

SUBSTITUTE FOR
HOUSE BILL NO. 5537
(As amended September 29, 2004)

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 21735.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21735. (1) Except as otherwise provided under
2 subsection (3) or (4), in accordance with federal laws, rules,
3 and regulations, a nursing home initially licensed after
4 October 1, 1990 shall maintain a temperature of not less than 71
5 degrees Fahrenheit or more than 81 degrees Fahrenheit measured 3
6 feet above the floor at all times in all areas of a building
7 accessible to residents, employees, and visitors except for the
8 kitchen or laundry room.

9 (2) Except as otherwise provided under [subsection (3), (4), or
10 (7)], within 3 years after the effective date of the amendatory
11 act that added this section, a nursing home licensed prior to

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1 October 1, 1990 shall maintain a temperature of not less than 71
2 degrees Fahrenheit or more than 81 degrees Fahrenheit measured 3
3 feet above the floor at all times in all areas of a building
4 accessible to residents, employees, and visitors except for the
5 kitchen or laundry room. Upon written request of the nursing
6 home, the department may grant an extension of the time period
7 for compliance under this subsection if each of the following is
8 met:

9 (a) Upon review of the nursing home's written policies and
10 procedures and existing plans or agreements for emergency
11 situations, the department determines that there [are] adequate
12 protections in place to ensure the continued safety and comfort
13 of the residents within that nursing home.

14 (b) Building renovations have begun to bring the nursing
15 home into compliance with this section or the nursing home has
16 submitted and the department has approved the nursing home's
17 plans for renovation, repair, or remodeling of its building to
18 meet the requirements of this section.

19 (3) If a nursing home is located north of the forty-fifth
20 parallel of latitude, the temperatures within that nursing home
21 may on rare, brief occasions, as a result of rare, brief episodes
22 of unseasonably hot weather, exceed the upper range of 81 degrees
23 Fahrenheit. If the temperature range exceeds 81 degrees
24 Fahrenheit, the nursing home shall monitor its residents and take
25 any appropriate measures to ensure the health, safety, and
26 comfort of each resident.

27 (4) If a nursing home has a separate heating and cooling

1 system for resident rooms that allows a resident to control the
2 temperature in his or her own room, the resident may maintain his
3 or her room at any level he or she desires unless the temperature
4 may adversely affect the health, safety, or comfort of the
5 resident or any other resident sharing that room, in which case
6 the nursing home shall intervene and take appropriate action to
7 keep the resident or residents safe and comfortable. If a
8 resident chooses to maintain the temperature in his or her room
9 at a temperature level that is outside of the temperature range
10 required under this section, that resident shall submit
11 documentation from his or her physician approving those
12 temperature conditions. This documentation shall be included
13 with that resident's care plan.

14 (5) Within 30 days after the effective date of the amendatory
15 act that added this section, the nursing home administrator shall
16 develop written policies and procedures for maintaining safe and
17 comfortable temperatures in the nursing home, maintain a copy of
18 those written policies and procedures on the premises, and submit
19 a copy of the same to the department for filing with its most
20 recent license or renewal application. The written policies and
21 procedures shall include at least all of the following:

22 (a) Measures to be taken to ensure the health, safety, and
23 comfort of residents in the nursing home.

24 (b) Identification of circumstances that require notification
25 of the nursing home administrator or a physician and the
26 appropriate time frames for these actions.

27 (c) Identification of available sites within or outside the

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1 nursing home to which residents may be relocated if temperatures
2 within the nursing home present a threat to the health or safety
3 of the residents.

4 (6) A nursing home shall have an existing agreement or plan
5 for emergency situations, including, but not limited to, an
6 agreement or plan for the provision of emergency services and
7 repairs in the event of an electrical, heating, ventilation, or
8 air conditioning failure or malfunction. The nursing home shall
9 maintain a copy of these written agreements or plans on the
10 premises, and those shall be made available to the department
11 upon request. Repair work that is necessary to maintain the
12 temperature within the range described in subsections (1) and (2)
13 shall be completed within 48 hours or less. If, for reasons
14 beyond the nursing home's control, repairs cannot be completed in
15 a timely manner, the nursing home shall implement its written
16 policies and procedures established pursuant to subsection (5).

17 (7) Within 6 months after the effective date of the
18 amendatory act that added this section, the department shall
19 establish an air conditioning grant program for the purpose of
20 providing grants to nursing homes that need to replace, update,
21 or repair their heating and cooling system to maintain the
22 temperature standards established under subsection (2). [Except as
23 otherwise provided under this subsection, if funds are appropriated by
24 the legislature for the air conditioning grant program, the department]
25 shall provide grants to nursing homes
26 that the department considers eligible within 60 days after the
27 nursing home submits documentation to the department verifying
[the projected costs of replacing, updating, or repairing its heating and
cooling system] to comply with this section. Any building

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1 maintenance, repair, upkeep, or replacement with similar
2 equipment, implemented as a result of this section, is normal
3 building maintenance and is not a renovation. In each fiscal
4 year governed by this subsection, the department shall only
5 expend funds under the air conditioning grant program if the
6 medicaid reimbursement rates are not below the level of rates in
7 effect on July 1, 2004. [If funds are not appropriated by the
legislature for the air conditioning grant program or if the funds are
insufficient, the department is not obligated in any way to make grants
to nursing homes under the air conditioning grant program. A nursing home
is exempt from the requirements of subsection (2) until full funding is
available and granted to that nursing home under the air conditioning
grant program.]

8 (8) In accordance with sections 2262, 2263, and 21799d, a
9 nursing home that violates this section is subject to a civil
10 penalty.