

HOUSE BILL No. 5759

May 9, 2000, Introduced by Reps. Caul, Vander Roest, Voorhees, Faunce, Shackleton, Julian, Van Woerkom, Gilbert and Bisbee 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 21771 (MCL 333.21771).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21771. (1) A licensee, nursing home administrator,
2 NURSE'S AIDE, or OTHER employee of a nursing home shall not
3 ~~physically,~~ DO EITHER OF THE FOLLOWING:
4 (A) PHYSICALLY, mentally, or emotionally abuse, mistreat, or
5 harmfully neglect a patient.
6 (B) COMMIT A THEFT OR LARCENY OF THE PERSONAL PROPERTY OF A
7 PATIENT.
8 (2) A nursing home employee who becomes aware of an act pro-
9 hibited by ~~this section~~ SUBSECTION (1) immediately shall report
10 the matter to the nursing home administrator or nursing
11 director. A nursing home administrator or nursing director who

HB5759, As Passed House, May 25, 2000

H.B. 5759 as amended May 25, 2000

2

1 becomes aware of an act prohibited by this section immediately
2 shall report the matter by telephone to the department of ~~public~~
3 ~~health~~ CONSUMER AND INDUSTRY SERVICES, which in turn shall
4 notify the ~~department of social services~~ FAMILY INDEPENDENCE
5 AGENCY.

6 (3) Any person may report a violation of ~~this section~~
7 SUBSECTION (1) to the department.

8 (4) A physician or other licensed health care ~~personnel~~
9 PROFESSIONAL of a hospital or other health ~~care~~ facility OR
10 AGENCY to which a patient is transferred who becomes aware of an
11 act prohibited by ~~this section~~ SUBSECTION (1) shall report the
12 act to the department.

13 (5) Upon receipt of a report made under ~~this section~~
14 SUBSECTION (2), (3), OR (4), the department shall make an
15 investigation. The department may require the person making the
16 report to submit a written report or to supply additional infor-
17 mation, or both.

18 (6) UPON RECEIPT OF A REPORT OF A VIOLATION OF SUBSECTION
19 (1) ALLEGEDLY COMMITTED BY A [NURSING HOME EMPLOYEE], THE DEPARTMENT
OF CON-
20 SUMER AND INDUSTRY SERVICES SHALL INVESTIGATE THE ALLEGATIONS,
21 PURSUANT TO SECTION 1819(g)(1)(C) OF PART A OF TITLE XVIII OF THE
22 SOCIAL SECURITY ACT, 42 U.S.C. 1395i-3. THE DEPARTMENT OF CON-
23 SUMER AND INDUSTRY SERVICES SHALL COMMENCE THE INVESTIGATION
24 WITHIN 10 DAYS AFTER RECEIVING THE REPORT AND SHALL COMPLETE THE
25 INVESTIGATION WITHIN 30 DAYS AFTER RECEIVING THE REPORT. THE
26 DEPARTMENT MAY REQUIRE THE PERSON MAKING THE REPORT TO SUBMIT A
27 WRITTEN REPORT OR TO SUPPLY ADDITIONAL INFORMATION, OR BOTH.

HB5759, As Passed House, May 25, 2000

HB5759, As Passed House, May 25, 2000

3

1 AFTER COMMENCING AN INVESTIGATION UNDER THIS SUBSECTION, THE
2 DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL NOTIFY, IN
3 WRITING, THE SUBJECT OF THE COMPLAINT AND THE NATURE OF THE
4 ALLEGATIONS. THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
5 MAY EXTEND THE TIME PERIODS DESCRIBED IN THIS SUBSECTION FOR NOT
6 MORE THAN 30 ADDITIONAL DAYS IF IT DOCUMENTS SUFFICIENT REASON
7 FOR A DELAY INCLUDING, BUT NOT LIMITED TO, FURTHER INVESTIGATION
8 OR VERIFICATION OF THE REPORT.

9 (7) WITHIN 10 DAYS AFTER COMPLETING THE INVESTIGATION
10 REQUIRED UNDER SUBSECTION (6), THE DEPARTMENT OF CONSUMER AND
11 INDUSTRY SERVICES SHALL NOTIFY IN WRITING THE INDIVIDUAL ALLEGED
12 TO HAVE VIOLATED SUBSECTION (1) AS REQUIRED UNDER
13 SECTION 1819(g)(1)(C) OF PART A OF TITLE XVIII OF THE SOCIAL
14 SECURITY ACT, 42 U.S.C. 1395i-3. THE DEPARTMENT SHALL SEND A
15 COPY OF THE NOTICE TO THE NURSING HOME INVOLVED IN THE
16 INVESTIGATION.

17 (8) ~~-(6)-~~ A licensee or nursing home administrator shall not
18 evict, harass, dismiss, or retaliate against a patient, a
19 patient's representative, or an employee who makes a report under
20 this section.

21 (9) A HEARING HELD BY THE DEPARTMENT OF CONSUMER AND INDUS-
22 TRY SERVICES PURSUANT TO SECTION 1819(g)(1)(C) OF PART A OF TITLE
23 XVIII OF THE SOCIAL SECURITY ACT, 42 U.S.C. 1395i-3, SHALL BE
24 CONDUCTED AS A CONTESTED CASE HEARING UNDER CHAPTER 4 OF THE
25 ADMINISTRATIVE PROCEDURES ACT OF 1969, MCL 24.271 TO 24.287. THE
26 DEPARTMENT SHALL BE A PARTY TO THE HEARING AND SHALL BE
27 REPRESENTED BY THE DEPARTMENT OF ATTORNEY GENERAL AT THE

HB5759, As Passed House, May 25, 2000

4

1 HEARING. THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL
2 GIVE NOTICE AND AN OPPORTUNITY TO INTERVENE IN THE PROCEEDINGS TO
3 THE NURSING HOME THAT IS THE EMPLOYER OF THE INDIVIDUAL WHO IS
4 THE SUBJECT OF THE HEARING.

5 (10) WITHIN 10 DAYS AFTER THE COMPLETION OF THE HEARING
6 DESCRIBED IN SUBSECTION (9), THE DEPARTMENT OF CONSUMER AND
7 INDUSTRY SERVICES SHALL NOTIFY THE INDIVIDUAL WHO IS THE SUBJECT
8 OF THE HEARING AND, IF APPLICABLE, THE NURSE'S AIDE REGISTRY
9 MAINTAINED BY THE DEPARTMENT, OF THE RESULTS OF THE HEARING.