SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5404

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:

(a) The acts, tasks, or functions that may be performed by each type of emergency medical services personnel licensed under this part.

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

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

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

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

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

(g) Protocols ~~that~~ **TO** ensure **THAT** a quality improvement program is in place within a medical control authority and provides

1 data protection as provided in 1967 PA 270, MCL 331.531 to
2 ~~331.533.~~**331.534.**
3 (h) Protocols to ensure that an appropriate appeals process is
4 in place.
5 (i) ~~Within 1 year after December 23, 2003, protocols~~ **PROTOCOLS**
6 to ensure that each life support agency that provides basic life
7 support, limited advanced life support, or advanced life support is
8 equipped with epinephrine or epinephrine auto-injectors and that
9 each emergency services personnel authorized to provide those
10 services is properly trained to recognize an anaphylactic reaction,
11 to administer the epinephrine, and to dispose of the epinephrine
12 auto-injector or vial.
13 (j) ~~Within 6 months after the effective date of the amendatory~~
14 ~~act that added this subdivision, protocols~~ **PROTOCOLS** to ensure that
15 each life support vehicle that is dispatched and responding to
16 provide medical first response life support, basic life support, or
17 limited advanced life support is equipped with an automated
18 external defibrillator and that each emergency services personnel
19 is properly trained to utilize the automated external
20 defibrillator.
21 **(K) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WITHIN**
22 **12 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
23 **THIS SUBDIVISION, PROTOCOLS TO ENSURE THAT EACH LIFE SUPPORT**
24 **VEHICLE THAT IS DISPATCHED AND RESPONDING TO PROVIDE MEDICAL FIRST**
25 **RESPONSE LIFE SUPPORT, BASIC LIFE SUPPORT, OR LIMITED ADVANCED LIFE**
26 **SUPPORT IS EQUIPPED WITH OPIOID ANTAGONISTS AND THAT EACH EMERGENCY**
27 **SERVICES PERSONNEL IS PROPERLY TRAINED TO ADMINISTER 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 ~~established~~ under this section ~~shall not conflict~~ **THAT CONFLICTS** with the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067.

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

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

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

(c) Within 60 days after receiving a written draft of a proposed protocol from a medical control authority, the department shall provide a written recommendation to the medical control authority with any comments or suggested changes on the proposed

protocol. If the department does not respond within 60 days after receiving the written draft, the proposed protocol ~~shall be~~ **IS** considered to be approved by the department.

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

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

(4) A medical control authority shall provide an opportunity for an affected participant in an emergency medical services system to appeal a decision of the medical control authority. Following appeal, the medical control authority may affirm, suspend, or revoke its original decision. After appeals to the medical control authority have been exhausted, the affected participant in an emergency medical services system may appeal the medical control authority's decision to the ~~statewide~~ **STATE** emergency medical services coordination committee **CREATED IN SECTION 20915**. The ~~statewide~~ **STATE** emergency medical services coordination committee shall issue an opinion on whether the actions or decisions of the medical control authority are in accordance with the department-

1 approved protocols of the medical control authority and state law.
2 If the ~~statewide~~ **STATE** emergency medical services coordination
3 committee determines in its opinion that the actions or decisions
4 of the medical control authority are not in accordance with the
5 medical control authority's department-approved protocols or with
6 state law, the **STATE** emergency medical services coordination
7 committee shall recommend that the department take any enforcement
8 action authorized under this code.
9 (5) If adopted in protocols approved by the department, a
10 medical control authority may require life support agencies within
11 its region to meet reasonable additional standards for equipment
12 and personnel, other than medical first responders, that may be
13 more stringent than are otherwise required under this part. If a
14 medical control authority **PROPOSES A PROTOCOL THAT** establishes
15 additional standards for equipment and personnel, the medical
16 control authority and the department shall consider the medical and
17 economic impact on the local community, the need for communities to
18 do long-term planning, and the availability of personnel. If either
19 the medical control authority or the department determines that
20 negative medical or economic impacts outweigh the benefits of those
21 additional standards as they affect public health, safety, and
22 welfare, **THE MEDICAL CONTROL AUTHORITY SHALL NOT ADOPT AND THE**
23 **DEPARTMENT SHALL NOT APPROVE** protocols containing those additional
24 standards**.** ~~shall not be adopted.~~
25 (6) If adopted in protocols approved by the department, a
26 ~~local~~ medical control authority may require medical first response
27 services and licensed medical first responders within its region to

