PATIENT OR AN OBJECT; USING BED
7 BOARDS, FOOT BOARDS, FOOT STOOLS, TROCHANTER ROLLS, PILLOWS FOR
8 POSITIONING, AND ORTHOTIC DEVICES.

9 (v) FEEDING AND CLOTHING PATIENTS AND MAKING AND CHANGING
10 BEDS.

11 (vi) ADMINISTRATION OF MEDICATIONS AND TREATMENTS.

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

15 (C) "DIRECT PATIENT CARE PROVIDER" MEANS AN INDIVIDUAL WHO
16 IS A REGISTERED PROFESSIONAL NURSE LICENSED UNDER ARTICLE 15 OR A
17 LICENSED PRACTICAL NURSE LICENSED UNDER ARTICLE 15 AND WHOSE PRI-
18 MARY FUNCTION IS AS A NURSE, OR AN INDIVIDUAL WHO IS CERTIFIED,
19 AT A MINIMUM, AS A COMPETENCY-EVALUATED NURSE ASSISTANT, WHO IS
20 EMPLOYED BY OR UNDER CONTRACT TO A NURSING HOME, AND WHO PROVIDES
21 DIRECT PATIENT CARE IN THE NURSING HOME. DIRECT PATIENT CARE
22 PROVIDER DOES NOT INCLUDE THE FOLLOWING:

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

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

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

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

1 (v) A CERTIFIED SPEECH AND LANGUAGE THERAPIST.
2 (vi) AN OCCUPATIONAL THERAPIST REGISTERED UNDER ARTICLE 15.
3 (vii) AN ACTIVITIES DIRECTOR OR ACTIVITIES STAFF.
4 (viii) AN INDIVIDUAL WHO IS HIRED AND PAID PRIVATELY BY A
5 PATIENT OR THE PATIENT'S FAMILY AND WHO WORKS ONLY WITH THAT
6 PATIENT.

7 (D) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY
8 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
9 1395b-6 TO 1395b-7, 1395c TO 1395i, 1395i-2 TO 1395i-5, 1395j TO
10 1395t, 1395u TO 1395w, 1395w-2 TO 1395w-4, 1395w-21 TO 1395w-28,
11 1395x TO 1395yy, AND 1395bbb TO 1395ggg.

12 (E) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,
13 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f, 1396g-1 TO
14 1396r-6, AND 1396r-8 TO 1396v.

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

18 Enacting section 1. This amendatory act takes effect July
19 1, 1999.