PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.20201 Policy describing rights and responsibilities of patients or residents; adoption; posting; 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 that is subject to chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573, the health facility or agency shall post the policy at a public place in the health facility or agency and shall provide the policy 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 in accordance with the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, 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, as required by law or third party payment contract, or as permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(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 in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(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, 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

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his or her physician or a physician's assistant with whom the physician has a practice agreement, with his or her advanced practice registered nurse, with his or her attorney, or with any other individual 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 in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. 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 in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(*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, by a physician's assistant with whom the physician has a practice agreement, or by an advanced practice registered nurse, 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, physician's assistant, or advanced practice registered nurse who authorized the restraint. In case of a chemical restraint, the physician, or the advanced practice registered nurse who authorized the restraint, 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 ensures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(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 in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. 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, money, 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. The attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse, shall fully inform the nursing home patient of the patient's medical condition unless medically contraindicated as documented in the medical record by a physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. Each nursing home patient shall be afforded the opportunity to discharge himself or herself from the nursing home.

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

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

(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, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(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, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

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

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

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

(d) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

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

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;—Am. 2006, Act 38, Imd. Eff. Mar. 2, 2006;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

Popular name: Patient Rights

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PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.21771 Abusing, mistreating, or neglecting patient; reports; investigation; retaliation prohibited; exception to report requirement; time frame for reporting.

Sec. 21771. (1) A licensee, nursing home administrator, or employee of a nursing home shall not physically, mentally, or emotionally abuse, mistreat, or harmfully neglect a patient.

(2) A nursing home employee who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the nursing home administrator or nursing director and to the department in the manner required by subsection (8). A nursing home administrator or nursing director who has reasonable suspicion of an act prohibited by this section shall report the suspicion by telephone to the department and 1 or more law enforcement entities in the manner required by subsection (8).

(3) Any individual may report a violation of this section to the department.

(4) A physician or other licensed health care personnel of a hospital or other health care facility to which a patient is transferred who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the department and 1 or more law enforcement entities in the manner required by subsection (8).

(5) Upon receipt of a report made under this section, the department shall make an investigation. The department may require the individual making the report to submit a written report or to supply additional information, or both.

(6) A nursing home employee, licensee, or nursing home administrator shall not evict, harass, dismiss, or retaliate against a patient, a patient's representative, or an employee who makes a report under this section.

(7) An individual required to report an act or a reasonable suspicion under subsections (2) to (4) is not required to report the act or suspicion to the department or 1 or more local law enforcement entities if the individual knows that another individual has already reported the act or suspicion as required by this section.

(8) An individual required to report a reasonable suspicion of an act prohibited by this section shall report the suspicion as follows:

(a) If the act that causes the suspicion results in serious bodily injury to the patient, the individual shall report the suspicion immediately, but not more than 2 hours after forming the suspicion.

(b) If the act that causes the suspicion does not result in serious bodily injury to the patient, the individual shall report the suspicion not more than 24 hours after forming the suspicion.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2012, Act 174, Imd. Eff. June 19, 2012.

Popular name: Act 368

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Omnibus Budget Reconciliation Act of 1987

Subtitle C: Nursing Home Reform - Part 1: Medicare Program - Amends the Medicare program to set forth requirements for skilled nursing facilities (other than facilities for the mentally retarded), including requirements that such facilities: (1) primarily engage in providing residents with nursing care or rehabilitation services directed toward residents' mental, psychosocial, and physical well-being; (2) maintain a quality assessment and assurance committee which meets at least quarterly to identify areas where quality assessment and assurance is necessary and implement plans to correct deficiencies; (3) provide such care in accordance with a written plan of care initially prepared and periodically reviewed and revised, by a team which includes the attending physician and a professional registered nurse, on the basis of assessments of a resident's functional capacity conducted upon the resident's admission and after a significant change in the resident's physical or mental condition, but in no case less often than annually; (4) provide, in addition to nursing and rehabilitative services, such physicians' services, medically-related social services, pharmaceutical services, dietician services, and dental services as are required to fulfill each resident's plan of care; (5) require nurse aides who are not licensed health professionals to complete a State-approved training or retraining program before participating in resident care, and have an ongoing program of nurse aide training and performance review; (6) require a physician's supervision of each resident's care, the maintenance of clinical records on all residents, and 24-hour nursing services; (7) protect specified resident rights, including the right to appeal a transfer or discharge from the facility; (8) safeguard a resident's funds upon the resident's authorization; (9) notify the State agency responsible for licensing the facility of changes in the ownership, control, or administration of the facility; (10) adopt certain measures to preserve facility safety and sanitation; and (11) meet such other conditions which the Secretary deems necessary for residents' health and safety. Subjects individuals who participate in the falsification of resident assessments to civil money penalties.

