

HOUSE BILL No. 5189

July 14, 2009, Introduced by Reps. Bauer, Meadows, Byrnes, Liss, Scripps, Roberts, Haase, Womack, Kennedy, Slavens, Haugh, Kandrevas, Constan, Durhal, Polidori, Terry Brown, Leland, Valentine, Segal, Spade, Miller, Geiss, Roy Schmidt, Tlaib, Gregory, Dean, Ebli, Robert Jones, Donigan, Lisa Brown, Gonzales, Mayes, Sheltroun, McDowell, Neumann and Lahti and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1953 PA 181, entitled

"An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon,"

by amending sections 1c, 2, and 3 (MCL 52.201c, 52.202, and 52.203), section 2 as amended by 2004 PA 153 and section 3 as amended by 2006 PA 569.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1c. (1) The county medical examiner ~~shall be~~ **IS** in charge
2 of the office of the county medical examiner and may promulgate
3 rules relative to the conduct of ~~his~~ **THAT** office. The county
4 medical examiner may delegate any functions of ~~his~~ **THAT** office to a

1 duly appointed deputy county medical examiner if the deputy county
2 medical examiner is a licensed physician. If the deputy county
3 medical examiner is not a licensed physician, his **OR HER** functions
4 ~~shall be~~ **ARE** limited as provided by law.

5 (2) **THE COUNTY MEDICAL EXAMINER MAY ESTABLISH AN ELDER DEATH**
6 **REVIEW TEAM. THE COUNTY MEDICAL EXAMINER MAY DEVELOP PROTOCOLS TO**
7 **BE USED BY THE ELDER DEATH REVIEW TEAM IN CONDUCTING A PRELIMINARY**
8 **INVESTIGATION. IF ESTABLISHED, THE ELDER DEATH REVIEW TEAM SHALL**
9 **CONSIST OF THE COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL**
10 **EXAMINER, PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS**
11 **SPECIALIZING IN GERIATRIC MEDICINE, MEMBERS OF RELEVANT STATE AND**
12 **LOCAL LAW ENFORCEMENT AGENCIES, MEMBERS REPRESENTING THE DEPARTMENT**
13 **OF COMMUNITY HEALTH WHO ARE INVOLVED WITH THE LICENSING AND**
14 **REGULATION OF LONG-TERM CARE FACILITIES, AND MEMBERS REPRESENTING**
15 **THE DEPARTMENT OF HUMAN SERVICES WHO ARE INVOLVED WITH ISSUES**
16 **REGARDING ADULT PROTECTIVE SERVICES.**

17 Sec. 2. (1) A county medical examiner or deputy county medical
18 examiner shall investigate the cause and manner of death of an
19 individual under each of the following circumstances:

20 (a) The individual dies by violence.

21 (b) The individual's death is unexpected.

22 (c) The individual dies without medical attendance by a
23 physician, or the individual dies while under home hospice care
24 without medical attendance by a physician or a registered nurse,
25 during the 48 hours immediately preceding the time of death, unless
26 the attending physician, if any, is able to determine accurately
27 the cause of death.

1 (d) The individual dies as the result of an abortion, whether
2 self-induced or otherwise.

3 (2) If a prisoner in a county or city jail dies while
4 imprisoned, the county medical examiner or deputy county medical
5 examiner, upon being notified of the death of the prisoner, shall
6 examine the body of the deceased prisoner.

7 (3) IF A RESIDENT DIES WHILE IN A LONG-TERM CARE FACILITY AND
8 THE MEDICAL EXAMINER DETERMINES THAT THE DEATH IS SUSPICIOUS OR
9 APPEARS TO HAVE BEEN CAUSED BY ABUSE OR NEGLECT, THE COUNTY MEDICAL
10 EXAMINER OR DEPUTY COUNTY MEDICAL EXAMINER, UPON BEING NOTIFIED OF
11 THAT DEATH, SHALL CONDUCT AN INVESTIGATION INTO THE CAUSE AND
12 MANNER OF DEATH AND, IF ESTABLISHED UNDER SECTION 1C, SHALL REPORT
13 THE CASE TO THE ELDER DEATH REVIEW TEAM.

14 (4) ~~(3)~~—In conducting an investigation under subsection (1),
15 ~~or~~ ~~(2)~~, OR (3), a county medical examiner or deputy county medical
16 examiner may request the circuit court to issue a subpoena to
17 produce medical records, books, papers, documents, or other items
18 related to the death being investigated. The circuit court may
19 punish failure to obey a subpoena issued under this section as
20 contempt of court.

21 (5) ~~(4)~~—Medical records, books, papers, documents, or other
22 items that a county medical examiner or deputy county medical
23 examiner obtains in conducting an investigation under this act,
24 whether in response to a subpoena or otherwise, are exempt from
25 disclosure under the freedom of information act, 1976 PA 442, MCL
26 15.231 to 15.246.

