



# HOUSE BILL No. 4387

February 14, 1995, Introduced by Reps. Bennane, DeMars, Baird, Martinez, Stallworth, Goschka, Yokich, Saunders, Parks, Pitoniak and Jamian and referred to the Committee on Health Policy.

A bill to amend sections 16221, 16226, 20175, 20201, 21515, and 22210 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

sections 16221 and 16226 as amended by Act No. 133 of the Public Acts of 1993, section 20175 as amended by Act No. 79 of the Public Acts of 1993, section 20201 as amended by Act No. 354 of the Public Acts of 1982, and section 22210 as amended by Act No. 88 of the Public Acts of 1993, being sections 333.16221, 333.16226, 333.20175, 333.20201, 333.21515, and 333.22210 of the Michigan Compiled Laws; and to add sections 16280 and 20195.

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

1 Section 1. Sections 16221, 16226, 20175, 20201, 21515, and  
2 22210 of Act No. 368 of the Public Acts of 1978, sections 16221  
3 and 16226 as amended by Act No. 133 of the Public Acts of 1993,

1 section 20175 as amended by Act No. 79 of the Public Acts of  
2 1993, section 20201 as amended by Act No. 354 of the Public Acts  
3 of 1982, and section 22210 as amended by Act No. 88 of the Public  
4 Acts of 1993, being sections 333.16221, 333.16226, 333.20175,  
5 333.20201, 333.21515, and 333.22210 of the Michigan Compiled  
6 Laws, are amended and sections 16280 and 20195 are added to read  
7 as follows:

8       Sec. 16221. The department may investigate activities  
9 related to the practice of a health profession by a licensee, a  
10 registrant, or an applicant for licensure or registration. The  
11 department may hold hearings, administer oaths, and order rele-  
12 vant testimony to be taken and shall report its findings to the  
13 appropriate disciplinary subcommittee. The disciplinary subcom-  
14 mittee shall proceed under section 16226 if it finds that ~~any~~ 1  
15 OR MORE of the following grounds exist:

16       (a) A violation of general duty, consisting of negligence or  
17 failure to exercise due care, including negligent delegation to  
18 or supervision of employees or other individuals, whether or not  
19 injury results, or any conduct, practice, or condition which  
20 impairs, or may impair, the ability to safely and skillfully  
21 practice the health profession.

22       (b) Personal disqualifications, consisting of any of the  
23 following:

24       (i) Incompetence.

25       (ii) Subject to sections 16165 to 16170a, substance abuse as  
26 defined in section 6107.

1       (iii) Mental or physical inability reasonably related to and  
2 adversely affecting the licensee's, REGISTRANT'S, OR APPLICANT'S  
3 ability to practice in a safe and competent manner.

4       (iv) Declaration of mental incompetence by a court of compe-  
5 tent jurisdiction.

6       (v) Conviction of a misdemeanor punishable by imprisonment  
7 for a maximum term of 2 years, a misdemeanor involving the ille-  
8 gal delivery, possession, or use of alcohol or a controlled sub-  
9 stance, or a felony. A certified copy of the court record is  
10 conclusive evidence of the conviction.

11       (vi) Lack of good moral character.

12       (vii) Conviction of a criminal offense under sections 520a  
13 to 520l of the Michigan penal code, Act No. 328 of the Public  
14 Acts of 1931, being sections 750.520a to 750.520l of the Michigan  
15 Compiled Laws. A certified copy of the court record is conclu-  
16 sive evidence of the conviction.

17       (viii) Conviction of a violation of section 492a of the  
18 Michigan penal code, Act No. 328 of the Public Acts of 1931,  
19 being section 750.492a of the Michigan Compiled Laws. A certi-  
20 fied copy of the court record is conclusive evidence of the  
21 conviction.

22       (ix) Conviction of a misdemeanor or felony involving fraud  
23 in obtaining or attempting to obtain fees related to the practice  
24 of a health profession. A certified copy of the court record is  
25 conclusive evidence of the conviction.

26       (x) Final adverse administrative action by a licensure,  
27 registration, disciplinary, or certification board involving the

1 holder of, or an applicant for, a license or registration  
2 regulated by another state or a territory of the United States.  
3 A certified copy of the record of the board is conclusive evi-  
4 dence of the final action.

5       *(xi)* Conviction of a misdemeanor that is reasonably related  
6 to or that adversely affects the licensee's, REGISTRANT'S, OR  
7 APPLICANT'S ability to practice in a safe and competent manner.  
8 A certified copy of the court record is conclusive evidence of  
9 the conviction.

10       (c) Prohibited acts, consisting of any of the following:

11       *(i)* Fraud or deceit in obtaining or renewing a license or  
12 registration.

13       *(ii)* Permitting the license or registration to be used by an  
14 unauthorized person.

15       *(iii)* Practice outside the scope of a license.

16       *(iv)* Obtaining, possessing, or attempting to obtain or pos-  
17 sess a controlled substance as defined in section 7104 or a drug  
18 as defined in section 7105 without lawful authority; or selling,  
19 prescribing, giving away, or administering drugs for other than  
20 lawful diagnostic or therapeutic purposes.

21       (d) Unethical business practices, consisting of any of the  
22 following:

23       *(i)* False or misleading advertising.

24       *(ii)* Dividing fees for referral of patients or accepting  
25 kickbacks on medical or surgical services, appliances, or medica-  
26 tions purchased by or in behalf of patients.

1       (iii) Fraud or deceit in obtaining or attempting to obtain  
2 third party reimbursement.

3       (e) Unprofessional conduct, consisting of any of the  
4 following:

5       (i) Misrepresentation to a consumer or patient or in obtain-  
6 ing or attempting to obtain third party reimbursement in the  
7 course of professional practice.

8       (ii) Betrayal of a professional confidence.

9       (iii) Promotion for personal gain of an unnecessary drug,  
10 device, treatment, procedure, or service.

11       (iv) Directing or requiring an individual to purchase or  
12 secure a drug, device, treatment, procedure, or service from  
13 another person, place, facility, or business in which the  
14 licensee OR REGISTRANT has a financial interest.

15       (f) Failure to report a change of name or mailing address  
16 within 30 days after the change occurs.

17       (g) A violation, or aiding or abetting in a violation, of  
18 this article or of rules promulgated under this article.

