

HOUSE BILL No. 4170

February 7, 2017, Introduced by Reps. Tedder, Cox, Vaupel, Webber, Santana, Kahle, Canfield and Glenn and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20919 (MCL 333.20919), as amended by 2014 PA 312, and by adding part 56B and section 20192a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 56B

PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

SEC. 5671. (1) AS USED IN THIS PART, THE WORDS AND PHRASES DEFINED IN SECTIONS 5672 TO 5674 HAVE THE MEANINGS ASCRIBED TO THEM IN THOSE SECTIONS.

(2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS CODE.

SEC. 5672. (1) "ACTUAL NOTICE" INCLUDES THE PHYSICAL PRESENTATION OF A POST FORM OR A REVOKED POST FORM, OR THE

1 ELECTRONIC TRANSMISSION OF A POST FORM OR A REVOKED POST FORM IF
2 THE RECIPIENT OF THE FORM SENDS AN ELECTRONIC CONFIRMATION TO THE
3 PATIENT, PATIENT REPRESENTATIVE, OR ATTENDING HEALTH PROFESSIONAL,
4 WHO SENT THE ELECTRONIC TRANSMISSION, INDICATING THAT THE POST FORM
5 OR REVOKED POST FORM HAS BEEN RECEIVED. ACTUAL NOTICE ALSO INCLUDES
6 KNOWLEDGE OF A PATIENT'S INTENT TO REVOKE THE POST FORM BY A HEALTH
7 PROFESSIONAL WHO IS TREATING THE PATIENT, BY AN ATTENDING HEALTH
8 PROFESSIONAL, OR BY EMERGENCY MEDICAL SERVICES PERSONNEL.

9 (2) "ADULT FOSTER CARE FACILITY" MEANS THAT TERM AS DEFINED IN
10 SECTION 3 OF THE ADULT FOSTER CARE LICENSING ACT, 1979 PA 218, MCL
11 400.703.

12 (3) "ADVANCED ILLNESS" MEANS A MEDICAL OR SURGICAL CONDITION
13 WITH SIGNIFICANT FUNCTIONAL IMPAIRMENT THAT IS NOT REVERSIBLE BY
14 CURATIVE THERAPIES AND THAT IS ANTICIPATED TO PROGRESS TOWARD DEATH
15 DESPITE ATTEMPTS AT CURATIVE THERAPIES OR MODULATION.

16 (4) "ATTENDING HEALTH PROFESSIONAL" MEANS, SUBJECT TO THIS
17 SUBSECTION, A PHYSICIAN, PHYSICIAN'S ASSISTANT, OR CERTIFIED NURSE
18 PRACTITIONER, WHO HAS PRIMARY RESPONSIBILITY FOR THE TREATMENT OF A
19 PATIENT AND ISSUES THE MEDICAL ORDERS ON A POST FORM. TO QUALIFY AS
20 AN ATTENDING HEALTH PROFESSIONAL, A PHYSICIAN'S ASSISTANT OR
21 CERTIFIED NURSE PRACTITIONER MUST ACT UNDER THE SUPERVISION OF THE
22 PHYSICIAN IN A MANNER CONSISTENT WITH ARTICLE 15.

23 (5) "CERTIFIED NURSE PRACTITIONER" MEANS AN INDIVIDUAL
24 LICENSED AS A REGISTERED PROFESSIONAL NURSE UNDER PART 172 WHO HAS
25 BEEN ISSUED A SPECIALTY CERTIFICATION AS A NURSE PRACTITIONER BY
26 THE BOARD OF NURSING UNDER SECTION 17210.

27 SEC. 5673. (1) "EMERGENCY MEDICAL PROTOCOL" MEANS A PROTOCOL

1 AS THAT TERM IS DEFINED IN SECTION 20908.

2 (2) "EMERGENCY MEDICAL SERVICES PERSONNEL" MEANS THAT TERM AS
3 DEFINED IN SECTION 20904, BUT DOES NOT INCLUDE AN EMERGENCY MEDICAL
4 SERVICES INSTRUCTOR-COORDINATOR.

5 (3) "GUARDIAN" MEANS A PERSON WITH THE POWERS AND DUTIES TO
6 MAKE MEDICAL TREATMENT DECISIONS ON BEHALF OF A PATIENT TO THE
7 EXTENT GRANTED BY COURT ORDER UNDER SECTION 5314 OF THE ESTATES AND
8 PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5314.

9 (4) "HEALTH FACILITY" MEANS A HEALTH FACILITY OR AGENCY
10 LICENSED UNDER ARTICLE 17. HEALTH FACILITY DOES NOT INCLUDE A
11 HOSPITAL UNLESS SPECIFICALLY PROVIDED.

12 (5) "HEALTH PROFESSIONAL" MEANS AN INDIVIDUAL LICENSED,
13 REGISTERED, OR OTHERWISE AUTHORIZED TO ENGAGE IN THE PRACTICE OF A
14 HEALTH PROFESSION UNDER ARTICLE 15.

