

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5218

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 21501 (MCL 333.21501) and by adding section  
21541.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21501. (1) ~~Article~~ AS USED IN THIS PART:

2       (A) "AIRCRAFT TRANSPORT VEHICLE" MEANS THAT TERM AS DEFINED IN  
3 SECTION 20902.

4       (B) "AMBULANCE" MEANS THAT TERM AS DEFINED IN SECTION 20902.

5       (C) "EMERGENCY PATIENT" MEANS THAT TERM AS DEFINED IN SECTION  
6 20904.

7       (D) "GROUP HEALTH PLAN" MEANS AN EMPLOYER PROGRAM OF HEALTH  
8 BENEFITS, INCLUDING AN EMPLOYEE WELFARE BENEFIT PLAN AS DEFINED IN  
9 SECTION 3(1) OF SUBTITLE A OF TITLE I OF THE EMPLOYEE RETIREMENT

1 INCOME SECURITY ACT OF 1974, PUBLIC LAW 93-406, 29 USC 1002, TO THE  
2 EXTENT THAT THE PLAN PROVIDES MEDICAL CARE, INCLUDING ITEMS AND  
3 SERVICES PAID FOR AS MEDICAL CARE TO EMPLOYEES OR THEIR DEPENDENTS  
4 AS DEFINED UNDER THE TERMS OF THE PLAN DIRECTLY OR THROUGH  
5 INSURANCE, REIMBURSEMENT, OR OTHERWISE.

6 (E) "HEALTH BENEFIT PLAN" MEANS A GROUP HEALTH PLAN, AN  
7 INDIVIDUAL OR GROUP EXPENSE-INCURRED HOSPITAL, MEDICAL, OR SURGICAL  
8 POLICY OR CERTIFICATE, OR AN INDIVIDUAL OR GROUP HEALTH MAINTENANCE  
9 ORGANIZATION CONTRACT. HEALTH BENEFIT PLAN DOES NOT INCLUDE  
10 ACCIDENT-ONLY, CREDIT, DENTAL, OR DISABILITY INCOME INSURANCE;  
11 LONG-TERM CARE INSURANCE; COVERAGE ISSUED AS A SUPPLEMENT TO  
12 LIABILITY INSURANCE; COVERAGE ONLY FOR A SPECIFIED DISEASE OR  
13 ILLNESS; WORKER'S COMPENSATION OR SIMILAR INSURANCE; OR AUTOMOBILE  
14 MEDICAL-PAYMENT INSURANCE.

15 (F) "NONEMERGENCY PATIENT" MEANS THAT TERM AS DEFINED IN  
16 SECTION 20908.

17 (G) "PARTICIPATING PROVIDER" MEANS A PROVIDER THAT, UNDER  
18 CONTRACT WITH AN INSURER THAT ISSUES HEALTH BENEFIT PLANS, OR WITH  
19 SUCH AN INSURER'S CONTRACTOR OR SUBCONTRACTOR, HAS AGREED TO  
20 PROVIDE HEALTH CARE SERVICES TO COVERED INDIVIDUALS AND TO ACCEPT  
21 PAYMENT BY THE INSURER, CONTRACTOR, OR SUBCONTRACTOR FOR COVERED  
22 SERVICES AS PAYMENT IN FULL, OTHER THAN COINSURANCE, COPAYMENTS, OR  
23 DEDUCTIBLES.

24 (H) "PATIENT'S REPRESENTATIVE" MEANS ANY OF THE FOLLOWING:

25 (i) A PERSON TO WHOM A PATIENT HAS GIVEN EXPRESS WRITTEN  
26 CONSENT TO REPRESENT THE PATIENT.

27 (ii) A PERSON AUTHORIZED BY LAW TO PROVIDE CONSENT FOR A

1 PATIENT.

2 (iii) A PATIENT'S TREATING HEALTH PROFESSIONAL, BUT ONLY IF  
3 THE PATIENT IS UNABLE TO PROVIDE CONSENT.

4 (I) "THIRD PARTY ADMINISTRATOR" MEANS THAT TERM AS DEFINED IN  
5 SECTION 2 OF THE THIRD PARTY ADMINISTRATOR ACT, 1984 PA 218, MCL  
6 550.902.

7 (2) IN ADDITION, ARTICLE 1 contains general definitions and  
8 principles of construction applicable to all articles in this code  
9 and part 201 contains definitions applicable to this part.

10 SEC. 21541. (1) SUBJECT TO SECTION 21540, BEFORE AN AIRCRAFT  
11 TRANSPORT VEHICLE IS ORDERED TO TRANSPORT A NONEMERGENCY PATIENT OR  
12 AN AMBULANCE THAT IS A ROTARY AIRCRAFT IS ORDERED TO TRANSPORT A  
13 NONEMERGENCY PATIENT, A HOSPITAL SHALL DO ALL OF THE FOLLOWING:

14 (A) DISCLOSE TO THE NONEMERGENCY PATIENT, OR THAT PATIENT'S  
15 REPRESENTATIVE, ALL OF THE FOLLOWING INFORMATION:

16 (i) WHETHER THE AIRCRAFT TRANSPORT OPERATION OR AMBULANCE  
17 OPERATION IS A PARTICIPATING PROVIDER WITH THE NONEMERGENCY  
18 PATIENT'S HEALTH BENEFIT PLAN. THIS SUBPARAGRAPH DOES NOT APPLY IF  
19 THE HOSPITAL DOES NOT HAVE ELECTRONIC ACCESS TO ALL OF THE  
20 FOLLOWING INFORMATION:

21 (A) WHETHER THE NONEMERGENCY PATIENT'S HEALTH BENEFIT PLAN  
22 PROVIDES COVERAGE FOR TRANSPORTATION BY AN AIRCRAFT TRANSPORT  
23 VEHICLE OR AN AMBULANCE THAT IS A ROTARY AIRCRAFT.

