

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5218

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 21501 (MCL 333.21501) and by adding section  
21541.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21501. (1) ~~Article~~ AS USED IN THIS PART:

2       (A) "AIRCRAFT TRANSPORT VEHICLE" MEANS THAT TERM AS DEFINED IN  
3 SECTION 20902.

4       (B) "AMBULANCE" MEANS THAT TERM AS DEFINED IN SECTION 20902.

5       (C) "EMERGENCY PATIENT" MEANS THAT TERM AS DEFINED IN SECTION  
6 20904.

7       (D) "GROUP HEALTH PLAN" MEANS AN EMPLOYER PROGRAM OF HEALTH  
8 BENEFITS, INCLUDING AN EMPLOYEE WELFARE BENEFIT PLAN AS DEFINED IN  
9 SECTION 3(1) OF SUBTITLE A OF TITLE I OF THE EMPLOYEE RETIREMENT

1 INCOME SECURITY ACT OF 1974, PUBLIC LAW 93-406, 29 USC 1002, TO THE  
2 EXTENT THAT THE PLAN PROVIDES MEDICAL CARE, INCLUDING ITEMS AND  
3 SERVICES PAID FOR AS MEDICAL CARE TO EMPLOYEES OR THEIR DEPENDENTS  
4 AS DEFINED UNDER THE TERMS OF THE PLAN DIRECTLY OR THROUGH  
5 INSURANCE, REIMBURSEMENT, OR OTHERWISE.

6 (E) "HEALTH BENEFIT PLAN" MEANS A GROUP HEALTH PLAN, AN  
7 INDIVIDUAL OR GROUP EXPENSE-INCURRED HOSPITAL, MEDICAL, OR SURGICAL  
8 POLICY OR CERTIFICATE, OR AN INDIVIDUAL OR GROUP HEALTH MAINTENANCE  
9 ORGANIZATION CONTRACT. HEALTH BENEFIT PLAN DOES NOT INCLUDE  
10 ACCIDENT-ONLY, CREDIT, DENTAL, OR DISABILITY INCOME INSURANCE;  
11 LONG-TERM CARE INSURANCE; COVERAGE ISSUED AS A SUPPLEMENT TO  
12 LIABILITY INSURANCE; COVERAGE ONLY FOR A SPECIFIED DISEASE OR  
13 ILLNESS; WORKER'S COMPENSATION OR SIMILAR INSURANCE; OR AUTOMOBILE  
14 MEDICAL-PAYMENT INSURANCE.

15 (F) "NONEMERGENCY PATIENT" MEANS THAT TERM AS DEFINED IN  
16 SECTION 20908.

17 (G) "PARTICIPATING PROVIDER" MEANS A PROVIDER THAT, UNDER  
18 CONTRACT WITH AN INSURER THAT ISSUES HEALTH BENEFIT PLANS, OR WITH  
19 SUCH AN INSURER'S CONTRACTOR OR SUBCONTRACTOR, HAS AGREED TO  
20 PROVIDE HEALTH CARE SERVICES TO COVERED INDIVIDUALS AND TO ACCEPT  
21 PAYMENT BY THE INSURER, CONTRACTOR, OR SUBCONTRACTOR FOR COVERED  
22 SERVICES AS PAYMENT IN FULL, OTHER THAN COINSURANCE, COPAYMENTS, OR  
23 DEDUCTIBLES.

24 (H) "PATIENT'S REPRESENTATIVE" MEANS ANY OF THE FOLLOWING:

25 (i) A PERSON TO WHOM A PATIENT HAS GIVEN EXPRESS WRITTEN  
26 CONSENT TO REPRESENT THE PATIENT.

27 (ii) A PERSON AUTHORIZED BY LAW TO PROVIDE CONSENT FOR A

1 PATIENT.

2 (iii) A PATIENT'S TREATING HEALTH PROFESSIONAL, BUT ONLY IF  
3 THE PATIENT IS UNABLE TO PROVIDE CONSENT.

