

HOUSE BILL No. 5604

May 27, 2014, Introduced by Rep. LaVoy and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 1106, 20919, and 20965 (MCL 333.1106,
333.20919, and 333.20965), section 1106 as amended by 2000 PA 58,
section 20919 as amended by 2006 PA 582, and section 20965 as
amended by 2000 PA 375, and by adding section 7421.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1106. (1) "OPIOID ANTAGONIST" MEANS A DRUG THAT BINDS TO
2 OPIOID RECEPTORS AND BLOCKS OR INHIBITS THE EFFECTS OF OPIOIDS
3 ACTING ON THOSE RECEPTORS. OPIOID ANTAGONIST INCLUDES, BUT IS NOT

1 LIMITED TO, NALOXONE HYDROCHLORIDE.

2 (2) "OPIOID-RELATED OVERDOSE" MEANS A CONDITION, INCLUDING,
3 BUT NOT LIMITED TO, EXTREME PHYSICAL ILLNESS, DECREASED LEVEL OF
4 CONSCIOUSNESS, RESPIRATORY DEPRESSION, COMA, OR DEATH, THAT RESULTS
5 FROM THE CONSUMPTION OR USE OF AN OPIOID OR ANOTHER SUBSTANCE WITH
6 WHICH AN OPIOID WAS COMBINED OR THAT A REASONABLE PERSON WOULD
7 BELIEVE TO BE AN OPIOID-RELATED OVERDOSE THAT REQUIRES MEDICAL
8 ASSISTANCE.

9 (3) ~~(1)~~—"Parentage registry" means the department's
10 compilation of data concerning children's parentage, which data the
11 department receives from any source, including, but not limited to,
12 a copy of an order of filiation from the circuit court or an
13 acknowledgment of paternity or parentage under this act, under
14 section 2114 of the estates and protected individuals code, 1998 PA
15 386, MCL 700.2114, or under the acknowledgment of parentage act,
16 1996 PA 305, MCL 722.1001 to 722.1013.

17 (4) ~~(2)~~—"Person" means an individual, partnership,
18 cooperative, association, private corporation, personal
19 representative, receiver, trustee, assignee, or other legal entity.
20 Person does not include a governmental entity unless specifically
21 provided.

22 SEC. 7421. (1) AN INDIVIDUAL WHO, IN GOOD FAITH, SEEKS MEDICAL
23 ASSISTANCE FOR AN INDIVIDUAL WHO HE OR SHE BELIEVES IS SUFFERING AN
24 OPIOID-RELATED OVERDOSE SHALL NOT BE CHARGED OR PROSECUTED FOR
25 POSSESSION OR USE OF A CONTROLLED SUBSTANCE UNDER THIS ARTICLE IF
26 THE EVIDENCE FOR THE CHARGE OF POSSESSION OR USE OF A CONTROLLED
27 SUBSTANCE WAS GAINED AS A RESULT OF THE SEEKING OF MEDICAL

1 ASSISTANCE.

2 (2) AN INDIVIDUAL WHO SUFFERS AN OPIOID-RELATED OVERDOSE AND
3 IS IN NEED OF MEDICAL ASSISTANCE SHALL NOT BE CHARGED OR PROSECUTED
4 FOR POSSESSION OR USE OF A CONTROLLED SUBSTANCE UNDER THIS ARTICLE
5 IF THE EVIDENCE FOR THE CHARGE OF POSSESSION OR USE OF A CONTROLLED
6 SUBSTANCE WAS GAINED AS A RESULT OF THE OVERDOSE AND THE NEED FOR
7 MEDICAL ASSISTANCE.

8 (3) AN INDIVIDUAL WHO ADMINISTERS AN OPIOID ANTAGONIST TO AN
9 INDIVIDUAL WHO HE OR SHE BELIEVES IS SUFFERING AN OPIOID-RELATED
10 OVERDOSE AND WHO ACTS IN GOOD FAITH AND WITH REASONABLE CARE IS
11 IMMUNE FROM CRIMINAL PROSECUTION, SANCTION UNDER ANY PROFESSIONAL
12 LICENSING ACT, AND CIVIL LIABILITY FOR THAT ACT.

