

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4025

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 10204 and 16215 (MCL 333.10204 and  
333.16215), section 10204 as amended by 1988 PA 63 and  
section 16215 as amended by 1990 PA 279.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 10204. (1) Except as otherwise provided in subsection  
2 (2), a person shall not knowingly acquire, receive, or otherwise  
3 transfer a human organ or part of a human organ for valuable con-  
4 sideration for any purpose, including but not limited to trans-  
5 plantation, implantation, infusion, injection, or other medical  
6 or scientific purpose. A person who violates this subsection is  
7 guilty of a felony.

8       (2) ~~This section~~ SUBSECTION (1) does not prohibit ~~any~~ 1  
9 OR MORE of the following practices:

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1 (a) The removal and use of a human cornea pursuant to  
2 section 10202, or the removal and use of a human pituitary gland  
3 pursuant to section 2855.

4 (b) An anatomical gift pursuant to part 101, or the acquisi-  
5 tion or distribution of bodies or parts by the ~~anatomy board~~  
6 DIRECTOR pursuant to sections 2651 to 2663.

7 (c) Financial assistance payments provided under a plan of  
8 insurance or other health care coverage.

9 (3) ONLY AN INDIVIDUAL WHO IS 1 OF THE FOLLOWING MAY SURGI-  
10 CALLY REMOVE A HUMAN ORGAN FOR TRANSPLANTATION, IMPLANTATION,  
11 INFUSION, INJECTION, OR ANY OTHER MEDICAL OR SCIENTIFIC PURPOSE:

12 (A) A PHYSICIAN LICENSED UNDER ARTICLE 15.

13 (B) AN INDIVIDUAL ACTING UNDER THE DELEGATORY AUTHORITY AND  
14 SUPERVISION OF A PHYSICIAN PURSUANT TO SECTION 16215(2), BUT NOT  
15 INCLUDING AN INDIVIDUAL WHOSE LICENSE HAS BEEN SUSPENDED UNDER  
16 ARTICLE 15. THIS SUBDIVISION INCLUDES, BUT IS NOT LIMITED TO, AN  
17 INDIVIDUAL DESCRIBED IN SECTION 16215(3).

18 (C) FOR THE PURPOSES OF SURGICALLY REMOVING A HUMAN ORGAN  
19 THAT IS AN EYE OR A PHYSICAL PART OF AN EYE ONLY, AN INDIVIDUAL  
20 CERTIFIED BY A STATE MEDICAL SCHOOL AS DESCRIBED IN  
21 SECTION 10105.

22 (D) AN INDIVIDUAL RESIDING IN ANOTHER STATE AND AUTHORIZED  
23 TO PRACTICE ALLOPATHIC MEDICINE OR OSTEOPATHIC MEDICINE AND SUR-  
24 GERY IN THAT STATE WHO IS CALLED INTO THIS STATE BY A PHYSICIAN  
25 LICENSED UNDER ARTICLE 15 AND IS AUTHORIZED BY A HOSPITAL  
26 LICENSED UNDER ARTICLE 17 TO SURGICALLY REMOVE 1 OR MORE OF THE  
27 FOLLOWING ORGANS FOR TRANSPORT BACK TO THE OTHER STATE:

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1 (i) A HEART.

2 (ii) A LIVER.

3 (iii) A LUNG.

4 (iv) A PANCREAS.

5 (v) A KIDNEY.

6 (vi) ALL OR PART OF AN INTESTINE.

7 (vii) ANY OTHER HUMAN ORGAN SPECIFIED BY RULE PROMULGATED BY  
8 THE DEPARTMENT UNDER SUBSECTION (6).

9 (4) AN INDIVIDUAL WHO VIOLATES SUBSECTION (3) IS GUILTY OF A  
10 FELONY.

11 (5) ~~(3)~~ As used in this section:

12 (a) "Human organ" means the human kidney, liver, heart,  
13 lung, pancreas, INTESTINE, bone marrow, cornea, eye, bone, skin,  
14 cartilage, dura mater, ligaments, tendons, fascia, pituitary  
15 gland, and middle ear structures and any other human organ speci-  
16 fied by rule promulgated by the department UNDER SUBSECTION (6).  
17 Human organ does not include whole blood, blood plasma, blood  
18 products, blood derivatives, other self-replicating body fluids,  
19 or human hair.

20 (b) "Valuable consideration" does not include the reasonable  
21 payments associated with the removal, transportation, implanta-  
22 tion, processing, preservation, quality control, and storage of a  
23 human organ or the medical expenses and expenses of travel, hous-  
24 ing, and lost wages incurred by the donor of a human organ in  
25 connection with the donation of the human organ.

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1 (6) ~~(4)~~ The department may promulgate rules to specify  
2 human organs in addition to the human organs listed in subsection  
3 ~~(3)(a)~~ (3)(D)(i) TO (vi) OR (5)(A).

