

HOUSE BILL No. 4173

February 2, 2005, Introduced by Reps. Leland, Alma Smith, Tobocman, Gleason, McConico, Hunter, Gonzales, Brown, Kathleen Law, Bieda and Phillips and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 21720a (MCL 333.21720a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21720a. (1) ~~A~~ **THE DEPARTMENT SHALL NOT LICENSE A**
2 nursing home ~~shall not be licensed~~ under this part unless ~~that~~
3 **THE** nursing home has on its staff at least 1 registered
4 **PROFESSIONAL** nurse **LICENSED UNDER ARTICLE 15** with specialized
5 training or relevant experience in the area of gerontology, who
6 ~~shall serve~~ **SERVES** as the director of nursing. ~~and who shall be~~
7 **THE DIRECTOR IS** responsible for planning and directing nursing
8 care. The nursing home shall have at least 1 ~~licensed nurse~~

1 REGISTERED PROFESSIONAL NURSE OR LICENSED PRACTICAL NURSE LICENSED
2 UNDER ARTICLE 15 on duty at all times and shall employ additional
3 registered PROFESSIONAL NURSES and licensed practical nurses ~~in~~
4 accordance ~~AS NECESSARY TO COMPLY~~ with subsection (2). ~~This~~
5 subsection shall not take effect until January 1, 1980.

6 (2) A nursing home shall employ ~~nursing personnel~~ **DIRECT**
7 **PATIENT CARE PROVIDERS** sufficient to provide continuous 24-hour
8 nursing care and services sufficient to meet the needs of each
9 patient in the nursing home. ~~Nursing personnel~~ **DIRECT PATIENT**
10 **CARE PROVIDERS** employed in the nursing home shall be under the
11 supervision of the director of nursing. ~~A licensee shall maintain~~
12 ~~a nursing home staff sufficient to provide not less than 2.25 hours~~
13 ~~of nursing care by employed nursing care personnel per patient per~~
14 ~~day. The ratio of patients to nursing care personnel during a~~
15 ~~morning shift shall not exceed 8 patients to 1 nursing care~~
16 ~~personnel; the ratio of patients to nursing care personnel during~~
17 ~~an afternoon shift shall not exceed 12 patients to 1 nursing care~~
18 ~~personnel; and the ratio of patients to nursing care personnel~~
19 ~~during a nighttime shift shall not exceed 15 patients to 1 nursing~~
20 ~~care personnel and there shall be sufficient nursing care personnel~~
21 ~~available on duty to assure coverage for patients at all times~~
22 ~~during the shift. An employee designated as a member of the nursing~~
23 ~~staff shall not be engaged in providing basic services such as food~~
24 ~~preparation, housekeeping, laundry, or maintenance services, except~~
25 ~~in an instance of natural disaster or other emergency reported to~~
26 ~~and concurred in by the department. In a nursing home having 30 or~~
27 ~~more beds, the director of nursing shall not be included in~~

1 ~~counting the minimum ratios of nursing personnel required by this~~
2 ~~subsection.~~ SUBJECT TO SUBSECTION (4) AND EXCEPT AS OTHERWISE
3 PROVIDED IN SUBSECTION (5) OR (8), A LICENSEE SHALL MAINTAIN A
4 NURSING HOME STAFF-TO-PATIENT RATIO SUFFICIENT TO PROVIDE NOT LESS
5 THAN 3.0 HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE
6 PROVIDER PER PATIENT PER DAY. THE STAFF-TO-PATIENT RATIO REQUIRED
7 UNDER THIS SUBSECTION SHALL BE COMPUTED ON A 24-HOUR BASIS SO THAT
8 AT NO TIME DURING THE 24-HOUR PERIOD DOES THE STAFF-TO-PATIENT
9 RATIO FALL BELOW 1 DIRECT PATIENT CARE PROVIDER TO 15 NURSING HOME
10 PATIENTS.