1 meet additional standards for equipment and personnel to ensure
2 that each medical first response service is equipped with an
3 epinephrine auto-injector, and that each licensed medical first
4 responder is properly trained to recognize an anaphylactic reaction
5 and to administer and dispose of the epinephrine auto-injector, if
6 a life support agency that provides basic life support, limited
7 advanced life support, or advanced life support is not readily
8 available in that location.

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

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

1 (2), or consistent with an approved procedure for that particular
2 education program do not impose liability in the treatment of a
3 patient on those individuals or any of the following persons:
4 (a) The authorizing physician or physician's designee.
5 (b) The medical director and individuals serving on the
6 governing board, advisory body, or committee of the medical control
7 authority and an employee of the medical control authority.
8 (c) The person providing communications services or lawfully
9 operating or utilizing supportive electronic communications
10 devices.
11 (d) The life support agency or an officer, member of the
12 staff, or other employee of the life support agency.
13 (e) The hospital or an officer, member of the staff, nurse, or
14 other employee of the hospital.
15 (f) The authoritative governmental unit or units.
16 (g) Emergency personnel from outside the state.
17 (h) The education program medical director.
18 (i) The education program instructor-coordinator.
19 (j) The education program sponsor and education program
20 sponsor advisory committee.
21 (k) The student of a department-approved education program who
22 is participating in an education program-approved clinical setting.
23 (*l*) An instructor or other staff employed by or under contract
24 to a department-approved education program for the purpose of
25 providing training or instruction for the department-approved
26 education program.
27 (m) The life support agency or an officer, member of the

1 staff, or other employee of the life support agency providing the
2 clinical setting described in subdivision (k).
3 (n) The hospital or an officer, member of the medical staff,
4 or other employee of the hospital providing the clinical setting
5 described in subdivision (k).
6 (2) Subsection (1) applies to services consisting of **ANY OF**
7 the **FOLLOWING:**
8 **(A) THE** use of an automated external defibrillator on an
9 individual who is in or is exhibiting symptoms of cardiac distress.
10 **(B) THE ADMINISTRATION OF AN OPIOID ANTAGONIST TO AN**
11 **INDIVIDUAL WHO IS SUFFERING OR IS EXHIBITING SYMPTOMS OF AN OPIOID-**
12 **RELATED OVERDOSE.**
13 (3) Unless an act or omission is the result of gross
14 negligence or willful misconduct, the acts or omissions of any of
15 the persons named below, while participating in the development of
16 protocols under this part, implementation of protocols under this
17 part, or holding a participant in the emergency medical services
18 system accountable for department-approved protocols under this
19 part, does not impose liability in the performance of those
20 functions:
21 (a) The medical director and individuals serving on the
22 governing board, advisory body, or committees of the medical
23 control authority or employees of the medical control authority.
24 (b) A participating hospital or freestanding surgical
25 outpatient facility in the medical control authority or an officer,
26 member of the medical staff, or other employee of the hospital or
27 freestanding surgical outpatient facility.

1 (c) A participating agency in the medical control authority or
2 an officer, member of the medical staff, or other employee of the
3 participating agency.
4 (d) A nonprofit corporation that performs the functions of a
5 medical control authority.
6 (4) Subsections (1) and (3) do not limit immunity from
7 liability otherwise provided by law for any of the persons listed
8 in subsections (1) and (3).
9 (5) The limitation on liability granted to a clinical
10 preceptor under subsection (1) applies only to an act or omission
11 of the clinical preceptor relating directly to a student's clinical
12 training activity or responsibility while the clinical preceptor is
13 physically present with the student during the clinical training
14 activity, and does not apply to an act or omission of the clinical
15 preceptor during that time that indirectly relates or does not
16 relate to the student's clinical training activity or
17 responsibility.