

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 474**

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2690, 2803, 2848, 2854, 9141, 10102, 16221, 16226, 16245, 16299, 17015, and 20115 (MCL 333.2690, 333.2803, 333.2848, 333.2854, 333.9141, 333.10102, 333.16221, 333.16226, 333.16245, 333.16299, 333.17015, and 333.20115), section 2690 as amended by 2016 PA 386, section 2803 as amended by 2020 PA 54, sections 2848, 17015, and 20115 as amended and section 2854 as added by 2012 PA 499, section 9141 as added by 2004 PA 501, section 10102 as amended by 2008 PA 39, section 16221 as amended by 2023 PA 47, section 16226 as amended by 2023 PA 48, section 16245 as amended by 2014 PA 413, and section 16299 as amended by 2020 PA 375; and to repeal acts and parts of acts.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2690. (1) A person shall not knowingly sell, collect any
2 fee for, transfer, distribute, or give away an embryo, fetus, or
3 neonate for a use that is in violation of sections 2685 to 2689.

4 (2) Except as otherwise provided in subsection (3), a
5 physician, or a person associated with the physician, who, as a
6 result of the physician's performing an ~~elective-abortion~~,
7 possesses a dead embryo, fetus, or neonate shall not knowingly
8 financially benefit from or receive any type of compensation for
9 either of the following:

10 (a) Allowing a person that was not involved in the performance
11 of the ~~elective-abortion~~ to have access to the embryo, fetus, or
12 neonate for the purpose of the person taking possession and control
13 of the embryo, fetus, or neonate, including the organs, tissues, or
14 cells of the embryo, fetus, or neonate.

15 (b) Transferring possession and control of the embryo, fetus,
16 or neonate, including the organs, tissues, or cells of the embryo,
17 fetus, or neonate, to a person that was not involved in the
18 performance of the ~~elective-abortion~~.

19 (3) Subsection (2) does not apply to any of the following:

20 (a) A hospital.

21 (b) A person that is performing an activity as part of that
22 person's employment with a hospital or a contract with a hospital.

23 (c) A person that performs an activity under section 2688. ~~or~~
24 ~~2836.~~

25 (4) As used in this section:

26 (a) ~~"Elective-abortion"~~ **"Abortion"** means **that term as defined**
27 **in section 2803.** ~~the intentional use of an instrument, drug, or~~
28 ~~other substance or device to terminate a woman's pregnancy for a~~



~~purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman.~~

~~Elective abortion does not include any of the following:~~

~~(i) The use or prescription of a drug or device intended as a contraceptive.~~

~~(ii) The intentional use of an instrument, drug, or other substance or device by a physician to terminate a woman's pregnancy if the woman's physical condition, in the physician's reasonable medical judgment, necessitates the termination of the woman's pregnancy to avert her death.~~

~~(iii) Treatment on a pregnant woman who is experiencing a miscarriage or has been diagnosed with an ectopic pregnancy.~~

(b) "Hospital" means a hospital licensed under article 17.

(c) "Person associated with the physician" means any of the following:

(i) An employee of the physician or other individual who assists the physician in performing an ~~elective~~ abortion.

(ii) A private physician practice, professional corporation, or freestanding surgical outpatient facility licensed under article 17, that is owned or operated by the physician and in which an ~~elective~~ abortion is performed.

(iii) A private physician practice, professional corporation, or freestanding surgical outpatient facility licensed under article 17, that employs or contracts with the physician to perform an ~~elective~~ abortion.

Sec. 2803. (1) "Abortion" means ~~that term as defined in section 17015.~~ **a medical treatment that is intended to terminate a**



1 **diagnosable intrauterine pregnancy for a purpose other than to**
 2 **produce a live birth. Abortion does not include the use or**
 3 **prescription of a drug or device that prevents pregnancy or a**
 4 **medical treatment used to remove a dead fetus or embryo whose death**
 5 **was the result of a spontaneous abortion.**

6 (2) "Allowable individual" means an individual who is the
 7 subject of a birth record that is only available through the office
 8 of the state registrar and who meets any of the following:

9 (a) ~~He or she~~ **The individual** was born in the jurisdiction of
 10 the office of the local registrar where the certified copy of the
 11 birth record is being sought.

12 (b) If the individual was adopted, ~~his or her~~ **the individual's**
 13 adoption was ordered by a probate court that is located in the
 14 jurisdiction of the office of the local registrar where the
 15 certified copy of the birth record is being sought.

16 (3) "Dead body" means a human body or fetus, or a part of a
 17 dead human body or fetus, in a condition from which it may
 18 reasonably be concluded that death has occurred.

19 (4) "Fetal death" means the death of a fetus that has
 20 completed at least 20 weeks of gestation or weighs at least 400
 21 grams. Fetal death includes a stillbirth. The definition **of fetal**
 22 **death** must conform in all other respects as closely as possible to
 23 the definition recommended by the federal agency responsible for
 24 vital statistics.

25 (5) "Fetal remains" means a dead fetus or part of a dead fetus
 26 that has completed at least 10 weeks of gestation or has reached
 27 the stage of development that, upon visual inspection of the fetus
 28 or part of the fetus, the head, torso, or extremities appear to be
 29 supported by skeletal or cartilaginous structures. Fetal remains do



1 not include the umbilical cord or placenta.

2 (6) "File" means to present a certificate, report, or other
3 record to the local registrar for registration by the state
4 registrar.

5 (7) "Final disposition" means the burial, cremation,
6 interment, or other legal disposition of a dead body or fetal
7 remains.

8 Sec. 2848. (1) Except as otherwise provided in sections 2844
9 and 2845, a funeral director or person acting as a funeral
10 director, who first assumes custody of a dead body, not later than
11 72 hours after death or the finding of a dead body and before final
12 disposition of the body, shall obtain authorization for the final
13 disposition. The authorization for final disposition of a dead body
14 ~~shall~~ **must** be issued on a form prescribed by the state registrar
15 and signed by the local registrar or the state registrar.

16 (2) ~~Except as otherwise provided in section 2836, or unless~~
17 **Unless** the mother has provided written consent for research on the
18 dead fetus under section 2688, before final disposition of a dead
19 fetus, irrespective of the duration of pregnancy, the funeral
20 director or person assuming responsibility for the final
21 disposition of the fetus or fetal remains shall obtain from the
22 parents, or parent if the mother is unmarried, an authorization for
23 final disposition on a form prescribed and furnished or approved by
24 the state registrar. The authorization may allow final disposition
25 to be by a funeral director, the individual in charge of the
26 institution where the fetus was delivered or miscarried, or an
27 institution or agency authorized to accept donated bodies, fetuses,
28 or fetal remains under this act. The parents, or parent if the
29 mother is unmarried, may direct the final disposition to be



1 interment or cremation as those terms are defined in section 2 of
2 the cemetery regulation act, 1968 PA 251, MCL 456.522, or
3 incineration. After final disposition, the funeral director, the
4 individual in charge of the institution, or other person making the
5 final disposition shall retain the permit for not less than 7
6 years. This section as amended by ~~the amendatory act that added~~
7 ~~this sentence~~ **2012 PA 499** does not require a religious service or
8 ceremony as part of the final disposition of fetal remains.

9 (3) If final disposition is by cremation, the medical examiner
10 of the county in which death occurred shall sign the authorization
11 for final disposition.

12 (4) A body may be moved from the place of death to be prepared
13 for final disposition with the consent of the physician or county
14 medical examiner who certifies the cause of death.

15 (5) A permit for disposition issued under the law of another
16 state that accompanies a dead body or dead fetus brought into this
17 state is authorization for final disposition of the dead body or
18 dead fetus in this state.

19 Sec. 2854. A person who violates this part by failing to
20 ~~dispose of fetal remains resulting from an abortion as prescribed~~
21 ~~in section 2836 or by failing to~~ obtain the proper authorization
22 for final disposition of a dead body as provided under section 2848
23 is responsible for a state civil infraction as provided under
24 chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL
25 600.8801 to 600.8835, and may be ordered to pay a civil fine of not
26 more than \$1,000.00 per violation.