11 ~~—— (3) In administering this section, the department shall take~~
12 ~~into consideration a natural disaster or other emergency.~~

13 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND
14 SUBSECTION (4), A NURSING HOME SHALL NOT INCLUDE AN INDIVIDUAL WHO
15 IS NOT A DIRECT PATIENT CARE PROVIDER IN COMPUTING THE STAFF-TO-
16 PATIENT RATIO AND HOURS-PER-PATIENT-PER-DAY REQUIREMENT UNDER
17 SUBSECTION (2). HOWEVER, THE NURSING HOME MAY INCLUDE SUCH AN
18 INDIVIDUAL TO PROVIDE SOME TYPES OF DIRECT PATIENT CARE, IF THE
19 NURSING HOME PROVIDES THE INDIVIDUAL WITH THE TRAINING REQUIRED
20 UNDER SECTION 21795 FOR EACH TYPE OR ELEMENT OF DIRECT PATIENT CARE
21 PROVIDED. A NURSING HOME MAY, FOR PURPOSES OF COMPUTING THE STAFF-
22 TO-PATIENT RATIO AND HOURS-PER-PATIENT-PER-DAY REQUIREMENT UNDER
23 SUBSECTION (2), INCLUDE AN INDIVIDUAL WHO HAS COMPLETED THE
24 APPLICABLE TRAINING REQUIRED UNDER TITLE XVIII OR TITLE XIX, BUT
25 HAS NOT YET BEEN TESTED AS REQUIRED UNDER TITLE XVIII AND TITLE
26 XIX, AS LONG AS NOT MORE THAN 120 DAYS HAVE ELAPSED SINCE THE
27 INDIVIDUAL COMPLETED THE TRAINING.

1 (4) IN COMPUTING THE STAFF-TO-PATIENT RATIO AND THE HOURS-PER-
2 PATIENT-PER-DAY REQUIREMENT UNDER SUBSECTION (2) DURING AN
3 EMERGENCY, A NURSING HOME MAY INCLUDE A NURSING HOME STAFF MEMBER
4 WHO IS A REGISTERED PROFESSIONAL NURSE OR A LICENSED PRACTICAL
5 NURSE LICENSED UNDER ARTICLE 15 AND IS NOT NORMALLY USED IN
6 COMPUTING THE RATIO AND REQUIREMENT BECAUSE THE STAFF MEMBER
7 PERFORMS PRIMARILY ADMINISTRATIVE FUNCTIONS, IF THE STAFF MEMBER
8 PROVIDES DIRECT PATIENT CARE DURING THE EMERGENCY, BUT ONLY FOR AS
9 LONG AS THE EMERGENCY EXISTS.

10 (5) FOR PURPOSES OF SUBSECTION (2), FROM OCTOBER 1, 2005 TO
11 APRIL 1, 2006, A LICENSEE SHALL ASSURE THAT THE NUMBER OF HOURS OF
12 DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER PATIENT
13 PER DAY IN THE NURSING HOME IS NOT LESS THAN 2.75. FROM APRIL 2,
14 2006 TO OCTOBER 1, 2006, A LICENSEE SHALL ASSURE THAT THE NUMBER OF
15 HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER
16 PATIENT PER DAY IN THE NURSING HOME IS NOT LESS THAN 2.85. AFTER
17 OCTOBER 1, 2006, A LICENSEE SHALL ASSURE THAT THE NUMBER OF HOURS
18 OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE PROVIDER PER
19 PATIENT PER DAY IN THE NURSING HOME IS NOT LESS THAN 3.0.

