

# HOUSE BILL No. 5259

October 17, 2001, Introduced by Reps. Woronchak, George, Howell, Julian, Richardville, Stewart, Basham, Raczowski, Vander Veen, Scranton, Patterson, Ehardt, Jelinek, Voorhees, Shulman, Plakas, Anderson, Shackleton, Vear, Hummel, Stamas, Kuipers, Pappageorge, Middaugh, Meyer, Gilbert, Allen, Kowall, Van Woerkom, Kooiman, Cassis, DeVuyst, Pumford, Cameron Brown, Sanborn, Newell, Birkholz, Faunce and Neumann and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20201 (MCL 333.20201), as amended by 1998 PA 88.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

HOUSE BILL No. 5259

1       Sec. 20201. (1) A health facility or agency ~~which~~ THAT  
2 provides services directly to patients or residents and ~~which~~  
3 is licensed under this article shall adopt a policy describing  
4 the rights and responsibilities of patients or residents admitted  
5 to the health facility or agency. Except for a licensed health  
6 maintenance organization, which shall comply with ~~section 21086~~  
7 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.101 TO 500.8302,  
8 the policy shall be posted at a public place in the HEALTH  
9 facility OR AGENCY and shall be provided to each member of the



**HB5259, As Passed House, October 29, 2001**

2

1 ~~facility~~ staff. Patients ~~or~~ AND residents shall be treated  
2 in accordance with the POSTED policy.

3 (2) The policy describing the rights and responsibilities of  
4 patients or residents REQUIRED UNDER SUBSECTION (1) shall  
5 include, ~~as~~ AT a minimum, ALL OF THE FOLLOWING:

6 (a) A patient or resident will not be denied appropriate  
7 care on the basis of race, religion, color, national origin, sex,  
8 age, disability, marital status, sexual preference, or source of  
9 payment.

10 (b) An individual who is or has been a patient or resident  
11 is entitled to inspect, or receive for a reasonable fee, a copy  
12 of his or her medical record upon request. A third party shall  
13 not be given a copy of the patient's or resident's medical record  
14 without prior authorization of the patient OR RESIDENT.

15 (c) A patient or resident is entitled to confidential treat-  
16 ment of personal and medical records, and may refuse their  
17 release to a person outside the HEALTH facility OR AGENCY except  
18 as required BY LAW because of a transfer to another health ~~care~~  
19 facility OR AGENCY or as required by law or third party payment  
20 contract.

21 (d) A patient or resident is entitled to privacy, to the  
22 extent feasible, in treatment and in caring for personal needs  
23 with consideration, respect, and full recognition of his or her  
24 dignity and individuality.

25 (e) A patient or resident is entitled to receive adequate  
26 and appropriate care, and to receive, from the appropriate  
27 individual within the HEALTH facility OR AGENCY, information

**HB5259, As Passed House, October 29, 2001**

3

1 about his or her medical condition, proposed course of treatment,  
2 and prospects for recovery, in terms that the patient or resident  
3 can understand, unless medically contraindicated as documented by  
4 the attending physician in the medical record.

5 (f) A patient or resident is entitled to refuse treatment to  
6 the extent provided by law and to be informed of the consequences  
7 of that refusal. ~~When~~ IF a refusal of treatment prevents a  
8 health facility OR AGENCY or its staff from providing appropriate  
9 care according to ethical and professional standards, the rela-  
10 tionship with the patient or resident may be terminated upon rea-  
11 sonable notice.

12 (g) A patient or resident is entitled to exercise his or her  
13 rights as a patient or resident and as a citizen, and to this end  
14 may present grievances or recommend changes in policies and serv-  
15 ices on behalf of himself or herself or others to the HEALTH  
16 facility OR AGENCY staff, to governmental officials, or to  
17 another person of his or her choice within or outside the HEALTH  
18 facility OR AGENCY, free from restraint, interference, coercion,  
19 discrimination, or reprisal. A patient or resident is entitled  
20 to information about the HEALTH facility's OR AGENCY'S policies  
21 and procedures for initiation, review, and resolution of patient  
22 or resident complaints.

23 (h) A patient or resident is entitled to information con-  
24 cerning an experimental procedure proposed as a part of his or  
25 her care and ~~shall have the right to~~ MAY refuse to participate  
26 in the experiment without jeopardizing his or her continuing  
27 care.

**HB5259, As Passed House, October 29, 2001**

4

1 (i) A patient or resident is entitled to receive and examine  
2 an explanation of his or her bill regardless of the source of  
3 payment and to receive, upon request, information relating to  
4 financial assistance available through the HEALTH facility OR  
5 AGENCY.

6 (j) A patient or resident is entitled to know who is respon-  
7 sible for and who is providing his or her direct care; ~~—~~ is  
8 entitled to receive information concerning his or her continuing  
9 health needs and alternatives for meeting those needs; ~~—~~ and to  
10 be involved in his or her discharge planning, if appropriate.

