

HOUSE BILL No. 6142

May 6, 2010, Introduced by Reps. Neumann, Liss, Polidori, Ball, Slavens, Bauer, Spade, Womack, Constan, Robert Jones, Valentine, Barnett and Dean 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 20142 (MCL 333.20142).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20142. (1) A health facility or agency shall apply for
2 ~~licensure~~ **AN INITIAL LICENSE, FOR A NEW LICENSE DUE TO A CHANGE OF**
3 **OWNERSHIP, FOR A LICENSE RENEWAL, or FOR TITLE XVIII OR FOR TITLE**
4 **XIX** certification on a form authorized and provided by the
5 department. The application shall include attachments, additional
6 data, and information required by **THIS SECTION AND BY** the
7 department.

8 (2) An applicant shall certify the accuracy of information

1 supplied in the application and supplemental statements.

2 (3) An applicant **FOR AN INITIAL LICENSE, FOR A NEW LICENSE DUE**
3 **TO A CHANGE OF OWNERSHIP, or FOR a licensee-LICENSE RENEWAL** under
4 part 213 or 217 shall disclose the names, addresses, ~~principal~~
5 ~~occupations,~~ and official positions of all ~~persons~~ **INDIVIDUALS** who
6 have an ownership interest in the ~~health facility or agency~~ **HOME**
7 **FOR THE AGED OR NURSING HOME. IF THE APPLICANT FOR AN INITIAL**
8 **LICENSE, FOR A NEW LICENSE DUE TO A CHANGE OF OWNERSHIP, OR FOR A**
9 **LICENSE RENEWAL UNDER PART 213 OR 217 IS NOT AN INDIVIDUAL, THE**
10 **APPLICANT SHALL DISCLOSE THE NAME OF THE ENTITY AND THE NAMES,**
11 **ADDRESSES, AND OFFICIAL POSITIONS OF ALL OFFICERS AND DIRECTORS OF**
12 **ANY ENTITY THAT HAS AN OWNERSHIP INTEREST IN THE HOME FOR THE AGED**
13 **OR NURSING HOME AND A DESCRIPTION OF THE RELATIONSHIP, IF ANY,**
14 **BETWEEN INDIVIDUALS WITH AN OWNERSHIP INTEREST IN THE HOME FOR THE**
15 **AGED OR NURSING HOME.** If the ~~health facility or agency~~ **HOME FOR THE**
16 **AGED OR NURSING HOME** is located on or in leased real estate, the
17 applicant or licensee shall disclose the name of the lessor and any
18 direct or indirect interest the applicant or licensee has in the
19 lease other than as lessee. A change in ownership shall be reported
20 **IN WRITING** to the director not less than ~~15~~ **60** days before the
21 change occurs. ~~, except that a person purchasing stock of a company~~
22 ~~registered pursuant to the securities exchange act of 1934, 15~~
23 ~~U.S.C. 78a to 78kk, is exempt from disclosing ownership in the~~
24 ~~facility.~~ A person required to file a beneficial ownership report
25 pursuant to section 16(a) of the securities exchange act of 1934,
26 ~~15 U.S.C.~~ **USC** 78p shall file with the department information
27 relating to securities ownership required by ~~the~~ department rule or

1 order. ~~An applicant or licensee proposing a sale of a nursing home~~
2 ~~to another person shall provide the department with written,~~
3 ~~advance notice of the proposed sale.~~ **A LICENSE ISSUED UNDER PART**
4 **213 OR 217 IS NOT TRANSFERABLE TO ANY OTHER PERSON WHO SEEKS TO**
5 **OBTAIN OR PURCHASE AN OWNERSHIP INTEREST IN THE FACILITY AND IS**
6 **SUBJECT TO REVOCATION UPON VERIFICATION OF THE TRANSFER OF ANY**
7 **OWNERSHIP INTEREST TO ANY OTHER PERSON. THE PERSONS PROPOSING TO**
8 **OBTAIN OR PURCHASE AN OWNERSHIP INTEREST IN A HOME FOR THE AGED OR**
9 **A NURSING HOME SHALL APPLY FOR LICENSURE ON A FORM AND IN THE**
10 **MANNER PRESCRIBED BY THE DEPARTMENT.** The applicant or licensee and
11 the other parties to the sale ~~CHANGE OF OWNERSHIP~~ shall arrange to
12 meet with specified department representatives ~~and shall~~ **TO** obtain
13 ~~before the sale a determination of the items of noncompliance with~~
14 ~~applicable law and rules which shall~~ **AND CONDITIONS OF**
15 **PARTICIPATION THAT ARE TO be corrected BEFORE THE CHANGE OF**
16 **OWNERSHIP OCCURS.** The department shall notify the respective
17 parties of the items of noncompliance ~~prior to~~ **WITH APPLICABLE**
18 **LICENSING LAWS AND RULES AND ANY MEDICARE OR MEDICAID CONDITIONS OF**
19 **PARTICIPATION BEFORE** the change of ownership and shall ~~indicate~~
20 ~~that the items of noncompliance must be corrected as a condition of~~
21 ~~issuance of~~ **NOT ISSUE** a license to the new owner **UNTIL ALL OF THE**
22 **ITEMS OF NONCOMPLIANCE OR CONDITIONS OF PARTICIPATION HAVE BEEN**
23 **CORRECTED OR, AT THE OPTION OF THE DEPARTMENT, THE NEW OWNER HAS AN**
24 **APPROVED PLAN OF CORRECTION.** The department may accept reports
25 filed with the securities and exchange commission relating to the
26 filings. A person who violates this subsection is guilty of a
27 misdemeanor, punishable by a fine of not more than \$1,000.00

1 \$10,000.00 for each violation.

