

**SUBSTITUTE FOR
HOUSE BILL NO. 5615**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2804, 2843, 2843b, 2844, and 16221 (MCL
333.2804, 333.2843, 333.2843b, 333.2844, and 333.16221), section
2804 as amended by 2012 PA 499, section 2843 as amended by 2013 PA
79, section 2843b as added by 1986 PA 185, and section 16221 as
amended by 2020 PA 232.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2804. (1) "Institution" means a public or private
2 establishment that provides inpatient medical, surgical, or
3 diagnostic care or treatment or nursing, custodial, or domiciliary
4 care to 2 or more unrelated individuals, including an establishment
5 to which individuals are committed by law.

1 (2) "Law enforcement agency" means a police agency of a city,
2 village, or township; a sheriff's department; the department of
3 state police; and any other governmental law enforcement agency.

4 (3) "Live birth" means that term as defined in section 1 of
5 the born alive infant protection act, 2002 PA 687, MCL 333.1071.

6 (4) "Local registrar" means the county clerk or the clerk's
7 deputy, or in the case of a city having a population of 40,000 or
8 more, the city clerk or city department designated by the governing
9 body of the city; or a registrar appointed ~~pursuant to~~**under**
10 section 2814. Population ~~shall~~**must** be determined according to the
11 latest federal decennial census.

12 (5) "Miscarriage" means the spontaneous expulsion of a
13 nonviable fetus that has completed less than 20 weeks of gestation.

14 (6) **"Nurse practitioner" means a registered professional nurse**
15 **licensed under part 172 who has been granted a specialty**
16 **certification as a nurse practitioner by the Michigan board of**
17 **nursing under section 17210.**

18 (7) "Physician" means a physician licensed under part 170 or
19 part 175.

20 (8) **"Physician's assistant" means a physician's assistant**
21 **licensed under part 170 or part 175.**

22 (9) ~~(6)~~"Registration" means the acceptance by the state
23 registrar and the incorporation of certificates provided for in
24 this part into the official vital records.

25 Sec. 2843. (1) A funeral director who first assumes custody of
26 a dead body, either personally or through his or her authorized
27 agent, shall report the death. For purposes of this subsection,
28 "dead body" includes, but is not limited to, the body of an infant
29 who survived an attempted abortion as described in the born alive

1 infant protection act, **2002 PA 687, MCL 333.1071 to 333.1073**, and
2 who later died. The funeral director or the authorized agent shall
3 obtain the necessary personal data from the next of kin or the best
4 qualified individual or source available and shall obtain medical
5 certification as follows:

6 (a) ~~If **Subject to subdivision (c)**, if~~ the death occurred
7 outside an institution, the medical certification portion of the
8 death record ~~shall **must**~~ be completed and certified not later than
9 48 hours after death by **1 of the following**: ~~the attending~~
10 ~~physician; or in the absence of the attending physician, by a~~
11 ~~physician acting as the attending physician's authorized~~
12 ~~representative; or in the absence of an authorized representative,~~
13 ~~by the county medical examiner; or in the absence of the county~~
14 ~~medical examiner, by the county health officer or the deputy county~~
15 ~~medical examiner. If the death occurred in an institution, the~~
16 ~~medical certification shall be completed and signed not later than~~
17 ~~48 hours after death by the attending physician; or in the absence~~
18 ~~of the attending physician, by a physician acting as the attending~~
19 ~~physician's authorized representative; or in the absence of an~~
20 ~~authorized representative, by the chief medical officer of the~~
21 ~~institution in which death occurred, after reviewing pertinent~~
22 ~~records and making other investigation as considered necessary, or~~
23 ~~by a pathologist.~~

24 (b) ~~A physician described in subdivision (a), who for himself~~
25 ~~or herself or as an agent or employee of another individual~~
26 ~~neglects or refuses to certify a death record properly presented to~~
27 ~~him or her for certification by a funeral director or who refuses~~
28 ~~or neglects to furnish information in his or her possession, is~~
29 ~~guilty of a misdemeanor punishable by imprisonment for not more~~

1 ~~than 60 days, or a fine of not less than \$25.00 nor more than~~
 2 ~~\$100.00, or both.~~

3 ~~(2) A physician described in subsection (1)(a) shall provide~~
 4 ~~the medical certification described in subsection (1)(a) within 48~~
 5 ~~hours after the death.~~

6 (i) The physician who was in charge of the decedent's care for
 7 the illness or condition that resulted in the decedent's death.

8 (ii) In the absence of the physician under subparagraph (i), a
 9 physician acting as the authorized representative of the physician
 10 described under subparagraph (i).

11 (iii) A physician's assistant acting in accordance with a
 12 written practice agreement described under section 17047 or 17547.

13 (iv) A nurse practitioner acting under a general grant of
 14 authority by delegation from a physician to provide the medical
 15 certification of death records.

16 (b) Subject to subdivision (c), if the death occurred in an
 17 institution, the medical certification portion of the death record
 18 must be completed and certified not later than 48 hours after death
 19 by 1 of the following:

20 (i) The attending physician.

21 (ii) In the absence of the attending physician described under
 22 subparagraph (i), any of the following:

23 (A) A physician acting as the authorized representative of the
 24 physician described in subparagraph (i).

25 (B) The chief medical officer of the institution in which the
 26 death occurred after the chief medical officer reviews pertinent
 27 records and makes other investigations considered necessary.

28 (C) A pathologist.

29 (iii) A physician's assistant acting in accordance with a

1 written practice agreement described under section 17047 or 17547.

2 (iv) A nurse practitioner acting under a general grant of
3 authority by delegation from a physician to provide the medical
4 certification of death records.

5 (c) Notwithstanding subdivisions (a) and (b), if an
6 investigation is required under section 2 of 1953 PA 181, MCL
7 52.202, the medical certification portion of the death record must
8 be completed and certified by the county medical examiner as
9 provided in section 2844.

10 (2) The report described in subsection (1) must be submitted
11 using the web-based application system established by the
12 department for the registration of deaths. Beginning 1 year after
13 the effective date of the amendatory act that added this sentence,
14 the medical certification described in subsection (1) must be
15 submitted using the web-based application system established by the
16 department for the registration of deaths. A physician, physician's
17 assistant, or nurse practitioner who completes a medical
18 certification under subsection (1) shall first complete training
19 provided by the department to use the web-based application system
20 for the registration of deaths.

21 (3) A death record shall be certified by a funeral director
22 who is licensed under article 18 of the occupational code, 1980 PA
23 299, MCL 339.1801 to 339.1812, or by an individual who holds a
24 courtesy license under section 1806a of that act, MCL 339.1806a,
25 and shall be filed with the local registrar of the district where
26 the death occurred within 72 hours after the death.

27 (4) Except as otherwise provided in this subsection, the death
28 of an infant who was born alive following an attempted abortion and
29 was surrendered to an emergency service provider under the safe

1 delivery of newborns law, ~~sections 1 to 20 of~~ chapter XII of the
2 probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, and then
3 died shall be reported in the same manner as for any death.

4 However, the deceased infant ~~shall~~**must** be listed as "Baby Doe" and
5 no information that would directly identify the deceased infant or
6 the deceased infant's parents shall be reported, including, but not
7 limited to, the following information:

8 (a) The name of the mother or father.

9 (b) The address of the mother or father.

10 (c) The name of the informant.

11 (d) The address of the informant.

12 **(5) A physician, including a physician acting as an authorized**
13 **representative for another physician, a physician's assistant, or a**
14 **nurse practitioner, who is described in subsection (1) (a) or (b)**
15 **and who is properly presented a medical certification by a funeral**
16 **director, shall not neglect or refuse to certify the death record**
17 **and shall not neglect or refuse to furnish information in his or**
18 **her possession to the funeral director.**

19 Sec. 2843b. (1) If, at the time of death, a physician,
20 **physician's assistant, or nurse practitioner**, who is required to
21 complete the medical certification under section 2843(1) (a) has
22 actual knowledge of the presence in the deceased individual of an
23 infectious agent, including acquired immunodeficiency syndrome-
24 related virus, the physician, **physician's assistant, or nurse**
25 **practitioner** shall notify the funeral director or the funeral
26 director's authorized agent of the appropriate infection control
27 precautions to be taken. The notification required by this
28 subsection ~~shall~~**must** occur before the body is released to the
29 funeral director or the funeral director's authorized agent. A

1 funeral director or funeral director's authorized agent who
2 receives notification under this subsection shall not refuse to
3 render services as a result of having received the notification.
4 This subsection ~~shall take effect~~ **takes effect** on the effective
5 date of the rules required by subsection (3).

