

## MICHIGAN

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Downloaded January 2011

R 325.20112 Policy on patient rights and responsibilities.

Rule 112.

(1) A nursing home shall develop, adopt, post in a public place, distribute, and implement a policy on the rights and responsibilities of patients in accordance with the requirements of sections 20201, 20202, and 20203 of the code.

(2) For purposes of section 20201(2)(a) of the code, denial of care on the basis of source of payment shall include, when a nursing home or nursing care facility is certified for medicare or medicaid, discrimination in favor of or against a beneficiary of 1 of those programs by giving unequal or priority preference to patients with other payment sources.

(3) For purposes of section 20201(2)(d) of the code, the term "privacy"

means that private times are assured, including all of the following:

(a) Toileting.

(b) Dressing.

(c) Bathing.

(d) Medical treatment and consultation.

(e) Conjugal visits.

The term also includes the assurance that a patient in a private room shall be allowed to have his or her door closed, except that a physician or nursing personnel may enter when required to provide necessary observation, care, or treatment and when the patient is advised in advance that such entry may be required.

(4) For purposes of section 20201(2)(i) of the code, the term "available through the facility" means all sources of payment accepted by the facility, and when the facility is certified for medicare or medicaid, the information shall include those benefits.

(5) For purposes of section 20201(3)(b) of the code, "special circumstances" shall include work hours, distance from the home, and the age of the visitor.

(6) For purposes of section 20201(4) of the code, "harassment" includes verbal as well as physical harassment and interference with the patient's daily activities.

(7) The policy prescribed in section 20201(3)(h) of the code shall include an assurance that the home will make a reasonable effort to provide access to records for purposes of inspection and copying at the time of receipt of a written request, if the request is made during normal office hours.

(8) The patient rights and responsibilities policy shall include provisions regarding smoking as provided by section 21733 of the code.

(9) The policy on patient rights and responsibilities shall be written in 12-point type and shall be explained to the patient or to the person legally responsible for the patient in a manner that he or she can reasonably be expected to understand. Inservice training provided by the home to its staff shall include instruction in the patient's rights and responsibilities adopted by the home and the manner in which such rights and responsibilities are respected and violations avoided.

History: 1981 AACCS.

R 325.20113 Adoption of written procedures to implement patient rights and responsibilities policy.

Rule 113.

(1) A home shall adopt written policies and procedures to implement patient rights and responsibilities as provided by section 21765 of the code. Before and following the patient's admission, such policy and procedures shall be available, upon request, to all the following:

- (a) The patient.
- (b) Attending physician.
- (c) Next of kin.
- (d) Member of the family.
- (e) Guardian.
- (f) Designated representative.
- (g) Person or agency responsible for placing and maintaining the patient in the home.
- (h) Employees of the facility.
- (i) Public.

(2) The procedures shall include a procedure for the initiation, investigation, and resolution of complaints, subject to department approval, and, at a minimum, all of the following:

- (a) A statement that a patient may have the alternative to complain either to the home or the department about any condition, event, or procedure in the home without citing a specific violation of the code or these rules.
- (b) A procedure for submitting written complaints to the home identifying potential violations of law or rule, including a procedure to assist a complainant in reducing an oral complaint to writing when such oral complaint is not resolved to the satisfaction of the complainant. If a standard form is used for complaints, a copy of the form shall be provided to each patient at the time of admission and additional forms shall be available on request.
- (c) The name, title, location, and telephone number of the individual in the home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.
- (d) A requirement that all complaints be investigated within 15 days following receipt of the complaint by the home, and a requirement that, within 30 days following receipt of the complaint, the home shall deliver to the complainant a written report of the results of the

investigation or a written status report indicating when the report may be expected.

(e) A mechanism for appealing the matter to the administrator of the home if the complainant is not satisfied with the investigation or resolution of the complaint.

(3) A home shall maintain for 3 years written complaints filed under its complaint procedure and all complaint investigation reports delivered to each complainant, and such records shall be available to the department upon request.

History: 1981 AACS; 1983 AACS.

R 325.20115 Patient trust funds.

Rule 115.

