

SENATE BILL No. 589

October 27, 2015, Introduced by Senator CASPERSON and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16105a, 16167, 16169, 16170, 16170a, and 20910
(MCL 333.16105a, 333.16167, 333.16169, 333.16170, 333.16170a, and
333.20910), sections 16105a, 16167, and 16170 as added by 1993 PA
80, sections 16169 and 16170a as amended by 2013 PA 268, and
section 20910 as amended by 2006 PA 582.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16105a. (1) "Health professional recovery program" or
2 "program" means a nondisciplinary, treatment-oriented program for
3 impaired health professionals established under section 16167.

4 (2) AS USED IN THIS SECTION AND SECTIONS 16165 TO 16170A:

5 (A) "EMERGENCY MEDICAL SERVICES PERSONNEL" MEANS THAT TERM AS
6 DEFINED IN SECTION 20904.

1 **(B) "HEALTH PROFESSIONALS" INCLUDES EMERGENCY MEDICAL SERVICES**
2 **PERSONNEL WHO ARE LICENSED UNDER ARTICLE 17 BY THE DEPARTMENT OF**
3 **HEALTH AND HUMAN SERVICES.**

4 Sec. 16167. The committee shall do all of the following:

5 (a) Establish the general components of the health
6 professional recovery program and a mechanism for monitoring health
7 professionals who may be impaired.

8 (b) Subject to sections 16169 and 16170 and in conjunction
9 with the health professional recovery program consultants described
10 in section 16168, develop and implement criteria for the
11 identification, assessment, and treatment of health professionals
12 who may be impaired.

13 (c) In conjunction with the health professional recovery
14 program consultants described in section 16168, develop and
15 implement mechanisms for the evaluation of continuing care or
16 aftercare plans for health professionals who may be impaired.

17 (d) Develop a mechanism and criteria for the referral of a
18 health professional who may be impaired to a professional
19 association when appropriate for the purpose of providing
20 assistance to the health professional. In developing criteria under
21 this subdivision, the committee shall require that a referral be
22 made only with the consent of the health professional.

23 **(E) IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN**
24 **SERVICES, DEVELOP AND IMPLEMENT PROCEDURES FOR ADMINISTRATION OF**
25 **THE HEALTH PROFESSIONAL RECOVERY PROGRAM WITH RESPECT TO EMERGENCY**
26 **MEDICAL SERVICES PERSONNEL.**

27 **(F) ~~(e)~~—Annually report to each board and the physician's**

1 assistants task force created under this article on the status of
2 the health professional recovery program. The committee shall
3 include in the report, at a minimum, statistical information on the
4 level of participation in the program of each health profession.
5 The committee may include in the report recommendations for changes
6 in the health professional recovery program and for participation
7 by the boards and the physician's assistants task force,
8 professional associations, substance abuse treatment and prevention
9 programs, and other appropriate agencies.

10 Sec. 16169. (1) If an individual employed by or under contract
11 to the department has reasonable cause to believe that a health
12 professional may be impaired, the individual shall transmit the
13 information to the committee either orally or in writing. Upon
14 receipt of the information, the committee shall request the program
15 consultant described in section 16168 to determine whether or not
16 the health professional may be impaired.

17 **(2) IF AN INDIVIDUAL EMPLOYED BY OR UNDER CONTRACT TO THE**
18 **DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS REASONABLE CAUSE TO**
19 **BELIEVE THAT A HEALTH PROFESSIONAL MAY BE IMPAIRED, THE INDIVIDUAL**
20 **SHALL TRANSMIT THE INFORMATION TO THE COMMITTEE EITHER ORALLY OR IN**
21 **WRITING. UPON RECEIPT OF THE INFORMATION, THE COMMITTEE SHALL**
22 **REQUEST THE PROGRAM CONSULTANT DESCRIBED IN SECTION 16168 TO**
23 **DETERMINE WHETHER OR NOT THE HEALTH PROFESSIONAL MAY BE IMPAIRED.**