15 (6) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 20106.

16 SEC. 5674. (1) "MEDICAL CONTROL AUTHORITY" MEANS THAT TERM AS
17 DEFINED IN SECTION 20906.

18 (2) "PATIENT" MEANS AN ADULT WITH AN ADVANCED ILLNESS OR OTHER
19 MEDICAL CONDITION THAT COMPROMISES HIS OR HER HEALTH SO AS TO MAKE
20 DEATH WITHIN 1 YEAR A FORESEEABLE POSSIBILITY THOUGH NOT A SPECIFIC
21 OR PREDICTED PROGNOSIS.

22 (3) "PATIENT ADVOCATE" MEANS THAT TERM AS DEFINED IN SECTION
23 1106 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,
24 MCL 700.1106.

25 (4) "PATIENT REPRESENTATIVE" MEANS A PATIENT ADVOCATE OR A
26 GUARDIAN.

27 (5) "PERSON" MEANS THAT TERM AS DEFINED IN SECTION 1106 OR A

1 GOVERNMENTAL ENTITY.

2 (6) "PHYSICIAN" MEANS THAT TERM AS DEFINED IN SECTION 17001 OR
3 17501.

4 (7) "PHYSICIAN ORDERS FOR SCOPE OF TREATMENT FORM" OR "POST
5 FORM" MEANS THE FORM DESCRIBED IN SECTION 5676. A POST FORM IS NOT
6 AN ADVANCE HEALTH CARE DIRECTIVE.

7 (8) "PHYSICIAN'S ASSISTANT" MEANS AN INDIVIDUAL LICENSED AS A
8 PHYSICIAN'S ASSISTANT UNDER PART 170 OR PART 175.

9 (9) "WARD" MEANS THAT TERM AS DEFINED IN SECTION 1108 OF THE
10 ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1108.

11 SEC. 5675. (1) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE
12 OF THE AMENDATORY ACT THAT ADDED THIS PART, THE DIRECTOR SHALL
13 APPOINT MEMBERS OF AND CONVENE AN AD HOC ADVISORY COMMITTEE.

14 (2) THE MEMBERS OF THE COMMITTEE MAY INCLUDE, BUT ARE NOT
15 LIMITED TO, INDIVIDUALS REPRESENTING THE FOLLOWING:

16 (A) A HEALTH FACILITY OR AN ADULT FOSTER CARE FACILITY, OR AN
17 ORGANIZATION OR PROFESSIONAL ASSOCIATION REPRESENTING HEALTH
18 FACILITIES OR ADULT FOSTER CARE FACILITIES.

19 (B) A PALLIATIVE CARE PROVIDER.

20 (C) EMERGENCY MEDICAL SERVICES PERSONNEL.

21 (D) A MEDICAL CONTROL AUTHORITY.

22 (E) A PATIENT ADVOCACY ORGANIZATION.

23 (3) WITHIN 180 DAYS AFTER THE COMMITTEE IS CONVENEED, THE
24 COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT ON ALL OF
25 THE FOLLOWING:

26 (A) SUBJECT TO SECTION 5676, THE CREATION OF A STANDARDIZED
27 POST FORM.

1 (B) THE PROCEDURES FOR THE USE OF A POST FORM WITHIN VARIOUS
2 RESIDENTIAL SETTINGS, INCLUDING, BUT NOT LIMITED TO, ADULT FOSTER
3 CARE FACILITIES AND HEALTH FACILITIES.

4 (C) THE CIRCUMSTANCES UNDER WHICH A PHOTOCOPY, FACSIMILE, OR
5 DIGITAL IMAGE OF A COMPLETED POST FORM IS CONSIDERED VALID FOR
6 PURPOSES OF A HEALTH PROFESSIONAL, A HEALTH FACILITY, AN ADULT CARE
7 FACILITY, OR EMERGENCY MEDICAL SERVICES PERSONNEL COMPLYING WITH
8 THE ORDERS FOR MEDICAL TREATMENT ON THE FORM.

9 (4) AFTER THE DEPARTMENT RECEIVES THE RECOMMENDATIONS FROM THE
10 COMMITTEE UNDER SUBSECTION (3), THE COMMITTEE IS ABOLISHED.

11 (5) AS USED IN THIS SECTION, "COMMITTEE" MEANS THE AD HOC
12 ADVISORY COMMITTEE APPOINTED UNDER SUBSECTION (1).

