

# HOUSE BILL NO. 5948

September 25, 2024, Introduced by Rep. Rheingans and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20201 and 21734 (MCL 333.20201 and 333.21734), section 20201 as amended by 2016 PA 499 and section 21734 as amended by 2022 PA 187.

**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

1 responsibilities of patients or residents admitted to the health  
2 facility or agency. Except for a licensed health maintenance  
3 organization that is subject to chapter 35 of the insurance code of  
4 1956, 1956 PA 218, MCL 500.3501 to 500.3573, the health facility or  
5 agency shall post the policy at a public place in the health  
6 facility or agency and shall provide the policy to each member of  
7 the health facility or agency staff. Patients or residents ~~shall~~  
8 **must** be treated in accordance with the policy.

9 (2) The policy describing the rights and responsibilities of  
10 patients or residents required under subsection (1) ~~shall~~**must**  
11 include, as a minimum, all of the following:

12 (a) A patient or resident ~~shall~~**must** not be denied appropriate  
13 care on the basis of race, religion, color, national origin, sex,  
14 age, disability, marital status, sexual preference, or source of  
15 payment.

16 (b) An individual who is or has been a patient or resident is  
17 entitled to inspect, or receive for a reasonable fee, a copy of ~~his~~  
18 ~~or her~~**the individual's** medical record upon request in accordance  
19 with the medical records access act, 2004 PA 47, MCL 333.26261 to  
20 333.26271. Except as otherwise permitted or required under the  
21 health insurance portability and accountability act of 1996, Public  
22 Law 104-191, or regulations promulgated under that act, 45 CFR  
23 parts 160 and 164, a third party shall not be given a copy of the  
24 patient's or resident's medical record without prior authorization  
25 of the patient or resident.

26 (c) A patient or resident is entitled to confidential  
27 treatment of personal and medical records, and may refuse their  
28 release to a person outside the health facility or agency except as  
29 required because of a transfer to another health care facility, as

1 required by law or third party payment contract, or as permitted or  
2 required under the health insurance portability and accountability  
3 act of 1996, Public Law 104-191, or regulations promulgated under  
4 that act, 45 CFR parts 160 and 164.

5 (d) A patient or resident is entitled to privacy, to the  
6 extent feasible, in treatment and in caring for personal needs with  
7 consideration, respect, and full recognition of ~~his or her~~ **the**  
8 **patient's or resident's** dignity and individuality.

9 (e) A patient or resident is entitled to receive adequate and  
10 appropriate care, and to receive, from the appropriate individual  
11 within the health facility or agency, information about ~~his or her~~  
12 **the patient's or resident's** medical condition, proposed course of  
13 treatment, and prospects for recovery, in terms that the patient or  
14 resident can understand, unless medically contraindicated as  
15 documented in the medical record by the attending physician, a  
16 physician's assistant with whom the physician has a practice  
17 agreement, or an advanced practice registered nurse.

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

25 (g) A patient or resident is entitled to exercise ~~his or her~~  
26 **the patient's or resident's** rights as a patient or resident and as  
27 a citizen, and to this end may present grievances or recommend  
28 changes in policies and services on behalf of ~~himself or herself~~  
29 **the patient or resident** or others to the health facility or agency

1 staff, to governmental officials, or to another person of ~~his or~~  
2 ~~her~~ **the patient's or resident's** choice within or outside the health  
3 facility or agency, free from restraint, interference, coercion,  
4 discrimination, or reprisal. A patient or resident is entitled to  
5 information about the health facility's or agency's policies and  
6 procedures for initiation, review, and resolution of patient or  
7 resident complaints.

8 (h) A patient or resident is entitled to information  
9 concerning an experimental procedure proposed as a part of ~~his or~~  
10 ~~her~~ **the patient's or resident's** care and has the right to refuse to  
11 participate in the experimental procedure without jeopardizing ~~his~~  
12 ~~or her~~ **the patient's or resident's** continuing care.

13 (i) A patient or resident is entitled to receive and examine  
14 an explanation of ~~his or her~~ **the patient's or resident's** bill  
15 regardless of the source of payment and to receive, upon request,  
16 information relating to financial assistance available through the  
17 health facility or agency.

