

SUBSTITUTE FOR  
HOUSE BILL NO. 4025

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 10204 and 16215 (MCL 333.10204 and  
333.16215), section 10204 as amended by 1988 PA 63 and  
section 16215 as amended by 1990 PA 279.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 10204. (1) Except as otherwise provided in subsection  
2 (2), a person shall not knowingly acquire, receive, or otherwise  
3 transfer a human organ or part of a human organ for valuable con-  
4 sideration for any purpose, including but not limited to trans-  
5 plantation, implantation, infusion, injection, or other medical  
6 or scientific purpose. A person who violates this subsection is  
7 guilty of a felony.

8       (2) ~~This section~~ SUBSECTION (1) does not prohibit ~~any~~ 1  
9 OR MORE of the following practices:

**HB4025, As Passed House, May 5, 1999**

House Bill No. 4025

2

1 (a) The removal and use of a human cornea pursuant to  
2 section 10202, or the removal and use of a human pituitary gland  
3 pursuant to section 2855.

4 (b) An anatomical gift pursuant to part 101, or the acquisi-  
5 tion or distribution of bodies or parts by the ~~anatomy board~~  
6 DIRECTOR pursuant to sections 2651 to 2663.

7 (c) Financial assistance payments provided under a plan of  
8 insurance or other health care coverage.

9 (3) ONLY AN INDIVIDUAL WHO IS 1 OF THE FOLLOWING MAY SURGI-  
10 CALLY REMOVE A HUMAN ORGAN FOR TRANSPLANTATION, IMPLANTATION,  
11 INFUSION, INJECTION, OR ANY OTHER MEDICAL OR SCIENTIFIC PURPOSE:

12 (A) A PHYSICIAN LICENSED UNDER ARTICLE 15.

13 (B) AN INDIVIDUAL ACTING UNDER THE DELEGATORY AUTHORITY AND  
14 SUPERVISION OF A PHYSICIAN PURSUANT TO SECTION 16215(2), BUT NOT  
15 INCLUDING AN INDIVIDUAL WHOSE LICENSE HAS BEEN SUSPENDED UNDER  
16 ARTICLE 15.

17 (C) FOR THE PURPOSES OF SURGICALLY REMOVING A HUMAN ORGAN  
18 THAT IS AN EYE OR A PHYSICAL PART OF AN EYE ONLY, AN INDIVIDUAL  
19 CERTIFIED BY A STATE MEDICAL SCHOOL AS DESCRIBED IN  
20 SECTION 10105.

21 (D) AN INDIVIDUAL RESIDING IN ANOTHER STATE AND AUTHORIZED  
22 TO PRACTICE ALLOPATHIC MEDICINE OR OSTEOPATHIC MEDICINE AND SUR-  
23 GERY IN THAT STATE WHO IS CALLED INTO THIS STATE BY A PHYSICIAN  
24 LICENSED UNDER ARTICLE 15 AND IS AUTHORIZED BY A HOSPITAL  
25 LICENSED UNDER ARTICLE 17 TO SURGICALLY REMOVE 1 OR MORE OF THE  
26 FOLLOWING ORGANS FOR TRANSPORT BACK TO THE OTHER STATE:

1 (i) A HEART.

2 (ii) A LIVER.

3 (iii) A LUNG.

4 (iv) A PANCREAS.

5 (v) A KIDNEY.

6 (vi) ALL OR PART OF AN INTESTINE.

[(vii) ANY OTHER HUMAN ORGAN SPECIFIED BY RULE PROMULGATED BY  
THE DEPARTMENT.]

7 (4) AN INDIVIDUAL WHO VIOLATES SUBSECTION (3) IS GUILTY OF A  
8 FELONY.

9 (5) ~~—(3)—~~ As used in this section:

10 (a) "Human organ" means the human kidney, liver, heart,  
11 lung, pancreas, bone marrow, cornea, eye, bone, skin, cartilage,  
12 dura mater, ligaments, tendons, fascia, pituitary gland, and  
13 middle ear structures and any other human organ specified by rule  
14 promulgated by the department. Human organ does not include  
15 whole blood, blood plasma, blood products, blood derivatives,  
16 other self-replicating body fluids, or human hair.