13 SEC. 5676. (1) THE DEPARTMENT, AFTER CONSIDERING THE
14 RECOMMENDATIONS OF THE ADVISORY COMMITTEE UNDER SECTION 5675, SHALL
15 DO BOTH OF THE FOLLOWING:

16 (A) DEVELOP A STANDARDIZED POST FORM THAT HAS A DISTINCT
17 FORMAT AND IS PRINTED ON A SPECIFIC STOCK AND COLOR OF PAPER TO
18 MAKE THE FORM EASILY IDENTIFIABLE. THE DEPARTMENT SHALL INCLUDE ON
19 THE POST FORM AT LEAST ALL OF THE FOLLOWING:

20 (i) A SPACE FOR THE PRINTED NAME OF THE PATIENT, THE PATIENT'S
21 AGE, AND THE PATIENT'S DIAGNOSIS OR MEDICAL CONDITION THAT WARRANTS
22 THE MEDICAL ORDERS ON THE POST FORM.

23 (ii) A SPACE FOR THE SIGNATURE OF THE PATIENT OR THE PATIENT
24 REPRESENTATIVE WHO CONSENTS TO THE MEDICAL ORDERS INDICATED ON THE
25 POST FORM AND A SPACE TO INDICATE THE DATE THE PATIENT OR THE
26 PATIENT REPRESENTATIVE SIGNED THE FORM.

27 (iii) A SPACE FOR THE PRINTED NAME AND SIGNATURE OF THE

1 ATTENDING HEALTH PROFESSIONAL WHO ISSUES THE MEDICAL ORDERS ON THE
2 POST FORM.

3 (iv) SECTIONS CONTAINING MEDICAL ORDERS THAT DIRECT SPECIFIC
4 TYPES OR LEVELS OF TREATMENT TO BE PROVIDED IN A SETTING OUTSIDE OF
5 A HOSPITAL TO WHICH A PATIENT OR A PATIENT REPRESENTATIVE MAY
6 PROVIDE CONSENT. THE MEDICAL ORDERS ON THE POST FORM MAY DIRECT THE
7 CIRCUMSTANCES UNDER WHICH A HEALTH PROFESSIONAL WHO IS TREATING THE
8 PATIENT SHALL CONSULT WITH A PATIENT REPRESENTATIVE REGARDING
9 CONSENTING TO THE WITHHOLDING OR WITHDRAWING OF MEDICALLY ASSISTED
10 NUTRITION AND HYDRATION IF THE PATIENT IS UNABLE TO PARTICIPATE IN
11 MEDICAL TREATMENT DECISIONS. THE ORDERS ON THE POST FORM MUST NOT
12 AUTHORIZE THE WITHHOLDING OR WITHDRAWING OF MEDICALLY ASSISTED
13 NUTRITION AND HYDRATION UNLESS THE PATIENT OR THE PATIENT
14 REPRESENTATIVE CONSENTS TO WITHHOLDING OR WITHDRAWING MEDICALLY
15 ASSISTED NUTRITION AND HYDRATION AT THE TIME MEDICALLY ASSISTED
16 NUTRITION AND HYDRATION IS WITHHELD OR WITHDRAWN.

17 (v) A SPACE FOR THE DATE AND THE INITIALS OF EITHER THE
18 ATTENDING HEALTH PROFESSIONAL AND THE PATIENT OR THE ATTENDING
19 HEALTH PROFESSIONAL AND THE PATIENT REPRESENTATIVE. THE POST FORM
20 MUST ALSO INCLUDE A STATEMENT THAT, BY DATING AND INITIALING THE
21 POST FORM, THE INDIVIDUALS DESCRIBED IN THIS SUBPARAGRAPH CONFIRM
22 THAT THE MEDICAL ORDERS ON THE FORM REMAIN IN EFFECT IF 1 OR MORE
23 OF THE FOLLOWING HAVE OCCURRED:

24 (A) ONE YEAR HAS EXPIRED SINCE THE PATIENT AND THE ATTENDING
25 HEALTH PROFESSIONAL OR THE PATIENT REPRESENTATIVE AND THE ATTENDING
26 HEALTH PROFESSIONAL HAVE SIGNED OR INITIALED THE POST FORM.

27 (B) THERE HAS BEEN A SIGNIFICANT CHANGE IN THE PATIENT'S

1 MEDICAL CONDITION.

2 (C) THERE HAS BEEN A CHANGE IN THE PATIENT'S PLACE OF
3 RESIDENCE.

4 (vi) A STATEMENT THAT A PATIENT OR A PATIENT REPRESENTATIVE
5 HAS THE OPTION OF EXECUTING A POST FORM AND THAT CONSENTING TO THE
6 MEDICAL ORDERS ON THE POST FORM MUST BE VOLUNTARY.

7 (vii) A STATEMENT THAT THE POST FORM IS VOID IF ANY
8 INFORMATION IN SUBPARAGRAPH (i), (ii), OR (iii) IS NOT PROVIDED ON
9 THE FORM OR IF 1 YEAR HAS EXPIRED SINCE THE PATIENT AND THE
10 ATTENDING HEALTH PROFESSIONAL OR THE PATIENT REPRESENTATIVE AND THE
11 ATTENDING HEALTH PROFESSIONAL HAVE SIGNED OR INITIALED THE POST
12 FORM.

