

SUBSTITUTE FOR  
HOUSE BILL NO. 5649

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding sections 16221a and 20165a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 16221A. (1) EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR  
2 WILLFUL MISCONDUCT AS DETERMINED BY THE DEPARTMENT, A HEALTH CARE  
3 PROVIDER'S RECOMMENDATION OR TREATMENT PROVIDED AS AUTHORIZED UNDER  
4 THE RIGHT TO TRY ACT IS NOT GROUNDS FOR THE DEPARTMENT TO  
5 INVESTIGATE UNDER SECTION 16221 OR FOR DISCIPLINARY ACTION AGAINST  
6 A LICENSEE UNDER SECTION 16226.

7           (2) AS USED IN THIS SECTION:

8           (A) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO  
9 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER SERIOUS  
10 INJURY TO A PERSON WOULD RESULT.

1 (B) "WILLFUL MISCONDUCT" MEANS CONDUCT COMMITTED WITH AN  
2 INTENTIONAL OR RECKLESS DISREGARD FOR THE SAFETY OF OTHERS, AS BY  
3 FAILING TO EXERCISE REASONABLE CARE TO PREVENT A KNOWN DANGER.

4 SEC. 20165A. (1) EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR  
5 WILLFUL MISCONDUCT AS DETERMINED BY THE DEPARTMENT, A HEALTH  
6 FACILITY'S COOPERATION IN A TREATMENT RECOMMENDED BY A HEALTH  
7 PROFESSIONAL AS AUTHORIZED UNDER THE RIGHT TO TRY ACT, ALONE, IS  
8 NOT GROUNDS FOR THE DEPARTMENT TO TAKE ANY ACTION AGAINST A  
9 LICENSEE UNDER SECTION 20165.

10 (2) AS USED IN THIS SECTION:

11 (A) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO  
12 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER SERIOUS  
13 INJURY TO A PERSON WOULD RESULT.

14 (B) "WILLFUL MISCONDUCT" MEANS CONDUCT COMMITTED WITH AN  
15 INTENTIONAL OR RECKLESS DISREGARD FOR THE SAFETY OF OTHERS, AS BY  
16 FAILING TO EXERCISE REASONABLE CARE TO PREVENT A KNOWN DANGER.

17 Enacting section 1. This amendatory act does not take effect  
18 unless Senate Bill No. 991 of the 97th Legislature is enacted into  
19 law.