19       (h) Failure to comply with a subpoena issued pursuant to  
20 this part, failure to respond to a complaint issued under this  
21 article or article 7, failure to appear at a compliance confer-  
22 ence or an administrative hearing, or failure to report under  
23 section 16222 or 16223.

24       (i) Failure to pay an installment of an assessment levied  
25 pursuant to section 2504 of the insurance code of 1956, Act  
26 No. 218 of the Public Acts of 1956, ~~as amended,~~ being section

1 500.2504 of the Michigan Compiled Laws, within 60 days after  
2 notice by the appropriate board.

3 (j) A violation of section 17013 or 17513.

4 (k) Failure to meet 1 or more of the requirements for licen-  
5 sure or registration under section 16174.

6 (l) A violation of section 17015 or 17515.

7 (M) A VIOLATION OF SECTION 16280.

8 Sec. 16226. (1) After finding the existence of 1 or more of  
9 the grounds for disciplinary subcommittee action listed in sec-  
10 tion 16221, a disciplinary subcommittee shall impose 1 or more of  
11 the following sanctions for each violation:

12 Violations of Section 16221

Sanctions

13 Subdivision (a), (b)(ii),

Probation, limitation, denial,

14 (b)(iv), (b)(vi), or

suspension, revocation,

15 (b)(vii)

restitution, community service,

16

or fine.

17 Subdivision (b)(viii)

Revocation or denial.

18 Subdivision (b)(i),

Limitation, suspension,

19 (b)(iii), (b)(v),

revocation, denial,

20 (b)(ix),

probation, restitution,

21 (b)(x), or (b)(xi)

community service, or fine.

22 Subdivision (c)(i)

Denial, revocation, suspension,

23

probation, limitation, commu-

24

nity service, or fine.

- 1 Subdivision (c)(ii) Denial, suspension, revocation,  
2 restitution, community service,  
3 or fine.
- 4 Subdivision (c)(iii) Probation, denial, suspension,  
5 revocation, restitution, commu-  
6 nity service, or fine.
- 7 Subdivision (c)(iv) Fine, probation, denial,  
8 or (d)(iii) suspension, revocation, commu-  
9 nity service,  
10 or restitution.
- 11 Subdivision (d)(i) Reprimand, fine, probation,  
12 or (d)(ii) community service, denial,  
13 or restitution.
- 14 Subdivision (e)(i) Reprimand, fine, probation,  
15 limitation, suspension, commu-  
16 nity service, denial, or  
17 restitution.
- 18 Subdivision (e)(ii) Reprimand, probation,  
19 or (h) suspension, restitution, commu-  
20 nity service, denial, or fine.
- 21 Subdivision (e)(iii) Reprimand, fine, probation,  
22 or (e)(iv) suspension, revocation, limita-  
23 tion, community service,  
24 denial, or restitution.
- 25 Subdivision (f) Reprimand or fine.
- 26 Subdivision (g) Reprimand, probation, denial,  
27 suspension, revocation,

1 limitation, restitution,  
 2 community service, or fine.  
 3 Subdivision (i) Suspension or fine.  
 4 Subdivision (j) Reprimand or fine.  
 5 Subdivision (k) Reprimand, denial, or  
 6 limitation.  
 7 Subdivision (l) Denial, revocation, restitution,  
 8 probation, suspension, limita-  
 9 tion, reprimand, or fine.  
 10 SUBDIVISION (M) REPRIMAND OR FINE.

11 (2) Determination of sanctions for violations under this  
 12 section shall be made by a disciplinary subcommittee. If, during  
 13 judicial review, the court of appeals determines that a final  
 14 decision or order of a disciplinary subcommittee prejudices sub-  
 15 stantial rights of the petitioner for any of the grounds listed  
 16 in section 106 of the administrative procedures act of 1969, Act  
 17 No. 306 of the Public Acts of 1969, being section 24.306 of  
 18 Michigan Compiled Laws, and holds that the final decision or  
 19 order is unlawful and is to be set aside, the court shall state  
 20 on the record the reasons for the holding and may remand the case  
 21 to the disciplinary subcommittee for further consideration.

22 (3) A disciplinary subcommittee may impose a fine of ~~up to,~~  
 23 ~~but not exceeding,~~ NOT MORE THAN \$250,000.00 for a violation of  
 24 section 16221(a) or (b).

25 (4) A DISCIPLINARY SUBCOMMITTEE MAY IMPOSE A FINE OF NOT  
 26 MORE THAN \$1,000.00 FOR EACH VIOLATION OF SECTION 16221(M).

1       (5) ~~(4)~~ A disciplinary subcommittee may require a licensee  
2 or registrant or an applicant for licensure or registration who  
3 has violated this article or article 7 or a rule promulgated  
4 under this article or article 7 to satisfactorily complete an  
5 educational program, a training program, or a treatment program,  
6 a mental, physical, or professional competence examination, or a  
7 combination of those programs and examinations.

8       SEC. 16280. (1) THE ACTUAL PHYSICAL MEDICAL RECORD RETAINED  
9 BY A LICENSEE OR REGISTRANT AND PERTAINING TO HEALTH CARE  
10 RENDERED BY THE LICENSEE OR REGISTRANT IN THE COURSE OF HIS OR  
11 HER PRIVATE PRACTICE AND NOT IN A HEALTH FACILITY OR AGENCY AS  
12 DESCRIBED IN SECTION 20195 IS THE PROPERTY OF THE LICENSEE OR  
13 REGISTRANT. THE INFORMATION CONTAINED IN THE MEDICAL RECORD IS  
14 THE PROPERTY OF THE PATIENT TO WHOM THE HEALTH CARE WAS RENDERED  
15 AND IS SUBJECT TO EXAMINATION AND COPYING BY THE PATIENT OR A  
16 PATIENT'S AGENT PURSUANT TO THIS SECTION. EXCEPT AS OTHERWISE  
17 PROVIDED BY LAW, THE INFORMATION CONTAINED IN A MEDICAL RECORD IS  
18 NOT SUBJECT TO EXAMINATION AND COPYING BY A PATIENT'S AGENT IF 1  
19 OR MORE OF THE FOLLOWING CIRCUMSTANCES APPLY:

20       (A) THE INFORMATION IS MADE CONFIDENTIAL BY LAW AND IS NOT  
21 SUBJECT TO DISCLOSURE TO THE PATIENT'S AGENT.