27 Sec. 9141. (1) The department shall establish and administer a
28 grant program to provide grants for the purchase of ultrasound
29 equipment. The department shall use the grant program to make



1 grants to qualified entities that apply for a grant and that do not
2 have at least 2 ultrasound machines.

3 (2) The ultrasound equipment fund is created within the state
4 treasury. The state treasurer may receive money or other assets
5 from any source for deposit into the fund including, but not
6 limited to, state revenues, federal money, gifts, bequests,
7 donations, and money from any other source provided by law. The
8 state treasurer shall direct the investment of the fund. The state
9 treasurer shall credit to the fund interest and earnings from fund
10 investments. Money in the fund at the close of the fiscal year
11 ~~shall remain~~ **remains** in the fund and ~~shall does~~ not lapse to the
12 general fund.

13 (3) The department shall use the fund to make grants as
14 provided under subsection (1) for the purchase of ultrasound
15 equipment and to cover the administrative costs of the department
16 and the department of treasury in implementing and administering
17 this grant program. An application for a grant under the grant
18 program ~~shall must~~ be made on a form or format prescribed by the
19 department. The department may require the applicant to provide
20 information reasonably necessary to allow the department to make a
21 determination required under this section. In making its
22 determination, the department shall give priority to those
23 applicants that do not have an ultrasound machine or that have only
24 1 ultrasound machine that is outdated based on industry standards.
25 The director of the department shall have final approval of grants
26 made under this section and the **director shall only approve** grants
27 ~~shall only be approved~~ if the money is available in the fund.

28 (4) A cash match of at least 50% of the grant or other
29 repayment guarantee with a dedicated funding source is required



1 before a grant can be awarded.

2 (5) The department shall not make a grant to a qualified
3 entity for the purchase of ultrasound equipment unless the
4 following conditions are met:

5 (a) The entity provides family planning or reproductive health
6 services to low-income women at no cost or at a reduced cost.

7 (b) The entity agrees to comply with each of the following:

8 (i) Shall have at least 1 ultrasound monitor that is fully
9 accessible to the pregnant ~~woman~~**individual** to view during the
10 performance of ~~her~~**the individual's** ultrasound.

11 (ii) Inform each pregnant ~~woman~~**individual** upon whom the
12 ultrasound equipment is used that ~~she~~**the individual** has the right
13 to view the ultrasound image.

14 (iii) If the ultrasound equipment is capable, inform each
15 pregnant ~~woman~~**individual** upon whom the ultrasound equipment is
16 used that ~~she~~**the individual** has the right to record the ultrasound
17 image for ~~her~~**the individual's** own records if ~~she~~**the individual**
18 provides the entity with the videocassette, film, or other medium
19 now known or later developed on which images can be recorded or
20 otherwise stored.

21 (iv) Certify in writing that the ~~woman~~**individual** was offered
22 an opportunity to view the ultrasound image, obtain the ~~woman's~~
23 **individual's** acceptance or rejection to view the image in writing,
24 and maintain a copy of each in the ~~woman's~~**individual's** medical
25 file.

26 ~~(v) Shall not use the ultrasound equipment to assist in the~~
27 ~~performance of an elective abortion.~~

28 (v) ~~(vi)~~ Shall have a trained medical professional or a
29 qualified medical director on staff to perform the ultrasound.



1 (6) The department shall annually prepare a report summarizing
 2 the grants made under this section, contractual commitments made
 3 and achieved, and a preliminary evaluation of the effectiveness of
 4 this section and shall provide a copy of this report to the chairs
 5 of the house **of representatives** and senate appropriations
 6 subcommittees for the department. ~~of community health.~~

7 (7) The department may promulgate rules under the
 8 administrative procedures act of 1969 to implement this grant
 9 program.

10 (8) As used in this section:

11 ~~(a) "Department" means the department of community health.~~

12 ~~(b) "Elective abortion" means the performance of a procedure
 13 involving the intentional use of an instrument, drug, or other
 14 substance or device to terminate a woman's pregnancy for a purpose
 15 other than to increase the probability of a live birth, to preserve
 16 the life or health of the child after live birth, or to remove a
 17 dead fetus. Elective abortion does not include either of the
 18 following:~~

19 ~~(i) The use or prescription of a drug or device intended as a
 20 contraceptive.~~

21 ~~(ii) The intentional use of an instrument, drug, or other
 22 substance or device by a physician to terminate a woman's pregnancy
 23 if the woman's physical condition, in the physician's reasonable
 24 medical judgment, necessitates the termination of the woman's
 25 pregnancy to avert her death.~~

26 **(a)** ~~(c)~~—"Entity" means a local agency, organization, or
 27 corporation or a subdivision, contractee, subcontractee, or grant
 28 recipient of a local agency, organization, or corporation.

29 **(b)** ~~(d)~~—"Fund" means the ultrasound equipment fund created



1 under subsection (2).

2 (c) ~~(e)~~ "Qualified entity" means an entity reviewed and
3 determined by the department ~~of community health~~ to satisfy all of
4 the conditions required under subsection (5) and to be technically
5 and logistically capable of providing the quality and quantity of
6 services required within a cost range considered appropriate by the
7 department.

8 Sec. 10102. As used in this part:

9 (a) "Adult" means an individual who is at least 18 years of
10 age.

11 (b) "Agent" means an individual who meets 1 or more of the
12 following requirements:

13 (i) Is authorized to make health care decisions on the
14 principal's behalf by a power of attorney for health care.

15 (ii) Is expressly authorized to make an anatomical gift on the
16 principal's behalf by any other record signed by the principal.

17 (c) "Anatomical gift" means a donation of all or part of a
18 human body to take effect after the donor's death for the purpose
19 of transplantation, therapy, research, or education.

20 (d) "Body part" means an organ, eye, or tissue of a human
21 being. The term does not include the whole body.

22 (e) "Decedent" means a deceased individual whose body or body
23 part is or may be the source of an anatomical gift. The term
24 includes a stillborn infant and, subject to this subdivision and
25 restrictions imposed by law other than this part, a fetus. The term
26 does not include a blastocyst, embryo, or fetus that is the subject
27 of an abortion. As used in this subdivision, "abortion" means that
28 term as defined in section ~~17015~~.**2803**.

29 (f) "Disinterested witness" means a witness who is not a



1 spouse, child, parent, sibling, grandchild, grandparent, or
2 guardian of or other adult who exhibited special care and concern
3 for the individual who makes, amends, revokes, or refuses to make
4 an anatomical gift. The term does not include a person to which an
5 anatomical gift could pass under section 10111.

6 (g) "Document of gift" means a donor card or other record used
7 to make an anatomical gift. The term includes a statement or symbol
8 on a driver license, identification card, or donor registry.

9 (h) "Donor" means an individual whose body or body part is the
10 subject of an anatomical gift.

11 (i) "Donor registry" means a database that contains records of
12 anatomical gifts and amendments to or revocations of anatomical
13 gifts as provided for in section 10120.

14 (j) "Driver license" means an operator's or chauffeur's
15 license or permit issued to an individual by the secretary of state
16 under chapter III of the Michigan vehicle code, 1949 PA 300, MCL
17 257.301 to 257.329, for that individual to operate a vehicle,
18 whether or not conditions are attached to the license or permit.

19 (k) "Eye" means a human eye or any portion of a human eye.

20 (l) "Eye bank" means a person that is licensed, accredited, or
21 regulated under federal or state law to engage in the recovery,
22 screening, testing, processing, storage, or distribution of human
23 eyes or portions of human eyes.

24 (m) "Guardian" means a person appointed by a court to make
25 decisions regarding the support, care, education, health, or
26 welfare of an individual. The term does not include a guardian ad
27 litem.

28 (n) "Hospital" means a facility licensed as a hospital under
29 the law of any state or a facility operated as a hospital by the



1 United States, a state, or a subdivision of a state.

2 (o) "Identification card" means an official state personal
3 identification card issued by the secretary of state under 1972 PA
4 222, MCL 28.291 to 28.300.