24 (3) ~~(2)~~—If, based on the information received by the
25 department under section 16168(2), the department determines that
26 the health professional involved may be a threat to the public
27 health, safety, or welfare and has violated this article, article

1 7, or article 8 or the rules promulgated under this article,
 2 article 7, or article 8, the department may proceed under sections
 3 16211 and 16231. **THIS SUBSECTION DOES NOT APPLY TO EMERGENCY**
 4 **MEDICAL SERVICES PERSONNEL DESCRIBED IN SUBSECTION (4).**

5 (4) IF, BASED ON THE INFORMATION RECEIVED BY THE DEPARTMENT
 6 UNDER SECTION 16168(2), THE DEPARTMENT DETERMINES THAT AN
 7 INDIVIDUAL WHO HOLDS AN EMERGENCY MEDICAL SERVICES LICENSE FROM THE
 8 DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER ARTICLE 17 MAY BE A
 9 THREAT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE AND HAS VIOLATED
 10 ARTICLE 17 OR THE RULES PROMULGATED UNDER ARTICLE 17, THE
 11 DEPARTMENT SHALL NOTIFY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
 12 AND THAT DEPARTMENT MAY PROCEED UNDER SECTION 20958.

13 Sec. 16170. (1) If the program consultant described in section
 14 16168 determines under section 16169(1) OR 16169(2) that a health
 15 professional may be impaired, the committee may accept the health
 16 professional into the health professional recovery program if both
 17 of the following requirements are met:

18 (a) The health professional acknowledges his or her
 19 impairment.

20 (b) The health professional voluntarily does ~~all~~**EITHER** of the
 21 following, **AS APPLICABLE**:

22 (i) **EXCEPT FOR A HEALTH PROFESSIONAL DESCRIBED IN SUBPARAGRAPH**
 23 **(ii), VOLUNTARILY DOES BOTH OF THE FOLLOWING:**

24 (A) ~~(i)~~Withdraws from or limits the scope of his or her
 25 practice, as determined necessary by the committee. To comply with
 26 this subparagraph, a health professional may request the limitation
 27 of his or her license under section 16182.

1 **(B) ~~(ii)~~**—Agrees to participate in a treatment plan that meets
2 the criteria developed under section 16167.

3 **(ii) IF THE HEALTH PROFESSIONAL HOLDS AN EMERGENCY MEDICAL**
4 **SERVICES PERSONNEL LICENSE FROM THE DEPARTMENT OF HEALTH AND HUMAN**
5 **SERVICES UNDER ARTICLE 17, VOLUNTARILY DOES BOTH OF THE FOLLOWING:**

6 **(A) WITHDRAWS FROM OR LIMITS THE SCOPE OF HIS OR HER**
7 **ACTIVITIES AS AN EMERGENCY MEDICAL SERVICES PERSONNEL LICENSEE, AS**
8 **DETERMINED NECESSARY BY THE COMMITTEE. TO COMPLY WITH THIS SUB-**
9 **SUBPARAGRAPH, THE HEALTH PROFESSIONAL MAY REQUEST THE LIMITATION OF**
10 **HIS OR HER LICENSE BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**
11 **UNDER SECTION 20165.**

12 **(B) AGREES TO PARTICIPATE IN A TREATMENT PLAN THAT MEETS THE**
13 **CRITERIA DEVELOPED UNDER SECTION 16167.**

14 (2) If a health professional does not satisfactorily
15 participate in the treatment plan described in subsection
16 ~~(1)(b)(ii)~~, **(1) (B) (i) (B) OR (1) (B) (ii) (B)**, as determined by the
17 committee, the committee shall report that fact to the department,
18 **OR, IF THE HEALTH PROFESSIONAL HOLDS AN EMERGENCY MEDICAL SERVICES**
19 **PERSONNEL LICENSE UNDER ARTICLE 17, TO THE DEPARTMENT OF HEALTH AND**
20 **HUMAN SERVICES.**

21 (3) A health professional participating in or who has
22 participated in a treatment plan under the health professional
23 recovery program or an individual treating the health professional
24 under the treatment plan shall not falsely represent, either
25 individually or together, that the health professional has
26 successfully completed the treatment plan. An individual who
27 intentionally violates this subsection is guilty of a felony.