2 (4) ~~An~~ **UPON REQUEST, AN** applicant or licensee under part 217
3 shall disclose **TO THE DEPARTMENT** the names and business addresses
4 of suppliers who furnish goods or services to an individual nursing
5 home or a group of nursing homes under common ownership, the
6 aggregate charges for which exceed \$5,000.00 in a 12-month period
7 which includes a month in a nursing home's current fiscal year. ~~An~~
8 **UPON REQUEST, AN** applicant or licensee shall disclose **TO THE**
9 **DEPARTMENT** the names, addresses, principal occupations, and
10 official positions of all persons who have an ownership interest in
11 a business ~~which~~ **THAT** furnishes goods or services to an individual
12 nursing home or to a group of nursing homes under common ownership,
13 if both of the following apply:

14 (a) The person, or the person's spouse, parent, sibling, or
15 child has an ownership interest in the nursing home purchasing the
16 goods or services.

17 (b) The aggregate charges for the goods or services purchased
18 exceeds \$5,000.00 in a 12-month period ~~which~~ **THAT** includes a month
19 in the nursing home's current fiscal year.

20 (5) An applicant or licensee who makes a false statement in an
21 application or statement required by the department pursuant to
22 this article is guilty of a felony, punishable by imprisonment for
23 not more than 4 years, or a fine of not more than \$30,000.00, or
24 both.

25 (6) **UPON REQUEST, AN APPLICANT OR LICENSEE UNDER PART 217**
26 **SHALL DISCLOSE TO THE DEPARTMENT ANY INFORMATION THE DEPARTMENT**
27 **CONSIDERS RELEVANT TO ITS DUTIES UNDER SECTION 21755.**

(7) FOR THE PURPOSES OF THIS SECTION:

(A) "CHANGE OF OWNERSHIP" MEANS ANY OF THE FOLLOWING:

(i) A SALE OF THE ENTITY TO ANY OTHER PERSON.

(ii) A CHANGE IN A SOLE PROPRIETORSHIP.

(iii) A TRANSFER OF THE TITLE AND PROPERTY TO ANOTHER PERSON IN AN UNINCORPORATED SOLE PROPRIETORSHIP.

(iv) A REMOVAL, ADDITION, OR SUBSTITUTION OF A PARTNER IN A PARTNERSHIP.

(v) A MERGER OF A CORPORATION INTO ANOTHER CORPORATION.

(vi) THE CONSOLIDATION OF 2 OR MORE CORPORATIONS RESULTING IN A NEW CORPORATION.

(vii) A CHANGE IN THE MEMBERSHIP OF A LIMITED LIABILITY COMPANY.

(viii) A TRANSFER OF AN ENTITY TO A TRUST OR A CHANGE IN A TRUST.

(ix) A CHANGE OF OWNERSHIP OF 30% OR MORE OF THE STOCK OF A CORPORATION.

(x) A TRANSACTION THAT RESULTS IN THE CHANGE OF THE PERSON WHO IS THE LEGAL HOLDER OF A CERTIFICATE OF NEED FOR THE HEALTH FACILITY OR AGENCY.

(B) A PERSON IS CONSIDERED TO HAVE AN OWNERSHIP INTEREST IF THEY ARE ANY OF THE FOLLOWING:

(i) AN OFFICER OF A CORPORATION.

(ii) A MEMBER OF THE BOARD OF DIRECTORS OF A CORPORATION.

(iii) A PERSON THAT OWNS OR ACQUIRES 5% OR MORE OF THE STOCK OF A CORPORATION.

(iv) A SOLE PROPRIETORSHIP.

1 (v) A PARTNER.

2 (vi) A MEMBER OF A LIMITED LIABILITY COMPANY.

3 (vii) A MANAGER OF A LIMITED LIABILITY COMPANY.

4 (viii) A TRUSTEE OF AN ENTITY ORGANIZED AS A TRUST.

5 (ix) AN INDIVIDUAL OR A CORPORATION, PARTNERSHIP, SOLE
6 PROPRIETORSHIP, LIMITED LIABILITY COMPANY, TRUST, OR ANY OTHER
7 ENTITY, WHICH INDIVIDUAL OR ENTITY OPERATES THE HEALTH FACILITY OR
8 AGENCY UNDER A MANAGEMENT AGREEMENT.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No.____ or House Bill No. 6143(request no.
11 02820'09) of the 95th Legislature is enacted into law.