18 (j) A patient or resident is entitled to know who is  
19 responsible for and who is providing ~~his or her~~ **the patient's or**  
20 **resident's** direct care, to receive information concerning ~~his or~~  
21 ~~her~~ **the patient's or resident's** continuing health needs and  
22 alternatives for meeting those needs, and to be involved in ~~his or~~  
23 ~~her~~ **the patient's or resident's** discharge planning, if appropriate.

24 (k) A patient or resident is entitled to associate and have  
25 private communications and consultations with ~~his or her~~ **the**  
26 **patient's or resident's** physician or a physician's assistant with  
27 whom the physician has a practice agreement, with ~~his or her~~ **the**  
28 **patient's or resident's** advanced practice registered nurse, with  
29 ~~his or her~~ **the patient's or resident's** attorney, or with any other

1 individual of ~~his or her~~ **the patient's or resident's** choice and to  
 2 send and receive personal mail unopened on the same day it is  
 3 received at the health facility or agency, unless medically  
 4 contraindicated as documented in the medical record by the  
 5 attending physician, a physician's assistant with whom the  
 6 physician has a practice agreement, or an advanced practice  
 7 registered nurse. A patient's or resident's civil and religious  
 8 liberties, including the right to independent personal decisions  
 9 and the right to knowledge of available choices, ~~shall~~ **must** not be  
 10 infringed and the health facility or agency shall encourage and  
 11 assist in the fullest possible exercise of these rights. A patient  
 12 or resident may meet with, and participate in, the activities of  
 13 social, religious, and community groups at ~~his or her~~ **the patient's**  
 14 **or resident's** discretion, unless medically contraindicated as  
 15 documented in the medical record by the attending physician, a  
 16 physician's assistant with whom the physician has a practice  
 17 agreement, or an advanced practice registered nurse.

18 (l) A patient or resident is entitled to be free from mental  
 19 and physical abuse. ~~and~~

20 (m) **Except as otherwise provided in this subdivision, a**  
 21 **patient or resident is entitled to be free** from physical and  
 22 chemical restraints, except those restraints authorized in writing  
 23 by the attending physician, by a physician's assistant with whom  
 24 the physician has a practice agreement, or by an advanced practice  
 25 registered nurse, for a specified and limited time or as are  
 26 necessitated by an emergency to protect the patient or resident  
 27 from injury to self or others, in which case the restraint may only  
 28 be applied by a qualified professional who shall set forth in  
 29 writing the circumstances requiring the use of restraints and who

1 shall promptly report the action to the attending physician,  
 2 physician's assistant, or advanced practice registered nurse who  
 3 authorized the restraint. In case of a chemical restraint, the  
 4 physician, or the advanced practice registered nurse who authorized  
 5 the restraint, ~~shall~~**must** be consulted within 24 hours after the  
 6 commencement of the chemical restraint. **Subject to subsection (7),**  
 7 **if the health facility or agency is a hospital, the patient is**  
 8 **entitled to be free from restraint or seclusion, except that a**  
 9 **hospital may use restraint or seclusion as authorized under 42 CFR**  
 10 **482.13.**

11 (n) ~~(m)~~—A patient or resident is entitled to be free from  
 12 performing services for the health facility or agency that are not  
 13 included for therapeutic purposes in the plan of care.

14 (o) ~~(n)~~—A patient or resident is entitled to information about  
 15 the health facility or agency rules and regulations affecting  
 16 patient or resident care and conduct.

17 (p) ~~(o)~~—A patient or resident is entitled to adequate and  
 18 appropriate pain and symptom management as a basic and essential  
 19 element of ~~his or her~~**the patient's or resident's** medical  
 20 treatment.

21 (3) The following additional requirements for the policy  
 22 described in subsection (2) apply to licensees under parts 213 and  
 23 217:

24 (a) The policy ~~shall~~**must** be provided to each nursing home  
 25 patient or home for the aged resident upon admission, and the staff  
 26 of the facility ~~shall~~**must** be trained and involved in the  
 27 implementation of the policy.

28 (b) Each nursing home patient may associate and communicate  
 29 privately with persons of ~~his or her~~**the patient's** choice.

