

# HOUSE BILL NO. 5615

December 08, 2021, Introduced by Reps. Calley and Tyrone Carter and referred to the Committee on Local Government and Municipal Finance.

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) "Health care provider" means all of the  
**2** **following:**

1 (a) A physician licensed under part 170 or part 175.

2 (b) A registered professional nurse licensed under part 172  
3 who has been granted a specialty certification as a nurse  
4 practitioner by the Michigan board of nursing under section 17210.

5 (c) A physician's assistant licensed under part 170 or part  
6 175.

7 (2) ~~(1)~~—"Institution" means a public or private establishment  
8 that provides inpatient medical, surgical, or diagnostic care or  
9 treatment or nursing, custodial, or domiciliary care to 2 or more  
10 unrelated individuals, including an establishment to which  
11 individuals are committed by law.

12 (3) ~~(2)~~—"Law enforcement agency" means a police agency of a  
13 city, village, or township; a sheriff's department; the department  
14 of state police; and any other governmental law enforcement agency.

15 (4) ~~(3)~~—"Live birth" means that term as defined in section 1  
16 of the born alive infant protection act, 2002 PA 687, MCL 333.1071.

17 (5) ~~(4)~~—"Local registrar" means the county clerk or the  
18 clerk's deputy, or in the case of a city having a population of  
19 40,000 or more, the city clerk or city department designated by the  
20 governing body of the city; or a registrar appointed ~~pursuant to~~  
21 **under** section 2814. Population ~~shall~~**must** be determined according  
22 to the latest federal decennial census.

23 (6) ~~(5)~~—"Miscarriage" means the spontaneous expulsion of a  
24 nonviable fetus that has completed less than 20 weeks of gestation.

25 (7) ~~(6)~~—"Registration" means the acceptance by the state  
26 registrar and the incorporation of certificates provided for in  
27 this part into the official vital records.

28 Sec. 2843. (1) A funeral director who first assumes custody of  
29 a dead body, either personally or through his or her authorized

1 agent, shall report the death. For purposes of this subsection,  
 2 "dead body" includes, but is not limited to, the body of an infant  
 3 who survived an attempted abortion as described in the born alive  
 4 infant protection act, **2002 PA 687, MCL 333.1071 to 333.1073**, and  
 5 who later died. The funeral director or the authorized agent shall  
 6 obtain the necessary personal data from the next of kin or the best  
 7 qualified individual or source available and shall obtain medical  
 8 certification as follows:

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

26 (b) ~~A physician described in subdivision (a), who for himself~~  
 27 ~~or herself or as an agent or employee of another individual~~  
 28 ~~neglects or refuses to certify a death record properly presented to~~  
 29 ~~him or her for certification by a funeral director or who refuses~~

1 ~~or neglects to furnish information in his or her possession, is~~  
 2 ~~guilty of a misdemeanor punishable by imprisonment for not more~~  
 3 ~~than 60 days, or a fine of not less than \$25.00 nor more than~~  
 4 ~~\$100.00, or both.~~

5 ~~(2) A physician described in subsection (1)(a) shall provide~~  
 6 ~~the medical certification described in subsection (1)(a) within 48~~  
 7 ~~hours after the death.~~ **the health care provider who was in charge of**  
 8 **the decedent's care for the illness or condition that resulted in**  
 9 **the decedent's death or that health care provider's designee.**

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

14 (i) The attending health care provider.

15 (ii) In the absence of an attending health care provider, a  
 16 health care provider acting as the attending health care provider's  
 17 designee.

18 (iii) In the absence of an attending health care provider or his  
 19 or her designee, either of the following:

20 (A) The chief medical officer of the institution in which the  
 21 death occurred after the chief medical officer reviews pertinent  
 22 records and makes other investigations considered necessary.

23 (B) A pathologist.

24 (c) Notwithstanding subdivisions (a) and (b), if an  
 25 investigation is required under section 2 of 1953 PA 181, MCL  
 26 52.202, the medical certification portion of the death record must  
 27 be completed and certified by the county medical examiner as  
 28 provided in section 2844.

