

HOUSE BILL No. 5773

April 10, 2018, Introduced by Reps. Faris, Sabo, Hoadley, Cochran, Gay-Dagnogo, Lasinski, Yanez, Sneller and Chirkun and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20191 (MCL 333.20191), as amended by 2010 PA
119.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20191. (1) If a police officer, fire fighter, individual
2 licensed under section 20950 or 20952, or another individual
3 assists an emergency patient who is subsequently transported to a
4 health facility or transports an emergency patient to a health
5 facility, and if the emergency patient, as part of the treatment
6 rendered by the health facility or pursuant to a request made under
7 subsection (2), is tested for the presence in the emergency patient

1 of an infectious agent and the test results are positive, or is
2 tested pursuant to a request made under subsection (2) for the
3 presence in the emergency patient of the infectious agent of HIV,
4 ~~or~~ **HBV, OR HCV** and the test results are positive or negative, the
5 health facility shall do all of the following:

6 (a) Subject to subsection (4) and subdivision (b), if the test
7 results are positive for an infectious agent and the individual
8 meets 1 of the following requirements, notify the individual on a
9 form provided by the department that he or she may have been
10 exposed to an infectious agent and, if the test results of a test
11 conducted pursuant to subsection (2) are negative for the
12 infectious agent of HIV, ~~or~~ **HBV, OR HCV**, notify the individual of
13 that fact:

14 (i) The individual is a police officer, fire fighter, or
15 individual licensed under section 20950 or 20952.

16 (ii) The individual demonstrates in writing to the health
17 facility that he or she was exposed to the blood, body fluids, or
18 airborne agents of the emergency patient or participated in
19 providing assistance to the emergency patient or transportation of
20 the emergency patient to the health facility. An individual who
21 makes a request under subsection (2) is exempt from the
22 requirements of this subparagraph.

23 (b) Subject to subsection (4), if the test results indicate
24 that the emergency patient is HIV infected, the health facility
25 shall not reveal that the infectious agent is HIV unless the health
26 facility has received a written request for notification from an
27 individual described in subdivision (a) (i) or (ii). This

1 subdivision does not apply if the test results indicate that the
2 emergency patient is not HIV infected.

3 (c) Subject to subsection (4), on a form provided by the
4 department, notify the individual described in subdivision (a), at
5 a minimum, of the appropriate infection control precautions to be
6 taken and the approximate date of the potential exposure. If the
7 emergency patient is tested pursuant to a request made under
8 subsection (2) for the presence in the emergency patient of the
9 infectious agent of HIV, ~~or~~ **HBV, OR HCV**, or ~~both~~, **ALL 3 INFECTIOUS**
10 **AGENTS**, and if the test results are positive or negative, the
11 health facility also shall notify the individual described in
12 subdivision (a) on the form provided by the department that he or
13 she should be tested for HIV infection, ~~or~~ **HBV infection, or both**,
14 **HCV INFECTION, OR ALL 3 INFECTIONS**, and counseled regarding ~~both~~
15 **ALL 3** infectious agents.

16 (2) A police officer, fire fighter, individual licensed under
17 section 20950 or 20952, or other individual who assists an
18 emergency patient who is subsequently transported to a health
19 facility or who transports an emergency patient to a health
20 facility and who sustains a percutaneous, mucous membrane, or open
21 wound exposure to the blood or body fluids of the emergency patient
22 may request that the emergency patient be tested for HIV infection,
23 ~~or~~ **HBV infection, HCV INFECTION, or both**, **ALL 3 INFECTIONS**,
24 pursuant to this subsection. The police officer, fire fighter,
25 individual licensed under section 20950 or 20952, or other
26 individual shall make a request to a health facility under this
27 subsection in writing on a form provided by the department and

