

**SUBSTITUTE FOR
SENATE BILL NO. 1102**

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 AUTHORIZED
7 REPRESENTATIVE WHO IS NOT AN OWNER OR LICENSEE SHALL NOT SIGN THE
8 ORIGINAL LICENSE APPLICATION OR AMENDMENTS TO THE APPLICATION.

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

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

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

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

25 (3) "Consumer" means a person who is not a provider of health
26 care as defined in section 1531(3) of title 15 of the public health
27 service act, 42 U.S.C.—**USC** 300n.

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

6 **(5) "DIRECT ACCESS" MEANS ACCESS TO A PATIENT OR RESIDENT OR**
7 **TO A PATIENT'S OR RESIDENT'S PROPERTY, FINANCIAL INFORMATION,**
8 **MEDICAL RECORDS, TREATMENT INFORMATION, OR ANY OTHER IDENTIFYING**
9 **INFORMATION.**

10 (6) ~~(5)~~—"Freestanding surgical outpatient facility" means a
11 facility, other than the office of a physician, dentist,
12 podiatrist, or other private practice office, offering a surgical
13 procedure and related care that in the opinion of the attending
14 physician can be safely performed without requiring overnight
15 inpatient hospital care. It does not include a surgical outpatient
16 facility owned by and operated as part of a hospital.

17 **(7) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN**
18 **SECTION 1 OF 1974 PA 381, MCL 338.41.**

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

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

26 **(3) THE OWNER, OPERATOR, OR MEMBER OF THE GOVERNING BODY OF A**
27 **HOME FOR THE AGED AND THE AUTHORIZED REPRESENTATIVE SHALL BE OF**

1 GOOD MORAL CHARACTER.

2 (4) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO OR RENEW THE
3 LICENSE OF AN OWNER, OPERATOR, OR MEMBER OF THE GOVERNING BODY, WHO
4 HAS REGULAR DIRECT ACCESS TO RESIDENTS OR WHO HAS ON-SITE FACILITY
5 OPERATIONAL RESPONSIBILITIES, OR AN APPLICANT, IF AN INDIVIDUAL OR
6 THE AUTHORIZED REPRESENTATIVE, IF ANY OF THOSE INDIVIDUALS HAVE
7 BEEN CONVICTED OF 1 OR MORE OF THE FOLLOWING:

8 (A) A FELONY UNDER THIS ACT OR UNDER CHAPTER XXA OF THE
9 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M TO 750.145R.

10 (B) A MISDEMEANOR UNDER THIS ACT OR UNDER CHAPTER XXA OF THE
11 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M TO 750.145R, WITHIN
12 THE 10 YEARS IMMEDIATELY PRECEDING THE APPLICATION.

13 (C) A MISDEMEANOR INVOLVING ABUSE, NEGLIGENCE, ASSAULT, BATTERY,
14 OR CRIMINAL SEXUAL CONDUCT OR INVOLVING FRAUD OR THEFT AGAINST A
15 VULNERABLE ADULT AS THAT TERM IS DEFINED IN SECTION 145M OF THE
16 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145M, OR A STATE OR
17 FEDERAL CRIME THAT IS SUBSTANTIALLY SIMILAR TO A MISDEMEANOR
18 DESCRIBED IN THIS SUBDIVISION WITHIN THE 10 YEARS IMMEDIATELY
19 PRECEDING THE APPLICATION.

20 (5) THE APPLICANT FOR A LICENSE FOR A HOME FOR THE AGED, IF AN
21 INDIVIDUAL, SHALL GIVE WRITTEN CONSENT AT THE TIME OF LICENSE
22 APPLICATION FOR THE DEPARTMENT OF STATE POLICE TO CONDUCT A
23 CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK. THE AUTHORIZED
24 REPRESENTATIVE SHALL GIVE WRITTEN CONSENT AT THE TIME OF
25 APPOINTMENT FOR THE DEPARTMENT OF STATE POLICE TO CONDUCT A
26 CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK.

27 (6) AN OWNER, OPERATOR, OR MEMBER OF THE GOVERNING BODY WHO

1 HAS REGULAR DIRECT ACCESS TO RESIDENTS OR WHO HAS ON-SITE FACILITY
2 OPERATIONAL RESPONSIBILITIES FOR A HOME FOR THE AGED SHALL GIVE
3 WRITTEN CONSENT AT THE TIME OF LICENSE APPLICATION FOR THE
4 DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK AND
5 CRIMINAL RECORDS CHECK.

6 (7) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2010
7 AMENDATORY ACT THAT ADDED THIS SUBSECTION, ALL OWNERS, OPERATORS,
8 AND MEMBERS OF THE GOVERNING BODY OF HOMES FOR THE AGED WHO HAVE
9 REGULAR DIRECT ACCESS TO RESIDENTS OR WHO HAVE ON-SITE FACILITY
10 OPERATIONAL RESPONSIBILITIES AND ALL AUTHORIZED REPRESENTATIVES
11 SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

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

25 (9) THE DEPARTMENT OF STATE POLICE SHALL STORE AND MAINTAIN
26 ALL FINGERPRINTS SUBMITTED UNDER THIS ACT IN AN AUTOMATED
27 FINGERPRINT IDENTIFICATION SYSTEM DATABASE THAT PROVIDES FOR AN

1 AUTOMATIC NOTIFICATION AT THE TIME A SUBSEQUENT CRIMINAL ARREST
2 FINGERPRINT CARD SUBMITTED INTO THE SYSTEM MATCHES A SET OF
3 FINGERPRINTS PREVIOUSLY SUBMITTED IN ACCORDANCE WITH THIS ACT. AT
4 THE TIME OF THAT NOTIFICATION, THE DEPARTMENT OF STATE POLICE SHALL
5 IMMEDIATELY NOTIFY THE DEPARTMENT OF HUMAN SERVICES. THE DEPARTMENT
6 OF HUMAN SERVICES SHALL TAKE THE APPROPRIATE ACTION UPON
7 NOTIFICATION BY THE DEPARTMENT OF STATE POLICE UNDER THIS
8 SUBSECTION.

9 (10) AN APPLICANT, OWNER, OPERATOR, MEMBER OF A GOVERNING
10 BODY, OR AUTHORIZED REPRESENTATIVE OF A HOME FOR THE AGED SHALL NOT
11 BE PRESENT IN A HOME FOR THE AGED IF HE OR SHE HAS BEEN CONVICTED
12 OF EITHER OF THE FOLLOWING:

13 (A) VULNERABLE ADULT ABUSE, NEGLECT, OR FINANCIAL
14 EXPLOITATION.

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

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 1101 of the 95th Legislature is enacted into
19 law.