

**SB 781, As Passed Senate, October 31, 2001**

**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 standardized, written  
7 summary in consultation with appropriate professional and other  
8 organizations. The department shall draft the summary in

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

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

12 Sec. 5657. (1) If a physician gives a copy of the standard-  
13 ized, written summary made available under section 5656 to a  
14 ~~terminally ill~~ patient WITH REDUCED LIFE EXPECTANCY DUE TO  
15 ADVANCED ILLNESS, to the patient's patient surrogate, or to the  
16 ~~patient's~~ patient advocate, the physician is in full compliance  
17 with the requirements of section 5655.

18 (2) A physician may make available to a ~~terminally ill~~  
19 patient WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS, to  
20 the patient's patient surrogate, or to the ~~patient's~~ patient  
21 advocate a form indicating that the patient, patient surrogate,  
22 or patient advocate has been given a copy of the standardized,  
23 written summary described in section 5656 and received the oral  
24 information required under section 5654. If a physician makes  
25 such a form available to a ~~terminally ill~~ patient, to the  
26 patient's patient surrogate, or to the ~~patient's~~ patient  
27 advocate, the physician shall request that the patient, patient's

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1 patient surrogate, or patient advocate sign the form and shall  
2 place a copy of the signed form in the patient's medical record.

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

9 Sec. 5658. A physician who, as part of a medical treatment  
10 plan for a ~~terminally ill~~ patient WITH REDUCED LIFE EXPECTANCY  
11 DUE TO ADVANCED ILLNESS, prescribes for ~~the terminally ill~~ THAT  
12 patient a controlled substance that is included in schedules 2 to  
13 5 under part 72 and that is a narcotic drug is immune from admin-  
14 istrative and civil liability based on prescribing the controlled  
15 substance if the prescription is given in good faith and with the  
16 intention to treat a patient with ~~a terminal illness~~ REDUCED  
17 LIFE EXPECTANCY DUE TO ADVANCED ILLNESS or alleviate the  
18 patient's pain, or both, and all of the following are met:

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

21 (b) Prescribing the controlled substance is within the scope  
22 of practice of the physician.

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

25 Sec. 5659. A life insurer, a health insurer, or a health  
26 care payment or benefits plan shall not do 1 or more of the  
27 following because a ~~terminally ill~~ patient WITH REDUCED LIFE

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1 EXPECTANCY DUE TO ADVANCED ILLNESS, the patient's patient  
2 surrogate, or the ~~patient's~~ patient advocate has made a deci-  
3 sion to refuse or discontinue a medical treatment as a result of  
4 information received as required under this part:

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

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

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

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

16 (e) Invoke a suicide or intentional death exemption or  
17 exclusion in a policy, certificate, or contract covering the  
18 ~~terminally ill~~ patient.

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

20 (a) Impair or supersede a legal right a parent, patient,  
21 advocate, legal guardian, or other individual may have to consent  
22 to or refuse medical treatment on behalf of another.

23 (b) Create a presumption about ~~a terminally ill patient's~~  
24 ~~desire~~ THE DESIRE OF A PATIENT WHO HAS REDUCED LIFE EXPECTANCY  
25 DUE TO ADVANCED ILLNESS to receive or refuse medical treatment,  
26 regardless of the ability of the patient to participate in  
27 medical treatment decisions.

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

6 (i) The preservation of life.

7 (ii) The prevention of suicide.

8 (iii) The protection of innocent third parties.

9 (iv) The preservation of the integrity of the medical  
10 profession.

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

13 Enacting section 1. Section 5657 of the public health code,  
14 1978 PA 368, MCL 333.5657, as amended by this amendatory act,  
15 takes effect March 1, 2002.

16 Enacting section 2. This amendatory act does not take  
17 effect unless Senate Bill No. 782 of the 91st Legislature is  
18 enacted into law.

19 Enacting section 3. The 2001 amendatory act that amended  
20 section 5656 of the public health code, 1978 PA 368, MCL  
21 333.5656, shall not be construed as creating a new mandated bene-  
22 fit for any coverages issued under the insurance code of 1956,  
23 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care  
24 corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or  
25 any other health care payment or benefits plan.