5 (p) "Know" means to have actual knowledge.

6 (q) "Minor" means an individual who is under 18 years of age.

7 (r) "Organ" means a human kidney, liver, heart, lung,
8 pancreas, or intestine or multivisceral organs when transplanted at
9 the same time as an intestine.

10 (s) "Organ procurement organization" means a person certified
11 or recertified by the ~~secretary~~**Secretary** of the United States
12 ~~department of health and human services~~**Department of Health and**
13 **Human Services** as a qualified organ procurement organization under
14 42 USC 273(b).

15 (t) "Parent" means a parent whose parental rights have not
16 been terminated.

17 (u) "Person" means an individual, corporation, business trust,
18 estate, trust, partnership, limited liability company, association,
19 joint venture, public corporation, government or governmental
20 subdivision, agency, or instrumentality or any other legal or
21 commercial entity.

22 (v) "Physician" means an individual authorized to practice
23 medicine or osteopathic medicine and surgery under the law of any
24 state.

25 (w) "Procurement organization" means an eye bank, organ
26 procurement organization, or tissue bank.

27 (x) "Prospective donor" means an individual who is dead or
28 near death and has been determined by a procurement organization to
29 have a body part that could be medically suitable for



1 transplantation, therapy, research, or education. The term does not
2 include an individual who has made a refusal.

3 (y) "Reasonably available" means able to be contacted by a
4 procurement organization without undue effort and willing and able
5 to act in a timely manner consistent with existing medical criteria
6 necessary for the making of an anatomical gift.

7 (z) "Recipient" means an individual into whose body a
8 decedent's body part has been or is intended to be transplanted.

9 (aa) "Record" means information that is inscribed on a
10 tangible medium or that is stored in an electronic or other medium
11 and is retrievable in perceivable form.

12 (bb) "Refusal" means a record created under section 10107 that
13 expressly refuses to make an anatomical gift of an individual's
14 body or body part.

15 (cc) "Sign" means that, with the present intent to
16 authenticate or adopt a record, an individual does either of the
17 following:

18 (i) Executes or adopts a tangible symbol.

19 (ii) Attaches to or logically associates with the record an
20 electronic symbol, sound, or process.

21 (dd) "State" means a state of the United States, the District
22 of Columbia, Puerto Rico, the United States Virgin Islands, or any
23 territory or insular possession subject to the jurisdiction of the
24 United States.

25 (ee) "Technician" means an individual determined to be
26 qualified to remove or process body parts by an appropriate
27 organization that is licensed, accredited, or regulated under
28 federal or state law. The term includes an enucleator.

29 (ff) "Tissue" means a portion of the human body other than an



1 organ or an eye. The term does not include blood unless the blood
2 is donated for the purpose of research or education.

3 (gg) "Tissue bank" means a person that is licensed,
4 accredited, or regulated under federal or state law to engage in
5 the recovery, screening, testing, processing, storage, or
6 distribution of tissue.

7 (hh) "Transplant hospital" means a hospital that furnishes
8 organ transplants and other medical and surgical specialty services
9 required for the care of transplant patients.

10 Sec. 16221. Subject to section 16221b, the department shall
11 investigate any allegation that 1 or more of the grounds for
12 disciplinary subcommittee action under this section exist, and may
13 investigate activities related to the practice of a health
14 profession by a licensee, a registrant, or an applicant for
15 licensure or registration. The department may hold hearings,
16 administer oaths, and order the taking of relevant testimony. After
17 its investigation, the department shall provide a copy of the
18 administrative complaint to the appropriate disciplinary
19 subcommittee. The disciplinary subcommittee shall proceed under
20 section 16226 if it finds that 1 or more of the following grounds
21 exist:

22 (a) Except as otherwise specifically provided in this section,
23 a violation of general duty, consisting of negligence or failure to
24 exercise due care, including negligent delegation to or supervision
25 of employees or other individuals, whether or not injury results,
26 or any conduct, practice, or condition that impairs, or may impair,
27 the ability to safely and skillfully engage in the practice of the
28 health profession.

29 (b) Personal disqualifications, consisting of 1 or more of the



1 following:

2 (i) Incompetence.

3 (ii) Subject to sections 16165 to 16170a, substance use
4 disorder as **that term is** defined in section 100d of the mental
5 health code, 1974 PA 258, MCL 330.1100d.

6 (iii) Mental or physical inability reasonably related to and
7 adversely affecting the licensee's or registrant's ability to
8 practice in a safe and competent manner.

9 (iv) Declaration of mental incompetence by a court of competent
10 jurisdiction.

11 (v) Conviction of a misdemeanor punishable by imprisonment for
12 a maximum term of 2 years; conviction of a misdemeanor involving
13 the illegal delivery, possession, or use of a controlled substance;
14 or conviction of any felony other than a felony listed or described
15 in another subparagraph of this subdivision. A certified copy of
16 the court record is conclusive evidence of the conviction.

17 (vi) Lack of good moral character.

18 (vii) Conviction of a criminal offense under section 520e or
19 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
20 750.520g. A certified copy of the court record is conclusive
21 evidence of the conviction.

22 (viii) Conviction of a violation of section 492a of the Michigan
23 penal code, 1931 PA 328, MCL 750.492a. A certified copy of the
24 court record is conclusive evidence of the conviction.

25 (ix) Conviction of a misdemeanor or felony involving fraud in
26 obtaining or attempting to obtain fees related to the practice of a
27 health profession. A certified copy of the court record is
28 conclusive evidence of the conviction.

29 (x) Final adverse administrative action by a licensure,



1 registration, disciplinary, or certification board involving the
2 holder of, or an applicant for, a license or registration regulated
3 by another state or a territory of the United States, by the United
4 States military, by the federal government, or by another country.
5 A certified copy of the record of the board is conclusive evidence
6 of the final action.

7 (xi) Conviction of a misdemeanor that is reasonably related to
8 or that adversely affects the licensee's or registrant's ability to
9 practice in a safe and competent manner. A certified copy of the
10 court record is conclusive evidence of the conviction.

11 (xii) Conviction of a violation of section 430 of the Michigan
12 penal code, 1931 PA 328, MCL 750.430. A certified copy of the court
13 record is conclusive evidence of the conviction.

14 (xiii) Conviction of a criminal offense under section 83, 84,
15 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
16 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
17 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
18 court record is conclusive evidence of the conviction.

19 (xiv) Conviction of a violation of section 136 or 136a of the
20 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
21 certified copy of the court record is conclusive evidence of the
22 conviction.

23 (xv) Conviction of a violation of section 90 of the Michigan
24 penal code, 1931 PA 328, MCL 750.90, or a violation of a state or
25 federal crime that is substantially similar to the violation
26 described in this subparagraph. A certified copy of the court
27 record is conclusive evidence of the conviction.

28 (c) Prohibited acts, consisting of 1 or more of the following:

29 (i) Fraud or deceit in obtaining or renewing a license or



1 registration.

2 (ii) Permitting a license or registration to be used by an
3 unauthorized person.

4 (iii) Practice outside the scope of a license.

5 (iv) Obtaining, possessing, or attempting to obtain or possess
6 a controlled substance or a drug as **that term is** defined in section
7 7105 without lawful authority; or selling, prescribing, giving
8 away, or administering drugs for other than lawful diagnostic or
9 therapeutic purposes.

10 (d) Except as otherwise specifically provided in this section,
11 unethical business practices, consisting of 1 or more of the
12 following:

13 (i) False or misleading advertising.

14 (ii) Dividing fees for referral of patients or accepting
15 kickbacks on medical or surgical services, appliances, or
16 medications purchased by or in behalf of patients.

17 (iii) Fraud or deceit in obtaining or attempting to obtain third
18 party reimbursement.

19 (e) Except as otherwise specifically provided in this section,
20 unprofessional conduct, consisting of 1 or more of the following:

21 (i) Misrepresentation to a consumer or patient or in obtaining
22 or attempting to obtain third party reimbursement in the course of
23 professional practice.