Requires States, by March 1, 1989, to: (1) specify State-approved nurse aide training and testing programs which meet minimum standards to be established by the Secretary by September 1, 1988; and (2) maintain a registry of nurse aides who have successfully completed such programs, including specific findings of resident neglect or abuse or misappropriation of resident property involving such individuals. Prohibits State approval of a training program offered by a facility that has been out of compliance with the Act's requirements within the preceding two years. Requires States to: (1) establish a fair mechanism which meets Federal guidelines to be established by October 1, 1989, for hearing appeals on transfers of residents from nursing facilities; and (2) implement and enforce standards which are to be developed by the Secretary by March 1, 1989, regarding the qualifications of nursing facility administrators.

Requires the Secretary to publish a list of the costs which may be charged to the personal funds of residents who are covered by Medicare. Reimburses nursing facilities for the reasonable costs of complying with this Act's requirements. Directs

the Secretary to report to the Congress by January 1, 1992, on the implementation of the nursing facility resident assessment process.

Requires States to conduct periodic educational programs for the staff and residents of nursing facilities on current regulations, procedures, and policies concerning the quality of care provided at such facilities. Requires States to establish a process for the receipt, review, and investigation of allegations of resident neglect and abuse, and misappropriation of resident property by a nurse aide in a nursing facility. Makes the Secretary responsible for certifying that State nursing facilities comply, and States responsible for certifying that other nursing facilities comply with Medicare nursing facility requirements. Bases such certifications on standard surveys to be conducted within two months of any change in the ownership or administration of such a facility and, on an unannounced basis, at least every 15 months. Prohibits the Statewide average interval between surveys from exceeding one year. Subjects facilities which were found to have provided substandard care to extended surveys.

Requires that surveys be conducted by a multidisciplinary team of professionals who have successfully completed a training and testing program approved by the Secretary.

Directs the Secretary to: (1) develop and test a protocol for conducting surveys; (2) establish minimum qualifications for surveyors; and (3) conduct sample surveys of nursing facilities, within two months of State surveys, to test the adequacy of State surveys, and, if the State surveys prove inadequate, provide for an appropriate remedy, which may include training survey teams in the State. Authorizes the Secretary to conduct a special survey of a facility when there is reason to question its compliance with this Act.

Requires States to investigate complaints against, and monitor the compliance of, a facility with this Act's requirements if the facility was previously found to be out of compliance with such requirements or the State has reason to question its compliance. Authorizes States to use a specialized team to gather and survey evidence and carry out enforcement actions against chronically substandard facilities.

Requires that certain information regarding nursing facilities and their compliance with this Act's requirements be made available to the public. Provides long-term care ombudsmen, resident's physicians, and the State board which licenses facility administrators with notice of a facility's poor quality of care. Gives State Medicaid (title XIX of the Act) fraud and abuse control units access to facility survey and certification information. Requires that survey results be posted in a place which is readily accessible to residents and their representatives.

Requires the Secretary or a State to recommend the Secretary to terminate a nursing facility's Medicare participation or take immediate action to remove the jeopardy and correct the deficiencies through the appointment of temporary management to oversee the operation of the facility and assure residents' health

and safety upon determining that such deficiencies immediately jeopardize residents' health and safety. Authorizes States to recommend certain other remedies where the health and safety of facility residents is not immediately jeopardized. Provides that if a facility is found out of compliance with any of this Act's requirements three months after having been found out of compliance with such requirements or to have provided substandard care on three consecutive surveys, Medicare payments for newly admitted residents shall be denied and, in the latter case, on-site monitoring of the facility's compliance shall be established.

Requires the Secretary to report to the Congress annually on nursing facility compliance with Medicare requirements and the number and type of enforcement actions taken against such facilities.

