

HOUSE BILL No. 4899

May 7, 2009, Introduced by Reps. Segal, Liss, Haugh, Moore and Roy Schmidt and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5101, 5111, 5117, 5131, 5204, and 20191 (MCL 333.5101, 333.5111, 333.5117, 333.5131, 333.5204, and 333.20191), sections 5101, 5111, and 5117 as amended by 1994 PA 200, section 5131 as amended and section 5204 as added by 1997 PA 57, and section 20191 as amended by 1994 PA 419.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5101. (1) As used in this article:

2 (a) "Care" includes treatment, control, transportation,
3 confinement, and isolation in a facility or other location.

4 (b) "Communicable disease" means an illness due to a specific
5 infectious agent or its toxic products that results from

1 transmission of that infectious agent or its products from a
2 reservoir to a susceptible host, directly as from an infected
3 individual or animal, or indirectly through the agency of an
4 intermediate plant or animal host, vector, or the inanimate
5 environment.

6 (c) "HIV" means human immunodeficiency virus.

7 (d) "HIV infection" or "HIV infected" means the status of an
8 individual who has tested positive for HIV, as evidenced by either
9 a double positive enzyme-linked immunosorbent assay test, combined
10 with a positive western blot assay test, or a positive result under
11 an HIV test that is considered reliable by the federal centers for
12 disease control **AND PREVENTION** and is approved by the department.

13 (e) "Immunization" means the process of increasing an
14 individual's immunity to a disease by use of a vaccine, antibody
15 preparation, or other substance.

16 (f) "Infection" means the invasion of the body with
17 microorganisms or parasites, whether or not the invasion results in
18 detectable pathologic effects.

19 (g) "Serious communicable disease or infection" means a
20 communicable disease or infection that is designated as serious by
21 the department pursuant to this part. Serious communicable disease
22 or infection includes, but is not limited to, HIV infection,
23 acquired immunodeficiency syndrome, venereal disease, and
24 tuberculosis.

25 (h) "Venereal disease" means syphilis, gonorrhoea, chancroid,
26 lymphogranuloma venereum, granuloma inguinale, and other sexually
27 transmitted diseases ~~which~~ **THAT** the department ~~by rule~~ may

1 designate and require to be reported **UNDER SECTION 5111.**

2 (2) In addition, article 1 contains general definitions and
3 principles of construction applicable to all articles in this code.

4 Sec. 5111. (1) In carrying out its authority under this
5 article, the department ~~may promulgate rules to~~ **SHALL MAINTAIN A**
6 **LIST OF REPORTABLE DISEASES, INFECTIONS, AND DISABILITIES THAT**
7 **DESIGNATES AND CLASSIFIES COMMUNICABLE, SERIOUS COMMUNICABLE,**
8 **CHRONIC, OR NONCOMMUNICABLE DISEASES, INFECTIONS, AND DISABILITIES.**
9 **THE DEPARTMENT SHALL REVIEW AND REVISE THE LIST UNDER THIS**
10 **SUBSECTION AT LEAST ANNUALLY.**

11 (2) **IN CARRYING OUT ITS AUTHORITY UNDER THIS ARTICLE, THE**
12 **DEPARTMENT MAY PROMULGATE RULES TO DO ANY OF THE FOLLOWING:**

13 ~~—— (a) Designate and classify communicable, serious communicable,~~
14 ~~chronic, other noncommunicable diseases, infections, and~~
15 ~~disabilities.~~

16 **(A)** ~~(b)~~ Establish requirements for reporting and other
17 surveillance methods for measuring the occurrence of diseases,
18 infections, and disabilities and the potential for epidemics. Rules
19 promulgated under this subdivision may require a licensed health
20 professional or health facility to submit to the department or a
21 local health department, on a form provided by the department, a
22 report of the occurrence of a communicable disease, serious
23 communicable disease or infection, or disability. The rules
24 promulgated under this subdivision may require a report to be
25 submitted to the department not more than 24 hours after a licensed
26 health professional or health facility determines that an
27 individual has a serious communicable disease or infection.