24 (ii) Betrayal of a professional confidence.

25 (iii) Promotion for personal gain of an unnecessary drug,
26 device, treatment, procedure, or service.

27 (iv) Either of the following:

28 (A) A requirement by a licensee other than a physician or a
29 registrant that an individual purchase or secure a drug, device,



1 treatment, procedure, or service from another person, place,
 2 facility, or business in which the licensee or registrant has a
 3 financial interest.

4 (B) A referral by a physician for a designated health service
 5 that violates 42 USC 1395nn or a regulation promulgated under that
 6 section. For purposes of this subdivision, 42 USC 1395nn and the
 7 regulations promulgated under that section as they exist on June 3,
 8 2002 are incorporated by reference. A disciplinary subcommittee
 9 shall apply 42 USC 1395nn and the regulations promulgated under
 10 that section regardless of the source of payment for the designated
 11 health service referred and rendered. If 42 USC 1395nn or a
 12 regulation promulgated under that section is revised after June 3,
 13 2002, the department shall officially take notice of the revision.
 14 Within 30 days after taking notice of the revision, the department
 15 shall decide whether or not the revision pertains to referral by
 16 physicians for designated health services and continues to protect
 17 the public from inappropriate referrals by physicians. If the
 18 department decides that the revision does both of those things, the
 19 department may promulgate rules to incorporate the revision by
 20 reference. If the department does promulgate rules to incorporate
 21 the revision by reference, the department shall not make any
 22 changes to the revision. As used in this sub-subparagraph,
 23 "designated health service" means that term as defined in 42 USC
 24 1395nn and the regulations promulgated under that section and
 25 "physician" means that term as defined in sections 17001 and 17501.

26 (v) For a physician who makes referrals under 42 USC 1395nn or
 27 a regulation promulgated under that section, refusing to accept a
 28 reasonable proportion of patients eligible for Medicaid and
 29 refusing to accept payment from Medicaid or Medicare as payment in



1 full for a treatment, procedure, or service for which the physician
 2 refers the individual and in which the physician has a financial
 3 interest. A physician who owns all or part of a facility in which
 4 the physician provides surgical services is not subject to this
 5 subparagraph if a referred surgical procedure the physician
 6 performs in the facility is not reimbursed at a minimum of the
 7 appropriate Medicaid or Medicare outpatient fee schedule, including
 8 the combined technical and professional components.

9 (vi) Any conduct by a ~~health professional licensee or~~
 10 **registrant** with a patient while the ~~health professional licensee or~~
 11 **registrant** is acting within the health profession for which the
 12 ~~health professional licensee or registrant~~ is licensed or
 13 registered, including conduct initiated by a patient or to which
 14 the patient consents, that is sexual or may reasonably be
 15 interpreted as sexual, including, but not limited to, sexual
 16 intercourse, kissing in a sexual manner, or touching of a body part
 17 for any purpose other than appropriate examination, treatment, or
 18 comfort.

19 (vii) Offering to provide practice-related services, such as
 20 drugs, in exchange for sexual favors.

21 (viii) A violation of section 16655(4) by a dental therapist.

22 (f) Failure to notify under section 16222(3) or (4).

23 (g) Failure to report a change of name or mailing address as
 24 required in section 16192.

25 (h) A violation, or aiding or abetting in a violation, of this
 26 article or of a rule promulgated under this article.

27 (i) Failure to comply with a subpoena issued pursuant to this
 28 part, failure to respond to a complaint issued under this article,
 29 article 7, or article 8, failure to appear at a compliance



1 conference or an administrative hearing, or failure to report under
2 section 16222(1) or 16223.

3 (j) Failure to pay an installment of an assessment levied
4 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
5 500.8302, within 60 days after notice by the appropriate board.

6 (k) A violation of section 17013 or 17513.

7 (l) Failure to meet 1 or more of the requirements for licensure
8 or registration under section 16174.

9 (m) A violation of section 17015, 17015a, ~~17017, or~~ 17515. ~~r~~
10 ~~or 17517.~~

11 ~~(n) A violation of section 17016 or 17516.~~

12 (n) ~~(o)~~ Failure to comply with section 9206(3).

13 (o) ~~(p)~~ A violation of section 5654 or 5655.

14 (p) ~~(q)~~ A violation of section 16274.

15 (q) ~~(r)~~ A violation of section 17020 or 17520.

16 (r) ~~(s)~~ A violation of the medical records access act, 2004 PA
17 47, MCL 333.26261 to 333.26271.

18 (s) ~~(t)~~ A violation of section 17764(2).

19 (t) ~~(u)~~ Failure to comply with the terms of a practice
20 agreement described in section 17047(2)(a) or (b), 17547(2)(a) or
21 (b), or 18047(2)(a) or (b).

22 (u) ~~(v)~~ A violation of section 7303a(2).

23 (v) ~~(w)~~ A violation of section 7303a(4) or (5).

24 (w) ~~(x)~~ A violation of section 7303b.

25 (x) ~~(y)~~ A violation of section 17754a.

26 (y) ~~(z)~~ Beginning January 1, 2021, a violation of section
27 24507 or 24509.

28 Sec. 16226. (1) After finding the existence of 1 or more of
29 the grounds for disciplinary subcommittee action listed in section



1 16221, a disciplinary subcommittee shall impose 1 or more of the
2 following sanctions for each violation:

	<u>Violations of Section 16221</u>	<u>Sanctions</u>
3 4 5 6 7 8	Subdivision (a), (b) (i), (b) (ii), (b) (iii), (b) (iv), (b) (v), (b) (vi), (b) (vii), (b) (ix), (b) (x), (b) (xi), or (b) (xii)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
9 10	Subdivision (b) (viii)	Revocation, permanent revocation, or denial.
11 12 13 14 15 16	Subdivision (b) (xiii)	Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.
17 18	Subdivision (b) (xiv) or (b) (xv)	Permanent revocation.
19 20	Subdivision (c) (i)	Denial, revocation, suspension, probation, limitation, or fine.
21 22	Subdivision (c) (ii)	Denial, suspension, revocation, restitution, or fine.

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1	Subdivision (c) (iii)	Probation, denial, suspension,
2		revocation, restitution, or fine.
3	Subdivision (c) (iv)	Fine, probation, denial,
4	or (d) (iii)	suspension, revocation, permanent
5		revocation, or restitution.
6	Subdivision (d) (i)	Reprimand, fine, probation,
7	or (d) (ii)	denial, or restitution.
8	Subdivision (e) (i),	Reprimand, fine, probation,
9	(e) (iii), (e) (iv), (e) (v),	limitation, suspension,
10	(h), or (s) (r)	revocation, permanent revocation,
11		denial, or restitution.
12	Subdivision (e) (ii)	Reprimand, probation, suspension,
13	or (i)	revocation, permanent
14		revocation, restitution,
15		denial, or fine.
16	Subdivision (e) (vi),	Probation, suspension, revocation,
17	(e) (vii), or (e) (viii)	limitation, denial,
18		restitution, or fine.
19	Subdivision (f)	Reprimand, denial, limitation,
20		probation, or fine.
21	Subdivision (g)	Reprimand or fine.



1 Subdivision (j) Suspension or fine.

2 Subdivision (k), ~~(p)~~, **(o)**, Reprimand, probation, suspension,

3 or ~~(r)~~ **(q)** revocation, permanent revocation,

4 or fine.

5 Subdivision (l) Reprimand, denial, or

6 limitation.

7 Subdivision (m) or ~~(o)~~ **(n)** Denial, revocation, restitution,

8 probation, suspension,

9 limitation, reprimand, or fine.

10 ~~Subdivision (n)~~ ~~Revocation or denial.~~

11 Subdivision ~~(q)~~ **(p)** Revocation.

12 Subdivision ~~(t)~~ **(s)** Revocation, permanent revocation,

13 fine, or restitution.

14 Subdivision ~~(u)~~ **(t)** Denial, revocation, probation,

15 suspension, limitation, reprimand,

16 or fine.