13 (viii) A STATEMENT THAT IF A SECTION ON THE POST FORM
14 REGARDING A SPECIFIC TYPE OR LEVEL OF TREATMENT IS LEFT BLANK, THE
15 BLANK SECTION WILL BE INTERPRETED AS AUTHORIZING FULL TREATMENT FOR
16 THE PATIENT FOR THAT TREATMENT, BUT A BLANK SECTION ON THE POST
17 FORM REGARDING A SPECIFIC TYPE OR LEVEL OF TREATMENT DOES NOT
18 INVALIDATE THE ENTIRE FORM OR OTHER MEDICAL ORDERS ON THE FORM.

19 (B) PROMULGATE RULES FOR THE PROCEDURES FOR THE USE OF A POST
20 FORM WITHIN VARIOUS RESIDENTIAL SETTINGS INCLUDING, BUT NOT LIMITED
21 TO, ADULT FOSTER CARE FACILITIES AND HEALTH FACILITIES. THE RULES
22 MUST ALSO INCLUDE, BUT ARE NOT LIMITED TO, THE CIRCUMSTANCES UNDER
23 WHICH A PHOTOCOPY, FACSIMILE, OR DIGITAL IMAGE OF A COMPLETED POST
24 FORM WILL BE CONSIDERED VALID FOR PURPOSES OF A HEALTH
25 PROFESSIONAL, A HEALTH FACILITY, AN ADULT FOSTER CARE FACILITY, OR
26 EMERGENCY MEDICAL SERVICES PERSONNEL COMPLYING WITH THE MEDICAL
27 ORDERS ON THE FORM.

1 (2) THE DEPARTMENT MAY PUBLISH INFORMATION OR MATERIALS
2 REGARDING THE POST FORM ON THE DEPARTMENT'S WEBSITE.

3 SEC. 5677. (1) THE FOLLOWING INDIVIDUALS MAY CONSENT TO THE
4 MEDICAL ORDERS CONTAINED ON A POST FORM:

5 (A) IF A PATIENT IS OF SOUND MIND AND CAPABLE OF PARTICIPATING
6 IN MEDICAL TREATMENT DECISIONS, THE PATIENT.

7 (B) SUBJECT TO SUBSECTION (2), EITHER OF THE FOLLOWING:

8 (i) A PATIENT REPRESENTATIVE WHO IS A PATIENT ADVOCATE.

9 (ii) IF THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL
10 TREATMENT DECISIONS, A PATIENT REPRESENTATIVE WHO IS A GUARDIAN
11 AFTER COMPLYING WITH SECTION 5314 OF THE ESTATES AND PROTECTED
12 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5314.

13 (2) IF A PATIENT REPRESENTATIVE IS CONSENTING TO THE MEDICAL
14 ORDERS CONTAINED ON THE POST FORM, THE PATIENT REPRESENTATIVE SHALL
15 COMPLY WITH THE PATIENT'S EXPRESSED WISHES. IF THE PATIENT'S WISHES
16 ARE UNKNOWN, THE PATIENT REPRESENTATIVE SHALL CONSENT TO THE
17 MEDICAL ORDERS IN THE FOLLOWING MANNER:

18 (A) IF THE PATIENT REPRESENTATIVE IS A GUARDIAN, IN A MANNER
19 THAT IS CONSISTENT WITH THE PATIENT'S BEST INTEREST.

20 (B) IF THE PATIENT REPRESENTATIVE IS A PATIENT ADVOCATE,
21 SUBJECT TO SECTION 5509(1)(E) OF THE ESTATES AND PROTECTED
22 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5509.

23 (3) BEFORE A PATIENT AND AN ATTENDING HEALTH PROFESSIONAL OR A
24 PATIENT REPRESENTATIVE AND AN ATTENDING HEALTH PROFESSIONAL SIGN A
25 POST FORM, THE ATTENDING HEALTH PROFESSIONAL SHALL CONSULT WITH THE
26 PATIENT OR PATIENT REPRESENTATIVE AND EXPLAIN TO THE PATIENT OR
27 PATIENT REPRESENTATIVE THE NATURE AND CONTENT OF THE POST FORM AND

1 THE MEDICAL IMPLICATIONS OF THE MEDICAL ORDERS CONTAINED ON THE
2 POST FORM. THE ATTENDING HEALTH PROFESSIONAL WHO SIGNS THE POST
3 FORM SHALL OBTAIN A COPY OR DUPLICATE OF THE POST FORM AND MAKE
4 THAT COPY OR DUPLICATE PART OF THE PATIENT'S PERMANENT MEDICAL
5 RECORD. THE PATIENT OR THE PATIENT REPRESENTATIVE SHALL MAINTAIN
6 POSSESSION OF THE ORIGINAL POST FORM.

7 SEC. 5678. (1) THE FOLLOWING INDIVIDUALS MAY REVOKE A POST
8 FORM UNDER THE FOLLOWING CIRCUMSTANCES:

9 (A) THE PATIENT MAY REVOKE THE POST FORM AT ANY TIME AND IN
10 ANY MANNER THAT THE PATIENT IS ABLE TO COMMUNICATE HIS OR HER
11 INTENT TO REVOKE THE POST FORM. IF A PATIENT IS UNABLE TO
12 PHYSICALLY REVOKE THE POST FORM IN THE MANNER DESCRIBED IN
13 SUBSECTION (2), AN INDIVIDUAL WHO WITNESSES THE PATIENT'S EXPRESSED
14 INTENT TO REVOKE THE POST FORM SHALL DESCRIBE IN WRITING THE
15 CIRCUMSTANCES OF THE REVOCATION, SIGN THE WRITING, AND PROVIDE THE
16 WRITING TO THE INDIVIDUALS DESCRIBED IN SUBSECTION (2), AS
17 APPLICABLE.

18 (B) THE PATIENT REPRESENTATIVE MAY REVOKE THE POST FORM AT ANY
19 TIME THE PATIENT REPRESENTATIVE CONSIDERS REVOKING THE POST FORM TO
20 BE CONSISTENT WITH THE PATIENT'S WISHES OR IN THE PATIENT'S BEST
21 INTEREST.

22 (C) IF A CHANGE IN THE PATIENT'S MEDICAL CONDITION MAKES THE
23 MEDICAL ORDERS ON THE POST FORM CONTRARY TO GENERALLY ACCEPTED
24 HEALTH CARE STANDARDS, THE ATTENDING HEALTH PROFESSIONAL WHO SIGNED
25 THE POST FORM MAY REVOKE THE POST FORM.

26 (2) TO REVOKE THE POST FORM, A PATIENT, PATIENT
27 REPRESENTATIVE, OR ATTENDING HEALTH PROFESSIONAL SHALL WRITE

1 "REVOKED" OVER THE SIGNATURE OF THE PATIENT OR PATIENT
2 REPRESENTATIVE, AS APPLICABLE, AND OVER THE SIGNATURE OF THE
3 ATTENDING HEALTH PROFESSIONAL WHO SIGNED THE POST FORM. IF A
4 PATIENT REPRESENTATIVE REVOKES THE POST FORM, THE PATIENT
5 REPRESENTATIVE SHALL TAKE REASONABLE ACTIONS TO NOTIFY 1 OR MORE OF
6 THE FOLLOWING OF THE REVOCATION:

7 (A) THE ATTENDING HEALTH PROFESSIONAL.

8 (B) A HEALTH PROFESSIONAL WHO IS TREATING THE PATIENT.

9 (C) THE HEALTH FACILITY THAT IS DIRECTLY RESPONSIBLE FOR THE
10 MEDICAL TREATMENT OR CARE AND CUSTODY OF THE PATIENT.

11 SEC. 5679. (1) IN AN ACUTE CARE SETTING, A HEALTH PROFESSIONAL
12 WHO IS TREATING THE PATIENT MAY USE A COMPLETED POST FORM AS A
13 COMMUNICATION TOOL.

14 (2) EMERGENCY MEDICAL SERVICES PERSONNEL SHALL PROVIDE OR
15 WITHHOLD TREATMENT TO A PATIENT ACCORDING TO THE ORDERS ON A POST
16 FORM UNLESS EITHER OF THE FOLLOWING OCCURS:

17 (A) THE EMERGENCY MEDICAL SERVICES BEING PROVIDED BY THE
18 EMERGENCY MEDICAL SERVICES PERSONNEL ARE NECESSITATED BY AN INJURY
19 OR MEDICAL CONDITION THAT IS UNRELATED TO THE DIAGNOSIS OR MEDICAL
20 CONDITION THAT IS INDICATED ON THE PATIENT'S POST FORM.

21 (B) THE ORDERS ON THE POST FORM REQUEST MEDICAL TREATMENT THAT
22 IS CONTRARY TO GENERALLY ACCEPTED HEALTH CARE STANDARDS OR
23 EMERGENCY MEDICAL PROTOCOLS.

24 (3) IF A HEALTH PROFESSIONAL OR HEALTH FACILITY IS UNWILLING
25 TO COMPLY WITH THE MEDICAL ORDERS ON A VALIDLY EXECUTED POST FORM
26 BECAUSE OF A POLICY, RELIGIOUS BELIEF, OR MORAL CONVICTION, THE
27 HEALTH PROFESSIONAL OR HEALTH FACILITY SHALL TAKE ALL REASONABLE

1 STEPS TO REFER OR TRANSFER THE PATIENT TO ANOTHER HEALTH
2 PROFESSIONAL OR HEALTH FACILITY. IF AN ADULT FOSTER CARE FACILITY
3 IS UNWILLING TO COMPLY WITH THE MEDICAL ORDERS ON A VALIDLY
4 EXECUTED POST FORM FOR THE REASONS DESCRIBED IN THIS SUBSECTION,
5 THE ADULT FOSTER CARE FACILITY SHALL TAKE ALL REASONABLE STEPS TO
6 REFER OR TRANSFER THE PATIENT TO ANOTHER ADULT FOSTER CARE FACILITY
7 AS PROVIDED IN SECTION 26C OF THE ADULT FOSTER CARE LICENSING ACT,
8 1979 PA 218, MCL 400.726C.

