

SENATE BILL No. 1136

March 14, 2006, Introduced by Senators JACOBS, PRUSI, GEORGE, CLARKE, KUIPERS and SCHAUER and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20155, 20156, and 22210 (MCL 333.20155,
333.20156, and 333.22210), section 20155 as amended by 2001 PA 218,
section 20156 as amended by 1990 PA 179, and section 22210 as
amended by 1993 PA 88; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20155. (1) Except as otherwise provided in this section,
2 the department ~~of consumer and industry services~~ shall make
3 annual and other visits to each health facility or agency licensed
4 under this article for the purposes of survey, evaluation, and
5 consultation. A visit made pursuant to a complaint shall be
6 unannounced. Except for a county medical care facility, a home for
7 the aged, a nursing home, or a hospice residence, the department

1 shall determine whether the visits that are not made pursuant to a
2 complaint are announced or unannounced. Beginning June 20, 2001,
3 the department shall assure that each newly hired nursing home
4 surveyor, as part of his or her basic training, is assigned full-
5 time to a licensed nursing home for at least 10 days within a 14-
6 day period to observe actual operations outside of the survey
7 process before the trainee begins oversight responsibilities. A
8 member of a survey team shall not be employed by a licensed nursing
9 home or a nursing home management company doing business in this
10 state at the time of conducting a survey under this section. The
11 department shall not assign an individual to be a member of a
12 survey team for purposes of a survey, evaluation, or consultation
13 visit at a nursing home in which he or she was an employee within
14 the preceding 5 years.

15 (2) The department ~~of consumer and industry services~~ shall
16 make at least a biennial visit to each licensed clinical
17 laboratory, each nursing home, and each hospice residence for the
18 purposes of survey, evaluation, and consultation. The department
19 ~~of consumer and industry services~~ shall semiannually provide for
20 joint training with nursing home surveyors and providers on at
21 least 1 of the 10 most frequently issued federal citations in this
22 state during the past calendar year. The department ~~of consumer~~
23 ~~and industry services~~ shall develop a protocol for the review of
24 citation patterns compared to regional outcomes and standards and
25 complaints regarding the nursing home survey process. The review
26 will result in a report provided to the legislature. Except as
27 otherwise provided in this subsection, beginning with his or her

1 first full relicensure period after June 20, 2000, each member of a
2 department ~~of consumer and industry services~~ nursing home survey
3 team who is a health professional licensee under article 15 shall
4 earn not less than 50% of his or her required continuing education
5 credits, if any, in geriatric care. If a member of a nursing home
6 survey team is a pharmacist licensed under article 15, he or she
7 shall earn not less than 30% of his or her required continuing
8 education credits in geriatric care.

9 (3) The department ~~of consumer and industry services~~ shall
10 make a biennial visit to each hospital for survey and evaluation
11 for the purpose of licensure. Subject to subsection (6), the
12 department may waive the biennial visit required by this subsection
13 if a hospital, as part of a timely application for license renewal,
14 requests a waiver and submits both of the following and if all of
15 the requirements of subsection (5) are met:

16 (a) Evidence that it is currently fully accredited by a body
17 with expertise in hospital accreditation whose hospital
18 accreditations are accepted by the United States department of
19 health and human services for purposes of section 1865 of part C of
20 title XVIII of the social security act, 42 ~~U.S.C.~~ **USC** 1395bb.

21 (b) A copy of the most recent accreditation report for the
22 hospital issued by a body described in subdivision (a), and the
23 hospital's responses to the accreditation report.

24 (4) Except as provided in subsection (8), accreditation
25 information provided to the department ~~of consumer and industry~~
26 ~~services~~ under subsection (3) is confidential, is not a public
27 record, and is not subject to court subpoena. The department shall

1 use the accreditation information only as provided in this section
2 and shall return the accreditation information to the hospital
3 within a reasonable time after a decision on the waiver request is
4 made.

5 (5) The department ~~of consumer and industry services~~ shall
6 grant a waiver under subsection (3) if the accreditation report
7 submitted under subsection (3)(b) is less than 2 years old and
8 there is no indication of substantial noncompliance with licensure
9 standards or of deficiencies that represent a threat to public
10 safety or patient care in the report, in complaints involving the
11 hospital, or in any other information available to the department.
12 If the accreditation report is 2 or more years old, the department
13 may do 1 of the following:

14 (a) Grant an extension of the hospital's current license until
15 the next accreditation survey is completed by the body described in
16 subsection (3)(a).