29 (2) The report and certification described in subsection (1)

1 must be submitted using the web-based application system  
 2 established by the department for the registration of deaths. A  
 3 health care provider who completes a medical certification under  
 4 subsection (1) shall first complete training provided by the  
 5 department to use the web-based application system for the  
 6 registration of deaths.

7 (3) A death record shall be certified by a funeral director  
 8 who is licensed under article 18 of the occupational code, 1980 PA  
 9 299, MCL 339.1801 to 339.1812, or by an individual who holds a  
 10 courtesy license under section 1806a of that act, MCL 339.1806a,  
 11 and shall be filed with the local registrar of the district where  
 12 the death occurred within 72 hours after the death.

13 (4) Except as otherwise provided in this subsection, the death  
 14 of an infant who was born alive following an attempted abortion and  
 15 was surrendered to an emergency service provider under the safe  
 16 delivery of newborns law, ~~sections 1 to 20 of~~ chapter XII of the  
 17 probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, and then  
 18 died shall be reported in the same manner as for any death.  
 19 However, the deceased infant ~~shall~~**must** be listed as "Baby Doe" and  
 20 no information that would directly identify the deceased infant or  
 21 the deceased infant's parents shall be reported, including, but not  
 22 limited to, the following information:

- 23 (a) The name of the mother or father.
- 24 (b) The address of the mother or father.
- 25 (c) The name of the informant.
- 26 (d) The address of the informant.

27 Sec. 2843b. (1) If, at the time of death, a ~~physician~~**health**  
 28 **care provider** who is required to complete the medical certification  
 29 under section 2843(1) (a) has actual knowledge of the presence in

1 the deceased individual of an infectious agent, including acquired  
 2 immunodeficiency syndrome-related virus, the ~~physician health care~~  
 3 **provider** shall notify the funeral director or the funeral  
 4 director's authorized agent of the appropriate infection control  
 5 precautions to be taken. The notification required by this  
 6 subsection ~~shall~~**must** occur before the body is released to the  
 7 funeral director or the funeral director's authorized agent. A  
 8 funeral director or funeral director's authorized agent who  
 9 receives notification under this subsection shall not refuse to  
 10 render services as a result of having received the notification.  
 11 This subsection ~~shall take effect~~**takes effect** on the effective  
 12 date of the rules required by subsection (3).

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

18 (3) ~~Within 30 days after the effective date of this~~  
 19 ~~subsection,~~**No later than August 6, 1986,** the department shall  
 20 submit for promulgation under section 48 of the administrative  
 21 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~  
 22 ~~being section 24.248 of the Michigan Compiled Laws,~~**MCL 24.248,**  
 23 ~~rules which~~**that** define the term "infectious agent" for purposes of  
 24 this section.

25 (4) The department may promulgate rules to administer this  
 26 section.

27 (5) A person who violates subsection (2) is guilty of a  
 28 misdemeanor.

29 Sec. 2844. ~~(1) When death occurs more than 10 days after the~~

1 ~~deceased was last seen by a physician, if the cause of death~~  
 2 ~~appears to be other than the illness or condition for which the~~  
 3 ~~deceased was being treated, or if the attending physician cannot~~  
 4 ~~accurately determine the cause of death, the case shall be referred~~  
 5 ~~to the county medical examiner for investigation to determine and~~  
 6 ~~certify the cause of death. If the county medical examiner~~  
 7 ~~determines that the case does not fall within his or her~~  
 8 ~~jurisdiction, the county medical examiner shall refer the case back~~  
 9 ~~to the deceased's physician within 24 hours for completion of the~~  
 10 ~~medical certification.~~

11 ~~(1) (2) When~~ **If** an investigation is required under ~~Act No. 181~~  
 12 ~~of the Public Acts of 1953, as amended, being sections 1953 PA 181,~~  
 13 **MCL** 52.201 to 52.216, ~~of the Michigan Compiled Laws,~~ the county  
 14 medical examiner shall determine the cause of death and shall  
 15 complete and sign the medical certification within 48 hours after  
 16 taking charge of the case.

