

**SUBSTITUTE FOR
HOUSE BILL NO. 5689**

[A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20162 and 21799b (MCL 333.20162 and
333.21799b) and by adding sections 21332 and 21716.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20162. (1) Upon a determination that a health facility
2 or agency is in compliance with this article and the rules
3 promulgated under this article, the department shall issue a
4 license TO THE HEALTH FACILITY OR AGENCY.

5 (2) The department may issue a nonrenewable temporary permit
6 for not more than 6 months if additional time is needed to make a
7 proper investigation or to permit the applicant to undertake
8 remedial action related to operational or procedural deficiencies
9 or items of noncompliance. ~~—A—~~ THE DEPARTMENT SHALL NOT ISSUE A

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1 temporary permit ~~shall not be issued~~ to cover deficiencies in
2 physical plant requirements.

3 (3) Except as provided in part 217, the department may issue
4 a provisional license for not more than 3 consecutive years to an
5 applicant who temporarily is unable to comply with the rules as
6 to the physical plant owned, maintained, or operated by a health
7 facility or agency, except as otherwise provided in this
8 article. ~~-A- THE DEPARTMENT SHALL NOT ISSUE A provisional~~
9 ~~license shall not be issued~~ to a new health facility or agency
10 or a HEALTH facility or agency whose ownership is transferred
11 after ~~the effective date of this article~~ SEPTEMBER 30, 1978,
12 unless the HEALTH facility or agency was licensed and operating
13 under this article or a prior law for not less than 5 years.
14 ~~Provisional licensure under acts repealed by this code shall be~~
15 ~~counted against the 3-year maximum for licensure.~~

16 (4) The department, in order to protect the people of this
17 state, shall provide a procedure for the orderly closing of a
18 HEALTH facility OR AGENCY if it is unable to maintain its license
19 under this section.

20 (5) Except as provided in part 217, the department, upon
21 finding that a health facility or agency is not operating in
22 accord with the requirements of its license, may DO 1 OR MORE OF
23 THE FOLLOWING:

24 (a) Issue an order directing the licensee to DO 1 OR MORE OF
25 THE FOLLOWING:

26 (i) Discontinue admissions.

1 (ii) Transfer selected patients out of the HEALTH facility
2 OR AGENCY.

3 (iii) Reduce its licensed capacity.

4 (iv) Comply with specific requirements for licensure or
5 certification, as appropriate.

6 (v) REQUIRE APPOINTMENT AT THE HEALTH FACILITY'S OR AGENCY'S
7 EXPENSE OF A DEPARTMENT APPROVED TEMPORARY ADMINISTRATIVE ADVISOR
8 OR A TEMPORARY CLINICAL ADVISOR, OR BOTH, WITH AUTHORITY AND
9 DUTIES SPECIFIED BY THE DEPARTMENT TO ASSIST THE HEALTH FACILITY
10 OR AGENCY MANAGEMENT AND STAFF TO ACHIEVE SUSTAINED COMPLIANCE
11 WITH REQUIRED OPERATING STANDARDS.

12 (vi) REQUIRE APPOINTMENT AT THE HEALTH FACILITY'S OR
13 AGENCY'S EXPENSE OF A DEPARTMENT APPROVED TEMPORARY MANAGER WITH
14 AUTHORITY AND DUTIES SPECIFIED BY THE DEPARTMENT TO OVERSEE THE
15 HEALTH FACILITY'S OR AGENCY'S ACHIEVEMENT OF SUSTAINED COMPLIANCE
16 WITH REQUIRED OPERATING STANDARDS OR TO OVERSEE THE ORDERLY CLO-
17 SURE OF THE HEALTH FACILITY OR AGENCY.

18 (b) Through the office of the attorney general, initiate
19 misdemeanor proceedings against the licensee as provided in sec-
20 tion 20199(1).

21 (6) An order issued under subsection (5) ~~shall be~~ IS gov-
22 erned by the notice and hearing requirements of section 20168(1)
23 and the status requirements of section 20168(2).

[(7) THE DEPARTMENT SHALL NOT APPOINT A TEMPORARY
ADMINISTRATIVE ADVISOR, TEMPORARY CLINICAL ADVISOR, OR TEMPORARY
MANAGER AS DESCRIBED IN SUBSECTION (5)(A)(v) OR (vi) UNTIL AFTER THE
DEPARTMENT HAS EXPLORED ALL OPTIONS DESCRIBED IN SUBSECTION
(5)(A)(i) TO (iv).

