

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5389

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 21794.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21794. (1) WITH THE CONSENT OF THE PATIENT OR THE
2 PATIENT'S REPRESENTATIVE A NURSING HOME MAY USE A DINING ASSISTANT
3 TO PROVIDE FEEDING ASSISTANCE TO A PATIENT WHO, BASED ON THE CHARGE
4 NURSE'S ASSESSMENT OF THE PATIENT AND THE PATIENT'S MOST RECENT
5 PLAN OF CARE, NEEDS ASSISTANCE OR ENCOURAGEMENT WITH EATING AND
6 DRINKING, BUT DOES NOT HAVE COMPLICATED FEEDING PROBLEMS,
7 INCLUDING, BUT NOT LIMITED TO, DIFFICULTY SWALLOWING, RECURRENT
8 LUNG ASPIRATIONS, TUBE OR PARENTERAL FEEDINGS, OR BEHAVIORAL ISSUES
9 THAT MAY COMPROMISE NUTRITIONAL INTAKE. THE CHARGE NURSE'S
10 ASSESSMENT AND PLAN OF CARE MUST BE DOCUMENTED IN THE PATIENT'S

1 MEDICAL RECORD. FOR A PATIENT WHO IS ASSIGNED A DINING ASSISTANT
2 AND EXPERIENCES AN EMERGENT CHANGE IN CONDITION, THE CHARGE NURSE
3 SHALL PERFORM A SPECIAL ASSESSMENT TO MONITOR THE APPROPRIATENESS
4 OF CONTINUED UTILIZATION OF THE DINING ASSISTANT.

5 (2) A NURSING HOME THAT CHOOSES TO UTILIZE DINING ASSISTANTS
6 SHALL PROVIDE INDIVIDUALS WITH TRAINING THROUGH A DEPARTMENT-
7 APPROVED TRAINING CURRICULUM. THE DEPARTMENT AND THE LONG-TERM CARE
8 STAKEHOLDER ADVISORY WORKGROUP DESIGNATED UNDER SECTION 20155(24)
9 SHALL DEVELOP A DINING ASSISTANTS TRAINING CURRICULUM. THE
10 DEPARTMENT SHALL APPROVE A DINING ASSISTANTS TRAINING CURRICULUM
11 THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION. IN ORDER TO BE
12 APPROVED BY THE DEPARTMENT, THE DINING ASSISTANTS TRAINING
13 CURRICULUM MUST INCLUDE, AT A MINIMUM, 8 HOURS OF COURSE MATERIAL
14 THAT COVERS ALL OF THE FOLLOWING:

- 15 (A) DINING ASSISTANTS PROGRAM OVERVIEW.
16 (B) PATIENT RIGHTS.
17 (C) COMMUNICATION AND INTERPERSONAL SKILLS.
18 (D) APPROPRIATE RESPONSES TO PATIENT BEHAVIOR.
19 (E) RECOGNIZING CHANGES IN PATIENTS.
20 (F) INFECTION CONTROL.
21 (G) ASSISTANCE WITH FEEDING AND HYDRATION.
22 (H) FEEDING TECHNIQUES.
23 (I) SAFETY AND EMERGENCY PROCEDURES.
24 (J) END OF LIFE.

25 (3) AN INDIVIDUAL SHALL NOT PROVIDE FEEDING ASSISTANCE AS A
26 DINING ASSISTANT IN A NURSING HOME UNLESS HE OR SHE HAS
27 SUCCESSFULLY COMPLETED A DINING ASSISTANTS TRAINING CURRICULUM

1 DESCRIBED IN SUBSECTION (2). A NURSING HOME SHALL NOT EMPLOY OR
2 ALLOW AN INDIVIDUAL WHO IS LESS THAN 17 YEARS OF AGE TO PROVIDE
3 FEEDING ASSISTANCE AS A DINING ASSISTANT.

