

HOUSE BILL No. 6047

April 15, 2010, Introduced by Reps. Valentine, Liss, Tlaib and Dean and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21799c (MCL 333.21799c), as amended by 1996 PA 546.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21799c. (1) A person who violates 1 of the following
2 sections is guilty of a misdemeanor, punishable by imprisonment for
3 not more than 1 year or a fine of not less than \$1,000.00, nor more
4 than \$10,000.00, or both:

- 5 (a) Section 21711.
6 (b) Section 21712.
7 (c) Section 21763(5).

1 (d) Section 21765a(1) or (2).

2 (e) Section 21771(1) or (6).

3 (f) Section 21791.

4 (2) A person who violates section 21765a(1) or (2) is liable
5 to an applicant or patient in a civil action for treble the amount
6 of actual damages or \$1,000.00, whichever is greater, together with
7 costs and reasonable attorney fees.

8 (3) For the purpose of computing administrative penalties
9 under this section, the number of patients per day is based on the
10 average number of patients in the nursing home during the 30 days
11 immediately preceding the discovery of the violation.

12 (4) If the department finds a violation of section 20201 as to
13 a particular nursing home patient, the department shall issue an
14 order requiring the nursing home to pay to the patient \$100.00, or
15 to reimburse the patient for costs incurred or injuries sustained
16 as a result of the violation, whichever is greater. The department
17 also shall assess the nursing home an administrative penalty that
18 is the lesser of the following:

19 (a) Not more than \$1,500.00.

20 (b) \$15.00 per patient bed.

21 (5) The department of community health shall promulgate rules
22 for a quality of care allowance formula that is consistent with the
23 recommendations of the fiscal incentives subcommittee to the
24 committee on nursing home reimbursement established pursuant to ~~Act~~
25 ~~No. 241 of the Public Acts of 1975~~ **PA 241**, as described in the
26 November 24, 1975 interim report, in the December 3, 1975 final
27 report, and the November 24, 1976 report of the committee

1 recommending appropriate changes in the procedures utilized.

2 (6) The department shall not assess an administrative penalty
3 under subsection (4) for a violation of this part for which a
4 nursing home's reimbursement is withheld under subsection (5).

5 (7) A LICENSEE, NURSING HOME ADMINISTRATOR, OR EMPLOYEE OF A
6 NURSING HOME WHO KNOWINGLY AND WILLFULLY MAKES A FALSE STATEMENT TO
7 THE DEPARTMENT IN THE COURSE OF A VISIT MADE FOR THE PURPOSE OF
8 SURVEY, EVALUATION, OR CONSULTATION OR IN THE COURSE OF AN
9 INVESTIGATION MADE PURSUANT TO A COMPLAINT IS GUILTY OF A
10 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR
11 A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$10,000.00, OR BOTH.
12 A LICENSEE, NURSING HOME ADMINISTRATOR, OR EMPLOYEE OF A NURSING
13 HOME CANNOT BE FOUND GUILTY OF KNOWINGLY AND WILLFULLY MAKING A
14 FALSE STATEMENT UNDER THIS SUBSECTION UNLESS GUILT IS ESTABLISHED
15 BY LEGAL AND COMPETENT EVIDENCE BEYOND A REASONABLE DOUBT.