

HOUSE BILL No. 5007

June 28, 2005, Introduced by Reps. Green and Vagnozzi and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 21735.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21735. (1) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION
2 (3) OR (4), IN ACCORDANCE WITH FEDERAL LAWS, RULES, AND
3 REGULATIONS, A NURSING HOME INITIALLY LICENSED AFTER OCTOBER 1,
4 1990 SHALL MAINTAIN A TEMPERATURE OF NOT LESS THAN 71 DEGREES
5 FAHRENHEIT OR MORE THAN 81 DEGREES FAHRENHEIT MEASURED 3 FEET ABOVE
6 THE FLOOR AT ALL TIMES IN ALL AREAS OF A BUILDING ACCESSIBLE TO
7 RESIDENTS, EMPLOYEES, AND VISITORS EXCEPT FOR THE KITCHEN OR
8 LAUNDRY ROOM.

1 (2) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3) OR (4),
2 WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
3 ADDED THIS SECTION, A NURSING HOME LICENSED PRIOR TO OCTOBER 1,
4 1990 SHALL MAINTAIN A TEMPERATURE OF NOT LESS THAN 71 DEGREES
5 FAHRENHEIT OR MORE THAN 81 DEGREES FAHRENHEIT MEASURED 3 FEET ABOVE
6 THE FLOOR AT ALL TIMES IN ALL AREAS OF A BUILDING ACCESSIBLE TO
7 RESIDENTS, EMPLOYEES, AND VISITORS EXCEPT FOR THE KITCHEN OR
8 LAUNDRY ROOM. UPON WRITTEN REQUEST OF THE NURSING HOME, THE
9 DEPARTMENT MAY GRANT AN EXTENSION OF THE TIME PERIOD FOR COMPLIANCE
10 UNDER THIS SUBSECTION IF EACH OF THE FOLLOWING IS MET:

11 (A) UPON REVIEW OF THE NURSING HOME'S WRITTEN POLICIES AND
12 PROCEDURES AND EXISTING PLANS OR AGREEMENTS FOR EMERGENCY
13 SITUATIONS, THE DEPARTMENT DETERMINES THAT THERE ARE ADEQUATE
14 PROTECTIONS IN PLACE TO ENSURE THE CONTINUED SAFETY AND COMFORT OF
15 THE RESIDENTS WITHIN THAT NURSING HOME.

16 (B) BUILDING RENOVATIONS HAVE BEGUN TO BRING THE NURSING HOME
17 INTO COMPLIANCE WITH THIS SECTION OR THE NURSING HOME HAS
18 SUBMITTED, AND THE DEPARTMENT HAS APPROVED, THE NURSING HOME'S
19 PLANS FOR RENOVATION, REPAIR, OR REMODELING OF ITS BUILDING TO MEET
20 THE REQUIREMENTS OF THIS SECTION.

21 (3) IF A NURSING HOME IS LOCATED NORTH OF THE FORTY-FIFTH
22 PARALLEL OF LATITUDE, THE TEMPERATURES WITHIN THAT NURSING HOME MAY
23 ON RARE, BRIEF OCCASIONS, AS A RESULT OF RARE, BRIEF EPISODES OF
24 UNSEASONABLY HOT WEATHER, EXCEED THE UPPER RANGE OF 81 DEGREES
25 FAHRENHEIT. IF THE TEMPERATURE RANGE EXCEEDS 81 DEGREES FAHRENHEIT,
26 THE NURSING HOME SHALL MONITOR ITS RESIDENTS AND TAKE ANY
27 APPROPRIATE MEASURES TO ENSURE THE HEALTH, SAFETY, AND COMFORT OF

1 EACH RESIDENT.

2 (4) IF A NURSING HOME HAS A SEPARATE HEATING AND COOLING
3 SYSTEM FOR RESIDENT ROOMS THAT ALLOWS A RESIDENT TO CONTROL THE
4 TEMPERATURE IN HIS OR HER OWN ROOM, THE RESIDENT MAY MAINTAIN HIS
5 OR HER ROOM AT ANY LEVEL HE OR SHE DESIRES UNLESS THE TEMPERATURE
6 MAY ADVERSELY AFFECT THE HEALTH, SAFETY, OR COMFORT OF THE RESIDENT
7 OR ANY OTHER RESIDENT SHARING THAT ROOM, IN WHICH CASE THE NURSING
8 HOME SHALL INTERVENE AND TAKE APPROPRIATE ACTION TO KEEP THE
9 RESIDENT OR RESIDENTS SAFE AND COMFORTABLE. IF A RESIDENT CHOOSES
10 TO MAINTAIN THE TEMPERATURE IN HIS OR HER ROOM AT A TEMPERATURE
11 LEVEL THAT IS OUTSIDE OF THE TEMPERATURE RANGE REQUIRED UNDER THIS
12 SECTION, THAT RESIDENT SHALL SUBMIT DOCUMENTATION FROM HIS OR HER
13 PHYSICIAN APPROVING THOSE TEMPERATURE CONDITIONS. THIS
14 DOCUMENTATION SHALL BE INCLUDED WITH THAT RESIDENT'S CARE PLAN.

