

HOUSE BILL No. 4419

March 1, 2005, Introduced by Reps. Anderson, Accavitti, Williams, Bieda, Brown, Kathleen Law, Sak, Plakas, Leland, Hopgood, Vagnozzi, Zelenko, Tobocman, Gleason, Wojno and Gonzales 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 proceeding
2 under sections 71 to 106 of the administrative procedures act of
3 1969, ~~as amended, being sections 24.271 to 24.306 of the Michigan~~
4 ~~Compiled Laws~~ **MCL 24.271 TO 24.306**, or ~~when~~ **IF** the department
5 has suspended or revoked the license of a nursing home, the
6 department, a patient in the ~~facility~~ **NURSING HOME**, or a
7 patient's representative may file an emergency petition with the

1 circuit court to place the nursing home under the control of a
2 receiver if necessary to protect the health or safety of patients
3 in the nursing home. The court may grant the petition upon a
4 finding that the health or safety of the patients in the nursing
5 home would be seriously threatened if a condition existing at the
6 time the petition was filed is permitted to continue.

7 (2) ~~The~~ **IF A PETITION IS FILED UNDER SUBSECTION (1), THE**
8 court shall appoint as receiver the director of the department of
9 ~~social~~ **HUMAN** services, the director of the department of ~~public~~
10 **COMMUNITY** health, or another state agency or person designated by
11 the director of ~~public~~ **THE DEPARTMENT OF COMMUNITY** health. The
12 receiver appointed by the court shall use the income and assets of
13 the nursing home **AND, EXCEPT AS OTHERWISE PROVIDED BY LAW, THE**
14 **PERSONAL INCOME AND ASSETS OF EACH OWNER OF THE NURSING HOME** to
15 maintain and operate the **NURSING** home and to attempt to correct the
16 conditions ~~which~~ **THAT** constitute a threat to the patients **IN THE**
17 **NURSING HOME. ~~A~~ **THE RECEIVER SHALL NOT MAKE A** major structural
18 alteration ~~shall not be made~~ to the nursing home, unless the
19 alteration is necessary to bring the nursing home into compliance
20 with licensing requirements.**

21 (3) To assist in the implementation of the mandate of the
22 court, the receiver **APPOINTED UNDER SUBSECTION (2)** may request and
23 receive reasonable consultation from ~~the~~ available personnel ~~of~~
24 **WITHIN** the department.

25 (4) The **COURT SHALL TERMINATE A** receivership ~~shall be~~
26 ~~terminated~~ **ORDERED UNDER THIS SECTION** when the receiver and the
27 court certify that the conditions ~~which~~ **THAT** prompted the

1 appointment **OF THE RECEIVER** have been corrected, when the **NURSING**
2 **HOME'S** license is restored, when a new license is issued, or, in
3 the case of a discontinuance of operation **OF THE NURSING HOME**, when
4 the patients are safely placed in other facilities, whichever
5 occurs first.

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

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

14 (a) Assure that the department of ~~social~~ **HUMAN** services has
15 been notified to make arrangements for the orderly and safe
16 discharge and transfer of the **NURSING HOME'S** patients to another
17 facility.

18 (b) Place a representative of the department in ~~a facility~~
19 **THE NURSING HOME** on a daily basis to do each of the following:

20 (i) Monitor the discharge **AND TRANSFER** of patients to other
21 facilities or locations.

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

23 (iii) Discuss the discharge and relocation with each patient and
24 next of kin or legal guardian, person, or agency responsible for
25 the patient's placement, maintenance, and care in the ~~facility~~
26 **NURSING HOME**. The **DEPARTMENT REPRESENTATIVE SHALL PRODUCE A WRITTEN**
27 **SUMMARY OF THE** content of ~~the~~ **EACH** explanation and discussion

1 ~~shall be summarized in writing~~ and shall ~~be made~~ **MAKE THE**
2 **WRITTEN SUMMARY** a part of the patient's 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 NURSING**
5 **HOME TO DISCONTINUE OPERATION, OR IF THE DEPARTMENT REVOKES A**
6 **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 AND**
13 **INCOME TO PAY THE COST OF DISCHARGING AND TRANSFERRING THE NURSING**
14 **HOME'S PATIENTS AS DESCRIBED IN THIS SECTION AND OTHER COSTS**
15 **INCURRED BY THE DEPARTMENT UNDER THIS SECTION.**