

# HOUSE BILL No. 4062

January 28, 2003, Introduced by Reps. Wojno, Accavitti and Bieda and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 21799a (MCL 333.21799a).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21799a. (1) A person who believes that this part, a  
2 rule promulgated under this part, or a federal certification  
3 regulation applying to a nursing home may have been violated may  
4 request an investigation of a nursing home. The request ~~shall~~  
5 **may** be submitted to the department as a written complaint, or the  
6 department shall assist ~~the~~ a person in reducing an oral  
7 request **made under subsection (2)** to a written complaint ~~within~~  
8 ~~7 days after the oral request is made~~ **as provided in subsection**  
9 **(2).**

10       (2) The department of consumer and industry services shall  
11 provide a toll-free telephone consumer complaint and inquiry

1 line. The complaint and inquiry line shall be accessible 24  
2 hours per day and staffed at a level to ensure a response time to  
3 each telephone complaint or inquiry within 24 hours after its  
4 receipt. The department shall establish a response system for  
5 the complaint and inquiry line that includes at least all of the  
6 following:

7 (a) An intake form that serves as a written complaint for  
8 purposes of subsections (1) and (5).

9 (b) Forwarding of an intake form to an investigator not later  
10 than the next business day after the intake form is filled out by  
11 complaint and inquiry line staff.

12 (c) Forwarding of a copy of the completed intake form to the  
13 consumer or complainant not later than the next business day  
14 after it is completed.

15 (3) ~~-(2)-~~ The substance of ~~the~~ a complaint shall be  
16 provided to the licensee no earlier than at the commencement of  
17 the on-site inspection of the nursing home ~~which~~ **that** takes  
18 place ~~pursuant~~ **in response** to the complaint.

19 (4) ~~-(3)-~~ ~~The~~ A complaint, a copy of ~~the~~ a complaint, or a  
20 record published, released, or otherwise disclosed to the nursing  
21 home shall not disclose the name of the complainant or a patient  
22 named in the complaint unless the complainant or patient consents  
23 in writing to the disclosure or the investigation results in an  
24 administrative hearing or a judicial proceeding, or unless  
25 disclosure is considered essential to the investigation by the  
26 department. If disclosure is considered essential to the  
27 investigation, the complainant shall be given the opportunity to

1 withdraw the complaint before disclosure.

2       (5) ~~—(4)—~~ Upon receipt of a complaint **under subsection (1) or**  
3 **(2)**, the department shall determine, based on the allegations  
4 presented, whether this part, a rule promulgated under this part,  
5 or a federal certification regulation for nursing homes has been,  
6 is **being**, or is in danger of being violated. ~~—The—~~ **Subject to**  
7 **subsection (2), the** department shall investigate the complaint  
8 according to the urgency determined by the department. The  
9 initiation of a complaint investigation shall commence within 15  
10 days after receipt of the written complaint by the department.

11       (6) ~~—(5)—~~ If, at any time, the department determines that  
12 this part, a rule promulgated under this part, or a federal  
13 certification regulation for nursing homes has been violated, the  
14 department shall list the violation and the provisions violated  
15 on the state and federal licensure and certification forms for  
16 nursing homes. The violations shall be considered, as evidenced  
17 by a written explanation, by the department when it makes a  
18 licensure and certification decision or recommendation.

19       (7) ~~—(6)—~~ In all cases, the department shall inform the  
20 complainant of its findings unless otherwise indicated by the  
21 complainant. ~~—Within—~~ **Subject to subsection (2), within** 30 days  
22 after the receipt of complaint, the department shall provide the  
23 complainant a copy, if any, of the written determination, the  
24 correction notice, the warning notice, and the state licensure or  
25 federal certification form, or both, on which the violation is  
26 listed, or a status report indicating when these documents may be  
27 expected. The final report shall include a copy of the original

1 complaint. The complainant may request additional copies of the  
2 documents listed in this subsection and shall reimburse the  
3 department for the copies in accord with established policies and  
4 procedures.

5       (8) ~~—(7)—~~ A written determination, correction notice, or  
6 warning notice concerning a complaint shall be available for  
7 public inspection, but the name of the complainant or patient  
8 shall not be disclosed without the complainant's or patient's  
9 consent.

10       (9) ~~—(8)—~~ A violation discovered as a result of the complaint  
11 investigation procedure shall be reported to persons  
12 administering sections 21799c to 21799e. The violation shall be  
13 assessed a penalty as described in this act.

14       (10) ~~—(9)—~~ A complainant who is dissatisfied with the  
15 **department's** determination or investigation ~~by the department~~  
16 may request a hearing. A request for a hearing shall be  
17 submitted in writing to the director within 30 days after the  
18 mailing of the department's findings as described in subsection  
19 ~~—(6)—~~ (7). Notice of the time and place of the hearing shall be  
20 sent to the complainant and the nursing home.