20 (6) IF A DIRECT PATIENT CARE PROVIDER PERFORMS DUTIES OTHER
21 THAN DIRECT PATIENT CARE DURING HIS OR HER SHIFT, THE NURSING HOME
22 MAY COUNT THE NUMBER OF DIRECT PATIENT CARE HOURS PROVIDED BY THE
23 DIRECT PATIENT CARE PROVIDER DURING THE SHIFT IN COMPUTING
24 COMPLIANCE WITH SUBSECTION (2) OR SUBSECTION (5), OR BOTH. A
25 NURSING HOME MAY USE THE TIME A DIRECT PATIENT CARE PROVIDER SPENDS
26 IN DOCUMENTING THE DIRECT PATIENT CARE THAT HE OR SHE PROVIDED IN
27 COMPUTING COMPLIANCE WITH SUBSECTION (2) OR SUBSECTION (5), OR

1 BOTH.

2 (7) A DIRECT PATIENT CARE PROVIDER SHALL NOT PROVIDE SERVICES
3 OTHER THAN DIRECT PATIENT CARE TO PATIENTS IN A NURSING HOME,
4 INCLUDING, BUT NOT LIMITED TO, FOOD PREPARATION, HOUSEKEEPING,
5 LAUNDRY, AND MAINTENANCE SERVICES, EXCEPT IN TIME OF NATURAL
6 DISASTER OR OTHER EMERGENCY CIRCUMSTANCES THAT ARE REPORTED TO AND
7 CONCURRED IN BY THE DEPARTMENT. A NURSING HOME MAY DIRECT A NURSING
8 HOME EMPLOYEE WHO IS NOT QUALIFIED AS A DIRECT PATIENT CARE
9 PROVIDER TO PROVIDE DIRECT PATIENT CARE IN TIME OF NATURAL DISASTER
10 OR OTHER EMERGENCY CIRCUMSTANCES THAT ARE REPORTED TO AND CONCURRED
11 IN BY THE DEPARTMENT. A NURSING HOME MAY COUNT THE HOURS OF DIRECT
12 PATIENT CARE PROVIDED UNDER THIS SUBSECTION IN COMPUTING COMPLIANCE
13 WITH SUBSECTION (2) OR SUBSECTION (5), OR BOTH.

14 (8) SUBJECT TO SUBSECTION (9), IF A NURSING HOME'S COSTS OF
15 OPERATION ARE INCREASED AS A RESULT OF ITS COMPLIANCE WITH THE
16 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE NURSING HOME MAY
17 ADVISE THE DEPARTMENT IN WRITING OF THE INCREASED OPERATIONAL
18 COSTS. THE NURSING HOME MAY INCLUDE IN THE WRITTEN ADVISORY A
19 REQUEST FOR REIMBURSEMENT FROM THE DEPARTMENT FOR THE INCREASED
20 COSTS. UPON RECEIPT OF A WRITTEN ADVISORY FROM A NURSING HOME UNDER
21 THIS SUBSECTION THAT INCLUDES A REQUEST FOR REIMBURSEMENT, THE
22 DEPARTMENT SHALL IMMEDIATELY ADJUST THE NURSING HOME'S PER DIEM
23 REIMBURSEMENT UNDER TITLE XVIII IN AN AMOUNT SUFFICIENT TO
24 REIMBURSE THE NURSING HOME FOR THE INCREASED COSTS. THE DEPARTMENT
25 SHALL INCREASE THE NURSING HOME'S PER DIEM REIMBURSEMENT RATE UNDER
26 THIS SUBSECTION REGARDLESS OF PREVIOUSLY APPLIED COST LIMITS. IF
27 THE DEPARTMENT FAILS TO ADJUST A NURSING HOME'S PER DIEM

1 REIMBURSEMENT RATE UNDER THIS SUBSECTION WITHIN 30 DAYS AFTER
2 RECEIVING A WRITTEN ADVISORY THAT INCLUDES A REQUEST FOR
3 REIMBURSEMENT UNDER THIS SUBSECTION, THEN ALL OF THE FOLLOWING
4 SHALL OCCUR:

5 (A) THE NURSING HOME IS EXEMPT FROM THE STAFF-TO-PATIENT
6 RATIOS AND THE HOURS-PER-PATIENT-PER-DAY REQUIREMENTS OF THIS
7 SECTION UNTIL THE DEPARTMENT ADJUSTS THE NURSING HOME'S PER DIEM
8 REIMBURSEMENT RATE UNDER THIS SUBSECTION.

