

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.