6 (2) The information contained in the notification required by
7 subsection (1) ~~shall be~~ **is** confidential. A person who receives
8 confidential information under this section shall disclose the
9 information to others only to the extent consistent with the
10 authorized purpose for which the information was obtained.

11 (3) ~~Within 30 days after the effective date of this~~
12 ~~subsection,~~ **No later than August 6, 1986,** the department shall
13 submit for promulgation under section 48 of the administrative
14 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
15 ~~being section 24.248 of the Michigan Compiled Laws,~~ **MCL 24.248,**
16 rules ~~which~~ **that** define the term "infectious agent" for purposes of
17 this section.

18 (4) The department may promulgate rules to administer this
19 section.

20 (5) A person who violates subsection (2) is guilty of a
21 misdemeanor.

22 Sec. 2844. ~~(1) When death occurs more than 10 days after the~~
23 ~~deceased was last seen by a physician, if the cause of death~~
24 ~~appears to be other than the illness or condition for which the~~
25 ~~deceased was being treated, or if the attending physician cannot~~
26 ~~accurately determine the cause of death, the case shall be referred~~
27 ~~to the county medical examiner for investigation to determine and~~
28 ~~certify the cause of death. If the county medical examiner~~
29 ~~determines that the case does not fall within his or her~~

1 ~~jurisdiction, the county medical examiner shall refer the case back~~
2 ~~to the deceased's physician within 24 hours for completion of the~~
3 ~~medical certification.~~

4 (1) ~~(2) When~~ **If** an investigation is required under Act No. ~~181~~
5 ~~of the Public Acts of 1953, as amended, being sections 1953 PA 181,~~
6 **MCL 52.201 to 52.216, of the Michigan Compiled Laws,** the county
7 medical examiner shall determine the cause of death and shall
8 complete and sign the medical certification within 48 hours after
9 taking charge of the case.

10 (2) ~~(3)~~ If the cause of death cannot be determined within 48
11 hours after death, the medical certification may be completed as
12 provided by the department. ~~The attending physician or county~~
13 ~~medical examiner shall give the~~ **The** funeral director in custody of
14 the body **must be given** notice of the reason for the delay ~~, by~~ and
15 final disposition ~~shall~~ **must** not be made until authorized by ~~the~~ **1**
16 **of the following individuals:**

17 (a) **The** attending physician or **county** medical examiner.

18 (b) **The attending physician's authorized representative.**

19 (c) **A physician's assistant with whom the attending physician**
20 **has a written practice agreement.**

21 (d) **A nurse practitioner delegated the act by the attending**
22 **physician.**

23 Sec. 16221. Subject to section 16221b, the department shall
24 investigate any allegation that 1 or more of the grounds for
25 disciplinary subcommittee action under this section exist, and may
26 investigate activities related to the practice of a health
27 profession by a licensee, a registrant, or an applicant for
28 licensure or registration. The department may hold hearings,
29 administer oaths, and order the taking of relevant testimony. After

1 its investigation, the department shall provide a copy of the
2 administrative complaint to the appropriate disciplinary
3 subcommittee. The disciplinary subcommittee shall proceed under
4 section 16226 if it finds that 1 or more of the following grounds
5 exist:

6 (a) Except as otherwise specifically provided in this section,
7 a violation of general duty, consisting of negligence or failure to
8 exercise due care, including negligent delegation to or supervision
9 of employees or other individuals, whether or not injury results,
10 or any conduct, practice, or condition that impairs, or may impair,
11 the ability to safely and skillfully engage in the practice of the
12 health profession.

13 (b) Personal disqualifications, consisting of 1 or more of the
14 following:

15 (i) Incompetence.