(1) A nursing home shall develop a policy regarding the holding of monies in trust for patients. A representative payee, unless authorized in writing by the patient or patient guardian, shall not function as the person designated to handle the personal property of the patient for purposes of this rule. The policy established by the nursing home may provide that the home will not handle monies of any patient which exceed the sum of \$5,000.00. A home may charge a reasonable fee, not to exceed the actual cost of providing the service, the fee charged to other patients, or the amount of interest which accrues all trust monies deposited for such patients for whom the service is provided. In the case of patients who are physically or mentally incapable of handling their own money and who do not have a legal guardian or other person designated in writing to handle the personal property of the patients, the home may charge a fee as specified in this rule.

(2) At the time of admission, a nursing home shall provide each patient and the patient's legal guardian or designated representative with a written statement which states all of the following:

(a) That there is no obligation for the patient to deposit his or her funds with the facility.

(b) The patient's rights regarding personal funds, including, at a minimum, all of the following:

(i) The right to receive, retain, and manage his or her personal funds or to have this done by a legal guardian, if any.

(ii) The right to apply to the social security administration to have a representative payee designated for purposes of federal or state benefits to which he or she may be entitled.

(iii) The right to designate, in writing, another person to act for the purpose of managing his or her personal funds.

(iv) The right to authorize, in writing, the nursing home to hold, safeguard, and account for the patient's personal funds in accordance with state law and the nursing home policy.

(c) The nursing home's policy for handling patient funds shall include the provision that it will provide the service of holding monies in trust for persons who are incapable of handling their own funds and who have no guardian or designated representative to provide the service.

(d) In summary form, the home's procedures for handling, accounting for, and giving access to, monies held in trust for patients.

(3) A nursing home shall establish written procedures for implementing its policies for handling patient funds in trust. The written procedures shall cover, at a minimum, all of the following items:

(a) How and where trust fund records will be kept.

(b) Patient or patient representative access to records, including the times when access is normally permitted.

(c) Periodic statements of account.

(d) Interest on account monies.

(e) Access to funds held within and outside the facility.

(f) How to get information regarding trust fund services. These written procedures shall be made available for inspection by patients and patient representatives, upon request, during normal business hours.

(4) For each patient whose funds it holds, safeguards, and accounts for, the facility shall meet all of the following requirements:

(a) The nursing home shall maintain current, written, individual records of all financial transactions involving patients' personal funds which the facility has been given for holding, safeguarding, and accounting. The facility shall keep these records in accordance with the American institute of certified public accountants' generally accepted accounting standards, and the records shall include, at a minimum, all of the following:

(i) The patient's name.

(ii) Identification of the patient's representative, if any.

(iii) Admission date.

(iv) Date and amount of each deposit and withdrawal.

(v) The name of the person who accepted withdrawn funds.

(vi) The balance after each transaction.

(vii) Receipts indicating the purpose stated by the person withdrawing the funds for which the withdrawn funds were to be spent, except that a patient may withdraw his or her own funds without stating a purpose for the withdrawal.

(viii) The patient's earned interest, if any.

(b) The home shall provide each patient reasonable access to his or her own financial records, including not less than 2 hours each business day during normal business hours.

(c) The facility shall provide a written statement, at least quarterly, to each patient or patient representative. The quarterly statement shall reflect any patient funds which the facility has deposited in an interest-bearing account or a non-interest-bearing account, as well as any patient funds held by the facility in a petty cash account. The statement shall include, at a minimum, all of the following:

(i) The balance at the beginning of the statement period.

(ii) Total deposits and withdrawals.

(iii) Interest earned, if any.

(iv) Identification number and location of any account in which the patient's personal funds have been deposited.

(v) The ending balance.

(vi) The sources, disposition, and date of each transaction involving the patient's funds during the statement period.

(d) The home shall keep any funds received from a patient for holding, safeguarding, and accounting separate from the facility's funds and from the funds of any person other than patients. Trust funds held by the home for patients may be pooled in an interest-bearing account, as provided in these rules, if individual records are kept and the other requirements of these rules are followed to assure that the funds of each patient are accounted for separately.

(e) A nursing home may keep up to \$200.00 of a patient's money in a non-interest-bearing account or a petty cash fund. The home shall, within 15 days, deposit in an interest-bearing account any funds in excess of \$200.00 from an individual patient. The account may be individual to the patient or pooled with other patients. The account shall be in a form that clearly indicates that the facility does not have an ownership interest in the funds. The account shall be insured under federal or state law. At the election of the nursing home, the interest earned on any pooled interest-bearing account shall be distributed in either of the following ways:

(i) Prorated to each patient on an actual interest-earned basis.