4 (I) "THIRD PARTY ADMINISTRATOR" MEANS THAT TERM AS DEFINED IN  
5 SECTION 2 OF THE THIRD PARTY ADMINISTRATOR ACT, 1984 PA 218, MCL  
6 550.902.

7 (2) IN ADDITION, ARTICLE 1 contains general definitions and  
8 principles of construction applicable to all articles in this code  
9 and part 201 contains definitions applicable to this part.

10 SEC. 21541. (1) SUBJECT TO SECTION 21540, BEFORE ORDERING AN  
11 AIRCRAFT TRANSPORT VEHICLE FROM AN AIRCRAFT TRANSPORT OPERATION TO  
12 TRANSPORT A NONEMERGENCY PATIENT OR ORDERING AN AMBULANCE THAT IS A  
13 ROTARY AIRCRAFT FROM AN AMBULANCE OPERATION TO TRANSPORT A  
14 NONEMERGENCY PATIENT, A HOSPITAL SHALL DO ALL OF THE FOLLOWING:

15 (A) SUBJECT TO SUBDIVISION (C), DISCLOSE TO THE NONEMERGENCY  
16 PATIENT, OR THAT PATIENT'S REPRESENTATIVE, ALL OF THE FOLLOWING  
17 INFORMATION:

18 (i) WHETHER THE AIRCRAFT TRANSPORT OPERATION OR AMBULANCE  
19 OPERATION IS A PARTICIPATING PROVIDER WITH THE NONEMERGENCY  
20 PATIENT'S HEALTH BENEFIT PLAN. THIS SUBPARAGRAPH DOES NOT APPLY IF  
21 THE HOSPITAL DOES NOT HAVE ELECTRONIC ACCESS TO ALL OF THE  
22 FOLLOWING INFORMATION:

23 (A) WHETHER THE NONEMERGENCY PATIENT'S HEALTH BENEFIT PLAN  
24 PROVIDES COVERAGE FOR TRANSPORTATION BY AN AIRCRAFT TRANSPORT  
25 VEHICLE OR AN AMBULANCE THAT IS A ROTARY AIRCRAFT.

26 (B) A LIST OF ALL AIRCRAFT TRANSPORT OPERATIONS AND AMBULANCE  
27 OPERATIONS THAT ARE FULLY CONTRACTED PARTICIPATING PROVIDERS WITH

1 THE NONEMERGENCY PATIENT'S HEALTH BENEFIT PLAN AND DO NOT  
2 PARTICIPATE WITH THE HEALTH BENEFIT PLAN ON ONLY A PER CLAIM BASIS.

3 (ii) A GOOD-FAITH ESTIMATE OF THE COST OF USING THE AIRCRAFT  
4 TRANSPORT OPERATION OR AMBULANCE OPERATION TO TRANSPORT THE  
5 NONEMERGENCY PATIENT.

6 (iii) THAT THE NONEMERGENCY PATIENT HAS A RIGHT TO BE  
7 TRANSPORTED BY A METHOD OTHER THAN AN AIRCRAFT TRANSPORT VEHICLE OR  
8 AMBULANCE THAT IS A ROTARY AIRCRAFT.

9 (iv) UPON REQUEST, A GOOD-FAITH ESTIMATE OF THE COST OF USING  
10 EACH METHOD OF TRANSPORTATION OTHER THAN AN AIRCRAFT TRANSPORT  
11 VEHICLE OR AMBULANCE THAT IS A ROTARY AIRCRAFT.

12 (B) COMPLETE THE NOTICE DESCRIBED IN SUBSECTION (2) AND, AFTER  
13 COMPLETING THE NOTICE, OBTAIN ON THE NOTICE THE SIGNATURE OF THE  
14 NONEMERGENCY PATIENT, OR THAT PATIENT'S REPRESENTATIVE,  
15 ACKNOWLEDGING THAT THE NONEMERGENCY PATIENT, OR THAT PATIENT'S  
16 REPRESENTATIVE, HAS RECEIVED, HAS READ, AND UNDERSTANDS THE NOTICE.  
17 A HOSPITAL SHALL RETAIN A COPY OF THE NOTICE REQUIRED UNDER THIS  
18 SUBDIVISION FOR NOT LESS THAN 7 YEARS.

