

SUBSTITUTE FOR
HOUSE BILL NO. 6261

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 21743, 21755, 21757, and 21782 (MCL 333.21743,
333.21755, 333.21757, and 333.21782) and by adding section 21714.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21714. (1) BEGINNING OCTOBER 1, 2008, A PERSON SHALL NOT
2 ESTABLISH, OPERATE, OR MAINTAIN A NURSING HOME UNLESS PROOF OF
3 LIABILITY INSURANCE COVERAGE ON THAT NURSING HOME IS MAINTAINED IN
4 AN AMOUNT NOT LESS THAN \$500,000.00 PER OCCURRENCE. A NURSING HOME
5 THAT IS A COUNTY MEDICAL CARE FACILITY IS NOT REQUIRED TO MAINTAIN
6 LIABILITY INSURANCE AS REQUIRED IN THIS SECTION. AN APPLICANT OR
7 LICENSEE UNDER THIS PART SHALL INCLUDE PROOF OF LIABILITY INSURANCE
8 COVERAGE AS REQUIRED IN THIS SECTION IN ITS APPLICATION FOR A
9 LICENSE OR LICENSE RENEWAL UNDER SECTION 20142.

1 (2) AS USED IN THIS SECTION, "LIABILITY INSURANCE" MEANS
2 INSURANCE ON RISKS BASED UPON NEGLECT OF A RESIDENT FOR WHICH A
3 LICENSEE IS OR MAY BE RESPONSIBLE.

4 Sec. 21743. (1) In addition to public records subject to
5 disclosure under section 20175, the following information is
6 subject to disclosure from the department of ~~public~~COMMUNITY
7 health or the department of ~~social~~HUMAN services:

8 (a) Ownership of nursing homes, ownership of buildings
9 occupied by nursing homes, and the names and addresses of suppliers
10 and the ownership of suppliers of goods and services to nursing
11 homes required to be reported under section 20142.

12 (b) Records of license and certification inspections, surveys,
13 and evaluations of nursing homes, other reports of inspections,
14 surveys, and evaluations of patient care, and reports concerning a
15 nursing home prepared pursuant to titles ~~18~~XVIII and ~~19~~XIX of the
16 social security act, 42 U.S.C. ~~USC~~ 1395 to ~~1396k~~1396v.

17 (c) Cost and reimbursement reports submitted by a nursing
18 home, reports of audits of nursing homes, and other public records
19 concerning costs incurred by, revenues received by, and
20 reimbursement of nursing homes.

21 (d) Complaints filed against a nursing home and complaint
22 investigation reports. A complaint or complaint investigation
23 report shall not be disclosed to a person other than the
24 complainant or complainant's representative before it is disclosed
25 to a nursing home under section 21799a and a complainant's or
26 patient's name shall not be disclosed except as provided in section
27 21799a.

1 **(E) PROOF OF LIABILITY INSURANCE COVERAGE AS REQUIRED IN**
2 **SECTION 21714.**

3 (2) The department of ~~public~~**COMMUNITY** health, the department
4 of ~~social~~**HUMAN** services, and the nursing home shall respect the
5 confidentiality of a patient's clinical record as provided in
6 section 20175 and shall not divulge or disclose the contents of a
7 record in a manner ~~which~~**THAT** identifies a patient, except upon a
8 patient's death to a relative or guardian, or under judicial
9 proceedings. This subsection ~~shall~~**DOES** not be ~~construed to limit~~
10 the right of a patient or a patient's representative to inspect or
11 copy the patient's clinical record.

12 (3) Confidential medical, social, personal, or financial
13 information identifying a patient shall not be available for public
14 inspection in a manner which identifies a patient.

15 Sec. 21755. (1) The department may refuse to issue a license
16 to establish or maintain and operate, or both, a nursing home to an
17 applicant:

18 (a) Whose occupational, professional, or health agency license
19 has been revoked during the 5 years preceding the date of
20 application.

21 (b) Whom the department finds is not suitable to operate a
22 nursing home because of financial incapacity or a lack of good
23 moral character or appropriate business or professional experience.
24 As used in this subdivision, "good moral character" means that term
25 as defined in ~~Act No. 381 of the Public Acts of 1974, as amended,~~
26 ~~being sections 338.41 to 338.47 of the Michigan Compiled Laws~~
27 **SECTION 1 OF 1974 PA 381, MCL 338.41.**

1 (2) THE DEPARTMENT SHALL REFUSE TO ISSUE A LICENSE TO
 2 ESTABLISH OR MAINTAIN AND OPERATE, OR BOTH, A NURSING HOME TO AN
 3 APPLICANT OR LICENSEE WHO DOES NOT MAINTAIN LIABILITY INSURANCE
 4 COVERAGE AS REQUIRED IN SECTION 21714.

5 Sec. 21757. (1) The department may issue a 1-year provisional
 6 license, renewable for not more than 1 additional year, to an
 7 applicant whose services are needed in the community but who is
 8 temporarily unable to comply with the rules related to the physical
 9 plant of the facilities, excluding maintenance problems. At the
 10 time a provisional license is granted, specific deadlines for the
 11 correction of each physical plant violation shall be established.

12 (2) ~~A~~ THE DEPARTMENT SHALL NOT ISSUE A provisional license
 13 ~~shall not be issued for~~ IN ANY OF THE FOLLOWING CIRCUMSTANCES:

14 (A) FOR a nursing home constructed, established, or changing
 15 corporate ownership or management after ~~the effective date of this~~
 16 ~~section~~ MARCH 30, 1979 unless it is shown that unusual hardship
 17 would result to the public or to the applicant for the provisional
 18 license and the nursing home was licensed and operating under a
 19 prior licensing act for not less than 5 years.

20 (B) FOR A NURSING HOME THAT DOES NOT HAVE LIABILITY INSURANCE
 21 COVERAGE AS REQUIRED IN SECTION 21714.

22 Sec. 21782. A licensee shall retain for public inspection:

23 (a) A complete copy of each inspection report of the nursing
 24 home received from the department during the past 5 years.

25 (b) A copy of each notice of a hearing or order pertaining to
 26 the nursing home issued by the department or a court under the
 27 authority of this article or rules promulgated under this article

1 after ~~the effective date of this section~~ **MARCH 30, 1979**. The copy
2 of the notice or order shall be retained for not less than 3 years
3 after its date of issuance or not less than 3 years after the date
4 of the resolution of the subject matter of the notice or order,
5 whichever is later.

6 (c) A description of the services provided by the nursing home
7 and the rates charged for those services and items for which a
8 patient may be separately charged.

9 (d) A list of the name, address, principal occupation, and
10 official position of each person who, as a stockholder or
11 otherwise, has a proprietary interest in the nursing home as
12 required by section 20142, of each officer and director of a
13 nursing home which is a corporation, and of each trustee or
14 beneficiary of a nursing home which is a trust.

15 (e) A list of licensed personnel employed or retained by the
16 nursing home.

17 (f) A copy of the standard form contract utilized under
18 section 21766.

19 **(G) A COPY OF THE PROOF OF LIABILITY INSURANCE COVERAGE AS**
20 **REQUIRED IN SECTION 21714.**