



HOUSE BILL No. 5725

May 3, 2000, Introduced by Reps. Frank, DeHart, Bovin, Neumann, Pestka, Kelly, Basham, Thomas, Hale and Jamnick and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 21751 and 21786 (MCL 333.21751 and
333.21786).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21751. (1) ~~When~~ IF the department has concluded a
2 proceeding under sections 71 to 106 of the administrative proce-
3 dures act of 1969, ~~as amended, being sections 24.271 to 24.306~~
4 ~~of the Michigan Compiled Laws~~ MCL 24.271 TO 24.306, or, ~~when~~
5 SUBJECT TO SECTION 21786(2), IF the department has suspended or
6 revoked the license of a nursing home, the department, a patient
7 in the ~~facility~~ NURSING HOME, or a patient's representative may
8 file an emergency petition with the circuit court to place the
9 nursing home under the control of a receiver if necessary to
10 protect the health or safety of patients in the nursing home.

1 The court may grant the petition upon a finding that the health
2 or safety of the patients in the nursing home would be seriously
3 threatened if a condition existing at the time the petition was
4 filed is permitted to continue.

5 (2) ~~The~~ IF A PETITION IS FILED UNDER SUBSECTION (1), THE
6 court shall appoint as receiver the director of the ~~department~~
7 ~~of social services~~ FAMILY INDEPENDENCE AGENCY, the director of
8 the department of ~~public health~~ CONSUMER AND INDUSTRY SERVICES,
9 or another state agency or person designated by the director of
10 ~~public health~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY
11 SERVICES. The receiver appointed by the court shall use the
12 income and assets of the nursing home to maintain and operate the
13 NURSING home and to attempt to correct the conditions ~~which~~
14 THAT constitute a threat to the patients IN THE NURSING HOME.
15 ~~A~~ THE RECEIVER SHALL NOT MAKE A major structural alteration
16 ~~shall not be made~~ to the nursing home, unless the alteration is
17 necessary to bring the nursing home into compliance with licens-
18 ing requirements.

19 (3) To assist in the implementation of the mandate of the
20 court, the receiver APPOINTED UNDER SUBSECTION (2) may request
21 and receive reasonable consultation from the available personnel
22 of the department.

23 (4) The COURT SHALL TERMINATE A receivership ~~shall be~~
24 ~~terminated~~ ORDERED UNDER THIS SECTION when the receiver and the
25 court certify that the conditions ~~which~~ THAT prompted the
26 appointment OF THE RECEIVER have been corrected, when the NURSING
27 HOME'S license is restored, when a new license is issued, or, in

1 the case of a discontinuance of operation OF THE NURSING HOME,
2 when the patients are safely placed in other facilities, which-
3 ever occurs first.

4 (5) Upon the termination of the receivership, the receiver
5 shall render a complete accounting to the court and shall dispose
6 of surplus funds as the court directs.

7 Sec. 21786. (1) In the case of an emergency closing of a
8 nursing home, or ~~when it is determined by~~ IF the department OF
9 CONSUMER AND INDUSTRY SERVICES DETERMINES that a nursing home is
10 suddenly no longer able to provide adequate patient care, the
11 department shall do both of the following:

12 (a) Assure that the ~~department of social services~~ FAMILY
13 INDEPENDENCE AGENCY has been notified to make arrangements for
14 the orderly and safe discharge and transfer of the NURSING HOME'S
15 patients to another facility.

16 (b) Place a representative of the department in ~~a facility~~
17 THE NURSING HOME on a daily basis to do each of the following:

18 (i) Monitor the discharge AND TRANSFER of patients to other
19 facilities or locations.

20 (ii) Ensure that the rights of patients are protected.

21 (iii) Discuss the discharge and relocation with each patient
22 and next of kin or legal guardian, person, or agency responsible
23 for the patient's placement, maintenance, and care in the
24 ~~facility~~ NURSING HOME. The DEPARTMENT REPRESENTATIVE SHALL
25 PRODUCE A WRITTEN SUMMARY OF THE content of ~~the~~ EACH explana-
26 tion and discussion ~~shall be summarized in writing~~ and shall

1 ~~be made~~ MAKE THE WRITTEN SUMMARY a part of the patient's
2 clinical record.

3 (2) IF THE DEPARTMENT SUSPENDS OR REVOKES A NURSING HOME'S
4 LICENSE MORE THAN TWICE DURING A 5-YEAR PERIOD AND AS A RESULT
5 THE NURSING HOME DISCONTINUES OPERATION, THE DEPARTMENT SHALL
6 FILE A PETITION WITH THE CIRCUIT COURT UNDER THIS SUBSECTION.
7 THE DEPARTMENT SHALL PETITION THE COURT FOR AN ORDER FREEZING THE
8 ASSETS AND INCOME OF THE NURSING HOME. THE DEPARTMENT SHALL FUR-
9 THER PETITION THE COURT FOR AN ORDER ALLOWING THE DEPARTMENT TO
10 USE THOSE ASSETS AND INCOME TO PAY THE COST OF DISCHARGING AND
11 TRANSFERRING THE NURSING HOME'S PATIENTS AS DESCRIBED IN THIS
12 SECTION AND OTHER COSTS INCURRED BY THE DEPARTMENT UNDER THIS
13 SECTION.