1 Sec. 16170a. (1) The identity of an individual submitting
2 information to the committee or the department regarding the
3 suspected impairment of a health professional is confidential.

4 (2) The identity of a health professional who participates in
5 the health professional recovery program is confidential and is not
6 subject to disclosure under discovery or subpoena or the freedom of
7 information act, 1976 PA 442, MCL 15.231 to 15.246, unless the
8 health professional fails to satisfactorily participate in and
9 complete a treatment plan prescribed under the health professional
10 recovery program or violates section 16170(3).

11 (3) If a health professional successfully participates in and
12 completes a treatment plan prescribed under the health professional
13 recovery program, as determined by the committee, the department,
14 **AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES IF THE HEALTH**
15 **PROFESSIONAL IS AN EMERGENCY MEDICAL SERVICES PERSONNEL LICENSEE,**
16 shall destroy all records pertaining to the impairment of the
17 health professional, including records pertaining to the health
18 professional's participation in the treatment plan, upon the
19 expiration of 5 years after the date of the committee's
20 determination. This subsection does not apply to records pertaining
21 to a violation of this article, article 7, or article 8 or a rule
22 promulgated under this article, article 7, or article 8, **OR, IF THE**
23 **HEALTH PROFESSIONAL IS AN EMERGENCY MEDICAL SERVICES PERSONNEL**
24 **LICENSEE, TO RECORDS PERTAINING TO A VIOLATION OF ARTICLE 17 OR A**
25 **RULE PROMULGATED UNDER ARTICLE 17.**

26 Sec. 20910. (1) The department shall do all of the following:

27 (a) Be responsible for the development, coordination, and

1 administration of a statewide emergency medical services system.

2 (b) Facilitate and promote programs of public information and
3 education concerning emergency medical services.

4 (c) In case of actual disasters and disaster training drills
5 and exercises, provide emergency medical services resources
6 pursuant to applicable provisions of the Michigan emergency
7 preparedness plan, or as prescribed by the director of emergency
8 services pursuant to the emergency management act, 1976 PA 390, MCL
9 30.401 to 30.421.

10 (d) Consistent with the rules of the federal communications
11 commission, plan, develop, coordinate, and administer a statewide
12 emergency medical services communications system.

13 (e) Develop and maintain standards of emergency medical
14 services and personnel as follows:

15 (i) License emergency medical services personnel in accordance
16 with this part.

17 (ii) License ambulance operations, nontransport prehospital
18 life support operations, and medical first response services in
19 accordance with this part.

20 (iii) At least annually, inspect or provide for the inspection
21 of each life support agency, except medical first response
22 services. As part of that inspection, the department shall conduct
23 random inspections of life support vehicles. If a life support
24 vehicle is determined by the department to be out of compliance,
25 the department shall give the life support agency 24 hours to bring
26 the life support vehicle into compliance. If the life support
27 vehicle is not brought into compliance in that time period, the

1 department shall order the life support vehicle taken out of
2 service until the life support agency demonstrates to the
3 department, in writing, that the life support vehicle has been
4 brought into compliance.

5 (iv) Promulgate rules to establish the requirements for
6 licensure of life support agencies, vehicles, and individuals
7 licensed under this part to provide emergency medical services and
8 other rules necessary to implement this part. The department shall
9 submit all proposed rules and changes to the state emergency
10 medical services coordination committee and provide a reasonable
11 time for the committee's review and recommendations before
12 submitting the rules for public hearing under the administrative
13 procedures act of 1969.