22       (B) THE PATIENT WAS A MINOR AT THE TIME THE HEALTH CARE WAS  
23 RENDERED AND WAS AUTHORIZED BY STATUTE TO CONSENT TO THE HEALTH  
24 CARE INDEPENDENTLY OF HIS OR HER PARENT OR LEGAL GUARDIAN.

25       (2) UPON RECEIPT OF A WRITTEN REQUEST FROM A PATIENT OR THE  
26 PATIENT'S AGENT TO EXAMINE OR COPY ALL OR PART OF THE PATIENT'S  
27 MEDICAL RECORD UNDER SUBSECTION (1), A LICENSEE OR REGISTRANT, AS

1 PROMPTLY AS REQUIRED UNDER THE CIRCUMSTANCES, BUT NOT LATER THAN  
2 30 BUSINESS DAYS AFTER RECEIPT OF THE REQUEST, SHALL DO 1 OR MORE  
3 OF THE FOLLOWING, AS APPROPRIATE:

4 (A) MAKE THE MEDICAL RECORD AVAILABLE FOR EXAMINATION DURING  
5 REGULAR BUSINESS HOURS AND PROVIDE A COPY, IF REQUESTED, TO THE  
6 PATIENT OR THE PATIENT'S AGENT OF ALL OR PART OF THE MEDICAL  
7 RECORD, AS DETERMINED BY THE PATIENT OR THE PATIENT'S AGENT.

8 (B) INFORM THE PATIENT OR THE PATIENT'S AGENT IF THE MEDICAL  
9 RECORD DOES NOT EXIST OR CANNOT BE FOUND.

10 (C) IF THE LICENSEE OR REGISTRANT TO WHOM THE REQUEST IS  
11 DIRECTED DOES NOT MAINTAIN THE MEDICAL RECORD, SO INFORM THE  
12 PATIENT OR THE PATIENT'S AGENT AND PROVIDE THE NAME AND ADDRESS,  
13 IF KNOWN, OF THE LICENSEE OR REGISTRANT OR HEALTH FACILITY OR  
14 AGENCY THAT MAINTAINS THE MEDICAL RECORD.

15 (D) IF THE LICENSEE OR REGISTRANT IS UNAVAILABLE DURING THE  
16 PERIOD OF 30 BUSINESS DAYS, UPON BECOMING AVAILABLE IMMEDIATELY  
17 NOTIFY THE PATIENT OR THE PATIENT'S AGENT OF THE LICENSEE'S OR  
18 REGISTRANT'S RETURN AND COMPLETE THE REQUEST PURSUANT TO THIS  
19 SUBSECTION WITHIN 30 BUSINESS DAYS AFTER BECOMING AVAILABLE.

20 (3) IF A PATIENT OR THE PATIENT'S AGENT REQUESTS TO EXAMINE  
21 OR COPY, OR BOTH, THE PATIENT'S MEDICAL RECORD UNDER SUBSECTION  
22 (1), THE LICENSEE OR REGISTRANT MAY CHARGE THE PATIENT OR AGENT 1  
23 OR MORE OF THE FOLLOWING:

24 (A) A RETRIEVAL FEE NOT TO EXCEED THE ACTUAL COST OF  
25 RETRIEVAL.

1 (B) SUBJECT TO SUBSECTION (5), IF THE LICENSEE OR REGISTRANT  
2 COPIES THE MEDICAL RECORD FOR THE PATIENT OR AGENT, A COPYING FEE  
3 OF NOT MORE THAN 20 CENTS PER PAGE.

4 (4) A LICENSEE OR REGISTRANT MAY CHARGE A FEE UNDER SUBSEC-  
5 TION (3) ONLY FOR THAT PART OF THE MEDICAL RECORD ACTUALLY  
6 RETRIEVED OR COPIED, OR BOTH. A LICENSEE OR REGISTRANT MAY  
7 REFUSE TO RETRIEVE OR COPY A MEDICAL RECORD FOR A PATIENT OR  
8 PATIENT'S AGENT UNTIL THE APPLICABLE FEE IS PAID.

9 (5) THE 20-CENT PER PAGE LIMIT SET FORTH IN SUBSECTION  
10 (3)(B) DOES NOT APPLY TO COPIES OF X-RAYS, ELECTROENCEPHALOGRAM  
11 TRACINGS, OR OTHER IMAGING RECORDS. A LICENSEE OR REGISTRANT MAY  
12 CHARGE THE ACTUAL COST OF COPYING A MEDICAL RECORD DESCRIBED IN  
13 THIS SUBSECTION.

14 (6) THE DIRECTOR OF PUBLIC HEALTH MAY ANNUALLY ADJUST THE  
15 20-CENT PER PAGE LIMIT SET FORTH IN SUBSECTION (3)(B) BY AN  
16 AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT THE ANNUAL  
17 PERCENTAGE CHANGE IN THE DETROIT CONSUMER PRICE INDEX.

18 (7) THE DIRECTOR OF PUBLIC HEALTH SHALL DEVELOP A MODEL  
19 REQUEST FORM FOR PURPOSES OF THIS SECTION AND MAKE THE FORM  
20 AVAILABLE UPON REQUEST TO LICENSEES, REGISTRANTS, AND OTHER  
21 INDIVIDUALS.

22 (8) AS USED IN THIS SECTION:

23 (A) "DETROIT CONSUMER PRICE INDEX" MEANS THE MOST COMPREHEN-  
24 SIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT AREA FROM  
25 THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF  
26 LABOR.

1 (B) "MEDICAL RECORD" INCLUDES, BUT IS NOT LIMITED TO,  
2 MEDICAL HISTORIES, RECORDS, REPORTS, SUMMARIES, DIAGNOSES AND  
3 PROGNoses, TREATMENT AND MEDICATION ORDERED AND GIVEN, NOTES,  
4 ENTRIES, AND X-RAYS AND OTHER IMAGING RECORDS. MEDICAL RECORD  
5 DOES NOT INCLUDE MENTAL HEALTH RECORDS.

6 (C) "MENTAL HEALTH RECORD" MEANS INFORMATION THAT IS  
7 DESCRIBED AND MADE CONFIDENTIAL UNDER SECTION 748 OF THE MENTAL  
8 HEALTH CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING  
9 SECTION 330.1748 OF THE MICHIGAN COMPILED LAWS.

