

# HOUSE BILL No. 5404

March 11, 2014, Introduced by Reps. Crawford, Forlini, Graves, Lane, Yanez, Zorn, Lauwers and Kowall and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20919 and 20965 (MCL 333.20919 and 333.20965), section 20919 as amended by 2006 PA 582 and section 20965 as amended by 2000 PA 375.

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

1           Sec. 20919. (1) A ~~local~~ medical control authority shall  
2 establish written protocols for the practice of life support  
3 agencies and licensed emergency medical services personnel within  
4 its region. The **MEDICAL CONTROL AUTHORITY SHALL DEVELOP AND ADOPT**  
5 ~~THE protocols shall be developed and adopted~~ **REQUIRED UNDER THIS**  
6 **SECTION** in accordance with procedures established by the department  
7 and shall include all of the following:

8           (a) The acts, tasks, or functions that may be performed by

1 each type of emergency medical services personnel licensed under  
2 this part.

3 (b) Medical protocols to ensure the appropriate dispatching of  
4 a life support agency based upon medical need and the capability of  
5 the emergency medical services system.

6 (c) Protocols for complying with the Michigan do-not-  
7 resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067.

8 (d) Protocols defining the process, actions, and sanctions a  
9 medical control authority may use in holding a life support agency  
10 or personnel accountable.

11 (e) Protocols to ensure that if the medical control authority  
12 determines that an immediate threat to the public health, safety,  
13 or welfare exists, appropriate action to remove medical control can  
14 immediately be taken until the medical control authority has had  
15 the opportunity to review the matter at a medical control authority  
16 hearing. The protocols ~~shall~~**MUST** require that the hearing is held  
17 within 3 business days after the medical control authority's  
18 determination.

19 (f) Protocols to ensure that if medical control has been  
20 removed from a participant in an emergency medical services system,  
21 the participant does not provide prehospital care until medical  
22 control is reinstated, and that the medical control authority that  
23 removed the medical control notifies the department within 1  
24 business day of the removal.

25 (g) Protocols ~~that~~**TO** ensure **THAT** a quality improvement  
26 program is in place within a medical control authority and provides  
27 data protection as provided in 1967 PA 270, MCL 331.531 to

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1 ~~331.533.331.534.~~

2 (h) Protocols to ensure that an appropriate appeals process is  
3 in place.

4 (i) ~~Within 1 year after December 23, 2003, protocols~~ **PROTOCOLS**  
5 to ensure that each life support agency that provides basic life  
6 support, limited advanced life support, or advanced life support is  
7 equipped with epinephrine or epinephrine auto-injectors and that  
8 each emergency services personnel authorized to provide those  
9 services is properly trained to recognize an anaphylactic reaction,  
10 to administer the epinephrine, and to dispose of the epinephrine  
11 auto-injector or vial.

12 (j) ~~Within 6 months after the effective date of the amendatory~~  
13 ~~act that added this subdivision, protocols~~ **PROTOCOLS** to ensure that  
14 each life support vehicle that is dispatched and responding to  
15 provide medical first response life support, basic life support, or  
16 limited advanced life support is equipped with an automated  
17 external defibrillator and that each emergency services personnel  
18 is properly trained to utilize the automated external  
19 defibrillator.

20 (K) **[EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WITHIN 12]**  
21 **MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**  
22 **ACT THAT ADDED THIS SUBDIVISION, PROTOCOLS TO ENSURE THAT EACH LIFE**  
23 **SUPPORT VEHICLE THAT IS DISPATCHED AND RESPONDING TO PROVIDE**  
24 **MEDICAL FIRST RESPONSE LIFE SUPPORT, BASIC LIFE SUPPORT, OR LIMITED**  
25 **ADVANCED LIFE SUPPORT IS EQUIPPED WITH OPIOID ANTAGONISTS AND THAT**  
26 **EACH EMERGENCY SERVICES PERSONNEL IS PROPERLY TRAINED TO ADMINISTER**  
27 **OPIOID ANTAGONISTS. [BEGINNING 3 YEARS AFTER THE EFFECTIVE DATE OF THE**  
**AMENDATORY ACT THAT ADDED THIS SUBDIVISION, A MEDICAL CONTROL AUTHORITY,**  
**AT ITS DISCRETION, MAY RESCIND OR CONTINUE THE PROTOCOL ADOPTED UNDER**  
**THIS SUBDIVISION.]**

(2) A **MEDICAL CONTROL AUTHORITY SHALL NOT ESTABLISH A** protocol

1 ~~established under this section shall not conflict~~ **THAT CONFLICTS**  
2 with the Michigan do-not-resuscitate procedure act, 1996 PA 193,  
3 MCL 333.1051 to 333.1067.