17 Subdivision ~~(v)~~ **(u)** or Probation, limitation, denial,

18 ~~(x)~~ **(w)**

19 fine, suspension, revocation, or

20 permanent revocation.

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1 or a treatment program, a mental, physical, or professional
 2 competence examination, or a combination of those programs and
 3 examinations.

4 (5) A disciplinary subcommittee shall impose the sanction of
 5 permanent revocation for a violation of section 16221(b) ~~(xiii)~~ if the
 6 violation occurred while the licensee or registrant was acting
 7 within the health profession for which the licensee or registrant
 8 was licensed or registered.

9 (6) Except as otherwise provided in subsection (5) and this
 10 subsection, a disciplinary subcommittee shall not impose the
 11 sanction of permanent revocation under this section without a
 12 finding that the licensee or registrant engaged in a pattern of
 13 intentional acts of fraud or deceit resulting in personal financial
 14 gain to the licensee or registrant and harm to the health of
 15 patients under the licensee's or registrant's care. This subsection
 16 does not apply if a disciplinary subcommittee finds that a licensee
 17 or registrant has violated section 16221(b) ~~(xiv)~~ or ~~(b) (xv)~~.

18 (7) A disciplinary subcommittee shall impose a fine of not
 19 more than \$250.00 for each violation of section ~~16221(y)~~ **16221(x)**.

20 Sec. 16245. (1) Except as otherwise provided in this section
 21 or section 16245a, an individual whose license is limited,
 22 suspended, or revoked under this part may apply to ~~his or her~~ **the**
 23 **individual's** board or task force for a reinstatement of a revoked
 24 or suspended license or reclassification of a limited license
 25 pursuant to section 16247 or 16249.

26 (2) Except as otherwise provided in this section or section
 27 16245a, an individual whose registration is suspended or revoked
 28 under this part may apply to ~~his or her~~ **the individual's** board for
 29 a reinstatement of a suspended or revoked registration pursuant to



1 section 16248.

2 (3) A board or task force shall reinstate a license or
3 registration suspended for grounds stated in section 16221(j) ~~upon~~
4 **on** payment of the installment.

5 (4) Except as otherwise provided in this section or section
6 16245a, in case of a revoked license or registration, an applicant
7 shall not apply for reinstatement before the expiration of 3 years
8 after the effective date of the revocation. Except as otherwise
9 provided in this section or section 16245a, in the case of a
10 license or registration that was revoked for a violation of section
11 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv) consisting
12 of a felony conviction, any other felony conviction involving a
13 controlled substance, or a violation of section ~~16221(q)~~, **16221 (p)** ,
14 an applicant shall not apply for reinstatement before the
15 expiration of 5 years after the effective date of the revocation.
16 The department shall return an application for reinstatement
17 received before the expiration of the applicable time period under
18 this subsection.

19 (5) The department shall provide an opportunity for a hearing
20 before final rejection of an application for reinstatement unless
21 the application is returned because the applicant is ineligible for
22 reinstatement under subsection (4) or (9).

23 (6) Based ~~upon~~ **on** the recommendation of the disciplinary
24 subcommittee for each health profession, the department shall adopt
25 guidelines to establish specific criteria to be met by an applicant
26 for reinstatement under this article, article 7, or article 8. The
27 criteria may include corrective measures or remedial education as a
28 condition of reinstatement. If a board or task force, in
29 reinstating a license or registration, deviates from the guidelines



1 adopted under this subsection, the board or task force shall state
2 the reason for the deviation on the record.

3 (7) An individual who seeks reinstatement or reclassification
4 of a license or registration under this section shall pay the
5 application processing fee as a reinstatement or reclassification
6 fee. If approved for reinstatement or reclassification, the
7 individual shall pay the per year license or registration fee for
8 the applicable license or registration period.

9 (8) An individual who seeks reinstatement of a revoked or
10 suspended license or reclassification of a limited license under
11 this section shall have a criminal history check conducted in
12 accordance with section 16174 and submit a copy of the results of
13 the criminal history check to the board with ~~his or her~~ **the**
14 **individual's** application for reinstatement or reclassification.

15 (9) An individual whose license is permanently revoked under
16 section 16221 is ineligible for reinstatement. The department shall
17 return an application for reinstatement received if the applicant
18 is ineligible for reinstatement under this subsection.

19 Sec. 16299. (1) Except as otherwise provided in subsection
20 (2), a person who violates or aids or abets another in a violation
21 of this article, other than those matters described in sections
22 16294 and 16296, is guilty of a misdemeanor punishable as follows:

23 (a) For the first offense, by imprisonment for not more than
24 90 days or a fine of not more than \$100.00, or both.

25 (b) For the second or subsequent offense, by imprisonment for
26 not more than 6 months or a fine of not less than \$200.00 nor more
27 than \$500.00, or both.

28 (2) Subsection (1) does not apply to a violation of section
29 17015, 17015a, ~~17017,~~ **or** 17515, ~~or 17517~~ or to a violation of this



1 article for which another criminal penalty is specifically
2 prescribed.

3 Sec. 17015. (1) Subject to subsection (10), a physician shall
4 not perform an abortion otherwise permitted by law without the
5 patient's informed written consent, given freely and without
6 coercion to abort.

7 (2) For purposes of this section and section 17015a:

8 (a) "Abortion" means the intentional use of an instrument,
9 drug, or other substance or device to terminate a woman's pregnancy
10 for a purpose other than to increase the probability of a live
11 birth, to preserve the life or health of the child after live
12 birth, or to remove a fetus that has died as a result of natural
13 causes, accidental trauma, or a criminal assault on the pregnant
14 woman. Abortion does not include the use or prescription of a drug
15 or device intended as a contraceptive.

16 (b) "Coercion to abort" means an act committed with the intent
17 to coerce an individual to have an abortion, which act is
18 prohibited by section 213a of the Michigan penal code, 1931 PA 328,
19 MCL 750.213a.

20 (c) "Domestic violence" means that term as defined in section
21 1 of 1978 PA 389, MCL 400.1501.

22 (d) "Fetus" means an individual organism of the species ~~homo~~
23 **Homo sapiens** in utero.

24 (e) "Local health department representative" means ~~a person~~**an**
25 **individual** who meets 1 or more of the licensing requirements listed
26 in subdivision (h) and who is employed by, or under contract to
27 provide services on behalf of, a local health department.

28 (f) "Medical emergency" means ~~that a~~**good-faith** condition which, on the
29 basis of the physician's ~~good faith~~**good-faith** clinical judgment,



1 so complicates the medical condition of a pregnant ~~woman~~**individual**
 2 as to necessitate the immediate abortion of ~~her~~**the individual's**
 3 pregnancy to avert ~~her~~**the individual's** death or for which a delay
 4 will create serious risk of substantial and irreversible impairment
 5 of a major bodily function.

6 (g) "Medical service" means the provision of a treatment,
 7 procedure, medication, examination, diagnostic test, assessment, or
 8 counseling, including, but not limited to, a pregnancy test,
 9 ultrasound, pelvic examination, or an abortion.

10 (h) "Qualified person assisting the physician" means another
 11 physician or a physician's assistant licensed under this part or
 12 part 175, a fully licensed or limited licensed psychologist
 13 licensed under part 182, a professional counselor licensed under
 14 part 181, a registered professional nurse or a licensed practical
 15 nurse licensed under part 172, or a social worker licensed under
 16 part 185.

17 (i) "Probable gestational age of the fetus" means the
 18 gestational age of the fetus at the time an abortion is planned to
 19 be performed.

20 (j) "Provide the patient with a physical copy" means
 21 confirming that the patient accessed the internet website described
 22 in subsection (5) and received a printed valid confirmation form
 23 from the website and including that form in the patient's medical
 24 record or giving a patient a copy of a required document by 1 or
 25 more of the following means:

26 (i) In person.

27 (ii) By registered mail, return receipt requested.

28 (iii) By parcel delivery service that requires the recipient to
 29 provide a signature in order to receive delivery of a parcel.