1 **(B)** ~~(e)~~—Investigate cases, epidemics, and unusual occurrences
2 of diseases, infections, and situations with a potential for
3 causing diseases.

4 **(C)** ~~(d)~~—Establish procedures for control of diseases and
5 infections, including, but not limited to, immunization and
6 environmental controls.

7 **(D)** ~~(e)~~—Establish procedures for the prevention, detection,
8 and treatment of disabilities and rehabilitation of individuals
9 suffering from disabilities or disease, including nutritional
10 problems.

11 **(E)** ~~(f)~~—Establish procedures for control of rabies and the
12 disposition of nonhuman agents carrying disease, including rabid
13 animals.

14 **(F)** ~~(g)~~—Establish procedures for the reporting of known or
15 suspected cases of lead poisoning or undue lead body burden.

16 **(G)** ~~(h)~~—Designate communicable diseases or serious
17 communicable diseases or infections for which local health
18 departments are required to furnish care including, but not limited
19 to, tuberculosis and venereal disease.

20 **(H)** ~~(i)~~—Implement this part and parts 52 and 53 including, but
21 not limited to, rules for the discovery, care, and reporting of an
22 individual having or suspected of having a communicable disease or
23 a serious communicable disease or infection, and to establish
24 approved tests under section ~~5125~~—**5123** and approved prophylaxes
25 under section ~~5127~~—**5125**.

26 **(3)** ~~(2)~~—The department shall promulgate rules to provide for
27 the confidentiality of reports, records, and data pertaining to

1 testing, care, treatment, reporting, and research associated with
2 communicable diseases and serious communicable diseases or
3 infections. ~~The rules shall specify the communicable diseases and~~
4 ~~serious communicable diseases or infections covered under the rules~~
5 ~~and shall include, but are not limited to, hepatitis B, venereal~~
6 ~~disease, and tuberculosis. The rules shall not apply to the serious~~
7 ~~communicable diseases or infections of HIV infection, or acquired~~
8 ~~immunodeficiency syndrome. The department shall submit the rules~~
9 ~~for public hearing under the administrative procedures act of 1969~~
10 ~~by November 20, 1989.~~

11 Sec. 5117. (1) A local health department that knows that an
12 individual who has a serious communicable disease or infection
13 including, but not limited to, tuberculosis or venereal disease,
14 but not including HIV infection and acquired immunodeficiency
15 syndrome, regardless of the individual's domicile, is in the local
16 health department's jurisdiction and requires care, immediately
17 shall furnish the necessary care in accordance with requirements
18 established by the department pursuant to section ~~5111(h)~~
19 **5111(2)(G)**. The local health department shall issue an order
20 authorizing the care.

21 (2) The local health department promptly shall report the
22 action taken under this section to the county department of social
23 services of the individual's probable place of domicile.

24 (3) This section does not restrict the authority of the local
25 health department in furnishing care to the individual, pending
26 determination by the local health department or, upon its request,
27 by the county department of social services of the probable place

1 of domicile of the individual.

2 (4) Financial liability for care rendered under this section
3 shall be determined in accordance with part 53.

4 Sec. 5131. (1) All reports, records, and data pertaining to
5 testing, care, treatment, reporting, and research, and information
6 pertaining to partner notification under section 5114a, that are
7 associated with the serious communicable diseases or infections of
8 HIV infection and acquired immunodeficiency syndrome are
9 confidential. A person shall release reports, records, data, and
10 information described in this subsection only pursuant to this
11 section.

12 (2) Except as otherwise provided by law, the test results of a
13 test for HIV infection or acquired immunodeficiency syndrome and
14 the fact that such a test was ordered is information that is
15 subject to section 2157 of the revised judicature act of 1961, 1961
16 PA 236, MCL 600.2157.

17 (3) The disclosure of information pertaining to HIV infection
18 or acquired immunodeficiency syndrome in response to a court order
19 and subpoena is limited to only the following cases and is subject
20 to all of the following restrictions:

21 (a) A court that is petitioned for an order to disclose the
22 information shall determine both of the following:

23 (i) That other ways of obtaining the information are not
24 available or would not be effective.