9 SEC. 5680. A PERSON IS NOT SUBJECT TO CRIMINAL PROSECUTION,
10 CIVIL LIABILITY, OR PROFESSIONAL DISCIPLINARY ACTION FOR ANY OF THE
11 FOLLOWING:

12 (A) PROVIDING MEDICAL TREATMENT THAT IS CONTRARY TO THE
13 MEDICAL ORDERS INDICATED ON A POST FORM IF THE PERSON DID NOT HAVE
14 ACTUAL NOTICE OF THE POST FORM.

15 (B) PROVIDING MEDICAL TREATMENT THAT IS CONSISTENT WITH THE
16 MEDICAL ORDERS INDICATED ON A POST FORM IF THE PERSON DID NOT HAVE
17 ACTUAL NOTICE THAT THE POST FORM WAS REVOKED.

18 (C) PROVIDING EMERGENCY MEDICAL SERVICES CONSISTENT WITH
19 GENERALLY ACCEPTED HEALTH CARE STANDARDS OR EMERGENCY MEDICAL
20 PROTOCOLS AS PROVIDED IN SECTION 5679, REGARDLESS OF THE MEDICAL
21 ORDERS INDICATED ON THE POST FORM.

22 SEC. 5681. (1) IF A POST FORM IS VALIDLY EXECUTED AFTER A
23 PATIENT ADVOCATE DESIGNATION THAT CONTAINS WRITTEN DIRECTIVES
24 REGARDING MEDICAL TREATMENT, THE MEDICAL ORDERS INDICATED ON THE
25 POST FORM ARE PRESUMED TO EXPRESS THE PATIENT'S CURRENT WISHES.

26 (2) IF A POST FORM IS VALIDLY EXECUTED AFTER A DO-NOT-
27 RESUSCITATE ORDER IS EXECUTED UNDER THE MICHIGAN DO-NOT-RESUSCITATE

1 PROCEDURE ACT, 1996 PA 193, MCL 333.1051 TO 333.1067, THE MEDICAL
2 ORDERS INDICATED ON THE POST FORM ARE PRESUMED TO EXPRESS THE
3 PATIENT'S CURRENT WISHES.

4 SEC. 5682. IF AN INDIVIDUAL HAS REASON TO BELIEVE THAT A POST
5 FORM HAS BEEN EXECUTED CONTRARY TO THE WISHES OF THE PATIENT OR, IF
6 THE PATIENT IS A WARD, CONTRARY TO THE WISHES OR BEST INTERESTS OF
7 THE WARD, THE INDIVIDUAL MAY PETITION THE PROBATE COURT TO HAVE THE
8 POST FORM AND THE CONDITIONS OF ITS EXECUTION REVIEWED. IF THE
9 PROBATE COURT FINDS THAT THE POST FORM HAS BEEN EXECUTED CONTRARY
10 TO THE WISHES OF THE PATIENT OR, IF THE PATIENT IS A WARD, CONTRARY
11 TO THE WISHES OR BEST INTERESTS OF THE WARD, THE PROBATE COURT
12 SHALL ISSUE AN INJUNCTION VOIDING THE EFFECTIVENESS OF THE POST
13 FORM AND PROHIBITING COMPLIANCE WITH THE POST FORM.

14 SEC. 5683. A LIFE INSURER SHALL NOT DO ANY OF THE FOLLOWING
15 BECAUSE OF THE EXECUTION OR IMPLEMENTATION OF A POST FORM:

16 (A) REFUSE TO PROVIDE OR CONTINUE COVERAGE TO THE PATIENT.

17 (B) CHARGE THE PATIENT A HIGHER PREMIUM.

18 (C) OFFER A PATIENT DIFFERENT POLICY TERMS BECAUSE THE PATIENT
19 HAS EXECUTED A POST FORM.

20 (D) CONSIDER THE TERMS OF AN EXISTING POLICY OF LIFE INSURANCE
21 TO HAVE BEEN BREACHED OR MODIFIED.

22 (E) INVOKE A SUICIDE OR INTENTIONAL DEATH EXEMPTION OR
23 EXCLUSION IN A POLICY COVERING THE PATIENT.

24 SEC. 5684. (1) THE PROVISIONS OF THIS PART ARE CUMULATIVE AND
25 DO NOT IMPAIR OR SUPERSEDE A LEGAL RIGHT THAT A PATIENT OR PATIENT
26 REPRESENTATIVE MAY HAVE TO CONSENT TO OR REFUSE MEDICAL TREATMENT
27 FOR HIMSELF OR HERSELF OR ON BEHALF OF ANOTHER.

