

HOUSE BILL No. 4785

May 14, 1997, Introduced by Reps. Quarles, DeHart, Varga, Curtis, LaForge, Brewer, Cherry, Rison, Murphy, Bogardus, Schermesser, Godchaux, Parks, Hale, Scott and Martinez 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 1993 PA
88.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22210. (1) A hospital that applies to the department
2 for a certificate of need and meets all of the following criteria
3 shall be granted a certificate of need for a short-term nursing
4 care program with up to 10 licensed hospital beds:
5 (a) Is eligible to apply for certification as a provider of
6 swing-bed services under section 1883 of title XVIII,
7 42 U.S.C. 1395tt.
8 (b) Subject to subsection (2), has fewer than 100 licensed
9 beds not counting beds excluded under section 1883 of title XVIII
10 of the social security act.

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

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

8 (2) After October 1, 1990, the criteria set forth in
9 subsection (1)(b) may be modified by the commission, using the
10 procedure set forth in section ~~22215(3)~~ 22215. The department
11 shall not charge a fee for processing a certificate of need
12 application to initiate a short-term nursing care program.

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

16 (a) Not charge for or otherwise attempt to recover the cost
17 of a length of stay for a patient in the short-term nursing care
18 program that exceeds the length of time allowed for post-hospital
19 extended care under title XVIII.

20 (b) Admit patients to the short-term nursing care program
21 only pursuant to an admissions contract approved by the
22 department.

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

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

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

9 (f) ~~Transfer~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVI-
10 SION, TRANSFER a patient in the short-term nursing care program
11 to an appropriately certified nursing home bed, county medical
12 care facility bed, or hospital long-term care unit bed located
13 within a 50-mile radius of the patient's residence within 5 busi-
14 ness days after the hospital has been notified, either orally or
15 in writing, that a bed has become available. IF THE AVAILABLE
16 NURSING HOME BED, COUNTY MEDICAL CARE FACILITY BED, OR HOSPITAL
17 LONG-TERM CARE UNIT BED WITHIN THE 50-MILE RADIUS IS LOCATED IN
18 ANOTHER STATE OR COUNTRY, THE HOSPITAL MAY WAIT TO TRANSFER THE
19 PATIENT UNDER THIS SUBDIVISION UNTIL A BED DESCRIBED IN THIS SUB-
20 DIVISION WITHIN THE 50-MILE RADIUS AND LOCATED IN THIS STATE
21 BECOMES AVAILABLE.

22 (g) Not charge or collect from a patient admitted to the
23 short-term nursing care program, for services rendered as part of
24 the short-term nursing care program, an amount in excess of the
25 reasonable charge for the services as determined by the United
26 States secretary of health and human services under title XVIII.

1 (h) Assist a patient who has been denied coverage for
2 services received in a short-term nursing care program under
3 title XVIII to file an appeal with the medicare recovery project
4 operated by the office of services to the aging.

5 (i) Operate the short-term nursing care program in accord-
6 ance with this section and the requirements of the swing bed pro-
7 visions of section 1883 of title XVIII, 42 U.S.C. 1395tt.

8 (j) Provide data to the department considered necessary by
9 the department to evaluate the short-term nursing care program.
10 The data shall include, but is not limited to, all of the
11 following:

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

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

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

19 (k) As part of the hospital's policy describing the rights
20 and responsibilities of patients admitted to the hospital, as
21 required under section 20201, incorporate all of the following
22 additional rights and responsibilities for patients in the
23 short-term nursing care program:

24 (i) A copy of the hospital's policy shall be provided to
25 each short-term nursing care patient upon admission, and the
26 staff of the hospital shall be trained and involved in the
27 implementation of the policy.

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

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

17 (iv) A short-term nursing care patient is entitled to the
18 opportunity to participate in the planning of his or her medical
19 treatment. A short-term nursing care patient shall be fully
20 informed by the attending physician of the short-term nursing
21 care patient's medical condition, unless medically contraindi-
22 cated, as documented by a physician in the medical record. Each
23 short-term nursing care patient shall be afforded the opportunity
24 to discharge himself or herself from the short-term nursing care
25 program.

26 (v) A short-term nursing care patient is entitled to be
27 fully informed either before or at the time of admission, and

1 during his or her stay, of services available in the hospital and
2 of the related charges for those services. The statement of
3 services provided by the hospital shall be in writing and shall
4 include those services required to be offered on an as needed
5 basis.

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

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

20 (viii) Each short-term nursing care patient shall be pro-
21 vided with meals that meet the recommended dietary allowances for
22 that patient's age and sex and that may be modified according to
23 special dietary needs or ability to chew.

24 (ix) Each short-term nursing care patient has the right to
25 receive a representative of an organization approved under
26 section 21764, for all of the purposes described in section
27 21763.

1 (1) Achieve and maintain medicare certification under title
2 XVIII.

3 (4) A hospital or the owner, administrator, an employee, or
4 a representative of the hospital shall not discharge, harass, or
5 retaliate or discriminate against a short-term nursing care
6 patient because the short-term nursing care patient has exercised
7 a right described in subsection (3)(k).

8 (5) In the case of a short-term nursing care patient, the
9 rights described in subsection (3)(k)(iv) may be exercised by the
10 patient's representative, as defined in section 21703(2).

11 (6) A short-term nursing care patient shall be fully
12 informed, as evidenced by the short-term nursing care patient's
13 written acknowledgment, before or at the time of admission and
14 during stay, of the rights described in subsection (3)(k). The
15 written acknowledgment shall provide that if a short-term nursing
16 care patient is adjudicated incompetent and not restored to legal
17 capacity, the rights and responsibilities set forth in subsection
18 (3)(k) shall be exercised by a person designated by the
19 short-term nursing care patient. The hospital shall provide
20 proper forms for the short-term nursing care patient to provide
21 for the designation of this person at the time of admission.

22 (7) Subsection (3)(k) does not prohibit a hospital from
23 establishing and recognizing additional rights for short-term
24 nursing care patients.

25 (8) Upon application, the department may grant a variation
26 from the maximum number of patient days established under
27 subsection (3)(e), to an applicant hospital that demonstrates to

1 the satisfaction of the department that there is an immediate
2 need for skilled nursing beds within a 100-mile radius of the
3 hospital. IF PART OF THE 100-MILE RADIUS IS LOCATED IN ANOTHER
4 STATE OR COUNTRY, THE APPLICANT HOSPITAL NEED ONLY DEMONSTRATE TO
5 THE SATISFACTION OF THE DEPARTMENT THAT THERE IS AN IMMEDIATE
6 NEED FOR SKILLED NURSING BEDS WITHIN THAT PART OF THE 100-MILE
7 RADIUS LOCATED IN THIS STATE. A variation granted under this sub-
8 section shall be valid for not more than 1 year after the date
9 the variation is granted. The department shall promulgate rules
10 to implement this subsection including, at a minimum, a defini-
11 tion of immediate need and the procedure for applying for a
12 variation.

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

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