10 (D) "PATIENT'S AGENT" OR "AGENT" MEANS A LEGAL GUARDIAN OF  
11 THE PATIENT OR, IF THE PATIENT IS A MINOR, A PARENT OR LEGAL  
12 GUARDIAN OF THE MINOR.

13 Sec. 20175. (1) A health facility or agency shall keep and  
14 maintain a record for each patient including a full and complete  
15 record of tests and examinations performed, observations made,  
16 treatments provided, and in the case of a hospital, the purpose  
17 of hospitalization. In addition to the sanctions set forth in  
18 section 20165, a hospital that fails to comply with this subsec-  
19 tion is subject to an administrative fine of \$10,000.00.

20 (2) A hospital shall take precautions to assure that the  
21 records required by subsection (1) are not wrongfully altered or  
22 destroyed. A hospital that fails to comply with this subsection  
23 is subject to an administrative fine of \$10,000.00.

24 (3) Unless otherwise provided by law, the licensing and cer-  
25 tification records required by this article are public records.

26 (4) Departmental officers and employees shall respect the  
27 confidentiality of patient clinical records and shall not divulge

1 or disclose the contents of records in a manner that identifies  
2 an individual except pursuant to court order.

3 (5) A health facility or agency that employs, contracts  
4 with, or grants privileges to a health professional licensed or  
5 registered under article 15 shall report the following to the  
6 department of commerce not more than 30 days after it occurs:

7 (a) Disciplinary action taken by the health facility or  
8 agency against a health professional licensed or registered under  
9 article 15 based on the licensee's or registrant's professional  
10 competence, disciplinary action that results in a change of  
11 employment status, or disciplinary action based on conduct that  
12 adversely affects the licensee's or registrant's clinical privi-  
13 leges for a period of more than 15 days. As used in this subdi-  
14 vision, "adversely affects" means the reduction, restriction,  
15 suspension, revocation, denial, or failure to renew the clinical  
16 privileges of a licensee or registrant by a health facility or  
17 agency.

18 (b) Restriction or acceptance of the surrender of the clini-  
19 cal privileges of a licensee or registrant under either of the  
20 following circumstances:

21 (i) The licensee or registrant is under investigation by the  
22 health facility or agency.

23 (ii) There is an agreement in which the health facility or  
24 agency agrees not to conduct an investigation into the licensee's  
25 or registrant's alleged professional incompetence or improper  
26 professional conduct.

1 (c) A case in which a health professional resigns or  
2 terminates a contract or whose contract is not renewed instead of  
3 the health facility taking disciplinary action against the health  
4 professional.

5 (6) Upon request by another health facility or agency seek-  
6 ing a reference for purposes of changing or granting staff privi-  
7 leges, credentials, or employment, a health facility or agency  
8 that employs, contracts with, or grants privileges to health pro-  
9 fessionals licensed or registered under article 15 shall notify  
10 the requesting health facility or agency of any disciplinary or  
11 other action reportable under subsection (5) that it has taken  
12 against a health professional licensed or registered under arti-  
13 cle 15 and employed by, under contract to, or granted privileges  
14 by the health facility or agency.

15 (7) For the purpose of reporting disciplinary actions pursu-  
16 ant to this section, a health facility or agency shall include  
17 only the following in the information provided:

18 (a) The name of the licensee or registrant against whom dis-  
19 ciplinary action has been taken.

20 (b) A description of the disciplinary action taken.

21 (c) The specific grounds for the disciplinary action taken.

22 (d) The date of the incident that is the basis for the dis-  
23 ciplinary action.

24 (8) The records, data, and knowledge INCLUDING, BUT NOT  
25 LIMITED TO, MEDICAL RECORDS AS DEFINED IN SECTION 20195 collected  
26 for or by individuals or committees assigned a professional  
27 review function in a health facility or agency are confidential,

1 shall be used only for the purposes provided in this article, are  
2 not public records, and are not subject to court subpoena.

3       SEC. 20195. (1) THE ACTUAL PHYSICAL MEDICAL RECORD RETAINED  
4 BY A HEALTH FACILITY OR AGENCY AND PERTAINING TO HEALTH CARE  
5 RENDERED IN THE HEALTH FACILITY OR AGENCY BY A HEALTH PROFES-  
6 SIONAL EMPLOYED BY, UNDER CONTRACT TO, OR ADMITTED TO PRACTICE IN  
7 THE HEALTH FACILITY OR AGENCY IS THE PROPERTY OF THE HEALTH  
8 FACILITY OR AGENCY. THE INFORMATION CONTAINED IN THE MEDICAL  
9 RECORD IS THE PROPERTY OF THE PATIENT TO WHOM THE HEALTH CARE WAS  
10 RENDERED AND IS SUBJECT TO EXAMINATION AND COPYING BY THE PATIENT  
11 OR A PATIENT'S AGENT PURSUANT TO THIS SECTION. EXCEPT AS OTHER-  
12 WISE PROVIDED BY LAW, THE INFORMATION CONTAINED IN A MEDICAL  
13 RECORD IS NOT SUBJECT TO EXAMINATION AND COPYING BY A PATIENT'S  
14 AGENT IF 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES APPLY:

15       (A) THE INFORMATION IS MADE CONFIDENTIAL BY LAW AND IS NOT  
16 SUBJECT TO DISCLOSURE TO THE PATIENT'S AGENT.

17       (B) THE PATIENT WAS A MINOR AT THE TIME THE HEALTH CARE WAS  
18 RENDERED AND WAS AUTHORIZED BY STATUTE TO CONSENT TO THE HEALTH  
19 CARE INDEPENDENTLY OF HIS OR HER PARENT OR LEGAL GUARDIAN.

20       (2) UPON RECEIPT OF A WRITTEN REQUEST FROM A PATIENT OR THE  
21 PATIENT'S AGENT TO EXAMINE OR COPY ALL OR PART OF THE PATIENT'S  
22 MEDICAL RECORD, A HEALTH FACILITY OR AGENCY, AS PROMPTLY AS  
23 REQUIRED UNDER THE CIRCUMSTANCES, BUT NOT LATER THAN 30 BUSINESS  
24 DAYS AFTER RECEIPT OF THE REQUEST, SHALL DO 1 OR MORE OF THE FOL-  
25 LOWING, AS APPROPRIATE:

26       (A) MAKE THE MEDICAL RECORD AVAILABLE FOR EXAMINATION DURING  
27 REGULAR BUSINESS HOURS AND PROVIDE A COPY, IF REQUESTED, TO THE

1 PATIENT OR THE PATIENT'S AGENT OF ALL OR PART OF THE MEDICAL  
2 RECORD, AS DETERMINED BY THE PATIENT OR THE PATIENT'S AGENT.