11 (k) A patient or resident is entitled to associate and have  
12 private communications and consultations with his or her physi-  
13 cian, attorney, or any other person of his or her choice and to  
14 send and receive personal mail unopened on the same day it is  
15 received at the health facility or agency, unless medically con-  
16 traindicated as documented by the attending physician in the med-  
17 ical record. A patient's or resident's civil and religious lib-  
18 erties, including the right to independent personal decisions and  
19 the right to knowledge of available choices, shall not be  
20 infringed and the HEALTH facility OR AGENCY shall encourage and  
21 assist in the fullest possible exercise of these rights. A  
22 patient or resident may meet with, and participate in, the activ-  
23 ities of social, religious, and community groups at his or her  
24 discretion, unless medically contraindicated as documented by the  
25 attending physician in the medical record.

26 (l) A patient or resident is entitled to be free from mental  
27 and physical abuse and from physical and chemical restraints,

**HB5259, As Passed House, October 29, 2001**

5

1 except those restraints authorized in writing by the attending  
2 physician for a specified and limited time or as are necessitated  
3 by an emergency to protect the patient or resident from injury to  
4 self or others, in which case the restraint may only be applied  
5 by a qualified professional who shall set forth in writing the  
6 circumstances requiring the use of restraints and who shall  
7 promptly report the action to the attending physician. In case  
8 of a chemical restraint a physician shall be consulted within 24  
9 hours after the commencement of the restraint.

10 (m) A patient or resident is entitled to be free from per-  
11 forming services for the HEALTH facility OR AGENCY that are not  
12 included for therapeutic purposes in the plan of care.

13 (n) A patient or resident is entitled to information about  
14 the health facility OR AGENCY rules and regulations affecting  
15 patient or resident care and conduct.

16 (O) A PATIENT OR RESIDENT IS ENTITLED TO ADEQUATE AND APPRO-  
17 PRIATE PAIN AND SYMPTOM MANAGEMENT AS A BASIC AND ESSENTIAL ELE-  
18 MENT OF HIS OR HER MEDICAL TREATMENT.

19 (3) The following additional requirements for the policy  
20 described in subsection (2) ~~shall~~ apply to licensees under  
21 parts 213 and 217:

22 (a) The policy shall be provided to each nursing home  
23 patient or home for the aged resident upon admission, and the  
24 staff of the ~~facility~~ NURSING HOME OR HOME FOR THE AGED shall  
25 be trained and involved in the implementation of the policy.

26 (b) Each nursing home patient may associate and communicate  
27 privately with persons of his or her choice. Reasonable, regular

**HB5259, As Passed House, October 29, 2001**

6

1 visiting hours, which shall be not less than 8 hours per day, and  
2 which shall take into consideration the special circumstances of  
3 each visitor, shall be established for patients to receive  
4 visitors. A patient may be visited by the patient's attorney or  
5 by representatives of the departments named in section 20156,  
6 during other than established visiting hours. Reasonable privacy  
7 shall be afforded for visitation of a patient who shares a room  
8 with another patient. Each patient shall have reasonable access  
9 to a telephone. A married nursing home patient or home for the  
10 aged resident is entitled to meet privately with his or her  
11 spouse in a room ~~which~~ THAT assures privacy. If both spouses  
12 are residents in the same facility, they are entitled to share a  
13 room unless medically contraindicated and documented by the  
14 attending physician in the medical record.

15 (c) A nursing home patient or home for the aged resident is  
16 entitled to retain and use personal clothing and possessions as  
17 space permits, unless to do so would infringe upon the rights of  
18 other patients or residents, or unless medically contraindicated  
19 as documented by the attending physician in the medical record.  
20 Each nursing home patient or home for the aged resident shall be  
21 provided with reasonable space. At the request of a patient, a  
22 nursing home shall provide for the safekeeping of personal  
23 effects, funds, and other property of a patient in accordance  
24 with section 21767, except that a nursing home ~~shall~~ IS not  
25 ~~be~~ required to provide for the safekeeping of a property  
26 ~~which~~ THAT would impose an unreasonable burden on the nursing  
27 home.

**HB5259, As Passed House, October 29, 2001**

7

1 (d) A nursing home patient or home for the aged resident is  
2 entitled to the opportunity to participate in the planning of his  
3 or her medical treatment. A nursing home patient shall be fully  
4 informed by the attending physician of the patient's medical con-  
5 dition unless medically contraindicated as documented by a physi-  
6 cian in the medical record. Each nursing home patient shall be  
7 afforded the opportunity to discharge himself or herself from the  
8 nursing home.