(8) THE DEPARTMENT SHALL REPORT ANNUALLY TO THE HOUSE AND
SENATE STANDING COMMITTEES ON SENIOR ISSUES ON THE NUMBER OF TIMES
THE DEPARTMENT APPOINTED A TEMPORARY ADMINISTRATIVE ADVISOR,
TEMPORARY CLINICAL ADVISOR, OR TEMPORARY MANAGER AS DESCRIBED IN
SUBSECTION (5)(A)(v) OR (vi). THE REPORT SHALL INCLUDE WHETHER THE
HEALTH FACILITY OR AGENCY CLOSED OR REMAINED OPEN. THE DEPARTMENT
MAY INCLUDE THIS REPORT WITH OTHER REPORTS MADE TO FULFILL
LEGISLATIVE REPORTING REQUIREMENTS.

SEC. 21332. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
(3), A HOME FOR THE AGED SHALL OFFER THAT EACH OF ITS RESIDENTS BE
VACCINATED FOR INFLUENZA ANNUALLY BETWEEN NOVEMBER 15 AND DECEMBER
15. A HOME FOR THE AGED SHALL OFFER THAT A RESIDENT ADMITTED AFTER
DECEMBER 15, BUT BEFORE APRIL 1 OF THE FOLLOWING YEAR, BE VACCINATED
FOR INFLUENZA AT THE TIME OF ADMISSION TO THE HOME FOR THE AGED.

(2) A HOME FOR THE AGED SHALL ENTER EACH VACCINATION UNDER
SUBSECTION (1) AND EACH WAIVER UNDER SUBSECTION (3) IN THE
VACCINATED RESIDENT'S PERMANENT RECORD.

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(3) A HOME FOR THE AGED SHALL NOT VACCINATE A RESIDENT IF THE RESIDENT OR A MEMBER OF THE RESIDENT'S FAMILY PRESENTS TO THE ADMINISTRATOR OF THE HOME FOR THE AGED A WRITTEN STATEMENT THAT VACCINATION IS CONTRARY TO THE RESIDENT'S RELIGIOUS OR OTHER BELIEFS OR IS MEDICALLY INAPPROPRIATE.

SEC. 21716. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), A NURSING HOME SHALL OFFER THAT EACH OF ITS RESIDENTS BE ANNUALLY VACCINATED FOR INFLUENZA BETWEEN NOVEMBER 15 AND DECEMBER 15. A NURSING HOME SHALL OFFER THAT A RESIDENT ADMITTED AFTER DECEMBER 15, BUT BEFORE APRIL 1 OF THE FOLLOWING YEAR, BE VACCINATED FOR INFLUENZA AT THE TIME OF ADMISSION.

(2) A NURSING HOME SHALL ENTER EACH VACCINATION UNDER SUBSECTION (1) AND EACH WAIVER UNDER SUBSECTION (3) IN THE VACCINATED RESIDENT'S PERMANENT MEDICAL RECORD.

(3) A NURSING HOME SHALL NOT VACCINATE A RESIDENT UNDER THIS SECTION IF THE RESIDENT OR A MEMBER OF THE RESIDENT'S FAMILY PRESENTS TO THE NURSING HOME ADMINISTRATOR A WRITTEN STATEMENT THAT INFLUENZA VACCINATION IS CONTRARY TO THE RESIDENT'S RELIGIOUS OR OTHER BELIEFS OR IS MEDICALLY INAPPROPRIATE.]

24 Sec. 21799b. (1) If, upon investigation, the department of
25 ~~public health~~ CONSUMER AND INDUSTRY SERVICES finds that a
26 licensee is not in compliance with this part, a rule promulgated
27 under this part, or a federal law or regulation governing nursing

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1 home certification under title ~~18 or 19 of the social security~~
2 ~~act, 42 U.S.C. 1395 to 1396k~~ XVIII OR XIX, which NONCOMPLIANCE
3 impairs the ability of the licensee to deliver an acceptable
4 level of care and services, OR IN THE CASE OF A NURSING HOME CLO-
5 SURE FOR ANY REASON, the department of ~~public health~~ CONSUMER
6 AND INDUSTRY SERVICES shall notify the department of ~~social~~
7 ~~services~~ COMMUNITY HEALTH of the finding and MAY issue 1 or more
8 of the following correction notices to the licensee:

9 (a) Suspend the admission or readmission of patients to the
10 nursing home.