14 (f) Promulgate rules to establish and maintain standards for
15 and regulate the use of descriptive words, phrases, symbols, or
16 emblems that represent or denote that an ambulance operation,
17 nontransport prehospital life support operation, or medical first
18 response service is or may be provided. The department's authority
19 to regulate use of the descriptive devices includes use for the
20 purposes of advertising, promoting, or selling the services
21 rendered by an ambulance operation, nontransport prehospital life
22 support operation, or medical first response service, or by
23 emergency medical services personnel.

24 (g) Designate a medical control authority as the medical
25 control for emergency medical services for a particular geographic
26 region as provided for under this part.

27 (h) Develop and implement field studies involving the use of

1 skills, techniques, procedures, or equipment that are not included
2 as part of the standard education for medical first responders,
3 emergency medical technicians, emergency medical technician
4 specialists, or paramedics, if all of the following conditions are
5 met:

6 (i) The state emergency medical services coordination
7 committee reviews the field study prior to implementation.

8 (ii) The field study is conducted in an area for which a
9 medical control authority has been approved pursuant to subdivision
10 (g).

11 (iii) The medical first responders, emergency medical
12 technicians, emergency medical technician specialists, and
13 paramedics participating in the field study receive training for
14 the new skill, technique, procedure, or equipment.

15 (i) Collect data as necessary to assess the need for and
16 quality of emergency medical services throughout the state pursuant
17 to 1967 PA 270, MCL 331.531 to ~~331.533~~-331.534.

18 (j) Develop, with the advice of the emergency medical services
19 coordination committee, an emergency medical services plan that
20 includes rural issues.

21 (k) Develop recommendations for territorial boundaries of
22 medical control authorities that are designed to assure that there
23 exists reasonable emergency medical services capacity within the
24 boundaries for the estimated demand for emergency medical services.

25 (l) Within 1 year after the statewide trauma care advisory
26 subcommittee is established under section 20917a and in
27 consultation with the statewide trauma care advisory subcommittee,

1 develop, implement, and promulgate rules for the implementation and
2 operation of a statewide trauma care system within the emergency
3 medical services system consistent with the document entitled
4 "Michigan Trauma Systems Plan" prepared by the Michigan ~~trauma~~
5 ~~coalition~~, **TRAUMA COALITION**, dated November 2003. The
6 implementation and operation of the statewide trauma care system,
7 including the rules promulgated in accordance with this
8 subdivision, are subject to review by the emergency medical
9 services coordination committee and the statewide trauma care
10 advisory subcommittee. The rules promulgated under this subdivision
11 shall not require a hospital to be designated as providing a
12 certain level of trauma care. Upon implementation of a statewide
13 trauma care system, the department shall review and identify
14 potential funding mechanisms and sources for the statewide trauma
15 care system.

16 **(M) IN CONSULTATION WITH THE DEPARTMENT OF LICENSING AND**
17 **REGULATORY AFFAIRS, DEVELOP AND IMPLEMENT A PROGRAM FOR THE**
18 **PARTICIPATION OF EMERGENCY MEDICAL SERVICES PERSONNEL IN THE HEALTH**
19 **PROFESSIONAL RECOVERY PROGRAM ESTABLISHED UNDER SECTION 16167.**

20 **(N)** ~~(m)~~—Promulgate other rules to implement this part.

21 **(O)** ~~(n)~~—Perform other duties as set forth in this part.

22 (2) The department may do all of the following:

23 (a) In consultation with the emergency medical services
24 coordination committee, promulgate rules to require an ambulance
25 operation, nontransport prehospital life support operation, or
26 medical first response service to periodically submit designated
27 records and data for evaluation by the department.

1 (b) Establish a grant program or contract with a public or
2 private agency, emergency medical services professional
3 association, or emergency medical services coalition to provide
4 training, public information, and assistance to medical control
5 authorities and emergency medical services systems or to conduct
6 other activities as specified in this part.

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