1 (2) THIS PART DOES NOT CREATE A PRESUMPTION THAT A PATIENT WHO
2 HAS EXECUTED A POST FORM INTENDS TO CONSENT TO OR REFUSE MEDICAL
3 TREATMENT THAT IS NOT ADDRESSED IN THE MEDICAL ORDERS ON THE POST
4 FORM.

5 (3) THIS PART DOES NOT CREATE A PRESUMPTION THAT A PATIENT OR
6 PATIENT REPRESENTATIVE WHO HAS NOT EXECUTED A POST FORM INTENDS TO
7 CONSENT TO OR REFUSE ANY TYPE OF MEDICAL TREATMENT.

8 SEC. 5685. (1) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS PART, THE DIRECTOR SHALL APPOINT AN
10 AD HOC ADVISORY COMMITTEE IN THE SAME MANNER AS DESCRIBED IN
11 SECTION 5675.

12 (2) THE FIRST MEETING OF THE COMMITTEE SHALL BE CALLED BY THE
13 DIRECTOR.

14 (3) WITHIN 90 DAYS AFTER THE FIRST MEETING OF THE COMMITTEE IS
15 CONVENED, THE COMMITTEE SHALL SUBMIT A REPORT TO THE DEPARTMENT
16 THAT CONTAINS RECOMMENDATIONS ON ALL OF THE FOLLOWING:

17 (A) ANY CHANGES TO THE RULES PROMULGATED UNDER SECTION 5676
18 THAT THE COMMITTEE CONSIDERS NECESSARY OR APPROPRIATE.

19 (B) ANY CHANGES TO THE POST FORM THAT THE COMMITTEE CONSIDERS
20 NECESSARY OR APPROPRIATE.

21 (C) ANY LEGISLATIVE CHANGES TO THIS PART THAT THE COMMITTEE
22 CONSIDERS NECESSARY OR APPROPRIATE.

23 (4) AFTER THE DEPARTMENT RECEIVES THE RECOMMENDATIONS FROM THE
24 COMMITTEE UNDER SUBSECTION (3), THE COMMITTEE IS ABOLISHED.

25 (5) AS USED IN THIS SECTION, "COMMITTEE" MEANS THE AD HOC
26 ADVISORY COMMITTEE APPOINTED UNDER SUBSECTION (1).

27 SEC. 20192A. A HEALTH FACILITY OR AGENCY SHALL NOT REQUIRE THE

1 **EXECUTION OF A POST FORM UNDER PART 56B AS A CONDITION FOR**
2 **ADMISSION OR THE RECEIPT OF SERVICES.**

3 Sec. 20919. (1) A medical control authority shall establish
4 written protocols for the practice of life support agencies and
5 licensed emergency medical services personnel within its region.
6 The medical control authority shall develop and adopt the protocols
7 required under this section in accordance with procedures
8 established by the department and shall include all of the
9 following:

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

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

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

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

21 (e) Protocols to ensure that if the medical control authority
22 determines that an immediate threat to the public health, safety,
23 or welfare exists, appropriate action to remove medical control can
24 immediately be taken until the medical control authority has had
25 the opportunity to review the matter at a medical control authority
26 hearing. The protocols must require that the hearing is held within
27 3 business days after the medical control authority's

1 determination.

2 (f) Protocols to ensure that if medical control has been
3 removed from a participant in an emergency medical services system,
4 the participant does not provide prehospital care until medical
5 control is reinstated, ~~and that the medical control authority that~~
6 removed the medical control notifies the department **OF THE REMOVAL**
7 within 1 business day. ~~of the removal.~~

8 (g) Protocols to ensure that a quality improvement program is
9 in place within a medical control authority and provides data
10 protection as provided in 1967 PA 270, MCL 331.531 to 331.534.

11 (h) Protocols to ensure that an appropriate appeals process is
12 in place.

13 (i) Protocols to ensure that each life support agency that
14 provides basic life support, limited advanced life support, or
15 advanced life support is equipped with epinephrine or epinephrine
16 auto-injectors and that each emergency services personnel
17 authorized to provide those services is properly trained to
18 recognize an anaphylactic reaction, to administer the epinephrine,
19 and to dispose of the epinephrine auto-injector or vial.

20 (j) Protocols to ensure that each life support vehicle that is
21 dispatched and responding to provide medical first response life
22 support, basic life support, or limited advanced life support is
23 equipped with an automated external defibrillator and that each
24 emergency **MEDICAL** services personnel is properly trained to utilize
25 the automated external defibrillator.