24 (B) A LIST OF ALL AIRCRAFT TRANSPORT OPERATIONS AND AMBULANCE  
25 OPERATIONS THAT ARE FULLY CONTRACTED PARTICIPATING PROVIDERS WITH  
26 THE NONEMERGENCY PATIENT'S HEALTH BENEFIT PLAN AND DO NOT  
27 PARTICIPATE WITH THE HEALTH BENEFIT PLAN ON ONLY A PER CLAIM BASIS.

1           (ii) THAT THE NONEMERGENCY PATIENT HAS A RIGHT TO BE  
2 TRANSPORTED BY A METHOD OTHER THAN AN AIRCRAFT TRANSPORT VEHICLE OR  
3 AMBULANCE THAT IS A ROTARY AIRCRAFT.

4           (B) COMPLETE THE NOTICE DESCRIBED IN SUBSECTION (2) AND, AFTER  
5 COMPLETING THE NOTICE, OBTAIN ON THE NOTICE THE SIGNATURE OF THE  
6 NONEMERGENCY PATIENT, OR THAT PATIENT'S REPRESENTATIVE,  
7 ACKNOWLEDGING THAT THE NONEMERGENCY PATIENT, OR THAT PATIENT'S  
8 REPRESENTATIVE, HAS RECEIVED, HAS READ, AND UNDERSTANDS THE NOTICE.  
9 A HOSPITAL SHALL RETAIN A COPY OF THE NOTICE REQUIRED UNDER THIS  
10 SUBDIVISION FOR NOT LESS THAN 7 YEARS.

11           (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) (B) MUST BE IN NOT  
12 LESS THAN 12-POINT TYPE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

13           "YOUR PHYSICIAN HAS ORDERED TRANSPORT BY AN AIRCRAFT TRANSPORT  
14 VEHICLE OR AMBULANCE THAT IS A ROTARY AIRCRAFT. YOUR HEALTH BENEFIT  
15 PLAN MAY OR MAY NOT PROVIDE COVERAGE FOR THIS TRANSPORTATION. YOU  
16 MAY BE RESPONSIBLE FOR THE COSTS OF THE TRANSPORTATION THAT IS NOT  
17 COVERED BY YOUR HEALTH BENEFIT PLAN.

18           WE HAVE CONDUCTED A GOOD-FAITH SEARCH TO DETERMINE WHETHER  
19 YOUR HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR THIS TRANSPORTATION  
20 AND, IF SO, TO ORDER THIS TRANSPORTATION FROM A PROVIDER THAT  
21 PARTICIPATES WITH YOUR HEALTH BENEFIT PLAN.

22           YOU HAVE A RIGHT TO BE TRANSPORTED BY A METHOD OTHER THAN  
23 TRANSPORT BY AN AIRCRAFT TRANSPORT VEHICLE OR AMBULANCE THAT IS A  
24 ROTARY AIRCRAFT.

25           THE HOSPITAL AND THE ORDERING PHYSICIAN ARE IMMUNE FROM CIVIL  
26 LIABILITY FOR INJURIES OR DAMAGES ARISING OUT OF YOUR DECISION TO  
27 USE A FORM OF TRANSPORTATION OTHER THAN THE ONE ORDERED BY THE

1 ORDERING PHYSICIAN.

2 I HAVE RECEIVED, READ, AND UNDERSTAND THIS NOTICE.

3 \_\_\_\_\_  
 4 (PATIENT'S OR PATIENT REPRESENTATIVE'S SIGNATURE) (DATE)  
 5 \_\_\_\_\_  
 6 (TYPE OR PRINT PATIENT'S OR PATIENT REPRESENTATIVE'S NAME)".

7 (3) A HOSPITAL AND ORDERING PHYSICIAN ARE IMMUNE FROM CIVIL  
 8 LIABILITY FOR INJURIES OR DAMAGES ARISING OUT OF THE DECISION OF A  
 9 PATIENT OR THE PATIENT'S REPRESENTATIVE TO USE A FORM OF  
 10 TRANSPORTATION OTHER THAN THE ONE ORDERED BY THE ORDERING  
 11 PHYSICIAN.

12 (4) UPON THE REQUEST OF A NONEMERGENCY PATIENT'S HEALTH  
 13 BENEFIT PLAN OR THIRD PARTY ADMINISTRATOR, THE HOSPITAL SHALL  
 14 PROVIDE A COPY OF THE NOTICE REQUIRED UNDER SUBSECTION (1)(B) TO  
 15 THE PERSON DESIGNATED IN THE NONEMERGENCY PATIENT'S HEALTH BENEFIT  
 16 PLAN OR BY THE THIRD PARTY ADMINISTRATOR.

17 (5) A HOSPITAL THAT VIOLATES THIS SECTION IS LIABLE TO THE  
 18 AIRCRAFT TRANSPORT OPERATION OR AMBULANCE OPERATION FOR THE  
 19 REASONABLE COST OF TRANSPORTING THE NONEMERGENCY PATIENT, AS  
 20 NEGOTIATED BETWEEN THE HOSPITAL AND THE AIRCRAFT TRANSPORT  
 21 OPERATION OR AMBULANCE OPERATION, TO THE EXTENT THAT THE COST  
 22 EXCEEDS THE AMOUNT COVERED BY THE PATIENT'S HEALTH BENEFIT PLAN.

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

25 Enacting section 2. This amendatory act does not take effect  
 26 unless all of the following bills of the 99th Legislature are  
 27 enacted into law:

1 (a) House Bill No. 5217.

2 (b) House Bill No. 5219.