17 (b) Grant a waiver under subsection (3) based on the
18 accreditation report that is 2 or more years old, on condition that
19 the hospital promptly submit the next accreditation report to the
20 department.

21 (c) Deny the waiver request and conduct the visits required
22 under subsection (3).

23 (6) This section does not prohibit the department from citing
24 a violation of this part during a survey, conducting investigations
25 or inspections pursuant to section 20156, or conducting surveys of
26 health facilities or agencies for the purpose of complaint
27 investigations or federal certification. This section does not

1 prohibit the ~~state fire marshal~~ **BUREAU OF FIRE SERVICES CREATED**
2 **IN SECTION 1B OF THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1B,**
3 from conducting annual surveys of hospitals, nursing homes, and
4 county medical care facilities.

5 (7) At the request of a health facility or agency, the
6 department ~~of consumer and industry services~~ may conduct a
7 consultation engineering survey of a health facility and provide
8 professional advice and consultation regarding health facility
9 construction and design. A health facility or agency may request a
10 voluntary consultation survey under this subsection at any time
11 between licensure surveys. The fees for a consultation engineering
12 survey are the same as the fees established for waivers under
13 section 20161(10).

14 (8) If the department ~~of consumer and industry services~~
15 determines that substantial noncompliance with licensure standards
16 exists or that deficiencies that represent a threat to public
17 safety or patient care exist based on a review of an accreditation
18 report submitted pursuant to subsection (3)(b), the department
19 shall prepare a written summary of the substantial noncompliance or
20 deficiencies and the hospital's response to the department's
21 determination. The department's written summary and the hospital's
22 response are public documents.

23 (9) The department ~~of consumer and industry services~~ or a
24 local health department shall conduct investigations or
25 inspections, other than inspections of financial records, of a
26 county medical care facility, home for the aged, nursing home, or
27 hospice residence without prior notice to the health facility or

1 agency. An employee of a state agency charged with investigating or
2 inspecting the health facility or agency or an employee of a local
3 health department who directly or indirectly gives prior notice
4 regarding an investigation or an inspection, other than an
5 inspection of the financial records, to the health facility or
6 agency or to an employee of the health facility or agency, is
7 guilty of a misdemeanor. Consultation visits that are not for the
8 purpose of annual or follow-up inspection or survey may be
9 announced.

10 (10) The department ~~of consumer and industry services~~ shall
11 maintain a record indicating whether a visit and inspection is
12 announced or unannounced. Information gathered at each visit and
13 inspection, whether announced or unannounced, shall be taken into
14 account in licensure decisions.

15 (11) The department ~~of consumer and industry services~~ shall
16 require periodic reports and a health facility or agency shall give
17 the department access to books, records, and other documents
18 maintained by a health facility or agency to the extent necessary
19 to carry out the purpose of this article and the rules promulgated
20 under this article. The department shall respect the
21 confidentiality of a patient's clinical record and shall not
22 divulge or disclose the contents of the records in a manner that
23 identifies an individual except under court order. The department
24 may copy health facility or agency records as required to document
25 findings.

26 (12) The department ~~of consumer and industry services~~ may
27 delegate survey, evaluation, or consultation functions to another

1 state agency or to a local health department qualified to perform
2 those functions. However, the department shall not delegate survey,
3 evaluation, or consultation functions to a local health department
4 that owns or operates a hospice or hospice residence licensed under
5 this article. The delegation shall be by cost reimbursement
6 contract between the department and the state agency or local
7 health department. Survey, evaluation, or consultation functions
8 shall not be delegated to nongovernmental agencies, except as
9 provided in this section. The department may accept voluntary
10 inspections performed by an accrediting body with expertise in
11 clinical laboratory accreditation under part 205 if the accrediting
12 body utilizes forms acceptable to the department, applies the same
13 licensing standards as applied to other clinical laboratories, and
14 provides the same information and data usually filed by the
15 department's own employees when engaged in similar inspections or
16 surveys. The voluntary inspection described in this subsection
17 shall be agreed upon by both the licensee and the department.

18 (13) If, upon investigation, the department ~~of consumer and~~
19 ~~industry services~~ or a state agency determines that an individual
20 licensed to practice a profession in this state has violated the
21 applicable licensure statute or the rules promulgated under that
22 statute, the department, state agency, or local health department
23 shall forward the evidence it has to the appropriate licensing
24 agency.

25 (14) The department ~~of consumer and industry services~~ shall
26 report to the appropriations subcommittees, the senate and house of
27 representatives standing committees having jurisdiction over issues

1 involving senior citizens, and the fiscal agencies on March 1 of
2 each year on the initial and follow-up surveys conducted on all
3 nursing homes in this state. The report shall include all of the
4 following information:

5 (a) The number of surveys conducted.

6 (b) The number requiring follow-up surveys.

7 (c) The number referred to the Michigan public health
8 institute for remediation.

9 (d) The number of citations per nursing home.

10 (e) The number of night and weekend complaints filed.

11 (f) The number of night and weekend responses to complaints
12 conducted by the department.

13 (g) The average length of time for the department to respond
14 to a complaint filed against a nursing home.

15 (h) The number and percentage of citations appealed.

16 (i) The number and percentage of citations overturned or
17 modified, or both.

18 (15) The department ~~of consumer and industry services~~ shall
19 report annually to the standing committees on appropriations and
20 the standing committees having jurisdiction over issues involving
21 senior citizens in the senate and the house of representatives on
22 the percentage of nursing home citations that are appealed and the
23 percentage of nursing home citations that are appealed and amended
24 through the informal deficiency dispute resolution process.

25 (16) Subject to subsection (17), a clarification work group
26 comprised of the department ~~of consumer and industry services~~ in
27 consultation with a nursing home resident or a member of a nursing

1 home resident's family, nursing home provider groups, the American
2 medical directors association, ~~the department of community health,~~
3 the state long-term care ombudsman, and the federal centers for
4 medicare and medicaid services shall clarify the following terms as
5 those terms are used in title XVIII and title XIX and applied by
6 the department to provide more consistent regulation of nursing
7 homes in Michigan:

8 (a) Immediate jeopardy.

9 (b) Harm.

10 (c) Potential harm.

11 (d) Avoidable.

12 (e) Unavoidable.

13 (17) All of the following clarifications developed under
14 subsection (16) apply for purposes of subsection (16):

15 (a) Specifically, the term "immediate jeopardy" means ~~"~~ a
16 situation in which immediate corrective action is necessary because
17 the nursing home's noncompliance with 1 or more requirements of
18 participation has caused or is likely to cause serious injury,
19 harm, impairment, or death to a resident receiving care in a
20 nursing home. ~~"~~.

21 (b) The likelihood of immediate jeopardy is reasonably higher
22 if there is evidence of a flagrant failure by the nursing home to
23 comply with a clinical process guideline adopted under subsection
24 (18) than if the nursing home has substantially and continuously
25 complied with those guidelines. If federal regulations and
26 guidelines are not clear, and if the clinical process guidelines
27 have been recognized, a process failure giving rise to an immediate

1 jeopardy may involve an egregious widespread or repeated process
2 failure and the absence of reasonable efforts to detect and prevent
3 the process failure.

4 (c) In determining whether or not there is immediate jeopardy,
5 the survey agency should consider at least all of the following:

6 (i) Whether the nursing home could reasonably have been
7 expected to know about the deficient practice and to stop it, but
8 did not stop the deficient practice.

9 (ii) Whether the nursing home could reasonably have been
10 expected to identify the deficient practice and to correct it, but
11 did not correct the deficient practice.

12 (iii) Whether the nursing home could reasonably have been
13 expected to anticipate that serious injury, serious harm,
14 impairment, or death might result from continuing the deficient
15 practice, but did not so anticipate.

16 (iv) Whether the nursing home could reasonably have been
17 expected to know that a widely accepted high-risk practice is or
18 could be problematic, but did not know.

19 (v) Whether the nursing home could reasonably have been
20 expected to detect the process problem in a more timely fashion,
21 but did not so detect.

22 (d) The existence of 1 or more of the factors described in
23 subdivision (c), and especially the existence of 3 or more of those
24 factors simultaneously, may lead to a conclusion that the situation
25 is one in which the nursing home's practice makes adverse events
26 likely to occur if immediate intervention is not undertaken, and
27 therefore constitutes immediate jeopardy. If none of the factors

1 described in subdivision (c) is present, the situation may involve
2 harm or potential harm that is not immediate jeopardy.

3 (e) Specifically, "actual harm" means — a negative outcome
4 to a resident that has compromised the resident's ability to
5 maintain or reach, or both, his or her highest practicable
6 physical, mental, and psychosocial well-being as defined by an
7 accurate and comprehensive resident assessment, plan of care, and
8 provision of services. — Harm does not include a deficient
9 practice that only may cause or has caused limited consequences to
10 the resident.

11 (f) For purposes of subdivision (e), in determining whether a
12 negative outcome is of limited consequence, if the "state
13 operations manual" or "the guidance to surveyors" published by the
14 federal centers for medicare and medicaid services does not provide
15 specific guidance, the department may consider whether most people
16 in similar circumstances would feel that the damage was of such
17 short duration or impact as to be inconsequential or trivial. In
18 such a case, the consequence of a negative outcome may be
19 considered more limited if it occurs in the context of overall
20 procedural consistency with an accepted clinical process guideline
21 adopted pursuant to subsection (18), as compared to a substantial
22 inconsistency with or variance from the guideline.

23 (g) For purposes of subdivision (e), if the publications
24 described in subdivision (f) do not provide specific guidance, the
25 department may consider the degree of a nursing home's adherence to
26 a clinical process guideline adopted pursuant to subsection (18) in
27 considering whether the degree of compromise and future risk to the

1 resident constitutes actual harm. The risk of significant
2 compromise to the resident may be considered greater in the context
3 of substantial deviation from the guidelines than in the case of
4 overall adherence.

5 (h) To improve consistency and to avoid disputes over ~~"~~
6 avoidable ~~"~~ and ~~"~~ unavoidable ~~"~~ negative outcomes, nursing
7 homes and survey agencies must have a common understanding of
8 accepted process guidelines and of the circumstances under which it
9 can reasonably be said that certain actions or inactions will lead
10 to avoidable negative outcomes. If the "state operations manual" or
11 "the guidance to surveyors" published by the federal centers for
12 medicare and medicaid services is not specific, a nursing home's
13 overall documentation of adherence to a clinical process guideline
14 with a process indicator adopted pursuant to subsection (18) is
15 relevant information in considering whether a negative outcome was
16 ~~"~~ avoidable ~~"~~ or ~~"~~ unavoidable ~~"~~ and may be considered in
17 the application of that term.

18 (18) Subject to subsection (19), the department, in
19 consultation with the clarification work group appointed under
20 subsection (16), shall develop and adopt clinical process
21 guidelines that shall be used in applying the terms set forth in
22 subsection (16). The department shall establish and adopt clinical
23 process guidelines and compliance protocols with outcome measures
24 for all of the following areas and for other topics where the
25 department determines that clarification will benefit providers and
26 consumers of long-term care:

27 (a) Bed rails.

1 (b) Adverse drug effects.

2 (c) Falls.

3 (d) Pressure sores.

4 (e) Nutrition and hydration including, but not limited to,
5 heat-related stress.

6 (f) Pain management.

7 (g) Depression and depression pharmacotherapy.

8 (h) Heart failure.

9 (i) Urinary incontinence.

10 (j) Dementia.

11 (k) Osteoporosis.

12 (l) Altered mental states.

13 (m) Physical and chemical restraints.

14 (19) The department shall create a clinical advisory committee
15 to review and make recommendations regarding the clinical process
16 guidelines with outcome measures adopted under subsection (18). The
17 department shall appoint physicians, registered professional
18 nurses, and licensed practical nurses to the clinical advisory
19 committee, along with professionals who have expertise in long-term
20 care services, some of whom may be employed by long-term care
21 facilities. The clarification work group created under subsection
22 (16) shall review the clinical process guidelines and outcome
23 measures after the clinical advisory committee and shall make the
24 final recommendations to the department before the clinical process
25 guidelines are adopted.

26 (20) The department shall create a process by which the
27 director of the division of nursing home monitoring or his or her

1 designee or the director of the division of operations or his or
2 her designee reviews and authorizes the issuance of a citation for
3 immediate jeopardy or substandard quality of care before the
4 statement of deficiencies is made final. The review shall be to
5 assure that the applicable concepts, clinical process guidelines,
6 and other tools contained in subsections (17) to (19) are being
7 used consistently, accurately, and effectively. As used in this
8 subsection, "immediate jeopardy" and "substandard quality of care"
9 mean those terms as defined by the federal centers for medicare and
10 medicaid services.

11 (21) The department may give grants, awards, or other
12 recognition to nursing homes to encourage the rapid implementation
13 of the clinical process guidelines adopted under subsection (18).

14 (22) The department shall assess the effectiveness of ~~the~~
15 ~~amendatory act that added this subsection~~ **2001 PA 218**. The
16 department shall file an annual report on the implementation of the
17 clinical process guidelines and the impact of the guidelines on
18 resident care with the standing committee in the legislature with
19 jurisdiction over matters pertaining to nursing homes. The first
20 report shall be filed on July 1, ~~of the year following the year in~~
21 ~~which the amendatory act that added this subsection takes effect~~
22 **2002**.

23 (23) The department ~~of consumer and industry services~~ shall
24 instruct and train the surveyors in the use of the clarifications
25 described in subsection (17) and the clinical process guidelines
26 adopted under subsection (18) in citing deficiencies.

27 (24) A nursing home shall post the nursing home's survey

1 report in a conspicuous place within the nursing home for public
2 review.

3 (25) Nothing in this amendatory act shall be construed to
4 limit the requirements of related state and federal law.

5 (26) As used in this section:

6 (a) "Title XVIII" means title XVIII of the social security
7 act, ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,~~
8 ~~1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to~~
9 ~~1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,~~
10 ~~1395x to 1395yy, and 1395bbb to 1395ggg~~ **42 USC 1395 TO 1395HHH.**

11 (b) "Title XIX" means title XIX of the social security act,
12 chapter 531, ~~49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to~~
13 ~~1396r-6, and 1396r-8~~ **42 USC 1396 to 1396v.**

14 Sec. 20156. (1) A representative of the department ~~of public~~
15 ~~health~~ or the ~~state fire marshal division of the department of~~
16 ~~state police,~~ **BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE**
17 **FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1B,** upon presentation of
18 proper identification, may enter the premises of an applicant or
19 licensee at any reasonable time to determine whether the applicant
20 or licensee meets the requirements of this article and the rules
21 promulgated under this article. The director; the director of
22 ~~social~~ **THE DEPARTMENT OF HUMAN** services; the ~~state fire marshal~~
23 **BUREAU OF FIRE SERVICES;** the director of the office of services to
24 the aging; or the director of a local health department; or an
25 authorized representative of the director, the director of ~~social~~
26 **THE DEPARTMENT OF HUMAN** services, the ~~state fire marshal~~ **BUREAU**
27 **OF FIRE SERVICES,** the director of the office of services to the

aging, or the director of a local health department may enter on the premises of an applicant or licensee under part 217 at any time in the course of carrying out program responsibilities.

(2) The ~~state fire marshal division of the department of state police~~ **BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1B**, shall enforce rules promulgated by the ~~state fire safety board~~ **BUREAU OF FIRE SERVICES** for health facilities and agencies to assure that physical facilities owned, maintained, or operated by a health facility or agency are planned, constructed, and maintained in a manner to protect the health, safety, and welfare of patients.

(3) The department ~~of public health~~ shall not issue a license or certificate to a health facility or agency until it receives an appropriate certificate of approval from the ~~state fire marshal division of the department of state police~~ **BUREAU OF FIRE SERVICES**. For purposes of this section, a decision of the ~~state fire marshal division of the department of state police~~ **BUREAU OF FIRE SERVICES** to issue a certificate controls over that of a local fire department.

(4) Subsections (2) and (3) do not apply to a health facility or an agency licensed under part 205 ~~—, OR 209. —, or 210.~~

Sec. 22210. (1) A hospital that applies to the department for a certificate of need and meets all of the following criteria shall be granted a certificate of need for a short-term nursing care program with up to 10 licensed hospital beds:

(a) Is eligible to apply for certification as a provider of swing-bed services under section 1883 of title XVIII, 42 ~~U.S.C.~~

1 **USC 1395tt.**

2 (b) Subject to subsection (2), has fewer than 100 licensed
3 beds not counting beds excluded under section 1883 of title XVIII,
4 ~~of the social security act~~ **42 USC 1395TT.**

5 (c) Does not have uncorrected licensing, certification, or
6 safety deficiencies for which the department or the ~~state fire~~
7 ~~marshal~~ **BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE**
8 **PREVENTION CODE, 1941 PA 207, MCL 29.1B,** or both, has not accepted
9 a plan of correction.

