

HOUSE BILL No. 5674

May 19, 2016, Introduced by Reps. Singh, Wittenberg, Chang, Chirkun, Brinks, Sarah Roberts, Guerra, Geiss, Liberati, Greig, Cochran, Plawecki, Love, Faris, Driskell and Pagan and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20181 (MCL 333.20181) and by adding section
20184a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20181. (1) **THE IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY**
2 **OR PENALTY PROVIDED IN THIS SECTION AND SECTIONS 20182 TO 20184**
3 **APPLIES ONLY IF THE HEALTH FACILITY COMPLIES WITH SECTION 20184A.**

4 (2) A hospital, clinic, institution, teaching institution, or
5 other health facility is not required to admit a patient for the
6 purpose of performing an abortion. A hospital, clinic, institution,
7 teaching institution, or other health facility or a physician,

1 member, or associate of the staff, or other person connected
2 therewith, may refuse to perform, participate in, or allow to be
3 performed on its premises an abortion. The refusal shall be with
4 immunity from any civil or criminal liability or penalty.

5 SEC. 20184A. (1) NOTWITHSTANDING SECTIONS 20181 TO 20184, A
6 HEALTH FACILITY SHALL NOT REFUSE TO PROVIDE REPRODUCTIVE HEALTH
7 SERVICES TO AN INDIVIDUAL IF WITHHOLDING THE REPRODUCTIVE HEALTH
8 SERVICE WOULD RESULT IN OR PROLONG AN IMMINENT SERIOUS RISK TO THE
9 INDIVIDUAL'S LIFE OR HEALTH AND SHALL NOT LIMIT OR OTHERWISE
10 INTERFERE WITH A PHYSICIAN'S OR OTHER HEALTH CARE PROFESSIONAL'S
11 INDEPENDENT PROFESSIONAL JUDGMENT CONCERNING THE PRACTICE OF
12 MEDICINE OR THE DIAGNOSIS OR TREATMENT OF A PATIENT, INCLUDING, BUT
13 NOT LIMITED TO, THE FOLLOWING:

14 (A) LIMITING A HEALTH CARE PROFESSIONAL'S DUTY TO FOLLOW THE
15 STANDARD OF CARE FOR PROVIDING THE PATIENT WITH COMPREHENSIVE,
16 MEDICALLY ACCURATE INFORMATION ABOUT HIS OR HER HEALTH STATUS,
17 INCLUDING DIAGNOSIS, PROGNOSIS, RECOMMENDED TREATMENT, AND
18 POTENTIAL RISKS TO THE PATIENT'S LIFE OR HEALTH.

19 (B) LIMITING A HEALTH CARE PROFESSIONAL'S REFERRALS TO ANOTHER
20 HEALTH FACILITY OR LIMITING THE TIMING OF A REFERRAL.

21 (C) PROHIBITING A HEALTH CARE PROFESSIONAL FROM OFFERING OR
22 DELIVERING A REPRODUCTIVE HEALTH SERVICE IF WITHHOLDING THE
23 REPRODUCTIVE HEALTH SERVICE OR MEDICALLY ACCURATE INFORMATION WOULD
24 RESULT IN OR PROLONG AN IMMINENT SERIOUS RISK TO THE INDIVIDUAL'S
25 LIFE OR HEALTH.

26 (2) SUBSECTION (1) DOES NOT REQUIRE A HEALTH FACILITY TO
27 PROVIDE A REPRODUCTIVE HEALTH SERVICE UNLESS FAILURE TO PROVIDE

1 THAT SERVICE WOULD RESULT IN OR PROLONG AN IMMINENT SERIOUS RISK TO
2 THE INDIVIDUAL'S LIFE OR HEALTH.

3 (3) A HEALTH CARE PROFESSIONAL, THE ATTORNEY GENERAL, A
4 PATIENT OF THE HEALTH FACILITY, AN INDIVIDUAL WHO SOUGHT TREATMENT
5 AT THE HEALTH FACILITY, OR AN INDIVIDUAL WHO IS INJURED BY A
6 VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT OF
7 COMPETENT JURISDICTION TO ENJOIN FURTHER VIOLATIONS, TO RECOVER
8 DAMAGES SUFFERED FROM THE VIOLATION ON BEHALF OF THE INJURED
9 INDIVIDUAL, OR FOR BOTH AN INJUNCTION AND DAMAGES. A PLAINTIFF WHO
10 PREVAILS IN AN ACTION UNDER THIS SUBSECTION MAY BE AWARDED UP TO 3
11 TIMES THE ACTUAL DAMAGES, COMPENSATION FOR PAIN AND SUFFERING, AND
12 COURT COSTS AND ATTORNEY FEES, BUT SHALL BE AWARDED NOT LESS THAN
13 \$1,000.00 PER VIOLATION IN DAMAGES IN ADDITION TO COURT COSTS AND
14 ATTORNEY FEES.

15 (4) AS USED IN THIS SECTION:

16 (A) "HEALTH CARE PROFESSIONAL" MEANS AN INDIVIDUAL LICENSED OR
17 OTHERWISE AUTHORIZED TO PRACTICE MEDICINE UNDER ARTICLE 15, EXCEPT
18 THAT HEALTH CARE PROFESSIONAL DOES NOT INCLUDE A SANITARIAN OR A
19 VETERINARIAN.

20 (B) "HEALTH FACILITY" MEANS A HEALTH FACILITY OR AGENCY AND
21 MAY INCLUDE A CLINIC, INSTITUTION, OR TEACHING FACILITY ASSERTING
22 PROTECTION UNDER SECTIONS 20181 TO 20184.

23 (C) "MEDICALLY ACCURATE INFORMATION" MEANS INFORMATION THAT IS
24 ANY OF THE FOLLOWING:

25 (i) VERIFIED OR SUPPORTED BY THE WEIGHT OF PEER-REVIEWED
26 MEDICAL RESEARCH CONDUCTED IN COMPLIANCE WITH ACCEPTED SCIENTIFIC
27 METHODS.

1 (ii) RECOGNIZED AS CORRECT AND OBJECTIVE BY LEADING MEDICAL
2 ORGANIZATIONS WITH RELEVANT EXPERTISE.

3 (iii) RECOMMENDED AND AFFIRMED IN THE MEDICAL PRACTICE
4 GUIDELINES OF A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION.

5 (D) "REPRODUCTIVE HEALTH SERVICE" INCLUDES, BUT IS NOT LIMITED
6 TO, CONTRACEPTION, ABORTION, TREATMENT OF ECTOPIC PREGNANCY,
7 MISCARRIAGE MANAGEMENT, USE OF ASSISTED REPRODUCTIVE TECHNOLOGY,
8 INFERTILITY TREATMENT, SCREENING FOR AND TREATMENT OF SEXUALLY
9 TRANSMITTED INFECTIONS, PREGNANCY AND POSTNATAL CARE, AND
10 STERILIZATION.

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.