

SUBSTITUTE FOR  
HOUSE BILL NO. 4062

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 21799a (MCL 333.21799a).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 21799a. (1) A person who believes that this part, a  
2 rule promulgated under this part, or a federal certification  
3 regulation applying to a nursing home may have been violated may  
4 request an investigation of a nursing home. The request ~~shall~~  
5 **may** be submitted to the department **of consumer and industry**  
6 **services** as a written complaint, or the department **of consumer**  
7 **and industry services** shall assist ~~the~~ a person in reducing an  
8 oral request **made under subsection (2)** to a written complaint  
9 ~~within 7 days after the oral request is made~~ **as provided in**  
10 **subsection (2).**

11       (2) The department of consumer and industry services shall

1 provide a toll-free telephone consumer complaint line. The  
2 complaint line shall be accessible 24 hours per day and monitored  
3 at a level to ensure that each priority complaint is identified  
4 and that a response is initiated to each priority complaint  
5 within 24 hours after its receipt. The department of consumer  
6 and industry services shall establish a system for the complaint  
7 line that includes at least all of the following:

8 (a) An intake form that serves as a written complaint for  
9 purposes of subsections (1) and (5).

10 (b) The forwarding of an intake form to an investigator not  
11 later than the next business day after the complaint is  
12 identified as a priority complaint.

13 (c) Except for an anonymous complaint, the forwarding of a  
14 copy of the completed intake form to the complainant not later  
15 than 5 business days after it is completed.

16 (3) ~~-(2)-~~ The substance of ~~the~~ a complaint shall be  
17 provided to the licensee no earlier than at the commencement of  
18 the on-site inspection of the nursing home ~~which~~ that takes  
19 place ~~pursuant~~ in response to the complaint.

20 (4) ~~-(3)-~~ ~~The~~ A complaint, a copy of ~~the~~ a complaint, or a  
21 record published, released, or otherwise disclosed to the nursing  
22 home shall not disclose the name of the complainant or a patient  
23 named in the complaint unless the complainant or patient consents  
24 in writing to the disclosure or the investigation results in an  
25 administrative hearing or a judicial proceeding, or unless  
26 disclosure is considered essential to the investigation by the  
27 department. If disclosure is considered essential to the

1 investigation, the complainant shall be given the opportunity to  
2 withdraw the complaint before disclosure.

3       (5) ~~-(4)-~~ Upon receipt of a complaint **under subsection (1) or**  
4 **(2)**, the department **of consumer and industry services** shall  
5 determine, based on the allegations presented, whether this part,  
6 a rule promulgated under this part, or a federal certification  
7 regulation for nursing homes has been, is **being**, or is in danger  
8 of being violated. ~~The~~ **Subject to subsection (2), the**  
9 department **of consumer and industry services** shall investigate  
10 the complaint according to the urgency determined by the  
11 department **of consumer and industry services**. The initiation of  
12 a complaint investigation shall commence within 15 days after  
13 receipt of the written complaint by the department **of consumer**  
14 **and industry services**.

15       (6) ~~-(5)-~~ If, at any time, the department **of consumer and**  
16 **industry services** determines that this part, a rule promulgated  
17 under this part, or a federal certification regulation for  
18 nursing homes has been violated, the department **of consumer and**  
19 **industry services** shall list the violation and the provisions  
20 violated on the state and federal licensure and certification  
21 forms for nursing homes. The violations shall be considered, as  
22 evidenced by a written explanation, by the department **of consumer**  
23 **and industry services** when it makes a licensure and certification  
24 decision or recommendation.

25       (7) ~~-(6)-~~ In all cases, the department **of consumer and**  
26 **industry services** shall inform the complainant of its findings  
27 unless otherwise indicated by the complainant. ~~Within~~ **Subject**

1 to subsection (2), within 30 days after the receipt of complaint,  
2 the department of consumer and industry services shall provide  
3 the complainant a copy, if any, of the written determination, the  
4 correction notice, the warning notice, and the state licensure or  
5 federal certification form, or both, on which the violation is  
6 listed, or a status report indicating when these documents may be  
7 expected. The final report shall include a copy of the original  
8 complaint. The complainant may request additional copies of the  
9 documents listed in this subsection and shall reimburse the  
10 department of consumer and industry services for the copies in  
11 accord with established policies and procedures.

12 (8) ~~-(7)-~~ A written determination, correction notice, or  
13 warning notice concerning a complaint shall be available for  
14 public inspection, but the name of the complainant or patient  
15 shall not be disclosed without the complainant's or patient's  
16 consent.

17 (9) ~~-(8)-~~ A violation discovered as a result of the complaint  
18 investigation procedure shall be reported to persons  
19 administering sections 21799c to 21799e. The violation shall be  
20 assessed a penalty as described in this act.

21 (10) ~~-(9)-~~ A complainant who is dissatisfied with the  
22 department of consumer and industry services' determination or  
23 investigation ~~by the department~~ may request a hearing. A  
24 request for a hearing shall be submitted in writing to the  
25 director within 30 days after the mailing of the ~~department's~~  
26 department of consumer and industry services' findings as  
27 described in subsection ~~-(6)-~~ (7). Notice of the time and place

1 of the hearing shall be sent to the complainant and the nursing  
2 home.

3       (11) As used in this section, "priority complaint" means a  
4 complaint alleging an existing situation that involves physical,  
5 mental, or emotional abuse, mistreatment, or harmful neglect of a  
6 resident that requires immediate corrective action to prevent  
7 serious injury, serious harm, serious impairment, or death of a  
8 resident while receiving care in a facility.