

# HOUSE BILL No. 4253

February 19, 2003, Introduced by Reps. Anderson, Vagnozzi, Jamnick, Minore, Brown, Hopgood and Woodward and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled  
 "Public health code,"  
 by amending sections 21751 and 21786 (MCL 333.21751 and  
 333.21786).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21751. (1) When the department has concluded a  
 2 proceeding under sections 71 to 106 of the administrative  
 3 procedures act of 1969, ~~as amended, being sections 24.271 to~~  
 4 ~~24.306 of the Michigan Compiled Laws~~ **MCL 24.271 to 24.306**, or  
 5 ~~when~~ **if** the department has suspended or revoked the license of  
 6 a nursing home, the department, a patient in the ~~facility~~  
 7 **nursing home**, or a patient's representative may file an emergency  
 8 petition with the circuit court to place the nursing home under  
 9 the control of a receiver if necessary to protect the health or  
 10 safety of patients in the nursing home. The court may grant the

1 petition upon a finding that the health or safety of the patients  
2 in the nursing home would be seriously threatened if a condition  
3 existing at the time the petition was filed is permitted to  
4 continue.

5 (2) ~~The~~ **If a petition is filed under subsection (1), the**  
6 court shall appoint as receiver the director of the ~~department~~  
7 ~~of social services~~ **family independence agency**, the director of  
8 the department of ~~public health~~ **consumer and industry services**,  
9 or another state agency or person designated by the director of  
10 ~~public health~~ **the department of consumer and industry**  
11 **services**. The receiver appointed by the court shall use the  
12 income and assets of the nursing home **and, except as otherwise**  
13 **provided by law, the personal income and assets of each owner of**  
14 **the nursing home** to maintain and operate the **nursing** home and to  
15 attempt to correct the conditions ~~which~~ **that** constitute a  
16 threat to the patients **in the nursing home**. ~~A~~ **The receiver**  
17 **shall not make a** major structural alteration ~~shall not be made~~  
18 to the nursing home, unless the alteration is necessary to bring  
19 the nursing home into compliance with licensing requirements.

20 (3) To assist in the implementation of the mandate of the  
21 court, the receiver **appointed under subsection (2)** may request  
22 and receive reasonable consultation from the available personnel  
23 of the department.

24 (4) The **court shall terminate a** receivership ~~shall be~~  
25 ~~terminated~~ **ordered under this section** when the receiver and the  
26 court certify that the conditions ~~which~~ **that** prompted the  
27 appointment **of the receiver** have been corrected, when the **nursing**

1 **home's** license is restored, when a new license is issued, or, in  
2 the case of a discontinuance of operation **of the nursing home**,  
3 when the patients are safely placed in other facilities,  
4 whichever occurs first.

5 (5) Upon the termination of the receivership, the receiver  
6 shall render a complete accounting to the court and shall dispose  
7 of surplus funds as the court directs.

8 Sec. 21786. **(1)** In the case of an emergency closing of a  
9 nursing home, or ~~when it is determined by~~ **if** the department  
10 **determines** that a nursing home is suddenly no longer able to  
11 provide adequate patient care, the department shall do both of  
12 the following:

13 (a) Assure that the ~~department of social services~~ **family**  
14 **independence agency** has been notified to make arrangements for  
15 the orderly and safe discharge and transfer of the **nursing home's**  
16 patients to another facility.

17 (b) Place a representative of the department in ~~a facility~~  
18 **the nursing home** on a daily basis to do each of the following:

19 (i) Monitor the discharge **and transfer** of patients to other  
20 facilities or locations.

21 (ii) Ensure that the rights of patients are protected.

22 (iii) Discuss the discharge and relocation with each patient  
23 and next of kin or legal guardian, person, or agency responsible  
24 for the patient's placement, maintenance, and care in the  
25 ~~facility~~ **nursing home**. The **department representative shall**  
26 **produce a written summary of the** content of ~~the~~ **each**  
27 explanation and discussion ~~shall be summarized in writing~~ and

1 shall ~~be made~~ make the written summary a part of the patient's  
2 clinical record.

3       (2) If the department determines that a nursing home is no  
4 longer able to provide adequate patient care and orders the  
5 nursing home to discontinue operation, or if the department  
6 revokes a nursing home's license and as a result the nursing home  
7 discontinues operation, the department shall file a petition with  
8 the circuit court under this subsection. The department shall  
9 petition the court for an order freezing the assets and income of  
10 the nursing home and the personal assets and income of each owner  
11 of the nursing home. The department shall further petition the  
12 court for an order allowing the department to use those assets  
13 and income to pay the cost of discharging and transferring the  
14 nursing home's patients as described in this section and other  
15 costs incurred by the department under this section.