(ii) Prorated to each patient on the basis of his or her end-of-quarter balance.

(f) At a minimum, in the case of patient monies held in a petty cash fund by the facility, a patient shall have access to his or her funds during normal business hours. The facility shall, upon request or upon the patient's transfer or discharge, return to the patient, the legal guardian, or the designated representative all or any part of the patient's personal funds which the facility has received for holding, safeguarding, and accounting and which are maintained in a petty cash fund. For a patient's personal fund that the facility has received and deposited in an account outside the facility, the facility, upon requestor upon the transfer or discharge of the patient, shall, within 3 business days, return all or any part of those funds to the patient, legal guardian, or designated representative.

(5) When a nursing home is serving as a representative payee under the social security act or otherwise receives monthly benefits to which the patient is entitled, it shall fulfill its duties as a representative payee in accordance with federal rules. Except for the patient care portion of such monthly benefits, the home shall deposit all such funds in excess of \$200.00, as provided in subrule (4)(e) of this rule, in the patient's trust account. Payments of amounts due from the patient to the nursing home or others shall be made from the patient's trust funds only upon the authorization of the patient or the legal representative of the patient. The home shall not interfere with the right of a patient or patient's representative to control all monies or benefits paid to the patient other than that portion of benefits designated for patient care.

(6) Upon the sale or other transfer of ownership of the nursing home, the home shall provide the new owner with a written accounting, prepared in accordance with the

American institute of certified public accountants' generally accepted auditing procedures, of all patient funds being transferred and shall obtain a written receipt for those funds from the new owner. The facility shall also give each patient or his or her representative a written accounting of a personal fund held by the facility before any transfer of ownership occurs.

(7) A nursing home shall provide the executor or administrator of a patient's estate with a written accounting of the patient's personal belongings and funds within 10 business days of a patient's death. If a deceased patient's estate has no executor or administrator, the facility shall provide the accounting to the patient's next of kin, the patient's representative, and the clerk of the probate court of the county in which the patient died.

(8) A nursing home shall purchase a surety bond to guarantee the security of patients' funds held in trust by the facility, and the surety bond shall be in the name of the individual facility as licensed. The surety bond shall meet the requirements of section 21721(1) of the code, but shall not be less than \$2,000.00 for any licensed home.

(9) If a nursing home determines that a patient is incapable of managing his or her own personal funds and that the patient has no legal guardian or patient representative designated to handle the patient's personal property, the facility shall notify the Michigan department of social services, in writing, of its determination.

History: 1981 AACCS.

R 325.20404 Illnesses; accidents; and incidents.

Rule 404.

(1) In case of an accident or incident involving a life-threatening change in a patient's condition, the administrator or his or her designated representative shall immediately notify the attending physician and the legal guardian, if any. In the absence of a legal guardian, or if unable to contact the guardian, the home shall notify the next of kin, the person responsible for placing the patient in the home, or the patient's designated representative. A record of the notification, including the names and the time notified, shall be recorded in the patient's clinical record.

R 325.20405 Patient deaths.

Rule 405. When a patient dies, the administrator or his or her designated representative shall immediately notify the attending physician, the next of kin, the legal guardian or designated representative, and, as soon as possible, the person or agency responsible for placing and maintaining the patient in the home. A signed record of this notification, including the names of the persons notified and the time notification was made, shall be recorded on the patient's clinical record.

History: 1981 AACCS.

R 325.20406 Patient bill of rights provisions.

Rule 406. To protect the rights of patients under section 20201 of the code and other relevant provisions of the code, the following requirements shall be complied with:

(a) A nursing home shall assure that information transmitted to a patient or designated representative shall be communicated in such a manner that there is reasonable assurance that the patient understands. Where the patient's condition is such that he or she cannot be made to understand, the information shall be communicated to the patient's representative or guardian in such a manner that the representative or guardian can understand. Nothing in this rule shall be deemed to limit the obligation to provide information to the patient's representative or guardian. Health status information communicated to a patient may be explained by a physician or registered nurse or other licensed health personnel unless medically contraindicated.

