

# HOUSE BILL No. 5319

November 6, 1991, Introduced by Reps. Muxlow, Alley, Gire, Bartnik, Oxender, Ostling, Allen, DeMars, Strand, Middaugh and Anthony and referred to the Committee on Public Health.

A bill to amend section 22210 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 260 of the Public Acts of 1990, being section 333.22210 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 22210 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 260 of the Public Acts of 1990,  
3 being section 333.22210 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 22210. (1) A hospital that applies to the department  
6 for a certificate of need and meets all of the following criteria  
7 shall be granted a certificate of need for a short-term nursing  
8 care program with up to 10 licensed hospital beds:

1 (a) Is eligible to apply for certification as a provider of  
2 swing-bed services under section 1883 of title XVIII of the  
3 social security act, 42 U.S.C. 1395tt.

4 (b) Subject to subsection (2), has fewer than 100 licensed  
5 beds not counting beds excluded under section 1883 of title XVIII  
6 of the social security act.

7 (c) Does not have uncorrected licensing, certification, or  
8 safety deficiencies for which the department or the state fire  
9 marshal, or both, has not accepted a plan of correction.

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

14 (2) After October 1, 1990, the ~~criteria~~ CRITERION set  
15 forth in subsection (1)(b) may be modified by the commission,  
16 using the procedure set forth in section 22215(3). The depart-  
17 ment shall not charge a fee for processing a certificate of need  
18 application to initiate a short-term nursing care program.

19 (3) A hospital that is granted a certificate of need for a  
20 short-term nursing care program under subsection (1) shall comply  
21 with all of the following:

22 (a) Not charge for or otherwise attempt to recover the cost  
23 of a length of stay for a patient in the short-term nursing care  
24 program that exceeds the length of time allowed for post-hospital  
25 extended care under title XVIII of the social security act,  
26 chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,  
27 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to ~~1395w-2~~ 1395t,

1 1395u TO 1395w-2, 1395w-4 to ~~1395dd, 1395ff to 1395yy~~ 1395zz,  
2 and 1395bbb to 1395ccc.

3 (b) Admit patients to the short-term nursing care program  
4 only pursuant to an admissions contract approved by the  
5 department.

6 (c) Not discharge or transfer a patient from a licensed hos-  
7 pital bed other than a hospital long-term care unit bed and admit  
8 that patient to the short-term nursing care program unless the  
9 discharge or transfer and admission is determined medically  
10 appropriate by the attending physician.

11 (d) Permit access to a representative of an organization  
12 approved under section 21764 to patients admitted to the  
13 short-term nursing care program, for all of the purposes  
14 described in section 21763.

15 (e) Subject to subsection (8), not allow the number of  
16 patient days for the short-term nursing care program to exceed  
17 the equivalent of 1,825 patient days for a single state fiscal  
18 year.

19 ~~(f) Transfer a patient in the short term nursing care pro-~~  
20 ~~gram to an appropriately certified nursing home bed, county medi-~~  
21 ~~cal care facility bed, or hospital long term care unit bed~~  
22 ~~located within a 50 mile radius of the patient's residence within~~  
23 ~~5 business days after the hospital has been notified, either~~  
24 ~~orally or in writing, that a bed has become available.~~

25 (F) ~~(g)~~ Not charge or collect from a patient admitted to  
26 the short-term nursing care program, for services rendered as  
27 part of the short-term nursing care program, an amount in excess

1 of the reasonable charge for the services as determined by the  
2 United States secretary of health and human services under title  
3 XVIII of the social security act.

4 (G) ~~-(h)-~~ Assist a patient who has been denied coverage for  
5 services received in a short-term nursing care program under  
6 title XVIII of the social security act to file an appeal with the  
7 medicare recovery project operated by the office of services to  
8 the aging.

9 (H) ~~-(i)-~~ Operate the short-term nursing care program in  
10 accordance with this section and the requirements of the swing  
11 bed provisions of section 1883 of title XVIII of the social  
12 security act, 42 U.S.C. 1395tt.

13 (I) ~~-(j)-~~ Provide data to the department considered neces-  
14 sary by the department to evaluate the short-term nursing care  
15 program. The data shall include, but is not limited to, all of  
16 the following:

17 (i) The total number of patients admitted to the hospital's  
18 short-term nursing care program during the period specified by  
19 the department.

20 (ii) The total number of short-term nursing care patient  
21 days for the period specified by the department.

22 (iii) Information identifying the type of care to which  
23 patients in the short-term care nursing program are released.

24 (J) ~~-(k)-~~ As part of the hospital's policy describing the  
25 rights and responsibilities of patients admitted to the hospital,  
26 as required under section 20201, incorporate all of the following

1 additional rights and responsibilities for patients in the  
2 short-term nursing care program:

3       (i) A copy of the hospital's policy shall be provided to  
4 each short-term nursing care patient upon admission, and the  
5 staff of the hospital shall be trained and involved in the imple-  
6 mentation of the policy.

