

Act No. 554
Public Acts of 2018
Approved by the Governor
December 27, 2018
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STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

**Introduced by Reps. Singh, Elder, Brann, Lucido, Hoadley, Leutheuser, Wittenberg, Canfield, Kahle,
McCready, Moss, Inman and Zemke**

ENROLLED HOUSE BILL No. 5152

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,” (MCL 333.1101 to 333.25211) by adding section 9145.

The People of the State of Michigan enact:

Sec. 9145. (1) The department shall develop a nonopioid directive form indicating to health professionals and emergency medical services personnel that, except as otherwise provided in subsection (3) or in rules promulgated by the department under subsection (5), an individual who has executed the form or who has had a form executed on the individual's behalf must not be administered an opioid or offered a prescription for an opioid. The department shall include on the nonopioid directive form instructions on how the form may be revoked and any other information that the department considers relevant. The department shall make the form available to the public on the department's internet website.

(2) An individual may execute a nonopioid directive form on his or her own behalf. A guardian or patient advocate of an individual may execute a nonopioid directive form on behalf of the individual. If a nonopioid directive form is executed by or on behalf of an individual and is presented to a health professional, the health professional shall obtain a copy of the form and include the copy in the individual's medical record. An individual may revoke a nonopioid directive form executed by himself or herself at any time and in any manner by which he or she is able to communicate his or her intent to revoke the form. A patient advocate or guardian may revoke a nonopioid directive form on behalf of an individual at any time by issuing the revocation in writing and providing notice of the revocation to the individual's health professional or his or her delegatee.

(3) A prescriber who holds a controlled substances license under article 7 or a health professional who is a practical nurse or registered professional nurse and is acting on the order of the prescriber may administer an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the individual is being treated at a hospital or in a setting outside of a hospital in the case of an emergency and, in the prescriber's professional opinion, the administration of the opioid is medically necessary to treat the individual. If an opioid is administered under this subsection, the prescriber shall ensure that the individual is provided with information on substance use disorder services as that term is defined in section 6230.

(4) Except as otherwise provided by law, the following are not subject to civil or criminal liability or professional disciplinary action for failing to administer, prescribe, or dispense an opioid, or for the inadvertent administration of an opioid, to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf, if the failure to act or act was done reasonably and in good faith:

(a) A health professional whose scope of practice includes the prescribing, administering, or dispensing of a controlled substance.

(b) A health facility or agency licensed under article 17.

(c) An employee of a health professional.

(d) An employee of a health facility or agency licensed under article 17.

(e) Emergency medical services personnel.

(5) Subject to subsection (6), the department shall promulgate rules to implement this section. The rules must include, but not be limited to, all of the following:

(a) Procedures to record a nonopioid directive form in a medical record, including an electronic medical record.

(b) Procedures to revoke a nonopioid directive form.

(c) Procedures to ensure that the recording, disclosure, or distribution of data relating to a nonopioid directive form or the transmission of a nonopioid directive form complies with state and federal confidentiality and consent laws, rules, and regulations.

(d) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the opioid is administered or prescribed to treat the individual for a substance use disorder.

(e) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the individual is a hospice patient.

(6) The rules promulgated under this section must allow a health professional or health facility or agency licensed under article 17 to incorporate a nonopioid directive form into an existing patient form or into other documentation used by the health professional or health facility or agency.

(7) As used in this section:

(a) "Emergency medical services personnel" means that term as defined in section 20904.

(b) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(c) "Health professional" means an individual who is licensed under article 15.

(d) "Nonopioid directive form" or "form" means the nonopioid directive form developed by the department under subsection (1).

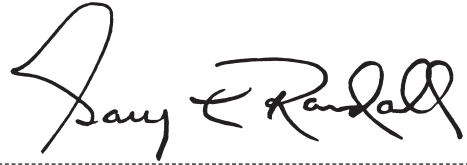
(e) "Patient advocate" means an individual designated to make medical treatment decisions for a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(f) "Prescriber" means that term as defined in section 17708.

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 House Bill No. 5153 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor