

# HOUSE BILL No. 6143

May 6, 2010, Introduced by Reps. Barnett, Liss, Polidori, Neumann, Ball, Slavens, Bauer, Spade, Womack, Constan, Robert Jones, Valentine and Dean 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 21755 (MCL 333.21755).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21755. The department may refuse to issue a license to  
2       establish or maintain and operate, or both, a nursing home to an  
3       applicant **OR LICENSEE OR TO AN APPLICANT OR LICENSEE THAT DISCLOSES**  
4       **A PERSON WITH AN OWNERSHIP INTEREST IN THE NURSING HOME UNDER**  
5       **SECTION 20142, IF ANY OF THE FOLLOWING APPLY:**

6       (a) ~~whose~~ **THE** occupational, professional, or health **FACILITY**  
7       **OR** agency license **OF THE APPLICANT, LICENSEE, OR PERSON WITH AN**  
8       **OWNERSHIP INTEREST** has been revoked during the 5 years preceding  
9       the date of application.

1           (b) ~~Whom the~~ **THE** department finds ~~is~~ **THE APPLICANT, LICENSEE,**  
2 **OR PERSON WITH AN OWNERSHIP INTEREST** not suitable to operate a  
3 nursing home because of financial incapacity or a lack of good  
4 moral character or appropriate business or professional experience.  
5 As used in this subdivision, "good moral character" means that term  
6 as defined in ~~Act No. 381 of the Public Acts of 1974, as amended,~~  
7 ~~being sections 338.41 to 338.47 of the Michigan Compiled Laws~~  
8 **SECTION 1 OF 1974 PA 381, MCL 338.41.**

9           (C) **THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP**  
10 **INTEREST HAS FILED BANKRUPTCY OR BEEN DETERMINED BANKRUPT DURING**  
11 **THE 5 YEARS PRECEDING THE DATE OF APPLICATION.**

12           (D) **A HEALTH FACILITY OR AGENCY OR OTHER ENTITY ESTABLISHED,**  
13 **MAINTAINED, OR OPERATED BY THE APPLICANT, LICENSEE, OR PERSON WITH**  
14 **AN OWNERSHIP INTEREST WAS INVOLUNTARILY CLOSED OR WAS TERMINATED**  
15 **FROM PARTICIPATION UNDER TITLE XVIII OR TITLE XIX.**

16           (E) **A HEALTH FACILITY OR AGENCY OR OTHER ENTITY ESTABLISHED,**  
17 **MAINTAINED, OR OPERATED BY THE APPLICANT, LICENSEE, OR PERSON WITH**  
18 **AN OWNERSHIP INTEREST IS EXCLUDED FROM PARTICIPATION AS A MEDICARE**  
19 **OR MEDICAID PROVIDER.**

20           (F) **THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP**  
21 **INTEREST IS DISQUALIFIED FROM BEING EMPLOYED BY, UNDER INDEPENDENT**  
22 **CONTRACT WITH, OR GRANTED CLINICAL PRIVILEGES BY A HEALTH FACILITY**  
23 **OR AGENCY UNDER SECTION 20173A.**

24           (G) **THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP**  
25 **INTEREST IS A PRINCIPAL OF A NURSING HOME THAT HAS BEEN PLACED IN**  
26 **RECEIVERSHIP DURING THE 5 YEARS PRECEDING THE DATE OF APPLICATION.**

27           (H) **THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP**

1 INTEREST IS A PRINCIPAL OF A NURSING HOME THAT HAS HAD A LICENSE  
2 DENIED, SUSPENDED, OR REVOKED DURING THE 5 YEARS PRECEDING THE DATE  
3 OF APPLICATION.

4 (I) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
5 INTEREST HAS BEEN THE SUBJECT OF AN ORDER ENJOINING AN ACT OR  
6 PRACTICE UNDER OR AN ORDER DIRECTING COMPLIANCE WITH ANY OF THE  
7 FOLLOWING:

8 (i) FEDERAL CONDITIONS OF PARTICIPATION AS A MEDICARE OR  
9 MEDICAID PROVIDER.

10 (ii) THIS ACT OR RULES PROMULGATED UNDER THIS ACT TO ESTABLISH,  
11 MAINTAIN, OR OPERATE A NURSING HOME.

12 (J) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
13 INTEREST HAS BEEN ADJUDGED TO BE ADMINISTRATIVELY, CIVILLY, OR  
14 CRIMINALLY LIABLE FOR PROFESSIONAL NEGLIGENCE, WRONGFUL DEATH, OR  
15 FOR VIOLATING AN INDIVIDUAL'S CIVIL RIGHTS UNDER ANY STATE OR  
16 FEDERAL LAW.

17 (K) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
18 INTEREST HAS AN UNPAID DEBT TO THIS STATE, EXCEPT ANY DEBT SUBJECT  
19 TO A FORMAL ADJUDICATION PROCESS.

20 (L) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
21 INTEREST HAS AN UNPAID DEBT TO THE FEDERAL GOVERNMENT FOR A CIVIL  
22 MONETARY PENALTY, EXCEPT ANY CIVIL MONETARY PENALTY SUBJECT TO A  
23 FORMAL ADJUDICATION PROCESS.

24 (M) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
25 INTEREST HAS AN UNPAID DEBT OR ASSESSMENT LEVIED BY THE INTERNAL  
26 REVENUE SERVICE DURING THE 5 YEARS PRECEDING THE DATE OF  
27 APPLICATION.

1           (N) THE APPLICANT, LICENSEE, OR PERSON WITH AN OWNERSHIP  
2 INTEREST HAS AN UNPAID DETERMINATION FOR THE PAYMENT OF WAGES AND  
3 BENEFITS UNDER 1978 PA 390, MCL 408.471 TO 408.490, EXCEPT FOR A  
4 DETERMINATION THAT IS UNDER REVIEW AS PRESCRIBED IN SECTION 11 OF  
5 1978 PA 390, MCL 408.481.

6           Enacting section 1. This amendatory act does not take effect  
7 unless Senate Bill No.\_\_\_\_ or House Bill No. 6142(request no.  
8 02819'09) of the 95th Legislature is enacted into law.