27 (6) ~~(5)~~—As used in this ~~section~~ **ACT**:

(a) "Home hospice care" means a program of planned and continuous hospice care provided by a hospice or a hospice residence that consists of a coordinated set of services rendered to an individual at his or her home on a continuous basis for a disease or condition with a terminal prognosis.

(B) "LONG-TERM CARE FACILITY" MEANS 1 OR MORE OF THE FOLLOWING:

(i) A HOME FOR THE AGED AS DEFINED IN SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

(ii) AN ADULT FOSTER CARE FACILITY AS DEFINED IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING ACT, 1979 PA 218, MCL 400.703.

(iii) A NURSING HOME AS DEFINED IN SECTION 20109 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20109.

(iv) A COUNTY MEDICAL CARE FACILITY AS DEFINED IN SECTION 20104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20104.

(v) A HOSPITAL LONG-TERM CARE UNIT AS DEFINED IN SECTION 20106 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

(C) ~~(b)~~ "Physician" means a person licensed as a physician under part 170 or part 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556.

(D) ~~(c)~~ "Registered nurse" means a person licensed as a registered professional nurse under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

Sec. 3. (1) ~~Any A physician, and any person~~ **AN INDIVIDUAL** in charge of any hospital or institution, or any ~~person who shall have~~ **OTHER INDIVIDUAL WHO HAS** first knowledge of the ~~death of any person~~

1 ~~who shall have~~ **ANY OF THE FOLLOWING SHALL IMMEDIATELY NOTIFY THE**
2 **COUNTY MEDICAL EXAMINER OR DEPUTY OF THAT FACT:**

3 (A) **AN INDIVIDUAL WHO** died suddenly, unexpectedly,
4 accidentally, violently, or as the result of any suspicious
5 circumstances. ~~or~~

6 (B) **AN INDIVIDUAL WHO DIED** without medical attendance during
7 the 48 hours prior to the hour of death unless the attending
8 physician, if any, is able to determine accurately the cause of
9 death. ~~or in any case of death due to~~

10 (C) **AN INDIVIDUAL WHO DIED AS THE RESULT OF** what is commonly
11 known as an abortion, whether self-induced or otherwise. ~~shall~~
12 ~~notify the county medical examiner or his or her deputy immediately~~
13 ~~of the death.~~

14 (D) **AN INDIVIDUAL WHO DIED UNEXPECTEDLY OR UNDER SUSPICIOUS**
15 **CIRCUMSTANCES WHILE A RESIDENT OF A LONG-TERM CARE FACILITY.**

16 (2) If the physician, ~~person~~ **INDIVIDUAL** in charge of any
17 hospital or institution, or other ~~person~~ **INDIVIDUAL** who has first
18 knowledge of the death of a ~~person~~ **AN INDIVIDUAL** as described under
19 subsection (1) has knowledge that there were 2 or more individuals
20 involved in the same accident who were approximately the same age,
21 sex, height, weight, hair color, eye color, and race, then he or
22 she shall make the county medical examiner or his or her deputy
23 aware of that fact and whether or not any of those individuals
24 survived that accident when notifying the examiner or deputy of the
25 death as required under subsection (1). If any of those individuals
26 survived, the county medical examiner or his or her deputy shall
27 also be informed which hospital or institution those individuals

1 were taken to and the hospital or institution shall also be made
2 aware that the accident involved 2 or more individuals with similar
3 attributes.

4 (3) IF AN ELDER DEATH REVIEW TEAM IS ESTABLISHED UNDER SECTION
5 1C, A COUNTY MEDICAL EXAMINER OR DEPUTY WHO RECEIVES NOTICE OF A
6 DEATH OF AN INDIVIDUAL WHO DIED UNEXPECTEDLY OR UNDER SUSPICIOUS
7 CIRCUMSTANCES WHILE A RESIDENT OF A LONG-TERM CARE FACILITY SHALL
8 REFER THE CASE TO THE ELDER DEATH REVIEW TEAM. UPON RECEIPT OF A
9 REFERRAL UNDER THIS SUBSECTION, THE ELDER DEATH REVIEW TEAM SHALL
10 CONDUCT A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE DEATH
11 IS SUSPICIOUS OR APPEARS TO HAVE BEEN CAUSED BY ABUSE OR NEGLECT.
12 INFORMATION OBTAINED UNDER THIS SUBSECTION BY AN ELDER DEATH REVIEW
13 TEAM ESTABLISHED UNDER SECTION 1C IS CONFIDENTIAL AND MAY BE
14 DISCLOSED BY THE ELDERLY DEATH REVIEW TEAM ONLY TO THE MEDICAL
15 EXAMINER, THE COUNTY PROSECUTOR'S OFFICE, LOCAL LAW ENFORCEMENT, OR
16 ANOTHER ELDER DEATH REVIEW TEAM, AS APPROPRIATE. THE INFORMATION
17 OBTAINED UNDER THIS SUBSECTION BY AN ELDER DEATH REVIEW TEAM
18 ESTABLISHED UNDER SECTION 1C IS EXEMPT FROM DISCLOSURE UNDER THE
19 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.