

SENATE BILL NO. 790

October 6, 1999, Introduced by Senator HART and referred to the
Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20194 and 21799a (MCL 333.20194 and
333.21799a), section 20194 as added by 1993 PA 79.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20194. (1) ~~A~~ SUBJECT TO SUBSECTIONS (2) AND (3), A
2 health facility or agency, except a health facility or agency
3 licensed under part 209, and including a health facility that is
4 not licensed under this article but holds itself out as providing
5 medical services, shall conspicuously display in the patient
6 waiting areas or other common areas of the health facility or
7 agency copies of a pamphlet provided by the department of ~~public~~
8 ~~health~~ CONSUMER AND INDUSTRY SERVICES outlining the procedure
9 for filing a complaint against a health facility or agency with
10 the department ~~of public health~~ and the procedure for filing a

1 complaint ~~with the department of commerce~~ against ~~a person~~ AN
2 INDIVIDUAL who is licensed or registered under article 15 AND
3 employed by, under contract to, or granted privileges by the
4 health facility or agency. The pamphlet shall be ~~prepared~~
5 DEVELOPED AND DISTRIBUTED by the department of ~~public health~~
6 CONSUMER AND INDUSTRY SERVICES in consultation with ~~the depart-~~
7 ~~ment of commerce and~~ appropriate professional associations.

8 (2) The department of ~~public health~~ CONSUMER AND INDUSTRY
9 SERVICES shall print the pamphlets REQUIRED UNDER SUBSECTION (1)
10 in languages that are appropriate to the ethnic composition of
11 the patient population where the pamphlet will be displayed. THE
12 DEPARTMENT SHALL PERIODICALLY DISTRIBUTE COPIES OF THE PAMPHLET
13 TO EACH HEALTH FACILITY OR AGENCY AND TO EACH UNLICENSED HEALTH
14 FACILITY DESCRIBED IN SUBSECTION (1).

15 (3) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL
16 INCLUDE A MODEL, STANDARDIZED COMPLAINT FORM IN THE PAMPHLET
17 DESCRIBED IN SUBSECTION (1). THE DEPARTMENT MAY DEVELOP A SEPA-
18 RATE MODEL, STANDARDIZED COMPLAINT FORM THAT IS SPECIFIC TO A
19 PARTICULAR HEALTH FACILITY OR AGENCY OR CATEGORY OF HEALTH FACIL-
20 ITIES AND AGENCIES.

21 Sec. 21799a. (1) A person who believes that this part, a
22 rule promulgated under this part, or a federal certification reg-
23 ulation applying to a nursing home may have been violated may
24 request an investigation of a nursing home. The PERSON SHALL
25 SUBMIT THE request ~~shall be submitted~~ to the department OF CON-
26 SUMER AND INDUSTRY SERVICES as a written complaint, or the
27 department shall assist the person in reducing an oral request to

1 a written complaint within 7 days after the oral request is
2 made. A PERSON FILING A COMPLAINT UNDER THIS SUBSECTION MAY FILE
3 THE COMPLAINT ON A MODEL COMPLAINT FORM CONTAINED IN THE PAMPHLET
4 DEVELOPED AND DISTRIBUTED BY THE DEPARTMENT UNDER SECTION 20194.

5 (2) The substance of ~~the~~ A complaint FILED UNDER SUBSEC-
6 TION (1) shall be provided to the licensee no earlier than at the
7 commencement of the on-site inspection of the nursing home
8 ~~which~~ THAT takes place pursuant to the complaint.

9 (3) ~~The~~ A complaint FILED UNDER SUBSECTION (1), a copy of
10 the complaint, or a record published, released, or otherwise dis-
11 closed to the nursing home shall not disclose the name of the
12 complainant or a patient named in the complaint unless the com-
13 plainant or patient consents in writing to the disclosure or the
14 investigation results in an administrative hearing or a judicial
15 proceeding, or unless disclosure is considered essential to the
16 investigation by the department OF CONSUMER AND INDUSTRY
17 SERVICES. If disclosure is considered essential to the investi-
18 gation, the DEPARTMENT SHALL GIVE THE complainant ~~shall be~~
19 ~~given~~ the opportunity to withdraw the complaint before
20 disclosure.

21 (4) Upon receipt of a complaint UNDER SUBSECTION (1), the
22 department OF CONSUMER AND INDUSTRY SERVICES shall determine,
23 based on the allegations presented, whether this part, a rule
24 promulgated under this part, or a federal certification regula-
25 tion for nursing homes has been, is, or is in danger of being
26 violated. The department shall investigate the complaint
27 according to the urgency determined by the department. The

1 initiation of a complaint investigation shall commence within 15
2 days after receipt of the written complaint by the department.

3 (5) If, at any time, the department OF CONSUMER AND INDUSTRY
4 SERVICES determines that this part, a rule promulgated under this
5 part, or a federal certification regulation for nursing homes has
6 been violated, the department shall list the violation and the
7 provisions violated on the state and federal licensure and certi-
8 fication forms for nursing homes. The violations shall be con-
9 sidered, as evidenced by a written explanation, by the department
10 when it makes a licensure and certification decision or
11 recommendation.

12 (6) In all cases, the department OF CONSUMER AND INDUSTRY
13 SERVICES shall inform the complainant of its findings unless oth-
14 erwise indicated by the complainant. Within 30 days after the
15 receipt of complaint, the department shall provide the complain-
16 ant a copy, if any, of the written determination, the correction
17 notice, the warning notice, and the state licensure or federal
18 certification form, or both, on which the violation is listed, or
19 a status report indicating when these documents may be expected.
20 The DEPARTMENT SHALL INCLUDE IN THE final report ~~shall include~~
21 a copy of the original complaint. The complainant may request
22 additional copies of the documents listed in this subsection and
23 shall reimburse the department for the copies in accord with
24 established policies and procedures.

25 (7) ~~A~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
26 SHALL MAKE A written determination, correction notice, or warning
27 notice concerning a complaint ~~shall be~~ available for public

1 inspection, but the DEPARTMENT SHALL NOT DISCLOSE THE name of the
2 complainant or patient ~~shall not be disclosed~~ without the
3 complainant's or patient's consent.

4 (8) ~~A~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
5 SHALL REPORT A violation discovered as a result of the complaint
6 investigation procedure ~~shall be reported~~ to persons adminis-
7 tering sections 21799c to 21799e. The DEPARTMENT SHALL ASSESS A
8 PENALTY FOR A violation, ~~shall be assessed a penalty~~ as
9 described in this ~~act~~ ARTICLE.

10 (9) A complainant who is dissatisfied with the determination
11 or investigation by the department OF CONSUMER AND INDUSTRY
12 SERVICES may request a hearing. A COMPLAINANT SHALL SUBMIT A
13 request for a hearing ~~shall be submitted~~ in writing to the
14 director within 30 days after the mailing of the department's
15 findings as described in subsection (6). ~~Notice~~ THE DEPARTMENT
16 SHALL SEND NOTICE of the time and place of the hearing ~~shall be~~
17 ~~sent~~ to the complainant and the nursing home.