



# HOUSE BILL No. 5548

April 11, 2000, Introduced by Rep. Kukuk and referred to the Committee on Family and Children Services.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 17015 (MCL 333.17015), as added by 1993 PA  
133.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 17015. (1) Subject to subsection ~~—(7)—~~ (9), a physi-  
2 cian shall not perform an abortion otherwise permitted by law  
3 without the patient's informed written consent, given freely and  
4 without coercion.

5       (2) For purposes of this section:

6       (a) "Abortion" means the intentional use of an instrument,  
7 drug, or other substance or device to terminate a woman's preg-  
8 nancy for a purpose other than to increase the probability of a  
9 live birth, to preserve the life or health of the child after  
10 live birth, or to remove a dead fetus. Abortion does not include

1 the use or prescription of a drug or device intended as a  
2 contraceptive.

3 (b) "Fetus" means an individual organism of the species homo  
4 sapiens in utero.

5 (c) "Local health department representative" means a person  
6 employed by, or ~~contracted~~ UNDER CONTRACT to provide services  
7 on behalf of, a local health department who meets ~~any~~ 1 OR MORE  
8 of the licensing requirements listed in ~~subsection (2)(e)~~  
9 SUBDIVISION (E).

10 (d) "Medical emergency" means that condition which, on the  
11 basis of the physician's good faith clinical judgment, so compli-  
12 cates the medical condition of a pregnant woman as to necessitate  
13 the immediate abortion of her pregnancy to avert her death or for  
14 which a delay will create serious risk of substantial and irre-  
15 versible impairment of a major bodily function.

16 (e) "Qualified person assisting the physician" means another  
17 physician or a physician's assistant licensed under this part or  
18 part 175, a fully licensed or limited licensed psychologist  
19 licensed under part 182, a professional counselor licensed under  
20 part 181, a registered professional nurse or a licensed practical  
21 nurse licensed under part 172, or a social worker registered ~~in~~  
22 ~~this state under article 16 of the occupational code, Act No. 299~~  
23 ~~of the Public Acts of 1980, being sections 339.1601 to 339.1610~~  
24 ~~of the Michigan Compiled Laws~~ UNDER PART 185.

25 (f) "Probable gestational age of the fetus" means the gesta-  
26 tional age of the fetus at the time an abortion is planned to be  
27 performed. ~~, as determined by the attending physician.~~

1 (G) "PROVIDE THE PATIENT WITH A PHYSICAL COPY" MEANS GIVING  
2 A PATIENT A COPY OF A REQUIRED DOCUMENT BY 1 OR MORE OF THE FOL-  
3 LOWING MEANS:

4 (i) IN PERSON.

5 (ii) BY REGISTERED MAIL, RETURN RECEIPT REQUESTED.

6 (iii) BY PARCEL DELIVERY SERVICE THAT REQUIRES THE RECIPIENT  
7 TO PROVIDE A SIGNATURE IN ORDER TO RECEIVE DELIVERY OF A PARCEL.

8 (3) Subject to subsection ~~-(7)-~~ (9), a physician or a quali-  
9 fied person assisting the physician shall do all of the following  
10 not less than 24 hours before that physician performs an abortion  
11 upon a PATIENT WHO IS A pregnant woman:

12 (a) Confirm that, according to the best medical judgment of  
13 a physician, the patient is pregnant, and determine the probable  
14 gestational age of the fetus.

15 (b) Orally describe, in language designed to be understood  
16 by the ~~pregnant woman~~ PATIENT, taking into account her age,  
17 level of maturity, and intellectual capability, each of the  
18 following:

19 (i) The probable gestational age of the fetus she is  
20 carrying.

21 (ii) Information about what to do and whom to contact should  
22 medical complications arise from the abortion.

23 (iii) Information about how to obtain pregnancy prevention  
24 information through the department of ~~public~~ COMMUNITY health.