3 (B) INFORM THE PATIENT OR THE PATIENT'S AGENT IF THE MEDICAL  
4 RECORD DOES NOT EXIST OR CANNOT BE FOUND.

5 (C) IF THE HEALTH FACILITY OR AGENCY TO WHOM THE REQUEST IS  
6 DIRECTED DOES NOT MAINTAIN THE MEDICAL RECORD, SO INFORM THE  
7 PATIENT OR THE PATIENT'S AGENT AND PROVIDE THE NAME AND ADDRESS,  
8 IF KNOWN, OF THE HEALTH PROFESSIONAL OR HEALTH FACILITY OR AGENCY  
9 THAT MAINTAINS THE MEDICAL RECORD.

10 (3) IF A PATIENT OR THE PATIENT'S AGENT REQUESTS TO EXAMINE  
11 OR COPY, OR BOTH, THE PATIENT'S MEDICAL RECORD UNDER SUBSECTION  
12 (1), THE HEALTH FACILITY OR AGENCY MAY CHARGE THE PATIENT OR  
13 AGENT 1 OR MORE OF THE FOLLOWING:

14 (A) A RETRIEVAL FEE NOT TO EXCEED THE ACTUAL COST OF  
15 RETRIEVAL.

16 (B) SUBJECT TO SUBSECTION (5), IF THE HEALTH FACILITY OR  
17 AGENCY COPIES THE MEDICAL RECORD FOR THE PATIENT OR PATIENT'S  
18 AGENT, A COPYING FEE OF NOT MORE THAN 20 CENTS PER PAGE.

19 (4) A HEALTH FACILITY OR AGENCY MAY CHARGE A FEE UNDER SUB-  
20 SECTION (3) ONLY FOR THAT PART OF THE MEDICAL RECORD ACTUALLY  
21 RETRIEVED OR COPIED, OR BOTH. A HEALTH FACILITY OR AGENCY MAY  
22 REFUSE TO RETRIEVE OR COPY A MEDICAL RECORD FOR A PATIENT OR  
23 PATIENT'S AGENT UNTIL THE APPLICABLE FEE IS PAID.

24 (5) THE 20-CENT PER PAGE LIMIT SET FORTH IN SUBSECTION  
25 (3)(B) DOES NOT APPLY TO COPIES OF X-RAYS, ELECTROENCEPHALOGRAM  
26 TRACINGS, OR OTHER IMAGING RECORDS. A HEALTH FACILITY OR AGENCY

1 MAY CHARGE THE ACTUAL COST OF COPYING A MEDICAL RECORD DESCRIBED  
2 IN THIS SUBSECTION.

3 (6) THE DIRECTOR MAY ANNUALLY ADJUST THE 20-CENT PER PAGE  
4 LIMIT SET FORTH IN SUBSECTION (3)(B) BY AN AMOUNT DETERMINED BY  
5 THE STATE TREASURER TO REFLECT THE ANNUAL PERCENTAGE CHANGE IN  
6 THE DETROIT CONSUMER PRICE INDEX.

7 (7) THE DIRECTOR SHALL DEVELOP A MODEL REQUEST FORM FOR PUR-  
8 POSES OF THIS SECTION AND MAKE THE FORM AVAILABLE UPON REQUEST TO  
9 A HEALTH FACILITY OR AGENCY OR TO AN INDIVIDUAL.

10 (8) IN ADDITION TO THE SANCTIONS SET FORTH IN SECTION 20165,  
11 A HEALTH FACILITY OR AGENCY THAT VIOLATES THIS SECTION IS SUBJECT  
12 TO A REPRIMAND OR TO AN ADMINISTRATIVE FINE OF NOT MORE THAN  
13 \$1,000.00 FOR EACH VIOLATION.

14 (9) AS USED IN THIS SECTION:

15 (A) "DETROIT CONSUMER PRICE INDEX" MEANS THE MOST COMPREHEN-  
16 SIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT AREA FROM  
17 THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF  
18 LABOR.

19 (B) "MEDICAL RECORD" INCLUDES, BUT IS NOT LIMITED TO, MEDI-  
20 CAL HISTORIES, RECORDS, REPORTS, SUMMARIES, DIAGNOSES AND PRO-  
21 GNOSES, TREATMENT AND MEDICATION ORDERED AND GIVEN, NOTES,  
22 ENTRIES, AND X-RAYS AND OTHER IMAGING RECORDS. MEDICAL RECORD  
23 DOES NOT INCLUDE MENTAL HEALTH RECORDS.

24 (C) "MENTAL HEALTH RECORD" MEANS INFORMATION THAT IS  
25 DESCRIBED AND MADE CONFIDENTIAL UNDER SECTION 748 OF THE MENTAL  
26 HEALTH CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING  
27 SECTION 330.1748 OF THE MICHIGAN COMPILED LAWS.

1 (D) "PATIENT'S AGENT" MEANS A LEGAL GUARDIAN OF THE PATIENT  
2 OR, IF THE PATIENT IS A MINOR, A PARENT OR LEGAL GUARDIAN OF THE  
3 MINOR.

4 Sec. 20201. (1) ~~A~~ SUBJECT TO SECTION 20203, A health  
5 facility or agency ~~which~~ THAT provides services directly to  
6 patients or residents and ~~which~~ is licensed under this article  
7 shall adopt a policy describing the rights and responsibilities  
8 of patients or residents admitted to the health facility or  
9 agency. Except for a licensed health maintenance organization,  
10 which shall comply with section 21086, ~~the policy shall be~~  
11 ~~posted~~ A HEALTH FACILITY OR AGENCY SHALL POST THE POLICY at a  
12 public place in the HEALTH facility OR AGENCY and shall ~~be~~  
13 ~~provided~~ PROVIDE A COPY OF THE POLICY to each member of ~~the~~  
14 ~~facility~~ ITS staff. ~~Patients~~ A HEALTH FACILITY OR AGENCY  
15 SHALL TREAT PATIENTS or residents ~~shall be treated~~ in accord-  
16 ance with the policy.

