

HOUSE BILL No. 6241

July 3, 2002, Introduced by Reps. Woronchak and Spade 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 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 in~~
 6 ~~consultation with in consultation with the department of commerce~~
 7 ~~and appropriate professional associations~~ CONSUMER AND INDUSTRY
 8 SERVICES.

9 (2) The department of ~~public health~~ CONSUMER AND INDUSTRY
 10 SERVICES shall print the pamphlets REQUIRED UNDER SUBSECTION (1)
 11 in languages that are appropriate to the ethnic composition of
 12 the patient population where the pamphlet will be displayed. THE
 13 DEPARTMENT SHALL ALSO PRINT THE PAMPHLET IN LARGE, EASILY READ-
 14 ABLE TYPE AND IN NONTECHNICAL, EASILY UNDERSTOOD LANGUAGE. THE
 15 DEPARTMENT SHALL PERIODICALLY DISTRIBUTE COPIES OF THE PAMPHLET
 16 TO EACH HEALTH FACILITY OR AGENCY AND TO EACH UNLICENSED HEALTH
 17 FACILITY DESCRIBED IN SUBSECTION (1).

18 (3) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL
 19 INCLUDE A MODEL STANDARDIZED COMPLAINT FORM IN THE PAMPHLET
 20 DESCRIBED IN SUBSECTION (1). THE DEPARTMENT MAY DEVELOP A SEPA-
 21 RATE MODEL STANDARDIZED COMPLAINT FORM THAT IS SPECIFIC TO A PAR-
 22 TICULAR HEALTH FACILITY OR AGENCY OR CATEGORY OF HEALTH FACILI-
 23 TIES AND AGENCIES. THE DEPARTMENT SHALL DEVELOP A MODEL STAN-
 24 DARDIZED COMPLAINT FORM THAT IS SPECIFIC TO NURSING HOMES. THE
 25 DEPARTMENT SHALL INCLUDE ON THE MODEL STANDARDIZED COMPLAINT
 26 FORM, AT A MINIMUM, SIMPLE INSTRUCTIONS ON HOW TO FILE A
 27 COMPLAINT, INCLUDING WITH THE DEPARTMENT, THE STATE LONG-TERM

1 CARE OMBUDSMAN, THE MICHIGAN PROTECTION AND ADVOCACY SERVICE, AND
2 THE HEALTH CARE FRAUD UNIT OF THE DEPARTMENT OF ATTORNEY
3 GENERAL. THE DEPARTMENT SHALL DISTRIBUTE COPIES OF THE MODEL
4 STANDARDIZED COMPLAINT FORM SIMULTANEOUSLY WITH COPIES OF THE
5 PAMPHLET AS REQUIRED UNDER SUBSECTION (2). THE NURSING HOME
6 SHALL CONSPICUOUSLY DISPLAY AND MAKE AVAILABLE MULTIPLE COPIES OF
7 THE MODEL STANDARDIZED COMPLAINT FORM NEXT TO THE PAMPHLET IN THE
8 PATIENT WAITING AREAS OR OTHER COMMON AREAS OF THE NURSING HOME
9 THAT ARE EASILY ACCESSIBLE TO NURSING HOME PATIENTS AND THEIR
10 VISITORS, AS DESCRIBED IN SUBSECTION (1). THE DEPARTMENT SHALL
11 INCLUDE ON THE MODEL STANDARDIZED COMPLAINT FORM A TELEPHONE
12 NUMBER FOR THE RECEIPT OF ORAL COMPLAINTS.

13 Sec. 21799a. (1) A person who believes that this part, a
14 rule promulgated under this part, or a federal certification reg-
15 ulation applying to a nursing home may have been violated may
16 request an investigation of a nursing home. The PERSON SHALL
17 SUBMIT THE request ~~shall be submitted~~ FOR INVESTIGATION to the
18 department OF CONSUMER AND INDUSTRY SERVICES as a written
19 complaint, or the department shall assist the person in reducing
20 an oral request to a written complaint within 7 days after the
21 oral request is made. A PERSON FILING A COMPLAINT UNDER THIS
22 SUBSECTION MAY FILE THE COMPLAINT ON A MODEL STANDARDIZED COM-
23 PLAINTE FORM DEVELOPED AND DISTRIBUTED BY THE DEPARTMENT UNDER
24 SECTION 20194(3).

25 (2) The substance of ~~the~~ A complaint FILED UNDER SUBSEC-
26 TION (1) shall be provided to the licensee no earlier than at the

1 commencement of the on-site inspection of the nursing home
2 ~~which~~ THAT takes place pursuant to the complaint.

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

15 (4) Upon receipt of a complaint UNDER SUBSECTION (1), the
16 department OF CONSUMER AND INDUSTRY SERVICES shall determine,
17 based on the allegations presented, whether this part, a rule
18 promulgated under this part, or a federal certification regula-
19 tion for nursing homes has been, is, or is in danger of being
20 violated. The department shall investigate the complaint accord-
21 ing to the urgency determined by the department. The initiation
22 of a complaint investigation shall commence within 15 days after
23 receipt of the written complaint by the department.

24 (5) If, at any time, the department OF CONSUMER AND INDUSTRY
25 SERVICES determines that this part, a rule promulgated under this
26 part, or a federal certification regulation for nursing homes has
27 been violated, the department shall list the violation and the

1 provisions violated on the state and federal licensure and
2 certification forms for nursing homes. The DEPARTMENT SHALL CON-
3 sider the violations, ~~shall be considered,~~ as evidenced by a
4 written explanation, ~~by the department~~ when it makes a licen-
5 sure and certification decision or recommendation.

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

20 (7) ~~A~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
21 SHALL MAKE A written determination, correction notice, or warning
22 notice concerning a complaint ~~shall be~~ available for public
23 inspection, but the DEPARTMENT SHALL NOT DISCLOSE THE name of the
24 complainant or patient ~~shall not be disclosed~~ without the
25 complainant's or patient's consent.

26 (8) ~~A~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
27 SHALL REPORT A violation discovered as a result of the complaint

1 investigation procedure ~~shall be reported~~ to persons
2 administering sections 21799c to 21799e. The DEPARTMENT SHALL
3 ASSESS A PENALTY FOR A violation, ~~shall be assessed a penalty~~
4 as ~~described in~~ PRESCRIBED BY this ~~act~~ ARTICLE.

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