19 (C) IF AFTER MAKING A GOOD-FAITH EFFORT THE HOSPITAL IS UNABLE  
20 TO IDENTIFY THE INFORMATION REQUIRED TO BE DISCLOSED UNDER  
21 SUBDIVISION (A), DISCLOSE TO THE NONEMERGENCY PATIENT, OR THAT  
22 PATIENT'S REPRESENTATIVE, IN WRITING, THE STEPS TAKEN TO OBTAIN THE  
23 INFORMATION AND THE RESULTS OF THOSE EFFORTS. A HOSPITAL IS IMMUNE  
24 FROM CIVIL LIABILITY FOR DISCLOSING THE INFORMATION REQUIRED UNDER  
25 SUBDIVISION (A) IN GOOD-FAITH OR FOR FAILING TO DISCLOSE THE  
26 INFORMATION REQUIRED UNDER SUBDIVISION (A) IF THE HOSPITAL'S  
27 FAILURE WAS AFTER MAKING A GOOD-FAITH EFFORT TO IDENTIFY THE

1 INFORMATION.

2 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) (B) MUST BE IN NOT  
3 LESS THAN 12-POINT TYPE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

4 "YOUR HEALTH BENEFIT PLAN \_\_\_\_\_ (DOES OR DOES NOT) PROVIDE  
5 COVERAGE FOR TRANSPORTATION BY AN AIRCRAFT TRANSPORT VEHICLE OR  
6 AMBULANCE THAT IS A ROTARY AIRCRAFT, OR COVERAGE FOR TRANSPORTATION  
7 PROVIDED BY \_\_\_\_\_ (INSERT NAME OF AIRCRAFT TRANSPORT  
8 OPERATION OR AMBULANCE OPERATION) ORDERED BY \_\_\_\_\_  
9 (INSERT NAME OF PHYSICIAN). YOU HAVE THE RIGHT TO REQUEST THAT  
10 \_\_\_\_\_ (INSERT NAME OF PHYSICIAN) ORDER AN AIRCRAFT  
11 TRANSPORT VEHICLE OR AMBULANCE THAT IS A ROTARY AIRCRAFT FROM AN  
12 AIRCRAFT TRANSPORT OPERATION OR AMBULANCE OPERATION THAT IS A  
13 PARTICIPATING PROVIDER WITH YOUR HEALTH BENEFIT PLAN.

14 IF YOUR HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR  
15 TRANSPORTATION BY AN AIRCRAFT TRANSPORT VEHICLE OR AMBULANCE THAT  
16 IS A ROTARY AIRCRAFT OR COVERAGE FOR TRANSPORTATION PROVIDED BY  
17 \_\_\_\_\_ (INSERT NAME OF AIRCRAFT TRANSPORT OPERATION OR  
18 AMBULANCE OPERATION) ORDERED BY \_\_\_\_\_ (INSERT NAME OF  
19 PHYSICIAN), YOU MAY BE SUBJECT TO A DEDUCTIBLE, A COPAYMENT, OR  
20 COINSURANCE.

21 IF YOU WILLINGLY CHOOSE TO BE TRANSPORTED BY AN AIRCRAFT  
22 TRANSPORT OPERATION THAT IS NOT A PARTICIPATING PROVIDER WITH YOUR  
23 HEALTH BENEFIT PLAN OR BY AN AMBULANCE OPERATION THAT IS NOT A  
24 PARTICIPATING PROVIDER WITH YOUR HEALTH BENEFIT PLAN, YOU MAY BE  
25 RESPONSIBLE FOR THE COSTS OF THE TRANSPORTATION THAT IS NOT COVERED  
26 BY YOUR HEALTH BENEFIT PLAN.