17 (2) The policy describing the rights and responsibilities of  
18 patients or residents shall include, ~~as~~ AT a minimum, ALL OF  
19 THE FOLLOWING:

20 (a) A patient or resident will not be denied appropriate  
21 care on the basis of race, religion, color, national origin, sex,  
22 age, handicap, marital status, sexual preference, or source of  
23 payment.

24 (b) An individual who is or has been a patient or resident  
25 is entitled to inspect, or receive for a reasonable fee, a copy  
26 of his or her medical record upon request, PURSUANT TO  
27 SECTION 20195. A third party shall not be given a copy of the

1 patient's or resident's medical record without prior  
2 authorization of the patient.

3 (c) A patient or resident is entitled to confidential treat-  
4 ment of personal and medical records, and may refuse their  
5 release to a person outside the facility except as required  
6 because of a transfer to another health care facility or as  
7 required by law or third party payment contract.

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

12 (e) A patient or resident is entitled to receive adequate  
13 and appropriate care, and to receive, from the appropriate indi-  
14 vidual within the HEALTH facility OR AGENCY, information about  
15 his or her medical condition, proposed course of treatment, and  
16 prospects for recovery, in terms that the patient or resident can  
17 understand, unless medically contraindicated as documented by the  
18 attending physician in the PATIENT'S OR RESIDENT'S medical  
19 record.

20 (f) A patient or resident is entitled to refuse treatment to  
21 the extent provided by law and to be informed of the consequences  
22 of that refusal. When a refusal of treatment prevents a health  
23 facility OR AGENCY or its staff from providing appropriate care  
24 according to ethical and professional standards, the relationship  
25 with the patient or resident may be terminated upon reasonable  
26 notice.

1 (g) A patient or resident is entitled to exercise his or her  
2 rights as a patient or resident and as a citizen, and to this end  
3 may present grievances or recommend changes in policies and serv-  
4 ices on behalf of himself or herself or others to the HEALTH  
5 facility OR AGENCY staff, to governmental officials, or to  
6 another person of his or her choice within or outside the HEALTH  
7 facility OR AGENCY, free from restraint, interference, coercion,  
8 discrimination, or reprisal. A patient or resident is entitled  
9 to information about the HEALTH facility's OR AGENCY'S policies  
10 and procedures for initiation, review, and resolution of patient  
11 or resident complaints.

12 (h) A patient or resident is entitled to information con-  
13 cerning an experimental procedure proposed as a part of his or  
14 her care and ~~shall have~~ HAS the right to refuse to participate  
15 in the experiment without jeopardizing his or her continuing  
16 care.

17 (i) A patient or resident is entitled to receive and examine  
18 an explanation of his or her bill regardless of the source of  
19 payment and to receive, upon request, information relating to  
20 financial assistance available through the HEALTH facility OR  
21 AGENCY.

22 (j) A patient or resident is entitled to know who is respon-  
23 sible for and who is providing his or her direct care, is enti-  
24 tled to receive information concerning his or her continuing  
25 health needs and alternatives for meeting those needs, and to be  
26 involved in his or her discharge planning, if appropriate.

1 (k) A patient or resident is entitled to associate and have  
2 private communications and consultations with his or her  
3 physician, attorney, or any other person of his or her choice and  
4 to send and receive personal mail unopened on the same day it is  
5 received at the health facility or agency, unless medically con-  
6 traindicated as documented by the attending physician in the  
7 PATIENT'S OR RESIDENT'S medical record. A patient's or  
8 resident's civil and religious liberties, including the right to  
9 independent personal decisions and the right to knowledge of  
10 available choices, shall not be infringed and the HEALTH facility  
11 OR AGENCY shall encourage and assist in the fullest possible  
12 exercise of these rights. A patient or resident may meet with,  
13 and participate in, the activities of social, religious, and com-  
14 munity groups at his or her discretion, unless medically contra-  
15 indicated as documented by the attending physician in the  
16 PATIENT'S OR RESIDENT'S medical record.

17 (l) A patient or resident is entitled to be free from mental  
18 and physical abuse and from physical and chemical restraints,  
19 except those restraints authorized in writing by the attending  
20 physician for a specified and limited time or as are necessitated  
21 by an emergency to protect the patient or resident from injury to  
22 self or others, in which case the restraint may only be applied  
23 by a qualified professional who shall set forth in writing the  
24 circumstances requiring the use of restraints and who shall  
25 promptly report the action to the attending physician. In case  
26 of a chemical restraint a physician shall be consulted within 24  
27 hours after the commencement of the restraint.

1 (m) A patient or resident is entitled to be free from  
2 performing services for the HEALTH facility OR AGENCY that are  
3 not included for therapeutic purposes in the plan of care.

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

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

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

14 (b) Each nursing home patient may associate and communicate  
15 privately with persons of his or her choice. Reasonable, regular  
16 visiting hours, which shall be not less than 8 hours per day, and  
17 which shall take into consideration the special circumstances of  
18 each visitor, shall be established for patients to receive  
19 visitors. A NURSING HOME patient may be visited by the patient's  
20 attorney or by representatives of the departments named in sec-

21 tion 20156, during other than established visiting hours.  
22 Reasonable privacy shall be afforded for visitation of a NURSING  
23 HOME patient who shares a room with another NURSING HOME  
24 patient. Each NURSING HOME patient shall have reasonable access  
25 to a telephone. A married nursing home patient or home for the  
26 aged resident is entitled to meet privately with his or her  
27 spouse in a room which assures privacy. If both spouses are

1 PATIENTS OR residents in the same ~~facility~~ NURSING HOME OR HOME  
2 FOR THE AGED, they are entitled to share a room unless medically  
3 contraindicated and documented by the attending physician in the  
4 PATIENT'S OR RESIDENT'S medical record.

5 (c) A nursing home patient or home for the aged resident is  
6 entitled to retain and use personal clothing and possessions as  
7 space permits, unless to do so would infringe upon the rights of  
8 other NURSING HOME patients or HOME FOR THE AGED residents, or  
9 unless medically contraindicated as documented by the attending  
10 physician in the PATIENT'S OR RESIDENT'S medical record. Each  
11 nursing home patient or home for the aged resident shall be pro-  
12 vided with reasonable space. At the request of a NURSING HOME  
13 patient, a nursing home shall provide for the safekeeping of per-  
14 sonal effects, funds, and other property of a patient in accord-  
15 ance with section 21767, except that a nursing home ~~shall not~~  
16 ~~be~~ IS NOT required to provide for the safekeeping of a property  
17 which would impose an unreasonable burden on the nursing home.