25 (ii) That the public interest and need for the disclosure
26 outweigh the potential for injury to the patient.

27 (b) If a court issues an order for the disclosure of the

1 information, the order shall do all of the following:

2 (i) Limit disclosure to those parts of the patient's record
3 that are determined by the court to be essential to fulfill the
4 objective of the order.

5 (ii) Limit disclosure to those persons whose need for the
6 information is the basis for the order.

7 (iii) Include such other measures as considered necessary by the
8 court to limit disclosure for the protection of the patient.

9 (4) A person who releases information pertaining to HIV
10 infection or acquired immunodeficiency syndrome to a legislative
11 body shall not identify in the information a specific individual
12 who was tested or is being treated for HIV infection or acquired
13 immunodeficiency syndrome.

14 (5) Subject to subsection (7), subsection (1) does not apply
15 to the following:

16 (a) Information pertaining to an individual who is HIV
17 infected or has been diagnosed as having acquired immunodeficiency
18 syndrome, if the information is disclosed to the department, a
19 local health department, or other health care provider for 1 or
20 more of the following purposes:

21 (i) To protect the health of an individual.

22 (ii) To prevent further transmission of HIV.

23 (iii) To diagnose and care for a patient.

24 (b) Information pertaining to an individual who is HIV
25 infected or has been diagnosed as having acquired immunodeficiency
26 syndrome, if the information is disclosed by a physician or local
27 health officer to an individual who is known by the physician or

1 local health officer to be a contact of the individual who is HIV
2 infected or has been diagnosed as having acquired immunodeficiency
3 syndrome, if the physician or local health officer determines that
4 the disclosure of the information is necessary to prevent a
5 reasonably foreseeable risk of further transmission of HIV. This
6 subdivision imposes an affirmative duty upon a physician or local
7 health officer to disclose information pertaining to an individual
8 who is HIV infected or has been diagnosed as having acquired
9 immunodeficiency syndrome to an individual who is known by the
10 physician or local health officer to be a contact of the individual
11 who is HIV infected or has been diagnosed as having acquired
12 immunodeficiency syndrome. A physician or local health officer may
13 discharge the affirmative duty imposed under this subdivision by
14 referring the individual who is HIV infected or has been diagnosed
15 as having acquired immunodeficiency syndrome to the appropriate
16 local health department for assistance with partner notification
17 under section 5114a. The physician or local health officer shall
18 include as part of the referral the name and, if available, address
19 and telephone number of each individual known by the physician or
20 local health officer to be a contact of the individual who is HIV
21 infected or has been diagnosed as having acquired immunodeficiency
22 syndrome.

23 (c) Information pertaining to an individual who is HIV
24 infected or has been diagnosed as having acquired immunodeficiency
25 syndrome, if the information is disclosed by an authorized
26 representative of the department or by a local health officer to an
27 employee of a school district, and if the department representative

1 or local health officer determines that the disclosure is necessary
2 to prevent a reasonably foreseeable risk of transmission of HIV to
3 pupils in the school district. An employee of a school district to
4 whom information is disclosed under this subdivision is subject to
5 subsection (1).

6 (d) Information pertaining to an individual who is HIV
7 infected or has been diagnosed as having acquired immunodeficiency
8 syndrome, if the disclosure is expressly authorized in writing by
9 the individual. This subdivision applies only if the written
10 authorization is specific to HIV infection or acquired
11 immunodeficiency syndrome. If the individual is a minor or
12 incapacitated, the written authorization may be executed by the
13 parent or legal guardian of the individual.

14 (e) Information disclosed under section 5114, 5114a, 5119(3),
15 5129, 5204, or 20191 or information disclosed as required by rule
16 promulgated under section ~~5111(1)(b) or (i)~~ **5111**.

17 (f) Information pertaining to an individual who is HIV
18 infected or has been diagnosed as having acquired immunodeficiency
19 syndrome, if the information is part of a report required under the
20 child protection law, 1975 PA 238, MCL 722.621 to ~~722.636~~ **722.638**.

