

SENATE BILL No. 388

May 18, 2017, Introduced by Senators CASPERSON, HUNE, WARREN, KNEZEK, BIEDA, HOPGOOD and JONES and referred to the Committee on Health Policy.

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 HIS OR HER REGULARLY
3 SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED WORK SCHEDULE
4 AT THE HOSPITAL IS NOT, BY ITSELF, GROUNDS FOR ADMINISTRATIVE
5 ACTION UNDER SECTIONS 16221 AND 16226.

6 (2) AS USED IN THIS SECTION, "HOSPITAL" MEANS THAT TERM AS
7 DEFINED IN SECTION 20106.

8 Sec. 20165. (1) Except as otherwise provided in this section,
9 after notice of intent to an applicant or licensee to deny, limit,

1 suspend, or revoke the applicant's or licensee's license or
2 certification and an opportunity for a hearing, the department may
3 deny, limit, suspend, or revoke the license or certification or
4 impose an administrative fine on a licensee if 1 or more of the
5 following exist:

6 (a) Fraud or deceit in obtaining or attempting to obtain a
7 license or certification or in the operation of the licensed health
8 facility or agency.

9 (b) A violation of this article or a rule promulgated under
10 this article.

11 (c) False or misleading advertising.

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

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

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

18 (g) Failure to comply with section 10115.

19 (h) Failure to comply with part 222 or a term, condition, or
20 stipulation of a certificate of need issued under part 222, or
21 both.

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

23 **(J) A VIOLATION OF SECTION 21526.**

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

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

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

8 (5) IF THE DEPARTMENT DETERMINES UNDER SUBSECTION (1) THAT A
9 HOSPITAL HAS VIOLATED SECTION 21526, THE DEPARTMENT SHALL IMPOSE AN
10 ADMINISTRATIVE FINE OF \$1,000.00 ON THE HOSPITAL FOR EACH VIOLATION
11 AND MAY IMPOSE ANY OF THE SANCTIONS DESCRIBED IN SUBSECTION (1).

12 SEC. 21526. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
13 (3), A HOSPITAL SHALL NOT REQUIRE A REGISTERED PROFESSIONAL NURSE
14 TO WORK MORE THAN HIS OR HER REGULARLY SCHEDULED HOURS ACCORDING TO
15 HIS OR HER PREDETERMINED WORK SCHEDULE.

16 (2) IF A REGISTERED PROFESSIONAL NURSE WORKS 12 OR MORE
17 CONSECUTIVE HOURS AT A HOSPITAL, THE HOSPITAL SHALL PROVIDE THE
18 REGISTERED PROFESSIONAL NURSE WITH 8 CONSECUTIVE HOURS OF OFF-DUTY
19 TIME IMMEDIATELY AFTER THE REGISTERED PROFESSIONAL NURSE COMPLETES
20 THAT SHIFT.

21 (3) SUBSECTION (1) DOES NOT APPLY UNDER ANY OF THE FOLLOWING
22 CIRCUMSTANCES:

23 (A) IF AN UNFORESEEN EMERGENT SITUATION OCCURS.

24 (B) IF A REGISTERED PROFESSIONAL NURSE IS ASSISTING WITH A
25 PATIENT-CARE PROCEDURE THAT EXTENDS BEYOND THE REGISTERED
26 PROFESSIONAL NURSE'S REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR
27 HER PREDETERMINED WORK SCHEDULE AND THE REGISTERED PROFESSIONAL

1 NURSE'S IMMEDIATE SUPERVISOR, OTHER THAN A CHARGE NURSE, DETERMINES
2 THAT THE ABSENCE OF THE REGISTERED PROFESSIONAL NURSE DURING THE
3 PATIENT-CARE PROCEDURE COULD HAVE AN ADVERSE EFFECT ON THE PATIENT.

4 (C) IF A REGISTERED PROFESSIONAL NURSE VOLUNTARILY ACCEPTS A
5 WORK ASSIGNMENT THAT CAUSES THE REGISTERED PROFESSIONAL NURSE'S
6 HOURS TO EXCEED HIS OR HER REGULARLY SCHEDULED HOURS ACCORDING TO
7 HIS OR HER PREDETERMINED WORK SCHEDULE.

8 (4) A HOSPITAL SHALL NOT DISCHARGE OR DISCIPLINE, THREATEN TO
9 DISCHARGE OR DISCIPLINE, OR OTHERWISE DISCRIMINATE AGAINST A
10 REGISTERED PROFESSIONAL NURSE WHO IS AN EMPLOYEE OF THE HOSPITAL
11 REGARDING THE REGISTERED PROFESSIONAL NURSE'S COMPENSATION, TERMS,
12 CONDITIONS, ASSIGNMENT, OR PRIVILEGES OF EMPLOYMENT BECAUSE THE
13 REGISTERED PROFESSIONAL NURSE REFUSES TO ACCEPT A WORK ASSIGNMENT
14 THAT CAUSES THE REGISTERED PROFESSIONAL NURSE'S HOURS TO EXCEED HIS
15 OR HER REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER
16 PREDETERMINED WORK SCHEDULE.

17 (5) A HOSPITAL SHALL POST A NOTICE THAT INFORMS REGISTERED
18 PROFESSIONAL NURSES WHO ARE EMPLOYED BY THE HOSPITAL OF THIS
19 SECTION AND HOW TO FILE A COMPLAINT WITH THE DEPARTMENT FOR A
20 SUSPECTED VIOLATION OF THIS SECTION. THE HOSPITAL SHALL POST THE
21 NOTICE DESCRIBED IN THIS SUBSECTION IN 1 OR MORE CONSPICUOUS PLACES
22 WHERE NOTICES TO EMPLOYEES OF THE HOSPITAL ARE CUSTOMARILY POSTED
23 AND, IF THE HOSPITAL USES AN INTRANET SITE TO COMMUNICATE WITH ITS
24 EMPLOYEES, ON THE HOSPITAL'S INTRANET SITE.

25 (6) A HOSPITAL THAT VIOLATES THIS SECTION IS SUBJECT TO THE
26 ADMINISTRATIVE SANCTIONS PRESCRIBED IN SECTION 20165(5).

27 (7) IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR

1 EMPLOYEES OF A HOSPITAL AS OF THE EFFECTIVE DATE OF THE AMENDATORY
2 ACT THAT ADDED THIS SECTION AND IF THAT COLLECTIVE BARGAINING
3 AGREEMENT PREVENTS COMPLIANCE WITH THIS SECTION, THEN THIS SECTION
4 DOES NOT APPLY UNTIL AFTER THE EXPIRATION OF THAT COLLECTIVE
5 BARGAINING AGREEMENT.

6 (8) AS USED IN THIS SECTION:

7 (A) "REGISTERED PROFESSIONAL NURSE" MEANS THAT TERM AS DEFINED
8 IN SECTION 17201.

9 (B) "UNFORESEEN EMERGENT SITUATION" MEANS AN OCCURRENCE THAT
10 IS UNPREDICTABLE, OR UNAVOIDABLE AT AN UNSCHEDULED OR UNPREDICTABLE
11 INTERVAL, AND RELATES TO HEALTH CARE DELIVERY AND REQUIRES
12 IMMEDIATE MEDICAL INTERVENTION OR CARE. UNFORESEEN EMERGENT
13 SITUATION DOES NOT INCLUDE A STATE OF EMERGENCY THAT RESULTS FROM A
14 LABOR DISPUTE IN THE HEALTH CARE INDUSTRY OR CONSISTENT
15 UNDERSTAFFING.

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