

HOUSE BILL NO. 5704

April 16, 2020, Introduced by Rep. Yaroch and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20191 (MCL 333.20191), as amended by 2010 PA
119.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20191. (1) If a police officer, fire fighter, individual
2 licensed under section 20950 or 20952, or another individual
3 assists an emergency patient who is subsequently transported to a
4 health facility or transports an emergency patient to a health
5 facility, and if the emergency patient, as part of the treatment



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

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

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

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

25 (b) Subject to subsection (4), if the test results indicate
26 that the emergency patient is HIV infected, the health facility
27 shall not reveal that the infectious agent is HIV unless the health
28 facility has received a written request for notification from an
29 individual described in subdivision (a) (i) or (ii). This subdivision



1 does not apply if the test results indicate that the emergency
2 patient is not HIV infected.

3 (c) Subject to subsection (4), on a form provided by the
4 department, notify the individual described in subdivision (a), at
5 a minimum, of the appropriate infection control precautions to be
6 taken and the approximate date of the potential exposure. If the
7 emergency patient is tested pursuant to a request made under
8 subsection (2) for the presence in the emergency patient of the
9 infectious agent of HIV, ~~or~~ HBV, **or coronavirus**, or ~~both~~, **all 3**
10 **infectious agents**, and if the test results are positive or
11 negative, the health facility also shall notify the individual
12 described in subdivision (a) on the form provided by the department
13 that he or she should be tested for **coronavirus**, HIV infection, or
14 HBV infection, or ~~both~~, **all 3 infectious agents**, and counseled
15 regarding ~~both infectious agents~~. **HIV infection and HBV infection.**

16 (2) A police officer, fire fighter, individual licensed under
17 section 20950 or 20952, or other individual who assists an
18 emergency patient who is subsequently transported to a health
19 facility or who transports an emergency patient to a health
20 facility and who sustains a percutaneous, mucous membrane, or open
21 wound exposure to the blood or body fluids of the emergency patient
22 may request that the emergency patient be tested for **coronavirus**,
23 HIV infection, or HBV infection, ~~or both~~, **or all 3 infectious**
24 **agents**, pursuant to this subsection. The police officer, fire
25 fighter, individual licensed under section 20950 or 20952, or other
26 individual shall make a request to a health facility under this
27 subsection in writing on a form provided by the department and
28 before the emergency patient is discharged from the health
29 facility. The request form ~~shall~~ **must** be dated and ~~shall~~ **must**



1 contain, at a minimum, the name and address of the individual
2 making the request and a description of the individual's exposure
3 to the emergency patient's blood or other body fluids. The request
4 form ~~shall~~**must** contain a space for the information required under
5 subsection (3) and a statement that the requester is subject to the
6 confidentiality requirements of subsection (5) and section 5131.
7 The request form ~~shall~~**must** not contain information that would
8 identify the emergency patient by name. A health facility that
9 receives a request under this subsection shall accept as fact the
10 requester's description of his or her exposure to the emergency
11 patient's blood or other body fluids, unless the health facility
12 has reasonable cause to believe otherwise. The health facility
13 shall make a determination as to whether or not the exposure
14 described in the request was a percutaneous, mucous membrane, or
15 open wound exposure pursuant to R 325.70001 to R 325.70018 of the
16 Michigan ~~administrative code.~~**Administrative Code.** If the health
17 facility determines that the exposure described in the request was
18 a percutaneous, mucous membrane, or open wound exposure, the health
19 facility shall test the emergency patient for **coronavirus**, HIV
20 infection, or HBV infection, ~~or both,~~**or all 3 infectious agents**,
21 as indicated in the request. A health facility that performs a test
22 under this subsection may charge the individual requesting the test
23 for the reasonable and customary charges of the test. The
24 individual requesting the test is responsible for the payment of
25 the charges if the charges are not payable by the individual's
26 employer, pursuant to an agreement between the individual and the
27 employer, or by the individual's health care payment or benefits
28 plan. A health facility is not required to provide HIV counseling
29 pursuant to section 5133(1) to an individual who requests that an



1 emergency patient be tested for HIV under this subsection, unless
 2 the health facility tests the requesting individual for HIV.

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

29 (4) ~~The~~ **A health facility shall provide the** notification



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

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

19 (b) If the potentially exposed individual is a police officer,
20 fire fighter, or individual licensed under section 20950 or 20952,
21 and if the health facility does not have the name of the
22 potentially exposed individual or the individual's primary care
23 physician or other health professional designated by the
24 individual, the health facility shall notify the appropriate police
25 department, fire department, or life support agency that employs or
26 dispatches the individual. If the health facility is unable to
27 determine the employer of an individual described in this
28 subdivision, the health facility shall notify the medical control
29 authority or chief elected official of the governmental unit that



1 has jurisdiction over the transporting vehicle.

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

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

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

23 (7) Except as otherwise provided in this subsection, a person
24 who discloses information regarding an infectious agent in
25 violation of subsection (5) is guilty of a misdemeanor. This
26 subsection does not apply to the disclosure of information
27 regarding a serious communicable disease or infection, if the
28 disclosure is subject to rules promulgated under section 5111 or to
29 section 5131.



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

5 (9) As used in this section:

6 (a) **"Coronavirus" means coronavirus disease 2019 (COVID-19).**

7 (b) ~~(a)~~—"Emergency patient" means an individual who is
 8 transported to an organized emergency department located in and
 9 operated by a hospital licensed under this article or a facility
 10 other than a hospital that is routinely available for the general
 11 care of medical patients.

12 (c) ~~(b)~~—"HBV" means hepatitis B virus.

13 (d) ~~(c)~~—"HBV infected" or "HBV infection" means the status of
 14 an individual who is tested as HBsAg-positive.

15 (e) ~~(d)~~—"Health facility" means a health facility or agency as
 16 defined in section 20106.

17 (f) ~~(e)~~—"HIV" means human immunodeficiency virus.

18 (g) ~~(f)~~—"HIV infected" means that term as defined in section
 19 5101.

20 (h) ~~(g)~~—"Infectious agent" means that term as defined in R
 21 325.9031 of the Michigan ~~administrative code~~. **Administrative Code**
 22 **and also includes coronavirus.**

23 (i) ~~(h)~~—"Life support agency" means that term as defined in
 24 section 20906.

25 (j) ~~(i)~~—"Serious communicable disease or infection" means that
 26 term as defined in section 5101.