21 (g) Information pertaining to an individual who is HIV
22 infected or has been diagnosed as having acquired immunodeficiency
23 syndrome, if the information is disclosed by the department of
24 ~~social~~ **HUMAN** services, ~~the department of mental health,~~ the probate
25 court, or a child placing agency in order to care for a minor and
26 to place the minor with a child care organization licensed under
27 1973 PA 116, MCL 722.111 to 722.128. The person disclosing the

1 information shall disclose it only to the director of the child
2 care organization or, if the child care organization is a private
3 home, to the individual who holds the license for the child care
4 organization. An individual to whom information is disclosed under
5 this subdivision is subject to subsection (1). As used in this
6 subdivision, "child care organization" and "child placing agency"
7 mean those terms as defined in section 1 of 1973 PA 116, MCL
8 722.111.

9 (6) A person who releases the results of an HIV test or other
10 information described in subsection (1) in compliance with
11 subsection (5) is immune from civil or criminal liability and
12 administrative penalties including, but not limited to, licensure
13 sanctions, for the release of that information.

14 (7) A person who discloses information under subsection (5)
15 shall not include in the disclosure information that identifies the
16 individual to whom the information pertains, unless the identifying
17 information is determined by the person making the disclosure to be
18 reasonably necessary to prevent a foreseeable risk of transmission
19 of HIV. This subsection does not apply to information disclosed
20 under subsection (5)(d), (f), or (g).

21 (8) A person who violates this section is guilty of a
22 misdemeanor, punishable by imprisonment for not more than 1 year or
23 a fine of not more than \$5,000.00, or both, and is liable in a
24 civil action for actual damages or \$1,000.00, whichever is greater,
25 and costs and reasonable attorney fees. This subsection also
26 applies to the employer of a person who violates this section,
27 unless the employer had in effect at the time of the violation

1 reasonable precautions designed to prevent the violation.

2 Sec. 5204. (1) A police officer, a fire fighter, a local
3 correctional officer or other county employee, a court employee, or
4 an individual making a lawful arrest may proceed under this section
5 if he or she has received training in the transmission of
6 bloodborne diseases under the rules governing exposure to
7 bloodborne diseases in the workplace promulgated by the
8 occupational health standards commission or incorporated by
9 reference under the Michigan occupational safety and health act,
10 1974 PA 154, MCL 408.1001 to 408.1094.

11 (2) A police officer, a fire fighter, a local correctional
12 officer or other county employee, a court employee, or an
13 individual making a lawful arrest who has received the training
14 described in subsection (1) and who, while performing his or her
15 official duties or otherwise performing the duties of his or her
16 employment, determines that he or she has sustained a percutaneous,
17 mucous membrane, or open wound exposure to the blood or body fluids
18 of an arrestee, correctional facility inmate, parolee, or
19 probationer may request that the arrestee, correctional facility
20 inmate, parolee, or probationer be tested for HIV infection, HBV
21 infection, HCV infection, or all 3 infections, pursuant to this
22 section.

23 (3) An officer or employee or an individual making a lawful
24 arrest who desires to make a request described in subsection (2)
25 shall make the request to his or her employer in writing on a form
26 provided by the department as soon as possible, but not later than
27 72 hours, after the exposure occurs. The request form shall be

1 dated and shall contain, at a minimum, the name and address of the
2 officer, employee, or individual making a lawful arrest making the
3 request and a description of his or her exposure to the blood or
4 other body fluids of the arrestee, correctional facility inmate,
5 parolee, or probationer. The request form shall also contain a
6 statement that the requester is subject to the confidentiality
7 requirements of subsection (7) and section 5131. The request form
8 shall not contain information that would identify the arrestee,
9 correctional facility inmate, parolee, or probationer by name,
10 except if necessary to identify the individual for purposes of
11 testing under this section.