(b) When a patient refuses treatment, a determination shall be made by the attending physician as to whether or not the patient's refusal of treatment prevents the facility from providing appropriate care according to ethical and professional standards. The physician's determination in this matter shall be in writing and shall be made a part of the patient's clinical record. When a relationship between a nursing home and patient is terminated in conjunction with the physician's determination and the action results in an involuntary transfer or discharge, such transfer or discharge shall be handled in accordance with the provisions of sections 21773 and 21774 of the code.

(c) A plan of care for a patient that provides for the patient performing services for the home shall be authorized by the physician's written order. The order shall include the specific benefits to be derived by the patient from such activity, and such written order shall become part of the patient's record. The patient shall have the right to refuse to perform such services for the facility, and such refusal shall not be deemed to prevent the facility from providing appropriate care.

(d) The nursing home shall assure, through the minimum following steps, that a patient is provided with information about health facility rules and regulations affecting patient care and conduct:

(i) The home shall provide a written copy of facility rules and regulations to the patient or the patient's representative upon admission and when the rules and regulations are changed.

(ii) The home shall assure that policies, rules, and regulations are communicated effectively to all patients, including patients who are unable to read.

(iii) The home shall post such rules and regulations in a public place.

(e) A home shall provide every reasonable opportunity, at the request of the patient, the legal guardian, the patient's representative, or the next of kin, to permit a limited number of individuals to remain in the facility 24 hours a day when the patient is considered terminally ill.

History: 1981 AACCS; 1983 AACCS.

R 325.20601 Medical direction of patients.

Rule 601.

...(3) The name and telephone numbers of the attending licensed physician and the licensed physician to be called in case of emergency when the attending physician is not available shall be posted at each nursing station. The telephone numbers of the attending physician or his or her replacement in case of emergency shall be provided to the patient, guardian, or designated representative on request.

History: 1981 AACCS.

R 325.20714 Patient councils.

Rule 714.

(1) The home shall permit the formation of a patient council by interested patients and, at the time of admission to the home, shall inform patients and their representatives of either the right to establish a patient council if one does not exist or to participate in the activities of an operating patient council in the home.

(2) The patient council shall be entitled to meet privately or to invite members of the home's staff, members of patients' families, patients' friends, and members of community organizations to participate in meetings of the patient council.

(3) The home shall designate a staff person to serve as liaison to the patient council, to attend council meetings as requested, and to make available support services and assistance to the council, such as the typing of minutes and correspondence; provision of policies, procedures, and other documents related to the operation of the home; and such other assistance as may be reasonably requested. The home shall provide space for meetings and necessary assistance to patients requiring assistance to attend meetings.

History: 1981 AACCS; 1983 AACCS.

R 325.20903 Medications; administration.

Rule 903.

...(6) Self-administration of medication by a patient shall not be permitted, except when special circumstances exist and when supported by a physician's written order and justification.

333.20192 Do-not-resuscitate order; execution not required.

Sec. 20192. A health facility or agency shall not require the execution of a do-not-resuscitate order under the Michigan do-not-resuscitate procedure act as a condition for admission or receipt of services.

History: Add. 1996, Act 192, Eff. Aug. 1, 1996.

Popular name: Act 368

333.20201 Policy describing rights and responsibilities of patients or residents; adoption; posting and distribution; contents; additional requirements; discharging, harassing, retaliating, or discriminating against patient exercising protected right; exercise of rights by

patient's representative; informing patient or resident of policy; designation of person to exercise rights and responsibilities; additional patients' rights; definitions.

Sec. 20201.

(1) A health facility or agency that provides services directly to patients or residents and is licensed under this article shall adopt a policy describing the rights and responsibilities of patients or residents admitted to the health facility or agency. Except for a licensed health maintenance organization which shall comply with chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580, the policy shall be posted at a public place in the health facility or agency and shall be provided to each member of the health facility or agency staff. Patients or residents shall be treated in accordance with the policy.