16 (ii) Subject to sections 16165 to 16170a, substance use
17 disorder as defined in section 100d of the mental health code, 1974
18 PA 258, MCL 330.1100d.

19 (iii) Mental or physical inability reasonably related to and
20 adversely affecting the licensee's or registrant's ability to
21 practice in a safe and competent manner.

22 (iv) Declaration of mental incompetence by a court of competent
23 jurisdiction.

24 (v) Conviction of a misdemeanor punishable by imprisonment for
25 a maximum term of 2 years; conviction of a misdemeanor involving
26 the illegal delivery, possession, or use of a controlled substance;
27 or conviction of any felony other than a felony listed or described
28 in another subparagraph of this subdivision. A certified copy of
29 the court record is conclusive evidence of the conviction.

1 (vi) Lack of good moral character.

2 (vii) Conviction of a criminal offense under section 520e or
3 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
4 750.520g. A certified copy of the court record is conclusive
5 evidence of the conviction.

6 (viii) Conviction of a violation of section 492a of the Michigan
7 penal code, 1931 PA 328, MCL 750.492a. A certified copy of the
8 court record is conclusive evidence of the conviction.

9 (ix) Conviction of a misdemeanor or felony involving fraud in
10 obtaining or attempting to obtain fees related to the practice of a
11 health profession. A certified copy of the court record is
12 conclusive evidence of the conviction.

13 (x) Final adverse administrative action by a licensure,
14 registration, disciplinary, or certification board involving the
15 holder of, or an applicant for, a license or registration regulated
16 by another state or a territory of the United States, by the United
17 States military, by the federal government, or by another country.
18 A certified copy of the record of the board is conclusive evidence
19 of the final action.

20 (xi) Conviction of a misdemeanor that is reasonably related to
21 or that adversely affects the licensee's or registrant's ability to
22 practice in a safe and competent manner. A certified copy of the
23 court record is conclusive evidence of the conviction.

24 (xii) Conviction of a violation of section 430 of the Michigan
25 penal code, 1931 PA 328, MCL 750.430. A certified copy of the court
26 record is conclusive evidence of the conviction.

27 (xiii) Conviction of a criminal offense under section 83, 84,
28 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
29 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,

1 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
2 court record is conclusive evidence of the conviction.

3 (xiv) Conviction of a violation of section 136 or 136a of the
4 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
5 certified copy of the court record is conclusive evidence of the
6 conviction.

7 (c) Prohibited acts, consisting of 1 or more of the following:

8 (i) Fraud or deceit in obtaining or renewing a license or
9 registration.

10 (ii) Permitting a license or registration to be used by an
11 unauthorized person.

12 (iii) Practice outside the scope of a license.

13 (iv) Obtaining, possessing, or attempting to obtain or possess
14 a controlled substance or a drug as defined in section 7105 without
15 lawful authority; or selling, prescribing, giving away, or
16 administering drugs for other than lawful diagnostic or therapeutic
17 purposes.

18 (d) Except as otherwise specifically provided in this section,
19 unethical business practices, consisting of 1 or more of the
20 following:

21 (i) False or misleading advertising.

22 (ii) Dividing fees for referral of patients or accepting
23 kickbacks on medical or surgical services, appliances, or
24 medications purchased by or in behalf of patients.

25 (iii) Fraud or deceit in obtaining or attempting to obtain third
26 party reimbursement.

27 (e) Except as otherwise specifically provided in this section,
28 unprofessional conduct, consisting of 1 or more of the following:

29 (i) Misrepresentation to a consumer or patient or in obtaining

1 or attempting to obtain third party reimbursement in the course of
2 professional practice.

3 (ii) Betrayal of a professional confidence.

4 (iii) Promotion for personal gain of an unnecessary drug,
5 device, treatment, procedure, or service.

6 (iv) Either of the following:

7 (A) A requirement by a licensee other than a physician or a
8 registrant that an individual purchase or secure a drug, device,
9 treatment, procedure, or service from another person, place,
10 facility, or business in which the licensee or registrant has a
11 financial interest.

