

# SENATE BILL No. 603

June 26, 2003, Introduced by Senators ALLEN and KUIPERS 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, and by adding section 21733a.

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

SENATE BILL No. 603

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  
9 agency and shall be provided to each member of the health  
10 facility or agency staff. Patients or residents shall be treated

1 in accordance with the policy.

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

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

9 (b) An individual who is or has been a patient or resident is  
10 entitled to inspect, or receive for a reasonable fee, a copy of  
11 his or her medical record upon request. A third party shall not  
12 be given a copy of the patient's or resident's medical record  
13 without prior authorization of the patient or resident.

14 (c) A patient or resident is entitled to confidential  
15 treatment of personal and medical records, and may refuse their  
16 release to a person outside the health facility or agency except  
17 as required because of a transfer to another health care facility  
18 or as required by law or third party payment contract.

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

23 (e) A patient or resident is entitled to receive adequate and  
24 appropriate care, and to receive, from the appropriate individual  
25 within the health facility or agency, information about his or  
26 her medical condition, proposed course of treatment, and  
27 prospects for recovery, in terms that the patient or resident can

1 understand, unless medically contraindicated as documented by the  
2 attending physician in the medical record.

3 (f) A patient or resident is entitled to refuse treatment to  
4 the extent provided by law and to be informed of the consequences  
5 of that refusal. If a refusal of treatment prevents a health  
6 facility or agency or its staff from providing appropriate care  
7 according to ethical and professional standards, the relationship  
8 with the patient or resident may be terminated upon reasonable  
9 notice.

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

21 (h) A patient or resident is entitled to information  
22 concerning an experimental procedure proposed as a part of his or  
23 her care and has the right to refuse to participate in the  
24 experimental procedure without jeopardizing his or her continuing  
25 care.

26 (i) A patient or resident is entitled to receive and examine  
27 an explanation of his or her bill regardless of the source of

1 payment and to receive, upon request, information relating to  
2 financial assistance available through the health facility or  
3 agency.

4 (j) A patient or resident is entitled to know who is  
5 responsible for and who is providing his or her direct care, is  
6 entitled to receive information concerning his or her continuing  
7 health needs and alternatives for meeting those needs, and to be  
8 involved in his or her discharge planning, if appropriate.

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

24 (l) A patient or resident is entitled to be free from mental  
25 and physical abuse and from physical and chemical restraints,  
26 except those restraints authorized in writing by the attending  
27 physician for a specified and limited time or as are necessitated

1 by an emergency to protect the patient or resident from injury to  
2 self or others, in which case the restraint may only be applied  
3 by a qualified professional who shall set forth in writing the  
4 circumstances requiring the use of restraints and who shall  
5 promptly report the action to the attending physician. In case  
6 of a chemical restraint, a physician shall be consulted within 24  
7 hours after the commencement of the chemical restraint.

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

11 (n) A patient or resident is entitled to information about  
12 the health facility or agency rules and regulations affecting  
13 patient or resident care and conduct.

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

17 (3) The following additional requirements for the policy  
18 described in subsection (2) apply to licensees under parts 213  
19 and 217:

20 (a) The policy shall be provided to each nursing home patient  
21 or home for the aged resident upon admission, and the staff of  
22 the facility shall be trained and involved in the implementation  
23 of the policy.

24 (b) Each nursing home patient may associate and communicate  
25 privately with persons of his or her choice. Reasonable, regular  
26 visiting hours, which shall be not less than 8 hours per day, and  
27 which shall take into consideration the special circumstances of

1 each visitor, shall be established for patients to receive  
2 visitors. A patient may be visited by the patient's attorney or  
3 by representatives of the departments named in section 20156,  
4 during other than established visiting hours. Reasonable privacy  
5 shall be afforded for visitation of a patient who shares a room  
6 with another patient. Each patient shall have reasonable access  
7 to a telephone. A married nursing home patient or home for the  
8 aged resident is entitled to meet privately with his or her  
9 spouse in a room that assures privacy. If both spouses are  
10 residents in the same facility, they are entitled to share a room  
11 unless medically contraindicated and documented by the attending  
12 physician in the medical record.

13 (c) A nursing home patient or home for the aged resident is  
14 entitled to retain and use personal clothing and possessions as  
15 space permits, unless to do so would infringe upon the rights of  
16 other patients or residents, or unless medically contraindicated  
17 as documented by the attending physician in the medical record.  
18 Each nursing home patient or home for the aged resident shall be  
19 provided with reasonable space. At the request of a patient, a  
20 nursing home shall provide for the safekeeping of personal  
21 effects, funds, and other property of a patient in accordance  
22 with section 21767, except that a nursing home is not required to  
23 provide for the safekeeping of a property that would impose an  
24 unreasonable burden on the nursing home.

