

**SUBSTITUTE FOR
SENATE BILL NO. 1160**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 22210 (MCL 333.22210), as amended by 2014 PA
165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22210. (1) Subject to this section, a hospital that
2 applies to the department for a certificate of need and meets all
3 of the following criteria shall be granted a certificate of need
4 for an extended care services program with up to 10 licensed
5 hospital beds:

6 (a) Is eligible to apply for certification as a provider of
7 extended care services through the use of swing beds under section
8 1883 of title XVIII, 42 USC 1395tt.

1 (b) Subject to subsection (2), has fewer than 100 licensed
2 beds not counting beds excluded under section 1883 of title XVIII,
3 42 USC 1395tt.

4 (c) Does not have uncorrected licensing, certification, or
5 safety deficiencies for which the department or the bureau of fire
6 services created in section 1b of the fire prevention code, 1941 PA
7 207, MCL 29.1b, or both, has not accepted a plan of correction.

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

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

17 (3) A hospital that is granted a certificate of need for an
18 extended care services program under subsection (1) shall comply
19 with all of the following:

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

24 (b) Admit patients to the extended care services program only
25 ~~pursuant to~~ **under** an admissions contract approved by the
26 department.

27 (c) Subject to subdivision (f), not discharge or transfer a
28 patient from a licensed hospital bed other than a hospital long-
29 term care unit bed and admit that patient to the extended care

1 services program unless the discharge or transfer and admission is
2 determined medically appropriate by the attending physician.

3 (d) Permit access to a representative of an organization
4 approved under section 21764 to patients admitted to the extended
5 care services program, for all of the purposes described in section
6 21763.

7 (e) Not allow the number of patient days for the extended care
8 services program to exceed the equivalent of 1,825 patient days for
9 a single state fiscal year.

10 (f) Not provide extended care services in a swing bed if the
11 hospital owns or operates a hospital long-term care unit that has
12 beds available at the time a patient requires admission for
13 extended care services.

14 (g) Not charge or collect from a patient admitted to the
15 extended care services program, for services rendered as part of
16 the extended care services program, an amount in excess of the
17 reasonable charge for the services as determined by the secretary
18 of the United States ~~department of health and human services~~
19 **Department of Health and Human Services** under title XVIII.

20 (h) Assist a patient who has been denied coverage for services
21 received in an extended care services program under title XVIII to
22 file an appeal with the ~~medicare~~ **Medicare** recovery project operated
23 by the office of services to the aging.

24 (i) Operate the extended care services program pursuant to
25 this section and the provisions of section 1883 of title XVIII, 42
26 USC 1395tt, that are applicable to the extended care services
27 program.

28 ~~(j) Provide data to the department considered necessary by the~~
29 ~~department to evaluate the extended care services program. The data~~

1 ~~shall include, but not be limited to, all of the following:~~

2 ~~(i) The total number of patients admitted to the hospital's~~
3 ~~extended care services program during the period specified by the~~
4 ~~department.~~

5 ~~(ii) The total number of extended care services patient days~~
6 ~~for the period specified by the department.~~

7 ~~(iii) Information identifying the type of care to which patients~~
8 ~~in the extended care services program are released.~~

9 (j) ~~(k)~~ As part of the hospital's policy describing the rights
10 and responsibilities of patients admitted to the hospital, as
11 required under section 20201, incorporate all of the following
12 additional rights and responsibilities for patients in the extended
13 care services program:

14 (i) A copy of the hospital's policy ~~shall~~**must** be provided to
15 each extended care services patient ~~upon~~**on** admission, and the
16 staff of the hospital ~~shall~~**must** be trained and involved in the
17 implementation of the policy.

18 (ii) Each extended care services patient may associate and
19 communicate privately with persons of his or her choice.
20 Reasonable, regular visiting hours, which ~~shall~~**must** take into
21 consideration the special circumstances of each visitor, ~~shall~~**must**
22 be established for extended care services patients to receive
23 visitors. An extended care services patient may be visited by the
24 patient's attorney or by representatives of the departments named
25 in section 20156 during other than established visiting hours.
26 Reasonable privacy ~~shall~~**must** be afforded for visitation of an
27 extended care services patient who shares a room with another
28 extended care services patient. Each extended care services patient
29 ~~shall~~**must** have reasonable access to a telephone.

1 (iii) An extended care services patient is entitled to retain
2 and use personal clothing and possessions as space permits, unless
3 medically contraindicated, as documented by the attending physician
4 in the medical record.

5 (iv) An extended care services patient is entitled to the
6 opportunity to participate in the planning of his or her medical
7 treatment, including the development of the discharge plan under
8 subdivision ~~(m)~~. ~~(l)~~. An extended care services patient ~~shall~~**must**
9 be fully informed by the attending physician of the extended care
10 services patient's medical condition, unless medically
11 contraindicated, as documented by a physician in the medical
12 record. Each extended care services patient ~~shall~~**must** be afforded
13 the opportunity to discharge himself or herself from the extended
14 care services program.

