

HOUSE BILL No. 4940

June 18, 1997, Introduced by Reps. Anthony, Freeman, Hanley, Goschka, Schauer, Hale, Bogardus and Leland and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 21771 (MCL 333.21771).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21771. (1) A licensee, nursing home administrator,
2 NURSE'S AIDE, or OTHER employee of a nursing home shall not
3 ~~physically,~~ DO EITHER OF THE FOLLOWING:

4 (A) PHYSICALLY, mentally, or emotionally abuse, mistreat, or
5 harmfully neglect a patient.

6 (B) MISAPPROPRIATE THE PERSONAL PROPERTY OF A PATIENT.

7 (2) A nursing home employee who becomes aware of an act pro-
8 hibited by this section immediately shall report the matter to
9 the nursing home administrator or nursing director. A nursing
10 home administrator or nursing director who becomes aware of an
11 act prohibited by this section immediately shall report the

1 matter by telephone to the department of ~~public~~ COMMUNITY
2 health, which in turn shall notify the ~~department of social~~
3 ~~services~~ FAMILY INDEPENDENCE AGENCY.

4 (3) Any person may report a violation of this section to the
5 department.

6 (4) A physician or other licensed health care ~~personnel~~
7 PROFESSIONAL of a hospital or other health ~~care~~ facility OR
8 AGENCY to which a patient is transferred who becomes aware of an
9 act prohibited by this section shall report the act to the
10 department.

11 (5) Upon receipt of a report made under ~~this section~~
12 SUBSECTION (2), (3), OR (4), the department shall ~~make an~~
13 ~~investigation~~ INVESTIGATE, PURSUANT TO SECTION 1819(g)(1)(c) OF
14 PART A OF TITLE XVIII OF THE SOCIAL SECURITY ACT, 42
15 U.S.C. 1395i-3. THE DEPARTMENT SHALL COMMENCE THE INVESTIGATION
16 WITHIN 10 DAYS AFTER RECEIVING THE REPORT AND SHALL COMPLETE THE
17 INVESTIGATION WITHIN 30 DAYS AFTER RECEIVING THE REPORT. The
18 department may require the person making the report to submit a
19 written report or to supply additional information, or both.

20 (6) WITHIN 10 DAYS AFTER COMPLETING THE INVESTIGATION
21 REQUIRED UNDER SUBSECTION (5), THE DEPARTMENT SHALL NOTIFY IN
22 WRITING THE INDIVIDUAL ALLEGED TO HAVE VIOLATED SUBSECTION (1) AS
23 REQUIRED UNDER SECTION 1819(g)(1)(c) OF PART A OF TITLE XVIII OF
24 THE SOCIAL SECURITY ACT, 42 U.S.C. 1395i-3. THE DEPARTMENT SHALL
25 SEND A COPY OF THE NOTICE TO THE NURSING HOME INVOLVED IN THE
26 INVESTIGATION.

1 (7) ~~—(6)~~ A licensee or nursing home administrator shall not
2 evict, harass, dismiss, or retaliate against a patient, a
3 patient's representative, or an employee who makes a report under
4 this section.

5 (8) A HEARING HELD BY THE DEPARTMENT PURSUANT TO SECTION
6 1819(g)(1)(c) OF PART A OF TITLE XVIII OF THE SOCIAL SECURITY
7 ACT, 42 U.S.C. 1395i-3, SHALL BE CONDUCTED AS A CONTESTED CASE
8 HEARING UNDER CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF
9 1969, MCL 24.271 TO 24.287. THE DEPARTMENT SHALL BE A PARTY TO
10 THE HEARING AND SHALL BE REPRESENTED BY THE DEPARTMENT OF ATTOR-
11 NEY GENERAL AT THE HEARING. THE DEPARTMENT SHALL GIVE NOTICE AND
12 AN OPPORTUNITY TO INTERVENE IN THE PROCEEDINGS TO THE NURSING
13 HOME THAT IS THE EMPLOYER OF THE INDIVIDUAL WHO IS THE SUBJECT OF
14 THE HEARING.

15 (9) WITHIN 10 DAYS AFTER THE COMPLETION OF THE HEARING
16 DESCRIBED IN SUBSECTION (8), THE DEPARTMENT SHALL NOTIFY THE
17 INDIVIDUAL WHO IS THE SUBJECT OF THE HEARING AND, IF APPLICABLE,
18 THE NURSE'S AIDE REGISTRY MAINTAINED BY THE DEPARTMENT, OF THE
19 RESULTS OF THE HEARING.