

# HOUSE BILL No. 4079

January 29, 2003, Introduced by Rep. Woronchak 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**  
14 **readable type and in nontechnical, easily understood language.**  
15 **The department shall periodically distribute copies of the**  
16 **pamphlet to each health facility or agency and to each unlicensed**  
17 **health 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  
21 separate model standardized complaint form that is specific to a  
22 particular health facility or agency or category of health  
23 facilities and agencies. The department shall develop a model  
24 standardized complaint form that is specific to nursing homes.  
25 The 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  
15 regulation 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**  
23 **complaint form developed and distributed by the department under**  
24 **section 20194(3).**

25 (2) The substance of ~~the~~ **a complaint filed under**  
26 **subsection (1)** shall be provided to the licensee no earlier than  
27 at the commencement of the on-site inspection of the nursing home

1 ~~which~~ **that** takes place pursuant to the complaint.

2       (3) ~~The~~ **A** complaint **filed under subsection (1)**, a copy of  
3 the complaint, or a record published, released, or otherwise  
4 disclosed to the nursing home shall not disclose the name of the  
5 complainant or a patient named in the complaint unless the  
6 complainant or patient consents in writing to the disclosure or  
7 the investigation results in an administrative hearing or a  
8 judicial proceeding, or unless disclosure is considered essential  
9 to the investigation by the department **of consumer and industry**  
10 **services**. If **the department considers** disclosure ~~is considered~~  
11 essential to the investigation, the **department shall give the**  
12 complainant ~~shall be given~~ the opportunity to withdraw the  
13 complaint before disclosure.

14       (4) Upon receipt of a complaint **under subsection (1)**, the  
15 department **of consumer and industry services** shall determine,  
16 based on the allegations presented, whether this part, a rule  
17 promulgated under this part, or a federal certification  
18 regulation for nursing homes has been, is, or is in danger of  
19 being violated. The department shall investigate the complaint  
20 according to the urgency determined by the department. The  
21 initiation of a complaint investigation shall commence within 15  
22 days after receipt of the written complaint by the department.

23       (5) If, at any time, the department **of consumer and industry**  
24 **services** determines that this part, a rule promulgated under this  
25 part, or a federal certification regulation for nursing homes has  
26 been violated, the department shall list the violation and the  
27 provisions violated on the state and federal licensure and

1 certification forms for nursing homes. The **department shall**  
2 **consider the** violations, ~~shall be considered,~~ as evidenced by a  
3 written explanation, ~~by the department~~ when it makes a  
4 licensure and certification decision or recommendation.

5 (6) In all cases, the department **of consumer and industry**  
6 **services** shall inform the complainant of its findings unless  
7 otherwise indicated by the complainant. Within 30 days after  
8 ~~the~~ receipt of **the** complaint, the department shall provide the  
9 complainant a copy, if any, of the written determination, the  
10 correction notice, the warning notice, and the state licensure or  
11 federal certification form, or both, on which the violation is  
12 listed, or a status report indicating when these documents may be  
13 expected. The **department shall include in the** final report  
14 ~~shall include~~ a copy of the original complaint. The  
15 complainant may request additional copies of the documents  
16 ~~listed~~ **described** in this subsection and **upon receipt** shall  
17 reimburse the department for the copies in ~~accord~~ **accordance**  
18 with established policies and procedures.

19 (7) ~~A~~ **The department of consumer and industry services**  
20 **shall make a** written determination, correction notice, or warning  
21 notice concerning a complaint ~~shall be~~ available for public  
22 inspection, but the **department shall not disclose the** name of the  
23 complainant or patient ~~shall not be disclosed~~ without the  
24 complainant's or patient's consent.

25 (8) ~~A~~ **The department of consumer and industry services**  
26 **shall report a** violation discovered as a result of the complaint  
27 investigation procedure ~~shall be reported~~ to persons

1 administering sections 21799c to 21799e. The **department shall**  
2 **assess a penalty for a** violation, ~~shall be assessed a penalty~~  
3 as ~~described in~~ **prescribed by** this ~~act~~ **article**.

4 (9) A complainant who is dissatisfied with the determination  
5 or investigation by the department **of consumer and industry**  
6 **services** may request a hearing. A **complainant shall submit a**  
7 request for a hearing ~~shall be submitted~~ in writing to the  
8 director within 30 days after the mailing of the department's  
9 findings as described in subsection (6). ~~Notice~~ **The department**  
10 **shall send notice** of the time and place of the hearing ~~shall be~~  
11 ~~sent~~ to the complainant and the nursing home.