Part 2: Medicaid Program - Amends the Medicaid program to establish a single set of requirements for skilled nursing and intermediate care facilities (other than facilities for the mentally retarded), and to refer to such facilities as "nursing facilities." Sets forth requirements for nursing facilities, including requirements that such facilities: (1) primarily engage in providing residents with nursing care, rehabilitative services, and other health-related services which can only be provided through such facilities, directed toward residents' mental, psychosocial, and physical well-being; (2) maintain a quality assessment and assurance committee which meets at least quarterly to identify areas where quality assessment and assurance is necessary and implement plans to correct deficiencies; (3) provide such care in accordance with a written plan of care initially prepared and periodically reviewed and revised, by a team which includes the attending physician and a professional registered nurse on the basis of assessments of a resident's functional capacity conducted upon the resident 's admission and after a significant change in the resident's physical or mental condition, but in no case less often than annually; (4) provide, in addition to nursing and rehabilitative services, such physicians' services, medically-related social services, pharmaceutical services, dietician services, and dental services as are required to fulfill each resident's plan of care; (5) require nurse aides who are not licensed health professionals to complete a State-approved training or retraining program before participating in resident care, and have an ongoing program of nurse aide training and performance review; (6) require a physician's supervision of each patient's care, the maintenance of clinical records on all patients, and, with certain exceptions, the services of a licensed nurse 24 hours a day and a registered nurse eight hours a day; (7) employ a full-time social worker if they have over 120 beds; (8) protect specified patient rights, including the right to appeal involuntary transfer or discharge from the facility; (9) provide applicants and residents with information regarding the Medicare and Medicaid programs and not require applicants to waive their rights to such benefits, have a third party guarantee payment to the facility, or charge a Medicaid beneficiary more than is required to be paid under the Medicaid program as a condition of their admission; (10) safeguard a resident's funds upon the resident's authorization; (11) not admit any new resident, after 1988, who is mentally ill or retarded unless the State mental health authority deems such individual to require nursing facility services and decides whether the individual requires active treatment for mental illness or retardation; (12) notify the

agency responsible for licensing the facility of changes in the ownership, control, or administration of the facility; (13) adopt certain measures to preserve facility safety and sanitation; and (14) meet such other conditions which the Secretary deems necessary for patient health and safety.

Requires States to specify, by September 1, 1988, those nurse aide training programs which meet the minimum standards to be established by the Secretary by July 1, 1988, and have the State's approval. Prohibits State approval of a training program offered by a facility that has been out of compliance with this Act's requirements within the previous two years. Requires each State to: (1) establish a registry, by 1989, of all individuals who have satisfactorily completed a nurse aide training program in the State, including specific findings of resident neglect or abuse or misappropriation of resident property involving such individuals; (2) develop a written notice, by April 1988, of the rights and obligations of nursing facility residents under the Medicaid program; (3) establish a fair mechanism, by October 1, 1989, which meets Federal guidelines to be established by October 1, 1988, for hearing appeals on transfers of residents from nursing facilities; and (4) implement and enforce standards which are to be developed by the Secretary by March 1, 1988, regarding the qualifications of nursing facility administrators.

Requires that, in addition to the preadmission review of mentally ill or retarded individuals, State mental health authorities conduct an annual review of mentally ill or retarded residents to determine whether such residents require nursing facility services and whether they require active treatment for mental illness or retardation. Directs that such preadmission and annual reviews be conducted in accordance with criteria to be developed by the Secretary by October 1, 1988. Sets forth required nursing facility responses to determinations as to whether such residents need nursing facility services and need, or do not need, active treatment for mental illness or retardation. Gives long-term residents who do not require nursing facility services, but who require active treatment, the choice of remaining in the facility or receiving covered services in an alternative setting. Requires nursing facilities to provide for the active treatment of residents in need of treatment for mental illness or retardation regardless of their continued need for nursing facility services or their discharge from such facility. Requires States to have an appeals process for individuals adversely affected by such preadmission and annual reviews.

Directs the Secretary to publish a list of the costs which may be charged to the personal funds of residents who are covered by Medicaid.

Requires the Secretary to report to the Congress by 1993 on the implementation of the resident assessment process. Imposes civil monetary penalties on individuals who falsify resident assessments.