13 Sec. 20919. (1) A ~~local~~ medical control authority shall
14 establish written protocols for the practice of life support
15 agencies and licensed emergency medical services personnel within
16 its region. The **MEDICAL CONTROL AUTHORITY SHALL DEVELOP AND ADOPT**
17 **THE** protocols ~~shall be developed and adopted~~ **REQUIRED UNDER THIS**
18 **SECTION** in accordance with procedures established by the department
19 and shall include all of the following:

20 (a) The acts, tasks, or functions that may be performed by
21 each type of emergency medical services personnel licensed under
22 this part.

23 (b) Medical protocols to ensure the appropriate dispatching of
24 a life support agency based upon medical need and the capability of
25 the emergency medical services system.

26 (c) Protocols for complying with the Michigan do-not-
27 resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067.

1 (d) Protocols defining the process, actions, and sanctions a
2 medical control authority may use in holding a life support agency
3 or personnel accountable.

4 (e) Protocols to ensure that if the medical control authority
5 determines that an immediate threat to the public health, safety,
6 or welfare exists, appropriate action to remove medical control can
7 immediately be taken until the medical control authority has had
8 the opportunity to review the matter at a medical control authority
9 hearing. The protocols ~~shall~~**MUST** require that the hearing is held
10 within 3 business days after the medical control authority's
11 determination.

12 (f) Protocols to ensure that if medical control has been
13 removed from a participant in an emergency medical services system,
14 the participant does not provide prehospital care until medical
15 control is reinstated, and that the medical control authority that
16 removed the medical control notifies the department within 1
17 business day of the removal.

18 (g) Protocols ~~that~~**TO** ensure **THAT** a quality improvement
19 program is in place within a medical control authority and provides
20 data protection as provided in 1967 PA 270, MCL 331.531 to
21 ~~331.533-331.534.~~

22 (h) Protocols to ensure that an appropriate appeals process is
23 in place.

24 (i) ~~Within 1 year after December 23, 2003, protocols~~**PROTOCOLS**
25 to ensure that each life support agency that provides basic life
26 support, limited advanced life support, or advanced life support is
27 equipped with epinephrine or epinephrine auto-injectors and that

1 each emergency services personnel authorized to provide those
2 services is properly trained to recognize an anaphylactic reaction,
3 to administer the epinephrine, and to dispose of the epinephrine
4 auto-injector or vial.

5 (j) ~~Within 6 months after the effective date of the amendatory~~
6 ~~act that added this subdivision, protocols~~ **PROTOCOLS** to ensure that
7 each life support vehicle that is dispatched and responding to
8 provide medical first response life support, basic life support, or
9 limited advanced life support is equipped with an automated
10 external defibrillator and that each emergency services personnel
11 is properly trained to utilize the automated external
12 defibrillator.

13 (K) **WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**
14 **ACT THAT ADDED THIS SUBDIVISION, PROTOCOLS TO ENSURE THAT EACH LIFE**
15 **SUPPORT VEHICLE THAT IS DISPATCHED AND RESPONDING TO PROVIDE**
16 **MEDICAL FIRST RESPONSE LIFE SUPPORT, BASIC LIFE SUPPORT, OR LIMITED**
17 **ADVANCED LIFE SUPPORT IS EQUIPPED WITH OPIOID ANTAGONISTS AND THAT**
18 **EACH EMERGENCY MEDICAL SERVICES PERSONNEL IS PROPERLY TRAINED TO**
19 **RECOGNIZE AN OPIOID-RELATED OVERDOSE, TO ADMINISTER AN OPIOID**
20 **ANTAGONIST, AND TO DISPOSE OF THE OPIOID ANTAGONIST VIAL OR**
21 **CONTAINER.**

22 (2) A **MEDICAL CONTROL AUTHORITY SHALL NOT ESTABLISH A** protocol
23 ~~established under this section shall not conflict~~ **THAT CONFLICTS**
24 with the Michigan do-not-resuscitate procedure act, 1996 PA 193,
25 MCL 333.1051 to 333.1067.

