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House Bill 5615 (Substitute H-1 as passed by the House)
House Bill 5616 (Substitute H-1 as passed by the House)
Sponsor: Representative Julie Calley (H.B. 5615)
Representative Tyrone Carter (H.B. 5616)
House Committee: Local Government and Municipal Finance
Senate Committee: Health Policy and Human Services

Date Completed: 11-29-22

CONTENT

House Bill 5615 (H-1) would amend Part 28 (Vital Records) of the Public Health Code to do the following:

- **Require a funeral director who first assumed custody of a dead body to submit a report of the death using the web-based application system established by the Department of Health and Human Services (DHHS) for the registration of deaths.**
- **Allow a nurse practitioner or a physician's assistant to complete and certify the medical certification portion of a death record under specified circumstances.**
- **Require the medical certification portion to be completed and certified by the county medical examiner if an investigation of the death were required.**
- **Require the medical certification portion to be submitted using the web-based application system established by the DHHS, beginning one year after the bill's effective date.**
- **Extend certain requirements of a physician or county medical examiner concerning the medical certification portion of a death record to a physician's assistant and a nurse practitioner.**
- **Add the failure to comply with the Code's requirements concerning the medical certification portion of a death record to the list of grounds for which disciplinary subcommittee action may be taken.**

House Bill 5616 (H-1) would amend Public Act 181 of 1953, which governs the investigations of the causes of death in certain instances, to modify circumstances under which a county medical examiner would have to investigate the cause and manner of death of an individual to reflect changes proposed in House Bill 5615 (H-1).

House Bill 5616 (H-1) is tie-barred to House Bill 5615.

House Bill 5615 (H-1)

Definitions

Under the bill, "nurse practitioner" would mean a registered professional nurse licensed under Part 172 (Nursing) of the Code who has been granted a specialty certification as a nurse practitioner by the Michigan Board of Nursing. "Physician" would mean a physician licensed

under Part 170 (Medicine) or Part 175 (Osteopathic Medicine and Surgery) of the Code. "Physician's assistant" would mean a physician's assistant licensed under Part 170 or Part 175 of the Code.

Reporting of Death and Medical Certifications

The Code requires a funeral director who first assumes custody of a dead body, either personally or through his or her authorized agent, to report the death. Under the bill, the report would have to be submitted using the web-based application system established by the DHHS for the registration of deaths.

The Code also requires the director or authorized agent to obtain medical certifications as follows:

- If the death occurred outside an institution, the medical certification portion of the death record must be completed and certified within 48 hours after death by the attending physician or by a physician acting as the attending physician's authorized representative; or, in the absence of an authorized representative, by the county medical examiner; or, in the absence of the county medical examiner, by the county health officer or the deputy medical examiner.
- If the death occurred in an institution, the medical certification must be completed and signed within 48 hours after the death by the attending physician, or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or, in the absence of an authorized representative, by the chief medical officer of the institution in which death occurred, after reviewing pertinent records and making other investigations as considered necessary, or by a pathologist.

(The Code defines "institution" as a public or private establishment that provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care to two or more unrelated individuals, including an establishment to which individuals are committed by law.)

Instead, under the bill, the director or authorized agent would have to obtain medical certifications, subject to a required investigation as described below, as follows:

- If the death occurred outside an institution, the medical certification portion of the death record would have to be completed and certified within 48 hours after death by the physician who was in charge of the decedent's care for the illness or condition that resulted in death; in the absence of the physician, a physician acting as the authorized representative of the physician; a physician's assistant acting in accordance with a written agreement described under Sections 17047 or 17547; a nurse practitioner acting under a general grant of authority by delegation from a physician' to provide the medical certification of death records.
- If the death occurred in an institution, the medical certification portion of the death record would have to be completed and certified within 48 hours after death by the attending physician; in the absence of the attending physician, a physician acting as the physician's authorized representative, the chief medical officer of the institution in which the death occurred after the chief medical officer reviewed pertinent records and made other investigations considered necessary, or a pathologist; a physician's assistant acting in accordance with a written practice agreement described under Sections 17047 or 17547; a nurse practitioner acting under a general grant or authority by delegation from a physician to provide the medical certification of death records.

(Sections 17047 and 17547 of the Code prescribe the requirements of a practice agreement between a participating physician and a physician's assistant. Among other requirements, the agreement must include a process between the physician and the physician's assistant for communication, availability, and decision making, and the duties and responsibilities of the physician's assistant and participating physician.)