25 (c) ~~Preceded by an explanation that the patient has the~~  
26 ~~option to review or not review the written summary, present to~~  
27 ~~the patient~~ PROVIDE THE PATIENT WITH A PHYSICAL COPY OF the

1 written summary described in subsection ~~(8)(b)~~ (10)(B) that  
2 corresponds to the procedure the patient will undergo and is pro-  
3 vided by the department of ~~public~~ COMMUNITY health or approved  
4 by the department of ~~public~~ COMMUNITY health under subsection  
5 ~~(8)(e)~~ (10)(E).

6 (d) ~~Preceded by an explanation that the patient has the~~  
7 ~~option to review or not review the depiction and description,~~  
8 ~~provide~~ PROVIDE the patient with a PHYSICAL copy of a medically  
9 accurate depiction and description of a fetus supplied by the  
10 department of ~~public~~ COMMUNITY health pursuant to subsection  
11 ~~(8)(a)~~ (10)(A) at the gestational age nearest the probable ges-  
12 tational age of the patient's fetus.

13 (e) Provide the patient with a PHYSICAL copy of the prenatal  
14 care and parenting information pamphlet distributed by the  
15 department of ~~public~~ COMMUNITY health under section 9161.

16 (4) The requirements of subsection (3) may be fulfilled by  
17 the physician or a qualified person assisting the physician at a  
18 location other than the health facility where the abortion is to  
19 be performed. The physician or qualified person assisting the  
20 physician may refer the patient to a local health department to  
21 have a pregnancy confirmed as required under subsection (3)(a),  
22 and to obtain the information required under subsection (3)(c)  
23 and subsection (3)(d). THE REQUIREMENTS OF SUBSECTION (3) CANNOT  
24 BE FULFILLED BY THE PATIENT ACCESSING AN INTERNET WEBSITE OR BY  
25 RECEIVING A FACSIMILE OR OTHER ELECTRONIC TRANSMISSION OF THE  
26 INFORMATION REQUIRED UNDER SUBSECTION (3)(C) AND (D).

1       (5) Subject to subsection ~~-(7)-~~ (9), before ~~performing an~~  
2 ~~abortion~~ OBTAINING THE PATIENT'S SIGNATURE ON THE  
3 ACKNOWLEDGEMENT AND CONSENT FORM, a physician PERSONALLY AND IN  
4 THE PRESENCE OF THE PATIENT shall do all of the following:

5       (a) Provide the patient with the physician's name and inform  
6 the patient of her right to withhold or withdraw her consent to  
7 the abortion at any time before performance of the abortion.

8       (b) Orally describe, in language designed to be understood  
9 by the ~~pregnant woman~~ PATIENT, taking into account her age,  
10 level of maturity, and intellectual capability, each of the  
11 following:

12       (i) The specific risk, if any, to the patient of the compli-  
13 cations that have been associated with the procedure the patient  
14 will undergo, based on the patient's particular medical condition  
15 and history as determined by the physician.

16       (ii) The specific risk of complications, IF ANY, to the  
17 patient if she chooses to continue the pregnancy based on the  
18 patient's particular medical condition and history as determined  
19 by a physician.

20       ~~-(c) Obtain the patient's signature, on a form prepared or~~  
21 ~~approved by the department, consenting to the abortion and~~  
22 ~~acknowledging that she has received the information required in~~  
23 ~~subsection (3), along with the explanations that she has the~~  
24 ~~option to review or not review the written summary described in~~  
25 ~~subsection (3)(c) and the depictions and descriptions described~~  
26 ~~in subsection (3)(d). The physician shall retain a copy of the~~  
27 ~~acknowledgment and consent form, and where applicable, the~~

1 ~~certification form completed under subsection (15), in the~~  
2 ~~patient's medical record.~~

3 (C) ~~-(d)-~~ Provide the patient with a PHYSICAL copy of the  
4 written acknowledgment and consent form described in subsection  
5 ~~-(8)(c)-~~ (10)(C), or approved by the department under subsection  
6 ~~-(8)(e)-~~ (10)(E).

7 (6) To protect a ~~woman's~~ PATIENT'S privacy, the informa-  
8 tion set forth in subsection (3) and subsection (5) shall not be  
9 disclosed to the ~~woman~~ PATIENT in the presence of another  
10 patient.