27 YOU HAVE THE RIGHT TO REQUEST, AND THE HOSPITAL SHALL PROVIDE,

1 A GOOD-FAITH ESTIMATE OF THE COST OF THE SERVICES PROVIDED BY  
 2 \_\_\_\_\_ (INSERT NAME OF AIRCRAFT TRANSPORT OPERATION OR  
 3 AMBULANCE OPERATION). YOU ALSO HAVE THE RIGHT TO REQUEST  
 4 TRANSPORTATION BY METHODS OTHER THAN AN AIRCRAFT TRANSPORT VEHICLE  
 5 OR AMBULANCE THAT IS A ROTARY AIRCRAFT AND HAVE THE RIGHT TO A  
 6 GOOD-FAITH ESTIMATE OF THE COST OF EACH OTHER METHOD OF  
 7 TRANSPORTATION. UPON YOUR REQUEST, THE HOSPITAL SHALL PROVIDE YOU  
 8 WITH A GOOD-FAITH ESTIMATE OF THE COST OF EACH OTHER METHOD OF  
 9 TRANSPORTATION.

10 THE HOSPITAL AND THE ORDERING PHYSICIAN ARE IMMUNE FROM CIVIL  
 11 LIABILITY FOR INJURIES OR DAMAGES ARISING OUT OF YOUR DECISION TO  
 12 USE A FORM OF TRANSPORTATION OTHER THAN THE ONE ORDERED BY THE  
 13 ORDERING PHYSICIAN.

14 \_\_\_\_\_  
 15 (PATIENT'S OR PATIENT REPRESENTATIVE'S SIGNATURE) (DATE)  
 16 \_\_\_\_\_  
 17 (TYPE OR PRINT PATIENT'S OR PATIENT REPRESENTATIVE'S NAME)".

18 (3) A HOSPITAL AND ORDERING PHYSICIAN ARE IMMUNE FROM CIVIL  
 19 LIABILITY FOR INJURIES OR DAMAGES ARISING OUT OF THE DECISION OF A  
 20 PATIENT OR THE PATIENT'S REPRESENTATIVE TO USE A FORM OF  
 21 TRANSPORTATION OTHER THAN THE ONE ORDERED BY THE ORDERING  
 22 PHYSICIAN.

23 (4) UPON THE REQUEST OF A NONEMERGENCY PATIENT'S HEALTH  
 24 BENEFIT PLAN OR THIRD PARTY ADMINISTRATOR, THE HOSPITAL SHALL  
 25 PROVIDE A COPY OF THE NOTICE REQUIRED UNDER SUBSECTION (1) (B) TO  
 26 THE PERSON DESIGNATED IN THE NONEMERGENCY PATIENT'S HEALTH BENEFIT  
 27 PLAN OR BY THE THIRD PARTY ADMINISTRATOR.

(5) WITHIN 10 DAYS AFTER ORDERING AN AIRCRAFT TRANSPORT VEHICLE OR AMBULANCE THAT IS A ROTARY AIRCRAFT TO TRANSPORT AN EMERGENCY PATIENT OR NONEMERGENCY PATIENT, THE HOSPITAL SHALL PROVIDE TO THE PERSON DESIGNATED IN THE PATIENT'S HEALTH BENEFIT PLAN OR TO THE THIRD PARTY ADMINISTRATOR WRITTEN DOCUMENTATION EXPLAINING WHY TRANSPORTING THE PATIENT BY AN AMBULANCE THAT IS A MOTOR VEHICLE WAS MEDICALLY INAPPROPRIATE FOR THE PATIENT.

(6) IN ADDITION TO THE SANCTIONS SET FORTH IN SECTION 20165, A HOSPITAL THAT VIOLATES THIS SECTION IS LIABLE TO THE AIRCRAFT TRANSPORT OPERATION OR AMBULANCE OPERATION FOR THE COST OF TRANSPORTING THE PATIENT BY THAT OPERATION'S AIRCRAFT TRANSPORT VEHICLE OR AMBULANCE THAT IS A ROTARY AIRCRAFT TO THE EXTENT THAT THE COST EXCEEDS THE AMOUNT COVERED BY THE PATIENT'S HEALTH BENEFIT PLAN.

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

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5217.

(b) House Bill No. 5219.