1 (iv) By facsimile transmission.

2 (3) Subject to subsection (10), a physician or a qualified
3 person assisting the physician shall do all of the following not
4 less than 24 hours before that physician performs an abortion upon
5 a patient who is ~~a pregnant: woman:~~

6 (a) Confirm that, according to the best medical judgment of a
7 physician, the patient is pregnant, and determine the probable
8 gestational age of the fetus.

9 (b) Orally describe, in language designed to be understood by
10 the patient, taking into account ~~her~~**the patient's** age, level of
11 maturity, and intellectual capability, each of the following:

12 (i) The probable gestational age of the fetus ~~she~~**the patient**
13 is carrying.

14 (ii) Information about what to do and whom to contact should
15 medical complications arise from the abortion.

16 (iii) Information about how to obtain pregnancy prevention
17 information through the department of ~~community~~**and human**
18 **services.**

19 (c) Provide the patient with a physical copy of the written
20 standardized summary described in subsection (11)(b) that
21 corresponds to the procedure the patient will undergo and is
22 provided by the department of ~~community~~**and human services.**
23 If the procedure has not been recognized by the department **of**
24 **health and human services**, but is otherwise allowed under Michigan
25 law, and the department **of health and human services** has not
26 provided a written standardized summary for that procedure, the
27 physician shall develop and provide a written summary that
28 describes the procedure, any known risks or complications of the
29 procedure, and risks associated with live birth and meets the



1 requirements of subsection (11) (b) (iii) through (vii) .

2 (d) Provide the patient with a physical copy of a medically
3 accurate depiction, illustration, or photograph and description of
4 a fetus supplied by the department of ~~community~~-health **and human**
5 **services** pursuant to subsection (11) (a) at the gestational age
6 nearest the probable gestational age of the patient's fetus.

7 (e) Provide the patient with a physical copy of the prenatal
8 care and parenting information pamphlet distributed by the
9 department of ~~community~~-health **and human services** under section
10 9161.

11 (f) Provide the patient with a physical copy of the
12 prescreening summary on prevention of coercion to abort described
13 in subsection (11) (i) .

14 (4) The requirements of subsection (3) may be fulfilled by the
15 physician or a qualified person assisting the physician at a
16 location other than the health facility where the abortion is to be
17 performed. The requirement of subsection (3) (a) that a patient's
18 pregnancy be confirmed may be fulfilled by a local health
19 department under subsection (18) . The requirements of subsection
20 (3) cannot be fulfilled by the patient accessing an internet
21 website other than the internet website that is maintained and
22 operated by the department **of health and human services** under
23 subsection (11) (g) .

24 (5) The requirements of subsection (3) (c) through (f) may be
25 fulfilled by a patient accessing the internet website that is
26 maintained and operated by the department **of health and human**
27 **services** under subsection (11) (g) and receiving a printed, valid
28 confirmation form from the website that the patient has reviewed
29 the information required in subsection (3) (c) through (f) at least



1 24 hours before an abortion being performed on the patient. The
 2 website ~~shall~~**must** not require any information be supplied by the
 3 patient. The department **of health and human services** shall not
 4 track, compile, or otherwise keep a record of information that
 5 would identify a patient who accesses this website. The patient
 6 shall supply the valid confirmation form to the physician or
 7 qualified person assisting the physician to be included in the
 8 patient's medical record to comply with this subsection.

9 (6) Subject to subsection (10), before obtaining the patient's
 10 signature on the acknowledgment and consent form, a physician
 11 personally and in the presence of the patient shall do all of the
 12 following:

13 (a) Provide the patient with the physician's name, confirm
 14 with the patient that the coercion to abort screening required
 15 under section 17015a was performed, and inform the patient of ~~her~~
 16 **the** right to withhold or withdraw ~~her~~ consent to the abortion at
 17 any time before performance of the abortion.

18 (b) Orally describe, in language designed to be understood by
 19 the patient, taking into account ~~her~~**the patient's** age, level of
 20 maturity, and intellectual capability, each of the following:

21 (i) The specific risk, if any, to the patient of the
 22 complications that have been associated with the procedure the
 23 patient will undergo, based on the patient's particular medical
 24 condition and history as determined by the physician.

25 (ii) The specific risk of complications, if any, to the patient
 26 if ~~she~~**the patient** chooses to continue the pregnancy based on the
 27 patient's particular medical condition and history as determined by
 28 a physician.

29 (7) To protect a patient's privacy, the information set forth



1 in subsection (3) and subsection (6) ~~shall~~**must** not be disclosed to
2 the patient in the presence of another patient.

3 (8) If at any time before the performance of an abortion, a
4 patient undergoes an ultrasound examination, or a physician
5 determines that ultrasound imaging will be used during the course
6 of a patient's abortion, the physician or qualified person
7 assisting the physician shall provide the patient with the
8 opportunity to view or decline to view an active ultrasound image
9 of the fetus, and offer to provide the patient with a physical
10 picture of the ultrasound image of the fetus before the performance
11 of the abortion. After the expiration of the 24-hour period
12 prescribed under subsection (3) but before performing an abortion
13 on a patient who is ~~a pregnant, woman,~~ a physician or a qualified
14 person assisting the physician shall do all of the following:

15 (a) Obtain the patient's signature on the acknowledgment and
16 consent form described in subsection (11)(c) confirming that ~~she~~
17 **the patient** has received the information required under subsection
18 (3).

19 (b) Provide the patient with a physical copy of the signed
20 acknowledgment and consent form described in subsection (11)(c).

21 (c) Retain a copy of the signed acknowledgment and consent
22 form described in subsection (11)(c) and, if applicable, a copy of
23 the pregnancy certification form completed under subsection
24 (18)(b), in the patient's medical record.

25 (9) This subsection does not prohibit notifying the patient
26 that payment for medical services will be required or that
27 collection of payment in full for all medical services provided or
28 planned may be demanded after the 24-hour period described in this
29 subsection has expired. A physician or an agent of the physician



1 shall not collect payment, in whole or in part, for a medical
 2 service provided to or planned for a patient before the expiration
 3 of 24 hours from the time the patient has done either or both of
 4 the following, except in the case of a physician or an agent of a
 5 physician receiving capitated payments or under a salary
 6 arrangement for providing those medical services:

7 (a) Inquired about obtaining an abortion after ~~her~~**the**
 8 **patient's** pregnancy is confirmed and ~~she~~**the patient** has received
 9 from that physician or a qualified person assisting the physician
 10 the information required under subsection (3)(c) and (d).

11 (b) Scheduled an abortion to be performed by that physician.

12 (10) If the attending physician, utilizing ~~his or her~~**the**
 13 **physician's** experience, judgment, and professional competence,
 14 determines that a medical emergency exists and necessitates
 15 performance of an abortion before the requirements of subsections
 16 (1), (3), and (6) can be met, the physician is exempt from the
 17 requirements of subsections (1), (3), and (6), may perform the
 18 abortion, and shall maintain a written record identifying with
 19 specificity the medical factors upon which the determination of the
 20 medical emergency is based.

21 (11) The department of ~~community health~~ **and human services**
 22 shall do each of the following:

23 (a) Produce medically accurate depictions, illustrations, or
 24 photographs of the development of a human fetus that indicate by
 25 scale the actual size of the fetus at 2-week intervals from the
 26 fourth week through the twenty-eighth week of gestation. Each
 27 depiction, illustration, or photograph ~~shall~~**must** be accompanied by
 28 a printed description, in nontechnical English, Arabic, and
 29 Spanish, of the probable anatomical and physiological



1 characteristics of the fetus at that particular state of
2 gestational development.

3 (b) Subject to subdivision (e), develop, draft, and print, in
4 nontechnical English, Arabic, and Spanish, written standardized
5 summaries, based upon the various medical procedures used to abort
6 pregnancies, that do each of the following:

7 (i) Describe, individually and on separate documents, those
8 medical procedures used to perform abortions in this state that are
9 recognized by the department **of health and human services**.