11 (7) BEFORE PERFORMING AN ABORTION ON A PATIENT WHO IS A  
12 PREGNANT WOMAN, A PHYSICIAN SHALL OBTAIN THE PATIENT'S SIGNATURE  
13 ON A FORM PREPARED OR APPROVED BY THE DEPARTMENT CONSENTING TO  
14 THE ABORTION AND ACKNOWLEDGING THAT SHE HAS RECEIVED THE INFORMA-  
15 TION REQUIRED UNDER SUBSECTION (3). THE PHYSICIAN SHALL RETAIN A  
16 COPY OF THE ACKNOWLEDGEMENT AND CONSENT FORM AND, IF APPLICABLE,  
17 THE CERTIFICATION FORM COMPLETED UNDER SUBSECTION (13), IN THE  
18 PATIENT'S MEDICAL RECORD.

19 (8) A PHYSICIAN SHALL NOT REQUIRE OR OBTAIN PAYMENT FOR A  
20 SERVICE PROVIDED TO A PATIENT WHO HAS INQUIRED ABOUT AN ABORTION  
21 OR SCHEDULED AN ABORTION UNTIL THE EXPIRATION OF THE 24-HOUR  
22 PERIOD REQUIRED IN SUBSECTION (3) AND THE PATIENT HAS SIGNED THE  
23 ACKNOWLEDGEMENT AND CONSENT FORM REQUIRED UNDER SUBSECTION (7).

24 (9) ~~-(7)-~~ If the attending physician, utilizing his or her  
25 experience, judgment, and professional competence, determines  
26 that a medical emergency exists and necessitates performance of  
27 an abortion before the requirements of subsections (1), (3), and

1 (5) can be met, the physician is exempt from the requirements of  
2 subsections (1), (3), and (5), may perform the abortion, and  
3 shall maintain a written record identifying with specificity the  
4 medical factors upon which the determination of the medical emer-  
5 gency is based.

6 (10) ~~(8)~~ The department of ~~public~~ COMMUNITY health shall  
7 do each of the following:

8 (a) Produce medically accurate depictions, ILLUSTRATIONS, OR  
9 PHOTOGRAPHS of the development of a human fetus ~~which reflect~~  
10 THAT INDICATE BY SCALE the actual size of the fetus at ~~4-week~~  
11 2-WEEK intervals from the fourth week through the twenty-eighth  
12 week of gestation. ~~, using curriculum materials from the~~  
13 ~~Michigan model for comprehensive school health education for~~  
14 ~~grade 6, phase IV, lesson 22 in use on January 1, 1992.~~ Each  
15 depiction, ILLUSTRATION, OR PHOTOGRAPH shall be accompanied by a  
16 printed description, in nontechnical English, ~~Aramaic~~ ARABIC,  
17 and Spanish, of the probable anatomical and physiological charac-  
18 teristics of the fetus at that particular state of gestational  
19 development.

20 (b) Develop, draft, and print, in nontechnical English,  
21 ~~Aramaic~~ ARABIC, and Spanish, written standardized summaries,  
22 based upon the various medical procedures used to abort pregnan-  
23 cies, that do each of the following:

24 (i) Describe, individually and on separate documents, those  
25 medical procedures used to perform abortions in this state that  
26 are recognized by the department.

1       (ii) Identify the physical complications that have been  
2 associated with each procedure described in subparagraph (i),  
3 INCLUDING, BUT NOT LIMITED TO, CURRENT, PUBLISHED DATA REGARDING  
4 ANY SCIENTIFICALLY SIGNIFICANT RELATIONSHIP BETWEEN ABORTION AND  
5 INCREASED RISK OF BREAST CANCER and with live birth, as deter-  
6 mined by the department. In identifying these complications, the  
7 department shall consider the annual statistical report required  
8 under section 2835(6), and shall consult with the ~~United States~~  
9 ~~center~~ FEDERAL CENTERS for disease control, the American college  
10 of obstetricians and gynecologists, the Michigan state medical  
11 society, or any other source that the department determines  
12 appropriate FOR THE PURPOSE.