12 (4) The employer of an individual making a request under
13 subsections (2) and (3) shall accept as fact the requester's
14 description of his or her exposure to blood or other body fluids as
15 described in subsection (2). The requester's employer shall have
16 the test for HIV infection, HBV infection, HCV infection, or all 3
17 infections performed by the local health department or by a health
18 care provider designated by the local health department. If the
19 test subject consents to the performance of the test or tests named
20 in the request, the requester's employer shall transport the test
21 subject to the local health department or designated health care
22 provider for testing, or a representative of the local health
23 department or designated health care provider shall come to where
24 the test subject is held or housed to take a blood or other body
25 fluid sample for testing, as soon as practicable after the local
26 health department receives the request for testing from the
27 requester's employer. If the test subject refuses to undergo 1 or

1 more tests specified in the request, the requester's employer may
2 proceed with a petition to the family division of the circuit court
3 in the manner provided in section 5205 or 5207, as appropriate.

4 (5) A local health department or a health care provider
5 designated by the local health department that performs 1 or more
6 tests under this section may charge the officer or employee or
7 arresting individual requesting the test for the reasonable and
8 customary charges of each test. The officer or employee or
9 arresting individual requesting the test is responsible for the
10 payment of the charges if the charges are not payable by the
11 officer's or employee's or arresting individual's employer,
12 pursuant to an agreement between the officer or employee or
13 arresting individual and the employer, or by the officer's or
14 employee's or arresting individual's health care payment or
15 benefits plan. A local health department or a health care provider
16 designated by the local health department to perform an HIV test
17 under this section is not required to provide HIV counseling
18 pursuant to section 5133(1) to an officer or employee or arresting
19 individual who requests that an arrestee, correctional facility
20 inmate, parolee, or probationer be tested for HIV under this
21 section, unless the local health department or designated health
22 care provider tests the officer or employee or arresting individual
23 for HIV.

24 (6) A local health department or a health care provider
25 designated by the local health department to perform a test under
26 this section shall, on a form provided by the department, notify
27 the requesting officer or employee or arresting individual of the

1 HIV test, HBV test, or HCV test results, as applicable, whether
2 positive or negative, within 2 days after the test results are
3 obtained by the local health department or designated health care
4 provider. The notification shall be transmitted directly to the
5 requesting officer or employee or arresting individual or, upon
6 request of the requesting officer or employee or arresting
7 individual, to his or her primary care physician or to another
8 health professional designated by the officer or employee or
9 arresting individual. The notification required under this
10 subsection shall include an explanation of the confidentiality
11 requirements of subsection (7). The notification required under
12 this subsection shall also contain a statement recommending that
13 the requesting officer, employee, or arresting individual undergo
14 an HIV test, an HBV test, or an HCV test, or all 3 tests.

15 (7) The notice required under subsection (6) shall not contain
16 information that would identify the arrestee, correctional facility
17 inmate, parolee, or probationer who tested positive or negative for
18 HIV, HBV, or HCV. The information contained in the notice is
19 confidential and is subject to this section, the rules promulgated
20 under section ~~5111(2)~~ **5111**, and section 5131. A person who receives
21 confidential information under this section shall disclose the
22 information to others only to the extent consistent with the
23 authorized purpose for which the information was obtained.

24 (8) The department may promulgate rules to administer this
25 section. The department shall develop and distribute the forms
26 required under this section.

27 (9) In addition to the penalties prescribed in the rules

1 promulgated under section ~~5111(2)~~ **5111** and in section 5131, a
2 person who discloses information in violation of subsection (7) is
3 guilty of a misdemeanor.

4 (10) A local health department or designated health care
5 provider shall report to the department each test result obtained
6 under this section that indicates that an individual is HIV
7 infected, in compliance with section 5114.

8 (11) A person or governmental entity that makes a good faith
9 effort to comply with subsections (1) to (6) is immune from civil
10 liability or criminal penalty based on compliance with, or the
11 failure to comply with, those subsections.