1 before the emergency patient is discharged from the health
2 facility. The request form ~~shall~~**MUST** be dated and ~~shall~~ contain at
3 a minimum the name and address of the individual making the request
4 and a description of the individual's exposure to the emergency
5 patient's blood or other body fluids. The request form ~~shall~~**MUST**
6 contain a space for the information required under subsection (3)
7 and a statement that the requester is subject to the
8 confidentiality requirements of subsection (5) and section 5131.
9 The request form ~~shall~~**MUST** not contain information that would
10 identify the emergency patient by name. A health facility that
11 receives a request under this subsection shall accept as fact the
12 requester's description of his or her exposure to the emergency
13 patient's blood or other body fluids, unless the health facility
14 has reasonable cause to believe otherwise. The health facility
15 shall make a determination as to whether or not the exposure
16 described in the request was a percutaneous, mucous membrane, or
17 open wound exposure pursuant to R 325.70001 to R 325.70018 of the
18 Michigan ~~administrative code.~~ **ADMINISTRATIVE CODE**. If the health
19 facility determines that the exposure described in the request was
20 a percutaneous, mucous membrane, or open wound exposure, the health
21 facility shall test the emergency patient for HIV infection, ~~or~~ HBV
22 infection, or ~~both,~~ **HCV INFECTION, OR ALL 3 INFECTIONS**, as
23 indicated in the request. A health facility that performs a test
24 under this subsection may charge the individual requesting the test
25 for the reasonable and customary charges of the test. The
26 individual requesting the test is responsible for the payment of
27 the charges if the charges are not payable by the individual's

1 employer, ~~pursuant to~~ **UNDER** an agreement between the individual and
2 the employer, or by the individual's health care payment or
3 benefits plan. A health facility is not required to provide HIV
4 counseling ~~pursuant to~~ **UNDER** section 5133(1) to an individual who
5 requests that an emergency patient be tested for HIV under this
6 subsection, unless the health facility tests the requesting
7 individual for HIV.

8 (3) A health facility shall comply with this subsection if the
9 health facility receives a request under subsection (2) and
10 determines either that there is reasonable cause to disbelieve the
11 requester's description of his or her exposure or that the exposure
12 was not a percutaneous, mucous membrane, or open wound exposure and
13 as a result of the determination the health facility is not
14 required to test the emergency patient for HIV infection, ~~or~~ HBV
15 infection, or ~~both.~~ **HCV INFECTION, OR ALL 3 INFECTIONS.** A health
16 facility shall also comply with this subsection if the health
17 facility receives a request under subsection (2) and determines
18 that the exposure was a percutaneous, mucous membrane, or open
19 wound exposure, but is unable to test the emergency patient for HIV
20 infection, ~~or~~ HBV infection, or ~~both.~~ **HCV INFECTION, OR ALL 3**
21 **INFECTIONS.** The health facility shall state in writing on the
22 request form the reasons for disbelieving the requester's
23 description of his or her exposure, the health facility's exposure
24 determination, or the inability to test the emergency patient, as
25 applicable. The health facility shall transmit a copy of the
26 completed request form to the requesting individual within 2 days
27 after the date the determination is made that the health facility

1 has reasonable cause to disbelieve the requester's description of
2 his or her exposure or that the exposure was not a percutaneous,
3 mucous membrane, or open wound exposure or within 2 days after the
4 date the health facility determines that it is unable to test the
5 emergency patient for HIV infection, ~~or~~ HBV infection, or ~~both~~. **HCV**
6 **INFECTION, OR ALL 3 INFECTIONS.**

7 (4) ~~The~~ **A HEALTH FACILITY SHALL PROVIDE THE** notification
8 required under subsection (1) ~~shall occur~~ within 2 days after the
9 test results are obtained by the health facility or after receipt
10 of a written request under subsection (1)(b). The notification
11 ~~shall~~ **MUST** be transmitted to the potentially exposed individual or,
12 upon request of the individual, to the individual's primary care
13 physician or other health professional designated by the
14 individual, as follows:

15 (a) If the potentially exposed individual provides his or her
16 name and address or the name and address of the individual's
17 primary care physician or other health professional designated by
18 the individual to the health facility or if the health facility has
19 a procedure that allows the health facility in the ordinary course
20 of its business to determine the individual's name and address or
21 the name and address of the individual's primary care physician or
22 other health professional designated by the individual, the health
23 facility shall notify the individual or the individual's primary
24 care physician or other health professional designated by the
25 individual directly at that address.

