

HOUSE BILL No. 4107

January 31, 2001, Introduced by Reps. Anderson, Plakas, Schauer, Schermesser, Gielegghem, Zelenko, Bogardus, Frank and Stewart and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 21751 and 21786 (MCL 333.21751 and
333.21786).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21751. (1) When the department has concluded a pro-
2 ceeding under sections 71 to 106 of the administrative procedures
3 act of 1969, ~~as amended, being sections 24.271 to 24.306 of the~~
4 ~~Michigan Compiled Laws~~ MCL 24.271 TO 24.306, or ~~when~~ IF the
5 department has suspended or revoked the license of a nursing
6 home, the department, a patient in the ~~facility~~ NURSING HOME,
7 or a patient's representative may file an emergency petition with
8 the circuit court to place the nursing home under the control of
9 a receiver if necessary to protect the health or safety of
10 patients in the nursing home. The court may grant the petition

1 upon a finding that the health or safety of the patients in the
2 nursing home would be seriously threatened if a condition exist-
3 ing at the time the petition was filed is permitted to continue.

4 (2) ~~The~~ IF A PETITION IS FILED UNDER SUBSECTION (1), THE
5 court shall appoint as receiver the director of the ~~department~~
6 ~~of social services~~ FAMILY INDEPENDENCE AGENCY, the director of
7 the department of ~~public health~~ CONSUMER AND INDUSTRY SERVICES,
8 or another state agency or person designated by the director of
9 ~~public health~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY
10 SERVICES. The receiver appointed by the court shall use the
11 income and assets of the nursing home AND, EXCEPT AS OTHERWISE
12 PROVIDED BY LAW, THE PERSONAL INCOME AND ASSETS OF EACH OWNER OF
13 THE NURSING HOME to maintain and operate the NURSING home and to
14 attempt to correct the conditions ~~which~~ THAT constitute a
15 threat to the patients IN THE NURSING HOME. ~~A~~ THE RECEIVER
16 SHALL NOT MAKE A major structural alteration ~~shall not be made~~
17 to the nursing home, unless the alteration is necessary to bring
18 the nursing home into compliance with licensing requirements.

19 (3) To assist in the implementation of the mandate of the
20 court, the receiver APPOINTED UNDER SUBSECTION (2) may request
21 and receive reasonable consultation from the available personnel
22 of the department.

23 (4) The COURT SHALL TERMINATE A receivership ~~shall be~~
24 ~~terminated~~ ORDERED UNDER THIS SECTION when the receiver and the
25 court certify that the conditions ~~which~~ THAT prompted the
26 appointment OF THE RECEIVER have been corrected, when the NURSING
27 HOME'S license is restored, when a new license is issued, or, in

1 the case of a discontinuance of operation OF THE NURSING HOME,
2 when the patients are safely placed in other facilities, which-
3 ever occurs first.

4 (5) Upon the termination of the receivership, the receiver
5 shall render a complete accounting to the court and shall dispose
6 of surplus funds as the court directs.

7 Sec. 21786. (1) In the case of an emergency closing of a
8 nursing home, or ~~when it is determined by~~ IF the department
9 DETERMINES that a nursing home is suddenly no longer able to pro-
10 vide adequate patient care, the department shall do both of the
11 following:

12 (a) Assure that the ~~department of social services~~ FAMILY
13 INDEPENDENCE AGENCY has been notified to make arrangements for
14 the orderly and safe discharge and transfer of the NURSING HOME'S
15 patients to another facility.

16 (b) Place a representative of the department in ~~a facility~~
17 THE NURSING HOME on a daily basis to do each of the following:

18 (i) Monitor the discharge AND TRANSFER of patients to other
19 facilities or locations.

20 (ii) Ensure that the rights of patients are protected.

21 (iii) Discuss the discharge and relocation with each patient
22 and next of kin or legal guardian, person, or agency responsible
23 for the patient's placement, maintenance, and care in the
24 ~~facility~~ NURSING HOME. The DEPARTMENT REPRESENTATIVE SHALL
25 PRODUCE A WRITTEN SUMMARY OF THE content of ~~the~~ EACH explana-
26 tion and discussion ~~shall be summarized in writing~~ and shall

1 ~~be made~~ MAKE THE WRITTEN SUMMARY a part of the patient's
2 clinical record.

3 (2) IF THE DEPARTMENT DETERMINES THAT A NURSING HOME IS NO
4 LONGER ABLE TO PROVIDE ADEQUATE PATIENT CARE AND ORDERS THE NURS-
5 ING HOME TO DISCONTINUE OPERATION, OR IF THE DEPARTMENT REVOKES A
6 NURSING HOME'S LICENSE AND AS A RESULT THE NURSING HOME DISCON-
7 TINUES OPERATION, THE DEPARTMENT SHALL FILE A PETITION WITH THE
8 CIRCUIT COURT UNDER THIS SUBSECTION. THE DEPARTMENT SHALL PETI-
9 TION THE COURT FOR AN ORDER FREEZING THE ASSETS AND INCOME OF THE
10 NURSING HOME AND THE PERSONAL ASSETS AND INCOME OF EACH OWNER OF
11 THE NURSING HOME. THE DEPARTMENT SHALL FURTHER PETITION THE
12 COURT FOR AN ORDER ALLOWING THE DEPARTMENT TO USE THOSE ASSETS
13 AND INCOME TO PAY THE COST OF DISCHARGING AND TRANSFERRING THE
14 NURSING HOME'S PATIENTS AS DESCRIBED IN THIS SECTION AND OTHER
15 COSTS INCURRED BY THE DEPARTMENT UNDER THIS SECTION.