

HOUSE BILL No. 4606

April 13, 2005, Introduced by Reps. Adamini and Gaffney 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 2001 PA
240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20201. (1) A health facility or agency that provides
2 services directly to patients or residents and is licensed under
3 this article shall adopt a policy describing the rights and
4 responsibilities of patients or residents admitted to the health
5 facility or agency. Except for a licensed health maintenance
6 organization which shall comply with chapter 35 of the insurance
7 code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580, the policy
8 shall be posted at a public place in the health facility or agency

1 and shall be provided to each member of the health facility or
2 agency staff. Patients or residents shall be treated in accordance
3 with the policy.

4 (2) The policy describing the rights and responsibilities of
5 patients or residents required under subsection (1) shall include,
6 as a minimum, all of the following:

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

11 (b) An individual who is or has been a patient or resident is
12 entitled to inspect, or receive for a reasonable fee, a copy of his
13 or her medical record upon request. ~~—A~~ **EXCEPT AS OTHERWISE**
14 **PERMITTED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY**
15 **ACT OF 1996, PUBLIC LAW 104-191, OR REGULATIONS PROMULGATED UNDER**
16 **THAT ACT, 45 CFR PARTS 160 AND 164, A** third party shall not be
17 given a copy of the patient's or resident's medical record without
18 prior authorization of the patient or resident.

19 (c) A patient or resident is entitled to confidential
20 treatment of personal and medical records, and may refuse their
21 release to a person outside the health facility or agency except as
22 required because of a transfer to another health care facility, ~~or~~
23 as required by law or third party payment contract, **OR AS PERMITTED**
24 **UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF**
25 **1996, PUBLIC LAW 104-191, OR REGULATIONS PROMULGATED UNDER THAT**
26 **ACT, 45 CFR PARTS 160 AND 164.**

27 (d) A patient or resident is entitled to privacy, to the

1 extent feasible, in treatment and in caring for personal needs with
2 consideration, respect, and full recognition of his or her dignity
3 and individuality.

4 (e) A patient or resident is entitled to receive adequate and
5 appropriate care, and to receive, from the appropriate individual
6 within the health facility or agency, information about his or her
7 medical condition, proposed course of treatment, and prospects for
8 recovery, in terms that the patient or resident can understand,
9 unless medically contraindicated as documented by the attending
10 physician in the medical record.

11 (f) A patient or resident is entitled to refuse treatment to
12 the extent provided by law and to be informed of the consequences
13 of that refusal. If a refusal of treatment prevents a health
14 facility or agency or its staff from providing appropriate care
15 according to ethical and professional standards, the relationship
16 with the patient or resident may be terminated upon reasonable
17 notice.

18 (g) A patient or resident is entitled to exercise his or her
19 rights as a patient or resident and as a citizen, and to this end
20 may present grievances or recommend changes in policies and
21 services on behalf of himself or herself or others to the health
22 facility or agency staff, to governmental officials, or to another
23 person of his or her choice within or outside the health facility
24 or agency, free from restraint, interference, coercion,
25 discrimination, or reprisal. A patient or resident is entitled to
26 information about the health facility's or agency's policies and
27 procedures for initiation, review, and resolution of patient or

1 resident complaints.

2 (h) A patient or resident is entitled to information
3 concerning an experimental procedure proposed as a part of his or
4 her care and has the right to refuse to participate in the
5 experimental procedure without jeopardizing his or her continuing
6 care.

7 (i) A patient or resident is entitled to receive and examine
8 an explanation of his or her bill regardless of the source of
9 payment and to receive, upon request, information relating to
10 financial assistance available through the health facility or
11 agency.

12 (j) A patient or resident is entitled to know who is
13 responsible for and who is providing his or her direct care, is
14 entitled to receive information concerning his or her continuing
15 health needs and alternatives for meeting those needs, and to be
16 involved in his or her discharge planning, if appropriate.

17 (k) A patient or resident is entitled to associate and have
18 private communications and consultations with his or her physician,
19 attorney, or any other person of his or her choice and to send and
20 receive personal mail unopened on the same day it is received at
21 the health facility or agency, unless medically contraindicated as
22 documented by the attending physician in the medical record. A
23 patient's or resident's civil and religious liberties, including
24 the right to independent personal decisions and the right to
25 knowledge of available choices, shall not be infringed and the
26 health facility or agency shall encourage and assist in the fullest
27 possible exercise of these rights. A patient or resident may meet

1 with, and participate in, the activities of social, religious, and
2 community groups at his or her discretion, unless medically
3 contraindicated as documented by the attending physician in the
4 medical record.

