

RESOLUTION 96-10A

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3 **Title: Reporting Impaired Drivers**  
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5 **Introduced by: Domenic R. Federico, MD, for the Kent County Delegation**  
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7 **Original Author: Donald P. Condit, MD, MBA**  
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9 **Referred to: Reference Committee B**  
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11 **House Action: Adopted as Amended**  
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14 **Whereas, motor vehicle injuries are the leading cause of injury-related deaths**  
15 **among 65- to 74-year olds, and are the second leading cause (after falls) in the 75**  
16 **years and older age group, and**  
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18 **Whereas, the older population (persons 65 years and older) is expanding at**  
19 **nearly twice the rate of the total population ([http://www.ama-assn.org/ama1/pub/](http://www.ama-assn.org/ama1/pub/upload/mm/433/physicianspreface.pdf)**  
20 **[upload/mm/433/physicianspreface.pdf](http://www.ama-assn.org/ama1/pub/upload/mm/433/physicianspreface.pdf)), and**  
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22 **Whereas, physicians are often the first to appreciate the hazards a patient**  
23 **may present to themselves and others on when driving, and**  
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25 **Whereas, physicians, as provided by Section 257.320 of the Michigan Vehicle**  
26 **Code, may request, using form OC-88, the Secretary of State to schedule an**  
27 **assessment of a driver based on evidence of physical infirmities or disabilities,**  
28 **vision deficiencies, convulsive seizures, blackouts, episodes, or for other reasons**  
29 **that may affect the person’s ability to operate a motor vehicle safely ( [http://www.](http://www.michigan.gov/documents/_16727_7.PDF)**  
30 **[michigan.gov](http://www.michigan.gov/documents/_16727_7.PDF) /documents/ \_16727\_7.PDF), and**  
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32 **Whereas, physicians must identify themselves and sign form OC-88 or the**  
33 **request will not be processed, and**  
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35 **Whereas, the Secretary of State does not accept anonymous requests, and**  
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37 **Whereas, the federal Health Insurance Portability and Accountability Act of**  
38 **1996 which became law on August 21, 1996, includes privacy rules that became**  
39 **effective April 1, 2001, requiring a physician to obtain a written consent form signed**  
40 **by the patient prior to a physician using or disclosing any of that patient’s medical**  
41 **information, yet the Privacy Rule permits covered entities to disclose protected**  
42 **health information, without authorization, to public health authorities who are**  
43 **legally authorized to receive such reports for the purpose of preventing or**  
44 **controlling disease, injury, or disability. (Section 45 CFR164.512(b))**  
45 **([http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/publichealth/](http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/publichealth/index.html)**  
46 **[index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/publichealth/index.html)), and**

47           Whereas, the “AMA Physician's Guide to Assessing and Counseling Older  
48 Drivers” encourages physicians to report unsafe drivers to the Secretary of State  
49 for evaluation, yet indicates the state of Michigan neither provides immunity nor  
50 legal protection to reporting physicians ([http://www.ama-assn.org/ama1/pub/  
51 upload/mm/433/older-drivers-chapter8.pdf](http://www.ama-assn.org/ama1/pub/upload/mm/433/older-drivers-chapter8.pdf)), and  
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53           Whereas, according to AMA Policy E-2.24 “in situations where clear evidence  
54 of substantial driving impairment implies a strong threat to patient and public  
55 safety, and where the physician’s advice to discontinue driving privileges is  
56 ignored, it is desirable and ethical to notify the Department of Motor Vehicles”  
57 (<http://www.ama-assn.org/ama/pub/category/2512.html>), and  
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59           Whereas, physicians “should not reveal confidential information without the  
60 express consent of the patient, subject to certain exceptions which are ethically  
61 justified because of overriding considerations and when a patient threatens to  
62 inflict serious physical harm to another person or to him or herself and there is a  
63 reasonable probability that the patient may carry out the threat, the physician  
64 should take reasonable precautions for the protection of the intended victim, which  
65 may include notification of law enforcement authorities” [http://www.ama-  
66 assn.org/ama/pub/physician-resources/medical-ethics/code-medical-  
67 ethics/opinion505.shtml](http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion505.shtml)), and  
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69           Whereas, Michigan Senate Bill No. 110 introduced January 28, 2009, by  
70 Senators Olshove, Cherry, Scott, Kahn, George, and Gleason and referred to the  
71 Committee on Transportation is a bill seeking to amend 1949 PA 300 (entitled  
72 "Michigan Vehicle Code") to allow the Secretary of State to consider written  
73 medical opinion and recommendation received from the personal physician of an  
74 applicant and that all such reports received by the Secretary of State from a  
75 physician are confidential, and  
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77           Whereas, Michigan Senate Bill No. 111 introduced January 28, 2009, by  
78 Senators Olshove, Cherry, Scott, Kahn, George, and Gleason and referred to the  
79 Committee on Transportation is a bill seeking to amend 1978 PA 368 (entitled  
80 "Public Health Code") such that physicians will be held harmless under criminal or  
81 civil action if a patient that has been reported to the Secretary of State of a  
82 disqualifying condition; therefore be it  
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84           **RESOLVED:** That MSMS advocate for the State of Michigan to protect the  
85 confidentiality and mitigate civil liability of physicians reporting drivers to the  
86 Secretary of State for assessment; and be it further  
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88           **RESOLVED:** That MSMS obtain legal consultation and provide  
89 documentation in MSMS publications and on the MSMS website that Michigan  
90 physicians reporting patients to the Michigan Secretary of State are not violating  
91 Privacy Rules of the Health Insurance Portability and Accountability Act.  
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94 **WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE**