

Act No. 529
Public Acts of 2014
Approved by the Governor
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Reps. Clemente, Haines, Abed, Banks, Barnett, Brinks, Brown, Cavanagh, Cochran, Crawford, Darany, Dianda, Dillon, Driskell, Durhal, Faris, Geiss, Haugh, Hovey-Wright, Jacobsen, Kivela, Kosowski, Lane, LaVoy, McCann, Olumba, Roberts, Singh, Slavens, Smiley, Stanley, Switalski and Talabi

ENROLLED HOUSE BILL No. 5389

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 21794.

The People of the State of Michigan enact:

Sec. 21794. (1) With the consent of the patient or the patient's representative a nursing home may use a dining assistant to provide feeding assistance to a patient who, based on the charge nurse's assessment of the patient and the patient's most recent plan of care, needs assistance or encouragement with eating and drinking, but does not have complicated feeding problems, including, but not limited to, difficulty swallowing, recurrent lung aspirations, tube or parenteral feedings, or behavioral issues that may compromise nutritional intake. The charge nurse's assessment and plan of care must be documented in the patient's medical record. For a patient who is assigned a dining assistant and experiences an emergent change in condition, the charge nurse shall perform a special assessment to monitor the appropriateness of continued utilization of the dining assistant.

(2) A nursing home that chooses to utilize dining assistants shall provide individuals with training through a department-approved training curriculum. The department and the long-term care stakeholder advisory workgroup designated under section 20155(24) shall develop a dining assistants training curriculum. The department shall approve a dining assistants training curriculum that meets the requirements of this subsection. In order to be approved by the department, the dining assistants training curriculum must include, at a minimum, 8 hours of course material that covers all of the following:

- (a) Dining assistants program overview.
- (b) Patient rights.

- (c) Communication and interpersonal skills.
- (d) Appropriate responses to patient behavior.
- (e) Recognizing changes in patients.
- (f) Infection control.
- (g) Assistance with feeding and hydration.
- (h) Feeding techniques.
- (i) Safety and emergency procedures.
- (j) End of life.

(3) An individual shall not provide feeding assistance as a dining assistant in a nursing home unless he or she has successfully completed a dining assistants training curriculum described in subsection (2). A nursing home shall not employ or allow an individual who is less than 17 years of age to provide feeding assistance as a dining assistant.

(4) A dining assistant shall work under the supervision of a nurse. A dining assistant's sole purpose is to provide feeding assistance to patients, and he or she shall not perform any other nursing or nursing-related services, such as toileting or transporting patients. A dining assistant is not nursing personnel and a nursing home shall not include a dining assistant in computing the ratio of patients to nursing personnel or use a dining assistant to supplement or replace nursing personnel. If approved by the charge nurse and subject to subsection (1), a dining assistant may provide feeding assistance in a patient's room if the patient is unable to go to or chooses not to dine in a designated dining area. A nurse is not required to be physically present within the patient's room during the feeding, but a nurse must be immediately available. A dining assistant who is providing feeding assistance to a patient in his or her room as provided under this subsection must not be assigned to assist another patient at the same time.

(5) Dining assistants are subject to the criminal history checks required under section 20173a.

(6) A nursing home that utilizes dining assistants shall maintain a written record of each individual used as a dining assistant. The nursing home shall include in the written record, at a minimum, the complete name and address of the individual, the date the individual successfully completed the dining assistants training curriculum, a copy of the written record of the satisfactory completion of the training curriculum, and documentation of the criminal history check.

(7) This section does not prohibit a family member or friend from providing feeding assistance to a patient within the nursing home or require a friend or family member to complete the training program prescribed under subsection (2). However, a nursing home may offer to provide the dining assistants training curriculum to family members and friends.

(8) As used in this section:

(a) "Dining assistant" means an individual who meets the requirements of this section and who is only paid to provide feeding assistance to nursing home patients by the nursing home or who is used under an arrangement with another agency or organization.

(b) "Immediately available" means being capable of responding to provide help if needed to the dining assistant at any time either in person or by voice or call light system, radio, telephone, pager, or other method of communication during a feeding.

(c) "Nurse" means an individual licensed as a registered professional nurse or a licensed practical nurse under article 15 to engage in the practice of nursing.

(d) "Under the supervision of a nurse" means that a nurse who is overseeing the work of a dining assistant is physically present in the nursing home and immediately available.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor