

# SENATE BILL NO. 161

February 28, 2019, Introduced by Senators CHANG, MOSS, MCBROOM, BRINKS, MCMORROW, WOJNO, POLEHANKI, IRWIN, BARRETT, MACDONALD, OUTMAN, BAYER and RUNESTAD and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 20165 (MCL 333.20165), as amended by 2008 PA  
39, and by adding sections 17233 and 21526.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 17233. (1) A registered professional nurse's refusal to  
2       accept a hospital's request to work more than his or her regularly  
3       scheduled hours according to his or her predetermined work schedule

1 at the hospital is not, by itself, grounds for administrative  
2 action under sections 16221 and 16226.

3 (2) As used in this section, "hospital" means that term as  
4 defined in section 20106.

5 Sec. 20165. (1) Except as otherwise provided in this section,  
6 after notice of intent to an applicant or licensee to deny, limit,  
7 suspend, or revoke the applicant's or licensee's license or  
8 certification and an opportunity for a hearing, the department may  
9 deny, limit, suspend, or revoke the license or certification or  
10 impose an administrative fine on a licensee if 1 or more of the  
11 following exist:

12 (a) Fraud or deceit in obtaining or attempting to obtain a  
13 license or certification or in the operation of the licensed health  
14 facility or agency.

15 (b) A violation of this article or a rule promulgated under  
16 this article.

17 (c) False or misleading advertising.

18 (d) Negligence or failure to exercise due care, including  
19 negligent supervision of employees and subordinates.

20 (e) Permitting a license or certificate to be used by an  
21 unauthorized health facility or agency.

22 (f) Evidence of abuse regarding a patient's health, welfare,  
23 or safety or the denial of a patient's rights.

24 (g) Failure to comply with section 10115.

25 (h) Failure to comply with part 222 or a term, condition, or  
26 stipulation of a certificate of need issued under part 222, or  
27 both.

28 (i) A violation of section 20197(1).

29 (j) A violation of section 21526.

1           (2) The department may deny an application for a license or  
2 certification based on a finding of a condition or practice that  
3 would constitute a violation of this article if the applicant were  
4 a licensee.

5           (3) Denial, suspension, or revocation of an individual  
6 emergency medical services personnel license under part 209 is  
7 governed by section 20958.

8           (4) If the department determines under subsection (1) that a  
9 health facility or agency has violated section 20197(1), the  
10 department shall impose an administrative fine of \$5,000,000.00 on  
11 the health facility or agency.

12           (5) If the department determines under subsection (1) that a  
13 hospital has violated section 21526, the department shall impose an  
14 administrative fine of \$1,000.00 on the hospital for each violation  
15 and may impose any of the sanctions described in subsection (1).

16           Sec. 21526. (1) Except as otherwise provided in subsection  
17 (3), a hospital shall not require a registered professional nurse  
18 to work more than his or her regularly scheduled hours according to  
19 his or her predetermined work schedule.

20           (2) If a registered professional nurse works 12 or more  
21 consecutive hours at a hospital, the hospital shall provide the  
22 registered professional nurse with 8 consecutive hours of off-duty  
23 time immediately after the registered professional nurse completes  
24 that shift.

25           (3) Subsection (1) does not apply under any of the following  
26 circumstances:

27           (a) If an unforeseen emergent situation occurs.

28           (b) If a registered professional nurse is assisting with a  
29 patient-care procedure that extends beyond the registered

1 professional nurse's regularly scheduled hours according to his or  
2 her predetermined work schedule and the registered professional  
3 nurse's immediate supervisor, other than a charge nurse, determines  
4 that the absence of the registered professional nurse during the  
5 patient-care procedure could have an adverse effect on the patient.

6 (c) If a registered professional nurse voluntarily accepts a  
7 work assignment that causes the registered professional nurse's  
8 hours to exceed his or her regularly scheduled hours according to  
9 his or her predetermined work schedule.

10 (4) A hospital shall not discharge or discipline, threaten to  
11 discharge or discipline, or otherwise discriminate against a  
12 registered professional nurse who is an employee of the hospital  
13 regarding the registered professional nurse's compensation, terms,  
14 conditions, assignment, or privileges of employment because the  
15 registered professional nurse refuses to accept a work assignment  
16 that causes the registered professional nurse's hours to exceed his  
17 or her regularly scheduled hours according to his or her  
18 predetermined work schedule.

19 (5) A hospital shall post a notice that informs registered  
20 professional nurses who are employed by the hospital of this  
21 section and how to file a complaint with the department for a  
22 suspected violation of this section. The hospital shall post the  
23 notice described in this subsection in 1 or more conspicuous places  
24 where notices to employees of the hospital are customarily posted  
25 and, if the hospital uses an intranet site to communicate with its  
26 employees, on the hospital's intranet site.

27 (6) A hospital that violates this section is subject to the  
28 administrative sanctions prescribed in section 20165(5).

29 (7) If a collective bargaining agreement is in effect for

1 employees of a hospital as of the effective date of the amendatory  
2 act that added this section and if that collective bargaining  
3 agreement prevents compliance with this section, then this section  
4 does not apply until after the expiration of that collective  
5 bargaining agreement.

6 (8) As used in this section:

7 (a) "Registered professional nurse" means that term as defined  
8 in section 17201.

9 (b) "Unforeseen emergent situation" means an occurrence that  
10 is unpredictable, or unavoidable at an unscheduled or unpredictable  
11 interval, and relates to health care delivery and requires  
12 immediate medical intervention or care. Unforeseen emergent  
13 situation does not include a state of emergency that results from a  
14 labor dispute in the health care industry or consistent  
15 understaffing.

16 Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.