1 Reasonable, regular visiting hours, which ~~shall~~**must** be not less  
2 than 8 hours per day, and which ~~shall~~**must** take into consideration  
3 the special circumstances of each visitor, ~~shall~~**must** be  
4 established for patients to receive visitors. A patient may be  
5 visited by the patient's attorney or by representatives of the  
6 departments named in section 20156, during other than established  
7 visiting hours. Reasonable privacy ~~shall~~**must** be afforded for  
8 visitation of a patient who shares a room with another patient.  
9 Each patient ~~shall~~**must** have reasonable access to a telephone. A  
10 married nursing home patient or home for the aged resident is  
11 entitled to meet privately with ~~his or her~~**the patient's** spouse in  
12 a room that ensures privacy. If both spouses are residents in the  
13 same facility, they are entitled to share a room unless medically  
14 contraindicated and documented in the medical record by the  
15 attending physician, a physician's assistant with whom the  
16 physician has a practice agreement, or an advanced practice  
17 registered nurse.

18 (c) A nursing home patient or home for the aged resident is  
19 entitled to retain and use personal clothing and possessions as  
20 space permits, unless to do so would infringe upon the rights of  
21 other patients or residents, or unless medically contraindicated as  
22 documented in the medical record by the attending physician, a  
23 physician's assistant with whom the physician has a practice  
24 agreement, or an advanced practice registered nurse. Each nursing  
25 home patient or home for the aged resident ~~shall~~**must** be provided  
26 with reasonable space. At the request of a patient, a nursing home  
27 shall provide for the safekeeping of personal effects, money, and  
28 other property of a patient in accordance with section 21767,  
29 except that a nursing home is not required to provide for the

1 safekeeping of a property that would impose an unreasonable burden  
2 on the nursing home.

3 (d) A nursing home patient or home for the aged resident is  
4 entitled to the opportunity to participate in the planning of ~~his~~  
5 ~~or her~~ **the patient's or resident's** medical treatment. The attending  
6 physician, a physician's assistant with whom the physician has a  
7 practice agreement, or an advanced practice registered nurse, shall  
8 fully inform the nursing home patient of the patient's medical  
9 condition unless medically contraindicated as documented in the  
10 medical record by a physician, a physician's assistant with whom  
11 the physician has a practice agreement, or an advanced practice  
12 registered nurse. Each nursing home patient ~~shall~~ **must** be afforded  
13 the opportunity to discharge ~~himself or herself~~ **the patient** from  
14 the nursing home.

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

24 (f) A nursing home patient or home for the aged resident is  
25 entitled to be fully informed before or at the time of admission  
26 and during stay of services available in the facility, and of the  
27 related charges including any charges for services not covered  
28 under title XVIII, or not covered by the facility's basic per diem  
29 rate. The statement of services provided by the facility ~~shall~~ **must**



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

3 (g) A nursing home patient or home for the aged resident is  
4 entitled to manage ~~his or her~~ **the patient's or resident's** own  
5 financial affairs, or to have at least a quarterly accounting of  
6 personal financial transactions undertaken in ~~his or her~~ **the**  
7 **patient's or resident's** 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~~ **must** be made available for  
19 inspection and copying by the nursing home within a reasonable  
20 time, not 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~~ **must** be made  
23 available unless it is medically contraindicated, and the medical  
24 contraindication is justified in the patient's medical record by  
25 the attending physician, a physician's assistant with whom the  
26 physician has a practice agreement, or an advanced practice  
27 registered nurse.

28 (j) A nursing home patient has the right to have ~~his or her~~  
29 **the patient's** parents, if a minor, or ~~his or her~~ **the patient's**

1 spouse, next of kin, or patient's representative, if an adult, stay  
2 at the facility 24 hours a day if the patient is considered  
3 terminally ill by the physician responsible for the patient's care,  
4 a physician's assistant with whom the physician has a practice  
5 agreement, or an advanced practice registered nurse.

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

10 (l) Each nursing home patient has the right to receive  
11 representatives of approved organizations as provided in section  
12 21763.