10 (d) Provides evidence satisfactory to the department that the
11 hospital has had difficulty in placing patients in skilled nursing
12 home beds during the 12 months immediately preceding the date of
13 the application.

14 (2) After October 1, 1990, the criteria set forth in
15 subsection (1)(b) may be modified by the commission, using the
16 procedure set forth in section 22215(3). The department shall not
17 charge a fee for processing a certificate of need application to
18 initiate a short-term nursing care program.

19 (3) A hospital that is granted a certificate of need for a
20 short-term nursing care program under subsection (1) shall comply
21 with all of the following:

22 (a) Not charge for or otherwise attempt to recover the cost of
23 a length of stay for a patient in the short-term nursing care
24 program that exceeds the length of time allowed for post-hospital
25 extended care under title XVIII.

26 (b) Admit patients to the short-term nursing care program only
27 pursuant to an admissions contract approved by the department.

1 (c) Not discharge or transfer a patient from a licensed
2 hospital bed other than a hospital long-term care unit bed and
3 admit that patient to the short-term nursing care program unless
4 the discharge or transfer and admission is determined medically
5 appropriate by the attending physician.

6 (d) Permit access to a representative of an organization
7 approved under section 21764 to patients admitted to the short-term
8 nursing care program, for all of the purposes described in section
9 21763.

10 (e) Subject to subsection (8), not allow the number of patient
11 days for the short-term nursing care program to exceed the
12 equivalent of 1,825 patient days for a single state fiscal year.

13 (f) Transfer a patient in the short-term nursing care program
14 to an appropriately certified nursing home bed, county medical care
15 facility bed, or hospital long-term care unit bed located within a
16 50-mile radius of the patient's residence within 5 business days
17 after the hospital has been notified, either orally or in writing,
18 that a bed has become available.

19 (g) Not charge or collect from a patient admitted to the
20 short-term nursing care program, for services rendered as part of
21 the short-term nursing care program, an amount in excess of the
22 reasonable charge for the services as determined by the United
23 States secretary of health and human services under title XVIII.

24 (h) Assist a patient who has been denied coverage for services
25 received in a short-term nursing care program under title XVIII to
26 file an appeal with the medicare recovery project operated by the
27 office of services to the aging.

1 (i) Operate the short-term nursing care program in accordance
2 with this section and the requirements of the swing bed provisions
3 of section 1883 of title XVIII, 42 ~~U.S.C.~~ USC 1395tt.

4 (j) Provide data to the department considered necessary by the
5 department to evaluate the short-term nursing care program. The
6 data shall include, but is not limited to, all of the following:

7 (i) The total number of patients admitted to the hospital's
8 short-term nursing care program during the period specified by the
9 department.

10 (ii) The total number of short-term nursing care patient days
11 for the period specified by the department.

12 (iii) Information identifying the type of care to which patients
13 in the short-term care nursing program are released.

14 (k) As part of the hospital's policy describing the rights and
15 responsibilities of patients admitted to the hospital, as required
16 under section 20201, incorporate all of the following additional
17 rights and responsibilities for patients in the short-term nursing
18 care program:

19 (i) A copy of the hospital's policy shall be provided to each
20 short-term nursing care patient upon admission, and the staff of
21 the hospital shall be trained and involved in the implementation of
22 the policy.

23 (ii) Each short-term nursing care patient may associate and
24 communicate privately with persons of his or her choice.

25 Reasonable, regular visiting hours, which shall take into
26 consideration the special circumstances of each visitor, shall be
27 established for short-term nursing care patients to receive

1 visitors. A short-term nursing care patient may be visited by the
2 patient's attorney or by representatives of the departments named
3 in section 20156 during other than established visiting hours.
4 Reasonable privacy shall be afforded for visitation of a short-term
5 nursing care patient who shares a room with another short-term
6 nursing care patient. Each short-term nursing care patient shall
7 have reasonable access to a telephone.

