

Act No. 384
Public Acts of 2018
Approved by the Governor
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STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Rep. Barrett

ENROLLED HOUSE BILL No. 5218

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 21501 (MCL 333.21501) and by adding section 21541.

The People of the State of Michigan enact:

Sec. 21501. (1) As used in this part:

- (a) “Aircraft transport vehicle” means that term as defined in section 20902.
- (b) “Ambulance” means that term as defined in section 20902.
- (c) “Emergency patient” means that term as defined in section 20904.

(d) “Group health plan” means an employer program of health benefits, including an employee welfare benefit plan as defined in section 3(1) of subtitle A of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 USC 1002, to the extent that the plan provides medical care, including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

(e) “Health benefit plan” means a group health plan, an individual or group expense-incurred hospital, medical, or surgical policy or certificate, or an individual or group health maintenance organization contract. Health benefit plan does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker’s compensation or similar insurance; or automobile medical-payment insurance.

- (f) “Nonemergency patient” means that term as defined in section 20908.

(g) "Participating provider" means a provider that, under contract with an insurer that issues health benefit plans, or with such an insurer's contractor or subcontractor, has agreed to provide health care services to covered individuals and to accept payment by the insurer, contractor, or subcontractor for covered services as payment in full, other than coinsurance, copayments, or deductibles.

(h) "Patient's representative" means any of the following:

(i) A person to whom a patient has given express written consent to represent the patient.

(ii) A person authorized by law to provide consent for a patient.

(iii) A patient's treating health professional, but only if the patient is unable to provide consent.

(i) "Third party administrator" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

Sec. 21541. (1) Subject to section 21540, before an aircraft transport vehicle is ordered to transport a nonemergency patient or an ambulance that is a rotary aircraft is ordered to transport a nonemergency patient, a hospital shall do all of the following:

(a) Disclose to the nonemergency patient, or that patient's representative, all of the following information:

(i) Whether the aircraft transport operation or ambulance operation is a participating provider with the nonemergency patient's health benefit plan. This subparagraph does not apply if the hospital does not have electronic access to all of the following information:

(A) Whether the nonemergency patient's health benefit plan provides coverage for transportation by an aircraft transport vehicle or an ambulance that is a rotary aircraft.

(B) A list of all aircraft transport operations and ambulance operations that are fully contracted participating providers with the nonemergency patient's health benefit plan and do not participate with the health benefit plan on only a per claim basis.

(ii) That the nonemergency patient has a right to be transported by a method other than an aircraft transport vehicle or ambulance that is a rotary aircraft.

(b) Complete the notice described in subsection (2) and, after completing the notice, obtain on the notice the signature of the nonemergency patient, or that patient's representative, acknowledging that the nonemergency patient, or that patient's representative, has received, has read, and understands the notice. A hospital shall retain a copy of the notice required under this subdivision for not less than 7 years.

(2) The notice required under subsection (1)(b) must be in not less than 12-point type and in substantially the following form:

"Your physician has ordered transport by an aircraft transport vehicle or ambulance that is a rotary aircraft. Your health benefit plan may or may not provide coverage for this transportation. You may be responsible for the costs of the transportation that is not covered by your health benefit plan.

We have conducted a good-faith search to determine whether your health benefit plan provides coverage for this transportation and, if so, to order this transportation from a provider that participates with your health benefit plan.

You have a right to be transported by a method other than transport by an aircraft transport vehicle or ambulance that is a rotary aircraft.

The hospital and the ordering physician are immune from civil liability for injuries or damages arising out of your decision to use a form of transportation other than the one ordered by the ordering physician.

I have received, read, and understand this notice.

(Patient's or patient representative's signature)

(Date)

(Type or print patient's or patient representative's name)".

(3) A hospital and ordering physician are immune from civil liability for injuries or damages arising out of the decision of a patient or the patient's representative to use a form of transportation other than the one ordered by the ordering physician.

(4) Upon the request of a nonemergency patient's health benefit plan or third party administrator, the hospital shall provide a copy of the notice required under subsection (1)(b) to the person designated in the nonemergency patient's health benefit plan or by the third party administrator.

(5) A hospital that violates this section is liable to the aircraft transport operation or ambulance operation for the reasonable cost of transporting the nonemergency patient, as negotiated between the hospital and the aircraft transport

operation or ambulance operation, to the extent that the cost exceeds the amount covered by the patient's health benefit plan.

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

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

- (a) House Bill No. 5217.
- (b) House Bill No. 5219.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor