

SUBSTITUTE FOR
SENATE BILL NO. 402

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 5139.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5139. (1) A PHYSICIAN OR AN OPTOMETRIST HAS NO
2 AFFIRMATIVE OBLIGATION TO BUT MAY VOLUNTARILY REPORT TO THE
3 SECRETARY OF STATE OR WARN THIRD PARTIES REGARDING A PATIENT'S
4 MENTAL AND PHYSICAL QUALIFICATIONS TO OPERATE A MOTOR VEHICLE IN A
5 MANNER AS NOT TO JEOPARDIZE THE SAFETY OF PERSONS AND PROPERTY DUE
6 TO AN EPISODE. A PHYSICIAN OR AN OPTOMETRIST WHO CHOOSES NOT TO
7 MAKE A REPORT TO THE SECRETARY OF STATE OR WARN THIRD PARTIES AS
8 PROVIDED FOR UNDER THIS SUBSECTION IS IMMUNE FROM ANY CRIMINAL OR
9 CIVIL LIABILITY TO THE PATIENT OR THIRD PARTY THAT MAY HAVE BEEN
10 INJURED BY THE PATIENT'S ACTIONS.
11 (2) A PHYSICIAN OR AN OPTOMETRIST MAY MAKE A REPORT UNDER THIS

1 SECTION AND SUBMIT THAT REPORT TO THE SECRETARY OF STATE FOR THE
2 PURPOSE OF INITIATING OR CONTRIBUTING TO AN EXAMINATION OF AN
3 APPLICANT'S PHYSICAL AND MENTAL QUALIFICATIONS TO OPERATE A MOTOR
4 VEHICLE IN A MANNER AS NOT TO JEOPARDIZE THE SAFETY OF PERSONS AND
5 PROPERTY PURSUANT TO SECTION 309 OF THE MICHIGAN VEHICLE CODE, 1949
6 PA 300, MCL 257.309. IN MAKING THAT REPORT, THE PHYSICIAN OR
7 OPTOMETRIST SHALL RECOMMEND A PERIOD OF SUSPENSION AS DETERMINED
8 APPROPRIATE BY THE PHYSICIAN OR OPTOMETRIST AS FOLLOWS:

9 (A) IN THE CASE OF A PATIENT HOLDING AN OPERATOR'S LICENSE,
10 THAT THE SUSPENSION BE FOR AT LEAST 6 MONTHS OR LONGER.

11 (B) IN THE CASE OF A PATIENT HOLDING A COMMERCIAL LICENSE,
12 THAT THE SUSPENSION BE FOR AT LEAST 12 MONTHS OR LONGER.

13 (3) A PHYSICIAN OR AN OPTOMETRIST MAKING A REPORT UNDER
14 SUBSECTION (2), ACTING IN GOOD FAITH AND EXERCISING DUE CARE AS
15 EVIDENCED BY DOCUMENTING HIS OR HER FILE OR MEDICAL RECORD
16 REGARDING AN EPISODE, IS IMMUNE FROM ANY CIVIL OR CRIMINAL
17 LIABILITY RESULTING FROM THE REPORT TO THE PATIENT OR A THIRD PARTY
18 THAT MAY HAVE BEEN INJURED BY THE PATIENT'S ACTIONS.

19 (4) AS USED IN THIS SECTION:

20 (A) "EPISODE" MEANS ANY OF THE FOLLOWING:

21 (i) AN EXPERIENCE DERIVED FROM A CONDITION THAT CAUSES OR
22 CONTRIBUTES TO LOSS OF CONSCIOUSNESS, BLACKOUT, SEIZURE, A FAINTING
23 SPELL, SYNCOPE, OR ANY OTHER IMPAIRMENT OF THE LEVEL OF
24 CONSCIOUSNESS.

25 (ii) AN EXPERIENCE DERIVED FROM A CONDITION THAT CAUSES AN
26 IMPAIRMENT OF AN INDIVIDUAL'S DRIVING JUDGMENT.

27 (iii) AN EXPERIENCE DERIVED FROM AN IMPAIRMENT OF AN

1 INDIVIDUAL'S VISION.

2 (B) "OPTOMETRIST" MEANS THAT TERM AS DEFINED UNDER PART 174.

3 (C) "PHYSICIAN" MEANS THAT TERM AS DEFINED UNDER PART 170 OR
4 175.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. 403 of the 96th Legislature is enacted into
7 law.