

SENATE BILL NO. 811

April 09, 2024, Introduced by Senators HUIZENGA, MCBROOM, HAUCK, BELLINO and BAYER and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 22210 (MCL 333.22210), as amended by 2020 PA 333.

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~~**must** be granted a certificate of
4 need for an extended care services program with up to ~~10~~**25**

1 licensed 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 (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 under an admissions contract approved by the department.

26 (c) Subject to subdivision ~~(f),~~ **(e)**, not discharge or transfer
27 a patient from a licensed hospital bed other than a hospital long-
28 term care unit bed and admit that patient to the extended care
29 services program unless the discharge or transfer and admission is

1 determined medically appropriate by the attending physician.

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

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

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

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

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

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

27 (i) ~~(j)~~ As part of the hospital's policy describing the rights
28 and responsibilities of patients admitted to the hospital, as
29 required under section 20201, incorporate all of the following

1 additional rights and responsibilities for patients in the extended
2 care services program:

3 (i) A copy of the hospital's policy must be provided to each
4 extended care services patient on admission, and the staff of the
5 hospital must be trained and involved in the implementation of the
6 policy.

7 (ii) Each extended care services patient may associate and
8 communicate privately with ~~persons of his or her~~ **individuals of the**
9 **patient's** choice. Reasonable, regular visiting hours, which must
10 take into consideration the special circumstances of each visitor,
11 must be established for extended care services patients to receive
12 visitors. An extended care services patient may be visited by the
13 patient's attorney or by representatives of the departments named
14 in section 20156 during other than established visiting hours.
15 Reasonable privacy must be afforded for visitation of an extended
16 care services patient who shares a room with another extended care
17 services patient. Each extended care services patient must have
18 reasonable access to a telephone.

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

23 (iv) An extended care services patient is entitled to the
24 opportunity to participate in the planning of ~~his or her~~ **the**
25 **patient's** medical treatment, including the development of the
26 discharge plan under subdivision ~~(l)~~ **(k)**. An extended care services
27 patient must be fully informed by the attending physician of the
28 extended care services patient's medical condition, unless
29 medically contraindicated, as documented by a physician in the

1 medical record. Each extended care services patient must be
2 afforded the opportunity to discharge ~~himself or herself~~ from the
3 extended care services program.

4 (v) An extended care services patient is entitled to be fully
5 informed either before or at the time of admission, and during ~~his~~
6 ~~or her~~ **the** stay, of services available in the hospital and of the
7 related charges for those services. The statement of services
8 provided by the hospital must be in writing and must include those
9 services required to be offered on an as needed basis.

10 (vi) A patient in an extended care services program or a person
11 authorized in writing by the patient may, on submission to the
12 hospital of a written request, inspect and copy the patient's
13 personal or medical records. The hospital shall make the records
14 available for inspection and copying within a reasonable time, not
15 exceeding 7 days, after the receipt of the written request.

16 (vii) An extended care services patient has the right to have
17 ~~his or her~~ **the patient's** parents, if the extended care services
18 patient is a minor, or ~~his or her~~ **patient's** spouse, next of kin, or
19 patient's representative, if the extended care services patient is
20 an adult, stay at the hospital 24 hours a day if the extended care
21 services patient is considered terminally ill by the physician
22 responsible for the extended care services patient's care.

23 (viii) Each extended care services patient must be provided with
24 meals that meet the recommended dietary allowances for that
25 patient's age and sex and that may be modified according to special
26 dietary needs or ability to chew.

27 (ix) Each extended care services patient has the right to
28 receive a representative of an organization approved under section
29 21764, for all of the purposes described in section 21763.

1 (j) ~~(k)~~ Achieve and maintain Medicare certification under
2 title XVIII.

3 (k) ~~(l)~~ Establish a discharge plan for each extended care
4 services patient who is admitted to the extended care services
5 program. In the discharge plan, the hospital shall emphasize
6 patient choice in receiving extended care services in the most
7 appropriate and least restrictive setting. The hospital shall
8 provide to the patient or ~~his or her~~ **the patient's** authorized
9 representative a copy of the discharge plan not later than 3 days
10 after the patient is admitted to the extended care services
11 program.

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

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

20 ~~(b) The total number of extended care services patient days
21 for the period specified by the department.~~

22 (b) ~~(e)~~ Information that identifies the type of care to which
23 patients in the extended care services program are released.

24 (c) ~~(d)~~ Any other information considered necessary to the
25 department to evaluate the extended care services program.

26 (5) A hospital or the owner, an administrator, an employee, or
27 a representative of the hospital shall not discharge, harass, or
28 retaliate or discriminate against an extended care services patient
29 because the extended care services patient has exercised a right

1 described in subsection ~~(3)(j)~~. **(3)(i)**.

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

6 (7) An extended care services patient must be fully informed,
7 as evidenced by the extended care services patient's written
8 acknowledgment, before or at the time of admission and during stay,
9 of the rights described in subsection ~~(3)(j)~~ **(3)(i)**. The written
10 acknowledgment must provide that if an extended care services
11 patient is adjudicated incompetent and not restored to legal
12 capacity, a person designated by the extended care services patient
13 shall exercise the rights and responsibilities set forth in
14 subsection ~~(3)(j)~~ **(3)(i)**. The hospital shall provide proper forms
15 for the extended care services patient to provide for the
16 designation of this person at the time of admission.

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

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

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

25 (11) As used in this section:

26 (a) "Extended care services program" means a program by a
27 hospital to provide extended care services **or behavioral health**
28 **services** to a patient through the use of swing beds under ~~section~~
29 ~~1883 of title XVIII,~~ 42 USC 1395tt **and any other applicable federal**

1 **law.**

2 (b) "Hospital long-term care unit" means that term as defined

3 in section 20106.