[No. 237]

(SB 781)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 5656, 5657, 5658, 5659, and 5660 (MCL 333.5656, 333.5657, 333.5658, 333.5659, and 333.5660), as added by 1996 PA 594.

The People of the State of Michigan enact:

333.5656 Updated standardized written summary; development; publication; contents; availability to physicians.

Sec. 5656. (1) By July 1, 2002, the department of community health shall develop and publish an updated standardized, written summary that contains all of the information required under section 5655.

(2) The department shall develop the updated standardized, written summary in consultation with appropriate professional and other organizations. The department shall draft the summary in nontechnical terms that a patient, patient surrogate, or patient advocate can easily understand.

(3) The department shall make the updated standardized, written summary described in subsection (1) available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery created in article 15. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing each physician subject to this part of the requirements of this part and the availability of the updated standardized, written summary within 10 days after the updated standardized, written summary is published.

333.5657 Availability of form to patient, patient surrogate, or patient advocate; compliance with § 333.5656; placement of signed form in patient's medical record; signed form as bar to civil or administrative action.

Sec. 5657. (1) If a physician gives a copy of the standardized, written summary developed and published before July 1, 2002 or a copy of the updated standardized, written

summary made available under section 5656 to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate, the physician is in full compliance with the requirements of section 5655.

(2) A physician may make available to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate a form indicating that the patient, patient surrogate, or patient advocate has been given a copy of the standardized, written summary developed and published under section 5656 before July 1, 2002 or a copy of the updated standardized, written summary developed and published under section 5656 on or after July 1, 2002 and received the oral information required under section 5654. If a physician makes such a form available to a patient, to the patient's patient surrogate, or to the patient advocate, the physician shall request that the patient, patient's patient surrogate, or patient advocate sign the form and shall place a copy of the signed form in the patient's medical record.

(3) A patient, a patient's patient surrogate, or a patient advocate who signs a form under subsection (2) is barred from subsequently bringing a civil or administrative action against the physician for providing the information orally and in writing under section 5655 based on failure to obtain informed consent.

333.5658 Prescription of controlled substance; immunity from administrative and civil liability.

Sec. 5658. A physician who, as part of a medical treatment plan for a patient with reduced life expectancy due to advanced illness, prescribes for that patient a controlled substance that is included in schedules 2 to 5 under part 72 and that is a narcotic drug is immune from administrative and civil liability based on prescribing the controlled substance if the prescription is given in good faith and with the intention to treat a patient with reduced life expectancy due to advanced illness or alleviate the patient's pain, or both, and all of the following are met:

(a) The prescription is for a legitimate legal and professionally recognized therapeutic purpose.

(b) Prescribing the controlled substance is within the scope of practice of the physician.

(c) The physician holds a valid license under article 7 to prescribe controlled substances.

333.5659 Life insurer, health insurer, or health care payment or benefits plan; prohibited acts.

Sec. 5659. A life insurer, a health insurer, or a health care payment or benefits plan shall not do 1 or more of the following because a patient with reduced life expectancy due to advanced illness, the patient's patient surrogate, or the patient advocate has made a decision to refuse or discontinue a medical treatment as a result of information received as required under this part:

(a) Refuse to provide or continue coverage or benefits to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(b) Limit the amount of coverage or benefits available to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(c) Charge the patient a different rate for coverage or benefits under an existing policy, certificate, or contract.

(d) Consider the terms of an existing policy, certificate, or contract to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy, certificate, or contract covering the patient.

333.5660 Scope of part; limitation.

Sec. 5660. This part does not do the following:

(a) Impair or supersede a legal right a parent, patient, patient advocate, legal guardian, or other individual may have to consent to or refuse medical treatment on behalf of another.

(b) Create a presumption about the desire of a patient who has reduced life expectancy due to advanced illness to receive or refuse medical treatment, regardless of the ability of the patient to participate in medical treatment decisions.

(c) Limit the ability of a court making a determination about a decision of a patient who has reduced life expectancy due to advanced illness to take into consideration all of the following state interests:

(*i*) The preservation of life.

(*ii*) The prevention of suicide.

(*iii*) The protection of innocent third parties.

(*iv*) The preservation of the integrity of the medical profession.

(d) Condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia.

Effective date of § 333.5657.

Enacting section 1. Section 5657 of the public health code, 1978 PA 368, MCL 333.5657, as amended by this amendatory act, takes effect October 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5258 of the 91st Legislature is enacted into law.

Construction of § 333.5656.

Enacting section 3. The 2001 amendatory act that amended section 5656 of the public health code, 1978 PA 368, MCL 333.5656, shall not be construed as creating a new mandated benefit for any coverages issued under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or any other health care payment or benefits plan.

This act is ordered to take immediate effect.
Approved January 3, 2002.
Filed with Secretary of State January 3, 2002.

Compiler's note: House Bill No. 5258, referred to in enacting section 2, was filed with the Secretary of State January 8, 2002, and became P.A. 2001, No. 239, Imd. Eff. Jan. 8, 2002.