15 (5) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
16 ACT THAT ADDED THIS SECTION, THE NURSING HOME ADMINISTRATOR SHALL
17 DEVELOP WRITTEN POLICIES AND PROCEDURES FOR MAINTAINING SAFE AND
18 COMFORTABLE TEMPERATURES IN THE NURSING HOME, MAINTAIN A COPY OF
19 THOSE WRITTEN POLICIES AND PROCEDURES ON THE PREMISES, AND SUBMIT A
20 COPY OF THE SAME TO THE DEPARTMENT FOR FILING WITH ITS MOST RECENT
21 LICENSE OR RENEWAL APPLICATION. THE WRITTEN POLICIES AND PROCEDURES
22 SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

23 (A) MEASURES TO BE TAKEN TO ENSURE THE HEALTH, SAFETY, AND
24 COMFORT OF RESIDENTS IN THE NURSING HOME.

25 (B) IDENTIFICATION OF CIRCUMSTANCES THAT REQUIRE NOTIFICATION
26 OF THE NURSING HOME ADMINISTRATOR OR A PHYSICIAN AND THE
27 APPROPRIATE TIME FRAMES FOR THOSE ACTIONS.

1 (C) IDENTIFICATION OF AVAILABLE SITES WITHIN OR OUTSIDE THE
2 NURSING HOME TO WHICH RESIDENTS MAY BE RELOCATED IF TEMPERATURES
3 WITHIN THE NURSING HOME PRESENT A THREAT TO THE HEALTH OR SAFETY OF
4 THE RESIDENTS.

5 (6) A NURSING HOME SHALL HAVE AN EXISTING AGREEMENT OR PLAN
6 FOR EMERGENCY SITUATIONS, INCLUDING, BUT NOT LIMITED TO, AN
7 AGREEMENT OR PLAN FOR THE PROVISION OF EMERGENCY SERVICES AND
8 REPAIRS IN THE EVENT OF AN ELECTRICAL, HEATING, VENTILATION, OR AIR
9 CONDITIONING FAILURE OR MALFUNCTION. THE NURSING HOME SHALL
10 MAINTAIN A COPY OF THESE WRITTEN AGREEMENTS OR PLANS ON THE
11 PREMISES, AND THOSE SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON
12 REQUEST. REPAIR WORK THAT IS NECESSARY TO MAINTAIN THE TEMPERATURE
13 WITHIN THE RANGE DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE
14 COMPLETED WITHIN 48 HOURS OR LESS. IF, FOR REASONS BEYOND THE
15 NURSING HOME'S CONTROL, REPAIRS CANNOT BE COMPLETED IN A TIMELY
16 MANNER, THE NURSING HOME SHALL IMPLEMENT ITS WRITTEN POLICIES AND
17 PROCEDURES ESTABLISHED PURSUANT TO SUBSECTION (5).

18 (7) WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
19 ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL ESTABLISH AN AIR
20 CONDITIONING GRANT PROGRAM FOR THE PURPOSE OF PROVIDING GRANTS TO
21 NURSING HOMES THAT NEED TO REPLACE, UPDATE, OR REPAIR THEIR HEATING
22 AND COOLING SYSTEM TO MAINTAIN THE TEMPERATURE STANDARDS
23 ESTABLISHED UNDER SUBSECTION (2). THE AIR CONDITIONING GRANT
24 PROGRAM SHALL PROVIDE GRANTS TO NURSING HOMES THAT THE DEPARTMENT
25 CONSIDERS ELIGIBLE WITHIN 60 DAYS AFTER THE NURSING HOME SUBMITS
26 DOCUMENTATION TO THE DEPARTMENT VERIFYING THAT THE HEATING AND
27 COOLING SYSTEM HAS BEEN REPLACED, UPDATED, OR REPAIRED TO COMPLY

1 WITH THIS SECTION. ANY BUILDING MAINTENANCE, REPAIR, UPKEEP, OR
2 REPLACEMENT WITH SIMILAR EQUIPMENT, IMPLEMENTED AS A RESULT OF THIS
3 SECTION, IS NORMAL BUILDING MAINTENANCE AND IS NOT A RENOVATION. IN
4 EACH FISCAL YEAR GOVERNED BY THIS SUBSECTION, THE DEPARTMENT SHALL
5 ONLY EXPEND FUNDS UNDER THE AIR CONDITIONING GRANT PROGRAM IF THE
6 MEDICAID REIMBURSEMENT RATES ARE NOT BELOW THE LEVEL OF RATES IN
7 EFFECT ON JULY 1, 2004.

8 (8) IN ACCORDANCE WITH SECTIONS 2262, 2263, AND 21799D, A
9 NURSING HOME THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
10 PENALTY.