26 (3) The **DEPARTMENT SHALL ESTABLISH** procedures ~~established by~~
27 ~~the department for~~ **THE** development and adoption of written

1 protocols under this section. ~~shall comply with~~ **THE PROCEDURES MUST**
2 **INCLUDE** at least all of the following requirements:

3 (a) At least 60 days before adoption of a protocol, the
4 medical control authority shall circulate a written draft of the
5 proposed protocol to all significantly affected persons within the
6 emergency medical services system served by the medical control
7 authority and submit the written draft to the department for
8 approval.

9 (b) The department shall review a proposed protocol for
10 consistency with other protocols concerning similar subject matter
11 that have already been established in this state and shall consider
12 any written comments received from interested persons in its
13 review.

14 (c) Within 60 days after receiving a written draft of a
15 proposed protocol from a medical control authority, the department
16 shall provide a written recommendation to the medical control
17 authority with any comments or suggested changes on the proposed
18 protocol. If the department does not respond within 60 days after
19 receiving the written draft, the proposed protocol ~~shall be~~ **IS**
20 considered to be approved by the department.

21 (d) After department approval of a proposed protocol, the
22 medical control authority may formally adopt and implement the
23 protocol.

24 (e) A medical control authority may establish an emergency
25 protocol necessary to preserve the health or safety of individuals
26 within its ~~jurisdiction~~ **REGION** in response to a present medical
27 emergency or disaster without following the procedures established

1 by the department under this ~~section~~**SUBSECTION** for an ordinary
2 protocol. An emergency protocol established under this subdivision
3 is effective only for a limited ~~time~~-period and does not take
4 permanent effect unless it is approved according to **THE PROCEDURES**
5 **ESTABLISHED BY THE DEPARTMENT UNDER** this subsection.

6 (4) A medical control authority shall provide an opportunity
7 for an affected participant in an emergency medical services system
8 to appeal a decision of the medical control authority. Following
9 appeal, the medical control authority may affirm, suspend, or
10 revoke its original decision. After appeals to the medical control
11 authority have been exhausted, the affected participant in an
12 emergency medical services system may appeal the medical control
13 authority's decision to the ~~statewide~~**STATE** emergency medical
14 services coordination committee **CREATED IN SECTION 20915**. The
15 ~~statewide~~**STATE** emergency medical services coordination committee
16 shall issue an opinion on whether the actions or decisions of the
17 medical control authority are in accordance with the department-
18 approved protocols of the medical control authority and state law.
19 If the ~~statewide~~**STATE** emergency medical services coordination
20 committee determines in its opinion that the actions or decisions
21 of the medical control authority are not in accordance with the
22 medical control authority's department-approved protocols or with
23 state law, the **STATE** emergency medical services coordination
24 committee shall recommend that the department take any enforcement
25 action authorized under this code.

26 (5) If adopted in protocols approved by the department, a
27 medical control authority may require life support agencies within

1 its region to meet reasonable additional standards for equipment
2 and personnel, other than medical first responders, that may be
3 more stringent than are otherwise required under this part. If a
4 medical control authority **PROPOSES A PROTOCOL THAT** establishes
5 additional standards for equipment and personnel, the medical
6 control authority and the department shall consider the medical and
7 economic impact on the local community, the need for communities to
8 do long-term planning, and the availability of personnel. If either
9 the medical control authority or the department determines that
10 negative medical or economic impacts outweigh the benefits of those
11 additional standards as they affect public health, safety, and
12 welfare, **THE MEDICAL CONTROL AUTHORITY SHALL NOT ADOPT AND THE**
13 **DEPARTMENT SHALL NOT APPROVE** protocols containing those additional
14 standards. ~~shall not be adopted.~~

15 (6) If adopted in protocols approved by the department, a
16 ~~local~~ medical control authority may require medical first response
17 services and licensed medical first responders within its region to
18 meet additional standards for equipment and personnel to ensure
19 that each medical first response service is equipped with an
20 epinephrine auto-injector, and that each licensed medical first
21 responder is properly trained to recognize an anaphylactic reaction
22 and to administer and dispose of the epinephrine auto-injector, if
23 a life support agency that provides basic life support, limited
24 advanced life support, or advanced life support is not readily
25 available in that location.