12 (12) As used in this section and section 5205:

13 (a) "Correctional facility" means a municipal or county jail,
14 work camp, lockup, holding center, halfway house, community
15 corrections center, or any other facility maintained by a
16 municipality or county that houses adult prisoners. Correctional
17 facility does not include a facility owned or operated by the
18 department of corrections.

19 (b) "Employee" means a county employee or a court employee.

20 (c) "HBV" means hepatitis B virus.

21 (d) "HBV infected" or "HBV infection" means the status of an
22 individual who is tested as HBsAg-positive.

23 (e) "HCV" means hepatitis C virus.

24 (f) "HCV infected" or "HCV infection" means the status of an
25 individual who has tested positive for the presence of HCV
26 antibodies or has tested positive for HBV using an RNA test.

27 (g) "HIV" means human immunodeficiency virus.

1 (h) "HIV infected" means that term as defined in section 5101.

2 (i) "Individual making a lawful arrest" or "arresting
3 individual" means 1 of the following:

4 (i) A private security police officer authorized to make an
5 arrest without a warrant under section 30 of the private security
6 ~~guard act of 1968~~ **BUSINESS AND SECURITY ALARM ACT**, 1968 PA 330, MCL
7 338.1080, and section 15 of the code of criminal procedure, 1927 PA
8 175, MCL 764.15.

9 (ii) A merchant, agent of a merchant, employee of a merchant,
10 or independent contractor providing security for a merchant
11 authorized to make an arrest in the merchant's store and in the
12 course of his or her employment as prescribed by section 16(d) of
13 the code of criminal procedure, 1927 PA 175, MCL 764.16. Individual
14 making a lawful arrest or arresting individual does not include a
15 private person authorized to make an arrest under section 16(a) and
16 (b) of the code of criminal procedure, 1927 PA 175, MCL 764.16.

17 (j) "Local correctional officer" means an individual employed
18 by a local governmental unit in a correctional facility as a
19 corrections officer.

20 (k) "Officer" means a law enforcement officer, motor carrier
21 officer, or property security officer employed by the state, a law
22 enforcement officer employed by a local governmental unit, a fire
23 fighter employed by or volunteering for a local governmental unit,
24 or a local correctional officer.

25 Sec. 20191. (1) If a police officer, fire fighter, individual
26 licensed under section 20950 or 20952, or another individual
27 assists an emergency patient who is subsequently transported to a

1 health facility or transports an emergency patient to a health
2 facility, and if the emergency patient, as part of the treatment
3 rendered by the health facility or pursuant to a request made under
4 subsection (2), is tested for the presence in the emergency patient
5 of an infectious agent and the test results are positive, or is
6 tested pursuant to a request made under subsection (2) for the
7 presence in the emergency patient of the infectious agent of HIV or
8 HBV and the test results are positive or negative, the health
9 facility shall do all of the following:

10 (a) Subject to subsection (4) and subdivision (b), if the test
11 results are positive for an infectious agent and the individual
12 meets 1 of the following requirements, notify the individual on a
13 form provided by the department that he or she may have been
14 exposed to an infectious agent and, if the test results of a test
15 conducted pursuant to subsection (2) are negative for the
16 infectious agent of HIV or HBV, notify the individual of that fact:

17 (i) The individual is a police officer, fire fighter, or
18 individual licensed under section 20950 or 20952.

19 (ii) The individual demonstrates in writing to the health
20 facility that he or she was exposed to the blood, body fluids, or
21 airborne agents of the emergency patient or participated in
22 providing assistance to the emergency patient or transportation of
23 the emergency patient to the health facility. An individual who
24 makes a request under subsection (2) is exempt from the
25 requirements of this subparagraph.

26 (b) Subject to subsection (4), if the test results indicate
27 that the emergency patient is HIV infected, the health facility

1 shall not reveal that the infectious agent is HIV unless the health
2 facility has received a written request for notification from an
3 individual described in subdivision (a) (i) or (ii). This subdivision
4 does not apply if the test results indicate that the emergency
5 patient is not HIV infected.