9 (B) THE NURSING HOME SHALL PROVIDE EACH PATIENT WITH NOT LESS
10 THAN 2.25 HOURS OF DIRECT PATIENT CARE BY A DIRECT PATIENT CARE
11 PROVIDER AND SHALL MAINTAIN THE STAFF-TO-PATIENT RATIO REQUIRED
12 UNDER THIS SECTION BEFORE IT WAS AMENDED BY THE AMENDATORY ACT THAT
13 ADDED THIS SUBSECTION.

14 (C) WITHIN 30 DAYS AFTER BEING NOTIFIED BY THE DEPARTMENT THAT
15 THE NURSING HOME'S STATUS HAS CHANGED AND THAT THE NURSING HOME
16 WILL BE REIMBURSED AT THE APPROPRIATE LEVEL, THE NURSING HOME SHALL
17 RETURN TO THE STAFF-TO-PATIENT RATIO AND THE HOURS-PER-PATIENT-PER-
18 DAY REQUIREMENT REQUIRED BY THE AMENDATORY ACT THAT ADDED THIS
19 SUBSECTION.

20 (9) SUBSECTION (8) IS NOT INTENDED AS A REMEDY THAT ALLOWS THE
21 DEPARTMENT TO REIMBURSE A NURSING HOME AT A RATE THAT ALLOWS THE
22 NURSING HOME TO MAINTAIN A NURSING HOME STAFF-TO-PATIENT RATIO THAT
23 IS NOT SUFFICIENT TO PROVIDE AT LEAST 3.0 HOURS OF DIRECT PATIENT
24 CARE BY A DIRECT PATIENT CARE PROVIDER PER PATIENT PER DAY AS
25 REQUIRED UNDER SUBSECTION (2). IT IS THE INTENT OF THE LEGISLATURE
26 THAT THE DEPARTMENT REIMBURSE NURSING HOMES UNDER TITLE XVIII IN AN
27 AMOUNT SUFFICIENT TO MAINTAIN THE STAFF-TO-PATIENT RATIO AND THE

1 NUMBER OF DIRECT PATIENT CARE HOURS PER PATIENT PER DAY REQUIRED
2 UNDER SUBSECTION (2). IF THE DEPARTMENT FAILS TO ADJUST A NURSING
3 HOME'S REIMBURSEMENT RATE UNDER SUBSECTION (8) WITHIN THE 30-DAY
4 TIME PERIOD REQUIRED UNDER SUBSECTION (8), THE DEPARTMENT
5 IMMEDIATELY SHALL FILE A WRITTEN REPORT WITH THE STANDING
6 APPROPRIATIONS COMMITTEES OF THE SENATE AND THE HOUSE OF
7 REPRESENTATIVES AND WITH THE APPROPRIATE SUBCOMMITTEES. THE
8 DEPARTMENT SHALL INCLUDE IN THE REPORT ITS REASONS FOR FAILING TO
9 ADJUST THE NURSING HOME'S REIMBURSEMENT RATE IN COMPLIANCE WITH
10 THIS SECTION.

11 (10) THE DEPARTMENT SHALL DETERMINE WHETHER A NURSING HOME'S
12 OPERATIONAL COSTS WERE ACTUALLY INCREASED AS DESCRIBED IN
13 SUBSECTION (8) DURING THE DEPARTMENT'S AUDIT OF THE NURSING HOME'S
14 ANNUAL COST REPORT. IF THE DEPARTMENT DETERMINES AS A RESULT OF THE
15 AUDIT THAT THE NURSING HOME'S COSTS WERE NOT IN FACT INCREASED, THE
16 DEPARTMENT MAY RETROACTIVELY DISALLOW THE INCREASED COSTS CLAIMED
17 BY THE NURSING HOME IN AN AMOUNT EQUAL TO THE AMOUNT OF COSTS
18 DETERMINED BY THE DEPARTMENT NOT TO HAVE BEEN INCURRED BY THE
19 NURSING HOME. A RETROACTIVE DISALLOWANCE BY THE DEPARTMENT UNDER
20 THIS SUBSECTION IS AN "ADVERSE ACTION" AS THAT TERM IS DEFINED IN R
21 400.3401 OF THE MICHIGAN ADMINISTRATIVE CODE AND IS SUBJECT TO
22 APPEAL UNDER R 400.3401 TO R 400.3425 OF THE MICHIGAN
23 ADMINISTRATIVE CODE.