26 (k) Except as otherwise provided in this subdivision, ~~within~~
27 ~~12 months after the effective date of the amendatory act that added~~

1 ~~this subdivision, BEFORE OCTOBER 15, 2015,~~ protocols to ensure that
2 each life support vehicle that is dispatched and responding to
3 provide medical first response life support, basic life support, or
4 limited advanced life support is equipped with opioid antagonists
5 and that each emergency **MEDICAL** services personnel is properly
6 trained to administer opioid antagonists. Beginning ~~3 years after~~
7 ~~the effective date of the amendatory act that added this~~
8 ~~subdivision, OCTOBER 14, 2017,~~ a medical control authority, at its
9 discretion, may rescind or continue the protocol adopted under this
10 subdivision.

11 **(l) PROTOCOLS FOR COMPLYING WITH PART 56B.**

12 (2) A medical control authority shall not establish a protocol
13 under this section that conflicts with the Michigan do-not-
14 resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067,
15 **OR PART 56B.**

16 (3) The department shall establish procedures for the
17 development and adoption of written protocols under this section.
18 The procedures must include at least all of the following
19 requirements:

20 (a) At least 60 days before adoption of a protocol, the
21 medical control authority shall circulate a written draft of the
22 proposed protocol to all significantly affected persons within the
23 emergency medical services system served by the medical control
24 authority and submit the written draft to the department for
25 approval.

26 (b) The department shall review a proposed protocol for
27 consistency with other protocols concerning similar subject matter

1 that have already been established in this state and shall consider
2 any written comments received from interested persons in its
3 review.

4 (c) Within 60 days after receiving a written draft of a
5 proposed protocol from a medical control authority, the department
6 shall provide a written recommendation to the medical control
7 authority with any comments or suggested changes on the proposed
8 protocol. If the department does not respond within 60 days after
9 receiving the written draft, the proposed protocol is considered to
10 be approved by the department.

11 (d) After department approval of a proposed protocol, the
12 medical control authority may formally adopt and implement the
13 protocol.

14 (e) A medical control authority may establish an emergency
15 protocol necessary to preserve the health or safety of individuals
16 within its region in response to a present medical emergency or
17 disaster without following the procedures established by the
18 department under this subsection for an ordinary protocol. An
19 emergency protocol established under this subdivision is effective
20 only for a limited period and does not take permanent effect unless
21 it is approved according to the procedures established by the
22 department under this subsection.

23 (4) A medical control authority shall provide an opportunity
24 for an affected participant in an emergency medical services system
25 to appeal a decision of the medical control authority. Following
26 appeal, the medical control authority may affirm, suspend, or
27 revoke its original decision. After appeals to the medical control

1 authority have been exhausted, the affected participant in an
2 emergency medical services system may appeal the medical control
3 authority's decision to the state emergency medical services
4 coordination committee created in section 20915. The state
5 emergency medical services coordination committee shall issue an
6 opinion on whether the actions or decisions of the medical control
7 authority are in accordance with the department-approved protocols
8 of the medical control authority and state law. If the state
9 emergency medical services coordination committee determines in its
10 opinion that the actions or decisions of the medical control
11 authority are not in accordance with the medical control
12 authority's department-approved protocols or with state law, the
13 state emergency medical services coordination committee shall
14 recommend that the department take any enforcement action
15 authorized under this code.

16 (5) If adopted in protocols approved by the department, a
17 medical control authority may require life support agencies within
18 its region to meet reasonable additional standards for equipment
19 and personnel, other than medical first responders, that may be
20 more stringent than are otherwise required under this part. If a
21 medical control authority proposes a protocol that establishes
22 additional standards for equipment and personnel, the medical
23 control authority and the department shall consider the medical and
24 economic impact on the local community, the need for communities to
25 do long-term planning, and the availability of personnel. If either
26 the medical control authority or the department determines that
27 negative medical or economic impacts outweigh the benefits of those

1 additional standards as they affect public health, safety, and
2 welfare, the medical control authority shall not adopt and the
3 department shall not approve protocols containing those additional
4 standards.

5 (6) If adopted in protocols approved by the department, a
6 medical control authority may require medical first response
7 services and licensed medical first responders within its region to
8 meet additional standards for equipment and personnel to ensure
9 that each medical first response service is equipped with an
10 epinephrine auto-injector, and that each licensed medical first
11 responder is properly trained to recognize an anaphylactic reaction
12 and to administer and dispose of the epinephrine auto-injector, if
13 a life support agency that provides basic life support, limited
14 advanced life support, or advanced life support is not readily
15 available in that location.

16 (7) If a decision of the medical control authority under
17 subsection (5) or (6) is appealed by an affected person, the
18 medical control authority shall make available, in writing, the
19 medical and economic information it considered in making its
20 decision. On appeal, the state emergency medical services
21 coordination committee **CREATED IN SECTION 20915** shall review this
22 information under subsection (4) and shall issue its findings in
23 writing.

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

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

1 enacted into law:

2 (a) Senate Bill No. _____ or House Bill No. 4174 (request no.
3 00360'17 a).

4 (b) Senate Bill No. _____ or House Bill No. 4171 (request no.
5 01296'17).

6 (c) Senate Bill No. _____ or House Bill No. 4173 (request no.
7 01312'17).