

HOUSE BILL NO. 6380

September 20, 2022, Introduced by Rep. Fink and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 21501, 21513, and 21551 (MCL 333.21501,
333.21513, and 333.21551), section 21501 as amended by 2018 PA 384,
section 21513 as amended by 2002 PA 125, and section 21551 as
amended by 1990 PA 331.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 21501. (1) As used in this part:
- 2 (a) "Aircraft transport vehicle" means that term as defined in
- 3 section 20902.

1 (b) "Ambulance" means that term as defined in section 20902.

2 (c) "Emergency patient" means that term as defined in section
3 20904.

4 (d) "Group health plan" means an employer program of health
5 benefits, including an employee welfare benefit plan as defined in
6 section 3(1) of subtitle A of title I of the employee retirement
7 income security act of 1974, Public Law 93-406, 29 USC 1002, to the
8 extent that the plan provides medical care, including items and
9 services paid for as medical care to employees or their dependents
10 as defined under the terms of the plan directly or through
11 insurance, reimbursement, or otherwise.

12 (e) "Health benefit plan" means a group health plan, an
13 individual or group expense-incurred hospital, medical, or surgical
14 policy or certificate, or an individual or group health maintenance
15 organization contract. Health benefit plan does not include
16 accident-only, credit, dental, or disability income insurance;
17 long-term care insurance; coverage issued as a supplement to
18 liability insurance; coverage only for a specified disease or
19 illness; worker's compensation or similar insurance; or automobile
20 medical-payment insurance.

21 (f) "Nonemergency patient" means that term as defined in
22 section 20908.

23 (g) "Participating provider" means a provider that, under
24 contract with an insurer that issues health benefit plans, or with
25 such an insurer's contractor or subcontractor, has agreed to
26 provide health care services to covered individuals and to accept
27 payment by the insurer, contractor, or subcontractor for covered
28 services as payment in full, other than coinsurance, copayments, or
29 deductibles.

1 (h) "Patient's representative" means any of the following:

2 (i) A person to whom a patient has given express written
3 consent to represent the patient.

4 (ii) A person authorized by law to provide consent for a
5 patient.

6 (iii) A patient's treating health professional, but only if the
7 patient is unable to provide consent.

8 (i) **"Rural emergency hospital" means a hospital that is**
9 **designated by the Centers for Medicare and Medicaid Services to**
10 **offer rural emergency hospital services.**

11 (j) **"Rural emergency hospital services" means that term as**
12 **defined in 42 USC 1395x.**

13 (k) ~~(i)~~—"Third party administrator" means that term as defined
14 in section 2 of the third party administrator act, 1984 PA 218, MCL
15 550.902.

16 (2) In addition, article 1 contains general definitions and
17 principles of construction applicable to all articles in this code
18 and part 201 contains definitions applicable to this part.

19 Sec. 21513. The owner, operator, and governing body of a
20 hospital licensed under this article:

21 (a) Are responsible for all phases of the operation of the
22 hospital, selection of the medical staff, and quality of care
23 rendered in the hospital.

24 (b) Shall cooperate with the department in the enforcement of
25 this part, and require that the physicians, dentists, and other
26 personnel working in the hospital who are required to be licensed
27 or registered are in fact currently licensed or registered.

28 (c) Shall ~~assure~~**ensure** that physicians and dentists admitted
29 to practice in the hospital are granted hospital privileges

1 consistent with their individual training, experience, and other
2 qualifications.

3 (d) Shall ~~assure~~**ensure** that physicians and dentists admitted
4 to practice in the hospital are organized into a medical staff to
5 enable an effective review of the professional practices in the
6 hospital for the purpose of reducing morbidity and mortality and
7 improving the care provided in the hospital for patients. The
8 review ~~shall~~**must** include the quality and necessity of the care
9 provided and the preventability of complications and deaths
10 occurring in the hospital.