10 (ii) Identify the physical complications that have been
11 associated with each procedure described in subparagraph (i) and
12 with live birth, as determined by the department. In identifying
13 these complications, the department shall consider ~~the annual~~
14 ~~statistical report required under section 2835, and shall consider~~
15 studies concerning complications that have been published in a peer
16 review medical journal, with particular attention paid to the
17 design of the study, and shall consult with the ~~federal centers~~
18 **Centers** for ~~disease control~~ **Disease Control** and ~~prevention,~~
19 **Prevention**, the American ~~congress~~ **Congress** of ~~obstetricians~~
20 **Obstetricians** and ~~gynecologists,~~ **Gynecologists**, the Michigan ~~state~~
21 ~~medical society,~~ **State Medical Society**, or any other source that
22 the department **of health and human services** determines appropriate
23 for the purpose.

24 (iii) State that as the result of an abortion, some ~~women~~
25 **individuals** may experience depression, feelings of guilt, sleep
26 disturbance, loss of interest in work or sex, or anger, and that if
27 these symptoms occur and are intense or persistent, professional
28 help is recommended.

29 (iv) State that not all of the complications listed in



1 subparagraph (ii) may pertain to that particular patient and refer
2 the patient to ~~her~~**the patient's** physician for more personalized
3 information.

4 (v) Identify services available through public agencies to
5 assist the patient during ~~her~~**the patient's** pregnancy and after the
6 birth of ~~her~~**the** child, should ~~she~~**the patient** choose to give birth
7 and maintain custody of ~~her~~**the** child.

8 (vi) Identify services available through public agencies to
9 assist the patient in placing ~~her~~**the** child in an adoptive or
10 foster home, should ~~she~~**the patient** choose to give birth but not
11 maintain custody of ~~her~~**the** child.

12 (vii) Identify services available through public agencies to
13 assist the patient and provide counseling should ~~she~~**the patient**
14 experience subsequent adverse psychological effects from the
15 abortion.

16 (c) Develop, draft, and print, in nontechnical English,
17 Arabic, and Spanish, an acknowledgment and consent form that
18 includes only the following language above a signature line for the
19 patient:

20 "I, _____ , voluntarily and willfully
21 hereby authorize Dr. _____ ("the physician") and any
22 assistant designated by the physician to perform upon me the
23 following operation(s) or procedure(s):

24 _____
25 (Name of operation(s) or procedure(s))
26 _____

27 A. I understand that I am approximately _____ weeks pregnant.
28 I consent to an abortion procedure to terminate my pregnancy. I
29 understand that I have the right to withdraw my consent to the



1 abortion procedure at any time before performance of that
2 procedure.

3 B. I understand that it is illegal for anyone to coerce me
4 into seeking an abortion.

5 C. I acknowledge that at least 24 hours before the scheduled
6 abortion I have received a physical copy of each of the following:

7 1. A medically accurate depiction, illustration, or photograph
8 of a fetus at the probable gestational age of the fetus I am
9 carrying.

10 2. A written description of the medical procedure that will be
11 used to perform the abortion.

12 3. A prenatal care and parenting information pamphlet.

13 D. If any of the documents listed in paragraph C were
14 transmitted by facsimile, I certify that the documents were clear
15 and legible.

16 E. I acknowledge that the physician who will perform the
17 abortion has orally described all of the following to me:

18 1. The specific risk to me, if any, of the complications that
19 have been associated with the procedure I am scheduled to undergo.

20 2. The specific risk to me, if any, of the complications if I
21 choose to continue the pregnancy.

22 F. I acknowledge that I have received all of the following
23 information:

24 1. Information about what to do and whom to contact in the
25 event that complications arise from the abortion.

26 2. Information pertaining to available pregnancy related
27 services.

28 G. I have been given an opportunity to ask questions about the
29 operation(s) or procedure(s).



1 H. I certify that I have not been required to make any
 2 payments for an abortion or any medical service before the
 3 expiration of 24 hours after I received the written materials
 4 listed in paragraph C, or 24 hours after the time and date listed
 5 on the confirmation form if the information described in paragraph
 6 C was viewed from the state of Michigan internet website."

7 (d) Make available to physicians through the ~~Michigan board of~~
 8 ~~medicine~~ and the Michigan board of osteopathic medicine and
 9 surgery, and to any person upon request, the copies of medically
 10 accurate depictions, illustrations, or photographs described in
 11 subdivision (a), the written standardized summaries described in
 12 subdivision (b), the acknowledgment and consent form described in
 13 subdivision (c), the prenatal care and parenting information
 14 pamphlet described in section 9161, the pregnancy certification
 15 form described in subdivision (f), and the materials regarding
 16 coercion to abort described in subdivision (i).

17 (e) ~~The department shall not develop~~ **In developing the** written
 18 standardized summaries for abortion procedures under subdivision
 19 (b), ~~that utilize~~ **include in the summaries only** medication that has
 20 ~~not been approved by the United States food and drug administration~~
 21 **Food and Drug Administration** for use in performing an abortion.

22 (f) Develop, draft, and print a certification form to be
 23 signed by a local health department representative at the time and
 24 place a patient has a pregnancy confirmed, as requested by the
 25 patient, verifying the date and time the pregnancy is confirmed.

26 (g) Develop, operate, and maintain an internet website that
 27 allows a patient considering an abortion to review the information
 28 required in subsection (3)(c) through (f). After the patient
 29 reviews the required information, the department **of health and**



1 **human services** shall ~~assure~~**ensure** that a confirmation form can be
 2 printed by the patient from the internet website that will verify
 3 the time and date the information was reviewed. A confirmation form
 4 printed under this subdivision becomes invalid 14 days after the
 5 date and time printed on the confirmation form.

6 (h) Include on the informed consent internet website operated
 7 under subdivision (g) a list of health care providers, facilities,
 8 and clinics that offer to perform ultrasounds free of charge. The
 9 list ~~shall~~**must** be organized geographically and ~~shall~~include the
 10 name, address, and telephone number of each health care provider,
 11 facility, and clinic.

12 (i) After considering the standards and recommendations of the
 13 ~~joint commission on accreditation of healthcare organizations,~~
 14 **Joint Commission on Accreditation of Healthcare Organizations**, the
 15 Michigan ~~domestic and sexual violence prevention and treatment~~
 16 ~~board,~~**Domestic and Sexual Violence Prevention and Treatment Board**,
 17 the Michigan ~~coalition to end domestic and sexual violence~~
 18 **Coalition to End Domestic and Sexual Violence** or successor
 19 organization, and the American ~~medical association,~~**Medical**
 20 **Association**, do all of the following:

21 (i) Develop, draft, and print or make available in printable
 22 format, in nontechnical English, Arabic, and Spanish, a notice that
 23 is required to be posted in facilities and clinics under section
 24 17015a. The notice ~~shall~~**must** be at least 8-1/2 inches by 14
 25 inches, ~~shall~~be printed in at least 44-point type, and ~~shall~~
 26 contain at a minimum all of the following:

27 (A) A statement that it is illegal under Michigan law to
 28 coerce ~~a woman~~**an individual** to have an abortion.

29 (B) A statement that help is available if ~~a woman~~**an**



1 **individual** is being threatened or intimidated; is being physically,
2 emotionally, or sexually harmed; or feels afraid for any reason.

3 (C) The telephone number of at least 1 domestic violence
4 hotline and 1 sexual assault hotline.

5 (ii) Develop, draft, and print or make available in printable
6 format, in nontechnical English, Arabic, and Spanish, a
7 prescreening summary on prevention of coercion to abort that, at a
8 minimum, contains the information required under subparagraph (i)
9 and notifies the patient that an oral screening for coercion to
10 abort will be conducted before ~~her~~ giving written consent to obtain
11 an abortion.

12 (iii) Develop, draft, and print screening and training tools and
13 accompanying training materials to be utilized by a physician or
14 qualified person assisting the physician while performing the
15 coercion to abort screening required under section 17015a. The
16 screening tools ~~shall~~**must** instruct the physician or qualified
17 person assisting the physician to orally communicate information to
18 the patient regarding coercion to abort and to document the
19 findings from the coercion to abort screening in the patient's
20 medical record.

