

SUBSTITUTE FOR  
HOUSE BILL NO. 4450

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

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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  
19 SUBSECTION (1) COMMITTED BY A PERSON LICENSED OR REGISTERED UNDER  
20 ARTICLE 15 OR UNDER THE OCCUPATIONAL CODE, 1980 PA 299,  
21 MCL 339.101 TO 339.2721, THE DEPARTMENT SHALL IMMEDIATELY NOTIFY  
22 THE APPROPRIATE LICENSING OR REGISTRATION BOARD OF THE REPORT OF  
23 THE VIOLATION.

24 (7) UPON RECEIPT OF A REPORT OF A VIOLATION OF SUBSECTION  
25 (1) ALLEGEDLY COMMITTED BY A NURSING HOME EMPLOYEE, THE DEPART-  
26 MENT OF CONSUMER AND INDUSTRY SERVICES SHALL INVESTIGATE THE  
27 ALLEGATIONS, PURSUANT TO SECTION 1819(g)(1)(C) OF PART A OF TITLE

1 XVIII OF THE SOCIAL SECURITY ACT, 42 U.S.C. 1395i-3. THE  
2 DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL COMMENCE THE  
3 INVESTIGATION WITHIN 10 DAYS AFTER RECEIVING THE REPORT AND SHALL  
4 COMPLETE THE INVESTIGATION WITHIN 30 DAYS AFTER RECEIVING THE  
5 REPORT. THE DEPARTMENT MAY REQUIRE THE PERSON MAKING THE REPORT  
6 TO SUBMIT A WRITTEN REPORT OR TO SUPPLY ADDITIONAL INFORMATION,  
7 OR BOTH. AFTER COMMENCING AN INVESTIGATION UNDER THIS SUBSEC-  
8 TION, THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES SHALL  
9 NOTIFY, IN WRITING, THE INDIVIDUAL WHO IS THE SUBJECT OF THE COM-  
10 PLAINT CONCERNING THE NATURE OF THE ALLEGATIONS. THE DEPARTMENT  
11 OF CONSUMER AND INDUSTRY SERVICES MAY EXTEND THE TIME PERIODS  
12 DESCRIBED IN THIS SUBSECTION FOR NOT MORE THAN 30 ADDITIONAL DAYS  
13 IF IT DOCUMENTS SUFFICIENT REASON FOR A DELAY INCLUDING, BUT NOT  
14 LIMITED TO, FURTHER INVESTIGATION OR VERIFICATION OF THE REPORT.

15 (8) WITHIN 10 DAYS AFTER COMPLETING THE INVESTIGATION  
16 REQUIRED UNDER SUBSECTION (7), THE DEPARTMENT OF CONSUMER AND  
17 INDUSTRY SERVICES SHALL NOTIFY IN WRITING THE INDIVIDUAL ALLEGED  
18 TO HAVE VIOLATED SUBSECTION (1) AS REQUIRED UNDER  
19 SECTION 1819(g)(1)(C) OF PART A OF TITLE XVIII OF THE SOCIAL  
20 SECURITY ACT, 42 U.S.C. 1395i-3. THE DEPARTMENT SHALL INCLUDE IN  
21 THE NOTICE A STATEMENT OF THE INDIVIDUAL'S ABILITY TO REQUEST A  
22 HEARING UNDER SUBSECTIONS (9) AND (11). THE DEPARTMENT SHALL  
23 SEND A COPY OF THE NOTICE TO THE NURSING HOME INVOLVED IN THE  
24 INVESTIGATION.

25 (9) WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN NOTICE OF A  
26 VIOLATION OF SUBSECTION (1) RESULTING FROM AN INVESTIGATION  
27 CONDUCTED UNDER SUBSECTION (7), THE PERSON DETERMINED TO HAVE

1 COMMITTED THE VIOLATION MAY REQUEST A HEARING UNDER  
2 SUBSECTION (11). IF THE PERSON FAILS TO REQUEST A HEARING OR TO  
3 APPEAR FOR A SCHEDULED HEARING, THE DEPARTMENT SHALL REPORT THE  
4 VIOLATION TO THE NURSE'S AIDE REGISTRY.

5 (10) ~~-(6)-~~ A licensee or nursing home administrator shall  
6 not evict, harass, dismiss, or retaliate against a patient, a  
7 patient's representative, or an employee who makes a report under  
8 this section.

9 (11) A HEARING HELD BY THE DEPARTMENT OF CONSUMER AND INDUS-  
10 TRY SERVICES UNDER SECTION 1819(g)(1)(C) OF PART A OF TITLE XVIII  
11 OF THE SOCIAL SECURITY ACT, 42 U.S.C. 1395i-3, SHALL BE CONDUCTED  
12 AS A CONTESTED CASE HEARING UNDER CHAPTER 4 OF THE ADMINISTRATIVE  
13 PROCEDURES ACT OF 1969, MCL 24.271 TO 24.287. THE DEPARTMENT  
14 SHALL BE A PARTY TO THE HEARING AND SHALL BE REPRESENTED BY THE  
15 DEPARTMENT OF ATTORNEY GENERAL AT THE HEARING. THE DEPARTMENT OF  
16 CONSUMER AND INDUSTRY SERVICES SHALL GIVE NOTICE AND AN OPPORTU-  
17 NITY TO INTERVENE IN THE PROCEEDINGS TO THE NURSING HOME THAT IS  
18 THE EMPLOYER OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE  
19 HEARING. THE DEPARTMENT SHALL SCHEDULE A HEARING WITHIN 15 DAYS  
20 AFTER A REQUEST FOR A HEARING.

21 (12) WITHIN 10 DAYS AFTER THE COMPLETION OF THE HEARING  
22 DESCRIBED IN SUBSECTION (11), THE DEPARTMENT OF CONSUMER AND  
23 INDUSTRY SERVICES SHALL ISSUE ITS FINDINGS IN WRITING AND NOTIFY  
24 THE INDIVIDUAL WHO IS THE SUBJECT OF THE HEARING AND, IF APPLICA-  
25 BLE, THE NURSE'S AIDE REGISTRY MAINTAINED BY THE DEPARTMENT, OF  
26 THE RESULTS OF THE HEARING.