

HOUSE BILL No. 4056

January 31, 2001, Introduced by Rep. Birkholz 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 21799a (MCL 333.21799a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21799a. (1) A person who believes that this part, a
2 rule promulgated under this part, or a federal certification reg-
3 ulation applying to a nursing home may have been violated may
4 request an investigation of a nursing home. The request ~~shall~~
5 MAY be submitted to the department as a written complaint, or the
6 department shall assist ~~the~~ A person in reducing an oral
7 request MADE UNDER SUBSECTION (2) to a written complaint ~~within~~
8 ~~7 days after the oral request is made~~ PURSUANT TO SUBSECTION
9 (2).

10 (2) THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL
11 PROVIDE A TOLL-FREE TELEPHONE CONSUMER COMPLAINT AND INQUIRY

1 LINE. THE COMPLAINT AND INQUIRY LINE SHALL BE ACCESSIBLE 24
2 HOURS PER DAY AND STAFFED AT A LEVEL SO AS TO ENSURE RESPONSE
3 TIME OF NO LONGER THAN 24 HOURS AFTER RECEIPT OF A TELEPHONE COM-
4 PLAINTEE OR INQUIRY. THE DEPARTMENT SHALL ESTABLISH A RESPONSE
5 SYSTEM FOR THE COMPLAINT AND INQUIRY LINE THAT INCLUDES AT LEAST
6 ALL OF THE FOLLOWING:

7 (A) AN INTAKE FORM THAT SERVES AS A WRITTEN COMPLAINT FOR
8 PURPOSES OF SUBSECTIONS (1) AND (5).

9 (B) FORWARDING OF AN INTAKE FORM TO AN INVESTIGATOR NOT LESS
10 THAN 48 HOURS AFTER THE INTAKE FORM IS FILLED OUT BY COMPLAINT
11 AND INQUIRY LINE STAFF.

12 (C) FORWARDING OF A COPY OF THE COMPLETED INTAKE FORM TO THE
13 CONSUMER OR COMPLAINANT WITHIN 48 HOURS AFTER IT IS COMPLETED.

14 (3) ~~-(2)-~~ The substance of the complaint shall be provided
15 to the licensee no earlier than at the commencement of the
16 on-site inspection of the nursing home which takes place pursuant
17 to the complaint.

18 (4) ~~-(3)-~~ The complaint, a copy of the complaint, or a
19 record published, released, or otherwise disclosed to the nursing
20 home shall not disclose the name of the complainant or a patient
21 named in the complaint unless the complainant or patient consents
22 in writing to the disclosure or the investigation results in an
23 administrative hearing or a judicial proceeding, or unless dis-
24 closure is considered essential to the investigation by the
25 department. If disclosure is considered essential to the inves-
26 tigation, the complainant shall be given the opportunity to
27 withdraw the complaint before disclosure.

1 (5) ~~(4)~~ Upon receipt of a complaint UNDER SUBSECTION (1)
2 OR (2), the department shall determine, based on the allegations
3 presented, whether this part, a rule promulgated under this part,
4 or a federal certification regulation for nursing homes has been,
5 is, or is in danger of being violated. ~~The~~ SUBJECT TO SUBSEC-
6 TION (2), THE department shall investigate the complaint accord-
7 ing to the urgency determined by the department. The initiation
8 of a complaint investigation shall commence within 15 days after
9 receipt of the written complaint by the department.

10 (6) ~~(5)~~ If, at any time, the department determines that
11 this part, a rule promulgated under this part, or a federal cer-
12 tification regulation for nursing homes has been violated, the
13 department shall list the violation and the provisions violated
14 on the state and federal licensure and certification forms for
15 nursing homes. The violations shall be considered, as evidenced
16 by a written explanation, by the department when it makes a
17 licensure and certification decision or recommendation.

18 (7) ~~(6)~~ In all cases, the department shall inform the com-
19 plainant of its findings unless otherwise indicated by the
20 complainant. ~~Within~~ SUBJECT TO SUBSECTION (2), WITHIN 30 days
21 after the receipt of complaint, the department shall provide the
22 complainant a copy, if any, of the written determination, the
23 correction notice, the warning notice, and the state licensure or
24 federal certification form, or both, on which the violation is
25 listed, or a status report indicating when these documents may be
26 expected. The final report shall include a copy of the original
27 complaint. The complainant may request additional copies of the

1 documents listed in this subsection and shall reimburse the
2 department for the copies in accord with established policies and
3 procedures.

4 (8) ~~-(7)-~~ A written determination, correction notice, or
5 warning notice concerning a complaint shall be available for
6 public inspection, but the name of the complainant or patient
7 shall not be disclosed without the complainant's or patient's
8 consent.

9 (9) ~~-(8)-~~ A violation discovered as a result of the com-
10 plaint investigation procedure shall be reported to persons
11 administering sections 21799c to 21799e. The violation shall be
12 assessed a penalty as described in this act.

13 (10) ~~-(9)-~~ A complainant who is dissatisfied with the deter-
14 mination or investigation by the department may request a
15 hearing. A request for a hearing shall be submitted in writing
16 to the director within 30 days after the mailing of the
17 department's findings as described in subsection ~~-(6)-~~ (7).
18 Notice of the time and place of the hearing shall be sent to the
19 complainant and the nursing home.