17 ~~(2) (3)~~ If the cause of death cannot be determined within 48  
 18 hours after death, the medical certification may be completed as  
 19 provided by the department. The attending ~~physician~~ **health care**  
 20 **provider** or county medical examiner shall give the funeral director  
 21 in custody of the body notice of the reason for the delay, and  
 22 final disposition ~~shall~~ **must** not be made until authorized by the  
 23 attending ~~physician~~ **health care provider** or **county** medical  
 24 examiner.

25 Sec. 16221. Subject to section 16221b, the department shall  
 26 investigate any allegation that 1 or more of the grounds for  
 27 disciplinary subcommittee action under this section exist, and may  
 28 investigate activities related to the practice of a health  
 29 profession by a licensee, a registrant, or an applicant for

1 licensure or registration. The department may hold hearings,  
2 administer oaths, and order the taking of relevant testimony. After  
3 its investigation, the department shall provide a copy of the  
4 administrative complaint to the appropriate disciplinary  
5 subcommittee. The disciplinary subcommittee shall proceed under  
6 section 16226 if it finds that 1 or more of the following grounds  
7 exist:

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

15 (b) Personal disqualifications, consisting of 1 or more of the  
16 following:

17 (i) Incompetence.

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

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

24 (iv) Declaration of mental incompetence by a court of competent  
25 jurisdiction.

26 (v) Conviction of a misdemeanor punishable by imprisonment for  
27 a maximum term of 2 years; conviction of a misdemeanor involving  
28 the illegal delivery, possession, or use of a controlled substance;  
29 or conviction of any felony other than a felony listed or described



1 in another subparagraph of this subdivision. A certified copy of  
2 the court record is conclusive evidence of the conviction.

3 (vi) Lack of good moral character.

4 (vii) Conviction of a criminal offense under section 520e or  
5 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and  
6 750.520g. A certified copy of the court record is conclusive  
7 evidence of the conviction.

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

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

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

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

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

29 (xiii) Conviction of a criminal offense under section 83, 84,

1 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal  
2 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,  
3 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the  
4 court record is conclusive evidence of the conviction.

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

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

10 (i) Fraud or deceit in obtaining or renewing a license or  
11 registration.

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

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

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

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

23 (i) False or misleading advertising.

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

27 (iii) Fraud or deceit in obtaining or attempting to obtain third  
28 party reimbursement.

29 (e) Except as otherwise specifically provided in this section,

1 unprofessional conduct, consisting of 1 or more of the following:

2 (i) Misrepresentation to a consumer or patient or in obtaining  
3 or attempting to obtain third party reimbursement in the course of  
4 professional practice.

5 (ii) Betrayal of a professional confidence.

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

8 (iv) Either of the following:

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

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

1 reference. If the department does promulgate rules to incorporate  
2 the revision by reference, the department shall not make any  
3 changes to the revision. As used in this sub-subparagraph,  
4 "designated health service" means that term as defined in 42 USC  
5 1395nn and the regulations promulgated under that section and  
6 "physician" means that term as defined in sections 17001 and 17501.

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

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

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

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

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

2 (g) Failure to report a change of name or mailing address as  
3 required in section 16192.

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

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

11 (j) Failure to pay an installment of an assessment levied  
12 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
13 500.8302, within 60 days after notice by the appropriate board.

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

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

17 (m) A violation of section 17015, 17015a, 17017, 17515, or  
18 17517.

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

20 (o) Failure to **complete and certify a death record as required**  
21 **under section 2843(1) or** comply with section 9206(3).

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

23 (q) A violation of section 16274.

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

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

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

28 (u) Failure to comply with the terms of a practice agreement  
29 described in section 17047(2) (a) or (b), 17547(2) (a) or (b), or

- 1 18047(2) (a) or (b).
- 2 (v) A violation of section 7303a(2).
- 3 (w) A violation of section 7303a(4) or (5).
- 4 (x) A violation of section 7303b.
- 5 (y) A violation of section 17754a.
- 6 (z) Beginning January 1, 2021, a violation of section 24507 or
- 7 24509.