24 (11) A NURSING HOME MAY FILE WITH THE DEPARTMENT A PETITION
25 FOR TEMPORARY, EMERGENCY RATE RELIEF FROM THE STAFF-TO-PATIENT
26 RATIO AND THE DIRECT PATIENT CARE HOURS-PER-PATIENT-PER-DAY
27 REQUIREMENT OF SUBSECTION (2) OR THE MINIMUM HOURS OF DIRECT

1 PATIENT CARE REQUIRED UNDER SUBSECTION (5), OR BOTH. THE DEPARTMENT
2 MAY GRANT THE NURSING HOME'S PETITION FOR TEMPORARY, EMERGENCY RATE
3 RELIEF IF THE NURSING HOME DEMONSTRATES TO THE SATISFACTION OF THE
4 DEPARTMENT THAT THE STAFF-TO-PATIENT RATIO AND THE DIRECT PATIENT
5 CARE HOURS-PER-PATIENT-PER-DAY REQUIREMENT OF SUBSECTION (2) OR THE
6 MINIMUM NUMBER OF HOURS OF DIRECT PATIENT CARE REQUIRED UNDER
7 SUBSECTION (5), OR BOTH, HAS A SUBSTANTIAL EFFECT ON THE NURSING
8 HOME'S OPERATING COSTS. THE DEPARTMENT SHALL ISSUE A DECISION ON A
9 PETITION FILED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER RECEIPT
10 OF THE PETITION. IF THE DEPARTMENT DENIES THE PETITION, THE
11 DEPARTMENT SHALL PROVIDE THE NURSING HOME, IN WRITING, WITH THE
12 REASONS FOR THE DENIAL. IF THE DEPARTMENT FAILS TO ISSUE A DECISION
13 ON A PETITION WITHIN THE 90-DAY TIME LIMIT, THE PETITION IS
14 GRANTED.

15 (12) A NURSING HOME MAY APPEAL A DENIAL OF A PETITION FOR
16 TEMPORARY, EMERGENCY RATE RELIEF UNDER SUBSECTION (11). THE
17 DEPARTMENT SHALL HOLD A HEARING ON THE APPEAL IN ACCORDANCE WITH
18 THE ADMINISTRATIVE PROCEDURES ACT OF 1969. THE DEPARTMENT SHALL
19 ALLOW A REPRESENTATIVE OF THE NURSING HOME TO PRESENT INFORMATION,
20 DATA, AND OTHER EVIDENCE IN SUPPORT OF GRANTING THE PETITION UNDER
21 SUBSECTION (11). THE DEPARTMENT OR THE DEPARTMENT'S DESIGNEE SHALL
22 PRESENT THE DEPARTMENT'S REASONS FOR DENYING THE PETITION. THE
23 DEPARTMENT SHALL ISSUE A WRITTEN DECISION ON THE APPEAL WITHIN 30
24 DAYS AFTER THE HEARING HELD UNDER THIS SUBSECTION. THE DEPARTMENT
25 SHALL INCLUDE IN THE WRITTEN DECISION THE REASONS FOR DENYING THE
26 APPEAL. A DENIAL OF AN APPEAL BY THE DEPARTMENT UNDER THIS
27 SUBSECTION HAS THE EFFECT OF CREATING AN EMERGENCY UNDER SECTION

1 VII, ENTITLED "EXCEPTION PROCEDURE", OF THE POLICY AND METHODS FOR
2 ESTABLISHING PAYMENT RATES IN THE STATE PLAN REQUIRED UNDER TITLE
3 XIX.