(2) The policy describing the rights and responsibilities of patients or residents required under subsection

(1) shall include, as a minimum, all of the following:

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

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

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

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

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

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

(g) A patient or resident is entitled to exercise his or her rights as a patient or resident and as a citizen, and to this end may present grievances or recommend changes in policies and

services on behalf of himself or herself or others to the health facility or agency staff, to governmental officials, or to another person of his or her choice within or outside the health facility or agency, free from restraint, interference, coercion, discrimination, or reprisal. A patient or resident is entitled to information about the health facility's or agency's policies and procedures for initiation, review, and resolution of patient or resident complaints.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) A nursing home patient or home for the aged resident is entitled to manage his or her own financial affairs, or to have at least a quarterly accounting of personal financial transactions undertaken in his or her behalf by the facility during a period of time the patient or resident has delegated those responsibilities to the facility. In addition, a patient or resident is entitled to receive each month from the facility an itemized statement setting forth the services paid for by or on behalf of the patient and the services rendered by the

facility. The admission of a patient to a nursing home does not confer on the nursing home or its owner, administrator, employees, or representatives the authority to manage, use, or dispose of a patient's property.

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

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

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

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

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

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

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

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

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

(8) As used in this section:

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

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

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

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1982, Act 354, Imd. Eff. Dec. 21, 1982; —Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 2001, Act 240, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.20202 Responsibilities of patient or resident.

Sec. 20202.

(1) A patient or resident is responsible for following the health facility rules and regulations affecting patient or resident care and conduct.

(2) A patient or resident is responsible for providing a complete and accurate medical history.

(3) A patient or resident is responsible for making it known whether he or she clearly comprehends a contemplated course of action and the things he or she is expected to do.

(4) A patient or resident is responsible for following the recommendations and advice prescribed in a course of treatment by the physician.

(5) A patient or resident is responsible for providing information about unexpected complications that a rise in an expected course of treatment.

(6) A patient or resident is responsible for being considerate of the rights of other patients or residents and health facility personnel and property.

(7) A patient or resident is responsible for providing the health facility with accurate and timely information concerning his or her sources of payment and ability to meet financial obligations. History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.21721 Bond required.

Sec 21721.

(1) Before issuance or renewal of a nursing home license under this article, the owner, operator, or governing body of the nursing home shall give a bond and provide evidence of a patient trust fund in an amount consistent with subsection (2) and with the surety the department approves. The bond shall be conditioned that the applicant shall hold separately in the trust fund all patients' funds deposited with the applicant, shall administer the funds on behalf of the patient in the manner directed by the depositor, shall render a true and complete account to the patient not less than once each 3 months, to the depositor when requested, and to the department of public health and the department of social services, when requested. Upon termination of the deposit, the applicant shall account for

all funds received, expended, and held on hand. The bond shall insure the department of public health, for the benefit of the patients.

(2) The bond shall be in an amount equal to not less than 1-1/4 times the average balance of patient funds held during the previous year. The department may require an additional bond, or permit the filing of a bond in a lower amount, if the department determines a change in the average balance has occurred or may occur. An applicant for a new license shall file a bond in an amount which the department estimates as 1-1/4 times the average amount of patient funds which the applicant, upon the issuance of the license, is likely to hold during the first year of operation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21723 Individual responsible for receiving complaints and conducting investigations; posting information in nursing home; communication procedure; information posted on internet website; nursing home receiving medicaid reimbursement.

Sec. 21723.

(1) A nursing home shall post in an area accessible to residents, employees, and visitors the name, title, location, and telephone number of the individual in the nursing home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.

(2) An individual responsible for receiving complaints and conducting complaint investigations in a nursing home shall be on duty and on site not less than 24 hours per day, 7 days a week.

(3) The individual described in subsection (2) who receives a complaint, inquiry, or request from a nursing home resident or the resident's surrogate decision maker shall respond using the nursing home's established procedures pursuant to R 325.20113 of the Michigan administrative code.

(4) To assist the individual described in subsection (2) in performing his or her duties, the department of consumer and industry services shall post on its internet website all of the following information:

(a) Links to federal and state regulations and rules governing the nursing home industry.

(b) The scheduling of any training or joint training sessions concerning nursing home or elderly care issues being put on by the department of consumer and industry services.

(c) A list of long-term care contact phone numbers including, but not limited to, the consumer and industry services complaint hotline, the consumer and industry services nursing home licensing division, any commonly known nursing home provider groups, the state long-term care ombudsman, and any commonly known nursing home patient care advocacy groups.

(d) When it becomes available, information on the availability of electronic mail access to file a complaint concerning nursing home violations directly with the department of consumer and industry services.

(e) Any other information that the department of consumer and industry services believes is helpful in responding to complaints, requests, and inquiries of a nursing home resident or his or her surrogate decision maker.

