

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4062

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 21799a (MCL 333.21799a), as amended by 2003
PA 3.

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 person ~~shall~~
5 **may** submit the request for investigation to the department ~~of~~
6 ~~consumer and industry services~~ as a written complaint, or the
7 department shall assist ~~the~~ a person in reducing an oral
8 request **made under subsection (2)** to a written complaint ~~within~~
9 ~~7 days after the oral request is made~~ **as provided in subsection**
10 (2). A person filing a complaint under this subsection may file

1 the complaint on a model standardized complaint form developed
2 and distributed by the department under section 20194(3) or file
3 the complaint as provided by the department on the internet.

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

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

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

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

19 (3) ~~(2)~~ The substance of a complaint filed under subsection
20 (1) **or** (2) shall be provided to the licensee no earlier than at
21 the commencement of the on-site inspection of the nursing home
22 that takes place ~~pursuant~~ **in response** to the complaint.

23 (4) ~~(3)~~ A complaint filed under subsection (1) **or** (2), a
24 copy of the complaint, or a record published, released, or
25 otherwise disclosed to the nursing home shall not disclose the
26 name of the complainant or a patient named in the complaint
27 unless the complainant or patient consents in writing to the

1 disclosure or the investigation results in an administrative
2 hearing or a judicial proceeding, or unless disclosure is
3 considered essential to the investigation by the department. ~~of~~
4 ~~consumer and industry services.~~ If the department considers
5 disclosure essential to the investigation, the department shall
6 give the complainant the opportunity to withdraw the complaint
7 before disclosure.

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

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

27 (7) ~~(6)~~ In all cases, the department ~~of consumer and~~

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

14 (8) ~~(7)~~ The department ~~of consumer and industry services~~
15 shall make a written determination, correction notice, or warning
16 notice concerning a complaint available for public inspection,
17 but the department shall not disclose the name of the complainant
18 or patient without the complainant's or patient's consent.

19 (9) ~~(8)~~ The department ~~of consumer and industry services~~
20 shall report a violation discovered as a result of the complaint
21 investigation procedure to persons administering sections 21799c
22 to 21799e. The department shall assess a penalty for a
23 violation, as prescribed by this article.

24 (10) ~~(9)~~ A complainant who is dissatisfied with the
25 determination or investigation by the department ~~of consumer and~~
26 ~~industry services~~ may request a hearing. A complainant shall
27 submit a request for a hearing in writing to the director within

1 30 days after the mailing of the department's findings as
2 described in subsection ~~(6)~~ (7). The department shall send
3 notice of the time and place of the hearing to the complainant
4 and the nursing home.

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