26 (7) If a decision of the medical control authority under
27 subsection (5) or (6) is appealed by an affected person, the

1 medical control authority shall make available, in writing, the
2 medical and economic information it considered in making its
3 decision. On appeal, the ~~statewide~~**STATE** emergency medical services
4 coordination committee shall review this information under
5 subsection (4) and shall issue its findings in writing.

6 Sec. 20965. (1) Unless an act or omission is the result of
7 gross negligence or willful misconduct, the acts or omissions of a
8 medical first responder, emergency medical technician, emergency
9 medical technician specialist, paramedic, medical director of a
10 medical control authority or his or her designee, or, subject to
11 subsection (5), an individual acting as a clinical preceptor of a
12 department-approved education program sponsor while providing
13 services to a patient outside a hospital, in a hospital before
14 transferring patient care to hospital personnel, or in a clinical
15 setting that are consistent with the individual's licensure or
16 additional training required by the medical control authority
17 including, but not limited to, services described in subsection
18 (2), or consistent with an approved procedure for that particular
19 education program do not impose liability in the treatment of a
20 patient on those individuals or any of the following persons:

21 (a) The authorizing physician or physician's designee.

22 (b) The medical director and individuals serving on the
23 governing board, advisory body, or committee of the medical control
24 authority and an employee of the medical control authority.

25 (c) The person providing communications services or lawfully
26 operating or utilizing supportive electronic communications
27 devices.

1 (d) The life support agency or an officer, member of the
2 staff, or other employee of the life support agency.

3 (e) The hospital or an officer, member of the staff, nurse, or
4 other employee of the hospital.

5 (f) The authoritative governmental unit or units.

6 (g) Emergency personnel from outside the state.

7 (h) The education program medical director.

8 (i) The education program instructor-coordinator.

9 (j) The education program sponsor and education program
10 sponsor advisory committee.

11 (k) The student of a department-approved education program who
12 is participating in an education program-approved clinical setting.

13 (l) An instructor or other staff employed by or under contract
14 to a department-approved education program for the purpose of
15 providing training or instruction for the department-approved
16 education program.

17 (m) The life support agency or an officer, member of the
18 staff, or other employee of the life support agency providing the
19 clinical setting described in subdivision (k).

20 (n) The hospital or an officer, member of the medical staff,
21 or other employee of the hospital providing the clinical setting
22 described in subdivision (k).

23 (2) Subsection (1) applies to services consisting of **ANY OF**
24 the **FOLLOWING:**

25 **(A) THE** use of an automated external defibrillator on an
26 individual who is in or is exhibiting symptoms of cardiac distress.

27 **(B) THE ADMINISTRATION OF AN OPIOID ANTAGONIST TO AN**

1 **INDIVIDUAL WHO IS SUFFERING OR IS EXHIBITING SYMPTOMS OF AN OPIOID-**
2 **RELATED OVERDOSE.**

3 (3) Unless an act or omission is the result of gross
4 negligence or willful misconduct, the acts or omissions of any of
5 the persons named below, while participating in the development of
6 protocols under this part, implementation of protocols under this
7 part, or holding a participant in the emergency medical services
8 system accountable for department-approved protocols under this
9 part, does not impose liability in the performance of those
10 functions:

11 (a) The medical director and individuals serving on the
12 governing board, advisory body, or committees of the medical
13 control authority or employees of the medical control authority.

14 (b) A participating hospital or freestanding surgical
15 outpatient facility in the medical control authority or an officer,
16 member of the medical staff, or other employee of the hospital or
17 freestanding surgical outpatient facility.

18 (c) A participating agency in the medical control authority or
19 an officer, member of the medical staff, or other employee of the
20 participating agency.

21 (d) A nonprofit corporation that performs the functions of a
22 medical control authority.

23 (4) Subsections (1) and (3) do not limit immunity from
24 liability otherwise provided by law for any of the persons listed
25 in subsections (1) and (3).

26 (5) The limitation on liability granted to a clinical
27 preceptor under subsection (1) applies only to an act or omission

1 of the clinical preceptor relating directly to a student's clinical
2 training activity or responsibility while the clinical preceptor is
3 physically present with the student during the clinical training
4 activity, and does not apply to an act or omission of the clinical
5 preceptor during that time that indirectly relates or does not
6 relate to the student's clinical training activity or
7 responsibility.