21 (iv) Develop, draft, and print protocols and accompanying
22 training materials to be utilized by a physician or a qualified
23 person assisting the physician if a patient discloses coercion to
24 abort or that domestic violence is occurring, or both, during the
25 coercion to abort screening. The protocols ~~shall~~**must** instruct the
26 physician or qualified person assisting the physician to do, at a
27 minimum, all of the following:

28 (A) Follow the requirements of section 17015a as applicable.

29 (B) Assess the patient's current level of danger.



1 (C) Explore safety options with the patient.

2 (D) Provide referral information to the patient regarding law
3 enforcement and domestic violence and sexual assault support
4 organizations.

5 (E) Document any referrals in the patient's medical record.

6 (12) A physician's duty to inform the patient under this
7 section does not require disclosure of information beyond what a
8 reasonably well-qualified physician licensed under this article
9 would possess.

10 (13) A written consent form meeting the requirements set forth
11 in this section and signed by the patient is presumed valid. The
12 presumption created by this subsection may be rebutted by evidence
13 that establishes, by a preponderance of the evidence, that consent
14 was obtained through fraud, negligence, deception,
15 misrepresentation, coercion, or duress.

16 (14) A completed certification form described in subsection
17 (11)(f) that is signed by a local health department representative
18 is presumed valid. The presumption created by this subsection may
19 be rebutted by evidence that establishes, by a preponderance of the
20 evidence, that the physician who relied upon the certification had
21 actual knowledge that the certificate contained a false or
22 misleading statement or signature.

23 (15) This section does not create a right to abortion.

24 (16) Notwithstanding any other provision of this section, a
25 person shall not perform an abortion that is prohibited by law.

26 (17) If any portion of this act or the application of this act
27 to any person or circumstances is found invalid by a court, that
28 invalidity does not affect the remaining portions or applications
29 of the act that can be given effect without the invalid portion or



1 application, if those remaining portions are not determined by the
2 court to be inoperable.

3 (18) Upon a patient's request, ~~each~~^a local health department
4 shall **comply with the following:**

5 (a) Provide a pregnancy test for that patient to confirm the
6 pregnancy as required under subsection (3)(a) and determine the
7 probable gestational stage of the fetus. The local health
8 department need not comply with this subdivision if the
9 requirements of subsection (3)(a) have already been met.

10 (b) If a pregnancy is confirmed, ensure that the patient is
11 provided with a completed pregnancy certification form described in
12 subsection (11)(f) at the time the information is provided.

13 (19) The identity and address of a patient who is provided
14 information or who consents to an abortion pursuant to this section
15 is confidential and is subject to disclosure only with the consent
16 of the patient or by judicial process.

17 (20) A local health department with a file containing the
18 identity and address of a patient described in subsection (19) who
19 has been assisted by the local health department under this section
20 shall do both of the following:

21 (a) Only release the identity and address of the patient to a
22 physician or qualified person assisting the physician in order to
23 verify the receipt of the information required under this section.

24 (b) Destroy the information containing the identity and
25 address of the patient within 30 days after assisting the patient
26 under this section.

27 Sec. 20115. ~~(1)~~—The department may promulgate rules to further
28 define the term "health facility or agency" and the definition of a
29 health facility or agency listed in section 20106 as required to



1 implement this article. The department may define a specific
 2 organization as a health facility or agency for the sole purpose of
 3 certification authorized under this article. For purpose of
 4 certification only, an organization defined in section 20106(5),
 5 20108(1), or 20109(4) is considered a health facility or agency.
 6 The term "health facility or agency" does not mean a visiting nurse
 7 service or home aide service conducted by and for the adherents of
 8 a church or religious denomination for the purpose of providing
 9 service for those who depend upon spiritual means through prayer
 10 alone for healing.

11 ~~(2) The department shall promulgate rules to differentiate a~~
 12 ~~freestanding surgical outpatient facility from a private office of~~
 13 ~~a physician, dentist, podiatrist, or other health professional. The~~
 14 ~~department shall specify in the rules that a facility including,~~
 15 ~~but not limited to, a private practice office described in this~~
 16 ~~subsection must be licensed under this article as a freestanding~~
 17 ~~surgical outpatient facility if that facility performs 120 or more~~
 18 ~~surgical abortions per year and publicly advertises outpatient~~
 19 ~~abortion services.~~

20 ~~(3) The department shall promulgate rules that in effect~~
 21 ~~republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R~~
 22 ~~325.3866, R 325.3867, and R 325.3868 of the Michigan administrative~~
 23 ~~code, but shall include in the rules standards for a freestanding~~
 24 ~~surgical outpatient facility or private practice office that~~
 25 ~~performs 120 or more surgical abortions per year and that publicly~~
 26 ~~advertises outpatient abortion services. The department shall~~
 27 ~~assure that the standards are consistent with the most recent~~
 28 ~~United States supreme court decisions regarding state regulation of~~
 29 ~~abortions.~~



1 ~~(4) Subject to section 20145 and part 222, the department may~~
2 ~~modify or waive 1 or more of the rules contained in R 325.3801 to R~~
3 ~~325.3877 of the Michigan administrative code regarding construction~~
4 ~~or equipment standards, or both, for a freestanding surgical~~
5 ~~outpatient facility that performs 120 or more surgical abortions~~
6 ~~per year and that publicly advertises outpatient abortion services,~~
7 ~~if both of the following conditions are met:~~

8 ~~(a) The freestanding surgical outpatient facility was in~~
9 ~~existence and operating on December 31, 2012.~~

10 ~~(b) The department makes a determination that the existing~~
11 ~~construction or equipment conditions, or both, within the~~
12 ~~freestanding surgical outpatient facility are adequate to preserve~~
13 ~~the health and safety of the patients and employees of the~~
14 ~~freestanding surgical outpatient facility or that the construction~~
15 ~~or equipment conditions, or both, can be modified to adequately~~
16 ~~preserve the health and safety of the patients and employees of the~~
17 ~~freestanding surgical outpatient facility without meeting the~~
18 ~~specific requirements of the rules.~~

19 ~~(5) By January 15 each year, the department of community~~
20 ~~health shall provide the following information to the department of~~
21 ~~licensing and regulatory affairs:~~

22 ~~(a) From data received by the department of community health~~
23 ~~through the abortion reporting requirements of section 2835, all of~~
24 ~~the following:~~

25 ~~(i) The name and location of each facility at which abortions~~
26 ~~were performed during the immediately preceding calendar year.~~

27 ~~(ii) The total number of abortions performed at that facility~~
28 ~~location during the immediately preceding calendar year.~~

29 ~~(iii) The total number of surgical abortions performed at that~~



1 ~~facility location during the immediately preceding calendar year.~~

2 ~~(b) Whether a facility at which surgical abortions were~~
 3 ~~performed in the immediately preceding calendar year publicly~~
 4 ~~advertises abortion services.~~

5 ~~(6) As used in this section:~~

6 ~~(a) "Abortion" means that term as defined in section 17015.~~

7 ~~(b) "Publicly advertises" means to advertise using directory~~
 8 ~~or internet advertising including yellow pages, white pages, banner~~
 9 ~~advertising, or electronic publishing.~~

10 ~~(c) "Surgical abortion" means an abortion that is not a~~
 11 ~~medical abortion as that term is defined in section 17017.~~

12 Enacting section 1. Sections 2835, 2836, 2837, 17014, 17016,
 13 17017, 17516, 17517, and 22224 of the public health code, 1978 PA
 14 368, MCL 333.2835, 333.2836, 333.2837, 333.17014, 333.17016,
 15 333.17017, 333.17516, 333.17517, and 333.22224, are repealed.

16 Enacting section 2. This amendatory act does not take effect
 17 unless all of the following bills of the 102nd Legislature are
 18 enacted into law:

19 (a) House Bill No. 4949.

20 (b) House Bill No. 4955.

