

SENATE BILL No. 1102

February 3, 2010, Introduced by Senators OLSHOVE, CHERRY, JACOBS, NOFS, BASHAM, PRUSI, HUNTER, JANSEN, GLEASON, WHITMER, ANDERSON, BRATER, BIRKHOLZ, BARCIA and ALLEN and referred to the Committee on Families and Human Services.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20102, 20104, and 21313 (MCL 333.20102, 333.20104, and 333.21313), section 20102 as amended by 1990 PA 179.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20102. (1) "Advisory commission" means the health
2 facilities and agencies advisory commission created in section
3 20121.

4 (2) "Aircraft transport operation" means that term as defined
5 in section 20902.

6 (3) "Ambulance operation" means that term as defined in
7 section 20902.

8 (4) "Attending physician" means the physician selected by, or

1 assigned to, the patient and who has primary responsibility for the
2 treatment and care of the patient.

3 (5) "AUTHORIZED REPRESENTATIVE" MEANS THE INDIVIDUAL
4 DESIGNATED IN WRITING BY THE BOARD OF DIRECTORS OF THE CORPORATION
5 OR BY THE OWNER OR PERSON WITH LEGAL AUTHORITY TO ACT ON BEHALF OF
6 THE COMPANY OR ORGANIZATION ON LICENSING MATTERS. THE LICENSE
7 APPLICATION AND AMENDMENTS TO THE APPLICATION MUST BE SIGNED BY THE
8 OWNER IN THE CASE OF AN INDIVIDUAL OR BY A MEMBER OF THE
9 CORPORATION, COMPANY, OR ORGANIZATION.

10 Sec. 20104. (1) "Certification" means the issuance of a
11 document by the department to a health facility or agency attesting
12 to the fact that the facility or agency meets both of the
13 following:

14 (a) It complies with applicable statutory and regulatory
15 requirements and standards.

16 (b) It is eligible to participate as a provider of care and
17 services in a specific federal or state health program.

18 (2) "Clinical laboratory" means a facility patronized by, or
19 at the direction of, a physician, health officer, or other person
20 authorized by law to obtain information for the diagnosis,
21 prevention, or treatment of disease or the assessment of a medical
22 condition by the microbiological, serological, histological,
23 hematological, immunohematological, biophysical, cytological,
24 pathological, or biochemical examination of materials derived from
25 the human body, except as provided in section 20507.

26 (3) "Consumer" means a person who is not a provider of health
27 care as defined in section 1531(3) of title 15 of the public health

1 service act, 42 U.S.C.—**USC** 300n.

2 (4) "County medical care facility" means a nursing care
3 facility, other than a hospital long-term care unit, which provides
4 organized nursing care and medical treatment to 7 or more unrelated
5 individuals who are suffering or recovering from illness, injury,
6 or infirmity and which is owned by a county or counties.

7 (5) "Freestanding surgical outpatient facility" means a
8 facility, other than the office of a physician, dentist,
9 podiatrist, or other private practice office, offering a surgical
10 procedure and related care that in the opinion of the attending
11 physician can be safely performed without requiring overnight
12 inpatient hospital care. It does not include a surgical outpatient
13 facility owned by and operated as part of a hospital.

14 (6) **"GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN**
15 **SECTION 1 OF 1974 PA 381, MCL 338.41.**

16 Sec. 21313. (1) The owner, operator, and governing body of a
17 home for the aged are responsible for all phases of the operation
18 of the home and shall assure that the home maintains an organized
19 program to provide room and board, protection, supervision,
20 assistance, and supervised personal care for its residents.

21 (2) The owner, operator, and governing body shall assure the
22 availability of emergency medical care required by a resident.

23 (3) **A PERSON OR PARTNER IN A PARTNERSHIP THAT IS THE OWNER OR**
24 **OPERATOR OF A HOME FOR THE AGED AND THE AUTHORIZED REPRESENTATIVE**
25 **SHALL BE OF GOOD MORAL CHARACTER.**

26 (4) **A PERSON OR PARTNER IN A PARTNERSHIP THAT IS THE APPLICANT**
27 **FOR A LICENSE FOR A HOME FOR THE AGED SHALL GIVE WRITTEN CONSENT AT**

1 THE TIME OF LICENSE APPLICATION, AND AN AUTHORIZED REPRESENTATIVE
2 SHALL GIVE WRITTEN CONSENT AT THE TIME OF APPOINTMENT, FOR THE
3 DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK AND
4 CRIMINAL RECORDS CHECK. NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE
5 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, ALL OWNERS,
6 OPERATORS, AND AUTHORIZED REPRESENTATIVES OF HOMES FOR THE AGED
7 SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

8 (5) THE DEPARTMENT OF HUMAN SERVICES SHALL REQUEST A CRIMINAL
9 HISTORY CHECK AND CRIMINAL RECORDS CHECK IN THE MANNER PRESCRIBED
10 BY THE DEPARTMENT OF STATE POLICE. THE DEPARTMENT OF STATE POLICE
11 SHALL CONDUCT THE CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF
12 THE RESULTS TO THE LICENSING OR REGULATORY BUREAU OF THE DEPARTMENT
13 OF HUMAN SERVICES. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY
14 INFORMATION ON THE PERSON MAINTAINED BY THE DEPARTMENT OF STATE
15 POLICE AND THE RESULTS OF THE CRIMINAL RECORDS CHECK FROM THE
16 FEDERAL BUREAU OF INVESTIGATION. THE DEPARTMENT OF STATE POLICE MAY
17 CHARGE THE APPLICANT, LICENSEE, OR AUTHORIZED REPRESENTATIVE A FEE
18 FOR THE CRIMINAL HISTORY CHECK AND THE CRIMINAL RECORDS CHECK
19 REQUIRED UNDER THIS SECTION THAT DOES NOT EXCEED THE ACTUAL COST
20 AND REASONABLE COST OF CONDUCTING THE CHECKS.

21 (6) THE DEPARTMENT OF STATE POLICE SHALL STORE AND MAINTAIN
22 ALL FINGERPRINTS SUBMITTED UNDER THIS ACT IN AN AUTOMATED
23 FINGERPRINT IDENTIFICATION SYSTEM DATABASE THAT PROVIDES FOR AN
24 AUTOMATIC NOTIFICATION AT THE TIME A SUBSEQUENT CRIMINAL ARREST
25 FINGERPRINT CARD SUBMITTED INTO THE SYSTEM MATCHES A SET OF
26 FINGERPRINTS PREVIOUSLY SUBMITTED IN ACCORDANCE WITH THIS ACT. AT
27 THE TIME OF THAT NOTIFICATION, THE DEPARTMENT OF STATE POLICE SHALL

1 IMMEDIATELY NOTIFY THE DEPARTMENT OF HUMAN SERVICES. THE DEPARTMENT
2 OF HUMAN SERVICES SHALL TAKE THE APPROPRIATE ACTION UPON
3 NOTIFICATION BY THE DEPARTMENT OF STATE POLICE UNDER THIS
4 SUBSECTION.

5 (7) AN OWNER, OPERATOR, MEMBER OF A GOVERNING BODY, OR
6 AUTHORIZED REPRESENTATIVE OF A HOME FOR THE AGED SHALL NOT BE
7 PRESENT IN A HOME FOR THE AGED IF HE OR SHE HAS BEEN CONVICTED OF
8 EITHER OF THE FOLLOWING:

9 (A) VULNERABLE ADULT ABUSE, NEGLECT, OR FINANCIAL
10 EXPLOITATION.

11 (B) A LISTED OFFENSE AS DEFINED IN SECTION 2 OF THE SEX
12 OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.