18 (d) A nursing home patient or home for the aged resident is  
19 entitled to the opportunity to participate in the planning of his  
20 or her medical treatment. A nursing home patient shall be fully  
21 informed by the attending physician of the patient's medical con-  
22 dition unless medically contraindicated as documented by a physi-  
23 cian in the PATIENT'S medical record. Each nursing home patient  
24 shall be afforded the opportunity to discharge himself or herself  
25 from the nursing home.

26 (e) A home for the aged resident may be transferred or  
27 discharged only for medical reasons, for his or her welfare or

1 that of other residents, or for nonpayment of his or her stay,  
2 except as provided by ~~title 18 or 19 of the social security act,~~  
3 ~~42 U.S.C. 1395 to 1396k~~ TITLE XVIII OR TITLE XIX. A nursing  
4 home patient may be transferred or discharged only as provided in  
5 sections 21773 to 21777. A nursing home patient or home for the  
6 aged resident is entitled to be given reasonable advance notice  
7 to ensure orderly transfer or discharge. ~~Those actions~~ STEPS  
8 TAKEN TO ENSURE REASONABLE ADVANCE NOTICE shall be documented in  
9 the PATIENT'S OR RESIDENT'S medical record. AS USED IN THIS SUB-  
10 DIVISION AND SUBDIVISION (F):

11 (i) "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 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO  
14 1395w-2, AND 1395w-4 TO 1395ccc.

15 (ii) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,  
16 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396g AND 1396i TO  
17 1396v.

18 (f) A nursing home patient or home for the aged resident is  
19 entitled to be fully informed before or at the time of admission  
20 and during stay of services available in the ~~facility~~ NURSING  
21 HOME OR HOME FOR THE AGED, and of the related charges including  
22 any charges for services not covered under ~~title 18 or 19 of the~~  
23 ~~social security act, 42 U.S.C. 1395 to 1396k~~ TITLE XVIII OR  
24 TITLE XIX, or not covered by the ~~facility's~~ NURSING HOME'S OR  
25 HOME FOR THE AGED'S basic per diem rate. The statement of serv-  
26 ices provided by the ~~facility~~ NURSING HOME OR HOME FOR THE AGED

1 shall be in writing and shall include those required to be  
2 offered on an as-needed basis.

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

18 (h) A nursing home patient or a person authorized by ~~a~~ THE  
19 patient in writing may inspect and copy the patient's personal  
20 RECORDS UNDER THIS SUBDIVISION and MAY INSPECT AND COPY THE  
21 PATIENT'S medical records PURSUANT TO SECTION 20195. The  
22 PERSONAL records shall be made available for inspection and copy-  
23 ing by the nursing home within a reasonable time, not exceeding 1  
24 week, after the receipt of a written request UNDER THIS  
25 SUBDIVISION.

26 (i) If a nursing home patient desires treatment by a  
27 licensed member of the healing arts, the treatment shall be made

1 available unless it is medically contraindicated, and the medical  
2 contraindication is justified in the patient's medical record by  
3 the attending physician.

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

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

13 (l) Each nursing home patient has the right to receive rep-  
14 resentatives of approved organizations as provided in section  
15 21763.

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

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

24 (6) A nursing home patient or home for the aged resident is  
25 entitled to be fully informed, as evidenced by the patient's or  
26 resident's written acknowledgment, before or at the time of  
27 admission and during stay, of the policy required by this

1 section. The policy shall provide that if a NURSING HOME patient  
 2 or HOME FOR THE AGED resident is adjudicated incompetent and not  
 3 restored to legal capacity, the rights and responsibilities set  
 4 forth in this section shall be exercised by a person designated  
 5 by the NURSING HOME patient or HOME FOR THE AGED resident. The  
 6 ~~facility or agency~~ NURSING HOME OR HOME FOR THE AGED shall pro-  
 7 vide proper forms for the NURSING HOME patient or HOME FOR THE  
 8 AGED resident to provide for the designation of this person at  
 9 the time of admission.

10 (7) This section ~~shall not be construed to~~ DOES NOT pro-  
 11 hibit a health facility or agency from establishing and recogniz-  
 12 ing additional patients' OR RESIDENTS' rights.

13 Sec. 21515. The records, data, and knowledge INCLUDING,  
 14 BUT NOT LIMITED TO, MEDICAL RECORDS AS DEFINED IN SECTION 20195  
 15 collected for or by individuals or committees assigned a review  
 16 function described in this article are confidential and shall be  
 17 used only for the purposes provided in this article, ~~shall~~ ARE  
 18 not ~~be~~ public records, and ~~shall~~ ARE not ~~be available for~~  
 19 SUBJECT TO court subpoena.

20 Sec. 22210. (1) A hospital that applies to the department  
 21 for a certificate of need and meets all of the following criteria  
 22 shall be granted a certificate of need for a short-term nursing  
 23 care program with up to 10 licensed hospital beds:

24 (a) Is eligible to apply for certification as a provider of  
 25 swing-bed services under section 1883 of title XVIII,  
 26 42 U.S.C. 1395tt.

1 (b) Subject to subsection (2), has fewer than 100 licensed  
2 beds not counting beds excluded under section 1883 of title XVIII  
3 of the social security act.

4 (c) Does not have uncorrected licensing, certification, or  
5 safety deficiencies for which the department or the state fire  
6 marshal, or both, has not accepted a plan of correction.

7 (d) Provides evidence satisfactory to the department that  
8 the hospital has had difficulty in placing patients in skilled  
9 nursing home beds during the 12 months immediately preceding the  
10 date of 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  
14 not charge a fee for processing a certificate of need application  
15 to initiate a short-term nursing care program.

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

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

23 (b) Admit patients to the short-term nursing care program  
24 only pursuant to an admissions contract approved by the  
25 department.

26 (c) Not discharge or transfer a patient from a licensed  
27 hospital bed other than a hospital long-term care unit bed and

1 admit that patient to the short-term nursing care program unless  
2 the discharge or transfer and admission is determined medically  
3 appropriate by the attending physician.

4 (d) Permit access to a representative of an organization  
5 approved under section 21764 to patients admitted to the  
6 short-term nursing care program, for all of the purposes  
7 described in section 21763.

