

# SENATE BILL NO. 1160

October 01, 2020, Introduced by Senator OUTMAN and referred to the Committee on Health Policy and Human Services.

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

1 hospital beds:

2 (a) Is eligible to apply for certification as a provider of  
3 extended care services through the use of swing beds under section  
4 1883 of title XVIII, 42 USC 1395tt.

5 (b) Subject to subsection (2), has fewer than 100 licensed  
6 beds not counting beds excluded under section 1883 of title XVIII,  
7 42 USC 1395tt.

8 (c) Does not have uncorrected licensing, certification, or  
9 safety deficiencies for which the department or the bureau of fire  
10 services created in section 1b of the fire prevention code, 1941 PA  
11 207, MCL 29.1b, or both, has not accepted a plan of correction.

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

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

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

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

28 (b) Admit patients to the extended care services program only  
29 ~~pursuant to~~ **under** an admissions contract approved by the

1 department.

2 (c) Subject to subdivision ~~(f)~~, **(e)**, not discharge or transfer  
3 a patient from a licensed hospital bed other than a hospital long-  
4 term care unit bed and admit that patient to the extended care  
5 services program unless the discharge or transfer and admission is  
6 determined medically appropriate by the attending physician.

7 (d) Permit access to a representative of an organization  
8 approved under section 21764 to patients admitted to the extended  
9 care services program, for all of the purposes described in section  
10 21763.

11 ~~(e) Not allow the number of patient days for the extended care~~  
12 ~~services program to exceed the equivalent of 1,825 patient days for~~  
13 ~~a single state fiscal year.~~

14 **(e)** ~~(f)~~ Not provide extended care services in a swing bed if  
15 the hospital owns or operates a hospital long-term care unit that  
16 has beds available at the time a patient requires admission for  
17 extended care services.

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

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

28 **(h)** ~~(i)~~ Operate the extended care services program pursuant to  
29 this section and the provisions of section 1883 of title XVIII, 42

1 USC 1395tt, that are applicable to the extended care services  
2 program.

3 ~~(j) Provide data to the department considered necessary by the~~  
4 ~~department to evaluate the extended care services program. The data~~  
5 ~~shall include, but not be limited to, all of the following:~~

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

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

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

13 (i) ~~(k)~~As part of the hospital's policy describing the rights  
14 and responsibilities of patients admitted to the hospital, as  
15 required under section 20201, incorporate all of the following  
16 additional rights and responsibilities for patients in the extended  
17 care services program:

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

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

1 Reasonable privacy ~~shall~~**must** be afforded for visitation of an  
2 extended care services patient who shares a room with another  
3 extended care services patient. Each extended care services patient  
4 ~~shall~~**must** have reasonable access to a telephone.

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

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

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

26 (vi) A patient in an extended care services program or a person  
27 authorized in writing by the patient may, ~~upon~~**on** submission to the  
28 hospital of a written request, inspect and copy the patient's  
29 personal or medical records. The hospital shall make the records

1 available for inspection and copying within a reasonable time, not  
2 exceeding 7 days, after the receipt of the written request.

3 (vii) An extended care services patient has the right to have  
4 his or her parents, if the extended care services patient is a  
5 minor, or his or her spouse, next of kin, or patient's  
6 representative, if the extended care services patient is an adult,  
7 stay at the hospital 24 hours a day if the extended care services  
8 patient is considered terminally ill by the physician responsible  
9 for the extended care services patient's care.

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

14 (ix) Each extended care services patient has the right to  
15 receive a representative of an organization approved under section  
16 21764, for all of the purposes described in section 21763.

17 (j) ~~(l)~~ Achieve and maintain ~~medicare~~**Medicare** certification  
18 under title XVIII.

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

27 **(4) Beginning January 1, 2021, a hospital that is granted a**  
28 **certificate of need for an extended care services program under**  
29 **subsection (1) shall submit a report to the department in a form**

1 and manner prescribed by the department that includes, but is not  
2 limited to, all of the following information:

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

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

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

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

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

17 (6) ~~(5)~~—In the case of an extended care services patient, the  
18 rights described in subsection ~~(3) (k) (iv)~~ **(3) (i) (iv)** may be exercised  
19 by the patient's representative, as **that term is** defined in section  
20 ~~21703(2)~~. **21703**.

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

~~designated by the extended care services patient.~~ The hospital shall provide proper forms for the extended care services patient to provide for the designation of this person at the time of admission.

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

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

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

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

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

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