

# HOUSE BILL No. 4375

March 7, 1989, Introduced by Reps. Kosteva and DeMars and referred to the Committee on Military and Veterans' Affairs.

A bill to amend section 21767 of Act No. 368 of the Public Acts of 1978, entitled as amended  
"Public health code,"  
being section 333.21767 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 21767 of Act No. 368 of the Public Acts  
2 of 1978, being section 333.21767 of the Michigan Compiled Laws,  
3 is amended to read as follows:

4 Sec. 21767. (1) A nursing home, or an owner, administrator,  
5 employee, or representative of a nursing home shall not act as  
6 guardian, trustee, conservator, patient's representative, or pro-  
7 tective payee for a patient, except as provided in ~~subsection~~  
8 SUBSECTIONS (2), (3), (4), AND (5).

9 (2) Subject to the bonding requirements of section 21721,  
10 money or other property belonging or due a patient which is

1 received by a nursing home shall be received as trust funds or  
2 property, shall be kept separate from the funds and property of  
3 the nursing home and other patients, and shall be disbursed only  
4 as directed by the patient, BY A FIDUCIARY PURSUANT TO  
5 SUBSECTION (3), OR BY A REPRESENTATIVE PAYEE PURSUANT TO  
6 SUBSECTION (4). A written receipt shall be given to a patient  
7 whose money or other property is received by a nursing home.  
8 Upon request, but not less than once every 3 months, the nursing  
9 home shall furnish the patient a complete and verified statement  
10 of the funds or other property received by the nursing home. The  
11 statement shall contain the amounts and items received, the  
12 sources, the disposition, and the date of each transaction. The  
13 nursing home shall furnish a final statement not later than 10  
14 days after the discharge of a patient.

15 (3) A NURSING HOME ADMINISTRATOR, OR AN EMPLOYEE OR REPRE-  
16 SENTATIVE OF A NURSING HOME WHO IS DESIGNATED BY A NURSING HOME  
17 ADMINISTRATOR, MAY ACCEPT APPOINTMENT AS A FIDUCIARY PURSUANT TO  
18 APPLICABLE FEDERAL LAW TO ADMINISTER THE FUNDS OF A RESIDENT WHO  
19 IS A VETERAN OR A DEPENDENT OF A VETERAN, RECEIVES VETERANS'  
20 ADMINISTRATION BENEFITS, AND HAS BEEN FOUND BY THE VETERANS'  
21 ADMINISTRATION TO BE INCOMPETENT TO HANDLE HIS OR HER OWN FUNDS.

22 (4) A NURSING HOME ADMINISTRATOR, OR AN EMPLOYEE OR REPRE-  
23 SENTATIVE OF A NURSING HOME WHO IS APPOINTED BY A NURSING HOME  
24 ADMINISTRATOR, MAY ACCEPT APPOINTMENT AS A REPRESENTATIVE PAYEE  
25 PURSUANT TO APPLICABLE FEDERAL LAW TO ADMINISTER THE FUNDS OF A  
26 RESIDENT WHO RECEIVES SOCIAL SECURITY BENEFITS AND WHO HAS BEEN

1 FOUND BY THE SOCIAL SECURITY ADMINISTRATION TO NEED THE SERVICES  
2 OF A REPRESENTATIVE PAYEE.

3 (5) IN ADDITION TO MEETING ANY APPLICABLE REQUIREMENTS OF  
4 THIS ACT OR FEDERAL LAW WITH REGARD TO ADMINISTERING THE FUNDS OF  
5 NURSING HOME RESIDENTS, A PERSON ACTING AS A FIDUCIARY UNDER  
6 SUBSECTION (3) OR A REPRESENTATIVE PAYEE UNDER SUBSECTION (4)  
7 SHALL MAINTAIN APPROPRIATE RECORDS SATISFACTORY TO THE  
8 DEPARTMENT. THE RECORDS SHALL BE AVAILABLE FOR INSPECTION AT ANY  
9 TIME UPON REQUEST BY THE DEPARTMENT.

10 (6) A NURSING HOME SHALL NOT REQUIRE FIDUCIARY AUTHORITY OR  
11 REPRESENTATIVE PAYEE AUTHORITY AS A CONDITION OF ADMISSION OR  
12 CONTINUED STAY IN THE FACILITY. A NURSING HOME SHALL NOT TAKE  
13 ADVANTAGE OF, OR BENEFIT FROM, THE AUTHORITY GRANTED TO AN  
14 APPOINTED FIDUCIARY OR REPRESENTATIVE PAYEE BY RENDERING OR  
15 OBTAINING UNNECESSARY OR ADDITIONAL SERVICES OR ASSESSING FACIL-  
16 ITY FEES WHICH RESULT IN IMPROPER USE OR EXHAUSTION OF THE  
17 RESIDENT'S PERSONAL FUNDS.