(5) A nursing home receiving reimbursement pursuant to the medicaid program shall designate 1 or more current employees to fulfill the duties and responsibilities outlined in this section. This section does not constitute a basis for increasing nursing home staffing levels. As used in this subsection, "medicaid" means the program for medical assistance created under title XIX of the social security act, chapter 53, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

History: Add. 2002, Act 11, Imd. Eff. Feb. 19, 2002.

Popular name: Act 368

333.21763 Access to nursing home patients; purposes; requirements; termination of visit; confidentiality; complaint; determination; prohibited entry.

Sec. 21763.

(1) A nursing home shall permit a representative of an approved organization, who is known by the nursing home administration to be authorized to represent the organization or who carries identification showing that the representative is authorized to represent the organization, a family member of a patient, or a legal representative of a patient, to have access to nursing home patients for 1 or more of the following purposes:

(a) Visit, talk with, and make personal, social, and legal services available to the patients.

(b) Inform patients of their rights and entitlements, and their corresponding obligations, under federal and state laws by means of the distribution of educational materials and discussion in groups and with individual patients.

(c) Assist patients in asserting their legal rights regarding claims for public assistance, medical assistance, and social services benefits, as well as in all matters in which patients are aggrieved. Assistance may be provided individually or on a group basis and may include organizational activity and counseling and litigation.

(d) Engage in other methods of assisting, advising, and representing patients so as to extend to them the full enjoyment of their rights.

(2) Access as prescribed in subsection (1) shall be permitted during regular visiting hours each day. A representative of an approved organization entering a nursing home under this section promptly shall advise the nursing home administrator or the acting administrator or other available agent of the nursing home of the representative's presence. A representative shall not enter the living area of a patient without identifying himself or herself to the patient and without receiving the patient's permission to enter. A

representative shall use only patient areas of the home to carry out the activities described in subsection (1).

(3) A patient may terminate a visit by a representative permitted access under subsection (1). Communications between a patient and the representative are confidential, unless otherwise authorized by the patient.

(4) If a nursing home administrator or employee believes that an individual or organization permitted access under this section is acting or has acted in a manner detrimental to the health or safety of patients in the nursing home, the nursing home administrator or employee may file a complaint with the task force established under section 20127. Upon receipt of a complaint, department staff shall investigate the allegations made in the complaint. The task force shall make a determination regarding proper resolution of the complaint based on the results of the investigation. Written notification of the task force determination and of recommendations adopted by the task force shall be given to the complainant and the individual or organization against whom the complaint was made.

(5) An individual shall not enter upon the premises of a nursing home for the purpose of engaging in an activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes a nursing home employee, patient, or visitor to feel terrorized, frightened, intimidated, threatened, harassed, or molested. This subsection does not prohibit constitutionally protected activity or conduct that serves a legitimate purpose including, but not limited to, activities or conduct allowed under subsection (1).

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1996, Act 546, Eff. Mar. 31, 1997.

Popular name: Act 368

333.21766 Written contract.

Sec. 21766.

(1) A nursing home shall execute a written contract solely with an applicant or patient or that applicant's or patient's guardian or legal representative authorized by law to have access to those portions of the patient's or applicant's income or assets available to pay for nursing home care, at each of the following times:

(a) At the time an individual is admitted to a nursing home.

(b) At the expiration of the term of a previous contract.

(c) At the time the source of payment for the patient's care changes.

(2) A nursing home shall not discharge or transfer a patient at the expiration of the term of a contract, except as provided in section 21773.

(3) A nursing home shall specifically notify in writing an applicant or patient or that applicant's or patient's guardian or legal representative of the availability or lack of availability of hospice care in the nursing home. This written notice shall be by way of a specific paragraph located in the written contract described in subsection (1) and shall

require the applicant or patient or that applicant's or patient's guardian or legal representative to sign or initial the paragraph before execution of the written contract. As used in this subsection, "hospice" means that term as defined in section 20106(4).

(4) A nursing home shall provide a copy of the contract to the patient, the patient's representative, or the patient's legal representative or legal guardian at the time the contract is executed.

(5) For a patient supported by funds other than the patient's own funds, a nursing home shall make a copy of the contract available to the person providing the funds for the patient's support.

