

# HOUSE BILL No. 4225

February 9, 1999, Introduced by Reps. Gielegem, Jamnick, Cherry, Dennis, Woodward, Switalski, Lemmons, Bogardus, Wojno, DeHart, Rivet, Minore, Schauer, Prusi, Jacobs and Spade 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 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 health~~ CONSUMER  
2 AND INDUSTRY SERVICES, which in turn shall notify the ~~department~~  
3 ~~of social 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.