12 (B) A referral by a physician for a designated health service
13 that violates 42 USC 1395nn or a regulation promulgated under that
14 section. For purposes of this subdivision, 42 USC 1395nn and the
15 regulations promulgated under that section as they exist on June 3,
16 2002 are incorporated by reference. A disciplinary subcommittee
17 shall apply 42 USC 1395nn and the regulations promulgated under
18 that section regardless of the source of payment for the designated
19 health service referred and rendered. If 42 USC 1395nn or a
20 regulation promulgated under that section is revised after June 3,
21 2002, the department shall officially take notice of the revision.
22 Within 30 days after taking notice of the revision, the department
23 shall decide whether or not the revision pertains to referral by
24 physicians for designated health services and continues to protect
25 the public from inappropriate referrals by physicians. If the
26 department decides that the revision does both of those things, the
27 department may promulgate rules to incorporate the revision by
28 reference. If the department does promulgate rules to incorporate
29 the revision by reference, the department shall not make any

1 changes to the revision. As used in this sub-subparagraph,
 2 "designated health service" means that term as defined in 42 USC
 3 1395nn and the regulations promulgated under that section and
 4 "physician" means that term as defined in sections 17001 and 17501.

5 (v) For a physician who makes referrals under 42 USC 1395nn or
 6 a regulation promulgated under that section, refusing to accept a
 7 reasonable proportion of patients eligible for Medicaid and
 8 refusing to accept payment from Medicaid or Medicare as payment in
 9 full for a treatment, procedure, or service for which the physician
 10 refers the individual and in which the physician has a financial
 11 interest. A physician who owns all or part of a facility in which
 12 he or she provides surgical services is not subject to this
 13 subparagraph if a referred surgical procedure he or she performs in
 14 the facility is not reimbursed at a minimum of the appropriate
 15 Medicaid or Medicare outpatient fee schedule, including the
 16 combined technical and professional components.

17 (vi) Any conduct by a health professional with a patient while
 18 he or she is acting within the health profession for which he or
 19 she is licensed or registered, including conduct initiated by a
 20 patient or to which the patient consents, that is sexual or may
 21 reasonably be interpreted as sexual, including, but not limited to,
 22 sexual intercourse, kissing in a sexual manner, or touching of a
 23 body part for any purpose other than appropriate examination,
 24 treatment, or comfort.

25 (vii) Offering to provide practice-related services, such as
 26 drugs, in exchange for sexual favors.

27 (viii) A violation of section 16655(4) by a dental therapist.

28 (f) Failure to notify under section 16222(3) or (4).

29 (g) Failure to report a change of name or mailing address as

1 required in section 16192.

2 (h) A violation, or aiding or abetting in a violation, of this
3 article or of a rule promulgated under this article.

4 (i) Failure to comply with a subpoena issued pursuant to this
5 part, failure to respond to a complaint issued under this article,
6 article 7, or article 8, failure to appear at a compliance
7 conference or an administrative hearing, or failure to report under
8 section 16222(1) or 16223.

9 (j) Failure to pay an installment of an assessment levied
10 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
11 500.8302, within 60 days after notice by the appropriate board.

12 (k) A violation of section 17013 or 17513.

13 (l) Failure to meet 1 or more of the requirements for licensure
14 or registration under section 16174.

15 (m) A violation of section 17015, 17015a, 17017, 17515, or
16 17517.

17 (n) A violation of section 17016 or 17516.

18 (o) Failure to comply with section **2843(5) or** 9206(3).

19 (p) A violation of section 5654 or 5655.

20 (q) A violation of section 16274.

21 (r) A violation of section 17020 or 17520.

22 (s) A violation of the medical records access act, 2004 PA 47,
23 MCL 333.26261 to 333.26271.

24 (t) A violation of section 17764(2).

25 (u) Failure to comply with the terms of a practice agreement
26 described in section 17047(2) (a) or (b), 17547(2) (a) or (b), or
27 18047(2) (a) or (b).

28 (v) A violation of section 7303a(2).

29 (w) A violation of section 7303a(4) or (5).

- 1 (x) A violation of section 7303b.
- 2 (y) A violation of section 17754a.
- 3 (z) Beginning January 1, 2021, a violation of section 24507 or
- 4 24509.