4 Sec. 16215. (1) ~~A~~ SUBJECT TO SUBSECTIONS (2) TO (5), A  
5 licensee who holds a license other than a health profession sub-  
6 field license may delegate to a licensed or unlicensed individual  
7 who is otherwise qualified by education, training, or experience  
8 the performance of selected acts, tasks, or functions where the  
9 acts, tasks, or functions fall within the scope of practice of  
10 the licensee's profession and will be performed under the  
11 licensee's supervision. ~~An~~ A LICENSEE SHALL NOT DELEGATE AN  
12 act, task, or function ~~shall not be delegated~~ under this sec-  
13 tion ~~which~~ IF THE ACT, TASK, OR FUNCTION, under standards of  
14 acceptable and prevailing practice, requires the level of educa-  
15 tion, skill, and judgment required of ~~a~~ THE licensee under this  
16 article.

17 (2) ~~Except~~ SUBJECT TO SUBSECTION (1) AND EXCEPT as other-  
18 wise provided in this subsection AND SUBSECTION (3), a licensee  
19 ~~under part 170 or 175~~ WHO IS AN ALLOPATHIC PHYSICIAN OR OSTEO-  
20 PATHIC PHYSICIAN AND SURGEON shall delegate an act, task, or  
21 function that involves the performance of a procedure that  
22 requires the use of surgical instrumentation only to an individ-  
23 ual who is licensed under THIS article. ~~15. This subsection~~  
24 ~~does not apply~~ A LICENSEE WHO IS AN ALLOPATHIC PHYSICIAN OR  
25 OSTEOPATHIC PHYSICIAN AND SURGEON MAY DELEGATE AN ACT, TASK, OR  
26 FUNCTION DESCRIBED IN THIS SUBSECTION TO AN INDIVIDUAL WHO IS NOT  
27 LICENSED UNDER THIS ARTICLE if the unlicensed individual is 1 or

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1 more of the following and if the procedure is directly supervised  
2 by a licensed ALLOPATHIC physician or osteopathic physician AND  
3 SURGEON who is physically present during the performance of the  
4 procedure: ~~or if the unlicensed individual is performing~~  
5 ~~acupuncture:~~

6 (a) A student enrolled in a school of medicine or osteo-  
7 pathic medicine approved by the Michigan board of medicine or the  
8 Michigan board of osteopathic medicine and surgery.

9 (b) A student enrolled in a physician's assistant training  
10 program approved by the joint physician's assistant task force  
11 created under part 170.

12 (3) SUBJECT TO SUBSECTION (1), A LICENSEE WHO IS AN ALLO-  
13 PATHIC PHYSICIAN OR OSTEOPATHIC PHYSICIAN AND SURGEON MAY DELE-  
14 GATE AN ACT, TASK, OR FUNCTION DESCRIBED IN SUBSECTION (2) TO AN  
15 INDIVIDUAL WHO IS NOT LICENSED UNDER THIS ARTICLE AND WHO IS 1 OF  
16 THE FOLLOWING:

17 (A) PERFORMING ACUPUNCTURE.

18 (B) SURGICALLY REMOVING ONLY BONE, SKIN, BLOOD VESSELS, CAR-  
19 TILAGE, DURA MATER, LIGAMENTS, TENDONS, PERICARDIAL TISSUE, OR  
20 HEART VALVES ONLY FROM A DECEASED INDIVIDUAL FOR TRANSPLANTATION,  
21 IMPLANTATION, INFUSION, INJECTION, OR OTHER MEDICAL OR SCIENTIFIC  
22 PURPOSE.

23 (4) ~~(3)~~ A board may promulgate rules to further prohibit  
24 or otherwise restrict delegation of specific acts, tasks, or  
25 functions to a licensed or unlicensed individual ~~where~~ IF the  
26 board determines that the delegation constitutes or may

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1 constitute a danger to the health, safety, or welfare of the  
2 patient or public.

3       (5) ~~-(4)-~~ To promote safe and competent practice, a board  
4 may promulgate rules to specify conditions under which, and cate-  
5 gories and types of licensed and unlicensed individuals for whom,  
6 closer supervision may be required FOR ACTS, TASKS, AND FUNCTIONS  
7 DELEGATED UNDER THIS SECTION.

8       (6) ~~-(5)-~~ An individual who performs acts, tasks, or func-  
9 tions delegated pursuant to this section does not violate the  
10 part ~~which~~ THAT regulates the scope of practice of that health  
11 profession.

12       Enacting section 1. This amendatory act takes effect  
13 September 1, 1999.

14       Enacting section 2. This amendatory act does not take  
15 effect unless Senate Bill No. 381 of the 90th Legislature is  
16 enacted into law.