4 (3) The **DEPARTMENT SHALL ESTABLISH** procedures ~~established by~~  
5 ~~the department for~~ **THE** development and adoption of written  
6 protocols under this section. ~~shall comply with~~ **THE PROCEDURES MUST**  
7 **INCLUDE** at least all of the following requirements:

8 (a) At least 60 days before adoption of a protocol, the  
9 medical control authority shall circulate a written draft of the  
10 proposed protocol to all significantly affected persons within the  
11 emergency medical services system served by the medical control  
12 authority and submit the written draft to the department for  
13 approval.

14 (b) The department shall review a proposed protocol for  
15 consistency with other protocols concerning similar subject matter  
16 that have already been established in this state and shall consider  
17 any written comments received from interested persons in its  
18 review.

19 (c) Within 60 days after receiving a written draft of a  
20 proposed protocol from a medical control authority, the department  
21 shall provide a written recommendation to the medical control  
22 authority with any comments or suggested changes on the proposed  
23 protocol. If the department does not respond within 60 days after  
24 receiving the written draft, the proposed protocol ~~shall be~~ **IS**  
25 considered to be approved by the department.

26 (d) After department approval of a proposed protocol, the  
27 medical control authority may formally adopt and implement the

1 protocol.

2 (e) A medical control authority may establish an emergency  
3 protocol necessary to preserve the health or safety of individuals  
4 within its ~~jurisdiction~~**REGION** in response to a present medical  
5 emergency or disaster without following the procedures established  
6 by the department under this ~~section~~**SUBSECTION** for an ordinary  
7 protocol. An emergency protocol established under this subdivision  
8 is effective only for a limited ~~time~~-period and does not take  
9 permanent effect unless it is approved according to **THE PROCEDURES**  
10 **ESTABLISHED BY THE DEPARTMENT UNDER** this subsection.

11 (4) A medical control authority shall provide an opportunity  
12 for an affected participant in an emergency medical services system  
13 to appeal a decision of the medical control authority. Following  
14 appeal, the medical control authority may affirm, suspend, or  
15 revoke its original decision. After appeals to the medical control  
16 authority have been exhausted, the affected participant in an  
17 emergency medical services system may appeal the medical control  
18 authority's decision to the ~~statewide~~**STATE** emergency medical  
19 services coordination committee **CREATED IN SECTION 20915**. The  
20 ~~statewide~~**STATE** emergency medical services coordination committee  
21 shall issue an opinion on whether the actions or decisions of the  
22 medical control authority are in accordance with the department-  
23 approved protocols of the medical control authority and state law.  
24 If the ~~statewide~~**STATE** emergency medical services coordination  
25 committee determines in its opinion that the actions or decisions  
26 of the medical control authority are not in accordance with the  
27 medical control authority's department-approved protocols or with

1 state law, the **STATE** emergency medical services coordination  
2 committee shall recommend that the department take any enforcement  
3 action authorized under this code.

4 (5) If adopted in protocols approved by the department, a  
5 medical control authority may require life support agencies within  
6 its region to meet reasonable additional standards for equipment  
7 and personnel, other than medical first responders, that may be  
8 more stringent than are otherwise required under this part. If a  
9 medical control authority **PROPOSES A PROTOCOL THAT** establishes  
10 additional standards for equipment and personnel, the medical  
11 control authority and the department shall consider the medical and  
12 economic impact on the local community, the need for communities to  
13 do long-term planning, and the availability of personnel. If either  
14 the medical control authority or the department determines that  
15 negative medical or economic impacts outweigh the benefits of those  
16 additional standards as they affect public health, safety, and  
17 welfare, **THE MEDICAL CONTROL AUTHORITY SHALL NOT ADOPT AND THE**  
18 **DEPARTMENT SHALL NOT APPROVE** protocols containing those additional  
19 standards. ~~shall not be adopted.~~

20 (6) If adopted in protocols approved by the department, a  
21 ~~local~~ medical control authority may require medical first response  
22 services and licensed medical first responders within its region to  
23 meet additional standards for equipment and personnel to ensure  
24 that each medical first response service is equipped with an  
25 epinephrine auto-injector, and that each licensed medical first  
26 responder is properly trained to recognize an anaphylactic reaction  
27 and to administer and dispose of the epinephrine auto-injector, if

1 a life support agency that provides basic life support, limited  
2 advanced life support, or advanced life support is not readily  
3 available in that location.

4 (7) If a decision of the medical control authority under  
5 subsection (5) or (6) is appealed by an affected person, the  
6 medical control authority shall make available, in writing, the  
7 medical and economic information it considered in making its  
8 decision. On appeal, the ~~statewide~~**STATE** emergency medical services  
9 coordination committee shall review this information under  
10 subsection (4) and shall issue its findings in writing.