6 (c) Subject to subsection (4), on a form provided by the
7 department, notify the individual described in subdivision (a), at
8 a minimum, of the appropriate infection control precautions to be
9 taken and the approximate date of the potential exposure. If the
10 emergency patient is tested pursuant to a request made under
11 subsection (2) for the presence in the emergency patient of the
12 infectious agent of HIV or HBV, or both, and if the test results
13 are positive or negative, the health facility also shall notify the
14 individual described in subdivision (a) on the form provided by the
15 department that he or she should be tested for HIV infection or HBV
16 infection, or both, and counseled regarding both infectious agents.

17 (2) A police officer, fire fighter, individual licensed under
18 section 20950 or 20952, or other individual who assists an
19 emergency patient who is subsequently transported to a health
20 facility or who transports an emergency patient to a health
21 facility and who sustains a percutaneous, mucous membrane, or open
22 wound exposure to the blood or body fluids of the emergency patient
23 may request that the emergency patient be tested for HIV infection
24 or HBV infection, or both, pursuant to this subsection. The police
25 officer, fire fighter, individual licensed under section 20950 or
26 20952, or other individual shall make a request to a health
27 facility under this subsection in writing on a form provided by the

1 department and before the emergency patient is discharged from the
2 health facility. The request form shall be dated and shall contain
3 at a minimum the name and address of the individual making the
4 request and a description of the individual's exposure to the
5 emergency patient's blood or other body fluids. The request form
6 shall contain a space for the information required under subsection
7 (3) and a statement that the requester is subject to the
8 confidentiality requirements of subsection (5) and section 5131.
9 The request form shall not contain information that would identify
10 the emergency patient by name. A health facility that receives a
11 request under this subsection shall accept as fact the requester's
12 description of his or her exposure to the emergency patient's blood
13 or other body fluids, unless the health facility has reasonable
14 cause to believe otherwise. The health facility shall make a
15 determination as to whether or not the exposure described in the
16 request was a percutaneous, mucous membrane, or open wound exposure
17 pursuant to R 325.70001 to R 325.70018 of the Michigan
18 administrative code. If the health facility determines that the
19 exposure described in the request was a percutaneous, mucous
20 membrane, or open wound exposure, the health facility shall test
21 the emergency patient for HIV infection or HBV infection, or both,
22 as indicated in the request. A health facility that performs a test
23 under this subsection may charge the individual requesting the test
24 for the reasonable and customary charges of the test. The
25 individual requesting the test is responsible for the payment of
26 the charges if the charges are not payable by the individual's
27 employer, pursuant to an agreement between the individual and the

1 employer, or by the individual's health care payment or benefits
2 plan. A health facility is not required to provide HIV counseling
3 pursuant to section 5133(1) to an individual who requests that an
4 emergency patient be tested for HIV under this subsection, unless
5 the health facility tests the requesting individual for HIV.

6 (3) A health facility shall comply with this subsection if the
7 health facility receives a request under subsection (2) and
8 determines either that there is reasonable cause to disbelieve the
9 requester's description of his or her exposure or that the exposure
10 was not a percutaneous, mucous membrane, or open wound exposure and
11 as a result of the determination the health facility is not
12 required to test the emergency patient for HIV infection or HBV
13 infection, or both. A health facility shall also comply with this
14 subsection if the health facility receives a request under
15 subsection (2) and determines that the exposure was a percutaneous,
16 mucous membrane, or open wound exposure, but is unable to test the
17 emergency patient for HIV infection or HBV infection, or both. The
18 health facility shall state in writing on the request form the
19 reasons for disbelieving the requester's description of his or her
20 exposure, the health facility's exposure determination, or the
21 inability to test the emergency patient, as applicable. The health
22 facility shall transmit a copy of the completed request form to the
23 requesting individual within 2 days after the date the
24 determination is made that the health facility has reasonable cause
25 to disbelieve the requester's description of his or her exposure or
26 that the exposure was not a percutaneous, mucous membrane, or open
27 wound exposure or within 2 days after the date the health facility

1 determines that it is unable to test the emergency patient for HIV
2 infection or HBV infection, or both.

