

HOUSE BILL No. 4846

May 30, 2001, Introduced by Reps. Schermesser, Jacobs, Rivet, Minore, Thomas, Plakas, Dennis and Gielegthem 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 be
5 submitted to the department as a written complaint or the depart-
6 ment shall assist the person in reducing an oral request to a
7 written complaint within 7 days after the oral request is made.

8 (2) The substance of the complaint shall be provided to the
9 licensee no earlier than at the commencement of the on-site
10 inspection of the nursing home ~~which~~ THAT takes place pursuant
11 to the complaint.

1 (3) The complaint, a copy of the complaint, or a record
2 published, released, or otherwise disclosed to the nursing home
3 shall not disclose the name of the complainant or a patient named
4 in the complaint unless the complainant or patient consents in
5 writing to the disclosure or the investigation results in an
6 administrative hearing or a judicial proceeding, or unless dis-
7 closure is considered essential to the investigation by the
8 department. If disclosure is considered essential to the inves-
9 tigation, the complainant shall be given the opportunity to with-
10 draw the complaint before disclosure.

11 (4) Upon receipt of a complaint, the department shall deter-
12 mine, based on the allegations presented, whether this part, a
13 rule promulgated under this part, or a federal certification reg-
14 ulation for nursing homes has been, is, or is in danger of being
15 violated. The department shall investigate the complaint accord-
16 ing to the urgency determined by the department. ~~The~~ EXCEPT AS
17 PROVIDED IN SUBSECTION (5), THE initiation of a complaint inves-
18 tigation shall commence within 15 days after receipt of the writ-
19 ten complaint by the department.

20 (5) IN ADDITION TO ANY OTHER TIME REQUIREMENT FOR THE
21 DEPARTMENT TO RESPOND TO A COMPLAINT, THE DEPARTMENT SHALL INITI-
22 ATE AN INVESTIGATION WITHIN 24 HOURS AFTER RECEIVING A COMPLAINT
23 REGARDING 1 OR MORE OF THE FOLLOWING:

24 (A) FAILURE OF A FACILITY TO READMIT A RESIDENT FOLLOWING
25 HOSPITALIZATION.

26 (B) FAILURE OF A FACILITY TO FOLLOW STATE GUIDELINES FOR
27 HOLDING A PATIENT'S BED.

1 (C) AN INVOLUNTARY TRANSFER.

2 (D) VOLUNTARY OR INVOLUNTARY CLOSURE OF A FACILITY OR RELO-
3 CATION OF A FACILITY.

4 (E) AN ALLEGATION OF INVOLUNTARY TRANSFER DUE TO A CHANGE IN
5 A PATIENT'S PAYMENT SOURCE.

6 (F) AN ALLEGATION OF A VIOLATION OF A RULE.

7 (G) DENIAL OF ADMISSION TO A FACILITY.

8 (6) ~~-(5)-~~ If ~~-, at any time,~~ the department determines that
9 this part, a rule promulgated under this part, or a federal cer-
10 tification regulation for nursing homes has been violated, the
11 department shall list the violation and the provisions violated
12 on the state and federal licensure and certification forms for
13 nursing homes. The ~~violations~~ VIOLATION shall be considered,
14 as evidenced by a written explanation, by the department when it
15 makes a licensure and certification decision or recommendation.

16 (7) ~~-(6)-~~ In all cases, the department shall inform the com-
17 plainant of its findings unless otherwise indicated by the
18 complainant. Within 30 days after the receipt of complaint, the
19 department shall provide the complainant a copy, if any, of the
20 written determination, the correction notice, the warning notice,
21 and the state licensure or federal certification form, or both,
22 on which the violation is listed, or a status report indicating
23 when these documents may be expected. The final report shall
24 include a copy of the original complaint. The complainant may
25 request additional copies of the documents listed in this subsec-
26 tion and shall reimburse the department for the copies in accord
27 with established policies and procedures.

1 (8) ~~(7)~~ A written determination, correction notice, or
2 warning notice concerning a complaint shall be available for
3 public inspection, but the name of the complainant or patient
4 shall not be disclosed without the complainant's or patient's
5 consent.

6 (9) ~~(8)~~ A violation discovered as a result of the com-
7 plaint investigation procedure shall be reported to persons
8 administering sections 21799c to 21799e. The violation shall be
9 assessed a penalty as described in this ~~act~~ ARTICLE.

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