



# PORTAGE HEALTH

March 16, 2011

State Representative Gail Haines  
Chairwoman, Health Policy Committee  
Michigan House of Representatives  
State Capitol  
Lansing, MI 48933

Dear Chairwoman Haines:

Thank you for taking up the Rural Hospital Patient Choice Act, House Bills 4441-4443. This package of bills would remove all references and regulation of 'short term nursing care beds' in Michigan statute.

I believe state regulation of swing beds is unnecessary because they are already appropriately regulated under federal Medicare law and the overly restrictive state regulation diminishes patient choice. Swing beds are currently regulated by federal law under the Medicare program. Prior to 2002, federal Medicare rules required swing bed patients to be transferred to a nursing home or long term care facility within 50 miles of the patient's residence within 5 business days after the swing bed hospital had been notified of an available bed. This Medicare rule was known as the '5-day transfer rule' and limited hospitals with swing bed programs to billing Medicare for up to 1,825 total patient days annually for swing bed care. This '5-day transfer rule' was rescinded by Medicare in 2002 and under current federal law Medicare reimburses hospitals with swing beds for up to 100 days annually per patient for medically appropriate care.

In Michigan, state statute also regulates swing beds (short term nursing care beds) and retains the '5-day transfer rule' that was rescinded by Medicare. Michigan is one of only three states that separately regulate swing beds. A recent lawsuit was unsuccessful in setting aside Michigan's more restrictive statute and some state officials have begun interpreting Michigan statute to prohibit the use of swing beds for even 5 days if there is a nursing home or long term care bed available within 50 miles of the patient's residence.

*The impact of the current law on the patients we serve at Portage Health is only negative. Many of our patients need rehab after surgery. Allowing these patients to stay at the hospital in the same swing bed for a short duration would be much more humane than forcing them to go to a nursing home. Why wouldn't the choices for our patients be the same as 47 other states? Medicare is a federal program for the entire country.*

**Jim Bogan, FACHE, President and CEO**

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State Representative Gail Haines

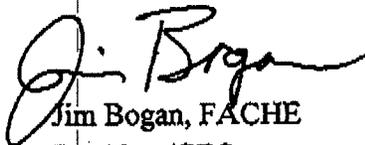
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**Patients in Michigan should have the same care choices as patients in 47 other states!** The Medicare program recognizes that swing beds offer appropriate care options for many patients needing rehabilitation and continued care after leaving the acute care setting. Where appropriate, swing beds allow patients to remain in the same facility as they received their acute care to continue their therapy with the goal of returning home. Under current Michigan law, however, patients and their physicians are given no say in where they receive post-acute care and must transfer to a nursing home or long term care facility up to 50 miles away from their home as soon as they are discharged from the acute care setting, even if the hospital has an approved swing bed program and even though no state dollars are spent on the care. The Rural Hospital Patient Choice Act would allow Michigan patients to enjoy the same access to care as people in 47 other states. It will also repeal unnecessary state regulations.

I ask that you and the other Health Policy members report the Rural Hospital Patient Choice Act out of committee with a recommendation that it pass the full House. Again, thank you for your consideration of this legislation.

Sincerely,



Jim Bogan, FACHE

President/CEO

Portage Health

cc: State Representative Matt Huuki