17 (b) "Valuable consideration" does not include the reasonable  
18 payments associated with the removal, transportation, implanta-  
19 tion, processing, preservation, quality control, and storage of a  
20 human organ or the medical expenses and expenses of travel, hous-  
21 ing, and lost wages incurred by the donor of a human organ in  
22 connection with the donation of the human organ.

23 (6) ~~—(4)—~~ The department may promulgate rules to specify  
24 human organs in addition to the human organs listed in subsection  
[(3)(D)(i) TO (vi) OR]

25 ~~—(3)(a)—~~ (5)(A).

26 Sec. 16215. (1) ~~—A—~~ SUBJECT TO SUBSECTIONS (2) TO (4), A  
27 licensee who holds a license other than a health profession

1 subfield license may delegate to a licensed or unlicensed  
2 individual who is otherwise qualified by education, training, or  
3 experience the performance of selected acts, tasks, or functions  
4 where the acts, tasks, or functions fall within the scope of  
5 practice of the licensee's profession and will be performed under  
6 the licensee's supervision. ~~An~~ A LICENSEE SHALL NOT DELEGATE  
7 AN act, task, or function ~~shall not be delegated~~ under this  
8 section ~~which~~ IF THE ACT, TASK, OR FUNCTION, under standards of  
9 acceptable and prevailing practice, requires the level of educa-  
10 tion, skill, and judgment required of ~~a~~ THE licensee under this  
11 article.

12 (2) ~~Except~~ SUBJECT TO SUBSECTION (1) AND EXCEPT as other-  
13 wise provided in this subsection, a licensee ~~under part 170 or~~  
14 ~~175~~ WHO IS AN ALLOPATHIC PHYSICIAN OR OSTEOPATHIC PHYSICIAN AND  
15 SURGEON shall delegate an act, task, or function that involves  
16 the performance of a procedure that requires the use of surgical  
17 instrumentation only to an individual who is licensed under THIS  
18 article. ~~15.~~ This subsection does not apply if the unlicensed  
19 individual is 1 or more of the following and if the procedure is  
20 directly supervised by a licensed ALLOPATHIC physician or osteo-  
21 pathic physician AND SURGEON who is physically present during the  
22 performance of the procedure; ~~or~~ if the unlicensed individual  
23 is performing acupuncture; OR IF THE UNLICENSED INDIVIDUAL IS  
24 SURGICALLY REMOVING BONE, SKIN, BLOOD VESSELS, CARTILAGE, DURA  
25 MATER, LIGAMENTS, TENDONS, PERICARDIAL TISSUE, OR HEART VALVES  
26 ONLY FROM A DECEASED INDIVIDUAL FOR TRANSPLANTATION,

1 IMPLANTATION, INFUSION, INJECTION, OR OTHER MEDICAL OR SCIENTIFIC

2 PURPOSE:

3       (a) A student enrolled in a school of medicine or osteo-  
4 pathic medicine approved by the Michigan board of medicine or the  
5 Michigan board of osteopathic medicine and surgery.

6       (b) A student enrolled in a physician's assistant training  
7 program approved by the joint physician's assistant task force  
8 created under part 170.

9       (3) A board may promulgate rules to further prohibit or oth-  
10 erwise restrict delegation of specific acts, tasks, or functions  
11 to a licensed or unlicensed individual ~~where~~ IF the board  
12 determines that the delegation constitutes or may constitute a  
13 danger to the health, safety, or welfare of the patient or  
14 public.

15       (4) To promote safe and competent practice, a board may  
16 promulgate rules to specify conditions under which, and catego-  
17 ries and types of licensed and unlicensed individuals for whom,  
18 closer supervision may be required.

19       (5) An individual who performs acts, tasks, or functions  
20 delegated pursuant to this section does not violate the part  
21 ~~which~~ THAT regulates the scope of practice of that health  
22 profession.

23       Enacting section 1. This amendatory act does not take  
24 effect unless Senate Bill No. 381 of the 90th Legislature is  
25 enacted into law.