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

19       (iii) A short-term nursing care patient is entitled to  
20 retain and use personal clothing and possessions as space per-  
21 mits, unless medically contraindicated, as documented by the  
22 attending physician in the medical record.

23       (iv) A short-term nursing care patient is entitled to the  
24 opportunity to participate in the planning of his or her medical  
25 treatment. A short-term nursing care patient shall be fully  
26 informed by the attending physician of the short-term nursing  
27 care patient's medical condition, unless medically

1 contraindicated, as documented by a physician in the medical  
2 record. Each short-term nursing care patient shall be afforded  
3 the opportunity to discharge himself or herself from the  
4 short-term nursing care program.

5       (v) A short-term nursing care patient is entitled to be  
6 fully informed either before or at the time of admission, and  
7 during ~~their~~ HIS OR HER stay, of services available in the hos-  
8 pital and of the related charges for those services. The state-  
9 ment of services provided by the hospital shall be in writing and  
10 shall include those services required to be offered on an as  
11 needed basis.

12       (vi) A patient in a short-term nursing care program or a  
13 person authorized in writing by the patient may, upon submission  
14 to the hospital of a written request, inspect and copy the  
15 patient's personal or medical records. The hospital shall make  
16 the records available for inspection and copying within a reason-  
17 able time, not exceeding 7 days, after the receipt of the written  
18 request.

19       (vii) A short-term nursing care patient has the right to  
20 have his or her parents, if the short-term nursing care patient  
21 is a minor, or his or her spouse, next of kin, or patient's rep-  
22 resentative, if the short-term nursing care patient is an adult,  
23 stay at the facility 24 hours a day if the short-term nursing  
24 care patient is considered terminally ill by the physician  
25 responsible for the short-term nursing care patient's care.

26       (viii) Each short-term nursing care patient shall be  
27 provided with meals that meet the recommended dietary allowances

1 for that patient's age and sex and that may be modified according  
2 to special dietary needs or ability to chew.

3 (ix) Each short-term nursing care patient has the right to  
4 receive a representative of an organization approved under  
5 section 21764, for all of the purposes described in section  
6 21763.

7 (K) ~~(L)~~ Achieve and maintain medicare certification under  
8 title XVIII of the social security act.

9 (4) A hospital or the owner, administrator, an employee, or  
10 a representative of the hospital shall not discharge, harass, or  
11 retaliate or discriminate against a short-term nursing care  
12 patient because the short-term nursing care patient has exercised  
13 a right described in subsection ~~(3)(K)~~ (3)(J).

14 (5) In the case of a short-term nursing care patient, the  
15 rights described in subsection ~~(3)(K)(iv)~~ (3)(J)(iv) may be  
16 exercised by the patient's representative, as defined in section  
17 21703(2).

18 (6) A short-term nursing care patient shall be fully  
19 informed, as evidenced by the short-term nursing care patient's  
20 written acknowledgment, before or at the time of admission and  
21 during stay, of the rights described in subsection ~~(3)(K)~~  
22 (3)(J). The written acknowledgment shall provide that if a  
23 short-term nursing care patient is adjudicated incompetent and  
24 not restored to legal capacity, the rights and responsibilities  
25 set forth in subsection ~~(3)(K)~~ (3)(J) shall be exercised by a  
26 person designated by the short-term nursing care patient. The  
27 hospital shall provide proper forms for the short-term nursing

1 care patient to provide for the designation of this person at the  
2 time of admission.

3 (7) Subsection ~~(3)(k)~~ (3)(J) does not prohibit a hospital  
4 from establishing and recognizing additional rights for  
5 short-term nursing care patients.

6 (8) Upon application, the department may grant a variation  
7 from the maximum number of patient days established under subsec-  
8 tion (3)(e), to an applicant hospital that demonstrates to the  
9 satisfaction of the department that there is an immediate need  
10 for skilled nursing beds within a 100-mile radius of the  
11 hospital. A variation granted under this subsection ~~shall be~~  
12 IS valid for not more than 1 year after the date variation is  
13 granted. The department shall promulgate rules to implement this  
14 subsection including, at a minimum, a definition of immediate  
15 need and the procedure for applying for a variation.

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

18 (10) A person shall not initiate a short-term nursing care  
19 program without first obtaining a certificate of need under this  
20 section.

21 (11) By October 1, 1990, the department shall collect data  
22 from hospitals operating short-term nursing care programs and  
23 report to the legislature on the status of short-term nursing  
24 care programs in this state. The report shall include a recom-  
25 mendation as to whether or not short-term nursing care programs  
26 should continue.

27 (12) This section is repealed effective October 1, 1993.