(6) For a patient whose care is reimbursed with public funds administered by the department of community health, a nursing home shall maintain a copy of the contract in the patient's file at the nursing home and upon request shall make a copy of the contract available to the department of community health.

(7) The nursing home shall ensure that the contract is written in clear and unambiguous language and is printed in not less than 12-point type. The form of the contract shall be prescribed by the department.

(8) The contract shall specify all of the following:

(a) The term of the contract.

(b) The services to be provided under the contract, including the availability of hospice or other special care, and the charges for the services.

(c) The services that may be provided to supplement the contract and the charges for the services.

(d) The sources liable for payments due under the contract.

(e) The amount of deposit paid and the general and foreseeable terms upon which the deposit will be held and refunded.

(f) The rights, duties, and obligations of the patient, except that the specification of a patient's rights may be furnished on a separate document that complies with the requirements of section 20201.

(9) The nursing home may require a patient's or applicant's guardian or legal representative who is authorized by law to have access to those portions of the patient's or applicant's income or assets available to pay for nursing home care to sign a contract without incurring personal financial liability other than for received in his or her legal capacity on behalf of the patient.

(10) A nursing home employee may request the appointment of a guardian for an individual applicant or patient only if the nursing home employee reasonably believes that the individual meets the legal requirements for the appointment of a guardian.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 73, Imd. Eff. Apr. 11, 1994;—Am. 2001, Act 243, Eff. July 1, 2002.

Popular name: Act 368

333.21767 Guardian, trustee, conservator, patient's representative, or protective payee for patient; receipt for money or property of patient; statement of funds.

Sec. 21767.

(1) A nursing home, or an owner, administrator, employee, or representative of a nursing home shall not act as guardian, trustee, conservator, patient's representative, or protective payee for a patient, except as provided in subsection (2).

(2) Subject to the bonding requirements of section 21721, money or other property belonging or due a patient which is received by a nursing home shall be received as trust funds or property, shall be kept separate from the funds and property of the nursing home and other patients, and shall be disbursed only as directed by the patient. A written receipt shall be given to a patient whose money or other property is received by a nursing home. Upon request, but not less than once every 3 months, the nursing home shall furnish the patient a complete and verified statement of the funds or other property received by the nursing home. The statement shall contain the amounts and items received, the sources, the disposition, and the date of each transaction. The nursing home shall furnish a final statement not later than 10 days after the discharge of a patient.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21781 Posting of license and other information.

Sec. 21781. A licensee shall conspicuously post in an area of its offices accessible to patients, employees, and visitors:

(a) A current license.

(b) A complete copy of the most recent inspection report of the nursing home received from the department.

(c) A description, provided by the department, of complaint procedures established under this act and the name, address, and telephone number of a person authorized by the department to receive complaints.

(d) A copy of a notice of a pending hearing or order pertaining to the nursing home issued by the department or a court under the authority of this article or rules promulgated under this article.

(e) A complete list of materials available for public inspection as required by section 21782.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21782 Retention of documents for public inspection.

Sec. 21782. A licensee shall retain for public inspection:

- (a) A complete copy of each inspection report of the nursing home received from the department during the past 5 years.
- (b) A copy of each notice of a hearing or order pertaining to the nursing home issued by the department or a court under the authority of this article or rules promulgated under this article after the effective date of this section. The copy of the notice or order shall be retained for not less than 3 years after its date of issuance or not less than 3 years after the date of the resolution of the subject matter of the notice or order, whichever is later.
- (c) A description of the services provided by the nursing home and the rates charged for those services and items for which a patient may be separately charged.
- (d) A list of the name, address, principal occupation, and official position of each person who, as a stockholder or otherwise, has a proprietary interest in the nursing home as required by section 20142, of each officer and director of a nursing home which is a corporation, and of each trustee or beneficiary of a nursing home which is a trust.
- (e) A list of licensed personnel employed or retained by the nursing home.
- (f) A copy of the standard form contract utilized under section 21766. History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21784 Threatening medical condition; notice; emergency treatment; comfort of patient.

Sec. 21784. If a patient's life is threatened by his or her medical condition, the nursing home shall immediately notify the patient's next of kin, patient's representative, and physician. The nursing home shall secure emergency medical treatment for the patient when the patient's physician is not available. A nursing home shall take all reasonable measures to ensure the comfort of a patient in the terminal stages of an illness.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368