3 (4) The notification required under subsection (1) shall occur
4 within 2 days after the test results are obtained by the health
5 facility or after receipt of a written request under subsection
6 (1)(b). The notification shall be transmitted to the potentially
7 exposed individual or, upon request of the individual, to the
8 individual's primary care physician or other health professional
9 designated by the individual, as follows:

10 (a) If the potentially exposed individual provides his or her
11 name and address or the name and address of the individual's
12 primary care physician or other health professional designated by
13 the individual to the health facility or if the health facility has
14 a procedure that allows the health facility in the ordinary course
15 of its business to determine the individual's name and address or
16 the name and address of the individual's primary care physician or
17 other health professional designated by the individual, the health
18 facility shall notify the individual or the individual's primary
19 care physician or other health professional designated by the
20 individual directly at that address.

21 (b) If the potentially exposed individual is a police officer,
22 fire fighter, or individual licensed under section 20950 or 20952,
23 and if the health facility does not have the name of the
24 potentially exposed individual or the individual's primary care
25 physician or other health professional designated by the
26 individual, the health facility shall notify the appropriate police
27 department, fire department, or life support agency that employs or

1 dispatches the individual. If the health facility is unable to
2 determine the employer of an individual described in this
3 subdivision, the health facility shall notify the medical control
4 authority or chief elected official of the governmental unit that
5 has jurisdiction over the transporting vehicle.

6 (c) A medical control authority or chief elected official
7 described in subdivision (b) shall notify the potentially exposed
8 individual or the individual's primary care physician or other
9 health professional designated by the individual or, if unable to
10 notify the potentially exposed individual or the individual's
11 primary care physician or other health professional designated by
12 the individual, shall document in writing the notification efforts
13 and reasons for being unable to make the notification.

14 (5) The notice required under subsection (1) shall not contain
15 information that would identify the emergency patient who tested
16 positive for an infectious agent or who tested positive or negative
17 for the presence in the emergency patient of the infectious agent
18 of HIV or HBV. The information contained in the notice is
19 confidential and is subject to this section, the rules promulgated
20 under section ~~5111(2)~~ **5111**, and section 5131. A person who receives
21 confidential information under this section shall disclose the
22 information to others only to the extent consistent with the
23 authorized purpose for which the information was obtained.

24 (6) The department shall promulgate rules to administer this
25 section. The department shall develop and distribute the forms
26 required under subsections (1)(a) and (c) and (2).

27 (7) Except as otherwise provided in this subsection, a person

1 who discloses information regarding an infectious agent in
2 violation of subsection (5) is guilty of a misdemeanor. This
3 subsection does not apply to the disclosure of information
4 regarding a serious communicable disease or infection, if the
5 disclosure is subject to rules promulgated under section ~~5111(2)~~
6 5111 or to section 5131.

7 (8) A person or governmental entity that makes a good faith
8 effort to comply with subsection (1), (2), (3), or (4) is immune
9 from any civil liability or criminal penalty based on compliance or
10 the failure to comply.

11 (9) As used in this section:

12 (a) "Emergency patient" means an individual who is transported
13 to an organized emergency department located in and operated by a
14 hospital licensed under this article or a facility other than a
15 hospital that is routinely available for the general care of
16 medical patients.

17 (b) "HBV" means hepatitis B virus.

18 (c) "HBV infected" or "HBV infection" means the status of an
19 individual who is tested as HBsAg-positive.

20 (d) "Health facility" means a health facility or agency as
21 defined in section 20106.

22 (e) "HIV" means human immunodeficiency virus.

23 (f) "HIV infected" means that term as defined in section 5101.

24 (g) "Infectious agent" means that term as defined in R
25 325.9031 of the Michigan administrative code.

26 (h) "Life support agency" means that term as defined in
27 section 20906.

1 (i) "Serious communicable disease or infection" means that
2 term as defined in section 5101.

3 Enacting section 1. This amendatory act does not take effect
4 unless Senate Bill No. ____ or House Bill No. 4901(request no.
5 02505'09 a) of the 95th Legislature is enacted into law.