



**House  
Legislative  
Analysis  
Section**

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**PROVIDER-PATIENT PRIVILEGE:  
WAIVER BY POLICY BENEFICIARY**

House Bill 5012 as introduced  
First Analysis (9-20-95)

Sponsor: Rep. John Llewellyn  
Committee: Insurance

***THE APPARENT PROBLEM:***

Under the Revised Judicature Act, a person authorized to practice medicine or surgery cannot disclose information acquired in attending a patient professionally if the information was necessary in prescribing as a physician or acting as a surgeon, except as otherwise provided by law. Exceptions include malpractice actions, for example. The act also says that if a patient has died, the heirs at law are to be considered personal representatives of the patient for the purpose of waiving the provider-patient privilege in a contest over admitting the patient's will to probate. Representatives of the life insurance industry have testified that a recent state court of appeals decision has made it more difficult for companies to investigate deaths of insureds because it only allows a personal representative of the deceased to waive the provider-patient privilege. The beneficiary of a policy cannot waive the privilege and allow the insurance company to obtain necessary information to investigate the death of an insured to determine whether to pay out on the policy. What is now required is that the company sue the beneficiary or the beneficiary sue the company or that the beneficiary become a personal representative of the deceased. An amendment has been proposed that would allow the beneficiary of a life insurance policy to waive the provider-patient privilege.

***THE CONTENT OF THE BILL:***

House Bill 5012 would amend the Revised Judicature Act to specify that, when a patient had died, the beneficiary of a life insurance policy insuring the life of the deceased could waive the provider-patient privilege.

MCL 600.2157

***FISCAL IMPLICATIONS:***

The bill has no cost or revenue impact, according to the House Fiscal Agency. (Fiscal Note dated 9-18-95).

***ARGUMENTS:***

***For:***

The bill would allow life insurers to gain access to necessary medical information when investigating the death of an insured person, with the permission of the beneficiary of the life insurance policy. Insurers say a recent court decision has interpreted the law to permit only a personal representative of the deceased person to waive the provider-patient privilege. Without this bill, according to industry spokespersons, beneficiaries of life insurance policies would have to become involved in lawsuits or seek legal counsel in order to become personal representatives.

***Response:***

Would this permit beneficiaries of a life insurance policy who were not related to the person who had died (e.g., business associates or a company or institution) to grant access to the deceased medical records? Is this a good idea?

***POSITIONS:***

A representative from The Prudential Insurance Company of America testified in support of the bill. (9-19-95)

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