13       (iii) State that as the result of an abortion, some women  
14 may experience depression, feelings of guilt, sleep disturbance,  
15 loss of interest in work or sex, or anger, and that if these  
16 symptoms occur and are intense or persistent, professional help  
17 is recommended.

18       (iv) State that not all of the ~~risks~~ COMPLICATIONS listed  
19 in subparagraph (ii) may pertain to that particular patient and  
20 refer the patient to her physician for more personalized  
21 information.

22       (v) Identify services available through public agencies to  
23 assist the patient during her pregnancy and after the birth of  
24 her child, should she choose to give birth and maintain custody  
25 of her child.

26       (vi) Identify services available through public agencies to  
27 assist the patient in placing her child in an adoptive or foster



1 home, should she choose to give birth but not maintain custody of  
2 her child.

3 (vii) Identify services available through public agencies to  
4 assist the patient and provide counseling should she experience  
5 subsequent adverse psychological effects from the abortion.

6 (c) Develop, draft, and print, in nontechnical English,  
7 ~~Aramaic~~ ARABIC, and Spanish, an acknowledgment and consent form  
8 that includes only the following language above a signature line  
9 for the patient:

10 "I, \_\_\_\_\_, hereby authorize  
11 Dr. \_\_\_\_\_ ("the physician") and any assistant  
12 designated by the physician to perform upon me the follow-  
13 ing operation(s) or procedure(s):

14 \_\_\_\_\_  
15 (Name of operation(s) or procedure(s))  
16 \_\_\_\_\_

17 I understand that I am approximately \_\_\_\_\_ weeks  
18 pregnant. I consent to an abortion procedure to termi-  
19 nate my pregnancy. I understand that I have the right  
20 to withdraw my consent to the abortion procedure at any  
21 time prior to performance of that procedure. I acknowl-  
22 edge I have received A COPY OF EACH OF the following:

23 (a) A ~~copy of a~~ medically accurate depiction, ILLUSTRATION,  
24 OR PHOTOGRAPH of a fetus at the probable gestational age of  
25 the fetus I am carrying. ~~, preceded by an explanation that I~~  
26 ~~have the option to review or not review the depiction.~~

1 (b) A description of the medical procedure that will be used  
2 to perform the abortion. ~~—, preceded by an explanation that I~~  
3 ~~have the option to review or not review the description.~~

4 (c) Information pertaining to potential risks and complica-  
5 tions that have been associated with abortion and with live  
6 birth.

7 (d) Information about what to do and whom to contact in the  
8 event that complications arise from the abortion.

9 (e) Information pertaining to available pregnancy related  
10 services.

11 (f) A prenatal care and parenting information pamphlet.

12 I have been given an opportunity to ask questions about the  
13 operation(s) or procedure(s). ~~—, and freely and voluntarily sign~~  
14 I CERTIFY THAT I HAVE NOT BEEN REQUIRED TO MAKE ANY PAYMENTS  
15 BEFORE FREELY AND VOLUNTARILY SIGNING this form."

16 (d) Make available to physicians through the Michigan board  
17 of medicine and the Michigan board of osteopathic medicine and  
18 surgery, all local health departments, and any person upon  
19 request the copies of medically accurate depictions, ILLUSTRA-  
20 TIONS, OR PHOTOGRAPHS described in subdivision (a), the standard-  
21 ized written summaries described in subdivision (b), the acknowl-  
22 edgment and consent form described in subdivision (c), the prena-  
23 tal care and parenting information pamphlet described in section  
24 9161, and the certification form described in subdivision (f).

25 (e) Approve an alternative written summary or acknowledgment  
26 and consent form submitted by a physician for department of  
27 ~~public~~ COMMUNITY health approval pursuant to this subsection,

1 if the proposed summary or acknowledgment and consent form  
2 contains information substantially similar to the information  
3 described in subdivisions (b) and (c).

4 (f) Develop, draft, and print a certification form to be  
5 signed by a local health department representative at the time  
6 and place a patient is provided the information described in sub-  
7 section (3), as requested by the patient, verifying the date and  
8 time the information is provided to that patient.