4 (13) A NURSING HOME MAY APPEAL AN ADVERSE DECISION UNDER
5 SUBSECTION (12) TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
6 NURSING HOME IS LOCATED OR THE CIRCUIT COURT FOR INGHAM COUNTY. IF
7 THE NURSING HOME PREVAILS ON THE APPEAL, THE COURT MAY AWARD
8 COMPENSATORY DAMAGES TO THE NURSING HOME FOR THE COST OF PROVIDING
9 CARE TO ITS RESIDENTS DURING THE PERIOD FROM THE FILING OF A
10 PETITION WITH THE DEPARTMENT UNDER SUBSECTION (11) TO THE DECISION
11 ON THE APPEAL UNDER THIS SUBSECTION. THE COURT MAY ALSO AWARD COSTS
12 TO THE NURSING HOME IF IT PREVAILS ON THE APPEAL.

13 (14) A NURSING HOME SHALL POST THE NAME OF THE DIRECT PATIENT
14 CARE PROVIDER WHO IS ASSIGNED TO A PARTICULAR PATIENT EITHER IN A
15 CONSPICUOUS PLACE NEAR THE NURSES' STATION OR OUTSIDE THE PATIENT'S
16 DOOR NEAR THE PATIENT'S NAME.

17 (15) AS USED IN THIS SECTION:

18 (A) "COMPETENCY-EVALUATED NURSE ASSISTANT" MEANS A NURSE'S
19 AIDE OR NURSE ASSISTANT TRAINED AS REQUIRED UNDER SECTION
20 1819(B)(5) OF TITLE XVIII OF THE SOCIAL SECURITY ACT, 42 USC 1395I-
21 3, AND UNDER SECTION 1919(B)(5) OF TITLE XIX OF THE SOCIAL SECURITY
22 ACT, 42 USC 1396R.

23 (B) "DIRECT PATIENT CARE" MEANS 1 OR MORE OF THE FOLLOWING
24 ACTIVITIES OR SERVICES PROVIDED BY A DIRECT PATIENT CARE PROVIDER
25 TO A PATIENT IN A NURSING HOME AS REQUIRED BY THE PATIENT'S CARE
26 PLAN:

27 (i) PERSONAL CARE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE

1 FOLLOWING: BATHING A PATIENT WHILE ENCOURAGING THE PATIENT'S
2 INDEPENDENCE; SUPPORTIVE AND PREVENTATIVE SKIN CARE; ROUTINE
3 MORNING AND EVENING MOUTH CARE; HAIR AND NAIL CARE; SHAVING;
4 DRESSING AND UNDESSING, WITH EMPHASIS ON ENCOURAGING AND
5 MAINTAINING THE PATIENT'S INDEPENDENCE; ASSISTING IN THE USE OF
6 PROSTHETIC DEVICES; AND OTHER MATTERS OF PERSONAL HYGIENE.

7 (ii) NUTRITION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE
8 FOLLOWING: MAKING MEALTIME A PLEASANT EXPERIENCE; MEASURING AND
9 RECORDING THE PATIENT'S FOOD INTAKE; ASSISTING THE PATIENT IN
10 INCREASING OR REDUCING FLUID INTAKE; ASSISTING THE PATIENT IN
11 EATING, WITH EMPHASIS ON ENCOURAGING THE PATIENT'S INDEPENDENCE AND
12 DIGNITY.

13 (iii) ELIMINATION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE
14 FOLLOWING: ENCOURAGING AND MAINTAINING THE PATIENT'S INDEPENDENCE
15 IN TOILET, BEDPAN, AND URINAL USE; CATHETER CARE; PREVENTING
16 INCONTINENCE; THE PREVENTION OF CONSTIPATION; PERINEAL CARE;
17 MEASURING AND RECORDING BLADDER OUTPUT; URINE TESTING; AND BOWEL
18 AND BLADDER TRAINING.

