

# SENATE BILL No. 446

June 20, 2013, Introduced by Senator BOOHER 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 2011 PA  
51.

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

1           Sec. 22210. (1) Subject to this section, a hospital that  
2 applies to the department for a certificate of need and meets all  
3 of the following criteria shall be granted a certificate of need  
4 for an extended care services program with up to 10 licensed  
5 hospital beds:

6           (a) Is eligible to apply for certification as a provider of  
7 extended care services through the use of swing beds under section  
8 1883 of title XVIII, 42 USC 1395tt.

9           (b) Subject to subsection (2), has fewer than 100 licensed

1 beds not counting beds excluded under section 1883 of title XVIII,  
2 42 USC 1395tt.

3 (c) Does not have uncorrected licensing, certification, or  
4 safety deficiencies for which the department or the bureau of fire  
5 services created in section 1b of the fire prevention code, 1941 PA  
6 207, MCL 29.1b, or both, has not accepted a plan of correction.

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

11 (2) After October 1, 1990, the criteria set forth in  
12 subsection (1)(b) may be modified by the commission, using the  
13 procedure set forth in section 22215(3). The department shall not  
14 charge a fee for processing a certificate of need application to  
15 initiate an extended care services program.

16 (3) A hospital that is granted a certificate of need for an  
17 extended care services program under subsection (1) shall comply  
18 with all of the following:

19 (a) Not charge for or otherwise attempt to recover the cost of  
20 a length of stay for a patient in the extended care services  
21 program that exceeds the length of time allowed for post-hospital  
22 extended care under title XVIII.

23 (b) Admit patients to the extended care services program only  
24 pursuant to an admissions contract approved by the department.

25 (c) Subject to subdivision (f), not discharge or transfer a  
26 patient from a licensed hospital bed other than a hospital long-  
27 term care unit bed and admit that patient to the extended care

1 services program unless the discharge or transfer and admission is  
2 determined medically appropriate by the attending physician.

3 (d) Permit access to a representative of an organization  
4 approved under section 21764 to patients admitted to the extended  
5 care services program, for all of the purposes described in section  
6 21763.

7 (e) Not allow the number of patient days for the extended care  
8 services program to exceed the equivalent of 1,825 patient days for  
9 a single state fiscal year.

10 (f) Not provide extended care services in a swing bed if the  
11 hospital owns or operates a hospital long-term care unit that has  
12 beds available **AT THE TIME A PATIENT REQUIRES ADMISSION FOR**  
13 **EXTENDED CARE SERVICES.**

14 (g) Not charge or collect from a patient admitted to the  
15 extended care services program, for services rendered as part of  
16 the extended care services program, an amount in excess of the  
17 reasonable charge for the services as determined by the secretary  
18 of the United States department of health and human services under  
19 title XVIII.

20 (h) Assist a patient who has been denied coverage for services  
21 received in an extended care services program under title XVIII to  
22 file an appeal with the medicare recovery project operated by the  
23 office of services to the aging.

24 (i) Operate the extended care services program pursuant to  
25 this section and the provisions of section 1883 of title XVIII, 42  
26 USC 1395tt, that are applicable to the extended care services  
27 program.

1 (j) Provide data to the department considered necessary by the  
2 department to evaluate the extended care services program. The data  
3 shall include, but ~~are~~ not **BE** limited to, all of the following:

4 (i) The total number of patients admitted to the hospital's  
5 extended care services program during the period specified by the  
6 department.

7 (ii) The total number of extended care services patient days  
8 for the period specified by the department.

9 (iii) Information identifying the type of care to which patients  
10 in the extended care services program are released.

11 (k) As part of the hospital's policy describing the rights and  
12 responsibilities of patients admitted to the hospital, as required  
13 under section 20201, incorporate all of the following additional  
14 rights and responsibilities for patients in the extended care  
15 services program:

16 (i) A copy of the hospital's policy shall be provided to each  
17 extended care services patient upon admission, and the staff of the  
18 hospital shall be trained and involved in the implementation of the  
19 policy.