11 Sec. 20965. (1) Unless an act or omission is the result of  
12 gross negligence or willful misconduct, the acts or omissions of a  
13 medical first responder, emergency medical technician, emergency  
14 medical technician specialist, paramedic, medical director of a  
15 medical control authority or his or her designee, or, subject to  
16 subsection (5), an individual acting as a clinical preceptor of a  
17 department-approved education program sponsor while providing  
18 services to a patient outside a hospital, in a hospital before  
19 transferring patient care to hospital personnel, or in a clinical  
20 setting that are consistent with the individual's licensure or  
21 additional training required by the medical control authority  
22 including, but not limited to, services described in subsection  
23 (2), or consistent with an approved procedure for that particular  
24 education program do not impose liability in the treatment of a  
25 patient on those individuals or any of the following persons:

- 26 (a) The authorizing physician or physician's designee.  
27 (b) The medical director and individuals serving on the

1 governing board, advisory body, or committee of the medical control  
2 authority and an employee of the medical control authority.

3 (c) The person providing communications services or lawfully  
4 operating or utilizing supportive electronic communications  
5 devices.

6 (d) The life support agency or an officer, member of the  
7 staff, or other employee of the life support agency.

8 (e) The hospital or an officer, member of the staff, nurse, or  
9 other employee of the hospital.

10 (f) The authoritative governmental unit or units.

11 (g) Emergency personnel from outside the state.

12 (h) The education program medical director.

13 (i) The education program instructor-coordinator.

14 (j) The education program sponsor and education program  
15 sponsor advisory committee.

16 (k) The student of a department-approved education program who  
17 is participating in an education program-approved clinical setting.

18 (l) An instructor or other staff employed by or under contract  
19 to a department-approved education program for the purpose of  
20 providing training or instruction for the department-approved  
21 education program.

22 (m) The life support agency or an officer, member of the  
23 staff, or other employee of the life support agency providing the  
24 clinical setting described in subdivision (k).

25 (n) The hospital or an officer, member of the medical staff,  
26 or other employee of the hospital providing the clinical setting  
27 described in subdivision (k).



1           (2) Subsection (1) applies to services consisting of **ANY OF**  
2 the **FOLLOWING:**

3           **(A) THE** use of an automated external defibrillator on an  
4 individual who is in or is exhibiting symptoms of cardiac distress.

5           **(B) THE ADMINISTRATION OF AN OPIOID ANTAGONIST TO AN**  
6 **INDIVIDUAL WHO IS SUFFERING OR IS EXHIBITING SYMPTOMS OF AN OPIOID-**  
7 **RELATED OVERDOSE.**

8           (3) Unless an act or omission is the result of gross  
9 negligence or willful misconduct, the acts or omissions of any of  
10 the persons named below, while participating in the development of  
11 protocols under this part, implementation of protocols under this  
12 part, or holding a participant in the emergency medical services  
13 system accountable for department-approved protocols under this  
14 part, does not impose liability in the performance of those  
15 functions:

16           (a) The medical director and individuals serving on the  
17 governing board, advisory body, or committees of the medical  
18 control authority or employees of the medical control authority.

19           (b) A participating hospital or freestanding surgical  
20 outpatient facility in the medical control authority or an officer,  
21 member of the medical staff, or other employee of the hospital or  
22 freestanding surgical outpatient facility.

23           (c) A participating agency in the medical control authority or  
24 an officer, member of the medical staff, or other employee of the  
25 participating agency.

26           (d) A nonprofit corporation that performs the functions of a  
27 medical control authority.

1           (4) Subsections (1) and (3) do not limit immunity from  
2 liability otherwise provided by law for any of the persons listed  
3 in subsections (1) and (3).

4           (5) The limitation on liability granted to a clinical  
5 preceptor under subsection (1) applies only to an act or omission  
6 of the clinical preceptor relating directly to a student's clinical  
7 training activity or responsibility while the clinical preceptor is  
8 physically present with the student during the clinical training  
9 activity, and does not apply to an act or omission of the clinical  
10 preceptor during that time that indirectly relates or does not  
11 relate to the student's clinical training activity or  
12 responsibility.

13           Enacting section 1. This amendatory act does not take effect  
14 unless all of the following bills of the 97th Legislature are  
15 enacted into law:

16           (a) Senate Bill No. 721.

17           (b) Senate Bill No. \_\_\_\_ or House Bill No. 5407 (request no.  
18 04233'13 \*).

19           (c) Senate Bill No. \_\_\_\_ or House Bill No. 5405 (request no.  
20 04998'14).