

SENATE BILL NO. 335

May 11, 2023, Introduced by Senators CHANG, MOSS, GEISS, POLEHANKI, WOJNO, SHINK, CAVANAGH, CHERRY, KLINEFELT, IRWIN, MCBROOM, BAYER and CAMILLERI and referred to the Committee on Regulatory Affairs.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20165 (MCL 333.20165), as amended by 2008 PA 39, and by adding sections 17233 and 21526.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17233. (1) A registered professional nurse's refusal to
2 accept a hospital's request to work more than the registered
3 professional nurse's regularly scheduled hours according to the
4 registered professional nurse's predetermined work schedule at the

1 hospital is not, by itself, grounds for administrative action under
2 sections 16221 and 16226.

3 (2) As used in this section, "hospital" means that term as
4 defined in section 20106.

5 Sec. 20165. (1) Except as otherwise provided in this section,
6 after notice of intent to an applicant or licensee to deny, limit,
7 suspend, or revoke the applicant's or licensee's license or
8 certification and an opportunity for a hearing, the department may
9 deny, limit, suspend, or revoke the license or certification or
10 impose an administrative fine on a licensee if 1 or more of the
11 following exist:

12 (a) Fraud or deceit in obtaining or attempting to obtain a
13 license or certification or in the operation of the licensed health
14 facility or agency.

15 (b) A violation of this article or a rule promulgated under
16 this article.

17 (c) False or misleading advertising.

18 (d) Negligence or failure to exercise due care, including
19 negligent supervision of employees and subordinates.

20 (e) Permitting a license or certificate to be used by an
21 unauthorized health facility or agency.

22 (f) Evidence of abuse regarding a patient's health, welfare,
23 or safety or the denial of a patient's rights.

24 (g) Failure to comply with section 10115.

25 (h) Failure to comply with part 222 or a term, condition, or
26 stipulation of a certificate of need issued under part 222, or
27 both.

28 (i) A violation of section 20197(1).

29 (j) A violation of section 21526.

1 (2) The department may deny an application for a license or
2 certification based on a finding of a condition or practice that
3 would constitute a violation of this article if the applicant were
4 a licensee.

5 (3) Denial, suspension, or revocation of an individual
6 emergency medical services personnel license under part 209 is
7 governed by section 20958.

8 (4) If the department determines under subsection (1) that a
9 health facility or agency has violated section 20197(1), the
10 department shall impose an administrative fine of \$5,000,000.00 on
11 the health facility or agency.

12 (5) If the department determines under subsection (1) that a
13 hospital has violated section 21526, the department shall impose an
14 administrative fine of \$1,000.00 on the hospital for each violation
15 and may impose any of the sanctions described in subsection (1).

16 Sec. 21526. (1) Except as otherwise provided in subsection
17 (3), a hospital shall not require a registered professional nurse
18 to work more than the registered professional nurse's regularly
19 scheduled hours according to the registered professional nurse's
20 predetermined work schedule.

21 (2) If a registered professional nurse works 12 or more
22 consecutive hours at a hospital, the hospital shall provide the
23 registered professional nurse with 8 consecutive hours of off-duty
24 time immediately after the registered professional nurse completes
25 that shift.

26 (3) Subsection (1) does not apply under any of the following
27 circumstances:

28 (a) During a declared state of emergency.

29 (b) If a registered professional nurse is assisting with a

1 patient-care procedure that extends beyond the registered
2 professional nurse's regularly scheduled hours according to the
3 registered professional nurse's predetermined work schedule and the
4 registered professional nurse's immediate supervisor, other than a
5 charge nurse, determines that the absence of the registered
6 professional nurse during the patient-care procedure could have an
7 adverse effect on the patient.

8 (c) If a registered professional nurse voluntarily accepts a
9 work assignment that causes the registered professional nurse's
10 hours to exceed the registered professional nurse's regularly
11 scheduled hours according to the registered professional nurse's
12 predetermined work schedule.

13 (4) A hospital shall not discharge or discipline, threaten to
14 discharge or discipline, or otherwise discriminate against a
15 registered professional nurse who is an employee of the hospital
16 regarding the registered professional nurse's compensation, terms,
17 conditions, assignment, or privileges of employment because the
18 registered professional nurse refuses to accept a work assignment
19 that causes the registered professional nurse's hours to exceed the
20 registered professional nurse's regularly scheduled hours according
21 to the registered professional nurse's predetermined work schedule.

22 (5) A hospital shall post a notice that informs registered
23 professional nurses who are employed by the hospital of this
24 section and how to file a complaint with the department for a
25 suspected violation of this section. The hospital shall post the
26 notice described in this subsection in 1 or more conspicuous places
27 where notices to employees of the hospital are customarily posted
28 and, if the hospital uses an intranet site to communicate with its
29 employees, on the hospital's intranet site.

1 (6) A hospital that violates this section is subject to the
2 administrative sanctions prescribed in section 20165.

3 (7) If a collective bargaining agreement is in effect for
4 employees of a hospital as of the effective date of the amendatory
5 act that added this section and if that collective bargaining
6 agreement prevents compliance with this section, then this section
7 does not apply until after the expiration of that collective
8 bargaining agreement.

9 (8) As used in this section:

10 (a) "Declared state of emergency" means an emergency that is
11 declared by a person authorized by the federal government, a local
12 government, or this state and that is related to a circumstance
13 that is unpredictable or unavoidable, affects the delivery of
14 medical care, and requires an immediate or exceptional level of
15 emergency or other medical services at the hospital. Declared state
16 of emergency does not include an emergency that results from a
17 labor dispute in the health care industry or consistent
18 understaffing in the hospital.

19 (b) "Registered professional nurse" means that term as defined
20 in section 17201.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.