9 (e) A home for the aged resident may be transferred or dis-  
10 charged only for medical reasons, for his or her welfare or that  
11 of other residents, or for nonpayment of his or her stay, except  
12 as provided by title XVIII of the social security act, chapter  
13 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, ~~1395c to~~  
14 ~~1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to 1395w-2,~~  
15 ~~1395w-4 to 1395yy, and 1395bbb to 1395ddd,~~ 1395b-6 TO 1395b-7,  
16 1395c TO 1395i, 1395i-2 TO 1395i-5, 1395j TO 1395t, 1395u TO  
17 1395w, 1395w-2 TO 1395w-4, 1395w-21 TO 1395w-28, 1395x TO 1395yy,  
18 AND 1395bbb TO 1395ggg, or by title XIX of the social security  
19 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396f and~~  
20 ~~1396g-1 to 1396w~~ 1396r-6 AND 1396r-8 TO 1396v. A nursing home  
21 patient may be transferred or discharged only as provided in sec-  
22 tions 21773 to 21777. A nursing home patient or home for the  
23 aged resident is entitled to be given reasonable advance notice  
24 to ensure orderly transfer or discharge. Those actions shall be  
25 documented in the medical record.

26 (f) A nursing home patient or home for the aged resident is  
27 entitled to be fully informed before or at the time of admission



**HB5259, As Passed House, October 29, 2001**

8

1 and during stay of services available in the ~~facility~~ NURSING  
2 HOME OR HOME FOR THE AGED, and of the related charges including  
3 any charges for services not covered under title XVIII, or not  
4 covered by the ~~facility's~~ NURSING HOME'S OR HOME FOR THE AGED'S  
5 basic per diem rate. The statement of services provided by the  
6 ~~facility~~ NURSING HOME OR HOME FOR THE AGED shall be in writing  
7 and shall include those required to be offered on an as-needed  
8 basis.

9 (g) A nursing home patient or home for the aged resident is  
10 entitled to manage his or her own financial affairs, or to have  
11 at least a quarterly accounting of personal financial transac-  
12 tions undertaken in his or her behalf by the ~~facility~~ NURSING  
13 HOME OR HOME FOR THE AGED during a period of time the patient or  
14 resident has delegated those responsibilities to the ~~facility~~  
15 NURSING HOME OR HOME FOR THE AGED. In addition, a patient or  
16 resident is entitled to receive each month from the ~~facility~~  
17 NURSING HOME OR HOME FOR THE AGED an itemized statement setting  
18 forth the services paid for by or on behalf of the patient and  
19 the services rendered by the ~~facility~~ NURSING HOME OR HOME FOR  
20 THE AGED. The admission of a patient to a nursing home does not  
21 confer on the nursing home or its owner, administrator, employ-  
22 ees, or representatives the authority to manage, use, or dispose  
23 of a patient's property.

24 (h) A nursing home patient or a person authorized by a  
25 patient in writing may inspect and copy the patient's personal  
26 and medical records. The records shall be made available for  
27 inspection and copying by the nursing home within a reasonable

**HB5259, As Passed House, October 29, 2001**

9

1 time, not exceeding 1 week, after the receipt of a written  
2 request.

3 (i) If a nursing home patient desires treatment by a  
4 licensed member of the healing arts, the treatment shall be made  
5 available unless it is medically contraindicated, and the medical  
6 contraindication is justified in the patient's medical record by  
7 the attending physician.

8 (j) A nursing home patient has the right to have his or her  
9 parents, if a minor, or his or her spouse, next of kin, or  
10 patient's representative, if an adult, stay at the ~~facility~~  
11 NURSING HOME 24 hours a day if the patient is considered termi-  
12 nally ill by the physician responsible for the patient's care.

13 (k) Each nursing home patient shall be provided with meals  
14 ~~which~~ THAT meet the recommended dietary allowances for that  
15 patient's age and sex and which may be modified according to spe-  
16 cial dietary needs or ability to chew.

17 (l) Each nursing home patient has the right to receive rep-  
18 resentatives of approved organizations as provided in section  
19 21763.

20 (4) A nursing home, its owner, administrator, employee, or  
21 representative shall not discharge, harass, or retaliate or dis-  
22 criminate against a patient because the patient has exercised a  
23 right protected under this section.

24 (5) In the case of a nursing home patient, the rights enu-  
25 merated in subsection (2)(c), (g), and (k) and subsection (3)(d),  
26 (g), and (h) may be exercised by the patient's representative as  
27 defined in section 21703.

**HB5259, As Passed House, October 29, 2001**

10

1           (6) A nursing home patient or home for the aged resident is  
2 entitled to be fully informed, as evidenced by the patient's or  
3 resident's written acknowledgment, before or at the time of  
4 admission and during stay, of the policy required by this  
5 section. The policy shall provide that if a patient or resident  
6 is adjudicated incompetent and not restored to legal capacity,  
7 the rights and responsibilities set forth in this section shall  
8 be exercised by a person designated by the patient or resident.  
9 The ~~facility or agency~~ NURSING HOME OR HOME FOR THE AGED shall  
10 provide proper forms for the patient or resident to provide for  
11 the designation of this person at the time of admission.

12           (7) This section ~~shall~~ DOES not ~~be construed to~~ prohibit  
13 a health facility or agency from establishing and recognizing  
14 ~~additional~~ patients' rights IN ADDITION TO THE PATIENTS' RIGHTS  
15 PRESCRIBED BY THIS SECTION.