4 (4) A DINING ASSISTANT SHALL WORK UNDER THE SUPERVISION OF A
5 NURSE. A DINING ASSISTANT'S SOLE PURPOSE IS TO PROVIDE FEEDING
6 ASSISTANCE TO PATIENTS, AND HE OR SHE SHALL NOT PERFORM ANY OTHER
7 NURSING OR NURSING-RELATED SERVICES, SUCH AS TOILETING OR
8 TRANSPORTING PATIENTS. A DINING ASSISTANT IS NOT NURSING PERSONNEL
9 AND A NURSING HOME SHALL NOT INCLUDE A DINING ASSISTANT IN
10 COMPUTING THE RATIO OF PATIENTS TO NURSING PERSONNEL OR USE A
11 DINING ASSISTANT TO SUPPLEMENT OR REPLACE NURSING PERSONNEL. IF
12 APPROVED BY THE CHARGE NURSE AND SUBJECT TO SUBSECTION (1), A
13 DINING ASSISTANT MAY PROVIDE FEEDING ASSISTANCE IN A PATIENT'S ROOM
14 IF THE PATIENT IS UNABLE TO GO TO OR CHOOSES NOT TO DINE IN A
15 DESIGNATED DINING AREA. A NURSE IS NOT REQUIRED TO BE PHYSICALLY
16 PRESENT WITHIN THE PATIENT'S ROOM DURING THE FEEDING, BUT A NURSE
17 MUST BE IMMEDIATELY AVAILABLE. A DINING ASSISTANT WHO IS PROVIDING
18 FEEDING ASSISTANCE TO A PATIENT IN HIS OR HER ROOM AS PROVIDED
19 UNDER THIS SUBSECTION MUST NOT BE ASSIGNED TO ASSIST ANOTHER
20 PATIENT AT THE SAME TIME.

21 (5) DINING ASSISTANTS ARE SUBJECT TO THE CRIMINAL HISTORY
22 CHECKS REQUIRED UNDER SECTION 20173A.

23 (6) A NURSING HOME THAT UTILIZES DINING ASSISTANTS SHALL
24 MAINTAIN A WRITTEN RECORD OF EACH INDIVIDUAL USED AS A DINING
25 ASSISTANT. THE NURSING HOME SHALL INCLUDE IN THE WRITTEN RECORD, AT
26 A MINIMUM, THE COMPLETE NAME AND ADDRESS OF THE INDIVIDUAL, THE
27 DATE THE INDIVIDUAL SUCCESSFULLY COMPLETED THE DINING ASSISTANTS

1 TRAINING CURRICULUM, A COPY OF THE WRITTEN RECORD OF THE
2 SATISFACTORY COMPLETION OF THE TRAINING CURRICULUM, AND
3 DOCUMENTATION OF THE CRIMINAL HISTORY CHECK.

4 (7) THIS SECTION DOES NOT PROHIBIT A FAMILY MEMBER OR FRIEND
5 FROM PROVIDING FEEDING ASSISTANCE TO A PATIENT WITHIN THE NURSING
6 HOME OR REQUIRE A FRIEND OR FAMILY MEMBER TO COMPLETE THE TRAINING
7 PROGRAM PRESCRIBED UNDER SUBSECTION (2). HOWEVER, A NURSING HOME
8 MAY OFFER TO PROVIDE THE DINING ASSISTANTS TRAINING CURRICULUM TO
9 FAMILY MEMBERS AND FRIENDS.

10 (8) AS USED IN THIS SECTION:

11 (A) "DINING ASSISTANT" MEANS AN INDIVIDUAL WHO MEETS THE
12 REQUIREMENTS OF THIS SECTION AND WHO IS ONLY PAID TO PROVIDE
13 FEEDING ASSISTANCE TO NURSING HOME PATIENTS BY THE NURSING HOME OR
14 WHO IS USED UNDER AN ARRANGEMENT WITH ANOTHER AGENCY OR
15 ORGANIZATION.

16 (B) "IMMEDIATELY AVAILABLE" MEANS BEING CAPABLE OF RESPONDING
17 TO PROVIDE HELP IF NEEDED TO THE DINING ASSISTANT AT ANY TIME
18 EITHER IN PERSON OR BY VOICE OR CALL LIGHT SYSTEM, RADIO,
19 TELEPHONE, PAGER, OR OTHER METHOD OF COMMUNICATION DURING A
20 FEEDING.

21 (C) "NURSE" MEANS AN INDIVIDUAL LICENSED AS A REGISTERED
22 PROFESSIONAL NURSE OR A LICENSED PRACTICAL NURSE UNDER ARTICLE 15
23 TO ENGAGE IN THE PRACTICE OF NURSING.

24 (D) "UNDER THE SUPERVISION OF A NURSE" MEANS THAT A NURSE WHO
25 IS OVERSEEING THE WORK OF A DINING ASSISTANT IS PHYSICALLY PRESENT
26 IN THE NURSING HOME AND IMMEDIATELY AVAILABLE.