

HOUSE BILL No. 5152

October 19, 2017, Introduced by Reps. Singh, Elder, Brann, Lucido, Hoadley, Leutheuser, Wittenberg, Canfield, Kahle, McCready, Moss, Inman and Zemke and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 9145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9145. (1) THE DEPARTMENT SHALL DEVELOP A NONOPIOID
2 DIRECTIVE FORM INDICATING TO HEALTH PROFESSIONALS AND EMERGENCY
3 MEDICAL SERVICES PERSONNEL THAT, EXCEPT AS OTHERWISE PROVIDED IN
4 SUBSECTION (3), AN INDIVIDUAL WHO HAS EXECUTED THE FORM OR WHO HAS
5 HAD A FORM EXECUTED ON THE INDIVIDUAL'S BEHALF MUST NOT BE
6 ADMINISTERED AN OPIOID OR OFFERED A PRESCRIPTION FOR AN OPIOID. THE
7 DEPARTMENT SHALL INCLUDE ON THE NONOPIOID DIRECTIVE FORM
8 INSTRUCTIONS ON HOW THE FORM MAY BE REVOKED AND ANY OTHER

1 INFORMATION THAT THE DEPARTMENT CONSIDERS RELEVANT. THE DEPARTMENT
2 SHALL MAKE THE FORM AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S
3 INTERNET WEBSITE.

4 (2) AN INDIVIDUAL MAY EXECUTE A NONOPIOID DIRECTIVE FORM ON
5 HIS OR HER OWN BEHALF. A GUARDIAN OR PATIENT ADVOCATE OF AN
6 INDIVIDUAL MAY EXECUTE A NONOPIOID DIRECTIVE FORM ON BEHALF OF THE
7 INDIVIDUAL. IF A NONOPIOID DIRECTIVE FORM IS EXECUTED BY OR ON
8 BEHALF OF AN INDIVIDUAL AND IS PRESENTED TO A HEALTH PROFESSIONAL,
9 THE HEALTH PROFESSIONAL SHALL OBTAIN A COPY OF THE FORM AND INCLUDE
10 THE COPY IN THE INDIVIDUAL'S MEDICAL RECORD. AN INDIVIDUAL MAY
11 REVOKE A NONOPIOID DIRECTIVE FORM EXECUTED BY HIMSELF OR HERSELF AT
12 ANY TIME AND IN ANY MANNER BY WHICH HE OR SHE IS ABLE TO
13 COMMUNICATE HIS OR HER INTENT TO REVOKE THE FORM. A PATIENT
14 ADVOCATE OR GUARDIAN MAY REVOKE A NONOPIOID DIRECTIVE FORM ON
15 BEHALF OF AN INDIVIDUAL AT ANY TIME BY ISSUING THE REVOCATION IN
16 WRITING AND PROVIDING NOTICE OF THE REVOCATION TO THE INDIVIDUAL'S
17 HEALTH PROFESSIONAL OR HIS OR HER DELEGATEE.

18 (3) A PRESCRIBER WHO HOLDS A CONTROLLED SUBSTANCES LICENSE
19 UNDER ARTICLE 7 OR A HEALTH PROFESSIONAL WHO IS A PRACTICAL NURSE
20 OR REGISTERED PROFESSIONAL NURSE AND IS ACTING ON THE ORDER OF THE
21 PRESCRIBER MAY ADMINISTER AN OPIOID TO AN INDIVIDUAL WHO HAS
22 EXECUTED A NONOPIOID DIRECTIVE FORM OR WHO HAS HAD A NONOPIOID
23 DIRECTIVE FORM EXECUTED ON HIS OR HER BEHALF IF THE INDIVIDUAL IS
24 BEING TREATED AT A HOSPITAL OR IN A SETTING OUTSIDE OF A HOSPITAL
25 IN THE CASE OF AN EMERGENCY AND, IN THE PRESCRIBER'S PROFESSIONAL
26 OPINION, THE ADMINISTRATION OF THE OPIOID IS NECESSARY TO TREAT THE
27 INDIVIDUAL. IF AN OPIOID IS ADMINISTERED UNDER THIS SUBSECTION, THE

1 PRESCRIBER SHALL ENSURE THAT THE INDIVIDUAL IS PROVIDED WITH
2 INFORMATION ON SUBSTANCE USE DISORDER SERVICES AS THAT TERM IS
3 DEFINED IN SECTION 6230.

4 (4) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FOLLOWING ARE NOT
5 SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY
6 ACTION FOR FAILING TO ADMINISTER, PRESCRIBE, OR DISPENSE AN OPIOID,
7 OR FOR THE INADVERTENT ADMINISTRATION OF AN OPIOID, TO AN
8 INDIVIDUAL WHO HAS EXECUTED A NONOPIOID DIRECTIVE FORM OR WHO HAS
9 HAD A NONOPIOID DIRECTIVE FORM EXECUTED ON HIS OR HER BEHALF, IF
10 THE FAILURE TO ACT OR ACT WAS IN GOOD FAITH:

11 (A) A HEALTH PROFESSIONAL WHOSE SCOPE OF PRACTICE INCLUDES THE
12 PRESCRIBING, ADMINISTERING, OR DISPENSING OF A CONTROLLED
13 SUBSTANCE.

14 (B) A HEALTH FACILITY OR AGENCY LICENSED UNDER ARTICLE 17.

15 (C) AN EMPLOYEE OF A HEALTH PROFESSIONAL.

16 (D) AN EMPLOYEE OF A HEALTH FACILITY OR AGENCY LICENSED UNDER
17 ARTICLE 17.

18 (E) AN EMERGENCY MEDICAL SERVICES PERSONNEL.

19 (5) THE DEPARTMENT SHALL PROMULGATE RULES TO IMPLEMENT THIS
20 SECTION. THE RULES MUST INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE
21 FOLLOWING:

22 (A) PROCEDURES TO RECORD A NONOPIOID DIRECTIVE FORM IN A
23 MEDICAL RECORD, INCLUDING AN ELECTRONIC MEDICAL RECORD.

24 (B) PROCEDURES TO REVOKE A NONOPIOID DIRECTIVE FORM.

25 (C) PROCEDURES TO ENSURE THAT THE RECORDING, DISCLOSURE, OR
26 DISTRIBUTION OF DATA RELATING TO A NONOPIOID DIRECTIVE FORM OR THE
27 TRANSMISSION OF A NONOPIOID DIRECTIVE FORM COMPLIES WITH STATE AND

1 FEDERAL CONFIDENTIALITY AND CONSENT LAWS, RULES, AND REGULATIONS.

2 (6) AS USED IN THIS SECTION:

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

5 (B) "HEALTH PROFESSIONAL" MEANS AN INDIVIDUAL WHO IS LICENSED
6 UNDER ARTICLE 15.

7 (C) "NONOPIOID DIRECTIVE FORM" OR "FORM" MEANS THE NONOPIOID
8 DIRECTIVE FORM DEVELOPED BY THE DEPARTMENT UNDER SUBSECTION (1).

9 (D) "PATIENT ADVOCATE" MEANS AN INDIVIDUAL DESIGNATED TO MAKE
10 MEDICAL TREATMENT DECISIONS FOR A PATIENT UNDER SECTIONS 5506 TO
11 5515 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,
12 MCL 700.5506 TO 700.5515.

13 (E) "PRESCRIBER" MEANS THAT TERM AS DEFINED IN SECTION 17708.

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

16 Enacting section 2. This amendatory act does not take effect
17 unless Senate Bill No. ____ or House Bill No. 5153 (request no.
18 03822'17) of the 99th Legislature is enacted into law.