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

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

21 (6) A nursing home patient or home for the aged resident is  
22 entitled to be fully informed, as evidenced by the patient's or  
23 resident's written acknowledgment, before or at the time of  
24 admission and during stay, of the policy required by this section.  
25 The policy ~~shall~~**must** provide that if a patient or resident is  
26 adjudicated incompetent and not restored to legal capacity, the  
27 rights and responsibilities set forth in this section ~~shall~~**must** be  
28 exercised by a person designated by the patient or resident. The  
29 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) For purposes of subsection (2) (m), 42 CFR 482.13 is  
4 incorporated by reference as it exists on the effective date of the  
5 2024 amendatory act that added this subsection. If the regulation  
6 described in this subsection is revised after the effective date of  
7 the 2024 amendatory act that added this subsection, the department  
8 shall take notice of the revision and shall promulgate rules to  
9 incorporate the revision by reference.

10 (8) ~~(7)~~—This section does not prohibit a health facility or  
11 agency from establishing and recognizing additional patients'  
12 rights.

13 (9) ~~(8)~~—As used in this section:

14 (a) "Advanced practice registered nurse" means that term as  
15 defined in section 17201.

16 (b) "Patient's representative" means that term as defined in  
17 section 21703.

18 (c) "Practice agreement" means an agreement described in  
19 section 17047, 17547, or 18047.

20 (d) "Title XVIII" means title XVIII of the social security  
21 act, 42 USC 1395 to 1395III.

22 (e) "Title XIX" means title XIX of the social security act, 42  
23 USC 1396 to ~~1396w-5~~. **1396w-8**.

24 Sec. 21734. (1) Notwithstanding section ~~20201(2) (l)~~,  
25 **20201(2) (m)**, a nursing home shall give each resident who uses a  
26 hospital-type bed or the resident's legal guardian, patient  
27 advocate, or other legal representative the option of having bed  
28 rails. A nursing home shall offer the option to new residents on  
29 admission and to other residents on request. On the receipt of a

1 request for bed rails, the nursing home shall inform the resident  
2 or the resident's legal guardian, patient advocate, or other legal  
3 representative of alternatives to and the risks involved in using  
4 bed rails. A resident or the resident's legal guardian, patient  
5 advocate, or other legal representative has the right to request  
6 and consent to bed rails for the resident. A nursing home shall  
7 provide bed rails to a resident only on the receipt of a signed  
8 consent form authorizing bed rail use and a written order from the  
9 resident's attending physician that contains statements and  
10 determinations regarding medical symptoms and that specifies the  
11 circumstances under which bed rails are to be used. For purposes of  
12 this subsection, "medical symptoms" includes the following:

13 (a) A concern for the physical safety of the resident.

14 (b) Physical or psychological need expressed by a resident. A  
15 resident's fear of falling may be the basis of a medical symptom.

16 (2) A nursing home that provides bed rails under subsection  
17 (1) shall do all of the following:

18 (a) Document that the requirements of subsection (1) have been  
19 met.

20 (b) Monitor the resident's use of the bed rails.

21 (c) In consultation with the resident, resident's family,  
22 resident's attending physician, and individual who consented to the  
23 bed rails, periodically reevaluate the resident's need for the bed  
24 rails.

25 (3) The department shall maintain clear and uniform peer-  
26 reviewed, evidence-based, best-practice resources to be used in  
27 determining what constitutes each of the following:

28 (a) Acceptable bed rails for use in a nursing home in this  
29 state. The department shall consider the recommendations of the

1 hospital bed safety work group established by the United States  
2 Food and Drug Administration, if those are available, in  
3 determining what constitutes an acceptable bed rail.

4 (b) Proper maintenance of bed rails.

5 (c) Properly fitted mattresses.

6 (d) Other hazards created by improperly positioned bed rails,  
7 mattresses, or beds.

8 (4) The department shall maintain the peer-reviewed, evidence-  
9 based, best-practice resources under subsection (3) in consultation  
10 with the long-term care stakeholders work group established under  
11 section 20155(18).

12 (5) A nursing home that complies with subsections (1) and (2)  
13 and the peer-reviewed, evidence-based, best-practices resources  
14 maintained under this section in providing bed rails to a resident  
15 is not subject to administrative penalties imposed by the  
16 department based solely on providing the bed rails. This subsection  
17 does not preclude the department from citing specific state or  
18 federal deficiencies for improperly maintained bed rails,  
19 improperly fitted mattresses, or other hazards created by  
20 improperly positioned bed rails, mattresses, or beds.