8 (e) Subject to subsection (8), not allow the number of  
9 patient days for the short-term nursing care program to exceed  
10 the equivalent of 1,825 patient days for a single state fiscal  
11 year.

12 (f) Transfer a patient in the short-term nursing care pro-  
13 gram to an appropriately certified nursing home bed, county medi-  
14 cal care facility bed, or hospital long-term care unit bed  
15 located within a 50-mile radius of the patient's residence within  
16 5 business days after the hospital has been notified, either  
17 orally or in writing, that a bed has become available.

18 (g) Not charge or collect from a patient admitted to the  
19 short-term nursing care program, for services rendered as part of  
20 the short-term nursing care program, an amount in excess of the  
21 reasonable charge for the services as determined by the United  
22 States secretary of health and human services under title XVIII.

23 (h) Assist a patient who has been denied coverage for serv-  
24 ices received in a short-term nursing care program under title  
25 XVIII to file an appeal with the medicare recovery project oper-  
26 ated by the office of services to the aging.

1 (i) Operate the short-term nursing care program in  
2 accordance with this section and the requirements of the swing  
3 bed provisions of section 1883 of title XVIII, 42 U.S.C. 1395tt.

4 (j) Provide data to the department considered necessary by  
5 the department to evaluate the short-term nursing care program.  
6 The data shall include, but is not limited to, all of the  
7 following:

8 (i) The total number of patients admitted to the hospital's  
9 short-term nursing care program during the period specified by  
10 the department.

11 (ii) The total number of short-term nursing care patient  
12 days for the period specified by the department.

13 (iii) Information identifying the type of care to which  
14 patients in the short-term care nursing program are released.

15 (k) As part of the hospital's policy describing the rights  
16 and responsibilities of patients admitted to the hospital, as  
17 required under section 20201, incorporate all of the following  
18 additional rights and responsibilities for patients in the  
19 short-term nursing care program:

20 (i) A copy of the hospital's policy shall be provided to  
21 each short-term nursing care patient upon admission, and the  
22 staff of the hospital shall be trained and involved in the imple-  
23 mentation of the policy.

24 (ii) Each short-term nursing care patient may associate and  
25 communicate privately with persons of his or her choice.  
26 Reasonable, regular visiting hours, which shall take into  
27 consideration the special circumstances of each visitor, shall be

1 established for short-term nursing care patients to receive  
2 visitors. A short-term nursing care patient may be visited by  
3 the patient's attorney or by representatives of the departments  
4 named in section 20156 during other than established visiting  
5 hours. Reasonable privacy shall be afforded for visitation of a  
6 short-term nursing care patient who shares a room with another  
7 short-term nursing care patient. Each short-term nursing care  
8 patient shall have reasonable access to a telephone.

9 (iii) A short-term nursing care patient is entitled to  
10 retain and use personal clothing and possessions as space per-  
11 mits, unless medically contraindicated, as documented by the  
12 attending physician in the medical record.

13 (iv) A short-term nursing care patient is entitled to the  
14 opportunity to participate in the planning of his or her medical  
15 treatment. A short-term nursing care patient shall be fully  
16 informed by the attending physician of the short-term nursing  
17 care patient's medical condition, unless medically contraindi-  
18 cated, as documented by a physician in the medical record. Each  
19 short-term nursing care patient shall be afforded the opportunity  
20 to discharge himself or herself from the short-term nursing care  
21 program.

22 (v) A short-term nursing care patient is entitled to be  
23 fully informed either before or at the time of admission, and  
24 during his or her stay, of services available in the hospital and  
25 of the related charges for those services. The statement of  
26 services provided by the hospital shall be in writing and shall

1 include those services required to be offered on an as needed  
2 basis.

3       (vi) A patient in a short-term nursing care program or ~~a~~  
4 ~~person authorized in writing by the patient~~ THE PATIENT'S AGENT  
5 may, upon ~~submission to the hospital of a written~~ request,  
6 inspect and copy the patient's personal RECORDS or INSPECT AND  
7 COPY THE PERSON'S medical records, PURSUANT TO SECTION 20195.  
8 ~~The hospital shall make the records available for inspection and~~  
9 ~~copying within a reasonable time, not exceeding 7 days, after the~~  
10 ~~receipt of the written request.~~

11       (vii) A short-term nursing care patient has the right to  
12 have his or her parents, if the short-term nursing care patient  
13 is a minor, or his or her spouse, next of kin, or patient's rep-  
14 resentative, if the short-term nursing care patient is an adult,  
15 stay at the facility 24 hours a day if the short-term nursing  
16 care patient is considered terminally ill by the physician  
17 responsible for the short-term nursing care patient's care.

18       (viii) Each short-term nursing care patient shall be pro-  
19 vided with meals that meet the recommended dietary allowances for  
20 that patient's age and sex and that may be modified according to  
21 special dietary needs or ability to chew.

22       (ix) Each short-term nursing care patient has the right to  
23 receive a representative of an organization approved under  
24 section 21764, for all of the purposes described in section  
25 21763.

26       (4) Achieve and maintain medicare certification under title  
27 XVIII.

1 (4) A hospital or the owner, administrator, an employee, or  
2 a representative of the hospital shall not discharge, harass, or  
3 retaliate or discriminate against a short-term nursing care  
4 patient because the short-term nursing care patient has exercised  
5 a right described in subsection (3)(k).

6 (5) In the case of a short-term nursing care patient, the  
7 rights described in subsection (3)(k)(iv) may be exercised by the  
8 patient's representative, as defined in section 21703(2).

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

20 (7) Subsection (3)(k) does not prohibit a hospital from  
21 establishing and recognizing additional rights for short-term  
22 nursing care patients.

23 (8) Upon application, the department may grant a variation  
24 from the maximum number of patient days established under subsec-  
25 tion (3)(e), to an applicant hospital that demonstrates to the  
26 satisfaction of the department that there is an immediate need  
27 for skilled nursing beds within a 100-mile radius of the

1 hospital. A variation granted under this subsection shall be  
2 valid for not more than 1 year after the date the variation is  
3 granted. The department shall promulgate rules to implement this  
4 subsection including, at a minimum, a definition of immediate  
5 need and the procedure for applying for a variation.

6 (9) A hospital that violates subsection (3) is subject to  
7 the penalty provisions of section 20165.

8 (10) A person shall not initiate a short-term nursing care  
9 program without first obtaining a certificate of need under this  
10 section.