9 (11) ~~(9)~~ A physician's duty to inform the patient under  
10 this section does not require disclosure of information beyond  
11 what a reasonably well-qualified physician licensed under this  
12 article would possess.

13 (12) ~~(10)~~ A written consent form meeting the requirements  
14 set forth in this section and signed by the ~~pregnant woman~~  
15 PATIENT is presumed valid. The presumption created by this sub-  
16 section may be rebutted by evidence that establishes, by a pre-  
17 ponderance of the evidence, that consent was obtained through  
18 fraud, negligence, deception, misrepresentation, coercion, or  
19 duress.

20 (13) ~~(11)~~ A completed certification form described in sub-  
21 section ~~(8)(f)~~ (10)(F) that is signed by a local health depart-  
22 ment representative is presumed valid. The presumption created  
23 by this subsection may be rebutted by evidence that establishes,  
24 by a preponderance of the evidence, that the physician who relied  
25 upon the certification had actual knowledge that the certificate  
26 contained a false or misleading statement or signature.

1       (14) ~~-(12)-~~ This section does not create a right to  
2 abortion.

3       (15) ~~-(13)-~~ Notwithstanding any other provision of this sec-  
4 tion, a person shall not perform an abortion that is prohibited  
5 by law.

6       (16) ~~-(14)-~~ If any portion of this act or the application of  
7 this act to any person or circumstances is found invalid by a  
8 court, that invalidity ~~shall~~ DOES not affect the remaining por-  
9 tions or applications of the act ~~which~~ THAT can be given effect  
10 without the invalid portion or application, ~~provided~~ IF those  
11 remaining portions are not determined by the court to be  
12 inoperable.

13       (17) ~~-(15)-~~ Upon ~~an individual's~~ A PATIENT'S request, each  
14 local health department shall:

15       (a) Provide a pregnancy test for that ~~individual~~ PATIENT  
16 and determine the probable gestational stage of THE FETUS OF a  
17 confirmed pregnancy.

18       (b) ~~Preceded by an explanation that the individual has the~~  
19 ~~option to review or not review the written summaries, provide~~  
20 PROVIDE THE PATIENT WITH A PHYSICAL COPY OF the summaries  
21 described in subsection ~~-(8)(b)-~~ (10)(B) that are recognized by  
22 the department as applicable to the ~~individual's~~ PATIENT'S ges-  
23 tational stage of pregnancy.

24       (c) ~~Preceded by an explanation that the individual has the~~  
25 ~~option to review or not review the depiction and description,~~  
26 ~~provide the individual~~ PROVIDE THE PATIENT with a PHYSICAL copy  
27 of a medically accurate depiction and description of a fetus

1 described in subsection ~~(8)(a)~~ (10)(A) at the gestational age  
2 nearest the probable gestational age of the ~~patient's~~ fetus OF  
3 THE PATIENT.

4 (d) Ensure that the ~~individual~~ PATIENT is provided with a  
5 completed certification form described in subsection ~~(8)(f)~~  
6 (10)(F) at the time the information is provided.

7 (18) ~~(16)~~ The identity and address of a patient who is  
8 provided information or who consents to an abortion pursuant to  
9 this section is confidential and is subject to disclosure only  
10 with the consent of the patient OR BY JUDICIAL PROCESS.

11 (19) ~~(17)~~ The identity and address of a patient who is pro=  
12 vided information or who consents to an abortion pursuant to this  
13 section is confidential and is subject to disclosure only with  
14 the consent of the patient or by judicial process. A local  
15 health department with a file containing the identity and address  
16 of a patient described in ~~this~~ subsection (18) who has been  
17 assisted by the local health department under this section shall  
18 do both of the following:

19 (a) Only release the identity and address of the patient to  
20 a physician or qualified person assisting the physician in order  
21 to verify the receipt of the information required under this  
22 section.

23 (b) Destroy the information containing the identity and  
24 address of the patient within 30 days after assisting the patient  
25 under this section.