11 (e) Shall not discriminate because of race, religion, color,
12 national origin, age, or sex in the operation of the hospital
13 including employment, patient admission and care, room assignment,
14 and professional or nonprofessional selection and training
15 programs, and shall not discriminate in the selection and
16 appointment of individuals to the physician staff of the hospital
17 or its training programs on the basis of licensure or registration
18 or professional education as doctors of medicine, osteopathic
19 medicine and surgery, or podiatry.

20 (f) Shall ~~assure~~**ensure** that the hospital adheres to medical
21 control authority protocols according to section 20918.

22 (g) Shall ~~assure~~**ensure** that the hospital develops and
23 maintains a plan for biohazard detection and handling.

24 **(h) Shall notify the department of health and human services**
25 **if the owner, operator, or governing body of the hospital applies**
26 **for designation as a rural emergency hospital.**

27 Sec. 21551. (1) A hospital licensed under this article and
28 located in a nonurbanized area may apply to the department to
29 temporarily delicense ~~not~~**the following:**

1 (a) **Not** more than 50% of its licensed beds for not more than 5
2 years.

3 (b) **If the hospital is a rural emergency hospital, 100% of its**
4 **licensed beds for not more than 5 years.**

5 (2) A hospital that is granted a temporary delicensure of beds
6 under subsection (1) may apply to the department for an extension
7 of temporary delicensure for those beds for up to an additional 5
8 years to the extent that the hospital actually met the requirements
9 of subsection (6) during the initial period of delicensure granted
10 under subsection (1). The department shall grant an extension under
11 this subsection unless the department determines under part 222
12 that there is a demonstrated need for the delicensed beds in the
13 ~~subarea~~ **hospital group** in which the hospital is located. If the
14 department does not grant an extension under this subsection, the
15 hospital shall request relicensure of the beds ~~pursuant to~~ **under**
16 subsection (7) or allow the beds to become permanently delicensed
17 ~~pursuant to~~ **under** subsection (8).

18 (3) ~~Except as otherwise provided in this section, for a period~~
19 ~~of 90 days after January 1, 1991, if~~ **If** a hospital is located in a
20 distressed area and has an annual indigent volume consisting of not
21 less than 25% indigent patients, the hospital may apply to the
22 department to temporarily delicense not more than 50% of its
23 licensed beds for a period of not more than 2 years. ~~Upon~~ **On the**
24 receipt of a complete application under this subsection, the
25 department shall temporarily delicense the beds indicated in the
26 application. The department shall not grant an extension of
27 temporary delicensure under this subsection.

28 (4) An application under subsection (1) or (3) ~~shall~~ **must** be
29 on a form provided by the department. The form ~~shall~~ **must** contain

1 all of the following information:

2 (a) The number and location of the specific beds to be
3 delicensed.

4 (b) The period of time during which the beds will be
5 delicensed.

6 (c) The alternative use proposed for the space occupied by the
7 beds to be delicensed.

8 (5) A hospital that files an application under subsection (1)
9 or (3) may file an amended application with the department on a
10 form provided by the department. The hospital shall state on the
11 form the purpose of the amendment. If the hospital meets the
12 requirements of this section, the department shall so amend the
13 hospital's original application.

14 (6) An alternative use of space made available by the
15 delicensure of beds under this section ~~shall~~**does** not result in a
16 violation of this article or the rules promulgated under this
17 article. Along with the application, an applicant for delicensure
18 under subsection (1) or (3) shall submit to the department plans
19 that indicate to the satisfaction of the department that the space
20 occupied by the beds proposed for temporary delicensure will be
21 used for 1 or more of the following:

22 (a) An alternative use that over the proposed period of
23 temporary delicensure would defray the depreciation and interest
24 costs that otherwise would be allocated to the space along with the
25 operating expenses related to the alternative use.

26 (b) To correct a licensing deficiency previously identified by
27 the department.