25 (d) A nursing home patient or home for the aged resident is  
26 entitled to the opportunity to participate in the planning of his  
27 or her medical treatment. A nursing home patient shall be fully

1 informed by the attending physician of the patient's medical  
2 condition unless medically contraindicated as documented by a  
3 physician in the medical record. Each nursing home patient shall  
4 be afforded the opportunity to discharge himself or herself from  
5 the nursing home.

6 (e) A home for the aged resident may be transferred or  
7 discharged only for medical reasons, for his or her welfare or  
8 that of other residents, or for nonpayment of his or her stay,  
9 except as provided by title XVIII or title XIX. A nursing home  
10 patient may be transferred or discharged only as provided in  
11 sections 21773 to 21777. A nursing home patient or home for the  
12 aged resident is entitled to be given reasonable advance notice  
13 to ensure orderly transfer or discharge. Those actions shall be  
14 documented in the medical record.

15 (f) A nursing home patient or home for the aged resident is  
16 entitled to be fully informed before or at the time of admission  
17 and during stay of services available in the facility, and of the  
18 related charges including any charges for services not covered  
19 under title XVIII, or not covered by the facility's basic per  
20 diem rate. The statement of services provided by the facility  
21 shall be in writing and shall include those required to be  
22 offered on an as-needed basis.

23 (g) A nursing home patient or home for the aged resident is  
24 entitled to manage his or her own financial affairs, or to have  
25 at least a quarterly accounting of personal financial  
26 transactions undertaken in his or her behalf by the facility  
27 during a period of time the patient or resident has delegated

1 those responsibilities to the facility. In addition, a patient  
2 or resident is entitled to receive each month from the facility  
3 an itemized statement setting forth the services paid for by or  
4 on behalf of the patient and the services rendered by the  
5 facility. The admission of a patient to a nursing home does not  
6 confer on the nursing home or its owner, administrator,  
7 employees, or representatives the authority to manage, use, or  
8 dispose of a patient's property.

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

15 (i) If a nursing home patient desires treatment by a licensed  
16 member of the healing arts, the treatment shall be made available  
17 unless it is medically contraindicated, and the medical  
18 contraindication is justified in the patient's medical record by  
19 the attending physician.

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

25 (k) ~~Each~~ **Subject to section 21733a, each** nursing home  
26 patient shall be provided with meals that meet the recommended  
27 dietary allowances for that patient's age and sex and that may be

1 modified according to special dietary needs, **dietary preferences,**  
2 or ability to chew.

3 (1) Each nursing home patient has the right to receive  
4 representatives of approved organizations as provided in section  
5 21763.

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

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

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

25 (7) This section does not prohibit a health facility or  
26 agency from establishing and recognizing ~~additional~~ patients'  
27 **rights in addition to the patients' rights set forth in this**

1 section.

2 (8) As used in this section:

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

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

10 (c) "Title XIX" means title XIX of the social security act,  
11 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396f, 1396g-1 to~~  
12 1396r-6 ~~—~~ and 1396r-8 to 1396v.

13 **Sec. 21733a. (1) Subject to section 20201(3)(k), subject to**  
14 **subsections (2) and (3), and in addition to providing dietary**  
15 **services that assure that meals served to residents meet each**  
16 **resident's daily nutritional and special dietary needs as**  
17 **required under section 1819 of title XVIII of the social security**  
18 **act, 42 U.S.C. 1395i-3, a nursing home shall allow a resident**  
19 **upon admission or at any other time to notify the nursing home of**  
20 **any dietary preferences including, but not limited to, special**  
21 **preparation or cooking requirements.**

22 (2) Upon receipt of notification under subsection (1), a  
23 nursing home shall if possible and medically allowable comply  
24 with the resident's dietary preferences. If the nursing home  
25 incurs additional costs as a result of complying with a  
26 resident's dietary preferences, the resident agrees by virtue of  
27 giving notice under subsection (1) that the nursing home may

1 recover those costs from the resident on a monthly or other  
2 periodic basis.

3       (3) A nursing home that accepts notice under subsection (1)  
4 may require each notifying resident to sign a written statement  
5 waiving the liability of the nursing home in a civil action for  
6 damages for an act or omission of the nursing home in complying  
7 with the notice. A waiver of liability signed under this  
8 subsection does not include an act or omission that is negligent.