19 (iv) RESTORATION AND REHABILITATION, INCLUDING, BUT NOT LIMITED
20 TO, ALL OF THE FOLLOWING: ASSISTANCE AND ENCOURAGEMENT WITH
21 AMBULATION, WALKING, AND TRANSFERRING FROM LOCATION TO LOCATION OR
22 FROM POSITION TO POSITION; TURNING A PATIENT; MAINTAINING PROPER
23 BODY ALIGNMENT; RANGE OF MOTION EXERCISES; THE USE OF AMBULATION
24 AIDS, SUCH AS WHEELCHAIRS, WALKERS, CANES, AND CRUTCHES; UTILIZING
25 TRANSFER TECHNIQUES AND THE PROPER BODY MECHANICS INVOLVED IN
26 LIFTING A PATIENT OR AN OBJECT; USING BED BOARDS, FOOT BOARDS, FOOT
27 STOOLS, TROCHANTER ROLLS, PILLOWS FOR POSITIONING, AND ORTHOTIC

1 DEVICES.

2 (v) FEEDING AND CLOTHING PATIENTS AND MAKING AND CHANGING
3 BEDS.

4 (vi) ADMINISTRATION OF MEDICATIONS AND TREATMENTS.

5 (vii) OTHER ACTIVITIES OR SERVICES, OR BOTH, PERFORMED WITH OR
6 FOR THE DIRECT PATIENT CARE PROVIDER'S ASSIGNED PATIENT THAT
7 ENHANCES THAT PATIENT'S QUALITY OF LIFE.

8 (C) "DIRECT PATIENT CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS
9 A REGISTERED PROFESSIONAL NURSE LICENSED UNDER ARTICLE 15 OR A
10 LICENSED PRACTICAL NURSE LICENSED UNDER ARTICLE 15 AND WHOSE
11 PRIMARY FUNCTION IS AS A NURSE, OR AN INDIVIDUAL WHO IS CERTIFIED,
12 AT A MINIMUM, AS A COMPETENCY-EVALUATED NURSE ASSISTANT, WHO IS
13 EMPLOYED BY OR UNDER CONTRACT TO A NURSING HOME, AND WHO PROVIDES
14 DIRECT PATIENT CARE IN THE NURSING HOME. DIRECT PATIENT CARE
15 PROVIDER DOES NOT INCLUDE THE FOLLOWING:

16 (i) THE DIRECTOR OF NURSING FOR A NURSING HOME.

17 (ii) A QUALITY ASSURANCE NURSE FOR A NURSING HOME.

18 (iii) A STAFF DEVELOPMENT NURSE FOR A NURSING HOME.

19 (iv) A PHYSICAL THERAPIST LICENSED UNDER ARTICLE 15.

20 (v) A CERTIFIED SPEECH AND LANGUAGE THERAPIST.

21 (vi) AN OCCUPATIONAL THERAPIST REGISTERED UNDER ARTICLE 15.

22 (vii) AN ACTIVITIES DIRECTOR OR ACTIVITIES STAFF.

23 (viii) AN INDIVIDUAL WHO IS HIRED AND PAID PRIVATELY BY A
24 PATIENT OR THE PATIENT'S FAMILY AND WHO WORKS ONLY WITH THAT
25 PATIENT.

26 (D) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY
27 ACT, 42 USC 1395 TO 1395HHH.

1 (E) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT, 42
2 USC 1396 TO 1396V.

3 (16) THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DOES NOT
4 LIMIT, MODIFY, OR OTHERWISE AFFECT THE PRACTICE OF NURSING AS THAT
5 TERM IS DEFINED IN SECTION 17201.

6 Enacting section 1. This amendatory act takes effect July 1,
7 2005.