

HB 5259, As Passed Senate, December 12, 2001

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5259**

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:

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 CHAPTER 35 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
8 500.3501 TO 500.3580, the policy shall be posted at a public
9 place in the HEALTH facility OR AGENCY and shall be provided to

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1 each member of the HEALTH facility OR AGENCY staff. Patients or
2 residents shall be treated in accordance with the policy.

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

6 (a) A patient or resident ~~will~~ SHALL not be denied appro-
7 priate care on the basis of race, religion, color, national
8 origin, sex, age, disability, marital status, sexual preference,
9 or source of 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 because of a transfer to another health care facility
19 or as required by law or third party payment contract.

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

24 (e) A patient or resident is entitled to receive adequate
25 and appropriate care, and to receive, from the appropriate indi-
26 vidual within the HEALTH facility OR AGENCY, information about
27 his or her medical condition, proposed course of treatment, and

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1 prospects for recovery, in terms that the patient or resident can
2 understand, unless medically contraindicated as documented by the
3 attending physician in the medical record.

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

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

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

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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 enti-
8 tled to receive information concerning his or her continuing
9 health needs and alternatives for meeting those needs, and to be
10 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,

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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 CHEMICAL 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 shall be trained and involved in the imple-
25 mentation of the policy.

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

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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.

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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, or by title XIX of the~~
16 ~~social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to~~
17 ~~1396f and 1396g-1 to 1396w~~ OR TITLE XIX. A nursing home patient
18 may be transferred or discharged only as provided in sections
19 21773 to 21777. A nursing home patient or home for the aged res-
20 ident is entitled to be given reasonable advance notice to ensure
21 orderly transfer or discharge. Those actions shall be documented
22 BY THE ATTENDING PHYSICIAN in the medical record.

23 (f) A nursing home patient or home for the aged resident is
24 entitled to be fully informed before or at the time of admission
25 and during stay of services available in the facility, and of the
26 related charges including any charges for services not covered
27 under title XVIII, or not covered by the facility's basic per

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1 diem rate. The statement of services provided by the facility
2 shall be in writing and shall include those required to be
3 offered on an as-needed basis.

4 (g) A nursing home patient or home for the aged resident is
5 entitled to manage his or her own financial affairs, or to have
6 at least a quarterly accounting of personal financial transac-
7 tions undertaken in his or her behalf by the facility during a
8 period of time the patient or resident has delegated those
9 responsibilities to the facility. In addition, a patient or res-
10 ident is entitled to receive each month from the facility an
11 itemized statement setting forth the services paid for by or on
12 behalf of the patient and the services rendered by the facility.
13 The admission of a patient to a nursing home does not confer on
14 the nursing home or its owner, administrator, employees, or rep-
15 resentatives the authority to manage, use, or dispose of a
16 patient's property.

17 (h) A nursing home patient or a person authorized by ~~a~~ THE
18 patient in writing may inspect and copy the patient's personal
19 and medical records. The records shall be made available for
20 inspection and copying by the nursing home within a reasonable
21 time, not exceeding 1 week, after the receipt of a written
22 request.

23 (i) If a nursing home patient desires treatment by a
24 licensed member of the healing arts, the treatment shall be made
25 available unless it is medically contraindicated, and the medical
26 contraindication is justified in the patient's medical record by
27 the attending physician.

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1 (j) A nursing home patient has the right to have his or her
2 parents, if a minor, or his or her spouse, next of kin, or
3 patient's representative, if an adult, stay at the facility 24
4 hours a day if the patient is considered terminally ill by the
5 physician responsible for the patient's care.

6 (k) Each nursing home patient shall be provided with meals
7 ~~which~~ THAT meet the recommended dietary allowances for that
8 patient's age and sex and ~~which~~ THAT may be modified according
9 to special dietary needs or ability to chew.

10 (l) Each nursing home patient has the right to receive rep-
11 resentatives of approved organizations as provided in section
12 21763.

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

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

21 (6) A nursing home patient or home for the aged resident is
22 entitled to be fully informed, as evidenced by the patient's or
23 resident's written acknowledgment, before or at the time of
24 admission and during stay, of the policy required by this
25 section. The policy shall provide that if a patient or resident
26 is adjudicated incompetent and not restored to legal capacity,
27 the rights and responsibilities set forth in this section shall

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1 be exercised by a person designated by the patient or resident.
2 The HEALTH facility or agency shall provide proper forms for the
3 patient or resident to provide for the designation of this person
4 at the time of admission.

5 (7) This section ~~shall~~ DOES not ~~be construed to~~ prohibit
6 a health facility or agency from establishing and recognizing
7 additional patients' rights.

8 (8) AS USED IN THIS SECTION:

9 (A) "PATIENT'S REPRESENTATIVE" MEANS THAT TERM AS DEFINED IN
10 SECTION 21703.

11 (B) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY
12 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
13 1395b-6 TO 1395b-7, 1395c TO 1395i, 1395i-2 TO 1395i-5, 1395j TO
14 1395t, 1395u TO 1395w, 1395w-2 TO 1395w-4, 1395w-21 TO 1395w-28,
15 1395x TO 1395yy, AND 1395bbb TO 1395ggg.

16 (C) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,
17 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f, 1396g-1 TO
18 1396r-6, AND 1396r-8 TO 1396v.