Sets the Federal matching percentage for: (1) nurse aide training and testing programs at the Federal medical assistance percentage plus 25 percent, but not exceeding 90 percent, for FYs 1988 and 1989, and at 50 percent thereafter; and

(2) preadmission and annual screening of mentally ill or retarded residents at 75 percent.

Directs the Secretary to: (1) provide States with technical assistance in the development and implementation of reimbursement methods for nursing facilities that take into account the case mix of residents in different facilities; and (2) report to the Congress by January 1, 1993, on the progress made in implementing this Act's nursing facility staffing requirements.

Requires States to conduct periodic educational programs for the staff and residents of nursing facilities on current regulations, procedures, and policies concerning the quality of care provided at such facilities. Requires States to establish a process for the receipt, review, and investigation of allegations of resident neglect and abuse, and misappropriation of resident property by a nurse aide in a nursing facility. Makes the Secretary responsible for certifying that State nursing facilities comply, and States responsible for certifying that other nursing facilities comply with Medicaid nursing facility requirements. Bases such certifications on standard surveys to be conducted within two months of any change in the ownership or administration of such a facility and, on an unannounced basis, at least every 15 months. Prohibits the Statewide average interval between surveys from exceeding one year. Subjects facilities which were found to have provided substandard care to extended surveys.

Requires that surveys be conducted by a multidisciplinary team of professional who have successfully completed a training and testing program approved by the Secretary.

Directs the Secretary to: (1) develop and test a protocol for conducting surveys; (2) establish minimum qualifications for surveyors; (3) conduct sample surveys of nursing facilities, within two months of State surveys, to test the adequacy of State surveys; and (4) reduce Federal payments for State Medicaid administrative costs if State surveys prove inadequate. Authorizes the Secretary to conduct a special survey of a facility when there is reason to question its compliance with this Act.

Requires States to investigate complaints against, and monitor the compliance of, a facility with this Act's requirements if the facility was previously found to be out of compliance with such requirements or the State has reason to question its compliance. Authorizes States to use a specialized team to gather and survey evidence and carry out enforcement actions against chronically substandard facilities.

Requires that certain information regarding nursing facilities and their compliance with this Act's requirements be made available to the public. Provides long-term care ombudsmen, residents' physicians, and the State board which licenses facility administrators with notice of a facility's poor quality of care. Gives State Medicaid (title XIX of the Act) fraud and abuse control units access to facility survey and certification information. Requires that survey results be posted in a place which is readily accessible to residents and their representatives.

Sets the Federal matching percentage for nursing facility certification activities at 90 percent in FY 1991, 85 percent in FY 1992, 80 percent in FY 1993, and 75 percent thereafter.

Eliminates current penalties applied to a State when its control over the utilization of skilled nursing or intermediate care facility services is deemed inadequate. Requires that when the Secretary or a State determines that a nursing facility's deficiencies immediately jeopardize residents' health and safety, immediate action be taken to remove the jeopardy and correct the deficiencies or such facility's participation in Medicaid be terminated. Directs the Secretary and States to apply certain other remedies where the health and safety of facility residents is not immediately jeopardized. Authorizes the imposition of civil money penalties against facilities found to be in compliance with this Act's requirements but to have been out of compliance previously. Provides that if a facility is out of compliance with any of this Act's requirements three months after having been found out of compliance with such requirements or on three consecutive standard surveys, Medicaid payments for newly admitted residents shall be denied and, in the latter case, on-site monitoring of the facility's compliance shall be established. Authorizes each State to establish a program providing rewards to facilities providing the highest quality of care. Sets forth special rules which are to be applied where a State and the Secretary do not agree on a finding of noncompliance or the remedies which should be prescribed.

Requires the Secretary to report to the Congress annually on nursing facility compliance with Medicaid requirements and the number and type of enforcement actions taken against such facilities.

Directs the Secretary, within 30 days of this Act's enactment, to promulgate final regulations required by the Omnibus Budget Reconciliation Act of 1985 regarding State submittal of correction and reduction plans for intermediate care facilities for the mentally retarded which have deficiencies that do not immediately jeopardize residents' health and safety.

Authorizes a nurse practitioner or clinical nurse specialist, in collaboration with a physician, to certify and recertify a patient's need for skilled nursing or intermediate care facility services.