20 (ii) Each extended care services patient may associate and  
21 communicate privately with persons of his or her choice.  
22 Reasonable, regular visiting hours, which shall take into  
23 consideration the special circumstances of each visitor, shall be  
24 established for extended care services patients to receive  
25 visitors. An extended care services patient may be visited by the  
26 patient's attorney or by representatives of the departments named  
27 in section 20156 during other than established visiting hours.

1 Reasonable privacy shall be afforded for visitation of an extended  
2 care services patient who shares a room with another extended care  
3 services patient. Each extended care services patient shall have  
4 reasonable access to a telephone.

5 (iii) An extended care services patient is entitled to retain  
6 and use personal clothing and possessions as space permits, unless  
7 medically contraindicated, as documented by the attending physician  
8 in the medical record.

9 (iv) An extended care services patient is entitled to the  
10 opportunity to participate in the planning of his or her medical  
11 treatment, including the development of the discharge plan under  
12 subdivision (m). An extended care services patient shall be fully  
13 informed by the attending physician of the extended care services  
14 patient's medical condition, unless medically contraindicated, as  
15 documented by a physician in the medical record. Each extended care  
16 services patient shall be afforded the opportunity to discharge  
17 himself or herself from the extended care services program.

18 (v) An extended care services patient is entitled to be fully  
19 informed either before or at the time of admission, and during his  
20 or her stay, of services available in the hospital and of the  
21 related charges for those services. The statement of services  
22 provided by the hospital shall be in writing and shall include  
23 those services required to be offered on an as needed basis.

24 (vi) A patient in an extended care services program or a person  
25 authorized in writing by the patient may, upon submission to the  
26 hospital of a written request, inspect and copy the patient's  
27 personal or medical records. The hospital shall make the records

1 available for inspection and copying within a reasonable time, not  
2 exceeding 7 days, after the receipt of the written request.

3 (vii) An extended care services patient has the right to have  
4 his or her parents, if the extended care services patient is a  
5 minor, or his or her spouse, next of kin, or patient's  
6 representative, if the extended care services patient is an adult,  
7 stay at the hospital 24 hours a day if the extended care services  
8 patient is considered terminally ill by the physician responsible  
9 for the extended care services patient's care.

10 (viii) Each extended care services patient shall be provided  
11 with meals that meet the recommended dietary allowances for that  
12 patient's age and sex and that may be modified according to special  
13 dietary needs or ability to chew.

14 (ix) Each extended care services patient has the right to  
15 receive a representative of an organization approved under section  
16 21764, for all of the purposes described in section 21763.

17 (l) Achieve and maintain medicare certification under title  
18 XVIII.

19 (m) Establish a discharge plan for each extended care services  
20 patient who is admitted to the extended care services program. In  
21 the discharge plan, the hospital shall emphasize patient choice in  
22 receiving extended care services in the most appropriate and least  
23 restrictive setting. The hospital shall provide to the patient or  
24 his or her authorized representative a copy of the discharge plan  
25 not later than 3 days after the patient is admitted to the extended  
26 care services program.

27 (4) A hospital or the owner, **AN** administrator, an employee, or

1 a representative of the hospital shall not discharge, harass, or  
2 retaliate or discriminate against an extended care services patient  
3 because the extended care services patient has exercised a right  
4 described in subsection (3)(k).

5 (5) In the case of an extended care services patient, the  
6 rights described in subsection (3)(k)(iv) may be exercised by the  
7 patient's representative, as defined in section 21703(2).

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

19 (7) Subsection (3)(k) does not prohibit a hospital from  
20 establishing and recognizing additional rights for extended care  
21 services patients.

22 (8) A hospital that violates subsection (3) is subject to the  
23 penalty provisions of section 20165.

24 (9) A person shall not initiate an extended care services  
25 program without first obtaining a certificate of need under this  
26 section.

27 (10) As used in this section:

1           (a) "Extended care services program" means a program by a  
2 hospital to provide extended care services to a patient through the  
3 use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

4           (b) "Hospital long-term care unit" means that term as defined  
5 in section 20106.