

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 781

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 5656, 5657, 5658, 5659, and 5660  
(MCL 333.5656, 333.5657, 333.5658, 333.5659, and 333.5660), as  
added by 1996 PA 594.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5656. (1) ~~Within 60 days after the effective date of~~  
2 ~~the amendatory act that added this part~~ BY JULY 1, 2002, the  
3 department of community health shall develop and publish ~~a~~ AN  
4 UPDATED standardized, written summary that contains all of the  
5 information required under section 5655.

6       (2) The department shall develop the UPDATED standardized,  
7 written summary in consultation with appropriate professional and  
8 other organizations. The department shall draft the summary in

1 nontechnical terms that a patient, patient surrogate, or patient  
2 advocate can easily understand.

3       (3) The department shall make the UPDATED standardized,  
4 written summary described in subsection (1) available to physi-  
5 cians through the Michigan board of medicine and the Michigan  
6 board of osteopathic medicine and surgery created in article 15.  
7 The Michigan board of medicine and the Michigan board of osteo-  
8 pathic medicine and surgery shall notify in writing each physi-  
9 cian subject to this part of the requirements of this part and  
10 the availability of the UPDATED standardized, written summary  
11 within 10 days after the UPDATED STANDARDIZED, WRITTEN summary is  
12 published.

13       Sec. 5657. (1) If a physician gives a copy of the  
14 STANDARDIZED, WRITTEN SUMMARY DEVELOPED AND PUBLISHED BEFORE JULY  
15 1, 2002 OR A COPY OF THE UPDATED standardized, written summary  
16 made available under section 5656 to a ~~terminally ill~~ patient  
17 WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS, to the  
18 patient's patient surrogate, or to the ~~patient's~~ patient advo-  
19 cate, the physician is in full compliance with the requirements  
20 of section 5655.

21       (2) A physician may make available to a ~~terminally ill~~  
22 patient WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS, to  
23 the patient's patient surrogate, or to the ~~patient's~~ patient  
24 advocate a form indicating that the patient, patient surrogate,  
25 or patient advocate has been given a copy of the STANDARDIZED,  
26 WRITTEN SUMMARY DEVELOPED AND PUBLISHED UNDER SECTION 5656 BEFORE  
27 JULY 1, 2002 OR A COPY OF THE UPDATED standardized, written

1 summary ~~described in~~ DEVELOPED AND PUBLISHED UNDER section 5656  
2 ON OR AFTER JULY 1, 2002 and received the oral information  
3 required under section 5654. If a physician makes such a form  
4 available to a ~~terminally ill~~ patient, to the patient's patient  
5 surrogate, or to the ~~patient's~~ patient advocate, the physician  
6 shall request that the patient, patient's patient surrogate, or  
7 patient advocate sign the form and shall place a copy of the  
8 signed form in the patient's medical record.

9 (3) A patient, a patient's patient surrogate, or a patient  
10 advocate who signs a form under subsection (2) is barred from  
11 subsequently bringing a civil ~~—~~ or administrative action  
12 against the physician for providing the information orally and in  
13 writing under section 5655 based on failure to obtain informed  
14 consent.

15 Sec. 5658. A physician who, as part of a medical treatment  
16 plan for a ~~terminally ill~~ patient WITH REDUCED LIFE EXPECTANCY  
17 DUE TO ADVANCED ILLNESS, prescribes for ~~the terminally ill~~ THAT  
18 patient a controlled substance that is included in schedules 2 to  
19 5 under part 72 and that is a narcotic drug is immune from admin-  
20 istrative and civil liability based on prescribing the controlled  
21 substance if the prescription is given in good faith and with the  
22 intention to treat a patient with ~~a terminal illness~~ REDUCED  
23 LIFE EXPECTANCY DUE TO ADVANCED ILLNESS or alleviate the  
24 patient's pain, or both, and all of the following are met:

25 (a) The prescription is for a legitimate legal and profes-  
26 sionally recognized therapeutic purpose.

1 (b) Prescribing the controlled substance is within the scope  
2 of practice of the physician.

3 (c) The physician holds a valid license under article 7 to  
4 prescribe controlled substances.

5 Sec. 5659. A life insurer, a health insurer, or a health  
6 care payment or benefits plan shall not do 1 or more of the fol-  
7 lowing because a ~~terminally ill~~ patient WITH REDUCED LIFE  
8 EXPECTANCY DUE TO ADVANCED ILLNESS, the patient's patient surro-  
9 gate, or the ~~patient's~~ patient advocate has made a decision to  
10 refuse or discontinue a medical treatment as a result of informa-  
11 tion received as required under this part:

12 (a) Refuse to provide or continue coverage or benefits to  
13 the ~~terminally ill~~ patient within the scope and level of cover-  
14 age or benefits of an existing policy, certificate, or contract.

15 (b) Limit the amount of coverage or benefits available to ~~a~~  
16 ~~terminally ill~~ THE patient within the scope and level of cover-  
17 age or benefits of an existing policy, certificate, or contract.

18 (c) Charge the ~~terminally ill~~ patient a different rate for  
19 coverage or benefits under an existing policy, certificate, or  
20 contract.

21 (d) Consider the terms of an existing policy, certificate,  
22 or contract to have been breached or modified.

23 (e) Invoke a suicide or intentional death exemption or  
24 exclusion in a policy, certificate, or contract covering the  
25 ~~terminally ill~~ patient.

26 Sec. 5660. This part does not do the following:

1 (a) Impair or supersede a legal right a parent, patient,  
2 PATIENT advocate, legal guardian, or other individual may have to  
3 consent to or refuse medical treatment on behalf of another.

4 (b) Create a presumption about ~~a terminally ill patient's~~  
5 ~~desire~~ THE DESIRE OF A PATIENT WHO HAS REDUCED LIFE EXPECTANCY  
6 DUE TO ADVANCED ILLNESS to receive or refuse medical treatment,  
7 regardless of the ability of the patient to participate in medi-  
8 cal treatment decisions.

9 (c) Limit the ability of a court making a determination  
10 about a ~~terminally ill patient's medical treatment decisions~~  
11 DECISION OF A PATIENT WHO HAS REDUCED LIFE EXPECTANCY DUE TO  
12 ADVANCED ILLNESS to take into consideration all of the following  
13 state interests:

14 (i) The preservation of life.

15 (ii) The prevention of suicide.

16 (iii) The protection of innocent third parties.

17 (iv) The preservation of the integrity of the medical  
18 profession.

19 (d) Condone, authorize, or approve suicide, assisted sui-  
20 cide, mercy killing, or euthanasia.

21 Enacting section 1. Section 5657 of the public health code,  
22 1978 PA 368, MCL 333.5657, as amended by this amendatory act,  
23 takes effect October 1, 2002.

24 Enacting section 2. This amendatory act does not take  
25 effect unless House Bill No. 5258 of the 91st Legislature is  
26 enacted into law.

**SB0781, As Passed House, December 12, 2001**

Senate Bill No. 781

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1       Enacting section 3. The 2001 amendatory act that amended  
2 section 5656 of the public health code, 1978 PA 368, MCL  
3 333.5656, shall not be construed as creating a new mandated bene-  
4 fit for any coverages issued under the insurance code of 1956,  
5 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care  
6 corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or  
7 any other health care payment or benefits plan.