26 (b) If the potentially exposed individual is a police officer,
27 fire fighter, or individual licensed under section 20950 or 20952,

1 and if the health facility does not have the name of the
2 potentially exposed individual or the individual's primary care
3 physician or other health professional designated by the
4 individual, the health facility shall notify the appropriate police
5 department, fire department, or life support agency that employs or
6 dispatches the individual. If the health facility is unable to
7 determine the employer of an individual described in this
8 subdivision, the health facility shall notify the medical control
9 authority or chief elected official of the governmental unit that
10 has jurisdiction over the transporting vehicle.

11 (c) A medical control authority or chief elected official
12 described in subdivision (b) shall notify the potentially exposed
13 individual or the individual's primary care physician or other
14 health professional designated by the individual or, if unable to
15 notify the potentially exposed individual or the individual's
16 primary care physician or other health professional designated by
17 the individual, shall document in writing the notification efforts
18 and reasons for being unable to make the notification.

19 (5) The notice required under subsection (1) ~~shall~~ **MUST** not
20 contain information that would identify the emergency patient who
21 tested positive for an infectious agent or who tested positive or
22 negative for the presence in the emergency patient of the
23 infectious agent of HIV, ~~or~~ **HBV**, **OR HCV**. The information contained
24 in the notice is confidential and is subject to this section, the
25 rules promulgated under section 5111, and section 5131. A person
26 who receives confidential information under this section shall
27 disclose the information to others only to the extent consistent

1 with the authorized purpose for which the information was obtained.

2 (6) The department shall promulgate rules to administer this
3 section. The department shall develop and distribute the forms
4 required under subsections (1)(a) and (c) and (2).

5 (7) Except as otherwise provided in this subsection, a person
6 who discloses information regarding an infectious agent in
7 violation of subsection (5) is guilty of a misdemeanor. This
8 subsection does not apply to the disclosure of information
9 regarding a serious communicable disease or infection, if the
10 disclosure is subject to rules promulgated under section 5111 or to
11 section 5131.

12 (8) A person or governmental entity that makes a ~~good faith~~
13 **GOOD-FAITH** effort to comply with subsection (1), (2), (3), or (4)
14 is immune from any civil liability or criminal penalty based on
15 compliance or the failure to comply.

16 (9) As used in this section:

17 (a) "Emergency patient" means an individual who is transported
18 to an organized emergency department located in and operated by a
19 hospital licensed under this article or a facility other than a
20 hospital that is routinely available for the general care of
21 medical patients.

22 (b) "HBV" means hepatitis B virus.

23 (c) ~~"HBV infected" or "HBV infection"~~ means the status of an
24 individual who is tested as HBsAg-positive.

25 (D) "HCV" MEANS HEPATITIS C VIRUS.

26 (E) "HCV INFECTION" MEANS THE STATUS OF AN INDIVIDUAL WHO HAS
27 TESTED POSITIVE FOR THE PRESENCE OF HCV ANTIBODIES OR HAS TESTED

1 **POSITIVE FOR HBV USING AN RNA TEST.**

2 (F) ~~(d)~~ "Health facility" means a health facility or agency.
3 ~~as defined in section 20106.~~

4 (G) ~~(e)~~ "HIV" means human immunodeficiency virus.

5 (H) ~~(f)~~ "HIV ~~infected~~ **INFECTION**" means that term as defined
6 in section 5101.

7 (I) ~~(g)~~ "Infectious agent" means that term as defined in R
8 325.9031 of the Michigan ~~administrative code.~~ **ADMINISTRATIVE CODE.**

9 (J) ~~(h)~~ "Life support agency" means that term as defined in
10 section 20906.

11 (K) ~~(i)~~ "Serious communicable disease or infection" means that
12 term as defined in section 5101.

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