



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## NURSING HOMES; PATIENT ABUSE

House Bill 5759

Sponsor: Rep. Sandra Caul

Committee: Senior Health, Security and  
Retirement

Complete to 5-9-00

### A SUMMARY OF HOUSE BILL 5759 AS INTRODUCED 5-9-00

The bill would amend the Public Health Code's provisions regarding the investigation and disciplinary procedures that apply when patient abuse in a nursing home is alleged.

Under current law, a nursing home licensee, administrator, or employee is prohibited from physically, mentally, or emotionally abusing, mistreating, or harmfully neglecting a patient. The bill would modify this provision to specifically include a nurse's aide, and to prohibit, in addition, the theft or larceny of the personal property of a patient.

Current law requires nursing home employees to report incidents of patient abuse to the nursing home administrator or nursing director, who must then report the matter to the Department of Public Health (now the Department of Consumer and Industry Services), which in turn reports incidents to the Department of Social Services (now renamed the Family Independence Agency). Physicians and other licensed health professionals are also required to report such incidents, and any person may make such a report. Current law requires the department to make an investigation upon receipt of a report.

The bill would expand this provision to conform to requirements in the federal Social Security Act [Title XVIII, Part A, Section 1819(g)(1)(c)]. The bill would require the Department of Consumer and Industry Services to investigate a report of patient abuse allegedly committed by a nurse's aide in a nursing home according to the requirements of federal law. The department would be required to commence an investigation within 10 days after receiving a report, and complete the investigation within 30 days after receiving it. The department could require the person making the report to submit a written report or to supply additional information, or both. After commencing an investigation, the department would be required to notify, in writing, the subject of the complaint of the nature of the allegations. The department could extend the bill's specified time periods for commencing an investigation (10 days) and for completing an investigation (30 days) for not more than an additional 30 days, if the department documented sufficient reason for a delay, including, but not limited to, further investigation or verification of the report.

Within 10 days after completing the investigation, the department would have to notify, in writing, the individual who is alleged to have committed the abusive act. Further, the department would have to send a copy of the notice to the nursing home.

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Federal law requires the state to provide the individual with the opportunity for a hearing to rebut the allegations. Under the bill, such a hearing would be conducted as a contested case hearing under the Administrative Procedures Act. The department would be a party to the hearing and would be represented by the attorney general. Further, the department would have to give notice and an opportunity to intervene in the hearing to the nursing home involved. Finally, within 10 days after the completion of the hearing, the department would be required to notify the individual who was the subject of the hearing, and if applicable, the nurse's aide registry maintained by the department, of the results of the hearing.

In addition, the bill would amend this section of the Public Health Code to update references to the Department of Consumer and Industry Services (which now regulates health facilities, rather than the [formerly named] Department of Public Health), and to the Family Independence Agency (formerly the Department of Social Services).

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Analyst: D. Martens

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