28 (c) Nonhospital purposes including, but not limited to,
29 community service projects, if the depreciation and interest costs

1 for all capital expenditures that would otherwise be allocated to
2 the space, as well as any operating costs related to the proposed
3 alternative use, would not be considered as hospital costs for
4 purposes of reimbursement.

5 (7) The department shall relicense beds that are temporarily
6 delicensed under this section if all of the following requirements
7 are met:

8 (a) The hospital files with the department a written request
9 for relicensure not less than 90 days before the earlier of the
10 following:

11 (i) The expiration of the period for which delicensure was
12 granted.

13 (ii) The date upon which the hospital is requesting
14 relicensure.

15 (iii) The last hospital license renewal date in the delicensure
16 period.

17 (b) The space to be occupied by the relicensed beds is in
18 compliance with this article and the rules promulgated under this
19 article, including all licensure standards in effect at the time of
20 relicensure, or the hospital has a plan of corrections that has
21 been approved by the department.

22 (8) If a hospital does not meet all of the requirements of
23 subsection (7) or if a hospital decides to allow beds to become
24 permanently delicensed as described in subsection (2), then all of
25 the temporarily delicensed beds ~~shall~~**must** be automatically and
26 permanently delicensed effective on the last day of the period for
27 which the department granted temporary delicensure.

28 (9) The department **of health and human services** shall continue
29 to count beds temporarily delicensed under this section in the

1 ~~department's~~ **department of health and human services's** bed
 2 inventory for purposes of determining hospital bed need under part
 3 222 in the ~~subarea~~ **hospital group** in which the beds are located.
 4 The department **of health and human services** shall indicate in the
 5 bed inventory which beds are licensed and which beds are ~~temporary~~
 6 **temporarily** delicensed under this section. The department **of health**
 7 **and human services** shall not include a hospital's temporarily
 8 delicensed beds in the hospital's licensed bed count.

9 (10) A hospital that is granted temporary delicensure of beds
 10 under this section shall not transfer the beds to another site or
 11 hospital without first obtaining a certificate of need.

12 ~~(11) A hospital that has beds that are subject to a hospital~~
 13 ~~bed reduction plan or to a department action to enforce this~~
 14 ~~article shall not use beds temporarily delicensed under this~~
 15 ~~section to comply with the bed reduction plan.~~

16 **(11)** ~~(12)~~ As used in this section:

17 (a) "Distressed area" means a city that meets all of the
 18 following criteria:

19 (i) Had a negative population change from ~~1970~~ **2010** to the date
 20 of the ~~1980~~ **2020** federal decennial census.

21 (ii) From 1972 to 1989, had an increase in its state equalized
 22 valuation that is less than the statewide average.

23 (iii) Has a poverty level that is greater than the statewide
 24 average, according to the ~~1980~~ **2020** federal decennial census.

25 (iv) Was eligible for an urban development action grant from
 26 the United States ~~department of housing and urban development~~
 27 **Department of Housing and Urban Development** in 1984 and was listed
 28 in 49 ~~F.R.~~ **FR** No. 28 (February 9, 1984) or 49 ~~F.R.~~ **FR** No. 30
 29 (February 13, 1984).

(v) Had an unemployment rate that was higher than the statewide average for 3 of the 5 years from 1981 to 1985.

(b) "Indigent volume" means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the department of ~~social~~**health and human** services after November 12, 1990, ~~pursuant to~~**under** chapter 8 of the department of ~~social~~**health and human** services guidelines entitled ~~"medical assistance program manual"~~**.titled "Medical Assistance Program Manual"**.

(c) "Nonurbanized area" means an area that is not an urbanized area.

(d) "Urbanized area" means that term as defined by the ~~office~~**Office** of ~~federal statistical policy~~**Federal Statistical Policy** and ~~standards~~**Standards** of the United States ~~department of commerce~~**Department of Commerce** in the appendix entitled ~~"general procedures and definitions"~~**, "General Procedures and Definitions"**, 45 ~~F.R.~~**FR** p. 962 (January 3, 1980), which document is incorporated by reference.