15 (v) An extended care services patient is entitled to be fully
16 informed either before or at the time of admission, and during his
17 or her stay, of services available in the hospital and of the
18 related charges for those services. The statement of services
19 provided by the hospital ~~shall~~**must** be in writing and ~~shall~~**must**
20 include those services required to be offered on an as needed
21 basis.

22 (vi) A patient in an extended care services program or a person
23 authorized in writing by the patient may, ~~upon~~**on** submission to the
24 hospital of a written request, inspect and copy the patient's
25 personal or medical records. The hospital shall make the records
26 available for inspection and copying within a reasonable time, not
27 exceeding 7 days, after the receipt of the written request.

28 (vii) An extended care services patient has the right to have
29 his or her parents, if the extended care services patient is a

1 minor, or his or her spouse, next of kin, or patient's
 2 representative, if the extended care services patient is an adult,
 3 stay at the hospital 24 hours a day if the extended care services
 4 patient is considered terminally ill by the physician responsible
 5 for the extended care services patient's care.

6 (viii) Each extended care services patient ~~shall~~**must** be
 7 provided with meals that meet the recommended dietary allowances
 8 for that patient's age and sex and that may be modified according
 9 to special dietary needs or ability to chew.

10 (ix) Each extended care services patient has the right to
 11 receive a representative of an organization approved under section
 12 21764, for all of the purposes described in section 21763.

13 (k) ~~(l)~~ Achieve and maintain ~~medicare~~**Medicare** certification
 14 under title XVIII.

15 (l) ~~(m)~~ Establish a discharge plan for each extended care
 16 services patient who is admitted to the extended care services
 17 program. In the discharge plan, the hospital shall emphasize
 18 patient choice in receiving extended care services in the most
 19 appropriate and least restrictive setting. The hospital shall
 20 provide to the patient or his or her authorized representative a
 21 copy of the discharge plan not later than 3 days after the patient
 22 is admitted to the extended care services program.

23 (4) **Beginning January 1, 2021, a hospital that is granted a**
 24 **certificate of need for an extended care services program under**
 25 **subsection (1) shall submit a report to the department in a form**
 26 **and manner prescribed by the department that includes, but is not**
 27 **limited to, all of the following information:**

28 (a) **The total number of patients admitted to the hospital's**
 29 **extended care services program during the period specified by the**

1 department.

2 (b) The total number of extended care services patient days
3 for the period specified by the department.

4 (c) Information that identifies the type of care to which
5 patients in the extended care services program are released.

6 (d) Any other information considered necessary to the
7 department to evaluate the extended care services program.

8 (5) ~~(4)~~—A hospital or the owner, an administrator, an
9 employee, or a representative of the hospital shall not discharge,
10 harass, or retaliate or discriminate against an extended care
11 services patient because the extended care services patient has
12 exercised a right described in subsection ~~(3) (k)~~. **(3) (j)**.

13 (6) ~~(5)~~—In the case of an extended care services patient, the
14 rights described in subsection ~~(3) (k) (iv)~~ **(3) (j) (iv)** may be exercised
15 by the patient's representative, as **that term is** defined in section
16 ~~21703(2)~~. **21703**.

17 (7) ~~(6)~~—An extended care services patient ~~shall~~ **must** be fully
18 informed, as evidenced by the extended care services patient's
19 written acknowledgment, before or at the time of admission and
20 during stay, of the rights described in subsection ~~(3) (k)~~. **(3) (j)**.
21 The written acknowledgment ~~shall~~ **must** provide that if an extended
22 care services patient is adjudicated incompetent and not restored
23 to legal capacity, **a person designated by the extended care**
24 **services patient shall exercise** the rights and responsibilities set
25 forth in subsection ~~(3) (k)~~ **(3) (j)**. ~~shall be exercised by a person~~
26 ~~designated by the extended care services patient.~~ The hospital
27 shall provide proper forms for the extended care services patient
28 to provide for the designation of this person at the time of
29 admission.

1 (8) ~~(7)~~ Subsection ~~(3)(k)~~ **(3)(j)** does not prohibit a hospital
2 from establishing and recognizing additional rights for extended
3 care services patients.

4 (9) ~~(8)~~ A hospital that violates subsection (3) is subject to
5 the penalty provisions of section 20165.

6 (10) ~~(9)~~ A person shall not initiate an extended care services
7 program without first obtaining a certificate of need under this
8 section.

9 (11) ~~(10)~~ As used in this section:

10 (a) "Extended care services program" means a program by a
11 hospital to provide extended care services to a patient through the
12 use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

13 (b) "Hospital long-term care unit" means that term as defined
14 in section 20106.