



# 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

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 NURSE'S AIDE, 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.

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

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.