

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5829

(As passed the House, December 5, 2002)

(As passed the Senate, December 13, 2002)

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20180 (MCL 333.20180), as added by 1994 PA
52.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20180. (1) A person employed by or under contract to a
2 health facility or agency or any other person acting in good
3 faith who makes a report or complaint including, but not limited
4 to, a report or complaint of a violation of this article or a
5 rule promulgated under this article; who assists in originating,
6 investigating, or preparing a report or complaint; or who assists
7 the department in carrying out its duties under this article is
8 immune from civil or criminal liability that might otherwise be
9 incurred ~~thereby~~ and is protected under the whistleblowers'
10 protection act, ~~Act No. 469 of the Public Acts of 1980, being~~

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1 ~~sections 15.361 to 15.369 of the Michigan Compiled Laws 1980 PA~~
2 469, MCL 15.361 TO 15.369. A person described in this subsection
3 who makes or assists in making a report or complaint, or who
4 assists the department as described in this subsection, is pre-
5 sumed to have acted in good faith. The immunity from civil or
6 criminal liability granted under this subsection extends only to
7 acts done pursuant to this article.

8 (2) Unless a person described in subsection (1) otherwise
9 agrees in writing, the department shall keep the person's iden-
10 tity confidential until disciplinary proceedings under this arti-
11 cle are initiated against the subject of the report or complaint
12 and the person making or assisting in originating, investigating,
13 or preparing the report or complaint is required to testify in
14 the disciplinary proceedings. If disclosure of the person's
15 identity is considered by the department to be essential to the
16 disciplinary proceedings and if the person is the complainant,
17 the department shall give the person an opportunity to withdraw
18 the complaint before disclosure.

19 (3) SUBJECT TO SUBSECTION (4), A PERSON EMPLOYED BY OR UNDER
20 CONTRACT TO A HOSPITAL IS IMMUNE FROM CIVIL OR CRIMINAL LIABILITY
21 THAT MIGHT OTHERWISE BE INCURRED AND SHALL NOT BE DISCHARGED,
22 THREATENED, OR OTHERWISE DISCRIMINATED AGAINST BY THE HOSPITAL
23 REGARDING THAT PERSON'S COMPENSATION OR THE TERMS, CONDITIONS,
24 LOCATION, OR PRIVILEGES OF THAT PERSON'S EMPLOYMENT IF THAT
25 PERSON REPORTS TO THE DEPARTMENT, VERBALLY OR IN WRITING, AN
26 ISSUE RELATED TO THE HOSPITAL THAT IS AN UNSAFE PRACTICE OR
27 CONDITION THAT IS NOT A VIOLATION OF THIS ARTICLE OR A RULE

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1 PROMULGATED UNDER THIS ARTICLE. THE PROTECTIONS AFFORDED UNDER
2 THIS SUBSECTION DO NOT LIMIT, RESTRICT, OR DIMINISH, IN ANY WAY,
3 THE PROTECTIONS AFFORDED UNDER THE WHISTLEBLOWERS' PROTECTION
4 ACT, 1980 PA 469, MCL 15.361 TO 15.369.

5 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), A PERSON
6 EMPLOYED BY OR UNDER CONTRACT TO A HOSPITAL IS ELIGIBLE FOR THE
7 IMMUNITY AND PROTECTION PROVIDED UNDER SUBSECTION (3) ONLY IF THE
8 PERSON MEETS ALL OF THE FOLLOWING CONDITIONS BEFORE REPORTING TO
9 THE DEPARTMENT THE ISSUE RELATED TO THE HOSPITAL THAT IS AN
10 UNSAFE PRACTICE OR CONDITION THAT IS NOT A VIOLATION OF THIS
11 ARTICLE OR A RULE PROMULGATED UNDER THIS ARTICLE:

12 (A) THE PERSON GAVE THE HOSPITAL 60 DAYS' WRITTEN NOTICE OF
13 THE ISSUE RELATED TO THE HOSPITAL THAT IS AN UNSAFE PRACTICE OR
14 CONDITION THAT IS NOT A VIOLATION OF THIS ARTICLE OR A RULE
15 PROMULGATED UNDER THIS ARTICLE. A PERSON WHO PROVIDES A HOSPITAL
16 WRITTEN NOTICE AS PROVIDED UNDER THIS SUBDIVISION SHALL NOT BE
17 DISCHARGED, THREATENED, OR OTHERWISE DISCRIMINATED AGAINST BY THE
18 HOSPITAL REGARDING THAT PERSON'S COMPENSATION OR THE TERMS, CON-
19 DITIONS, LOCATION, OR PRIVILEGES OF THAT PERSON'S EMPLOYMENT.
20 WITHIN 60 DAYS AFTER RECEIVING A WRITTEN NOTICE OF AN ISSUE
21 RELATED TO THE HOSPITAL THAT IS AN UNSAFE PRACTICE OR CONDITION,
22 THE HOSPITAL SHALL PROVIDE A WRITTEN RESPONSE TO THE PERSON WHO
23 PROVIDED THAT WRITTEN NOTICE.

24 (B) THE PERSON HAD NO REASONABLE EXPECTATION THAT THE HOSPI-
25 TAL HAD TAKEN OR WOULD TAKE TIMELY ACTION TO ADDRESS THE ISSUE
26 RELATED TO THE HOSPITAL THAT IS AN UNSAFE PRACTICE OR CONDITION

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1 THAT IS NOT A VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED
2 UNDER THIS ARTICLE.

3 (5) SUBSECTION (4) DOES NOT APPLY IF THE PERSON EMPLOYED BY
4 OR UNDER CONTRACT TO A HOSPITAL IS REQUIRED BY LAW TO REPORT THE
5 ISSUE RELATED TO THE HOSPITAL THAT IS AN UNSAFE PRACTICE OR CON-
6 DITION THAT IS NOT A VIOLATION OF THIS ARTICLE OR A RULE PROMUL-
7 GATED UNDER THIS ARTICLE BEFORE THE EXPIRATION OF THE 60 DAYS'
8 NOTICE REQUIRED UNDER SUBSECTION (4).

9 (6) A HOSPITAL SHALL POST NOTICES AND USE OTHER APPROPRIATE
10 MEANS TO KEEP A PERSON EMPLOYED BY OR UNDER CONTRACT TO THE HOS-
11 PITAL INFORMED OF THEIR PROTECTIONS AND OBLIGATIONS UNDER THIS
12 SECTION. THE NOTICES SHALL BE IN A FORM APPROVED BY THE
13 DEPARTMENT. THE NOTICE SHALL BE MADE AVAILABLE ON THE
14 DEPARTMENT'S INTERNET WEBSITE AND SHALL BE POSTED IN 1 OR MORE
15 CONSPICUOUS PLACES WHERE NOTICES TO PERSONS EMPLOYED BY OR UNDER
16 CONTRACT TO A HOSPITAL ARE CUSTOMARILY POSTED.

17 (7) AS USED IN THIS SECTION, "HOSPITAL" MEANS A HOSPITAL
18 LICENSED UNDER ARTICLE 17.