5 (l) A patient or resident is entitled to be free from mental
6 and physical abuse and from physical and chemical restraints,
7 except those restraints authorized in writing by the attending
8 physician for a specified and limited time or as are necessitated
9 by an emergency to protect the patient or resident from injury to
10 self or others, in which case the restraint may only be applied by
11 a qualified professional who shall set forth in writing the
12 circumstances requiring the use of restraints and who shall
13 promptly report the action to the attending physician. In case of a
14 chemical restraint, a physician shall be consulted within 24 hours
15 after the commencement of the chemical restraint.

16 (m) A patient or resident is entitled to be free from
17 performing services for the health facility or agency that are not
18 included for therapeutic purposes in the plan of care.

19 (n) A patient or resident is entitled to information about the
20 health facility or agency rules and regulations affecting patient
21 or resident care and conduct.

22 (o) A patient or resident is entitled to adequate and
23 appropriate pain and symptom management as a basic and essential
24 element of his or her medical treatment.

25 (3) The following additional requirements for the policy
26 described in subsection (2) apply to licensees under parts 213 and
27 217:

1 (a) The policy shall be provided to each nursing home patient
2 or home for the aged resident upon admission, and the staff of the
3 facility shall be trained and involved in the implementation of the
4 policy.

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

21 (c) A nursing home patient or home for the aged resident is
22 entitled to retain and use personal clothing and possessions as
23 space permits, unless to do so would infringe upon the rights of
24 other patients or residents, or unless medically contraindicated as
25 documented by the attending physician in the medical record. Each
26 nursing home patient or home for the aged resident shall be
27 provided with reasonable space. At the request of a patient, a

1 nursing home shall provide for the safekeeping of personal effects,
2 funds, and other property of a patient in accordance with section
3 21767, except that a nursing home is not required to provide for
4 the safekeeping of a property that would impose an unreasonable
5 burden on the nursing home.

6 (d) A nursing home patient or home for the aged resident is
7 entitled to the opportunity to participate in the planning of his
8 or her medical treatment. A nursing home patient shall be fully
9 informed by the attending physician of the patient's medical
10 condition unless medically contraindicated as documented by a
11 physician in the medical record. Each nursing home patient shall be
12 afforded the opportunity to discharge himself or herself from the
13 nursing home.

14 (e) A home for the aged resident may be transferred or
15 discharged only for medical reasons, for his or her welfare or that
16 of other residents, or for nonpayment of his or her stay, except as
17 provided by title XVIII or title XIX. A nursing home patient may be
18 transferred or discharged only as provided in sections 21773 to
19 21777. A nursing home patient or home for the aged resident is
20 entitled to be given reasonable advance notice to ensure orderly
21 transfer or discharge. Those actions shall be documented in the
22 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 diem

1 rate. The statement of services provided by the facility shall be
2 in writing and shall include those required to be offered on an as-
3 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 at
6 least a quarterly accounting of personal financial transactions
7 undertaken in his or her behalf by the facility during a period of
8 time the patient or resident has delegated those responsibilities
9 to the facility. In addition, a patient or resident is entitled to
10 receive each month from the facility an itemized statement setting
11 forth the services paid for by or on behalf of the patient and the
12 services rendered by the facility. The admission of a patient to a
13 nursing home does not confer on the nursing home or its owner,
14 administrator, employees, or representatives the authority to
15 manage, use, or dispose of a patient's property.

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

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

26 (j) A nursing home patient has the right to have his or her
27 parents, if a minor, or his or her spouse, next of kin, or

1 patient's representative, if an adult, stay at the facility 24
2 hours a day if the patient is considered terminally ill by the
3 physician responsible for the patient's care.

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

8 (l) Each nursing home patient has the right to receive
9 representatives of approved organizations as provided in section
10 21763.

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

15 (5) In the case of a nursing home patient, the rights
16 enumerated in subsection (2)(c), (g), and (k) and subsection
17 (3)(d), (g), and (h) may be exercised by the patient's
18 representative.

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

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

3 (7) This section does not prohibit a health facility or agency
4 from establishing and recognizing additional patients' rights.

5 (8) As used in this section:

6 (a) "Patient's representative" means that term as defined in
7 section 21703.

8 (b) "Title XVIII" means title XVIII of the social security
9 act, ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,~~
10 ~~1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to~~
11 ~~1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,~~
12 ~~1395x to 1395yy, and 1395bbb to 1395ggg~~ **42 USC 1395 TO 1395HHH.**

13 (c) "Title XIX" means title XIX of the social security act,
14 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to~~
15 ~~1396r-6, and 1396r-8~~ **42 USC 1396 to 1396v.**