8 (iii) A short-term nursing care patient is entitled to retain
9 and use personal clothing and possessions as space permits, unless
10 medically contraindicated, as documented by the attending physician
11 in the medical record.

12 (iv) A short-term nursing care patient is entitled to the
13 opportunity to participate in the planning of his or her medical
14 treatment. A short-term nursing care patient shall be fully
15 informed by the attending physician of the short-term nursing care
16 patient's medical condition, unless medically contraindicated, as
17 documented by a physician in the medical record. Each short-term
18 nursing care patient shall be afforded the opportunity to discharge
19 himself or herself from the short-term nursing care program.

20 (v) A short-term nursing care patient is entitled to be fully
21 informed either before or at the time of admission, and during his
22 or her stay, of services available in the hospital and of the
23 related charges for those services. The statement of services
24 provided by the hospital shall be in writing and shall include
25 those services required to be offered on an as needed basis.

26 (vi) A patient in a short-term nursing care program or a person
27 authorized in writing by the patient may, upon submission to the

1 hospital of a written request, inspect and copy the patient's
2 personal or medical records. The hospital shall make the records
3 available for inspection and copying within a reasonable time, not
4 exceeding 7 days, after the receipt of the written request.

5 (vii) A short-term nursing care patient has the right to have
6 his or her parents, if the short-term nursing care patient is a
7 minor, or his or her spouse, next of kin, or patient's
8 representative, if the short-term nursing care patient is an adult,
9 stay at the facility 24 hours a day if the short-term nursing care
10 patient is considered terminally ill by the physician responsible
11 for the short-term nursing care patient's care.

12 (viii) Each short-term nursing care patient shall be provided
13 with meals that meet the recommended dietary allowances for that
14 patient's age and sex and that may be modified according to special
15 dietary needs or ability to chew.

16 (ix) Each short-term nursing care patient has the right to
17 receive a representative of an organization approved under section
18 21764, for all of the purposes described in section 21763.

19 (l) Achieve and maintain medicare certification under title
20 XVIII.

21 (4) A hospital or the owner, administrator, an employee, or a
22 representative of the hospital shall not discharge, harass, or
23 retaliate or discriminate against a short-term nursing care patient
24 because the short-term nursing care patient has exercised a right
25 described in subsection (3) (k).

26 (5) In the case of a short-term nursing care patient, the
27 rights described in subsection (3) (k) (iv) may be exercised by the

1 patient's representative, as defined in section 21703(2).

2 (6) A short-term nursing care patient shall be fully informed,
3 as evidenced by the short-term nursing care patient's written
4 acknowledgment, before or at the time of admission and during stay,
5 of the rights described in subsection (3)(k). The written
6 acknowledgment shall provide that if a short-term nursing care
7 patient is adjudicated incompetent and not restored to legal
8 capacity, the rights and responsibilities set forth in subsection
9 (3)(k) shall be exercised by a person designated by the short-term
10 nursing care patient. The hospital shall provide proper forms for
11 the short-term nursing care patient to provide for the designation
12 of this person at the time of admission.

13 (7) Subsection (3)(k) does not prohibit a hospital from
14 establishing and recognizing additional rights for short-term
15 nursing care patients.

16 (8) Upon application, the department may grant a variation
17 from the maximum number of patient days established under
18 subsection (3)(e), to an applicant hospital that demonstrates to
19 the satisfaction of the department that there is an immediate need
20 for skilled nursing beds within a 100-mile radius of the hospital.
21 A variation granted under this subsection shall be valid for not
22 more than 1 year after the date the variation is granted. The
23 department shall promulgate rules to implement this subsection
24 including, at a minimum, a definition of immediate need and the
25 procedure for applying for a variation.

26 (9) A hospital that violates subsection (3) is subject to the
27 penalty provisions of section 20165.

1 (10) A person shall not initiate a short-term nursing care
2 program without first obtaining a certificate of need under this
3 section.

4 Enacting section 1. Section 13310 of the public health code,
5 1978 PA 368, MCL 333.13310, is repealed.

6 Enacting section 2. This amendatory act does not take effect
7 unless Senate Bill No. 1133

8 of the 93rd Legislature is enacted into law.