Notwithstanding the above provision, if an investigation were required under Section 2 of Public Act 181 of 1953 (which House Bill 5616 (H-1) would amend), the medical certification portion of the death record would have to be completed and certified by the county medical examiner as provided in Section 2844 of the Public Health Code, which the bill would amend, and which is described in detail below.

Beginning one year after the bill's effective date, the medical certification required above would have to be submitted using the web-based application system established by the DHHS for the registration of deaths. The bill would require a physician, physician's assistant, or nurse practitioner who completed a medical certification to complete training provided by the DHHS for the use of the web-based application system before submitting through the system.

The Code prescribes a misdemeanor punishable by imprisonment for not more than 60 days, or a fine of not less than \$25 or more than \$100, or both, for a physician, who for himself or herself or as an agent or employee of another individual, neglects or refuses to certify a death record properly presented to him or her for certification, or who neglects to furnish information in his or her possession. Instead, the bill would prohibit a physician, including a physician acting as an authorized representative for another physician, a physician's assistant, or a nurse practitioner, who was described above and was properly presented a medical certification by a funeral director, from neglecting or refusing to certify the death record. The bill also would prohibit him or her from neglecting or refusing to furnish information in his or her possession.

The Code requires the Department of Licensing and Regulatory Affairs (LARA) to investigate any allegation that one or more of the grounds for disciplinary subcommittee action as prescribed by the Code exist. The bill would add the failure to comply with the prohibition described above to the list of grounds for disciplinary subcommittee action.

Reporting of an Infectious Agent

If, at the time of death, a physician who must complete the medical certification described above has an actual knowledge of the presence in the deceased individual of an infectious agent, including acquired immunodeficiency syndrome-related virus, the Code requires the physician to notify the funeral director or the funeral director's authorized agency of the appropriate infectious control precautions to be taken. The bill would extend this requirement to a physician's assistant or nurse practitioner.

Delays in Determining the Cause of Death

Under the Code, when a death occurs more than 10 days after a physician last saw the deceased, if the cause of death appears to be other than the illness or condition for which the deceased received treatment, or if the attending physician cannot determine accurately the cause of death, the case must be referred to the county medical examiner for investigation to determine and certify the cause of death. If the county medical examiner determines that the case does not fall within his or her jurisdiction, the examiner must refer the case back to the deceased's physician within 24 hours for completion of the medical certification. The bill would delete these requirements.

If the cause of death cannot be determined within 48 hours after death, the medical certification may be completed as provided by the DHHS. The Code specifies that the attending physician or county medical examiner must notify the funeral director in custody of the body as to the reason for the delay, and final disposition must not be made until authorized by the attending physician or medical examiner. Instead, under the bill, one of the following individuals would have to notify the funeral director in custody of the body as to the reason for the delay:

- The attending physician or county medical examiner.
- The attending physician's authorized representative.
- A physician assistant with whom the attending physician had a written practice agreement.
- A nurse practitioner delegated the act by the attending physician.

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Among other circumstances, Public Act 181 of 1953 requires a county medical examiner or deputy county medical examiner to investigate the cause and manner of death of an individual if the individual dies without medical attendance by a physician, or the individual dies while under home hospice care without medical attendance by a physician or a registered nurse, during the 48 hours immediately preceding the time of death, unless the attending physician, if any, is able to determine accurately the cause of death.

Instead, under the bill, a county examiner or deputy county medical examiner would have to investigate the cause and manner of an individual if the individual died without medical attendance by a physician, physician's assistant, or nurse practitioner within the 30 days immediately preceding the death, or the individual died while under home hospice care without medical attendance by a physician, physician's assistance, or nurse practitioner during the 48 hours immediately preceding the time of death, unless the attending physician or his or her authorized designee, if any, was able to determine accurately the cause of death.

The Act also requires physician, an individual in charge of any hospital or institution, or any other individual who has first knowledge of certain information to notify immediately the county medical examiner or deputy county medical examiner of the information. Among other information required to be reported, the individuals described above must notify the examiner of an individual who died without medical attendance during the 48 hours prior to the hour of death unless the attending physician, if any, is able to determine accurately the cause of death. Under the bill, an attending physician's authorized designee also could determine accurately the cause of death for purposes of this provision.

MCL 333.2804 et al. (H.B. 5615)
52.202 & 52.203 (H.B. 5616)

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FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.