11 (b) Reduce the licensed capacity of the nursing home.

12 (c) Selectively transfer patients whose care needs are not
13 being met by the licensee.

14 (d) Initiate action to place the home in receivership as
15 prescribed in section 21751.

16 (E) REQUIRE APPOINTMENT AT THE NURSING HOME'S EXPENSE OF A
17 DEPARTMENT APPROVED TEMPORARY ADMINISTRATIVE ADVISOR OR A TEMPO-
18 RARY CLINICAL ADVISOR, OR BOTH, WITH AUTHORITY AND DUTIES SPECI-
19 FIED BY THE DEPARTMENT TO ASSIST THE NURSING HOME MANAGEMENT AND
20 STAFF TO ACHIEVE SUSTAINED COMPLIANCE WITH REQUIRED OPERATING
21 STANDARDS.

22 (F) REQUIRE APPOINTMENT AT THE NURSING HOME'S EXPENSE OF A
23 DEPARTMENT APPROVED TEMPORARY MANAGER WITH AUTHORITY AND DUTIES
24 SPECIFIED BY THE DEPARTMENT TO OVERSEE THE NURSING HOME'S
25 ACHIEVEMENT OF SUSTAINED COMPLIANCE WITH REQUIRED OPERATING STAN-
26 DARDS OR TO OVERSEE THE ORDERLY CLOSURE OF THE NURSING HOME.

1 (G) ~~-(e)-~~ Issue a correction notice to the licensee and the
2 department of ~~social services~~ COMMUNITY HEALTH describing the
3 violation and the statute or rule violated and specifying the
4 corrective action to be taken and the period of time in which the
5 corrective action is to be completed. Upon issuance, the direc-
6 tor shall cause to be published in a daily newspaper of general
7 circulation in an area in which the nursing home is located
8 notice of the action taken and the listing of conditions upon
9 which the director's action is predicated.

10 (2) Within 72 hours after receipt of a notice issued under
11 subsection (1), the licensee shall be given an opportunity for a
12 hearing on the matter. The director's notice shall continue in
13 effect during the pendency of the hearing and any subsequent
14 court proceedings. The hearing shall be conducted in compliance
15 with the administrative procedures act of 1969.

16 (3) A licensee who believes that a correction notice has
17 been complied with may request a verification of compliance from
18 the department. Not later than 72 hours after the licensee makes
19 the request, the department shall investigate to determine
20 whether the licensee has taken the corrective action prescribed
21 in the notice under subsection ~~-(1)-(e)-~~ (1)(G). If the depart-
22 ment finds that the licensee has taken the corrective action and
23 that the conditions giving rise to the notice have been allevi-
24 ated, the department may cease taking further action against the
25 licensee, or may take other action ~~which~~ THAT the director con-
26 sider appropriate.

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1 (4) AS USED IN THIS PART, "TITLE XVIII" AND "TITLE XIX" MEAN
2 THOSE TERMS AS DEFINED IN SECTION 20155.

3 (5) THE DEPARTMENT SHALL [NOT APPOINT A TEMPORARY
4 ADMINISTRATIVE ADVISOR, TEMPORARY CLINICAL ADVISOR, OR TEMPORARY
5 MANAGER AS DESCRIBED IN SUBSECTION (1)(E) OR (F) UNTIL AFTER THE
6 DEPARTMENT HAS EXPLORED ALL OPTIONS DESCRIBED IN SUBSECTION (1)(A)
7 TO (D).
8]

9 (6) THE DEPARTMENT SHALL REPORT ANNUALLY TO THE HOUSE AND
10 SENATE STANDING COMMITTEES ON SENIOR ISSUES ON THE NUMBER OF
11 TIMES THE DEPARTMENT APPOINTED A TEMPORARY ADMINISTRATIVE ADVI-
12 SOR, TEMPORARY CLINICAL ADVISOR, AND TEMPORARY MANAGER AS
13 DESCRIBED IN [SUBSECTION (1)(E) OR (F).] THE REPORT SHALL
14 INCLUDE WHETHER THE HEALTH FACILITY OR AGENCY CLOSED OR REMAINED
15 OPEN. THE DEPARTMENT MAY INCLUDE THIS REPORT WITH OTHER REPORTS
16 MADE TO FULFILL LEGISLATIVE REPORTING REQUIREMENTS.